INTERNET
The Journals for the Senate are available at

Proof and Official Hansards for the House of Representatives,
the Senate and committee hearings are available at

For searching purposes use
http://parlinfoweb.aph.gov.au

SITTING DAYS—2005

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>8, 9, 10</td>
</tr>
<tr>
<td>March</td>
<td>7, 8, 9, 10, 14, 15, 16, 17</td>
</tr>
<tr>
<td>May</td>
<td>10, 11, 12</td>
</tr>
<tr>
<td>June</td>
<td>14, 15, 16, 20, 21, 22, 23</td>
</tr>
<tr>
<td>August</td>
<td>9, 10, 11, 16, 17, 18</td>
</tr>
<tr>
<td>September</td>
<td>5, 6, 7, 8, 12, 13, 14, 15</td>
</tr>
<tr>
<td>October</td>
<td>4, 5, 6, 10, 11, 12, 13</td>
</tr>
<tr>
<td>November</td>
<td>3, 7, 8, 9, 10, 28, 29, 30</td>
</tr>
<tr>
<td>December</td>
<td>1, 2, 5, 6, 7, 8, 9</td>
</tr>
</tbody>
</table>

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

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

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

Senate Officeholders
President—Senator the Hon. Paul Henry Calvert
Deputy President and Chairman of Committees—Senator John Joseph Hogg
Leader of the Government in the Senate—Senator the Hon. Robert Murray Hill
Deputy Leader of the Government in the Senate—Senator the Hon. Nicholas Hugh Minchin
Leader of the Opposition in the Senate—Senator Christopher Vaughan Evans
Deputy Leader of the Opposition in the Senate—Senator Stephen Michael Conroy
Manager of Government Business in the Senate—Senator the Hon. Christopher Martin Ellison
Manager of Opposition Business in the Senate—Senator Joseph William Ludwig

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

Printed by authority of the Senate
## Members of the Senate

<table>
<thead>
<tr>
<th>Senator</th>
<th>State or Territory</th>
<th>Term expires</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abetz, Hon. Eric</td>
<td>TAS</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Adams, Judith</td>
<td>WA</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Allison, Lynette Fay</td>
<td>VIC</td>
<td>30.6.2008</td>
<td>AD</td>
</tr>
<tr>
<td>Barnett, Guy</td>
<td>TAS</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Bartlett, Andrew John Julian</td>
<td>QLD</td>
<td>30.6.2008</td>
<td>AD</td>
</tr>
<tr>
<td>Bishop, Thomas Mark</td>
<td>WA</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Boswell, Hon. Ronald Leslie Doyle</td>
<td>QLD</td>
<td>30.6.2008</td>
<td>NATS</td>
</tr>
<tr>
<td>Brandis, George Henry</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Brown, Carol Louise</td>
<td>TAS</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Brown, Robert James</td>
<td>TAS</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Campbell, George</td>
<td>NSW</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Campbell, Hon. Ian Gordon</td>
<td>WA</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Carr, Kim John</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Chapman, Hedley Grant Pearson</td>
<td>SA</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Colbeck, Hon. Richard Mansell</td>
<td>TAS</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Conroy, Stephen Michael</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Coonan, Hon. Helen Lloyd</td>
<td>NSW</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Crossin, Patricia Margaret (3)</td>
<td>NT</td>
<td></td>
<td>ALP</td>
</tr>
<tr>
<td>Eggleston, Alan</td>
<td>WA</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Ellison, Hon. Christopher Martin</td>
<td>WA</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Evans, Christopher Vaughan</td>
<td>WA</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Faulkner, Hon. John Philip</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Ferguson, Alan Baird</td>
<td>SA</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Ferris, Jeannie Margaret</td>
<td>SA</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Fielding, Steve</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>FF</td>
</tr>
<tr>
<td>Fierravanti-Wells, Concetta Anna</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Fifield, Mitchell Peter (3)</td>
<td>VIC</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Forshaw, Michael George</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Heffernan, Hon. William Daniel</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Hill, Hon. Robert Murray</td>
<td>SA</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Hogg, John Joseph</td>
<td>QLD</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Humphries, Gary John Joseph (3)</td>
<td>ACT</td>
<td></td>
<td>LP</td>
</tr>
<tr>
<td>Hurley, Annette</td>
<td>SA</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Hutchins, Stephen Patrick</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Johnston, David Albert Lloyd</td>
<td>WA</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Joyce, Barnaby</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>NATS</td>
</tr>
<tr>
<td>Kemp, Hon. Charles Roderick</td>
<td>VIC</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Kirk, Linda Jean</td>
<td>SA</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Lightfoot, Philip Ross</td>
<td>WA</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Ludwig, Joseph William</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Lundy, Kate Alexandra (3)</td>
<td>ACT</td>
<td></td>
<td>ALP</td>
</tr>
<tr>
<td>Macdonald, Hon. Ian Douglas</td>
<td>QLD</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Macdonald, John Alexander Lindsay(Sandy)</td>
<td>NSW</td>
<td>30.6.2008</td>
<td>NATS</td>
</tr>
<tr>
<td>McEwen, Anne</td>
<td>SA</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>McGauran, Julian John James</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>NATS</td>
</tr>
<tr>
<td>McLucas, Jan Elizabeth</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Marshall, Gavin Mark</td>
<td>VIC</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Senator</td>
<td>State or Territory</td>
<td>Term expires</td>
<td>Party</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>-------------------</td>
<td>---------------</td>
<td>-----------</td>
</tr>
<tr>
<td>Mason, Brett John</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Milne, Christine</td>
<td>TAS</td>
<td>30.6.2011</td>
<td>AG</td>
</tr>
<tr>
<td>Minchin, Hon. Nicholas Hugh</td>
<td>SA</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Moore, Claire Mary</td>
<td>QLD</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Murray, Andrew James Marshall</td>
<td>WA</td>
<td>30.6.2008</td>
<td>AD</td>
</tr>
<tr>
<td>Nash, Fiona</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>NATS</td>
</tr>
<tr>
<td>Nettle, Kerry Michelle</td>
<td>NSW</td>
<td>30.6.2008</td>
<td>AG</td>
</tr>
<tr>
<td>O’Brien, Kerry Williams Kelso</td>
<td>TAS</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Parry, Stephen</td>
<td>TAS</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Patterson, Hon. Kay Christine Lesley</td>
<td>VIC</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Payne, Marise Ann</td>
<td>NSW</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Polley, Helen</td>
<td>TAS</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Ray, Hon. Robert Francis</td>
<td>VIC</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Ronaldson, Hon. Michael</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Santoro, Santo (1)</td>
<td>QLD</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Scullion, Nigel Gregory (3)</td>
<td>NT</td>
<td></td>
<td>CLP</td>
</tr>
<tr>
<td>Sherry, Hon. Nicholas John</td>
<td>TAS</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Siewert, Rachel</td>
<td>WA</td>
<td>30.6.2011</td>
<td>AG</td>
</tr>
<tr>
<td>Stephens, Ursula Mary</td>
<td>NSW</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Sterle, Glenn</td>
<td>WA</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Stott Despoja, Natasha Jessica</td>
<td>SA</td>
<td>30.6.2008</td>
<td>AD</td>
</tr>
<tr>
<td>Troeth, Hon. Judith Mary</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Trood, Russell</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Vanstone, Hon. Amanda Eloise</td>
<td>SA</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Watson, John Odin Wentworth</td>
<td>TAS</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Webber, Ruth Stephanie</td>
<td>WA</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Wong, Penelope Ying Yen</td>
<td>SA</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Wortley, Dana</td>
<td>SA</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
</tbody>
</table>

(1) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. John Joseph Herron, resigned.
(2) Chosen by the Parliament of Victoria to fill a casual vacancy vice Hon. Richard Kenneth Robert Alston, resigned.
(3) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.
(4) Chosen by the Parliament of Tasmania to fill a casual vacancy vice Susan Mary Mackay, resigned.

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

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

Prime Minister
Minister for Trade and Deputy Prime Minister
Treasurer
Minister for Transport and Regional Services
Minister for Defence and Leader of the Government in the Senate
Minister for Foreign Affairs
Minister for Health and Ageing and Leader of the House
Attorney-General
Minister for Finance and Administration, Deputy Leader of the Government in the Senate and Vice-President of the Executive Council
Minister for Agriculture, Fisheries and Forestry and Deputy Leader of the House
Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs
Minister for Education, Science and Training
Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues
Minister for Industry, Tourism and Resources
Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service
Minister for Communications, Information Technology and the Arts
Minister for the Environment and Heritage

The Hon. John Winston Howard MP
The Hon. Mark Anthony James Vaile MP
The Hon. Peter Howard Costello MP
The Hon. Warren Errol Truss MP
Senator the Hon. Robert Murray Hill
The Hon. Alexander John Gosse Downer MP
The Hon. Anthony John Abbott MP
The Hon. Philip Maxwell Ruddock MP
Senator the Hon. Nicholas Hugh Minchin
The Hon. Peter John McGauran MP
Senator the Hon. Amanda Eloise Vanstone
The Hon. Dr Brendan John Nelson MP
Senator the Hon. Kay Christine Lesley Patterson
The Hon. Ian Elgin Macfarlane MP
The Hon. Kevin James Andrews MP
Senator the Hon. Helen Lloyd Coonan
Senator the Hon. Ian Gordon Campbell

(The above ministers constitute the cabinet)
<table>
<thead>
<tr>
<th>Position</th>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minister for Justice and Customs and Manager of Government Business in the Senate</td>
<td>Senator the Hon. Christopher Martin Ellison</td>
</tr>
<tr>
<td>Minister for Fisheries, Forestry and Conservation</td>
<td>Senator the Hon. Ian Douglas Macdonald</td>
</tr>
<tr>
<td>Minister for the Arts and Sport</td>
<td>Senator the Hon. Charles Roderick Kemp</td>
</tr>
<tr>
<td>Minister for Human Services</td>
<td>The Hon. Joseph Benedict Hockey MP</td>
</tr>
<tr>
<td>Minister for Citizenship and Multicultural Affairs</td>
<td>The Hon. John Kenneth Cobb MP</td>
</tr>
<tr>
<td>Minister for Revenue and Assistant Treasurer</td>
<td>The Hon. Malcolm Thomas Brough MP</td>
</tr>
<tr>
<td>Special Minister of State</td>
<td>Senator the Hon. Eric Abetz</td>
</tr>
<tr>
<td>Minister for Vocational and Technical Education and Minister Assisting the Prime Minister</td>
<td>The Hon. Gary Douglas Hardgrave MP</td>
</tr>
<tr>
<td>Minister for Ageing</td>
<td>The Hon. Julie Isabel Bishop MP</td>
</tr>
<tr>
<td>Minister for Small Business and Tourism</td>
<td>The Hon. Frances Esther Bailey MP</td>
</tr>
<tr>
<td>Minister for Local Government, Territories and Roads</td>
<td>The Hon. James Eric Lloyd MP</td>
</tr>
<tr>
<td>Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence</td>
<td>The Hon. De-Anne Margaret Kelly MP</td>
</tr>
<tr>
<td>Minister for Workforce Participation</td>
<td>The Hon. Peter Craig Dutton MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Finance and Administration</td>
<td>The Hon. Dr Sharman Nancy Stone MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Industry, Tourism and Resources</td>
<td>The Hon. Warren George Entsch MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Health and Ageing</td>
<td>The Hon. Christopher Maurice Pyne MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Defence</td>
<td>The Hon. Teresa Gambaro MP</td>
</tr>
<tr>
<td>Parliamentary Secretary (Trade)</td>
<td>Senator the Hon. John Alexander Lindsay (Sandy) Macdonald</td>
</tr>
<tr>
<td>Parliamentary Secretary (Foreign Affairs) and Parliamentary Secretary to the Minister for Immigration and Multicultural and Indigenous Affairs</td>
<td>The Hon. Bruce Fredrick Billson MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
<td>The Hon. Gary Roy Nair MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Treasurer</td>
<td>The Hon. Christopher John Pearce MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for the Environment and Heritage</td>
<td>The Hon. Gregory Andrew Hunt MP</td>
</tr>
<tr>
<td>Parliamentary Secretary (Children and Youth Affairs)</td>
<td>The Hon. Sussan Penelope Ley MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Education, Science and Training</td>
<td>The Hon. Patrick Francis Farmer MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry</td>
<td>Senator the Hon. Richard Mansell Colbeck</td>
</tr>
</tbody>
</table>
SHADOW MINISTRY

Leader of the Opposition
The Hon. Kim Christian Beazley MP

Deputy Leader of the Opposition and Shadow Minister for Education, Training, Science and Research
Jennifer Louise Macklin MP

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

Deputy Leader of the Opposition in the Senate and Shadow Minister for Communications and Information Technology
Senator Stephen Michael Conroy

Shadow Minister for Health and Manager of Opposition Business in the House
Julia Eileen Gillard MP

Shadow Treasurer
Wayne Maxwell Swan MP

Shadow Attorney-General
Nicola Louise Roxon MP

Shadow Minister for Industry, Infrastructure and Industrial Relations
Stephen Francis Smith MP

Shadow Minister for Foreign Affairs and Trade and Shadow Minister for International Security
Kevin Michael Rudd MP

Shadow Minister for Defence
Robert Bruce McClelland MP

Shadow Minister for Regional Development
The Hon. Simon Findlay Crean MP

Shadow Minister for Primary Industries, Resources, Forestry and Tourism
Martin John Ferguson MP

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

Shadow Minister for Housing, Shadow Minister for Urban Development and Shadow Minister for Local Government and Territories
Senator Kim John Carr

Shadow Minister for Public Accountability and Shadow Minister for Human Services
Kelvin John Thomson MP

Shadow Minister for Finance
Lindsay James Tanner MP

Shadow Minister for Superannuation and Intergenerational Finance and Shadow Minister for Banking and Financial Services
Senator the Hon. Nicholas John Sherry

Shadow Minister for Child Care, Shadow Minister for Youth and Shadow Minister for Women
Tanya Joan Plibersek MP

Shadow Minister for Employment and Workforce Participation and Shadow Minister for Corporate Governance and Responsibility
Senator Penelope Ying Yen Wong

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

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

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

Shadow Assistant Treasurer, Shadow Minister for
Revenue and Shadow Minister for Small
Business and Competition
Joel Andrew Fitzgibbon MP

Shadow Minister for Transport
Senator Kerry Williams Kelso O’Brien

Shadow Minister for Sport and Recreation
Senator Kate Alexandra Lundy

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

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

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

Shadow Minister for Immigration
Anthony Stephen Burke MP

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

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

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

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

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

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

Shadow Parliamentary Secretary for Education
Kirsten Fiona Livermore MP

Shadow Parliamentary Secretary for Environment
and Heritage
Jennie George MP

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

Shadow Parliamentary Secretary for Immigration
Ann Kathleen Corcoran MP

Shadow Parliamentary Secretary for Treasury
Catherine Fiona King MP

Shadow Parliamentary Secretary for Science and
Water
Senator Ursula Mary Stephens

Shadow Parliamentary Secretary for Northern
Australia and Indigenous Affairs
The Hon. Warren Edward Snowdon MP
CONTENTS

THURSDAY, 8 DECEMBER

Chamber
Personal Explanations ........................................................................................................ 1
Petitions —
  Defence: Involvement in Overseas Conflict Legislation ................................................. 2
  Voluntary Student Unionism .......................................................................................... 2
  Trade: Live Animal Exports .......................................................................................... 3
  Workplace Relations ...................................................................................................... 3
  Workplace Relations ...................................................................................................... 3
  Workplace Relations ...................................................................................................... 3
Notices —
  Presentation .................................................................................................................. 4
Committees —
  Selection of Bills Committee — Report ......................................................................... 7
Notices —
  Postponement ............................................................................................................... 9
Business —
  Consideration of Legislation ....................................................................................... 9
Therapeutic Goods Amendment (Repeal of Ministerial Responsibility for Approval of RU486) Bill 2005 —
  First Reading ................................................................................................................ 9
  Second Reading .......................................................................................................... 10
Mr Robert Gerard ........................................................................................................ 10
Business —
  Days of Meeting ......................................................................................................... 11
Therapeutic Goods Amendment (Repeal of Ministerial Responsibility for Approval of RU486) Bill 2005 ........................................................................................................ 14
Committees —
  Environment, Communications, Information Technology and the Arts References
    Committee — Meeting .................................................................................................. 15
  Environment, Communications, Information Technology and the Arts References
    Committee — Extension of Time .................................................................................. 15
  Community Affairs References Committee — Reference ............................................ 15
  Nuclear Power .............................................................................................................. 15
  Student Radio Funding ............................................................................................... 17
  Death Penalty .............................................................................................................. 17
Commonwealth Radioactive Waste Management Bill 2005,
Commonwealth Radioactive Waste Management (Related Amendments) Bill 2005,
Indigenous Education (Targeted Assistance) Amendment Bill 2005,
Health Insurance Amendment (Medicare Safety-nets) Bill 2005,
National Health Amendment (Budget Measures—Pharmaceutical Benefits Safety Net) Bill 2005,
Tax Laws Amendment (2005 Measures No. 4) Bill 2005,
Tax Laws Amendment (Superannuation Contributions Splitting) Bill 2005,
Tax Laws Amendment (Improvements to Self Assessment) Bill (No. 2) 2005 and
Tax Laws Amendment (2005 Measures No. 5) Bill 2005 —
  Declaration of Urgency ................................................................................................ 17
  Suspension of Standing Orders ...................................................................................... 18
  Allotment of Time ........................................................................................................ 26
Commonwealth Radioactive Waste Management Bill 2005 and
Commonwealth Radioactive Waste Management (Related Amendments) Bill 2005—
Second Reading ................................................................................................................. 27
Third Reading .................................................................................................................. 46
Indigenous Education (Targeted Assistance) Amendment Bill 2005—
Second Reading ................................................................................................................. 47
In Committee ................................................................................................................... 63
Third Reading .................................................................................................................. 64
Questions Without Notice—
Howard Government: Senate ............................................................................................. 64
Howard Government—
Suspension of Standing Orders........................................................................................... 66
Questions Without Notice—
Question ....................................................................................................................... 75
Howard Government—
Suspension of Standing Orders........................................................................................... 75
Questions Without Notice: Take Note of Answers—
Howard Government: Senate ............................................................................................. 79
Committees—
Community Affairs Legislation Committee—Reference ...................................................... 88
Notices—
Transfer ....................................................................................................................... 88
Committees—
Corporations and Financial Services Committee—Report: Government Response .... 88
Reports: Government Response ........................................................................................... 90
Documents—
Tabling ........................................................................................................................ 100
Committees—
Foreign Affairs, Defence and Trade References Committee—Report .............................. 100
Workplace Relations ............................................................................................................. 105
Health Insurance Amendment (Medicare Safety-nets) Bill 2005—
Second Reading ................................................................................................................. 106
In Committee ................................................................................................................... 125
Third Reading .................................................................................................................. 127
Committees—
Publications Committee—Report......................................................................................... 131
Public Accounts and Audit Committee—Report ........................................................................ 131
Anglo-Australian Telescope Agreement Amendment Bill 2005 and
Occupational Health and Safety (Commonwealth Employment) Amendment (Promoting
Safer Workplaces) Bill 2005—
First Reading .................................................................................................................. 132
Second Reading ............................................................................................................... 133
Anti-Terrorism Bill (No. 2) 2005,
Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other
Measures) Bill 2005 and
Tax Laws Amendment (Loss Recoupment Rules and Other Measures) Bill 2005—
Returned from the House of Representatives ................................................................. 135
Higher Education Legislation Amendment (2005 Measures No. 3) Bill 2005—
Returned from the House of Representatives ................................................................. 136
CONTENTS—continued

Committees—
  Parliamentary Library Committee—Establishment ......................................................... 136
Business—
  Rearrangement.................................................................................................................. 136
National Health Amendment (Budget Measures—Pharmaceutical Benefits Safety Net)
  Bill 2005—
    Second Reading ................................................................................................................ 137
    In Committee ................................................................................................................... 147
    Third Reading .................................................................................................................. 152
Tax Laws Amendment (2005 Measures No. 4) Bill 2005—
  Second Reading ................................................................................................................ 152
  In Committee ................................................................................................................... 164
  Third Reading .................................................................................................................. 169
Tax Laws Amendment (Superannuation Contributions Splitting) Bill 2005—
  Second Reading ................................................................................................................ 169
  In Committee ................................................................................................................... 178
  Third Reading .................................................................................................................. 181
Tax Laws Amendment (Improvements to Self Assessment) Bill (No. 2) 2005—
  Second Reading ................................................................................................................ 181
  Third Reading .................................................................................................................. 191
Tax Laws Amendment (2005 Measures No. 5) Bill 2005—
  Second Reading ................................................................................................................ 191
  Third Reading .................................................................................................................. 197
Adjournment—
  Tasmania: Comalco Aluminium Smelter ......................................................................... 197
  Australian Muslim Community ......................................................................................... 198
  Howard Government: Senate .......................................................................................... 200
  Internet Pornography ...................................................................................................... 203
  Jezzine Barracks and Kissing Point ................................................................................ 205
Documents—
  Tabling .............................................................................................................................. 207
Questions on Notice
  Tomson Case—(Question No. 1054) ................................................................................ 209
The President (Senator the Hon. Paul Calvert) took the chair at 9.30 am and read prayers.

PERSONAL EXPLANATIONS

Senator Johnston (Western Australia) (9.31 am)—I seek leave to make a short personal explanation pursuant to standing order 190.

Leave granted.

Senator Johnston—Mr President, I draw your attention to an adjournment speech made last night by Senator Sterle. The speech was a smearing personal attack on me from beginning to end. Accordingly, I respond by assuring you and honourable senators that Senator Sterle’s tirade, whilst malicious and smearing, contained not one element of truth or factual accuracy. Everything he said about me, my friends and associates was entirely other than the truth. I have previously heard the allegation relating to a former state upper house member, which was also made with the protection of parliamentary privilege. However, Senator Sterle has introduced a new element to this allegation by attributing that state member’s preselection demise to me exclusively. Even the original allegation, made by the former member himself, alleged that three people were responsible for his fate.

Turning very briefly to the actual substance of Senator Sterle’s speech, it was alleged that I had some complicity in a letter sent by a Liberal Party candidate in the last federal election. When that story broke and the campaign committee met and deliberated for the candidate, I was not on the campaign committee; I was, in fact, here in parliament and had nothing whatsoever to do with the letter. Indeed, all of my friends, colleagues and associates in the party know that that was not a matter that I had anything whatsoever to do with.

I was also attributed with installing my ‘close friend and factional ally Colin Edwards into the Western Australia seat of Kingsley’. I neither sat on the preselection nor had anything to do with the candidates or discussed Mr Edwards’s future at all with anybody. I had nothing whatsoever to do with the installation of that candidate into that seat.

I am attributed with having sat on Team Blue during the last Western Australian state parliamentary election. I confirm for the benefit of all senators, and indeed some of them here know, that I was not on Team Blue and was never on Team Blue during the last campaign and I had nothing to do with the mechanics and strategy of the campaign. There are also allegations concerning my business dealings. There is an allegation that I defrauded a client of a considerable amount of money. That has been the subject of legal proceedings which were resolved to my satisfaction. And so on goes this very personal tirade against me.

Mr President, I have but one real remedy in the circumstances of last night’s quite disgraceful exhibition, save for this statement—that is, to extend to the senator an invitation to repeat and publish his speech word for word without the protection of this hallowed and honourable place. I have no doubt that my invitation will suffer the fate of all such invitations when the Senate has been abused in the manner in which it has been by Senator Sterle: it will be ignored. That a senator whom I have not previously met and barely know would occupy his allotted time in an adjournment speech—against the backdrop of what has been before this chamber in the last two weeks—to mount such a sustained personal attack on me has caused me to question what I might have done to offend
the senator. Save for chiding him, whilst taking note of answers, about factual accuracy during question time with respect to the whereabouts of a Customs vessel and expressing my surprise at former Senator Cook’s failure to retain a winnable position on the WA ALP Senate ticket, there is nothing I could point to which would evoke in the senator such a nasty and bitter response.

It did occur to me whilst considering the matter that there is really only one organisation that I have targeted since becoming a senator. This attack by Senator Sterle is a first-hand example to all of my colleagues on this side of the chamber of the modus operandi of that organisation. Since becoming a senator for Western Australia, I have been a constant critic of the corruption and lawlessness of the CFMEU and its individual leadership within the building industry in Western Australia—

The PRESIDENT—Order! Senator, I think you might be getting a little away from the personal explanation.

Senator JOHNSTON—I will return to the personal explanation. Senator Sterle’s smearing attack upon me is an act of reprisal. This chamber and the parliament should not be used solely as a platform for pugilistic skills and personal attack. Senators must and should bring many qualities into the chamber, not the least of which should be a degree of intellect, a sense of decorum, some courtesy and, above all, some respect. I look forward to observing these qualities in Senator Sterle at some point in the future.

PETITIONS
The Clerk—Petitions have been lodged for presentation as follows:

Defence: Involvement in Overseas Conflict Legislation
To the Honourable the President and Members of the Senate in Parliament assembled.

The Petition of the undersigned calls on the members of the Senate to support the Defence Amendment (Parliamentary Approval for Australian Involvement in Overseas conflict) Bill introduced by the Leader of the Australian Democrats, Senator Andrew Bartlett and the Democrats’ Foreign Affairs spokesperson, Senator Natasha Stott Despoja.

Presently, the Prime Minister, through a Cabinet decision and the authority of the Defence Act, has the power to send Australian troops to an overseas conflict without the support of the United Nations, the Australian Parliament or the Australian people.

The Howard Government has been the first Government in our history to go to war without majority Parliament support. It is time to take the decision to commit troops to overseas conflict out of the hands of the Prime Minister and Cabinet, and place it with the Parliament.

by Senator Allison (from 12 citizens).

Voluntary Student Unionism
To the Honourable President and members of the Senate in Parliament assembled:

We the undersigned Students and Staff of Monash University Gippsland and Community members oppose the Higher Education Support Amendment (Abolition of Compulsory Up-front Student Union Fees) Bill 2005. The detrimental effects this legislation will have on Universities and regional campuses in particular within Australia will be unprecedented and change forever the culture of University life.

We bring to your attention the following effects the passage of this legislation will have, including:

• Undermining the ability of Universities and student organisations to provide welfare support and services to students (including sport and recreation, academic rights, careers counselling, childcare, scholarships, clubs and societies and financial assistance);
• Undermining the ability of Universities and student organisations to provide support and services to disadvantaged students (including those who are mature aged or part time, enrolled off campus, women, Aboriginal and
Torres Strait Islander, International or from regional Australia;

- eliminating services vital to the campus community at Gippsland and subsequently deterring students and eroding the quality of a University experience at Monash Gippsland campus.

We ask the Senate not support this legislation in its current form.

by Senator Allison (from 2,193 citizens).

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 533 citizens).

Workplace Relations

To the Honourable the President and Members of the Senate assembled in Parliament:

We, the undersigned people of goodwill, draw to the attention of the Senate our grave concerns about the direction that the Government is taking our nation with its comprehensive changes to the Workplace and Industrial Relations System.

Your petitioners therefore pray that the Senate refer all relevant legislation to a comprehensive Senate Inquiry and Review process that:

- investigates the impact of the changes on and safeguards the rights of the most vulnerable workers and their families: low-income, part-time and casual workers and especially out-workers
- upholds the right of workers to bargain collectively and the right of unions to act as their agents
- accepts and hears submissions from all interested stakeholders in all states and territories
- enquires into the constitutional underpinnings of the proposed legislation
- upholds the principles of fairness and balance for workers and their families in its deliberations and decisions.

by Senator Ronaldson (from 233 citizens).

Workplace Relations

To the Honourable President and Members of the Senate assembled in Parliament:

This petition of certain citizens of Australia draws to the attention of the Senate 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 on the Senate to:

1. Guarantee that no employee will be worse off under proposed changes to the industrial relations system.
2. Allow the minimum wage to continue to be set annually by the independent umpire, the Australian Industrial Relations Commission.
3. Guarantee that unfair dismissal law changes will not enable employers to unfairly sack employees.
4. Adopt Labor’s system based on minimum standards, wages and conditions; safety nets; an independent umpire; and the right to associate and to collectively bargain.

by Senator Webber (from 273 citizens).
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 on minimum standards, wages and conditions; safety nets; an independent umpire; the right to associate; and the right to collectively bargain.

by Senator Wong (from 1,705 citizens).

Petitions received.

NOTICES

Presentation

Senator WATSON (Tasmania) (9.36 am)—On behalf of the Standing Committee on Regulations and Ordinances, I give notice that 15 days after today I shall move:

That the following delegated legislation be disallowed:

(1) Aviation Transport Security Amendment Regulations 2005 (No. 2) as contained in Select Legislative Instrument 2005 No. 224 and made under the Civil Aviation Act 1988.

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

Leave granted.

The document read as follows—

Aviation Transport Security Amendment Regulations 2005 (No. 2), Select Legislative Instrument 2005 No. 222

Aviation Transport Security Amendment Regulations 2005 (No. 2)

Select Legislative Instrument 2005 No. 222

These Regulations amend provisions in the principal Regulations concerning airport operators who do not provide passenger screening, the issue of Aviation Security Identification Cards (ASICs) by the Civil Aviation Safety Authority, and other matters relating to the issue of ASICs.

The amendments in items [15] to [16] of this instrument amend regulation 6.28 in the principal Regulations. One aspect of these amendments is to remove a so-called ‘grandfathering provision’ under which only new employees have been denied an Aviation Security Identification Card on the basis of a previous adverse criminal record. The Explanatory Statement does not explain why this provision is being removed. The Committee also sought advice on whether the amended regulation 6.28 will have the effect that a person who has worked successfully may now be denied an ASIC because of an adverse criminal record that was previously not considered by reason of the grandfathering clause. The Minister has responded to the Committee’s concerns and explained that a person denied an ASIC because of a previous adverse criminal record may appeal to the Administrative Appeals Tribunal for review of that decision. The Committee thanks the Minister for this advice. The Committee has, however, written to the Minister again seeking advice on the reason for removing this provision.

———

CHAMBER
Civil Aviation (Fees) Amendment Regulations 2005 (No. 1), Select Legislative Instrument 2005 No. 224

This instrument specifies fees payable to CASA for aviation security status checking and for the issuing of an Aviation Security Identification Card, or ASIC. The Committee notes that the Explanatory Statement states that the fees in subregulation 5(4) are the same as those in subregulation 5(2). However, item 4 of the table in subregulation 5(2) states that the fee for replacement of a security designated authorisation is $50, while item 4 in subregulation 5(4) states that the fee for the replacement of an ASIC is $75. The Committee sought the Minister’s advice on the reasons for this difference and was advised that it was due to the different costs in processing the applications. The Committee thanks the Minister for this advice.

The Committee also noted that the explanatory statement did not provide information on consultation in accordance with section 4 of the Legislative Instruments Act 2003. The Minister advised that consultation took place but did not provide enough information on the nature of that consultation. The Committee has therefore written to the Minister seeking further information on the nature of the consultation.

Senator WATSON (Tasmania) (9.36 am)—Following the receipt of satisfactory responses, on behalf of the Regulations and Ordinances Committee I give notice that, at the giving of notices on the next day of sitting, I shall withdraw business of the Senate notice of motion No. 1 standing in my name for 11 sitting days after today for the disallowance of the Building and Construction Industry Improvement Regulations 2005 as contained in select executive instrument 2005 No. 204 and business of the Senate notice of motion No. 2 standing in my name for 11 sitting days after today for the disallowance of the Guide to the Assessment of the Degree of Permanent Impairment [second edition] made under subsection 28(1) of the Safety, Rehabilitation and Compensation Act 1988. I seek leave to incorporate in Hansard the committee’s correspondence concerning these instruments.

Leave granted.

The correspondence read as follows—

Building and Construction Industry Improvement Regulations 2005, Select Legislative Instrument 2005 No. 204

6 September 2005
The Hon Kevin Andrews MP
Minister for Employment and Workplace Relations
Suite MG.48
Parliament House
CANBERRA ACT 2600
Dear Minister

I refer to the Building and Construction Industry Improvement Regulations 2005, Select Legislative Instrument 2005 No. 204. These Regulations prescribe certain authorised persons and specify forms of identification, forms and notices for the purposes of the Act.

The Committee notes that section 17 of the Legislative Instruments Act 2003 directs a rule-maker to be satisfied that appropriate consultation, as is reasonably practicable, has been undertaken particularly where a proposed instrument is likely to have an effect on business. The definition of ‘explanatory statement’ in section 4 of the Act requires an explanatory statement to describe the nature of any consultation that has been carried out. The Explanatory Statement to these Regulations states that “Extensive consultation was undertaken with building industry participants” before the Building and Construction Industry Improvement Bill 2003 was introduced into Parliament. That consultation thus occurred two years ago. The Committee is concerned that given the length of time that has expired since that consultation, the requirements of the Legislative Instruments Act 2003 may not have been satisfied for these Regulations. The Committee therefore seeks your advice on why further consultation was not necessary for the purposes of these Regulations.

The Committee would appreciate your advice on the above matter as soon as possible, but before 4 November 2005, to enable it to finalise its con-
consideration of these Regulations. Correspondence should be directed to the Chairman, Senate Standing Committee on Regulations and Ordinances, Room SG49, Parliament House, Canberra.

Yours sincerely
John Watson
Chairman

1 December 2005
Senator John Watson
Chairman Standing Committee on Regulations and Ordinances
Senator for Tasmania
Parliament House
CANBERRA ACT 2600

Dear Senator


Consultation on the Building and Construction Industry Improvement Bill 2003 (the BCII Bill 2003) and the BCII Act was extensive, including an exposure draft of the BCII Bill 2003 in September 2003.

As detailed in the Regulation Impact Statement included in the Revised Explanatory Memorandum for the BCII Act, an exposure draft of the BCII Bill 2003 was released on 18 September 2003 for a four week consultation period. Over 60 submissions were received by my Department from employee industrial associations, employer organisations, major contractors and subcontractors. Many submissions contained comments on specific provisions and suggested amendments which were carefully considered and resulted in several technical amendments to the Bill.

Additionally, in 2004 the Australian Government announced its intention to proceed with the BCII Bill and wrote to stakeholders on 12 November 2004 inviting them to provide feedback on the Bill. Feedback was received from employer organisations, industry associations and law firms. All feedback and comments were carefully considered by my Department while drafting amendments to the BCII Bill.

The provisions of the BCII Bill 2003 were referred to the Senate Employment, Workplace Relations and Education References Committee on 3 December 2003, with the report tabled on 21 June 2004. The provisions of the Building and Construction Industry Improvement Bill 2005 as introduced were referred to the Senate Employment, Workplace Relations and Education Legislation Committee on 16 March 2005, with the report tabled on 10 May 2005.

Importantly, the Australian Government amendments made in the BCII Act were directed at establishing the Office of the Australian Building and Construction Commissioner and associated enforcement provisions, including the appointment of Australian and Building and Construction Inspectors. Given that the provisions of the BCII Act, and the provision for regulations under the Act, are essentially unchanged from the corresponding provisions in the BCII Bill 2003, consultation beyond that detailed above was not considered necessary.

I trust this information is of assistance in addressing your concerns.

Yours sincerely
Kevin Andrews
Minister for Employment and Workplace Relations

Guide to the Assessment of the Degree of Permanent Impairment [second edition]
13 October 2005
The Hon Kevin Andrews MP
Minister for Employment and Workplace Relations
Suite MG48
Parliament House
CANBERRA ACT 2600

Dear Minister

I refer the Guide to the Assessment of the Degree of Permanent Impairment made under subsection

The Committee notes that there may be an error in the table that is presented in Figure 6-C: Percentage Loss of Central Vision in One Eye, found at page 51 of this instrument. The percentage loss for Distance Vision of 6/12 in conjunction with a Revised LogMar Standard for Near Vision of 1.0 is listed as 5. The surrounding figures in the Table suggest that this is a misprint. The Committee therefore seeks your advice on whether there is an error in this table.

The Committee would appreciate your advice on the above matter as soon as possible, but before 24 November 2005, to enable it to finalise its consideration of this Guide. Correspondence should be directed to the Chairman, Senate Standing Committee on Regulations and Ordinances, Room SG49, Parliament House, Canberra.

Yours sincerely
John Watson
Chairman

6 December 2005
Senator John Watson
Chairman
Senate Standing Committee on Regulations and Ordinances
Parliament House
CANBERRA ACT 2600
Dear Senator Watson

You asked whether there is an error in Figure 6-C: Percentage Loss of Central Vision in One Eye, on page 51 of this instrument. The percentage loss for Distance Vision of 6/12 in conjunction with a Revised LogMar Standard for Near Vision of 1.0 is listed as "5".

I am advised that a typographical error has occurred and the figure of "5" is incorrect. The percentage loss should read "51".

The agency responsible for the printing of this instrument is Comcare. My Department has informed Comcare of the error and it will be corrected presently.

Thank you for bringing is matter to my attention.
Yours sincerely
Kevin Andrews
Minister for Employment and Workplace Relations

COMMITTEES

Selection of Bills Committee
Report
Senator McGauran (Victoria) (9.37 am)—I present the 15th report of 2005 of the Selection of Bills Committee.

Ordered that the report be adopted.

Senator McGauran—I seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE
REPORT NO. 15 OF 2005

(1) The committee met in private session on Wednesday, 7 December 2005 at 4.34 pm.

(2) The committee resolved to recommend—

That—

(a) the provisions of the Australian Sports Anti-Doping Authority Bill 2005 and the Australian Sports Anti-Doping Authority (Consequential and Transitional Provisions) Bill 2005 be referred immediately to the Environment, Communications, Information Technology and the Arts Legislation Committee for inquiry and report by 7 February 2006 (see appendix 1 for a statement of reasons for referral);

(b) the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2005 be referred immediately to the Legal and Constitutional Legislation Committee for inquiry and report by 7 February
2006 (see appendix 2 for a statement of reasons for referral); and

(c) the provisions of the Future Fund Bill 2005 be referred immediately to the Economics Legislation Committee for inquiry and report by 21 February 2006 (see appendix 3 for a statement of reasons for referral).

(3) The committee resolved to recommend—
That the following bills not be referred to committees:
• Defence (Road Transport Legislation Exemption) Bill 2005
• Statute Law Revision Bill (No. 2) 2005

The committee recommends accordingly.

(4) The committee deferred consideration of the following bills to the next meeting:
Bills deferred from meeting of 7 December 2005
• Bankruptcy Legislation Amendment (Anti-avoidance) Bill 2005
• 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
• OHS and SRC Legislation Amendment Bill 2005
• Tax Laws Amendment (2005 Measures No. 6) Bill 2005.

(Alan Eggleston)

Acting Chair
8 December 2005

Appendix 1

Proposal to refer a bill to a committee
Name of bill(s):

Reasons for referral/principal issues for consideration
Examine the bill

Possible submissions or evidence from:
As required

Committee to which bill is referred:
Environment, Communications Information Technology and the Arts Legislation Committee

Possible hearing date: TBC
Possible reporting date(s): Tuesday, 7 February 2006

Appendix 2

Proposal to refer a bill to a committee
Name of bill(s):
Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2005

Reasons for referral/principal issues for consideration
Consideration of the bill

Possible submissions or evidence from:
As required

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

Possible hearing date:
Possible reporting date(s): Tuesday, 7 February 2006

Appendix 3

Proposal to refer a bill to a committee
Name of bill(s):
Future Fund Bill 2005

Reasons for referral/principal issues for consideration
Examine the bill

Possible submissions or evidence from:
As required

Committee to which bill is referred:
Economics Legislation Committee

Possible hearing date:
Possible reporting date(s): Tuesday, 7 February 2006
NOTICES
Postponement

The following item of business was postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Bartlett for today, proposing the disallowance of Schedule 7 of the Migration Amendment Regulations 2005 (No. 8), postponed till 7 February 2006.

BUSINESS
Consideration of Legislation

Senator NASH (New South Wales) (9.38 am)—I, and also on behalf of Senators Troeth, Allison and Moore, move:

That the following bill be introduced: A Bill for an Act to repeal Ministerial responsibility for approval for RU486, and for related purposes. Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005.

Question put:

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

A division having been called and the bells being rung—

Senator Bob Brown—Mr President, I rise on a point of order. I would ask respectfully that it be drawn to the attention of those who oppose this motion that opposing a first reading in the Senate effectively means that the matter cannot be looked at. It is a counter-democratic process to oppose the first reading and they should think again and apply their opposition to the second reading. We cannot even know what the bill contains if the first reading is opposed.

The PRESIDENT—It is the introduction that is being opposed, I believe.

Senator STEPHENS (New South Wales) (9.40 am)—by leave—I acknowledge what Senator Bob Brown said. After discussions with my colleagues here I indicate that I withdraw my consent to that motion.

The PRESIDENT—Perhaps it might be easier if I put the motion again. The question is that the bill be introduced.

Question agreed to.

Senator FIELDING (Victoria—Leader of the Family First Party) (9.41 am)—Can I have it recorded that Family First voted no on that issue?

The PRESIDENT—Yes.

THERAPEUTIC GOODS AMENDMENT (REPEAL OF MINISTERIAL RESPONSIBILITY FOR APPROVAL OF RU486) BILL 2005

First Reading

Senator NASH (New South Wales) (9.41 am)—I present the bill and move:

That the bill be now read a first time.

Bill read a first time.

Second Reading

Senator NASH (New South Wales) (9.41 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 removes responsibility for approval of RU486 from the Minister for Health and Ageing, and provides responsibility for approval of RU486 to the Therapeutic Goods Administration.

In 1996, this parliament allowed an amendment to the Therapeutic Goods Act 1989. That amendment made the Minister for Health and Ageing ultimately responsible for decisions in relation to the importation, trial, registration and listing of RU486 and other abortifacients, rather than the Therapeutic Goods Administration, which is the statutory body usually responsible for the ap-
proval of medicines in Australia. This was on the grounds that these drugs amounted to a special category of drug requiring an additional layer of public scrutiny.

That debate occurred some 10 years ago over concerns about the safety of the drug, in the context of what was known about RU486 at that time.

The Australian community expects that medicines and medical devices in the marketplace to be safe, of high quality and of a standard at least equal to that of comparable countries. Responsibility for that falls on the Therapeutic Goods Administration. The TGA provides a national framework for the regulation of therapeutic goods in Australia to ensure the quality, safety and efficacy of medicines, and to ensure the quality, safety and performance of medical devices.

The Therapeutic Goods Administration has the knowledge and expertise to conduct the evaluation of RU486 for quality, safety and efficacy. That is why the TGA has been entrusted to evaluate more than 50,000 therapeutic goods that have already come before it.

On behalf of Senators Troeth, Allison, Moore and myself I commend the Bill to the Senate and present the explanatory memorandum.

I seek leave to table the explanatory memorandum.

Leave granted.

Senator NASH—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**MR ROBERT GERARD**

**Senator SHERRY** (Tasmania) (9.42 am)—I move:

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.

Question put.

The Senate divided. [9.46 am]

(The President—Senator the Hon. Paul Calvert)

**Ayes**………..     32

**Noes**………..   34

Majority………..   2

AYES


NOES

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (9.49 am)—I move:

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 BARTLETT (Queensland) (9.50 am)—by leave—This motion is to set the days of sitting of the Senate next year. There is an amendment circulated in my name that seeks to add an extra sitting week. I think all of us in this chamber would be aware that the number of sitting days this year is amongst the lowest number that we have had in many a year, apart from the occasional election year. Next year’s sitting schedule is equally light, particularly in the first half of the year and the part of the year before the budget. This sitting schedule has only 11 sitting days prior to the budget—three sitting weeks. That is totally inadequate if there is to be any attempt to have this chamber continue to operate effectively. The budget week is only three days. Until 13 June we only have 14 sitting days. That is grossly inadequate. As senators would know, I have spoken a number of times in this chamber over a number of years about the importance of having more sitting days—particularly when we get to this part of the year, at the end of the sitting period, and have inevitable logjams and the continual threat of guillotines, as we have seen a few times this fortnight. An extra week or two of sittings would clearly assist in that regard.

I also make the point that this makes problems for the proper scrutiny of legislative instruments. As senators would know, there are 15 sitting days before legislative instruments that are tabled can be moved to be disallowed, and there are another 15 sitting days on top of that. So there is a potential period of 30 sitting days before a legislative instrument can be disallowed and then reversed. When we have such a small number of days spread out over such a long period, those 30 sitting days can take us into the sec-
ond half of next year. So an instrument that is gazetted on Monday next week can still be open to disallowance right through until August next year. I think that is bad process as well. It does not contribute to legislative and administrative certainty.

There have been some gaps left in the first part of next year for the Commonwealth Games. Personally, I am not convinced that it is necessary to have parliament not sitting when the Commonwealth Games is on. Even so, my amendment does provide for a sitting week prior to the Commonwealth Games. I think that is the least we can do in this Senate if we are serious about giving proper scrutiny in the full Senate chamber to the many issues of importance. Of course, as we know, beyond scrutinising legislation, the importance of the Senate chamber and, indeed, the House of Representatives is that it is a vehicle for providing scrutiny and focus on the activities of the government of the day. I would argue that it is more important than ever in the Senate, now that the government has a majority, that we are able to regularly question and pressure them about what they are doing.

As this schedule stands, we will only have 14 days between next Monday, 11 December, and 13 June next year. That is 14 sitting days in six months. That is inadequate in anybody’s language. There is a lot of justified outrage in the South Australian community at the moment about the decision of the Labor government there to have such a massive, extended period without parliament sitting prior to their election. We do not even have the excuse of an election. Fourteen sitting days in six months is inadequate. I urge senators to give thought to at least putting an extra week of sitting days in the first part of next year to somewhat redress this problem. It does not go as far as I would like, I must say, but with something as simple and reasonable as that I would be disappointed if there was not some recognition of the need for the Senate to work harder.

As a final point, it does leave us open to being ridiculed by the community and by those who want to take cheap shots and say, ‘That hardworking Senate works only 14 days in six months!’ I know that we all do a lot of work outside sitting days, which many in the community and a few cheap-shot merchants in the media like to ignore. But the fact is that our key role here is as legislators and to provide scrutiny of the government. If we do not have the opportunity to do that, I think that is unsatisfactory. Frankly, if we keep going in the direction of having such a small number of sitting days in each year, particularly in the first half of each year, we really will bring the parliament and the Senate into further disrepute. I move:

After “Monday, 27 February to Thursday, 2 March”, insert “Monday, 6 March to Thursday, 9 March”.

Senator LUDWIG (Queensland) (9.55 am)—by leave—I have had a debate before with Senator Bartlett about this very issue. The principle is that the government, whether the opposition agrees with it or not, sets the hours. That is an accepted principle that goes back some years, and it applied even when we were in government. The difficulty is that, when we look at this government’s abuse of the hours, the way they have been driving down the number of weeks and the way they have been managing the program, it does tend tempt you to reconsider that point of view. However, it is a longstanding principle that the government sets the hours. The hours motion has been moved by the government. It is their prerogative to do that. The opposition has agreed to the principle that we do not cavil with the government’s hours.

But we are sympathetic to the view that, if you look at the last couple of years, this gov-
ernment has decided to manage its program abysmally. What it has done is say: ‘We’ll have an hours motion which will set the hours for the year. We’ll have it a bit light in the first half and cram a bit into the second half.’ Then what it does is exactly what it has been doing in the last couple of days. It actually uses its numbers in this place to cram legislation through. So it expands the hours at that point by saying: ‘We’ll sit until late on Monday and until 11 o’clock on Tuesday. We’ll sit late on Thursday and we will sit on Friday.’ What that ends up doing is creating an extra week or two of government business hours at that point. It would be much smarter for the government to actually provide those hours in the program so that people can organise themselves according to it.

No-one wants to spend longer here than they have to, but it is important that the government allow sufficient time and sensible hours in the program for these debates to occur, rather than, as this government have been doing since they gained control of the Senate on 1 July, managing their business using guillotines and gags. That is completely and utterly wrong. It really demonstrates an incompetence on this government’s part that they are not able to manage the hours. When they come forward, bring their hours into the Senate and say, ‘It’s an ordinary motion; we had these hours last year and the year before, and we are going to have them again,’ the principle is that we normally agree with them. We will, in this instance, still agree with them. We will not agree with Senator Bartlett’s motion. But we are tempted to look hard at it. We will put them on notice that it is not simply the case that we will always acquiesce, say it is a reasonable and ordinary motion and on principle agree with it.

We are getting sick and tired of this government being unable to manage its program in a reasonable way that ensures that the business of the Senate, government business and our business is dealt with appropriately and that proper debate occurs. What we have seen even this week is extended hours for the antiterrorism debate and for Welfare to Work, which are then effectively guillotined and rammed through. Then we have a Wednesday which is for all intents and purposes an ordinary Wednesday. So there is a ‘hurry up and wait’ attitude from this government and it is managing by the use of a guillotine and a gag. We say that that is inappropriate.

The government should sort themselves out, ensure that there is a proper debate on bills and ensure that they have a properly structured program to prevent this type of abuse. If they cannot do that, they should mitigate it in some way. They have demonstrated—at least this week—that the way they are going to manage the program next year is in fact the way they have been managing it this year, and that is by use of the guillotine and the gag. That is inappropriate. What they should do is ensure that there are sufficient hours in the week, and if a reconsideration of the number of weeks is required then that should also be taken into account. That is what they should do. I will not extend this any longer. There is more I need to say, and I suspect I will probably get another opportunity this morning to complain about the way they are managing the program.

Senator BOB BROWN (Tasmania) (10.00 am)—The Greens will support the amendment.

The PRESIDENT—The question is that the amendment moved by Senator Bartlett be agreed to.

Question negatived.

Original question agreed to.
THERAPEUTIC GOODS AMENDMENT (REPEAL OF MINISTERIAL RESPONSIBILITY FOR APPROVAL OF RU486) BILL 2005

Senator BOSWELL (Queensland—Leader of The Nationals in the Senate) (10.01 am)—I seek leave to make a short statement.

Leave granted.

Senator BOSWELL—A short time ago, a private member’s bill was introduced on RU486. A proposal that that bill be taken to a division failed for the lack of a seconder, but Family First recorded their vote as opposing this bill. On behalf of Senator Barnaby Joyce, Senator Julian McGauran and Liberal senators, I want to make a statement about the reason the introduction of the bill was not opposed by a number of senators on this side of the house.

I do not think there has ever been a bill that was opposed on its first reading and introduction. Even the introduction of the IR bill was not opposed by the Labor Party. I believe that the best chance we have of defeating this bill is to take it to a committee and have the dangers of RU486 exposed. My view is that it should go to a committee and that committee should have an opportunity to examine the dangers of this particular bill. The Food and Drug Administration in the United States has convened a top-level meeting early next year to investigate deaths from RU486.

Lest it be misunderstood by anyone, there are a number of coalition senators—and, I suspect, a number of Labor Party senators, too—who are totally opposed to this bill but who see that the best way to expose the dangers of the bill is to take it to a committee and call on expert witnesses who are for and against RU486 so that people can know what they are voting on when the vote is determined in the Senate. My opposition to RU486 is on the record. I would like to see this bill defeated. I believe the best way of defeating it is to get some expert opinion on it. We can then make our own judgments, rather than putting it up and voting on it today when there are many senators who are not informed about some of the aspects of it.

Senator Allison interjecting—

Senator BOSWELL—I understand that, Senator. We took a vote on it a short while ago, and I know that people out there will be confused because they will think that Family First is the only party that opposes this. The bill will be vigorously opposed by members of the National Party and the Liberal Party and, I suspect, the Labor Party when the debate comes on. But let us have an informed debate and have a Senate committee so that all the dangers can be exposed. Let me put it on the record that Senator Joyce, Senator McGauran and I—

Senator Barnett—And others.

Senator BOSWELL—And other Liberals. I see Senator Guy Barnett speaking—he wants to be included. Senator Guy Barnett is opposed to it. But we will take it through the process which we believe gives us the best opportunity to defeat it.

Senator BOB BROWN (Tasmania) (10.04 am)—I seek leave to make a short statement.

Leave granted.

Senator BOB BROWN—I want to back what Senator Boswell has just said. I rose a little earlier to say that it is quite unparliamentary—if I can put it that way—to block the entry of a bill into the parliament. If you do that, parliamentarians do not get to see what it is about. The proper time to oppose it is during the second reading. As a person who supports this legislation, I back up what Senator Boswell said: there are people here who will oppose it but who have followed
proposed parliamentary process in allowing the bill to come into the parliament, whereupon due parliamentary process can take care of it.

It was a little naive of Senator Fielding to not understand that, but he is a new senator in the place and it was naivety rather than anything else that led him to oppose it. I have only ever seen that happen once before. It was the blocking of freedom of information legislation from coming into the Tasmanian parliament in 1983. It led to a week of furore about democracy, and the Premier had to relent—it was the Premier who blocked it on that occasion. Proper process has taken place here. It needs to be clearly understood that senators who may be opposed to this legislation have done the correct parliamentary thing by allowing its entry into the Senate so it can be properly debated.

COMMITTERS

Environment, Communications, Information Technology and the Arts References Committee

Meeting

Senator BARTLETT (Queensland) (10.06 am)—I move:

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.

Question agreed to.

Extension of Time

Senator BARTLETT (Queensland) (10.06 am)—I move:

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.

Question agreed to.

Community Affairs References Committee Reference

Senator McLUCAS (Queensland) (10.07 am)—I move:

That, recognising that 3 December 2005 marks the International Day of People with DisAbility, the following matter be referred to the Community Affairs References Committee for inquiry and report by 17 August 2006:

An examination of the funding and operation of the Commonwealth-State/Territory Disability Agreement (CSTDA), including:

(a) an examination of the intent and effect of the three CSTDAs to date;

(b) the appropriateness or otherwise of current Commonwealth/state/territory joint funding arrangements, including an analysis of levels of unmet needs and in particular the unmet need for accommodation services and support;

(c) an examination of the ageing/disability interface with respect to health, aged care and other services including the problems of jurisdictional overlap and inefficiency; and

(d) an examination of alternative funding, jurisdiction and administrative arrangements including relevant examples from overseas.

Question negatived.

NUCLEAR POWER

Senator ALLISON (Victoria—Leader of the Australian Democrats) (10.07 am)—I move:

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.

Question put.

The Senate divided. [10.12 am]

(The President—Senator the Hon. Paul Calvert)

Ayes………………… 7

Noes……………….. 50

Majority…………… 43

AYES

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

NOES

Adams, J.  Barnett, G.
Boswell, R.L.D.  Brandis, G.H.
Brown, C.L.  Calvert, P.H.
Campbell, G.  Carr, K.J.
Chapman, H.G.P.  Conroy, S.M.
Crossin, P.M.  Ellison, C.M.
Faulkner, J.P.  Ferguson, A.B.
Fielding, S.  Fierravanti-Wells, C.
Fifield, M.P.  Forshaw, M.G.
Humphries, G.  Hurley, A.
Johnston, D.  Joyce, B.
STUDENT RADIO FUNDING

Senator STOTT DESPOJA (South Australia) (10.15 am)—I move:
That the Senate notes that:
(a) Adelaide University Union is no longer able to fund student radio services on Radio Adelaide (formerly 5UV);
(b) 5UV and Radio Adelaide played a key role in the media and cultural development of students in South Australia; and
(c) 5UV was the first community radio licence to be granted in Australia in 1972 and student radio began in 1975.

Question negatived.

DEATH PENALTY

Senator NETTLE (New South Wales) (10.16 am)—I move:
That the Senate—
(a) notes that:
(i) 13 Australians face the death penalty in Vietnam, Kuwait and Indonesia,
(ii) Australia ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), aiming at the abolition of the death penalty on 2 October 1990, and
(iii) the protocol gives effect to Article 6 of the ICCPR which refers to the abolition of the death penalty and gives effect to an international commitment to abolish the death penalty by ratifying states; and
(b) calls on the Government to lead an international campaign for the ratification and implementation of the optional protocol by all remaining states, in particular, those states such as Singapore, Vietnam, China and Indonesia that continue to use the death penalty.

Question agreed to.

COMMONWEALTH RADIOACTIVE WASTE MANAGEMENT BILL 2005
COMMONWEALTH RADIOACTIVE WASTE MANAGEMENT (RELATED AMENDMENTS) BILL 2005
INDIGENOUS EDUCATION (TARGETED ASSISTANCE) AMENDMENT BILL 2005
HEALTH INSURANCE AMENDMENT (MEDICARE SAFETY-NETS) BILL 2005
NATIONAL HEALTH AMENDMENT (BUDGET MEASURES—PHARMACEUTICAL BENEFITS SAFETY NET) BILL 2005
TAX LAWS AMENDMENT (2005 MEASURES No. 4) BILL 2005
TAX LAWS AMENDMENT (SUPERANNUATION CONTRIBUTIONS SPLITTING) BILL 2005
TAX LAWS AMENDMENT (IMPROVEMENTS TO SELF ASSESSMENT) BILL (No. 2) 2005
TAX LAWS AMENDMENT (2005 MEASURES No. 5) BILL 2005
Indigenous Education (Targeted Assistance) Amendment Bill 2005
Health Insurance Amendment (Medicare Safety-nets) Bill 2005
National Health Amendment (Budget Measures—Pharmaceutical Benefits Safety Net) Bill 2005
Tax Laws Amendment (2005 Measures No. 4) Bill 2005
Tax Laws Amendment (Superannuation Contributions Splitting) Bill 2005
Tax Laws Amendment (Improvements to Self-Assessment) Bill (No. 2) 2005

**Suspension of Standing Orders**

Senator CONROY (Victoria) (10.17 am)—Pursuant to contingent notice, I move:

That so much of standing order 142 be suspended as would prevent debate taking place on the declaration of urgency motion.

Once again we are seeing the results of the government’s complete arrogance and, more importantly, complete incompetence in managing the business of the chamber. You can forgive a desire to get your bills through by the end of a session. What you cannot forgive is this sheer arrogance and incompetence. We are moving this motion today because the government have been able to prosecute their agenda so unsuccessfully that we are hanging around with nothing to do. They jammed two very substantive and important bills through the Senate with almost no debate—the antiterrorism bills. I heard the Prime Minister on radio this morning saying: ‘How could the Labor Party possibly complain? They supported the antiterrorism bills.’ That is true, but what we did not support and will not support is the massive abuse of gagging the debate on important bills to allow less than one day, or two days for two bills. That is unacceptable.

I think it was said that we had seven seconds per amendment on the IR bills. That is a disgrace. It is a travesty. It is an abuse of this chamber. It is taking the government’s arrogance, because they have the numbers, and saying: ‘We don’t actually care what anyone else in the chamber thinks or what anyone else in the broader community thinks. We’re just going to ram this through.’

**Senator Santoro**—That’s not true. We do care.

**Senator CONROY**—I will take that interjection. Senator Santoro. You might want to say, ‘That’s not true,’ but let us be clear: you were party to every one of these atrocities. Every time you take this chamber and turn it over like this you are guilty of a massive abuse of the Australian public. The Australian public put its trust in this government. It gave you control of the Senate. It did not give you the right to turn over the Senate, to wipe out question time like you have, to filibuster your way through committees like you did this week or to filibuster your way through the second reading stages and committee stages of bills. You are involved in a massive abuse of this chamber.

It all comes down to one very simple point: why have you got something to hide? Why do you want to ram these bills through in this way? What have you got to hide? The truth is that if the Australian public had a chance to see the flawed nature of these bills they would see that they are flawed not just in principle but in drafting. We had the ludicrous situation this week where the Attorney-General said, ‘We are going to amend this bill and we’re going to have a committee to inquire into this bill after you have passed it.’ That is right: the parliament was not allowed to examine the bill, but we will send it off to
the Australian Law Reform Commission to examine it after it is passed. This is an unacceptable abuse of process.

What have you got to hide? What you have got to hide is your sheer, naked, absolute abuse of the trust you were given. You are afraid that if the Australian public truly get a chance to examine these bills they will say: ‘Just a minute; we didn’t give the government a mandate for this sort of right-wing, ideological, extreme behaviour. We didn’t give them a mandate for this. We didn’t say: “Go out there and do absolutely anything you want.”’ You have introduced legislation that got no mention before the election. You did not talk about the IR bills before the election. You did not promise to put them through. This is about the fact that you do not want accountability and you do not want transparency because you are scared. You are scared that if this chamber gets an opportunity to properly scrutinise these bills your secret will be out. That is what you are running away from. That is what you are hiding from.

You are so incompetent. You put a guillotine on earlier in the week when you did not need to. We could have quite easily debated it for another couple of days. Now you have got to the stage where you have not worked out whether Barnaby is going to vote with you on the VSU. That is what it is about—you do not know. So the parliament is being made to sit and we are being gagged. Just in case you can twist Barnaby’s arm a bit further you want to set out a whole day and a half to deal with this.

Senator Ferguson—Mr Acting Deputy President, I raise a point of order. I do not think it is right for a senator to refer to another senator by his Christian name in this place. Senator Conroy ought to know better in his position as Deputy Leader of the Opposition in the Senate.

The ACTING DEPUTY PRESIDENT (Senator Watson)—The point of order is sustained. I was going to refer to it.

Senator CONROY—I accept the admonishment, Mr Acting Deputy President. Senator Joyce is under enormous pressure to cave in and cooperate with this government. Unlike the rest of the lemmings on the other side he is actually prepared to say, ‘Just a minute, I want—’

Time expired

Senator BOB BROWN (Tasmania) (10.23 am)—What a farce the Senate process has become in just a couple of months—since 1 July. The members opposite hang their heads, and so they should. Democracy has been ripped out of this place by the Howard government executive. What the Labor Party is saying is absolutely true—there was ample time for the slate of important bills to be debated properly in this place on behalf of the people of Australia before they are passed. Why are we not sitting next week? We have just had the government turn down Senator Bartlett’s motion for an extra sitting week at the start of next year. Obviously, it is not that there is a lack of time; it is that the government does not want these bills debated.

I suppose part of the problem is that the Prime Minister has just had to fend off a potential attack on his leadership from the Treasurer, Mr Costello, who is now in full retreat, and there is quite a deal of disarray at the top with respect to the government. However, there is the spectre of dictatorship, the spectre of autocracy and the spectre of executocracy, which is now what we are getting in Australia—government from the Prime Minister’s executive suite. Part of that style of government is to rip out the time-honoured review of legislation on behalf of the people of Australia by the Senate. The Prime Minister said he would not do that but he is doing it right now.
We have important pieces of legislation to do with the rights of the Northern Territory, the right of the people of the Northern Territory to have control over their lands regarding a nuclear waste dump; Indigenous education; national health measures, including pharmaceutical benefits; and tax laws that are important to people right across the board in this country, and the debate is going to be guillotined. The lackeys on the other side, these ciphers who make up the numbers, these people who cannot think for themselves, the clods who simply say, ‘What does the Prime Minister say? I will do that,’ and those who let down democracy, each one of them—most of them have retreated from the Senate—have simply become numbers in here instead of representatives of the people who voted for them.

The Prime Minister is running the Senate through these people—weak-kneed failures of senators in the coalition parties. They are weak kneed and simply unable to stand up for democracy, let alone their own point of view. There is the farce of them thinking that because they have a say in the party room they have had their democratic say—in private, somewhere else, out of the view of the public. When they come in here their responsibility to the public melts away to become a responsibility to the Prime Minister, John Winston Howard.

This process will change. I predict that at the next election there will be a huge vote against the government in the Senate because the Australian people are being taken for fools by the Prime Minister and they are not fools. They are well able to analyse what is going on here. The Senate may as well not exist as far as this Prime Minister is concerned. He hates the Senate. He deplores the fact that there is a brake on his autocratic tendencies in this national parliament. And this is through the unwitting vote of people who did not know when they were voting for the government in both houses at the last election that it would lead to this situation where the Prime Minister could rule from his office and treat both houses of parliament with contempt. We have this temporary aberration of him having total power on Capital Hill in Canberra when this nation deserves much better. It certainly deserves at least, if we do not have the numbers to win the day, a proper analysis and debate of critical pieces of legislation. But the Prime Minister has ripped that out. There is no analysis and no proper review. The people of Australia will have what he thinks is good for them because he knows better than the people themselves do, and he certainly knows better than 244 parliamentarians. (Time expired)

The ACTING DEPUTY PRESIDENT—Order! Before I call Senator Carr, I remind Senator Brown that he made a couple of references that were unparliamentary. You know the standing orders pretty well, Senator Brown. I ask you to look at them and reflect on that.

Senator CARR (Victoria) (10.28 am)—I take the view that there are legitimate uses of declarations of urgency. The opposition has never maintained that the use of the guillotine is totally without justification. It is a legitimate time management device when there are occasions of genuine urgency or when there are groups of people not wishing to seriously discuss matters but wishing to frustrate the work of the overwhelming majority. There are legitimate occasions. But this is clearly not one of them. The government is demonstrating yet again its extraordinary arrogance and simultaneously its incompetence. It is arrogant to the point where it says: ‘We have the numbers; we don’t have to manage competently. We don’t have to actually worry about dealing with the Senate in a proper manner.’
What we have seen increasingly is the use of the government’s numbers to ram things through without proper consideration. It started in September this year with the Telstra legislation. The government seized control of the Senate, after securing the fourth position in Queensland at the last Senate elections and, as a result of that, has been able to ram through policies which it had not properly discussed with the Australian people. In September we saw the privatisation of Telstra and the extraordinary capitulation of the National Party in that matter. We saw it with the workplace relations provisions on 1 December.

Senator Conroy was quite right in pointing out the proposition that, after some 300 government amendments were put to this chamber under the guillotine, without proper consideration and in circumstances where we were allowed seven seconds per amendment, that will inevitably lead to a situation where next year there will be a series of amendment bills to the government’s own legislation. No-one will be able to deny that. It is inevitable that under those circumstances profound mistakes will be discovered, as a result of the government’s haste to introduce its ideological obsessions. On 5 December we saw that in relation to measures on antiterrorism, Welfare to Work, and family and community services.

Today we will see that with a further eight bills, which of course is totally unnecessary. One would presume, from reading this, that we will finish at 11 o’clock tonight. That is not the intention of the government; their intention, of course, is to sit tomorrow, when they can wind up ‘backdown Barnaby’ to capitulate again on the question of VSU. We all know what the game here is; it is an open secret. They are running between Senator Joyce’s office and Senator Fielding’s office, trying to work out who they can extract some sort of concession from to allow measures to be taken with regard to universities.

We are not looking at any serious consideration of measures. We are looking at occasions for the convenience of the government to ram matters through this parliament without proper consideration. That is a fundamental denial of what this place is all about. Our great strength as a chamber in the Australian parliament is to hold governments to account and to review government legislation to prevent mistakes. Even if you strongly disagree with the government’s measures, this chamber has the capacity to avoid serious damage being done to the Australian people as a result of government mistakes. But under these provisions there is no protection for the Australian people, as a result of us not being able to fulfil our functions to ensure that there is proper consideration.

We know the score here. We have seen the number of opposition questions in question time reduced. We have seen the amount of time devoted to government business compared to other Senate business increase dramatically. We have seen a complete turnaround in the functions of this chamber, as a result of the government’s control of the numbers. The government does not seem to understand that it is in its own interest to talk across the chamber and examine what it is doing in a measured manner to ensure that there is proper consideration of government legislation and that there is an opportunity to hold recalcitrant ministers accountable for their maladministration. It is in the government’s interest to examine some of those questions but, above all else, it is in the Australian people’s interest to get these things right, and this government is failing yet again. (Time expired)

Senator BARTLETT (Queensland) (10.33 am)—It is a supreme irony that, just
minutes after the government rejected the attempt by the Democrats to have extra sitting days in what is an extraordinarily short sitting period next year, they then introduce a guillotine under the guise of saying, ‘We don’t have enough time to debate all these bills, so we’ll have to push them through under a guillotine.’ That shows the total absence of any genuineness in the government’s approach here. How can you have just 14 sitting days in the next six months and not allow a completely reasonable and mild attempt to add four extra days to that, and then use the excuse of not having enough time for debate in order to apply the guillotine to yet another set of bills? It is simply untenable and unjustifiable.

I again make the point that this is another demonstration of the most flagrant and blatant untruth that the Prime Minister has told since the last election, which is that he would not abuse his very narrow Senate majority that he achieved at the last election. This is not disputing the vote of the people at the last election; this is pointing out the consequences of that. You could not get a better example, after last week and this week, of the government having that narrowest majority and of the Democrats no longer being able to provide a balance of reason in the Senate. For all their bluster and rhetoric, the government know that over the last 24 years the Senate did not operate as a chamber of obstruction. It did not in any way frustrate the overall mandate of the government. What it did do was to ensure that it fulfilled its fundamental and primary constitutional purpose, which is to be a house of review and to scrutinise the actions of the government of the day. Frankly, now that the government of the day have a majority in the Senate, it is more crucial than ever that the Senate has the opportunity to question, scrutinise and probe what the government are doing. They may be able to get all their legislation through unamended, but they should at least be subject to proper scrutiny whilst they are doing so.

If we look at what this guillotine does, apart from the radioactive waste bill, which will be guillotined within less than an hour and forced to a vote, we see that we have another seven pieces of legislation with less than seven hours of total debate between them—that is less than one hour per bill. Some of these bills are significant bills. One of them is the legislation that puts in place and formalises the breaking of the cast-iron promise by the Minister for Health and Ageing, Mr Abbott, about the Medicare safety net. Another one will increase the cost of medicines for many Australians, by raising the threshold under the Pharmaceutical Benefits Scheme, and that will be pushed through under a guillotine in the dead of night. This is the sort of contempt that we are seeing for the Australian people—that measures that are going to impact severely on them, that clearly reflect the breaking of cast-iron promises by the government, will be pushed through under the guillotine in the dead of night.

We all know why this is being brought on and why, in particular, the radioactive waste bill is being guillotined this morning. It is because it is the only piece of legislation that the government need to amend, so they want to guillotine it this morning so those poor little petals in the House of Representatives can all go home for Christmas. That is why we have got to do it. Bad luck for the people of the Northern Territory. Bad luck for the amendments that other people want to move to ensure that if this dump is going to go ahead then at least there is some proper process. Forget all that. The House of Reps want to go home for Christmas so we have got to guillotine it through. How pathetic can you get!
I need to correct the record about guillotines. We all know that there are times when proper time management of legislation is impossible. Indeed, not only have there been guillotines in the past that have been supported by Greens, Democrats and Labor, but there have been guillotines that everybody has agreed to where one side moved the urgency motion and the others moved the time frame. We recognise that. But the big difference here—and this is unprecedented—is the total lack of notice and the total lack of consultation, combined with the total inability to scrutinise the legislation through Senate committees—the Northern Territory waste dump bill is another example of that—and the incredibly late notice of amendments and the grotesquely short amount of time to debate and scrutinise those amendments. That is what is unprecedented. You can point to all the examples from 1992, and I have a very good one from 1980 when the government last had control the Senate. But the fact is that this is unprecedented. If you combine all those factors I have mentioned, not to mention the gag being regularly deployed as well, as I am sure we will see happen again shortly, this is unprecedented. Let there be no mistake about that. The total lack of scrutiny, the total absence of available time is without—(Time expired)

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.38 am)—It really is something for the Democrats to come in here and complain about the guillotine. When you look at the greatest number of bills guillotined in the Senate in a single occasion what do you find? You find that it was done under the Labor government in June 1992 with the support of the Democrats. And the Democrats supported Labor on the second greatest number of bills guillotined in the Senate, which was in December 1990. That is the record of the Democrats. On the two occasions with the greatest number of bills guillotined the Democrats were in it up to their eyeballs.

Senator Bartlett—Madam Acting Deputy President, I raise a point of order. I think the senator is reflecting unfairly on the motives of the senators, and he would know the facts, that those guillotines stretched over a two-week period and allowed well over 30 hours of debate on each occasion. So to try to compare and contrast them is, I think, coming perilously close to misleading the Senate.

The ACTING DEPUTY PRESIDENT (Senator Crossin)—Senator Bartlett, there is no point of order there.

Senator ELLISON—It shows how sensitive they are. They are very sensitive to this because they know they are totally complicit in previous guillotines that have occurred under the Labor government. They have got no ground at all to be critical of what is a very important step by the government in achieving government reforms. One thing Senator Bartlett said which was quite right was that these are important bills. They are very important bills: to revise the Medicare safety net threshold levels for 2006, to implement the election commitment to allow super contributions to be split with a spouse, to implement important initiatives to fund Indigenous students and to implement budget announcements concerning PBS safety net changes. That is why we have to achieve the goal of getting this legislation through. We are doing this as a responsible government.

What we have seen from the opposition and minor parties have been delaying tactics, where we have seen the amount of government time reduced from an average of about 15 hours to 12 hours a week. That has happened because there has been debate on procedural matters. That is what has chewed up the time for us to devote to important legislation for this country. Of course the opposition does admit that there are times when
you have to have a guillotine. It was the Leader of the Opposition in the Senate himself, Senator Chris Evans, who said:

I also accept that it is legitimate on occasions for a majority of senators in this place to move the guillotine.

That is quite right, and Labor did it twice as many times as this government. In fact, 221 bills were guillotined under the previous Labor government. They cannot criticise this government in relation to time management in achieving a legislative objective. When you look at Labor’s record you can see that, in round terms, they moved twice as many bills through the guillotine process as this government has. In fact, Senator Chris Evans said in the Age on 7 December this year:

... Labor does not come to the debate with clean hands.

That is a quote in relation to this very issue from the Leader of the Opposition in the Senate.

What we have is an agenda for the spring sittings—these bills have been on the Notice Paper—and we all know that there is time within which we have to get these bills through. We are doing just that. The Senate has to remind itself of the job that it has to do, and that is to deal with legislation. That is primarily what this is about. We have very important legislation here which fulfil election commitments made to the people of Australia and budget commitments which are time critical, which kick in on 1 January next year. That is why we have to get this legislation through.

We let yesterday go without a guillotine and look what happened. How much business did we get done yesterday? One bill. The radioactive waste bill went on. We have to manage the business in this chamber otherwise it goes nowhere, as we have seen, so that is precisely what we are doing as a responsible government. Let no-one be mistaken: it is outrageous for the Democrats, Labor and others to say that a guillotine is something new. Labor was the past master of it—221 bills guillotined. And who helped them do it? The other parties.

Senator LUDWIG (Queensland) (10.43 am)—It is an absolute outrage. The government stands there and says it is all Labor’s fault for its mismanagement. Look at the program that the government has put forward—and it started changing the hours not in the last week but right back in the middle of the program to get a bill through. What the government failed to mention when it talked about the use of the guillotine was that it usually comes at the end of what could only be described as a long filibuster. This government is a past master of that, and that is what caused it. There are two instances it talks about, in 1992 and December 1990. What the government did not talk about, what it left out, was how long the arguments went on for before the guillotined was put in. Perhaps the government should correct the record today and say how long those arguments went for.

We will see in the record that Labor has always ensured that there is proper debate on bills and that there is sufficient time to debate bills. Those are the principles upon which we start. If you are going to use and abuse a program then it might be reasonable to say at that point that a guillotine may be utilised to manage time. But we are nowhere near that point. If you look back over the last three months, or even from 1 July to now, at how the government has managed—I should say mismanaged—its own program, they have not at any time ensured that there is sufficient time to debate a bill and have a committee stage to allow proper scrutiny.

They have also complained that procedural motions have eaten up their time. What rot and utter nonsense. They have managed
their program to avoid scrutiny. So, when an ordinary reference has been put up which would usually have been accepted in this place as a role that the Senate should play, this government has said, ‘No, we don’t want that reference because it might embarrass us. It might throw a bit of light on an area which we want to keep in darkness. It might inquire and provide assistance to the Senate in looking at issues and scrutinising; to do its two roles, which it does very well, as both a check on the executive and as a house of review.’ This government has said, ‘No, we won’t have a reference to a committee.’

As a consequence, we argue our case. It is our right to argue (a) why there should be a reference and (b) why this government should not oppose such a reasonable reference. They then say, ‘That takes up time.’ Of course, it takes up time. The simple way, as it always has been in the past, is for them to sit down with us and negotiate an outcome, but since 1 July they have not thought that they had to. That is the problem; the arrogance has set in and they do not think they need to sit down and negotiate an outcome. As a consequence, time does get eaten up in that way. I will give the government some free advice. They would be better off sitting down with the opposition and the minor parties, looking at those references in a considered away and coming up with an answer whereby they can accept some references. There will always be times when the government may have a legitimate argument for saying that there should not be a reference into an area. They should make that argument outside the chamber so that when we come to the chamber asking for a reference to a committee it is not a surprise that we oppose the government’s position of saying we cannot have a reference and that it takes up procedural time.

The government should understand that this is of their own making and not ours. What they have done today is ensure that there will not be proper debate on all of these bills. They are going to ram them through again because of their inability to manage their program. That is the problem that they have had. What they have also done—if you go back and look at the amount of time from September to now spent on anti-terrorism, Telstra, Work Choices and Welfare to Work—is sought to ensure that on all of those debates there would be a guillotine and a gag used. (Time expired)

Question put:

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

The Senate divided. [10.53 am]

(The President—Senator the Hon. Paul Calvert)

| Ayes | ... | 32 |
| Noes | ... | 34 |
| Majority | ... | 2 |

AYES

| Allison, L.F. | Bartlett, A.J.J. |
| Brown, B.J. | Brown, C.L. |
| Campbell, G. | Carr, K.J. |
| Conroy, S.M. | Crossin, P.M. |
| Evans, C.V. | Faulkner, J.P. |
| Fielding, S. | Forshaw, M.G. |
| Hogg, J.J. | Hurley, A. |
| Kirk, L. * | Ludwig, J.W. |
| Lundy, K.A. | Marshall, G. |
| McEwen, A. | McLucas, J.E. |
| Moore, C. | Murray, A.J.M. |
| Nettle, K. | O’Brien, K.W.K. |
| Polley, H. | Sherry, N.J. |
| Siewert, R. | Stephens, U. |
| Sterle, G. | Stott Despoja, N. |
| Webber, R. | Wortley, D. |

NOES

| Abetz, E. | Adams, J. |
| Barnett, G. | Boswell, R.L.D. |
| Brandis, G.H. | Calvert, P.H. |
| Chapman, H.G.P. | Colbeck, R. |
| Coogan, H.L. | Eggleston, A. |
| Ellison, C.M. | Ferguson, A.B. |
The question now is that the bills be considered urgent.

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

The Senate divided. [10.57 am]
(The President—Senator the Hon. Paul Calvert)

<table>
<thead>
<tr>
<th>Ayes</th>
<th>Noes</th>
<th>Majority</th>
</tr>
</thead>
<tbody>
<tr>
<td>34</td>
<td>32</td>
<td>2</td>
</tr>
</tbody>
</table>

**AYES**
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. Humphries, G.
Johnston, D. Joyce, B.
Kemp, C.R. Lightfoot, P.R.
Macdonald, J.A.L. Mason, B.J.
McGauran, J.J.J. * Minchin, N.H.
Nash, F. Parry, S.
Patterson, K.C. Payne, M.A.
Ronaldson, M. Santoro, S.
Scullion, N.G. Scullion, N.G.
Trooth, R. Trooth, J.M.

**NOES**
Allison, L.F. Bartlett, A.J.J.
Brown, B.J. Brown, C.L.
Campbell, G. Carr, K.J.
Conroy, S.M. Crossin, P.M.
Evans, C.V. Faulkner, J.P.
Fielding, S. Forshaw, M.G.
Hogg, J.J. Hurley, A.
Kirk, L.* Ludwig, J.W.
Lundy, K.A. Marshall, G.
McEwen, A. McClucas, J.E.
Moore, C. Murray, A.J.M.
Nettle, K. O’Brien, K.W.K.
Polley, H. Sherry, N.J.
Siewert, R. Stephens, U.
Sterle, G. Stott Despoja, N.
Webber, R. Wortley, D.

* denotes teller

Question agreed to.

**Allotment of Time**

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (11.00 am)—I move:

That the time allotted for consideration of the remaining stages of these bills be as follows:

<table>
<thead>
<tr>
<th>Bill</th>
<th>Time Allotted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indigenous Education (Targeted Assistance) Amendment Bill 2005</td>
<td>commencing immediately after the preceding item until 1.45 pm on 8 December 2005</td>
</tr>
<tr>
<td>Health Insurance Amendment (Medicare Safety-nets) Bill 2005</td>
<td>from not later than 4.15 pm until 6.30 pm on 8 December 2005</td>
</tr>
</tbody>
</table>
Thursday, 8 December 2005

SENATE

<table>
<thead>
<tr>
<th>Bill</th>
<th>Time Allotted</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Health Amendment (Budget Measures—Pharmaceutical Benefits Safety Net) Bill 2005</td>
<td>from 7.30 pm until 11 pm on 8 December 2005</td>
</tr>
<tr>
<td>Tax Laws Amendment (2005 Measures No. 4) Bill 2005</td>
<td></td>
</tr>
<tr>
<td>Tax Laws Amendment (Superannuation Contributions Splitting) Bill 2005</td>
<td></td>
</tr>
<tr>
<td>Tax Laws Amendment (Improvements to Self Assessment) Bill (No. 2) 2005</td>
<td></td>
</tr>
<tr>
<td>Tax Laws Amendment (2005 Measures No. 5) Bill 2005</td>
<td></td>
</tr>
</tbody>
</table>

I also move:

That the question be now put.

Question agreed to.

The PRESIDENT—The question now is that the motion moved by Senator Ellison regarding the allotment of time be agreed to.

Question agreed to.

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.

upon which Senator Stephens had moved by way of an amendment:

At the end of the motion—

In respect of the Commonwealth Radioactive Waste Management Bill 2005, 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;

(i) 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 recommendations of the International Atomic Energy Commission on good social practices like consultation and transparency in relation to nuclear waste”.

Senator CARR (Victoria) (11.02 am)—Yesterday we heard from Senator Scullion how he fully, completely supports the Commonwealth Radioactive Waste Management Bill 2005. It is appropriate, I suppose, that he
sits in the corner of the chamber with the other doormats of this parliament. That is appropriate for a man who, when in Darwin, says that no such waste dump will ever be built on his watch. But yesterday we saw his true colours revealed, in that he declared that this bill should be commended to the chamber. In Darwin he is a great warrior in defence of the Northern Territory but in Canberra he is a great sycophant to the Prime Minister. What you note of course is that this government is dominated by that level of hypocrisy: one thing at home and another thing in Canberra.

We all know the situation in terms of the need to build a national facility. We all understand this position, because the case has been demonstrated time and again. The legislation does not seek to consult and work in a cooperative manner with the Northern Territory; it seeks to override the express wishes of the Northern Territory. This is the last chapter in what is a saga of incompetence of the government in their dealing with this particular issue. We have ministerial incompetence writ large. It has cost taxpayers at least $15 million in public moneys, which have been wasted, and I have no doubt that a great deal more is yet to come. Despite the protests and cries of innocence by Senator Scullion in Darwin, the government are determined to pursue this issue without regard to due process or, for that matter, scientific evidence.

We hear a lot about the science on these questions. And we know that, more often than not, appeals to science are the last refuge of particular forms of scoundrel. We know that many of the issues that are being pursued on these questions are essentially political. They are essentially arguments, and contestable arguments at that, about the appropriateness of any particular site. However, there is a clear commitment from this side of the chamber to the need to establish a national facility, which is a position that we established with Simon Crean back in the early 1990s. Senator Scullion has not understood that basic principle. In Darwin he says that he will never ever on his watch see such a facility built. But now we see him only too happy to, right up to the hilt, support the government on this stab in the back to the people of the Northern Territory.

I do not think we can underestimate just how much damage this government has done to the national interest in this regard. It should be appreciated that there is a desperate need to have a facility of this type established in the country, on the basis of proper discussion and genuine consultation. We have to understand that nuclear technology is quite pervasive throughout our economy. Even simple things like smoke detectors contain radioisotopes. They are an integral part of the way in which we live. They are part of our households, for instance. We see nuclear technology used for the advanced sterilisation of medical instruments and bandages. We see it used for the checking of steel welds and the checking of leaks in pipelines. We see it used for the preservation of food. We should also appreciate that it is used for the preservation of material in industrial processes. It is used for nuclear imaging, radio immunology, radiotherapy, pharmaceuticals, irradiation of blood for transfusion and radiation processing for the sterilisation of food and packaging. I have not yet gone through the full extent of its use throughout the Australian economy. We know that it is used in the construction and transport industries and for road building. It is used for sewage and waste disposal, in mining and in a variety of manufacturing processes.
We should appreciate how important this industry is to Australia. Five hundred thousand Australians benefit from radiopharmaceutical treatments each year, 400,000 of those from materials developed through Lucas Heights. Many of these applications, I maintain, cannot at this point be met from alternative sources such as the use of synchrotrons or particle separators. We have not been able to demonstrate the commercial viability of alternative processes in that regard. For instance, in the mining industry at the moment some 25,000 samples are tested through the radiation facilities at Lucas Heights. Those samples are simply too important to be exported for testing overseas. The mining industry needs the use of neutron activation analysis and it would not appreciate doing without these facilities.

These are very important questions for the Australian economy. Given their importance, you would think this government would have paid more attention to this issue. You would think that after 10 years in office they would have sorted out this problem. But no, they have not. The government have failed to find a national solution to the storage of nuclear waste. We have few places with appropriate geophysical conditions for use, so you would think that an effective and fair solution should have been found by now. But the government have not attempted to do that. The government have sought, through successive measures, to corrupt the selection process of future sites. The result is that the government are now forced to rely on the strategy of coercion.

We know what the game is all about here. It is a simple proposition. The nuclear regulators in this country have said that they will not provide licensing arrangements for the new reactor at Lucas Heights unless a process is put in place to ensure the safe disposal of wastes. What do this government do? In a last desperate measure they intend to impose this facility on the Northern Territory without proper discussions and without appropriate consideration of all the issues that are necessary to consider in these matters.

We know that Australia has about 3,700 cubic metres of low-level waste. Some of the stuff dates back to the 1950s, and we know that half of that dates back to the CSIRO research facilities down at Fishermens Bend in Melbourne. We know that the total amount of low-level waste is increasing. We know that it is estimated by DEST to be increasing by about 40 cubic metres annually and that, with the new HIFAR reactor to be brought on stream, it is likely that facilities will need to be found to receive decommissioned radioactive substances of some 500 to 2,500 cubic metres.

We have 500 cubic metres of intermediate-level waste to be dealt with as well. This is a serious problem and, given its seriousness, this government should have attended to this question much earlier and it should have been on the job much earlier. But we have seen a series of botched efforts to impose this facility, firstly, in South Australia and now, of course, in the Northern Territory. We have a site selection process which has been corrupted. Large areas of unincorporated lands under the Commonwealth’s holding are now being proposed in such a way that the government feels that it does not have to negotiate with anybody. It is similar to the process that it is adopting in this chamber, of course. We have a failure to consult with communities, as required by international protocols which have been demonstrated as necessary. The government is seeking to rely upon public relations spin. We have seen the better part of $1 million spent on advertisements and the like. We have seen the rather shabby story in South Australia now being repeated in the Northern Territory.
The short-circuiting of that arrangement in South Australia, we should recall, saw a situation where the first site recommended by the minister for science was on a rocket range. The government proposed to put a nuclear dump on a rocket range! This is the measure of stupidity that characterises the way in which this government has been dealing with this question. The various attempts by the government in the run-up to the last election meant that the processes that had been set in train for many years in South Australia were overturned because of the government’s need to establish alternative arrangements for short-term political expediency.

Senator McGauran interjecting—

Senator CARR—Senator McGauran, it was your brother. We have Dolly the sheep in charge of the nuclear industry in this country. You really have to ask yourself how appropriate it is that the National Party, of all parties, should be responsible for this sort of behaviour. They are the doormats of this parliament and now they are responsible for the nuclear industry in this country. What an extraordinary proposition! We do have a very serious problem here insofar as the government last year sought to propose that these nuclear facilities be made available in some sort of new Pacific solution. I can recall the minister saying that we would just ship it offshore. There is a fundamental problem in that: you never mix waste facilities such as this with water. But what did this government propose to do? Put it on an island. That is the nature of the stupidity that runs deep through this government, characterised by allowing the National Party to be responsible for the nuclear industry.

The incompetence of this government defies scientific analysis. Driving this issue throughout recent years is politics. The government has not sought to sit down and discuss these questions properly with people. If it had any sense at all it would have put up these proposals in a much more open way. It would have said to people, ‘We need a national facility,’ and put it out to tender. It would have put out the question of site selection to tender—given that appropriate sites were being identified—to see who wanted to take on these facilities. I know that there is a view in some quarters that no-one in this country wants these facilities. Historically, that is not the case.

Senator Abetz—Who wants it?

Senator CARR—You know the evidence only too well, Minister. If you treat people properly you will get solutions to these problems.

Senator Abetz—You tell us.

Senator CARR—You have seen who wants it. You know damn well what the public record is on these things. I suggest, Minister, that the incompetence of this government would not allow that process to be adopted. We have not seen any proper discussion with communities about the use of these facilities.

The Nuclear Waste Transport, Storage and Disposal (Prohibition) Act, which was passed by the Northern Territory legislature to prohibit the establishment of a waste repository in the Northern Territory, is now being overridden by this legislation. The government is seeking to extinguish any private rights or interests relating to any land chosen for the site of such a facility. The government is seeking to impose its will in a coercive manner on the people of the Northern Territory, who will recall with bitter humour the misrepresentations of the scientific evidence by Senator Ian Campbell during the last election campaign, when he said: 

... the only options that we are pursuing, are on offshore islands. I think that the reality of this is that there is no one on the mainland who particu-
larly wants a nuclear waste dump in their back-
yard, and that is why we are pursuing the practi-
cal option of going to an offshore island. So, the
Northern Territorians can take that as an absolute
categorical assurance.

Senator Scullion, of course, came in and
said, ‘Not on my watch will there be a nu-
clear waste dump in the Northern Territory.’
We now know what a terrible lie all of that
was. For short-term political expediency, the
minister was prepared to say things at the
last election that he knew to be untrue. We
now have a situation where the minister can-
not reconcile this legislation with a position
he has taken on so many questions on the
nuclear industry. No doubt he will try to do
that in Montreal this week. I look forward,
yet again, to his efforts to reconcile those
positions.

This legislation is as flawed as the process
that drove the government to take this des-
perate remedy. It is coercive and it is driven
by the need to meet the imposed conditions
before the new Lucas Heights reactor can be
fired up. In other words, it is an expedient,
unattractive legislative program—like so
many this government has proposed. The
government has not understood just how
critical this industry is to Australia’s medical
and manufacturing industries. It has failed in
terms of administrative competence to pro-
vide for the facilities necessary to maintain
the services that so many Australians rely
upon. It has failed politically because it has
not been able to bring people with it on this
important question. It has now demonstrated
its hypocrisy and its contempt for the people
of the Northern Territory through this highly
reactive and coercive attempt to override
their opinions. Now the government is essen-
tially seeking—through its weight of num-
bers in this chamber and despite Senator
Scullion’s protests to the contrary—to move
away from the commitments it made at the
last election. If ever there were a clear case
of breach of promise, tell me what it is.

Senator Abetz—L-a-w law tax cuts.

Senator CARR—This is the one. This is
the one where the government went to the
last election and said, ‘We will not have a
waste dump in the Northern Territory.’ And
what have we got here? We have a proposi-
tion whereby the government is now seeking
by force to impose this facility on the people
of the Northern Territory. It is totally unnec-
essary. If proper consultations and proper
discussion had been undertaken, I have abso-
lutely no doubt that a facility could be placed
with the agreement of local communities. It
may not be in the Northern Territory, but we
have already seen options open up, even
within the Northern Territory. What has this
government sought to do? It has not sought
to explore those things and it has not thought
to sit down and discuss these things; it has
simply sought to impose its will in this most
high-handed and arrogant of manners.

This is a product of a government drunk
on its own power. It is failing the people of
this country because it has failed to develop
the necessary facilities to ensure that the very
valuable services provided by the nuclear
industry are able to continue in a safe man-
ner. It has simply tried to palm off these is-
sues to other people and has now run up
against the hard edge of a decision being
made by ARPANSA in such a manner that
now, as it sees it, it has no choice but to act
in this most arrogant of ways.

This is part of a saga of bungling, incom-
petence and wasted opportunities by an in-
competent government that allows a situation
whereby the National Party is able to get
such extraordinary influence over such a
sensitive portfolio. It strikes me that this
whole matter is totally unnecessary. To pass
this legislation by the guillotine adds insult
to injury. I say again that this government
has failed the people of Australia. Ministerial incompetence now means that these sorts of actions are required. Resorting to this sort of coercive measure highlights that the government is demonstrating the product of its own corruption of the selection processes. We now face a situation where the government has to rely on a strategy of coercion rather than consultation. We should never have been in this position. If we were serious in discussing these questions at an earlier date and if this government were serious about considering these issues at an earlier date, this legislation would not be before us. The government has an opportunity to retrieve the situation. It should exercise it, and I trust that that is exactly what it will do.

Senator STOTT DESPOJA (South Australia) (11.21 am)—I do not have the same faith in the government that Senator Carr just displayed that they will seek to rectify this situation. I rise to speak on the Commonwealth Radioactive Waste Management Bill 2005 and the Commonwealth Radioactive Waste Management (Related Amendments) Bill 2005. I do so not only as a Democrat concerned about these issues but also as the Australian Democrats science spokesperson. I think my views on a number of these issues, including related issues such as Lucas Heights, are well known. I rise to speak on legislation that the Democrats believe nobbles the democratically brokered laws of the people of the Northern Territory. Madam Acting Deputy President Crossin, I rise to speak not as theatrically as you did yesterday and perhaps not with as great effect either. Your speech yesterday was very impressive and I think it provided the cogent arguments as to why this legislation is both an abuse of process and unsound policy.

The Australian Democrats have outlined a number of concerns. Our leader, Senator Allison, has explained on behalf of the party the myriad concerns we have with this legislation. She was an active participant in the committee process—which, I might add, was far too rushed, too prompt and too cursory given the seriousness of this legislation and, indeed, given the time frame in which we are dealing with a number of important and comprehensive pieces of law.

On that note, I want to make some clear points about the process. Senator Carr has commented on the abuse of process in the chamber this morning, as have a number of senators. We wake up today and it is another shameful day in the Senate—another day of abuse of process—so it must be Thursday. The Senate processes in the last fortnight have been consistently and constantly undermined. Our role as a house of review is unquestionably eroded as a consequence of the processes that have been put in place in this house over the past couple of weeks. It has happened increasingly since August, when we reconvened and the government had the majority in this place.

This legislation is particularly interesting to note. Why is that? Out of all of the bills today, which are the bills that have government amendments? Let me see: the Commonwealth radioactive waste dump bills! So what does that mean? We finish by noon, get the amendments down to the lower house and then they can go home. Nobody should have any misunderstandings about the process here. As my colleague the Democrat whip, Senator Bartlett, made very clear this morning, we know exactly what is behind the time frame that is being proposed. Any senator or member of the public who cares to look down that list of legislation and the time frames associated with them will see exactly why noon is the cut-off for this particular bill. It is the one that has to go back to the House of Representatives so that those people can go home.
There is one chink in this armour, I might suggest. That has been pointed out by other colleagues, including Senators Conroy and Carr. That is the issue of the voluntary student unionism legislation. That may change things, of course, but, in relation to the bills before us, despite their importance, their significance and the impact they have on democratic laws and the rights of the citizens of the Northern Territory; despite their environmental and economic impact; despite the impact on Indigenous Australians and non-Indigenous Australians—despite all of these important issues—we have to wrap it up by noon so that the House of Representatives can go home. That is the agenda.

In relation to this issue, Senator Ellison said earlier today: ‘Look at yesterday! What did we do? What did we get done?’ Yesterday we did what we do in this place. We reviewed legislation, we debated motions, we talked about committee references and we had votes. That is what we do. Isn’t it sad that now we define the role of the Senate in terms of how many bills we pass in a day! We are not a sausage factory; we are a house of review. We do not measure our importance by the fact that yesterday we did not pass as many bills as we did the day before. It does not mean we are not doing our job. Our job is to review, scrutinise, analyse and assess law.

Madam Acting President Crossin, as you well know and as you put on record in a most articulate and impressive way yesterday, this is bad law. This first bill—the Commonwealth Radioactive Waste Management Bill 2005—will ‘override all territory and state legislation that gets in the way of the nuclear waste dump’, including legislation that safeguards Aboriginal land, the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 and the Native Title Act 1993. These are kind of big acts, I would have thought. These are important pieces of legislation that are being overridden, just like that! That is a big, big step. But we are being told, ‘Let’s get it through before noon because we do not have time to deal with that.’

The second bill being debated today on this issue—the Commonwealth Radioactive Waste Management (Related Amendments) Bill 2005—ensures that the waste dump decision is not subject to judicial review, meaning that there exists no legal recourse to challenge the proposal, as, of course, my home state’s government—the South Australian government—did last year. No judicial review—hang on, that pretty much sums up this week! I am having flashbacks to the antiterror legislation, which had minimal judicial review provisions despite Democrat attempts to put some in. But, of course, we did not have time to debate those amendments so I will not dwell on them now lest I reflect on a vote of the Senate, which I will not do.

These bills have the capability to override existing and future Northern Territory government legislation. In one fell swoop, these bills render impotent critical protections offered to the public in existing legislation. This legislation undermines the right of Northern Territorians to make their own decisions and choices. I seem to remember us having a debate that touched on some of these issues several years ago, and we did not have time to debate those amendments so I will not dwell on them now lest I reflect on a vote of the Senate, which I will not do.

The imposition of this legislation has also been marked by an absolute lack of consultation with the Territory government, with independent expert consultants and, most importantly, with affected communities. As we understand it, neither the Territory’s chief
minister nor the people living in the vicinity of the proposed three dump sites were notified before the dump proposal became public. The Senate inquiry process followed a similar pattern. There was a one-day hearing in Canberra. And how dare a senator yesterday have a go at another senator in this place for not being at that process when all of us had committee responsibilities and commitments in that non-sitting fortnight!

All of us, particularly those from minor parties—and trust me, when there are four of you and many more committees, there are not a lot of you to go around—do our best to cover these important issues. And, as you will find and as the records will show, all of the major committees during that fortnight were covered by senators from the Australian Democrats, not only because we understand that this is our most important job but because we did not want people to dare suggest that we do not know our stuff on this. We do. As our spokesperson on nuclear issues and our spokesperson on the environment have made clear in their comments, we know our stuff.

As has been recognised, not only was the Senate committee process short but no hearing was held in the Territory. So those people who are directly affected did not get a chance to have their say in a public forum. This relates to what I have said previously—notably yesterday in this place—about the curtailment of the committee process. That is the bread-and-butter work of the Senate. That is what we are losing; that is what we are undermining. We are diminishing that important committee role which all of us feel proudly about. I think of former Senator Macklin’s role in working on developing the committee process and the cross-party nature of the committee process as it now stands. Let us not lose that. It is extremely disturbing that the Senate committee had a one-day inquiry and did not travel to the affected region.

There are many disturbing parallels between the Northern Territory waste dump bid and the previous bid—the attempt to establish the waste dump in my home state of South Australia. As senators may recall, it was a completely bizarre choice of location. The proposed South Australian dump was to be situated in the state’s north at Arcoona Station, which is near the town of Woomera. It is close to a missile-testing range and a rocket range—because you would want those nearby to a nuclear waste dump! It was no surprise that two aerospace companies, as well as the Department of Defence, had major reservations about that site. In fact, the South Australian minister for the environment, John Hill, also raised concerns about the environmental impact of the dump, revealing that basic ground water tests of the area had not been performed.

It appears that the government has once again failed to consult and failed to adequately determine the potential environmental impact of a waste dump. In fact, officers from the Department of Education, Science and Training admitted that they had not utilised independent expert advice to guide them in the Northern Territory waste dump site selection. It is, therefore, no surprise that the three proposed locations for the Northern Territory dump failed to meet the site selection criteria established when the waste dump search resumed back in 1992.

The problems with the three proposed sites range from too high rainfall at the Fishers Ridge site, possible contamination of permeable sediments in the underground water at the Harts Range site, and the close proximity to a major centre, which may continue to expand, of the Mount Everard site—it is 42 kilometres out of Alice Springs. They are quite legitimate issues that should be
taken into account in relation to those three proposed sites. The Northern Territory Chief Minister has asserted that basic independent scientific advice would have already ruled out those sites. The crushing of the territory and state rights as a result of these bills is reminiscent of the government’s heavy-handed bid to compulsorily acquire the Arcoona Station. Both attempts to establish a radioactive waste dump have been executed with a minimum of consultation, with the state and territory governments and local constituents, confirming, we believe, that the government has indeed abandoned any collaborative effort to find a waste dump site.

Fortunately for my home state, the Federal Court upheld the South Australian government’s appeal against the federal government’s urgent acquisition of Arcoona Station. Sadly, if this legislation passes the parliament, the Northern Territory will be denied that same opportunity. They will be denied the opportunity to challenge this decision in court because, as I mentioned, the second bill provides for no judicial review of this decision. To impose a waste dump intended to store the highest level of radioactive wastes in Australia on a community while simultaneously stifling its ability to challenge the decision indicates a government that is no longer listening to its constituents.

I recognise that colleagues remaining on the list today are not going to get the opportunity to speak. Having been gagged on other bills, such as Welfare to Work and halfway through Telstra, I will seek leave to incorporate my remaining speech notes. I will end on this particular note: this is a sad day and it has been a sad fortnight, but it is one that I ask the government to reflect on. Do not throw back at us the notion that everyone has used the guillotine. Of course people have used the guillotine in this place! But we use the guillotine after consultation, negotiation and notice; after circulating, discussing and reviewing amendments; after committee stages that actually take place; and after second reading debates that are not necessarily gagged. Do not dare throw back at any of us in this place, whether we were here or not, 1992 examples—because that is the best that they can get, albeit that they had weeks of notice.

As Senator Bartlett outlined, it is the cumulative, compounding affect of all of those things—no consultation, no notice, the gagging of speeches, the guillotining of debate, amendments that are not put, amendments that are not voted on, amendments that are not debated, no committee stage—which signal the death knell of a house of review. That is what we are looking at today. This legislation is no exception, and the Democrats will be opposing it. I seek leave to incorporate the remainder of my speech.

Leave granted.

The speech read as follows—

It is disturbing that there was meagre opportunity for scrutiny of such an important raft of bills with the potential for profound impact. I have already expressed my extreme disappointment for the inadequate one day hearing and that it took place in Canberra, not the Northern Territory.

Other aspects of this inquiry are also cause for concern but reflect the Government’s current agenda of pushing through legislation with the minimum of scrutiny. Despite the fact the time allocated for lodging submissions—less than a week—was completely inadequate, 231 submissions were lodged, revealing the depth of feeling about these bills.

The Committee had only 3 days in which to examine the submissions before the one day hearing and the report was due just one week later. The entire process has been rushed through with scant regard to the bills’ gravity and what they will enact.

The issue of transporting radioactive waste to such a remote location is still a major concern as is the cost of supplying effective security in such a remote location. It is debateable in this time of
skills shortages that a sufficient workforce will be
attracted to such a remote location. It is, however,
critical that effective security is provided given
the threat of terrorism. A high level waste dump
in a remote location with insufficient security
could indeed be a terrorist threat.

With a radioactive waste dump comes the addi-
tional intrusion of security and surveillance
measures which may negatively impact the lives
of people inhabiting the surrounding areas.

There is also the spectre of South Australian laws
banning the transport of nuclear waste being
overridden in order to transport the waste to the
Northern Territory. Given the condition of many
of our highways, transporting radioactive waste
will be a dangerous job. Perhaps the Government
is planning on compulsorily acquiring a number
of carriages of the Ghan to transport this waste—I
can see that enhancing our tourism reputation no
end!

The Government has failed to prove why this
legislation is urgently required. There is, of
course, the issue of the radio pharmaceuticals
which must be disposed of somewhere. The Gov-
ernment has heightened the fear of our hospitals
running out of “lifesaving” radioactive isotopes
within months if we have nowhere to dispose of
radioactive waste products.

However, it is unlikely we will run out of radioac-
tive isotopes when we can still import them as we
do when the Lucas Heights reactor is unable to
produce them due to maintenance work.

Australia does need to consider storage of repro-
cessed rods returning from France and the UK but
this does not happen until 2011—what is the
rush?

The location of a radioactive waste dump, par-
ticularly one that will store high level radioactive
waste, needs careful consideration and ample
community consultation. It should not be foisted
on any state or territory without extensive consul-
tation, planning and input from independent ex-
erts.

The Australian Democrats are particularly con-
cerned about the increasing push for reliance on
nuclear energy that produces this waste. Instead
of squandering $1 million on researching pros-
pects of a nuclear power industry in Australia, as
the Minister for Education, Science and Training
has proposed, the Federal Government should be
investing in renewable energy sources which are
cleaner and cheaper.

This legislation ensures the Government is setting
a disturbing precedent in trampling state and terri-
tory laws. The Democrats will not be supporting
it.

Senator FIELDING (Victoria—Leader
of the Family First Party) (11.36 am)—I am
very disappointed that elected senators are
not able to make their speeches in the second
reading debate because of the gag. I seek
leave to incorporate my second reading
speech.

Leave granted.

The speech read as follows—
Nobody wants to have radioactive waste stored
near them.

However the reality is that we need to find
somewhere to store it because nuclear technology
has become an indispensable part of our lives.
The application of nuclear technology in medi-
cine is an obvious example.

But it has to go somewhere. The difficulty is
coming up with a solution to the storage problem
that is safe and effective.

It is quite natural that people in the Northern Ter-
ritory are concerned about whether or not there is
a nuclear waste facility in their territory. Just the
term “radioactive waste” rings alarm bells. A
number of delegations have visited my office
from the Central Land Council, the Northern Ter-
ritory Government and the Australian Conserva-
tion Foundation to express their concern about the
proposal to put a dump in the Territory.

There is a tendency for people like me from the
eastern states to think of the Northern Terri-
try as a vast empty wilderness where there’s plenty
of space for a dump. But there are people who live
near the proposed sites. The traditional landown-
ers near a couple of the possible sites left me a
statement which points that out. They say that this
is their home, their traditional land where they
hunt and get bush tucker. They’re worried about
their children. They express concern about the future for their beef and tourism businesses. Those are valid concerns, though not the only views. I have seen a media release from the Northern Land Council which supports the storage of radioactive waste in the Territory.

Nevertheless the recommendation to store the waste in the Northern Territory has not been taken on the spur of the moment. The search for a suitable site began as far back as 1979 and studies have been undertaken into the best sites for storing waste and so on.

There have been a number of failed attempts since then to establish a suitable site. In part this failure is due to political reasons. No state or territory wants the site. The state governments have adopted the same position as the Northern Territory Government. They acknowledge that a site is necessary, but not in their backyard.

The question therefore is what criteria should be used to determine an appropriate site. I think two stand out. One is that the site must be geologically stable. The other is that it must be isolated.

As a result of the experience in South Australia, the government has a third. It must be Commonwealth land.

The result of putting these criteria together is that sites in the Northern Territory have been recommended.

An independent agency, the Australian Radiation Protection and Nuclear Safety Agency is confident that a safe facility can be built under their close supervision and Senator Scullion who represents the people of the Northern Territory accepts this analysis.

While I sympathise with the people who live near the proposed sites, the waste has to be stored and if it is going to be stored on Commonwealth land and under Commonwealth jurisdiction, there is no alternative but to store it in the Northern Territory. Consequently I will support the bill.

**Senator FORSHAW** (New South Wales) (11.36 am)—I do not intend to speak for the full 20 minutes in this debate, not because I am not interested but rather because I am conscious of the time. I have spoken in a number of previous debates and participated in a number of committee inquiries into this issue of radioactive waste. Yesterday, I spoke during the matters of public interest debate about the arrogance of this government and the way it now treats Senate committees and the way it is treating this parliament. Sadly, we are seeing another example of that today with the gagging and guillotining of this debate to push through the Commonwealth Radioactive Waste Management Bill 2005 and the Commonwealth Radioactive Waste Management (Related Amendments) Bill 2005. These bills will clearly have long-ranging and important impacts upon not just the people of the Northern Territory but people across the country.

There have been many reports by this parliament, by other parliaments and by independent experts on the issue of what needs to happen to deal with the nuclear waste that is scattered across this country. It includes both low-level and intermediate-level waste and, as I have argued, although it depends upon the definition, the high-level waste that is produced at the Lucas Heights nuclear reactor. You can go back to 1993 to the McKinnon review. It was established by the then Labor government to look at whether Australia needed a new research reactor to replace the existing HIFAR reactor which had been operating since the mid-fifties. That review made it clear that, whatever the decision was as to whether we ultimately needed a nuclear reactor and where that might be located, we had to deal with the issue of the long-term storage of nuclear waste. Professor McKinnon and his team effectively made that a condition of any final decision regarding building a new reactor.

This government came to power in 1996 and, shortly thereafter, in September 1997, announced that a new reactor would be built.
at Lucas Heights. There was no consultation with the community of the Sutherland Shire—where I live, and so I am very much aware of these issues—or the Sutherland Shire Council. There was really no consultation with anyone. I recall that the government announced it on the same day as it announced that it was not going to build a second airport at Holsworthy. So we got the good news and the bad news all on the one day.

That has been the process ever since—a failure by this government to face up to the issue that there ultimately has to be some national facility for the storage of our nuclear waste. It just avoided the issue. It did not consult. As we know, it first tried to impose the site upon the South Australian government and people. There was no consultation. The minister, Senator Minchin, just said, ‘That’s where it’s going.’ I heard Senator Scullion yesterday carrying on about how the federal government is now in this position and has to proceed with this bill is because the states and territories will not cooperate and are all saying, ‘Not in my backyard.’ That is the response you get when you do not even bother to have the courtesy to consult a state or territory government in the first place and ask them to sit down and consider whether it would be suitable to have a facility located within their state or territory. I also recall that at that time it was not just the state Labor government in South Australia that was opposed to it; it was also the state Liberal Party. The Liberal Party opposition in South Australia came out unanimously against having a facility in South Australia. So Senator Scullion getting stuck into the Labor Party and the Labor governments in states and territories in this country is just sophistry. It is a fallacious argument, because his own coalition party, the Liberal Party, in South Australia was totally opposed to the site there as well.

Other reports have come out of this parliament. One was appropriately titled No time to waste. That was a report by a Senate select committee chaired, to my recollection, by Senator Grant Chapman. In 1996 it put forward the proposition that we needed a national repository for low-level waste and a national store for intermediate- and high-level waste. Since then, there have been reports by the Senate Economics Committee in 1999; by the select committee on the new reactor, which I chaired, in 2001; and by the Joint Public Works Committee in 1999. Each one of those committees said that, whatever its view about the issue of building a reactor—and, as we now know, that reactor is almost completely constructed—you have to deal with the issue of the storage of the waste. You cannot just put it off. It has to be dealt with.

We know that that is an essential part of the consideration by Dr Loy, the CEO of ARPA N SA, regarding the operating licence for the new reactor. But, again and again, this government have refused to take the step of sitting down with the states and territories and endeavouring to consult about where an appropriate location would be. The government are just imposing it on the Northern Territory. Why are they doing that? Because they can! They have done no proper environmental consideration of any of the proposed sites. They have basically looked at a map, put pins on some spots and seen what they came up with.

This bill is an arrogant bill. This proposal is not based on good science or good environmental considerations. It is before us now simply because the government have been panicked. They know that ARPA N SA is due to consider the operating licence. In fact, the operating licence application has already been submitted by ANSTO. Dr Loy and his organisation have to make a decision on that by about the middle of next year. The gov-
ernment want to be in a position where they can say to ARPANSA: ‘We have a process in place. We have selected some sites. We are going to end up with a national waste facility.’ That is what this is all about. That is why this legislation has now been brought forward in this most atrocious abuse of process. As I said, there has been no consultation whatsoever.

I obviously oppose these bills, and I support the second reading amendment moved by my colleague Senator Stephens, but I want to deal with one other issue. I am concerned about the approach adopted by the minor parties and the environmental movement in this debate. I know they oppose this legislation, and I applaud them for that, but I am concerned about their overall position on whether or not we need a national waste facility. I believe—and the record shows—that their position is that they do not want one. In her speech yesterday Senator Allison made it very clear that she supports the view of some in the environmental lobby that ‘waste management is preferably done on site in a retrievable and secure fashion’. They are her words. This is actually the view of the Medical Association for Prevention of War. It said that we can continue to store this waste at Lucas Heights.

Dave Sweeney appeared on behalf of the ACF at the committee hearing into this legislation. He is a person whom I know very well. I have a lot of respect for him. He is a person who argues his views forthrightly and in a considered manner. Appearing before the Senate committee that looked at this legislation, he clearly enunciated the position that at the end of the day the view of the environmental movement is that the waste should stay at the place where it is produced—that is, Lucas Heights. They use the argument that it is unsafe to transport it. Frankly, that position is, in my view, a total abrogation of responsibility. One thing that has been the consistent view of the Labor Party and, I understand, the coalition parties, and the considered view of so many reports of this parliament, is that the waste ultimately has to be taken from Lucas Heights and stored in a secure and appropriate national facility.

It is sheer hypocrisy to argue that you cannot put this waste in some remote desert location in Australia, in this vast continent, but you can leave it stuck in a facility in the middle of a community of 200,000 people or leave it scattered in hospitals around the country or out in the back car park of the pathology unit or wherever. It is about time that the Greens, the Democrats and others in the environmental movement stopped fudging on this issue and faced up to it. Ultimately, their agenda is to have this waste kept at Lucas Heights. I reject that totally, and I will continue to oppose it and fight against it. Nobody seems to give a damn about the view of the community in the Sutherland Shire on whether or not they should have a waste facility. They have two reactors—because they already had the first reactor—and now the view is that they should also end up storing the HIFAR waste that will come back here in 2011 and the waste that is produced by the new reactor.

I also want to say on the record that, although it might upset some of my colleagues in the New South Wales Labor government, I do not agree with the position that they have adopted. It is a head in the sand position—that is, that you cannot transport this material. When you ask: ‘Do you therefore want the waste to continue to be stored at Lucas Heights?’ you find that they do not want that either. This is the conundrum. We have to get through this and get it resolved. But it should be resolved properly, openly, in consultation with the states and territories to get agreement, not rammed down the throats of the people of the Northern Territory simply be-
cause this government has the constitutional power to do it.

**Senator Murray** (Western Australia) (11.49 am)—The Commonwealth Radioactive Waste Management Bill 2005 and the Commonwealth Radioactive Waste Management (Related Amendments) Bill 2005 are rightly regarded as controversial. This is not the result of the topic alone or of the override of Northern Territory powers but is also due to criticisms of the process and poor consultation and site selection. This has contributed significantly towards negative perception of the bills.

This legislation and its plans to deal with the transport and storage of existing low- and intermediate-level Commonwealth radioactive waste cannot be separated from larger suspicions. Not only are there many coalition politicians and ministers actively supporting an expansion of uranium mining in Australia to supply other countries’ nuclear industries but many of them are advocating the introduction of nuclear power stations in Australia to supply large countries’ nuclear industries but many of them are advocating the introduction of nuclear power stations in Australia. So there is a suspicion that the proposed new Commonwealth radioactive facility is the thin end of the wedge and would end up as the storage site for high-level radioactive waste. Unfortunately, when the words ‘radioactive’ or ‘nuclear’ are used in public debate, a red mist seems to come over many eyes. Despite the current negative perception surrounding these bills, I think a debate on nuclear energy for Australia is a good thing because that debate will act to expose and consolidate strong community resistance to the idea of nuclear power and the poor case for it.

Current power sources, including from coal, are constantly being improved, made more efficient and cleaner. The case for clean, green alternative energy sources grows stronger day by day as methods improve and new technologies are created. Not long ago the concept of green fuels powering vehicles seemed extreme, yet here we are today with access to biofuelled, hydrogen fuelled and electric powered motors in the market. From a storage of waste point of view, the problem with nuclear power is that its effects are irreversible. High-level waste would be with us for many thousands of years. Considering the speed with which new alternative energy projects are being improved for industrial and large-scale exploitation, the finality of and the very long-term irreversible decision to expand nuclear power seem absurd.

We have access to endless wind power, tidal power, photovoltaic power, biomass and geothermal power. These energy sources are woefully underdeveloped in Australia, but they are all being explored as prospective alternative energy power sources with the potential to supply large-scale clean, renewable power to Australians into the future. Introducing an Australian nuclear power capability, with the resultant scourge of its high-level nuclear waste, would be a mistake—a mistake that would be borne by our children and our grandchildren. The strong argument against expanding our nuclear power capability must not influence the case for the continued use of products with radioactive properties.

Most of Australia’s radioactive waste consists of low-level and short-lived intermediate-level waste derived from research, medical and industrial uses of radioactive materials. Such waste is found in all Australian states and territories but the present storage and treatment of the waste is often concerning. Storage and disposal of the radioactive waste that is created as a result of these processes must be better managed.

Long-lived intermediate-level radioactive waste includes spent reprocessed fuel rods, waste from the production of radiopharmaceuticals, wastes from mineral sands proc-
cessing, protective and safety devices and used sources from medical research and industrial equipment. The used fuel rods are stored on site at Lucas Heights.

I am by no means expert in this area but my general opinion is that from a national public interest point of view the federal government should pass legislation requiring all states and territories to safely store the radioactive waste that has been or is presently generated in state-of-the-art facilities which maximise protection from an environmental and public perspective. Those states and territories that do not comply with such law should be taxed at a punitive rate unless they have an agreement to have their waste stored and processed somewhere else in Australia.

There have been alarming stories about how and where low-level radioactive waste is stored, including in university buildings and hospitals. The report of the Senate Employment, Workplace Relations and Education Legislation Committee on this bill indicates that Commonwealth radioactive waste is currently stored at 30 different locations and that state and territory waste is stored at over 100 locations. This is unacceptable. It would obviously be better if the number of these locations were considerably reduced, for ease of proper management and monitoring.

My view is that the Commonwealth’s low-level waste should be held in not more than a few sites in the states and territories. However, processed intermediate-level radioactive waste should be stored at just one site. I believe the Commonwealth has no option but to decide on a permanent radioactive waste site, particularly for both short- and long-lived intermediate-level radioactive waste. I agree the matter is urgent and it is time to make a decision, but I do think the enabling legislation should require that any site and repository selected must meet the highest necessary standard. I say ‘necessary’ because most Australian radioactive waste can be stored above ground and does not need to meet all the 1992 criteria. Those criteria stipulate that the site must exhibit stable geomorphology and hydro-geological properties. It should have low rainfall, no exposure to groundwater, a low population density and no risk of tectonic, seismic or volcanic activity.

The Commonwealth, in my view, has been left with no alternative but to go around the prevailing NIMBY—not in my backyard—attitude. Once having made that decision, however, what is important is the level of transparency, consultation and procedural fairness in the decision making process. This is an area where the government seems to have fallen down considerably. I think the legislation should require that the facility is certified to be state-of-the-art for the purpose it is to be used for and should be of a size and nature able to accommodate significant growth in intermediate-level radioactive waste, particularly from Lucas Heights.

The site should not be designed to cater for high-level unprocessed radioactive waste but, while it should be able to cope with low-level waste, its main purpose should be to accommodate short-lived intermediate-level waste and long-lived intermediate-level waste. I do not think such a site should be designed to accommodate only Commonwealth waste either, but should be of a size sufficient to cope with state and territory waste if those states and territories are willing to pay a high fee to the government hosting the site, in this case the Northern Territory, and if the Northern Territory agrees to taking the waste of other states.

More controversially, perhaps, I believe the site should be designed with a good neighbour philosophy in mind. I may be doing them an injustice, but I cannot believe
that the poor and developing countries near us, such as East Timor, Papua New Guinea, the Solomons and so on, have proper facilities for storing radioactive waste. They too have low- and intermediate-level radioactive waste. They too have industrial gauges, exit signs, smoke detectors, medical resources and hospital waste, including paper, clothing and glassware, all of which constitute radioactive waste. It would be an environmental benefit to such nations, and the right thing for us as rich neighbours to do, to be able to have their intermediate-level radioactive waste, in particular, stored and treated at a high-quality Australian facility. Clearly, there would need to be a cost recovery regime of some kind.

Transport safeguards will also be required. The committee inquiry into this bill seemed to indicate that the transport problem of nuclear waste is a problem that is considered ‘pretty much solved’. That may be so if the procedure for selecting a site and the accompanying problem of transport to the site were better documented and researched by the government.

I have heard Senator Scullion criticised in this place concerning this bill. In my opinion he has bravely recognised the need for a waste facility but tried hard to address the legitimate criticisms and issues surrounding the suggested sites. In my opinion his amendments are essential to the passage of this bill. Undoubtedly the government deserves the criticisms levelled at it regarding an inadequate consultation process, and that is what Senator Scullion addresses, and what seems to have been a fairly ordinary site selection process. However, I do agree with the government that this is an urgent matter needing to be resolved; otherwise, it is a matter that is going to be left for some other government to resolve. The matter has to be resolved at some stage.

I accept that it is within the power of the Commonwealth to override Territory law as it intends and, indeed, there is no principle which militates against that. My own party supported laws designed to prevent the damming of the Franklin in Tasmania and a bill to overturn the mandatory sentencing regime of the Northern Territory. The Commonwealth does need to set up a facility in the best manner from the perspective of environmental and public safety outcomes. Moreover, this must be achieved with proper compensation, consultation and an exemplary site selection process. These are all areas where the government seem to have failed to date and as a consequence they have exposed a necessary program to unnecessary criticism. I do not have a balance of power vote on this bill, but if I did I would still require stronger safeguards and processes than seem to be apparent in this bill in its present form.

Senator BARNETT (Tasmania) (11.58 am)—In the time available I would like to strongly support the Commonwealth Radioactive Waste Management Bill 2005 and the Commonwealth Radioactive Waste Management (Related Amendments) Bill 2005. This legislation is absolutely necessary for Australia and is in the public interest. I thank Senator Murray for his comments, particularly his commendation of Senator Scullion and the manner in which he has seen fit to support the legislation. He has worked with David Tollner to obtain the appropriate amendments. It is not just the three sites in the Northern Territory—in consultation with the Aboriginal land council and the Northern Territory government the site could be at other places. I commend him and Mr Tollner for that.

I want to make the point that half-a-million Australians receive a radiopharmaceutical every year and that, on average, every Australian will need a radioisotope for
medical treatment at some stage during their lifetime. This repository for radioactive waste is essential. We have 30 major locations and over 100 other locations throughout Australia where repositories already exist. The state governments should be ashamed of themselves for their head in the sand approach. This debate has been continuing since 1992. The ‘not in my backyard’ approach is unacceptable. The Labor opposition have supported the state governments in this matter and they should hang their heads in shame. I strongly support the government’s bills.

The ACTING DEPUTY PRESIDENT (Senator Watson)—Order! The time allotted for the consideration of the remaining stages of these bills has now expired. The question is that the second reading amendment moved by Senator Stephens in respect of the Commonwealth Radioactive Waste Management Bill 2005 be agreed to.

The Senate divided. [12.04 pm]
(The Acting Deputy President—Senator JOW Watson)

Ayes………… 30
Noes………… 34
Majority…… 4

AYES
Allison, L.F. 
Brown, B.J. 
Campbell, G. 
Conroy, S.M. 
Evans, C.V. 
Forsyth, M.G. 
Hurley, A. 
Lundy, K.A. 
McEwen, A. 
Moore, C. 
Nettle, K. 
Polley, H. 
Siewert, R. 
Sterle, G. 
Webber, R. *

NOES
Abetz, E. 
Barnett, G. 
Brandis, G.H. 
Coonan, H.L. 
Ellison, C.M. 
Fielding, S. 
Fifield, M.P. 
Johnston, D. 
Kemp, C.R. 
Macdonald, I. 
Mason, B.J. 
Minchin, N.H. 
Parry, S. 
Payne, M.A. 
Santoro, S. 
Troeth, J.M. 
Vanstone, A.E.

The ACTING DEPUTY PRESIDENT (Senator Watson)—The question now is that the bills be read a second time.

Question put.

The Senate divided. [12.09 pm]
(The Acting Deputy President—Senator JOW Watson)

Ayes………… 35
Noes………… 29
Majority…… 6

AYES
Abetz, E. 
Barnett, G. 
Brandis, G.H. 
Coonan, H.L. 
Ellison, C.M. 
Fielding, S. 
Fifield, M.P. 
Johnston, D. 
Kemp, C.R. 
Macdonald, I. 
Mason, B.J. 
Minchin, N.H. 
Parry, S. 
Payne, M.A. 
Santoro, S. 
Troeth, J.M. 
Vanstone, A.E.

* denotes teller

Question negatived.

The ACTING DEPUTY PRESIDENT (Senator Watson)—Order! The time allotted for the consideration of the remaining stages of these bills has now expired. The question is that the second reading amendment moved by Senator Stephens in respect of the Commonwealth Radioactive Waste Management Bill 2005 be agreed to.

The Senate divided. [12.09 pm]
(The Acting Deputy President—Senator JOW Watson)

Ayes………… 35
Noes………… 29
Majority…… 6

AYES
Abetz, E. 
Barnett, G. 
Brandis, G.H. 
Coonan, H.L. 
Ellison, C.M. 
Fielding, S. 
Fifield, M.P. 
Johnston, D. 
Kemp, C.R. 
Macdonald, I. 
Mason, B.J. 
Minchin, N.H. 
Parry, S. 
Payne, M.A. 
Santoro, S. 
Troeth, J.M. 
Vanstone, A.E.

* denotes teller

Question negatived.
The Senate will now consider amendments to the Commonwealth Radioactive Waste Management Bill 2005. The question now is that Senator Scullion’s amendments (1) to (3) on sheet RC236 be agreed to:

(1) Clause 3A, page 4 (after line 7), after subclause 3A(1), insert:

(1A) The Chief Minister of the Northern Territory must not nominate land under subsection (1) unless the Chief Minister has, at least 3 months before making the nomination, given written notice to the Land Council for the area in which the land is situated of the Chief Minister’s intention to nominate the land.

(2) Clause 3B, page 4 (after line 27), after paragraph (1)(f), insert:

(fa) if the land is nominated by the Chief Minister of the Northern Territory and there is a registered native title claimant (within the meaning of the Native Title Act 1993) in relation to the land or any part of it—contain evidence of the consent to the nomination by the claimant; and

(fb) if:

(i) the land is nominated by the Chief Minister of the Northern Territory; and

(ii) the land or any part of it is the subject of an application of the kind mentioned in paragraph 50(1)(a) of the Aboriginal Land Rights (Northern Territory) Act 1976 that was made before 5 June 1997; and

(iii) the traditional land claim the subject of that application has not been finally disposed of; contain evidence of the matters mentioned in subsection (1B); and

(3) Clause 3B, page 5 (after line 11), after subclause (1), insert:

(1A) The reference in subsection (1)(f) to persons holding interests in land includes any registered native title body corporate (within the meaning of the Native Title Act 1993) in relation to the land or any part of it.

(1B) For the purposes of paragraph (1)(fb), the nomination must contain evidence that:

(a) the Land Council for the area in which the land is situated has con-
sulted with the traditional Aboriginal owners of the land; and
(b) the traditional Aboriginal owners understand the nature and effect of the proposed nomination and the things that might be done on or in relation to the land under this Act if the Minister approves the nomination; and
(c) the traditional Aboriginal owners as a group have consented to the nomination being made (that consent as a group being determined in accordance with section 77A of the Aboriginal Land Rights (Northern Territory) Act 1976); and
(d) the Land Council has consulted with any Aboriginal community or group that may be affected by the proposed nomination and the community or group has had adequate opportunity to express its view to the Land Council, and that the Chief Minister of the Northern Territory has considered any such view.

Senator CROSSIN (Northern Territory) (12.13 pm)—Mr Acting Deputy President, do I need to seek leave to make a few comments about these amendments?

The ACTING DEPUTY PRESIDENT (Senator Watson)—Time has expired, Senator Crossin.

Senator CROSSIN—So there is no opportunity to speak to these amendments?

The ACTING DEPUTY PRESIDENT—Time has expired. Senator.

Senator CROSSIN—There is no opportunity to ask a question or present any speech on these amendments—is that correct?

The ACTING DEPUTY PRESIDENT—I repeat, time has expired, I am sorry.

Senator CROSSIN—Thank you; I just wanted to make that point.

Senator Bob Brown—Mr Acting Deputy President, I rise on a point of order. It is up to the Senate to give leave or not. I want to make the point that the opposition and the crossbench would give leave, but the government, including Senator Scullion, has denied Senator Crossin leave to make a statement.

The ACTING DEPUTY PRESIDENT—There is no point of order. The question is that Senator Scullion’s amendments be agreed to.

Question agreed to.

The ACTING DEPUTY PRESIDENT—The question now is that the Australian Greens’ amendments R(1) and (2) to (6) on sheet 4798 revised be agreed to:

(R1) Clause 3, page 2 (lines 22 to 23), omit “include high level radioactive material or spent nuclear fuel”, substitute “include; (a) high level radioactive material; or (b) spent nuclear fuel; or (c) any controlled material imported or transported into Australia from a place outside Australia, excepting controlled material imported or transported in connection with fabrication or reprocessing of Australian research reactor fuel”

(2) Clause 3, page 5 (line 15), omit “in his or her absolute discretion”, substitute: “subject to subsection (1A)”.

(3) Clause 3, page 5, (after line 17), after subsection 3C(1), insert:

(1A) Where there is evidence of risk of damage to or interference with a sacred site in accordance with paragraph 3B(1)(e), the Minister must not make an approval in accordance with subsection (1).

(4) Clause 7, page 9 (line 6), omit “in his or her absolute discretion”, substitute “subject to subsection 3C(1A)”.

(5) Clause 12, page 13 (line 6), after “may”, insert “subject to subsection 13(2)".
Clause 13, page 14 (lines 1 and 2) omit “no effect to the extent that it would apart from this section, regulate, hinder or prevent transport authorised by section 12”, substitute “full effect according to its terms”.

Question put.

The Senate divided.  [12.20 pm]

(The Acting Deputy President—Senator JOW Watson)

<table>
<thead>
<tr>
<th>AYES</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Allison, L.F.</td>
<td>Bartlett, A.J.J.</td>
<td></td>
</tr>
<tr>
<td>Brown, B.J.</td>
<td>Brown, C.L.</td>
<td></td>
</tr>
<tr>
<td>Campbell, G.</td>
<td>Carr, K.J.</td>
<td></td>
</tr>
<tr>
<td>Conroy, S.M.</td>
<td>Crossin, P.M.</td>
<td></td>
</tr>
<tr>
<td>Evans, C.V.</td>
<td>Faulkner, J.P.</td>
<td></td>
</tr>
<tr>
<td>Forshaw, M.G.</td>
<td>Hogg, J.J.</td>
<td></td>
</tr>
<tr>
<td>Hurley, A.</td>
<td>Ludwig, J.W.</td>
<td></td>
</tr>
<tr>
<td>Lundy, K.A.</td>
<td>Marshall, G.</td>
<td></td>
</tr>
<tr>
<td>McEwen, A.</td>
<td>McLucas, J.E.</td>
<td></td>
</tr>
<tr>
<td>Moore, C.</td>
<td>Murray, A.J.M.</td>
<td></td>
</tr>
<tr>
<td>Nettle, K.</td>
<td>O’Brien, K.W.K.</td>
<td></td>
</tr>
<tr>
<td>Polley, H.</td>
<td>Sherry, N.J.</td>
<td></td>
</tr>
<tr>
<td>Siewert, R.</td>
<td>Stephens, U.</td>
<td></td>
</tr>
<tr>
<td>Sterle, G.</td>
<td>Stott Despoja, N.</td>
<td></td>
</tr>
<tr>
<td>Webber, R. *</td>
<td>Wortley, D.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>NOES</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Abetz, E.</td>
<td>Adams, J.</td>
<td></td>
</tr>
<tr>
<td>Barnett, G.</td>
<td>Boswell, R.L.D.</td>
<td></td>
</tr>
<tr>
<td>Brandis, G.H.</td>
<td>Colbeck, R.</td>
<td></td>
</tr>
<tr>
<td>Coonan, H.L.</td>
<td>Eggleston, A.</td>
<td></td>
</tr>
<tr>
<td>Ellison, C.M.</td>
<td>Ferguson, A.B.</td>
<td></td>
</tr>
<tr>
<td>Fielding, S.</td>
<td>Fieravanti-Wells, C.</td>
<td></td>
</tr>
<tr>
<td>Fifield, M.P.</td>
<td>Heffernan, W.</td>
<td></td>
</tr>
<tr>
<td>Johnston, D.</td>
<td>Joyce, B.</td>
<td></td>
</tr>
<tr>
<td>Kemp, C.R.</td>
<td>Lightfoot, P.R.</td>
<td></td>
</tr>
<tr>
<td>Macdonald, I.</td>
<td>Macdonald, J.A.L.</td>
<td></td>
</tr>
<tr>
<td>Mason, B.J.</td>
<td>McGauran, J.J.J. *</td>
<td></td>
</tr>
<tr>
<td>Minchin, N.H.</td>
<td>Nash, F.</td>
<td></td>
</tr>
<tr>
<td>Parry, S.</td>
<td>Patterson, K.C.</td>
<td></td>
</tr>
<tr>
<td>Payne, M.A.</td>
<td>Ronaldson, M.</td>
<td></td>
</tr>
<tr>
<td>Santoro, S.</td>
<td>Scullion, N.G.</td>
<td></td>
</tr>
<tr>
<td>Troeth, J.M.</td>
<td>Trood, R.</td>
<td></td>
</tr>
<tr>
<td>Vanstone, A.E.</td>
<td>Watson, J.O.W.</td>
<td></td>
</tr>
</tbody>
</table>

* denotes teller

Question negatived.

Third Reading

The acting Deputy President—The question now is that the remaining stages of the bills be agreed to.

Question put.

The Senate divided.  [12.24 pm]

(The Acting Deputy President—Senator JOW Watson)

<table>
<thead>
<tr>
<th>AYES</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Abetz, E.</td>
<td>Adams, J.</td>
<td></td>
</tr>
<tr>
<td>Barnett, G.</td>
<td>Boswell, R.L.D.</td>
<td></td>
</tr>
<tr>
<td>Brandis, G.H.</td>
<td>Colbeck, R.</td>
<td></td>
</tr>
<tr>
<td>Coonan, H.L.</td>
<td>Eggleston, A.</td>
<td></td>
</tr>
<tr>
<td>Ellison, C.M.</td>
<td>Ferguson, A.B.</td>
<td></td>
</tr>
<tr>
<td>Fielding, S.</td>
<td>Fieravanti-Wells, C.</td>
<td></td>
</tr>
<tr>
<td>Fifield, M.P.</td>
<td>Heffernan, W.</td>
<td></td>
</tr>
<tr>
<td>Johnston, D.</td>
<td>Joyce, B.</td>
<td></td>
</tr>
<tr>
<td>Kemp, C.R.</td>
<td>Lightfoot, P.R.</td>
<td></td>
</tr>
<tr>
<td>Macdonald, I.</td>
<td>Macdonald, J.A.L.</td>
<td></td>
</tr>
<tr>
<td>Mason, B.J.</td>
<td>McGauran, J.J.J. *</td>
<td></td>
</tr>
<tr>
<td>Minchin, N.H.</td>
<td>Nash, F.</td>
<td></td>
</tr>
<tr>
<td>Parry, S.</td>
<td>Patterson, K.C.</td>
<td></td>
</tr>
<tr>
<td>Payne, M.A.</td>
<td>Ronaldson, M.</td>
<td></td>
</tr>
<tr>
<td>Santoro, S.</td>
<td>Scullion, N.G.</td>
<td></td>
</tr>
<tr>
<td>Troeth, J.M.</td>
<td>Trood, R.</td>
<td></td>
</tr>
<tr>
<td>Vanstone, A.E.</td>
<td>Watson, J.O.W.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>NOES</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Allison, L.F.</td>
<td>Bartlett, A.J.J.</td>
<td></td>
</tr>
<tr>
<td>Brown, B.J.</td>
<td>Brown, C.L.</td>
<td></td>
</tr>
<tr>
<td>Campbell, G.</td>
<td>Carr, K.J.</td>
<td></td>
</tr>
<tr>
<td>Conroy, S.M.</td>
<td>Crossin, P.M.</td>
<td></td>
</tr>
<tr>
<td>Evans, C.V.</td>
<td>Faulkner, J.P.</td>
<td></td>
</tr>
<tr>
<td>Forshaw, M.G.</td>
<td>Hogg, J.J.</td>
<td></td>
</tr>
<tr>
<td>Hurley, A.</td>
<td>Ludwig, J.W.</td>
<td></td>
</tr>
<tr>
<td>Lundy, K.A.</td>
<td>Marshall, G.</td>
<td></td>
</tr>
<tr>
<td>McEwen, A.</td>
<td>McLucas, J.E.</td>
<td></td>
</tr>
<tr>
<td>Moore, C.</td>
<td>Murray, A.J.M.</td>
<td></td>
</tr>
<tr>
<td>Nettle, K.</td>
<td>O’Brien, K.W.K.</td>
<td></td>
</tr>
<tr>
<td>Polley, H.</td>
<td>Sherry, N.J.</td>
<td></td>
</tr>
<tr>
<td>Siewert, R.</td>
<td>Stephens, U.</td>
<td></td>
</tr>
<tr>
<td>Sterle, G.</td>
<td>Stott Despoja, N.</td>
<td></td>
</tr>
<tr>
<td>Webber, R. *</td>
<td>Wortley, D.</td>
<td></td>
</tr>
</tbody>
</table>

PAIRS

Bishop, T.M.  Calvert, P.H.
Hutchins, S.P.  Campbell, I.G.
Kirk, L.  Chapman, H.G.P.
Milne, C.  Hill, R.M.
Ray, R.F.  Ferris, J.M.
Wong, P.  Humphries, G.
Forshaw, M.G. Hogg, J.J.
Harley, A. Ludwig, J.W.
Lundy, K.A. Marshall, G.
McEwen, A. McLucas, J.E.
Moore, C. Nettle, K.
O’Brien, K.W.K. Polley, H.
Sherry, N.J. Siewert, R.
Stephens, U. Sterle, G.
Stott Despoja, N. Webber, R.
Wortley, D.

PAIRS
Calvert, P.H. Bishop, T.M.
Campbell, I.G. Hutchins, S.P.
Chapman, H.G.P. Kirk, L.
Ferris, J.M. Ray, R.F.
Hill, R.M. Milne, C.
Humphries, G. Wong, P.
* denotes teller

Question agreed to.
Bills read a third time.

INDIGENOUS EDUCATION
(TARGETED ASSISTANCE) AMENDMENT BILL 2005
Second Reading
Debate resumed from 14 June, on motion by Senator Abetz:
That this bill be now read a second time.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (12.27 pm)—The Indigenous Education (Targeted Assistance) Amendment Bill 2005 seeks to amend the Indigenous Education (Targeted Assistance) Act 2000. The bill contains two principal measures and, while Labor supports the tutorial assistance designed to reverse worrying drop-out trends in remote communities, we have very significant concerns with the new funding arrangements for Indigenous vocational education providers. In particular, the bill will affect the funding provided to the Institute for Aboriginal Development in Alice Springs, Tranby Aboriginal Cooperative College in Sydney, the Tauondi College in Adelaide and the Aboriginal Dance Theatre in Redfern. The bill removes transitional project assistance funding and requires those four vocational education and training providers to compete for funding under the wider Skilling Australia’s Workforce arrangements.

As part of the Commonwealth-state Skilling Australia’s Workforce agreement, a joint Indigenous funding pool is proposed. This would comprise a Commonwealth contribution of $11.6 million, matched by the states and territories to create a total funding pool of $23.3 million over the period 2006-08. Labor support efforts to increase the total overall funding made available for Indigenous education and training. However, we do not believe that this should come at the expense of security for the four providers I have mentioned which currently undertake beneficial work with Indigenous Australians. Labor have proposed an amendment, which I will move during the committee stage, that would ensure that the policy objectives under the Indigenous Education (Targeted Assistance) Act 2000 are not sidelined by moving funds to the mainstream.

Labor welcome the minister’s indication on behalf of the government that he will support that amendment. However, we also recognise that the amendment does not resolve all the concerns raised with us by Indigenous education providers. There is a pressing need for effective action to improve outcomes in Indigenous education training. A number of facts demonstrate that the government has not got it right. There has been a decline in the number of Indigenous students in vocational education and training for the first time since the 1990s. Almost half of the 15- to 17-year-old Indigenous Australians in the labour force are either unemployed or on the CDEP. These worrying trends point to the failure of the government’s policy approach.

Labor believe that a sound policy in Indigenous vocational education and training...
should use the best research and evidence to build sound frameworks and recognise the social and cultural roles of Indigenous institutions for Indigenous people and their communities. Evidence shows that Indigenous educational institutions produce superior outcomes in vocational education and training for Indigenous students. The Department of Education, Science and Training’s National report to parliament on Indigenous education and training 2003 confirmed that educational outcomes for students of independent Indigenous VET providers were better than those obtained by Indigenous students in the VET sector as a whole. A report, Succeeding against the odds, jointly sponsored by the National Centre for Vocational Education Research and the Federation of Independent Aboriginal Education Providers, came to the same conclusion. In Indigenous institutions, 60 per cent of module enrolments result in a pass, compared with 45 per cent in the vocational sector as a whole, and the pass rates also marginally exceed the national rate for all VET students, both Indigenous and non-Indigenous. A sound approach to Indigenous education would ensure support for successful Indigenous VET institutions and programs. We are concerned that this bill fails to do so.

Labor is concerned that the Commonwealth government has ignored the contents of its own review into Indigenous VET providers, conducted during 2003. The review examined the role of the four providers affected by this bill and noted:

This Review ... has identified insecurity about long term funding which directly limits opportunities for systemic goal setting. Although the positive contribution of IIVETs—

that is, the colleges—
is recognised in national reports, their capacity to offer a systemic response to Indigenous disadvantage is limited by short funding cycles and the absence of formal links within the training sector. They tend to be seen as individual providers rather than part of a specialised systemic response to disadvantage.

Indigenous education providers have cause to be concerned with this government’s record of constant chopping and changing and, quite frankly, botching the programs and funding arrangements in Indigenous education. Changes to funding arrangements to the Aboriginal Student Support and Parent Awareness program meant that successful Indigenous parent committees were closed down and Indigenous parents were left disengaged and disillusioned. Flawed changes to funding arrangements to the Indigenous Tutorial Assistance Scheme have resulted in a 62 per cent drop in Indigenous students using that scheme. These are serious failings. A recent survey of 561 schools by the Australian Education Union found that 67 per cent of respondents said that changes to Indigenous education funding were negative, with only four per cent of respondents saying that they were positive. The survey also found that 2,745 fewer Indigenous students access tutorial assistance, with 447 tutors losing their jobs. Of those, 265 were Indigenous employees, which also reflects the worrying trend of loss of Indigenous people from public service employment in the Commonwealth area.

The government’s current arrangements, based on its policy mainstreaming, have failed to provide a specialised systemic response to Indigenous disadvantage. Larissa Behrendt, a highly respected professor of law and Indigenous studies at the University of Technology, has stated:

... the approach to Indigenous policy should not be ideologically led, it should be directed by research-based policy so we are not the perpetual guinea pigs for government.

Labor welcome the federal government’s decision to support Labor’s amendment to
ensure the policy objectives under the act are
not sidelined by moving funds to the main-
stream. These objectives are based on re-
search on what the key ingredients for suc-
cessful outcomes are. The objectives include
providing culturally relevant education ser-
vices and increasing Indigenous input in
educational decision making and govern-
ance. The government has stated that it will
not give any preference to Indigenous educa-
tion providers when selecting a tenderer. La-
bor’s amendment will at least strengthen the
standing of Indigenous education providers
in the open tender process by making the
policy objectives part of the mandatory se-
lection criteria. Labor will obviously be very
interested in monitoring these new arrange-
ments and will try to hold the government
accountable to make sure that those policy
objectives are being met.

We are concerned at the failure to invest
in and promote VET, despite its immense
potential to boost economic developments in
regional and remote Indigenous communi-
ties. I have a particular interest in the prob-
lems that exist in the Pilbara and Kimberley
in Western Australia. There are great oppor-
tunities there, due to the mining boom and
development, but a lot of those opportunities
are being missed.

Instead of increasing investment in In-
digenous education this bill reduces the ap-
propriation under the Indigenous Education
(Targeted Assistance) Act 2000 by a net $3.7
million.

We think that the government has failed to
recognise the importance of community-run
institutions in strengthening positive cultural
identity, pride and self-esteem. This was rec-
ognised in the positive self-identity for In-
digenous students and its relationship to
school outcomes project commissioned by
the Department of Education, Science and
Training in 1999. In its open letter of con-
cern, Tranby College, one of the providers
affected, stated:

Indigenous education providers pride themselves
on being controlled by Indigenous communities
and therefore reflect the learning styles, needs and
aspirations of Indigenous people within the coun-
try.

The Succeeding against the odds survey
found that students in Indigenous education
providers were more likely to come from
severely disadvantaged backgrounds, marked
by no prior education experience, inordin-
ately high levels of unemployment, ill
health and contact with the law and justice
system, and other significant social issues
including forced separation of children from
families, personal and domestic violence,
substance abuse and mental illness. Tranby
College has stated that the mainstreaming
approach will:

... further disadvantage Indigenous people who
are seeking a way to re-engage with education
after what, in many cases, has been a lifetime of
apprehension and doubt in their abilities to par-
ticipate in mainstream environments.

Indigenous education providers, despite the
accusation of some conservative thinkers that
they are separatists, actually build links and
ease transition between Indigenous and non-
Indigenous populations.

In conclusion, there is some concern about
the direction of government policy. Labor
appreciate that the government is going to
come some way towards improving the bill
by accepting our amendment, but we urge
the government to embrace a sounder, evi-
dence based approach to improving VET
outcomes.

Senator ALLISON (Victoria—Leader of
the Australian Democrats) (12.37 pm)—I
also speak on the Indigenous Education
(Targeted Assistance) Amendment Bill 2005,
as the Democrats’ spokesperson on schools
and training. According to the explanatory
memorandum, the main purpose of the bill is
to amend the Indigenous Education (Targeted Assistance) Act 2000 to appropriate funding to support the provisions of tutorial assistance to Indigenous students who move away from their remote communities to attend schools. It also transfers funding for independent vocational education and training providers to appropriations under the Skilling Australia’s Workforce Act 2005.

We have great concerns with the provisions which seek to do the following: firstly, reduce funds available to Indigenous education by a net $3.7 million over 2006-08 and, secondly, transfer $10.9 million, otherwise quarantined for the independent community-controlled providers, into a common funding pool which is to be administered by the states and spent under the Skilling Australia’s Workforce Act 2005. This means that the transfer will come from funds currently provided to four independent vocational education and training providers: the Institute for Aboriginal Development, Tranby Aboriginal Cooperative College, Aboriginal Dance Theatre Redfern and Tauondi Inc.

It also requires the Indigenous organisations to compete for funds with all other registered training providers, Indigenous or not, in a joint funding pool with no guaranteed criteria specifying Indigenous staffing and support. That means that independent providers will now be forced to tender for those funds against one another and against mainstream registered training organisations. This, I would argue, is competition policy at its most ludicrous. We are now talking about mainstreaming and pushing Indigenous controlled education providers out of the picture for the usual ideological reasons.

The central issue here is Indigenous people’s rights in relation to education, including the right of self-determination. International best practice rarely strays from the basic tenets enunciated in documents such as the United Nations Draft Declaration of the Rights of Indigenous Peoples and the ‘Coolangatta statement’ on Indigenous people’s education rights. In my view, this bill will diminish the capacity of Indigenous people in Australia to exercise those rights. This is particularly important for the providers I have mentioned, because they remain among the few educational institutions in Australia to maintain a high level of Indigenous involvement, from the level of overall ownership and control right down to the design and development of programs and the learning experiences of students.

The effect of this bill is to remove earmarked funding and force these providers to compete for it against what are often better resourced providers in national and state systems, reducing the time available to deliver the educational outcomes. It also undermines the capacity of Commonwealth and state governments to deliver on the key objectives of their own policies in relation to Indigenous vocational education and training. Given that the Ministerial Council on Education, Employment, Training and Youth Affairs reconfirmed its commitment to education as recently as the May 2005 meeting, I suggest that this bill will undermine those agreed national policy objectives too. The history of Indigenous education policy in this country is littered with examples of failed policies and programs, not the least reason for which is the continued unwillingness of people in decision-making roles to take advice from the people most affected by their policies: people using the education services.

The aim for change, we say, should be to secure stable, sustainable core funding for independent community-controlled Indigenous education providers so that they can continue their outstanding work without having to constantly waste scarce resources re-tendering and re-establishing their right to provide a legitimate and appropriate educa-
tion to their people. Fundamentally, this is a matter of choice. The existence of independent providers makes it possible for people to choose this form of education. Moreover, because these providers have demonstrated a capacity to succeed where mainstream providers have failed, the downstream savings to the community are considerable. It should also be noted that the Commonwealth, through the states, has only recently funded a major capital works program upgrading facilities at the colleges named in the inquiry. What then is the logic of spending millions on buildings only to withdraw its operational funds for the education and training programs? Like so much of this government’s ideological agenda, there is no justification.

In 1999 the Australian National Training Authority, under the auspices of the National Centre for Vocational Education and Training Research, produced a report titled *Succeeding against the odds: the outcomes attained by Indigenous students in Aboriginal community-controlled adult education colleges*. The report conducted research into the success of three of the four independent Indigenous vocational education and training providers—Tauondi College, Tranby College and the Institute for Aboriginal Development—whose ongoing funding will be up for grabs with this legislation. That research showed that those providers catered for some of the most disadvantaged Indigenous students in Australia, including a large number of students from rural and remote areas. They produced pass rates for the students that exceeded both the pass rates of Indigenous students and non-Indigenous students in the VET sector in general. They increased the employment rates of graduates, including the Aboriginal community-controlled sector. They contributed to a range of positive social outcomes for students and they showed that the expenditure within the sector was justifiable in relation to the outcomes being achieved.

The Democrats oppose the removal and reallocation of this funding under the guise of competition. We say that the Australian government’s rhetorical commitment to the provision of education and training for Indigenous and Torres Strait Island people should be matched by a corresponding funding commitment. Making this funding contestable—spreading it around, as it were—is contradictory to the government’s policy commitment to fund what works in Indigenous education, as the abovementioned research clearly shows. The decision to remove this funding does not take into account the recommendations from the government’s review of VET which included a collaborative approach to the funding of these providers.

Further, we believe the removal of funding of $3.7 million from the four VET providers will have a severe impact on the ability of the providers in question to cater to their students, many of whom, research shows, are from rural and remote areas and are severely disadvantaged. In particular, it will affect employment within the sector, including Indigenous employment. It should be noted that institutions such as Tranby have an important historical significance. They base their curriculum on Aboriginal culture, tradition and education. The methods used are unique and involve emotional connections, practical experience, mentoring by elders, particular group dynamics between students and teachers, a unique understanding, respect for knowledge and many other Aboriginal-specific teaching methods.

Indigenous-run colleges like Tranby and others affected by these bills give all Australians, and specifically Indigenous Australians, a chance to work within this framework. Tranby provides services that are not
available in other mainstream institutions and has been operating since the 1950s. Many people have studied at or been connected to the college, including my colleague former senator Aden Ridgeway. It must be emphasised that these four colleges are irreplaceable and hold a unique position amongst educational institutions. They provide education to Australia’s Indigenous people in a culturally appropriate and supportive way and have historical significance. It would be shameful and a great loss if they were forced to close due to lack of funds, precipitated by the proposed changes.

It is not as if Indigenous education has now reached the same level as non-Indigenous education in this country. It is not as if Indigenous people are now employed at the same rate as non-Indigenous people. I think it is extraordinary that the government would take this step. So much is talked about in terms of Aboriginal people being able to be economically independent, and bills such as this determinedly undermine that whole process.

I will finish by seeking leave to table what was anticipated to be a petition. I will read out the terms of that petition. It has 35 or so signatures on it. I think it says it all. It says:

We, the undersigned are concerned about the proposed changes to the funding of Tauondi College which will have a significant and detrimental impact on the educational opportunities for Aboriginal people in South Australia. Tauondi College is an outstanding educational institution which plays a significant role in the lives of many Aboriginal people in Adelaide. It not only provides valuable education opportunities, but is also an important community focal point through which many Aboriginal people can share their experiences and provide mutual support. We are concerned that the proposed funding arrangements will lead to less autonomy for the College in administering the funds for the benefit of the local Indigenous community. We are also concerned that the new arrangements will lead to a significant decrease in the funds available to the College. Please give this matter your most urgent attention.

I ask the government to explain themselves. Why are we proceeding down this ridiculous tendering path when what is there is doing such a good job? Please explain how this will be better for Indigenous people. Please tell the chamber how tendering will increase the educational level and opportunities for people. I doubt this can be done. I doubt that the government will be able to say anything more than: ‘Well, everyone has to tender against everybody else. We don’t care whether or not they are controlled by Indigenous communities and we don’t care about the rights of Indigenous people to choose.’ I seek leave to table the petition.

Leave granted.

Senator CROSSIN (Northern Territory) (12.48 pm)—I rise to speak on the Indigenous Education (Targeted Assistance) Amendment Bill 2005. This bill provides for the appropriation of funds for two government measures. The first is for $7.2 million to provide tutorial assistance for Indigenous students who go from remote communities to larger towns for the purpose of schooling to further their education. These funds will pay for tuition for up to four hours a week for 32 weeks in their first year away from home. The second is a transfer of $10.9 million for vocational education and training from IESIP—the Indigenous Education Strategic Initiatives Program—to the Commonwealth-State Training Funding Agreement under the Skilling Australia’s Workforce Act 2005.

Unfortunately the net result of this is a decrease in the appropriation under section 14A of the Indigenous Education (Targeted Assistance) Act 2000 by $3.7 million over 2005-06. I know that the government will stand up and argue that under this bill there is actually an increase of $7.2 million for
tuition. But, when you actually look at the full funding of savings in other areas and the loss of $10.9 million to VET, you see that it is actually a net loss of $7.3 million. You cannot give with one hand, take away an enormous amount with the other and continue to brag about how well you are funding Indigenous education, because the facts are otherwise.

We are all well aware of the continuing and increasing gap between Indigenous and non-Indigenous student outcomes in education. We are also aware that under this government, while numbers of Indigenous students have risen, little has been achieved to close that gap. Indigenous students remain twice as likely to leave school before completing year 10 and are half as likely to complete year 12. They remain seriously disadvantaged in this country.

We can only hope that this tutorial support will help some of those Indigenous students achieve improved outcomes. We can only sincerely hope that, through these appropriations, the level of spending on Indigenous training will genuinely be better targeted and will not just be the subject of cynical smoke and mirrors and the transferring of funds between programs while the minister pours out abundant press releases and spin to cloud the facts and pretend otherwise. We can only hope that Minister Nelson takes Indigenous education a little more seriously than it appears. I understand that originally he did not even make it into the House of Representatives to introduce this bill, and he has certainly done a great job in distancing himself from the chaos, confusion and tragedy of the many changes to ITAS and PSPI funding this year.

The changes made so far this year in these programs have disempowered Indigenous parents, who have been voting with their feet and leaving close involvement with their school communities in droves. These changes have seen drastic cuts to funding for previously successful programs in Indigenous schools. These changes now mean Indigenous kids will have to fail a year 3 test before they can access in-class tuition help. This is a government that waits for a kid to fail before offering a hand to help. These changes have been made with scant regard for the views of Indigenous students or parents. They have been made on administrative and political grounds. They are not underpinned by any educational research, measures or argument.

We can only hope that this program of tuition for students moving from remote areas is better planned and implemented than any other education program we have seen under this government so far. As was pointed out by my colleague from the Northern Territory in the other place, Mr Snowdon, when we, the opposition, point out the gap and Indigenous disadvantage, the government attack us. They blame anyone else but themselves and their policies. They blame the states and territories. They even blame the parents. But they take very little responsibility for ensuring that gap is diminished.

Mr Snowdon also said that in 27 years of the CLP government, which was the conservative government in the Northern Territory—and we well know this—there was not a single secondary school built in an Indigenous community. Not one single secondary school was established in a remote Indigenous community in the Northern Territory under the 27-year rule of the CLP. So, if the Territory was responsible for poor Indigenous education, it was certainly under conservative governments, which did nothing for 27 years. Perhaps I should take this opportunity to pay tribute to the Martin Labor government in the Northern Territory, which, in their short time of being in control of the Northern Territory—that is, over the last five
years—have tried to dramatically turn that around by implementing at least half-a-dozen secondary programs in remote Indigenous communities so that kids do have an incentive to finish secondary school at a school that is in their own community. They do not have to travel thousands of kilometres to distant, remote and unknown country and to cities and towns where they feel extremely uncomfortable and do not settle down and study as well as anybody would if they had a secondary school in their own community.

At the Reconciliation Planning Workshop earlier this year, the Prime Minister said, amongst other things, that we ‘must harness our shared commitment to overcoming community disadvantage’ and ‘dismantle the barriers that hinder Indigenous Australians from sharing in the bounty that this great country has to offer’. These are fine words indeed. Unfortunately, the changes to Indigenous education to date—just take, as I said, changes to ITAS and the PSPI this year, for example—offer little hope of that ever becoming true. As so often is the case with the Howard government, their actions do not meet their words. Is it any wonder that we see policies like the new PSPI, which disempowers Indigenous parents, or ITAS, where a child now has to fail a test in order to get tuition help and decisions can be made by government bureaucrats with little or no education experience or Indigenous education experience.

Through this bill, the government allocates funds from savings elsewhere. It is not new or additional money for tuition for those Indigenous students who may actually get through to senior high school. In his media release of 10 May the minister said that between 2006 and 2008 these funds would assist an estimated 2,040 students from remote areas to undertake and complete their schooling by moving away from home to attend school. That is a start, anyway. But these funds will be used to provide high-quality tutorial assistance for only up to four hours a week and 32 weeks for the first year in which these students study away from home. As yet, there seems to be little actual detail available, so we can only hope this program is better organised and implemented than the changes to ITAS, ASSPA or the reading voucher scheme that we have seen this year. This bill also appropriates $10.9 million into vocational education and training—and that, I understand, will be matched by the states—where, again, the Indigenous status remains well below that of non-Indigenous students.

The National report to parliament on Indigenous education and training 2003, released earlier this year, reveals that between 2002 and 2003 the number of Indigenous enrolments in VET actually fell by 2.8 per cent. The same report also shows that, at Australian Qualifications Framework certificate III and IV levels, 48.9 per cent of completions were Indigenous compared to a rate of 73.7 per cent for non-Indigenous students. So the disadvantage gap still remains. We are all well aware of the critical skills shortage that has arisen in our community under the Howard government. The skills shortage is damaging nationally, but it is also holding back capacity building in Indigenous individuals and communities. Education and training are a vital part of enabling Indigenous people to build a better future. At present, we have to say that the figures show that the levels and quality of Indigenous education and training have a long way to go.

As I said, Indigenous people remain disadvantaged. Until and unless more is done to boost Indigenous skills development through education and training, they will not be able to share in the bounty this great nation offers, as the Prime Minister said at the Reconciliation Planning Workshop conference. But, then again, what is one more broken promise under this government? It is unfortunate that,
in taking funds from IESIP into VET, four independent Indigenous education institutions hitherto funded by quarantined moneys will potentially—I emphasise ‘potentially’—lose these funds. These will be the Tranby College in Sydney; the Institute of Aboriginal Development, which I know only too well, based in Alice Springs; the Aboriginal Dance Theatre in Redfern; and Tauondi in Adelaide.

I understand from the estimates hearings of 2 November that the $10.9 million will be matched by a similar amount from other sources, making a total of nearly $22 million. However, these funds will be open to competitive bids from 13 Indigenous VET providers. These include institutions which—unlike the four I have mentioned, which are all specifically Indigenous—may have only a ‘significant proportion’ of Indigenous students. I was told at estimates that, while it is unlikely, this competitive bidding could theoretically mean that a college might get no funds in a particular year.

It is well known that I used to live and work in Yirrkala in north-east Arnhem Land. I saw many Yirrkala people come down to the Aboriginal Dance Theatre and I then saw them develop their skills and their cultural pride. I saw them progress and go on tour with the dance theatre, including travelling overseas to many places. I can tell you for certain that this Aboriginal Dance Theatre has had, for many years, some great outcomes.

I have had many communications about this bill from people who are most concerned at the potential change in funding to Tranby College. One email said:

Tranby College provides an irreplaceable service … Tranby has important historical significance … the methods used are unique and involve emotional connection, practical experience, mentoring by Elders …

In an article in the Indigenous Law Bulletin of July 2005, Kate Munro wrote:

Now in its 8th year of operation, the legal studies program at Tranby continues to deliver some of the best outcomes in Indigenous Education in the VET sector.

In his submission to the Senate Employment, Workplace Relations and Education Legislation Committee inquiry into the provisions of this bill, Dr Bob Boughton, a senior lecturer at UNE, said that the four providers I mentioned remain among the very few educational institutions in Australia to maintain a high level of Indigenous self-determination. He said it was for this reason that they were singled out for special recognition and support by the Royal Commission on Aboriginal Deaths in Custody, amongst others, and it was also for this reason that funding for them had been quarantined in the past.

It now seems that, while there may be more funds available for a time, under competitive bidding none of these colleges are guaranteed anything, and yet they are the only fully Indigenous colleges in this country. Competitors need only have a significant proportion of Indigenous students to get hold of the funds. Bob Boughton further stated:

The research evidence is clear, both in Australia and internationally, that the capacity of Indigenous peoples to exercise their rights of self-determination in education is closely associated with improvements in the actual outcomes … Put simply, Indigenous-controlled education works.

Let’s help to keep it that way. That would mean continuing with some guarantee of funding for these wholly Indigenous institutions. The minority report of the committee stated:

Opposition party senators consider the retention of culturally appropriate provision of education services to be an important factor in maximising the benefit to Indigenous Australians of their educational endeavours.

It went on to say:
There is nothing that smacks of unfairness in ensuring their continued access to high levels of funding because they are regarded as ‘lighthouse’ institutions. If the Government can continue funding to ‘Establishment’ independent schools, it can ensure that equal consideration is given to indigenous education colleges.

We are concerned about the future of the four independent Indigenous colleges whose funding is threatened by the passage of this bill. Labor are disappointed that such changes have been made once again with no consultation with Indigenous people. We rely on the government assurance that Indigenous funding has been earmarked within the mainstream appropriations. Clearly, it is not good enough. We will be supporting this bill in principle, as it allocates money to Indigenous colleges that need it. But we condemn the government for bungling the implementation of the new arrangements for Indigenous education programs this year, particularly PSPI and ITAS. This has caused funding delays and program cutbacks.

We also condemn the government for the way in which these changes have been made—a complete failure to take an evidence based approach. I also want to make some comments about the government’s failure to close the disadvantage gap faced by Indigenous students, its lack of consultation with Indigenous parents and communities about these funding changes, and its continuing neglect of the real education outcomes for Indigenous kids that they and their communities deserve. I believe that this country is still looking to see any improvements and achievements in that area.

Senator NETTLE (New South Wales) (1.04 pm)—The Indigenous Education (Targeted Assistance) Amendment Bill 2005 represents the latest attempt by the Minister for Education, Science and Training to tinker with Indigenous education whilst failing to address the glaring inequities and massive challenges that Indigenous Australians face in gaining access to education. The bill is about funding the Indigenous Tutorial Assistance Scheme to fund the measure announced in this year’s budget called ‘Remote Indigenous Students—tutorial support for students leaving their communities’. The bill also transfers funding previously earmarked for Indigenous vocational education and training into the mainstream vocational education and training funding pool.

The funding for ITAS, the Indigenous Tutorial Assistance Scheme, is something that the Greens support. It is entirely appropriate for the government to offer assistance to Indigenous students who have to travel away from remote communities in order to study. We note, however, some concern that this measure may indicate an underlying support for a policy of encouraging Indigenous Australians to leave their remote communities rather than the commitment we would like to see to pursue the more difficult task of ensuring that Indigenous Australians can access quality education whilst remaining in their remote communities.

The second part of this bill, the transfer of funding that was previously earmarked for Indigenous vocational education and training to the mainstream funding pool, is something that the Greens oppose. We oppose it because it threatens the viability of four independent community Indigenous education institutions, including Tranby College and the Aboriginal Dance Theatre in my home city of Sydney. These institutions have been doing fantastic work in providing exactly the kind of culturally appropriate education delivery that keeps communities together.

The Greens recognise that at the heart of the massive inequities facing Indigenous communities is a lack of self-determination. Recent studies of North American indigenous populations have found conclusively
that it is self-determination measures, including self-governance, that are the most effective tools for improving equity. This experience is one supported by many Indigenous Australians and advocates for justice for the traditional owners of this land. Self-determination must include the ability for communities to be maintained and for connection to the land to be maintained, particularly for remote communities.

Whilst the Greens recognise that the goal of self-determination is not necessarily undermined by facilitating away-from-home study for Indigenous students, setting up programs that encourage removal from communities without dedicating resources to allow for education to be delivered in such a way that students have the option of remaining in their communities can undermine the project of self-determination and fails to address the educational and equity challenges that this bill purports to target. To do so whilst also undermining funding for the community institutions which do allow Indigenous students to study whilst maintaining a presence in their communities, the Greens believe, is completely wrong.

This approach is of particular concern when we examine these educational measures in the context of the government’s broader policy in relation to Indigenous Australians. Last year we saw the only nationwide governance structure controlled by Aboriginal and Torres Strait Islanders, ATSIC, abolished. More recently, we have seen the roll-out of shared responsibility agreements, which offer Indigenous communities essential services in exchange for adherence to behaviour changes dictated by a government department. In education, we saw the last instalment of legislation dispose of the very successful Aboriginal Student Support and Parent Awareness scheme, which was doing so much to integrate communities with schools and improve outcomes for both students and parents. Overlaying these developments is a rhetoric of mainstreaming, assimilation and mutual obligation. This is a government that does not believe in the importance of self-determination for Indigenous Australians. This is a government that is about pursuing policies that focus on delivering white answers to black challenges—a strategy that has been an abject failure.

The second part of this legislation is a continuation of that approach. This bill transfers $10.9 million to be spent under the Skilling Australia’s Workforce Bill from funds currently allocated to four independent Indigenous vocational education and training providers—that is, the Institute for Aboriginal Development, Tranby Aboriginal College, the Aboriginal Dance Theatre in Redfern and Tauondi Incorporated in Adelaide. These providers will now be required to compete against one another and against all other registered training organisations for that funding. This change threatens the viability of these institutions. With regard to Tranby College, this change could result in the closure of an institution that has been delivering community-controlled Indigenous education since 1958. It would be a major tragedy for Indigenous education in Australia and particularly in Sydney. I will focus on Tranby as an example of what is at stake here.

Tranby is a community-controlled college which does not charge fees and is committed to delivering quality education to mostly Indigenous students, many of whom come from remote communities. Many Tranby students have gone on to become successful community advocates and to make significant contributions to the Indigenous community in Australia. Tranby offers nationally accredited courses in development studies in Aboriginal communities, in Aboriginal studies and in national Indigenous legal advo-
cacy as part of their mission to help their students develop the knowledge to empower both themselves and their communities. It is a college which is dedicated to empowering Indigenous Australians and committed to promoting self-determination for Indigenous Australians. Perhaps, given this focus, we should not be too surprised if the government does not shed a tear at its demise—because that is what Tranby is facing.

Tranby relies on funding from the Indigenous Education Strategic Initiatives Program for 75 per cent of its running costs. It is this funding that this bill puts out to tender, leaving the future of the college and the three other community-controlled Indigenous education institutions I have mentioned in the balance. This would be a massive hit to Indigenous education in Australia. Tranby is an institution in Sydney. Tranby is synonymous with Indigenous education in Sydney, and there are a raft of prominent Indigenous leaders and advocates in our community who have all had experience of Tranby. Many friends and colleagues have been involved in visiting Tranby and have seen the fantastic service that is available there. I have been involved in many programs there, and it is a real institution in the heart of Sydney.

The government has given no explanation as to why this radical funding shake-up is needed. The minister has not explained how this will improve outcomes in Indigenous education. Why would the government want to decimate the funding of institutions like Tranby which boast higher retention and completion rates for diploma-level courses than mainstream providers? Why would the government seek to undermine the funding of Indigenous-controlled organisations when the most recent national report to parliament on Indigenous education and training noted that it was the sector that showed the best results in literacy and numeracy in recent years?

The government will claim that this transfer of funds into the Commonwealth-state vocational education and training funding agreement will mean that states will match this funding, thereby increasing the overall funding available to Indigenous education. But, crucially, this funding is not earmarked for Indigenous education. It could be that some of these Indigenous colleges that we are talking about retain good funding levels, but there is no guarantee, and the Greens believe that there should be. These institutions are being caught in a pincer movement, between the government’s desire to promote a competitive marketplace in education and their policy to mainstream Indigenous services. If the Commonwealth were interested in making a real difference to Indigenous education then they would not be cutting the overall budget under the Indigenous Education (Targeted Assistance) Act by $3.7 million over the next three years. Why cut it at all? Why not retain the funding for the long-running and successful Indigenous institutions targeted in this bill? Why not boost the overall Indigenous education budget to allow the desperately needed upgrade of Indigenous educational support programs at all levels?

After nine years of a coalition government, which provides half the total funding that goes to Indigenous education programs, the state of Indigenous education is still totally unacceptable, with a year 12 retention rate of just 39 per cent, a decline in Indigenous vocational education and training enrolments, and a decline in university enrolments. The Greens are particularly concerned that this funding cut to Indigenous vocational education and training comes at a time when access to TAFE is increasingly suffering from nearly a decade of underfunding by the Commonwealth as well as poor funding decisions at the state level. The Greens know that, notwithstanding the valuable contribu-
tion of community-controlled institutions like Tranby Aboriginal College, the overwhelming majority of Indigenous Australians access their vocational education and training at TAFE colleges. But enrolments are going down—and no wonder, when we consider that Commonwealth funding to TAFE has been cut by about 25 per cent per student in real terms since 1997.

This funding cut has had a massive impact on the system and has seen the introduction of increased student fees, massive casualisation of teaching staff and the closure of some TAFE colleges. The government knows that those who suffer first from such changes are the most disadvantaged in our community, particularly the poorest. They know that Indigenous Australians, particularly those from remote locations, are some of the most disadvantaged members of our community. But still they refuse to contribute appropriate growth funding to the TAFE sector.

Instead this government feels that the higher priority is to undermine the working conditions of TAFE employees by threatening to let the TAFE system collapse by withdrawing Commonwealth funding unless TAFEs meet the government’s ideological industrial relations agenda. I have spoken in this chamber before about the stupidity of this decision and the meanness of funding priorities this government has had in relation to TAFE. Let us be under no illusion: this bill is not part of any improvement in access to vocational education and training for Indigenous Australians. The Greens will continue to support public education, self-determination, Indigenous Australians and fantastic institutions like Tranby Aboriginal College, in the heart of Sydney’s Indigenous community.

Senator WEBBER (Western Australia) (1.15 pm)—The Indigenous Education (Targeted Assistance) Amendment Bill 2005, which we are currently considering, provides yet another example of a government unable to effectively consult with the stakeholders affected by these changes. As has been mentioned by Senator Evans, the passage of this bill will affect the funding of four independent Indigenous colleges. Yet again, in this government’s simplistic approach to problems, we find significant contributors are being sidelined as a consequence of these changes. This bill will remove transitional project assistance funding and the four institutions will have to compete for funding under the Skilling Australia’s Workforce arrangements. So we have the ridiculous situation where, in this so-called period of a new relationship between the government and our Indigenous people, one of the first outcomes is to remove specific Indigenous education funding and force Indigenous providers to compete for money available under Skilling Australia’s Workforce.

So the Prime Minister can talk about economic ownership for Indigenous communities but at the same time be supporting a process that removes targeted assistance—an interesting situation. The facts are these. The bill appropriates money for two measures. Firstly, $7.2 million is appropriated for new tutorial support for Indigenous students who move from remote communities into non-remote locations to continue their education. Students in this category will be able to access up to four hours per week tuition for up to 32 weeks during the first year that they are away from home. This is a worthwhile and sensible provision and takes into account the difficulties faced by students from remote communities, many in my home state of Western Australia. This measure is designed to maximise the opportunity for these Indigenous children when they are forced to confront moving away from home.

Secondly, the bill rips out $10.9 million from the Indigenous Education Strategic Ini-
tiatives Program and transfers it to the general Commonwealth-State Training Funding Agreement. This, of course, requires the states and territories to match the funding from the Commonwealth. The net effect of this is to reduce the money available that was previously appropriated by the Indigenous Education (Targeted Assistance) Act 2000 by somewhere in the order of $3.7 million per annum.

It is difficult to see where the government are coming from. On the one hand, they talk about increasing economic self-sufficiency for Indigenous communities and, on the other, they are reducing in real terms money available for education. We also need to see these changes alongside those that were made last year. There is a simple lesson to be learnt—and unfortunately the non-Indigenous politicians and public servants keep having to learn it—which is: we are the ones with the hearing problem. The Indigenous people of this country keep telling us over and over again what assistance they require, but we do not seem to hear. It is clear that we need to retain culturally appropriate education and training services for Indigenous Australia. The social and cultural importance of having Indigenous education providers to provide services to Indigenous people cannot be overstated. We should stop thinking that a one-size-fits-all model is appropriate for dealing with Indigenous education, and we should stop lecturing Indigenous people and institutions about fitting in with the way we want them to operate.

We should instead accept that Indigenous people and institutions are able to work through the issues themselves. We should support their initiatives and structures rather than pulling the rug out from under their existing institutions and forcing them to start again. We should reject this government that has ignored the contents of their own review into Indigenous training providers in 2003.

That review looked at the role of Indigenous training organisations and noted:
... a specifically developed Indigenous learning environment is important to some Indigenous students—in terms of their confidence, commitment and long term engagement with the education process.

Apparently that is no longer important to this government. By any reasonable assessment, that is a pretty compelling case for the Indigenous training providers being allowed to get on with the job of providing training and education to Indigenous students.

So what do the government do in response to this? They rip away the funding and say, ‘We don’t care what our own review found.’ All we are left with is another one of the government’s assurances: ‘Trust us. We will make sure the funding earmarked for Indigenous assistance will be quarantined in the mainstream appropriation’—yet another example of the ‘Trust me’ philosophy of the government. But we have to ensure that these moneys are not put into the mainstream only to be followed by a whole lot of platitudes and excuses as to why Indigenous training providers missed out. No doubt we will hear that the money was there and that institutions simply failed to apply for it, or some other equally nonsensical proposition.

As Senator Evans mentioned, we need this legislation to reflect the position that the policy objectives of the targeted assistance are maintained and not lost through the movement to the mainstream, hence his foreshadowed amendments. For example, we must ensure that the following are maintained, at the very least: equitable and appropriate educational outcomes for Indigenous people, equal access to education by Indigenous people, equity of participation by Indigenous people in education, increasing involvement of Indigenous people in educational decisions, and the development of culturally appropriate education services for Indigenous
people. Labor’s amendments will ensure that, by having these policy objectives, the importance of Indigenous education is part of the selection criteria for those that are funded.

Let us be clear that there is plenty of work to be done in the area of Indigenous education and training. Young Indigenous Australians are twice as likely as non-Indigenous Australians to leave school before completing year 10—I repeat, twice as likely—and half as likely to have completed year 12. The way to build decent futures for people in our country is to have decent and worthwhile education for all, not just the non-Indigenous. It is hard to see how we as a nation are achieving that goal when Indigenous children are not completing secondary schooling. In terms of higher education, young Indigenous Australians are less than a quarter as likely as young non-Indigenous Australians to go to university. We are now seeing a decline in the number of Indigenous students who are undertaking vocational education and training. These numbers are declining for the first time since the 1990s. That is not a record that we should be proud of.

It is clear that there is something very wrong in our approach to dealing with Indigenous education. These problems are manifest in employment rates among Indigenous youth as well. Nearly half of all 15- to 17-year-old Indigenous children are either unemployed or on CDEP. It does us little credit to see low levels of unemployment generally when we are presiding over an education and employment system that is condemning young Indigenous people to the scrap heap before they can even vote—and we are going to make that harder for them too. We have a system that means that not only do Indigenous students drop out of school at twice the rate of the rest of the population but their rates of literacy and numeracy are far below national standards.

It is surely time for the government to develop policies that aim to overcome these disadvantages. We will not allow Indigenous Australians to reach their full potential as long as we continue to make laws without proper and effective consultation. It is clear that this government is not interested in treating Indigenous Australians with the respect that they deserve. Communities that can create, build and sustain their own institutions should not be subject to arbitrary changes in Canberra’s policy direction. Constantly changing path and funding is not the way to build enduring and consistent organisations. Of course, we will only have satisfactory outcomes for all people, Indigenous and non-Indigenous alike, when we come to our dialogue from a position of equality, and we are a long way from that position now. All of us are lessened as people when we allow a government to make changes as fundamental as the funding model without consultation with affected people and organisations.

**Senator COLBECK** (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (1.26 pm)—The Indigenous Education (Targeted Assistance) Amendment Bill 2005 amends the Indigenous Education (Targeted Assistance) Act 2000 to increase the appropriations for 2006, 2007 and 2008 to provide additional funding for intensive tuition of Indigenous students from remote schools and to transfer funding to appropriations under the Skilling Australia’s Workforce Act 2005. The $7.2 million in new funding appropriated by this bill will provide Indigenous students from remote communities with tutorial support in their first year of schooling when they move from their remote school to continue their education. These students will receive up to four hours tuition per week for up to 32 weeks in their first year away from
home. Between 2006 and 2008 this extra tutorial assistance will help an estimated 2,040 students undertake and complete their schooling.

This measure will complete a suite of measures under the Indigenous Tutorial Assistance Scheme, which provides strategically targeted tutorial assistance for Indigenous students at key points in their education, including $105.5 million for in-class tuition targeted at those students not meeting years 3, 5 and 7 minimum literacy and numeracy benchmarks. It is estimated that more than 45,000 Indigenous students will benefit from this over 2005 to 2008. There is $41.9 million targeted at year 10, 11 and 12 Indigenous students. It is estimated that some 11,600 students will benefit over that quadrennium. There is also $31.5 million targeted at Indigenous tertiary students. Approximately 4,000 students will benefit from this.

To establish the joint Indigenous funding pool, $10.9 million is being transferred to be spent under the Skilling Australia’s Workforce Act 2005. The Commonwealth-state agreement for skilling Australia’s workforce will require states and territories to match Australian government contributions to the Indigenous funding pool. The level of spending on Indigenous training will be increased as a result of the establishment of the Indigenous funding pool. This initiative will provide approximately $23 million over 2006 to 2008 for the Indigenous funding pool and will ensure additional support for Indigenous Australians. It will provide funding certainty for the life of the agreement to providers that are achieving good outcomes for Indigenous clients, allowing them to establish sustainable services. It will also tie ongoing funding to improved performance and outcomes for Indigenous clients.

In addition, one of the key national concerns of the new Commonwealth-state agreement is encouraging greater re-engagement in training for priority clients, including Indigenous Australians. States and territories are being asked to provide additional training places in regional and remote locations for Indigenous Australians and for an overall increase in the participation of Indigenous Australians at higher qualification levels, specifically at certificate III and above. States and territories will be required to implement strategies to meet new state-specific key performance measures to drive improved outcomes for Indigenous Australians.

Ministers Nelson and Hardgrave recently approved transitional arrangements for the four existing independent Indigenous vocational education and training providers that will be most affected by the move to the new arrangements. The transitional arrangement guarantees that these providers will receive at least 80 per cent of their 2005 TPA funding levels in 2006; 60 per cent, in 2007; 40 per cent, in 2008; and 20 per cent, in 2009 to support their capacity building during this period. The Department of Education, Science and Training has recently written to these providers to inform them of arrangements for the transitional funding. Funding for the transitional arrangements will be sourced from other program funds in the department to enable the Indigenous joint funding pool to be fully operational from 2006. This is an example of the Australian government’s commitment to make mainstream programs work better for Indigenous people.

Real progress has been made: year 12 retention is up to 39.5 per cent in 2004 where it was 29 per cent in 1996; six out of nine literacy and numeracy benchmarking results in 2002 were the highest yet; a 16.4 per cent increase since 2001 in the number of Indigenous students doing bachelor or higher degrees; and the number of VET students has increased by 80 per cent since 1996. The
government also recognises that more needs to be done. Year 12 retention is still only half that of non-Indigenous students. One in four Indigenous year 3 students cannot pass a basic year 3 reading test and large gaps still exist between the benchmark results of Indigenous students and all students. Only 48.9 per cent of Indigenous students complete their New Apprenticeships courses at AQF certificate III and IV levels compared to 73.7 per cent of non-Indigenous students in 2003.

The situation remains acute in remote areas, where only one in 10 students are completing year 12. Only one in eight year 3s in the Northern Territory can pass the basic reading test, and literacy and numeracy benchmark results are significantly lower for students in very remote regions. The Australian government will provide $2.1 billion over 2005 to 2008, a $400 million or 23.4 per cent increase over 2001 to 2004, for the Indigenous education package.

I will respond to a couple of comments that have been made by previous speakers. The proposed arrangements for the new joint funding pool acknowledge the findings of the 2003 report and acknowledge the value of Indigenous community providers. To be eligible for funds, providers would need to meet specific criteria—for example, demonstrated community engagement in the management of provider programs. This initiative will provide certainty for the life of the agreement to providers that are achieving good outcomes for Indigenous clients, allowing them to establish sustainable services.

Proposals for training delivery will be sought from providers that meet the agreed national criteria drawn from priorities agreed in the Partners in a Learning Culture blueprint. Providers would need to demonstrate the following: outcomes for Indigenous clients that are higher than the national benchmarks—for example, improved module and course completion and success rates; Indigenous community involvement in provider governance arrangements; Indigenous staff involvement in training delivery and support services; and community support to expand the range of qualification levels being offered to Indigenous people.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator KIRK (South Australia) (1.35 pm)—I move opposition amendment (1) on sheet 4711 in the name of Senator Evans:

(1) Schedule 1, page 3 (after line 10), at the end of the Schedule, add:

Skilling Australia’s Workforce Act 2005

4 After Section 10

Insert:

10A Condition of grant—skilling Indigenous Australians

Where appropriations are expended in accordance with this Act to provide targeted financial assistance to advance the education of Indigenous persons, the appropriation must be expended in a manner which advances the objectives set out in sections 5, 6, 7, 8 and 9 of the Indigenous Education (Targeted Assistance) Act 2000.

Question agreed to.

Senator KIRK (South Australia) (1.35 pm)—I move amendment (1) on sheet 4703 in the name of Senator Allison and of Senator Evans on behalf of the opposition:

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

4 Accountability for advertising expenditure

(1) No money may be expended for any public education or advertising project in relation to any program established under this Act, where the cost of the project is estimated or contracted to be $100,000 or more, unless a statement
has been presented to the Senate in accordance with this section.

(2) The statement must be presented by the minister to the Senate or, if the Senate is not sitting when the statement is ready for presentation, to the President of the Senate in accordance with the procedures of the Senate.

(3) The statement must indicate in relation to the proposed project:
(a) the purpose and nature of the project; and
(b) the intended recipients of the information to be communicated by the project; and
(c) who authorised the project; and
(d) the manner in which the project is to be carried out; and
(e) who is to carry out the project; and
(f) whether the project is to be carried out under a contract; and
(g) whether such contract was let by tender; and
(h) the estimated or contracted cost of the project; and
(i) whether every part of the project conforms with the Audit and JCPAA guidelines; and
(j) if the project in any part does not conform with those guidelines, the extent of, and reasons for, the non-conformity.


Question negatived.
Bill, as amended, agreed to.

Bill reported with an amendment; report adopted.

Third Reading

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (1.37 pm)—I move:
That this bill be now read a third time.
Question agreed to.
Bill read a third time.

Sitting suspended from 1.38 pm to 2.00 pm

QUESTIONS WITHOUT NOTICE

Howard Government: Senate

Senator CHRIS EVANS (2.00 pm)—My question is directed to Senator Hill, Leader of the Government in the Senate. Does the minister recall the Prime Minister’s comments about the Senate majority on 18 October 2004? He said: ‘We won’t be allowing that circumstance to go to our heads. We do not intend to act recklessly or arrogantly or wantonly or indiscriminately or carelessly.’ Wasn’t it reckless and careless to seek to limit the inquiry into the government’s anti-terrorism laws to one day, an inquiry which later produced a 300-page bipartisan report with 52 recommendations? Wasn’t it arrogant to throw 337 amendments to the government’s own industrial relations bill on the table half an hour before the debate was supposed to start, allowing non-government senators less than seven seconds to consider each of the amendments? Wasn’t it wanton and indiscriminate to allow only a one-day inquiry into the sale of Telstra and not allow any time for submissions? Hasn’t the minister abandoned any commitment to Senate process in order to arrogantly abuse the government’s power to implement the government’s extreme and ideological agenda?

Senator HILL—who holds the record as the top guillotiner in this chamber? Former
Senator Bob McMullan—from the Labor Party. On 16 June 1992, he used the guillotine 57 times on 57 bills. Was that reckless and arrogant? They have a different set of values. Who comes second?

Senator Abetz—Robert Ray.

Senator Hill—Got it! You are very good at this little game, Senator Abetz. Senator Robert Ray used the guillotine 52 times on 13 December 1990. How many times did Labor—

Senator Bartlett—I rise on a point of order. As the minister well knows, he is clearly misleading the Senate by refusing to identify that these guillotines were not only brought in after consultation but stretched over the space of two full weeks and so are in no way comparable.

The DEPUTY PRESIDENT—There is no point of order.

Senator Hill—I do not mind the Australian Democrats wanting to be identified with those guillotines, because it is in fact true that they conspired with the Labor Party to cut short debate in this chamber. That was the basis upon which the Labor Party was able to chop off debate and ram through so many pieces of legislation in this place. The Labor Party did not think that was a terrible thing; they thought it was a good thing, because they said that they had the right to implement their program.

How many times did the Labor Party guillotine bills through this chamber? Two-hundred and twenty-one times! The hypocrisy of this lot on the other side! They are now facing up to the fact that the Australian people have elected coalition senators to be a majority in this place.

Senator Chris Evans—It is not the majority; it is the abuse.

Senator Hill—Instead of accepting the judgment of the Australian people, they want to call that arrogance and abuse. That is their attitude—

Senator Chris Evans—You sat around yesterday with nothing to do. Read the speeches of the opposition.

The DEPUTY PRESIDENT—Senator Evans! There should be order in the chamber. Senator Hill is answering the question.

Senator Hill—that is their attitude to the wishes the Australian people expressed at the ballot on the last occasion. I said in answer to another question a few days ago that we believe that there should be proper scrutiny in this place. We accept that this is a house of review. That is why we accepted 32 hours of debate on the industrial relations bills. That is why we accepted the committee inquiry. That is why we sent the antiterrorism bills to a committee; that is why we believe in using the committee system. The Labor Party’s view is not that there should be adequate scrutiny but that the government’s program should be obstructed. What is angering the Labor Party is that we are actually getting to vote on important pieces of legislation that are critical to the government’s program. I am sorry that the Labor Party feels frustrated by the fact that this government are committed to enacting our program.

Senator Lundy—Seven seconds!

Senator Carr—Seven seconds!

The DEPUTY PRESIDENT—Senator Lundy and Senator Carr, shouting across the chamber is disorderly!

Senator Hill—we see it as part of our responsibility to actually implement the commitments that we have taken to the Australian people. We believe that we have a right and a responsibility to do it in a timely way. That might be frustrating to a Labor Party that wants to obstruct the government’s program, but we are determined to meet our responsibility to the Australian people. Until
the Australian Labor Party can encourage enough voters to support it, that will continue to be the case. (Time expired)

HOWARD GOVERNMENT
Suspension of Standing Orders

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (2.06 pm)—I move:

That so much of the standing order be suspended as would prevent Senator Evans moving a motion to provide for the consideration of a matter, namely a motion to give precedence to a motion of censure of the Government for its abuse of Senate procedures.

The reason I seek to move this suspension now rather than use question time for questions is that, because of the government’s use of the guillotine, this is the only time available to us. The guillotine prevents us from having an MPI and from using general business. The only measure available to the opposition is the window of opportunity we get today. I would rather do question time as well, but because this is our only opportunity—and, quite frankly, question time has turned into a farce. Government ministers refuse to make even cursory reference to the questions. Instead, they reminisce about the good old days, they personally abuse Labor senators and they spend their time reminiscing about Paul Keating, which I find incredible. As you know, Mr President, it is the case that opposition members have been denied the opportunity to ask questions. The number of questions available to non-government senators has been reduced severely.

We do think it is important that the government be censured. We do think their behaviour has been reprehensible. And, while the minister seeks to talk about the ‘timely consideration of matters’, everyone in this chamber knows that the behaviour on the Telstra bills, on the Welfare to Work bills and on the antiterrorism bills was a new low in this place. The government senators did not even get to read their own amendments. No-one knew what the amendments were—they all went through too fast. Somebody will wake up next week and work out what we passed, but no-one in this room knows; no-one got to read the amendments.

Despite the government’s internal divisions and leadership tensions, the one thing I will give the coalition—the one thing that all their senators have been consistent in—is that they have voted for the abuses. On every occasion they filed in like sheep, voted for the gag, voted for the guillotine and voted to stop any capacity of this Senate to consider legislation properly. When they go back and talk about liberalism, free spirit and states rights, it will be interesting to see how credible they are. Yes, Senator Mason, while you and others have made fine speeches about states rights and liberalism, there has been no crossing the floor or support for Senate institutions or procedures.

This has been a disgrace. The metaphor for this was Senator McGauran’s actions. He gave us the finger—and that will be entrenched in the public’s mind. Senator McGauran showed his arrogance and reflected the arrogance of the government—and the government have been giving the finger to the Australian public ever since. You reek of arrogance, you reek of being intoxicated on power and you have no respect at all for the institutions of this Senate. The Australian people—even those who voted for you—are beginning to wake up to the fact that this is a bad thing for Australian democracy. You are unable to stand up to your Prime Minister. When the Prime Minister says that he wants all the bills through by Christmas, you jump through the hoops. You have all jumped through the hoops. The only resistance has been from Senator Barnaby Joyce, and they have been bullying him too. They have been around to see him.
We want to have a proper debate about whether the Senate processes are going to be protected. I remind the government that in the history of the Senate, from my research, there has never been a refusal to accept a censure motion. I will not waste the time of the Senate by debating the censure and the suspension, because of the limitations of the guillotine, if the government indicates that it is prepared to accept debating the censure motion. No previous government has refused to accept a censure motion debate.

*Government senators interjecting—*

**Senator CHRIS EVANS**—That is because you do not know anything about Senate process. You do not know what you are dealing with. You have no idea.

**Senator Heffernan**—Have you been drinking?

**The PRESIDENT**—Order! Withdraw that remark.

**Senator Heffernan**—I withdraw it.

**The PRESIDENT**—Thank you. Senator Evans, would you address your remarks through the chair.

**Senator CHRIS EVANS**—I make the point that not once in the history of the Senate has a government refused to accept a censure motion. This is our only opportunity to put such a motion because of the guillotine, and the government will stand condemned if they refuse to allow it to go ahead. I invite them to show some courage. I invite them to debate the issues. If they think they have a case, they should argue the case. If not, we will debate the suspension. However, I really think that government senators have to think about what they are doing. I remind them that they have trashed every convention of the Senate in a matter of months. On day one it was question time, and since then you have trashed everything. Senator Hill snuck in here after 4.30 on a Thursday like a mangy dog to try and cut down an inquiry on the terrorism bill.

**The PRESIDENT**—Order! Senator Evans, that was totally unparliamentary. I ask you to withdraw.

**Senator CHRIS EVANS**—If it was unparliamentary, I withdraw.

**The PRESIDENT**—It was unparliamentary.

**Senator CHRIS EVANS**—I always accept your rulings, Mr President.

**Senator Patterson**—Mr President, I rise on a point of order. It should be an unconditional withdrawal— not if it was unparliamentary; you told him it was. It should be an unconditional withdrawal.

**The PRESIDENT**—It was unparliamentary and Senator Evans will withdraw.

**Senator CHRIS EVANS**—I withdraw.

That was one of the lowest examples—Senator Hill snuck in here after 4.30, after the time for divisions had gone by, and tried to get a limited one-day inquiry into the terror bills. They could not stand the scrutiny; they could not stand the examination. Finally, because the Labor Party and the non-government parties put so much public pressure on, they folded. They had a proper inquiry, and that committee did good work. But it was not because of the government. It was because they could not win the public debate. The people of Australia smell the arrogance and they know how out of touch you have become, and they demand that you be held accountable. Labor and the non-government parties will hold you accountable. (Time expired)

**Senator HILL** (South Australia—Minister for Defence) (2.13 pm)—This is a very strange tactic, if I may say so. Senator Evans says that the government should be held accountable. According to the usual practice, oppositions try to hold the govern-
ment accountable through question time. Every day, oppositions have the opportunity in this place to question ministers. It might be that the opposition has been ineffective, but it does not normally willingly forgo the opportunity or walk away from the chance of questioning the government, because that is how—

_Honourable senators interjecting_

The **PRESIDENT**—Order! There is too much noise in the chamber. Minister, I remind you that the chair is still here. I might be late, but I am here.

_Senator HILL_—The opposition want us to agree that they need not question us today in question time. They want us to be part of an agreement that would help them to avoid their responsibility to hold the government accountable through the asking of questions. I am not going to agree to that.

_Opposition senators interjecting_

The **PRESIDENT**—Order! If there is going to be a debate, let it be sensible. No shouting across the chamber. It is totally disorderly.

_Senator HILL_—We are here and ready to answer the opposition’s questions. We believe that this chamber has a number of responsibilities. On the side of the opposition the responsibility is to hold the government accountable. On the side of the government the responsibility is to seek to implement its legislative program and meet our commitments to the Australian people. We accept both.

_Senator Lundy_—Have the guts to debate it.

_Senator HILL_—We are willing to be questioned and we are determined to get our program implemented.

_Senator Lundy_—Everyone is looking down.

The **PRESIDENT**—Order! Senator Lundy, come to order!

_Senator HILL_—It is true that it has been made particularly difficult for the government to have its bills voted upon in this place. Since the time that the government has had a majority in this place, the opposition, together with its friends in the Australian Democrats and the Greens, has used procedural opportunities to reduce the time available for government business to be debated from about 16 hours a week to 10 hours a week. Why? Because the opposition is determined that the government will not get its program through. The government, on the other hand, is determined that it will meet its responsibilities. This government is determined that it will implement its program. Therefore, if the only way to do that is by guillotine, the government will need to implement guillotines. There is nothing particularly unusual in that, because the Labor Party did it every time the opportunity was available to it. Whenever it could talk the Australian Democrats into supporting it on a guillotine motion it did so. In fact, it did so on 221 occasions. We know that in nearly 10 years—

_Senator Bartlett_—Mr President, I rise on a point of order. The minister needs to correct the record. He has misled the Senate. Guillotine motions were passed on only 11 occasions, sometimes with the support of the Liberals, during the 13 years of Labor government. He should not mislead the Senate.

The **PRESIDENT**—I do not know the facts about that matter.

_Senator Bartlett_—The minister does.

The **PRESIDENT**—I do not think it is a point of order. It is a debating point.

_Senator HILL_—On my advice, 221 bills were guillotined through this place by Labor. Usually it was the Australian Democrats who conspired with the Australian Labor Party to
achieve that goal. But, because it is the coalition in government now, they say that this is such a terrible thing. We have got to the end of the session and we have now found that the Labor Party have no questions to ask. We know that for nearly 10 years they have had no policies. What is the purpose of an opposition? It is to hold the government accountable in the chamber, principally through question time, and it is to develop an alternative set of policies to take to the Australian people. In both instances the opposition are now showing that they cannot do either. Perhaps that is why they are unable to persuade the Australian people that they are worth another term in government.

Now, to make it worse, they want us to agree to this process so that they need not meet their responsibility to ask questions. I am sorry if they are unable to think of any questions. I am sorry if the tactics committee of the ALP has gone on strike. It should not be all that hard to think up six questions to ask ministers on this side. Perhaps if the leadership were prepared to give the backbench a fair go over there they might find that they did a better job. (Time expired)

Senator CONROY (Victoria) (2.19 pm)—The arrogance reaches new heights today. The advice we have is that no government in the history of the Senate has not accepted a censure debate and not brought it on. Once again today we see Senate convention being trampled all over. No government has not accepted the censure debate. The courageous Senator Hill sits down without saying, ‘Bring it on.’ Regularly in question time we get government ministers defying the chair and treating the President with contempt. Senator Ian Campbell stood up, with respect to a direct ruling from the President, and said ‘No.’ Nothing happened. He was not brought into line by Senator Hill. The President has even been reduced to saying on the public record that question time has become a farce. He is dead right.

What do we see from the frontbench over there? Senator Abetz, a serial offender, congratulates himself in public. ‘My colleagues love it,’ they say. ‘My colleagues love me on my feet.’ What a joke! Senator Ian Campbell gives us stories about the in-flight videos he watches on Qantas planes. That is the level of contempt that Senator Ian Campbell has for question time. It is absolute contempt. He gives us lectures about his global quests. No doubt he is off on another one at the moment. Senator Ellison does not want to answer questions because he has just caused a total debacle. It is costing Australian taxpayers $100 million to fix the debacle that is the Customs computer system, which he personally instructed be turned on. It is not surprising that Senator Vanstone wants to treat question time with contempt. She deport Australian citizens and lets war criminals in. I am not surprised that she does not want to face up to question time. Senator Hill does not want to answer questions—

Government senators interjecting—
The PRESIDENT—Senators on my right will come to order!

Senator CONROY—Senator Hill, whose department cannot pass an audit, does not want scrutiny or accountability; he does not want to talk about the Wheat Board or the bagmen for Saddam and the role his own department and the government played in it. Senator Minchin does not want to come clean about what he knew about Rob Gerard. We know you knew. Everyone in the country knows—everyone in Adelaide certainly knows. He does not want to come clean. Senator Coonan, the minister for communications and procrastination, cannot make a decision—25 inquiries on her web site but no decisions. Senator Patterson is saying: ‘Please don’t bring on Christmas; I can’t
stand the prospect of being reshuffled out of my job again. Oh, my God, please, I don’t want Christmas to come on. Senator Ian Macdonald is still chasing the patagonian toothfish around. Illegal fishing is taking place all over this country and you have not got a clue what to do. You bungled it so badly that you are going to cost the taxpayer millions of dollars in compensation. That is what is going to happen here.

Senator Hill wants to talk about protecting the role of the Senate. He is on the record all the time. What do we see when it comes to Senate estimates?

*Government senators interjecting—*

**The President**—Order! Senators on my right will come to order!

**Senator Conroy**—With respect to the Senate estimates process he says, ‘We want to limit the questions.’ They do not have the courage to face up to transparency. They do not have the backbone to accept this censure debate. That is the truth here today. They want to hide again behind Senate processes that they can use and abuse with their numbers. That is what it has become. This is a government that ram through legislation with one-day inquiries. The Telstra farce was the highlight for me. IR has been an absolute special—seven seconds per amendment for 300 amendments. Have some courage and stand up and face up to the Australian public so they can see what is going on in this chamber, because it is a disgrace.

The Australian people did not elect you to abuse the Senate. They did not elect you to railroad bills through the parliament and give seven seconds per amendment. That is not what they gave you. They gave you their trust not to behave like this. That is where you are abusing their trust. They will not forget. They will remember this abuse and particularly the cowardice of not facing up to this censure motion and bringing it on—the first time on parliamentary record. *(Time expired)*

**Senator Bob Brown** (Tasmania) *(2.24 pm)*—We support the proposed censure motion. I take it extremely seriously. The government may want to turn this into a farce and a joke but it is the government that has turned the Senate into a shambles. It is the government that is taking this parliament for granted. It is the executive that has turned the House of Representatives into a rubber stamp and is now turning the Senate into a simple cipher, as if the great Australian democratic system that we are obliged to observe on behalf of 20 million Australian people does not matter.

A measure of this is how this place worked at the height of liberalism, at the height of the Menzies period of government, which I would remind this place was also at the height of McCarthyism and that spurious use of fear to make inroads into democracy elsewhere in the world. When the banning of communism legislation was before this Senate, under the Menzies government 15 days were given to that debate in the Senate—15 days on a matter of that importance. But when it comes to the Howard government, terror legislation with 100 amendments cutting across democracy is given 3½ hours for debate in this great Senate. Fifteen days were given under the Menzies government; 3½ hours under the Howard government. That is the measure of how far the ideology of true liberalism and respect for democracy has been thrown in the bin by this Howard administration.

Look at the industrial relations legislation: 300 amendments and 100 pages, and seven seconds per amendment are allowed in the Senate. It is a disgrace. It is a total abrogation of the responsibility of the government to ensure that informed democratic debate takes place here on behalf of 20 million Aus-
ustralians. That is what the Senate represents—the hope, the wish and the desire of Australians that we get informed, sensible and mature debate from a mature parliamentary system. But this government has turned it into a farce. This government has turned this great chamber into a farce.

This is a nasty period of government. Former Prime Minister Malcolm Fraser, elder statesman of the conservatives, has talked about this dark period for Australian democracy. He ought to be listened to because he is right. He has a right to be fearful of what is happening to democracy in this period when the numbers stack up so that it can be and is being abused by the Howard administration.

Government senators interjecting—

The PRESIDENT—Order! There is too much noise on my right.

Senator BOB BROWN—There is unruliness on the government benches, even though they have the numbers. Their proclivity for shouting down, in the short period of time we have got, different points of view is a sign of the hubris of their self-inflated but intellectually missing, duplicitous point of view.

Senator Santoro—Tell that to George Bush.

Senator BOB BROWN—Now they are interjecting about George Bush. Here is one senator who was prepared to stand up in this parliament for Australia, to give a point of view for Australia while government members bent at the knees to a visiting head of state and abrogated our democracy on that particular day—23 October 2003. That is the kernel of the problem here. They are so busy tugging their forelock to somebody else that they cannot think for themselves and they cannot stand up for dignity, democracy, the Senate and the proper functioning of this place for the people of Australia who elected them.

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs) (2.29 pm)—What we are seeing here today is, indeed, a farce. We have an opposition who, in their last question time, in their last chance to call the government to account, throw that away because they would like to let off a bit of hot air. You have a chance to call the government to account and you fail. You have passed it up for a bit of theatre on the last day. What we heard from Senator Evans is indicative of the attitude of senators opposite. He said, ‘The Australian people are starting to wake up.’ Now think about it: Senator Evans is saying, ‘The Australian people have been asleep for 10 years.’ That is how arrogant and disrespectful you are. You have failed to accept the vote of the Australian people. You do not like it. They did not elect you. They have rejected you time and time again. The people have been asked who they want to govern this country, and it was not you.

Opposition senators interjecting—

The PRESIDENT—Order! If this debate is to continue, I want some silence in the chamber. Senators on my left will come to order.

Senator VANSTONE—It should be unnecessary to yell, but the point I simply make is that we have a democratic system in Australia. We go to the people every three years, and we ask, ‘Who would you like to run the country?’ They make a choice, and they did not vote for the party on the other side of this chamber to form a government. We also have a democratic system within the Senate. We are elected in this place by a different system to those in the House of Representatives—and some think a better system—but, none-
theless, when members opposite had a majority, combined with the Democrats, they were happy to use it to use the guillotine. Democracy worked fine when they had the numbers. When they had the numbers, it was their democratic right to do it. But they just do not accept that the people of Australia have made a choice, which puts the numbers on this side of the chamber. We have as much right to use that guillotine as you had to use it when you were in government, and you consistently did. You made a meal of it. In fact, you did it twice as many times as this side has done it. That is why the Australian people do not re-elect you. Don’t you get it? You do one thing and say another. That is why they do not believe you. That is what you have to start to learn to understand. I am even trying to help you here. If you want to get into government, you have to say what you mean and do what you mean.

Senator Forshaw—Mr President, I rise on a point of order. Could you instruct and remind the minister that she should address her remarks through the chair.

The PRESIDENT—If those on my left would come to order so I could hear, I might be able to do that. Minister, you have 2½ minutes left.

Senator VANSTONE—Mr President, as I said, Labor guillotined bills through this chamber at twice the rate of this government. Of the 28 longest Senate legislative debates, 13 of them have been under this government; only six were under the previous Labor government. The debate on the Workplace Relations Bill was the 13th longest ever to go through this place. Let me turn to Senator Conroy, through you, Mr President—

Senator Chris Evans interjecting—

The PRESIDENT—Order! Senator Evans, shouting across the chamber is disorderly.

Senator VANSTONE—who makes the bold assessment that we let war criminals into this country. Let us throw facts right out the window. Let us ignore the fact that, in the particular case that he is referring to, the Department of Immigration and Multicultural and Indigenous Affairs said no and the Administrative Appeals Tribunal said yes. But do not let the facts, Senator Conroy, interfere with your argument. Through you, Mr President—

Senator Conroy—Wash your hands of it!

Senator VANSTONE—I am happy to not wash my hands of this, Senator Conroy; I want to know whether you want to put your hands on it. I want to know, through you, Mr President, if Senator Conroy would like tabled in this place a list of the Labor frontbenchers who have written to me, asking me to nonetheless give a visa to people who have been 1F’ed. I ask if you would like that list to be tabled, Senator. Let us see if you would really like that to be tabled. Some people do understand proper process, the role of the AAT and the minister’s discretion. They work with the minister privately on these matters and generally do very well, because they are sensible people who understand the immigration system. Last but not least, the senator said that we do not have the backbone to accept a censure debate. I never thought that I would quote Paul Keating but, frankly, a censure from you, Senator, is like being beaten with a wet lettuce, so we are not afraid of that. We want to be accountable.

Honourable senators interjecting—

The PRESIDENT—Order! What we have had here today is a pretty poor effort to finish the end of the year with. I ask you to at least respect the chair and come to order.

Senator VANSTONE—I am left speechless by Senator Bob Brown, who stands up in the name of democracy—but he does not want to accept the democratic process in this
place—and says that he stands up for Australia. So does everyone else, Senator. How you can be so arrogant as to assume that you are the only person who has Australia’s long-standing interest at heart, I do not know. That is a crowd that put one million people out of work and put down the wages of low-income earners. *(Time expired)*

**Senator ALLISON** (Victoria—Leader of the Australian Democrats) *(2.35 pm)*—The Democrats are happy to give up question time today. Minister Vanstone seems to think—

**Senator Hill**—Mr President, I rise on a point of order. Mr President, you have called three speakers on the other side of the chamber, and I respectfully suggest that—

*Honourable senators interjecting—*

**The PRESIDENT**—Order! I believe it is fair to allow party leaders to have a say, and the Democrats have not had a chance yet. That is why I am calling Senator Allison. She has jumped up at least three times.

**Senator ALLISON**—And I would point out, Mr President, that we have just heard from a member of the government so it ought to be the turn of this side of the chamber. Quite frankly, we are happy to give up question time today. It is a waste of time in any case—we rarely get any answers from the government. We are sick to death of the way in which the government have misled the Australian people over the last two weeks, suggesting that the use of the guillotine in the way that they have done is somehow normal. It is not.

Let us have a look at some of the facts. Senator Abetz tells us that 60 guillotines, I think it was, were done under Labor in one hour with the support of the Democrats. That is absolutely wrong and cannot be substantiated by the minister. We were also told the guillotine was used 221 times. Not true. These are some of the facts. The committee stage of the native title legislation in 1993 took 41 hours. The committee stage of the 1996 workplace bill took 33 hours. Yet the committee stages in this place of equally critical bills have been as little as 15 hours for the Work Choices bill; three hours for the Telstra sale bill; 3½ hours for the antiterrorism legislation for the committee and third reading stages; and three hours for the Welfare to Work legislation for the committee and third reading stages, and there was no third reading stage on that.

I remind the government members in this place that the Prime Minister said after the last election:

... I want to assure the Australian people that the Government will use its majority in the new Senate very carefully, very wisely and not provocatively.

We have seen absolutely the opposite of that. We have seen government forcing bills through, with guillotines day after day. We have seen dorothy dixer questions in the committee stages. We have seen the government wasting the time of the Senate so that there can be little scrutiny and debate. We have seen a huge drop in the number of substantive matters being referred to committees. We have seen the use of the closure to shut down debate—that has been done seven times so far since June—and that is a procedure that I understand had not been seen in this place for many a long time. We have got rolling guillotines to rush through bills, many of them with no real urgency, with no start-up date that makes it important for them to dealt with at this time of the year. And the government has attempted to do this over and over again. I hope that the Australian public do not forget this.

The guillotines do not allow us to do the normal business of the Senate—references to committees, tabling of reports, speaking on reports, debate on documents—and if some
time has been allowed it was so short that it was useless. The Senate has been reduced to endorsing legislation in this place without scrutiny. That is a disgrace.

This morning on Radio National, when the Prime Minister was asked about a criticism that the government agenda was happening too quickly, without proper scrutiny, and that there were seven seconds for debate per amendment on the IR bill, we heard the Prime Minister deceive Australians by focusing only on one unfair dismissal component of that bill. We also know that that IR bill contained fundamental changes to our whole industrial relations system. Yet the Prime Minister and others in this place have said that it has all been debated before. Well, it has not. And it will make significant changes to the way of life for working people in this country, as will the Welfare to Work changes and every other part of the agenda of this government in this place. The government has simply manipulated the time over the last two weeks to make sure this place does not know what it is doing.

The PRESIDENT—There are 33 seconds left for this debate.

Senator CARR (Victoria) (2.40 pm)—What we have heard today is a snivelling, gutless approach from the Leader of the Government, refusing to accept this censure. It is an unprecedented action by a government. We have had the Manager of Government Business hiding under his desk because he has not been able to front up to his responsibilities. And we have got the Minister for Immigration and Multicultural and Indigenous Affairs doing an Aunty Jack routine, saying, ‘We’ll just rip yer bloody arms off!’ That is the approach we have got from this government—and you talk about arrogance!

The PRESIDENT—Order! Time for this debate has expired.

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

The Senate divided. [2.46 pm]
(The President—Senator the Hon. Paul Calvert)

Ayes............. 33
Noes............. 36
Majority........ 3

AYES

NOES

PAIRS
Hutchins, S.P. Campbell, I.G.
Milne, C. Heffernan, W.
Ray, R.F. Ferris, J.M.
* denotes teller

Question negatived.

QUESTIONS WITHOUT NOTICE
Question
Senator PAYNE (2.49 pm)—My question is to the—

Senator Chris Evans—On a point of order, Mr President. I am seeking the call.

The PRESIDENT—But you had the first question, I believe.

Senator Chris Evans—I am seeking the call to seek leave to make a statement.

Government senators interjecting—

The PRESIDENT—Leave is not granted.

HOWARD GOVERNMENT
Suspension of Standing Orders
Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (2.49 pm)—Pursuant to contingent notice of motion, I move:

That so much of the standing orders be suspended as would prevent Senator Evans from making a statement.

We have seen a new low for the government today because what they said was: ‘We will not front up. We will not allow you to criticise us.’ The government will not allow a censure debate. In the 100 years of this parliament—

Senator Hill—Mr President, I raise a point of order. I submit that this is really a repetitive process. Although Senator Evans is trying to say that the previous motion was for a censure and that this is a suspension to make a statement, the substance of his argument is exactly the same as on the previous occasion. Consistent with the way you have ruled on abuses such as this in the past, I respectfully put to you that, in this instance, that is exactly what this is—an abuse. The Labor Party have a good 10 minutes left to ask questions and, except for the fact that I suspect they have not written any, they ought to use it appropriately, as is set out in the standing orders, and ask their questions.

The PRESIDENT—Senator Hill, I hear your point of order. I am of the belief though that this is a different contingency vote, so therefore I have to allow the motion to suspend standing orders.

Senator CHRIS EVANS—Thank you for your ruling, Mr President. What better example than this is there that the government will not accept scrutiny? They are too scared to argue their point because they cannot win the arguments. They can win the votes because all the sheep line up, but they cannot win the arguments. They will use every measure. We just saw for the first time in the history of the parliament a government refusing to accept a censure motion. For the first time in the history of the parliament, a government did not have the fortitude or the courage to debate a censure motion.

Think about it. If an opposition is not allowed to move a censure motion, what is left to it in terms of the debate in this country? You have the numbers, but you are too scared of the debate. I know Senator Hill is under pressure, but surely he could show some backbone. Senator Hill, I know the colour of your tie matches your backbone—pure yellow. Senator Minchin—

The PRESIDENT—Order! Senator Evans, that is very unparliamentary language. I would ask you to withdraw. That is not the first time you have used that sort of language today.

Senator CHRIS EVANS—Mr President, I withdraw. We saw Senator Minchin, at the start of the suspension, sending a message over to Senator Hill. I think he had the cour-
age to take the debate. I think Senator Minchin was happy to show some leadership and actually say, ‘We’re prepared to debate it,’ but not Senator Hill. He would not take it because he cannot win the argument. I thought the lack of courage was startling. This was the last device left open to an opposition to argue a case, to make a criticism for the country to hear, but now you have banned criticism. You have banned most things, but now you have banned criticism. You have shut down every opportunity for us to hold you accountable and now you have banned the last thing available, the last parliamentary device. Whatever happened to the Manager of Government Business?

Senator Ferguson—Mr President, I rise on a point of order. I understood that Senator Evans was seeking to suspend standing orders because he had a matter of urgency that he wanted to debate later. Could I respectfully suggest to you that he is not stating the case for urgency; he is conducting the debate. The debate should be conducted after a motion is passed to suspend standing orders, not as a reason for it.

The PRESIDENT—Thank you. If I recall, Senator Evans sought leave to make a statement, which was refused, and that is why he sought to suspend standing orders. So, Senator Evans, I am waiting to hear why you want to suspend standing orders.

Senator CHRISS EVANS—The reason we need to suspend standing orders is so that we can have the debate about the government’s arrogance and why the government will not front up and answer the serious concerns about the way they are treating the Senate. The arrogance and the abuse of power is beginning to reek so badly that the smell goes well beyond Canberra. The swagger, the smirk—now it is not just Mr Costello who smirks; it is the whole frontbench and some of the backbenchers are developing it too.

That is the way you get on the frontbench these days. It is an arrogance contest, as we saw from Senator Vanstone’s contribution. But what about Senator Ellison, Manager of Government Business: where was he when we had the debate? Missing in action—hiding below the desk, missing in action. He got the call and did not have the courage.

Senator Abetz—Mr President, I rise on a point of order. Criticising government senators and ministers does not make out the case as to why standing orders need to be suspended. As Senator Evans is always so wont to do at question time—get up on points of order in relation to relevance—I would invite you to ask him to be relevant to that which he is actually seeking to do.

The PRESIDENT—I hear your point of order. Senator Evans, I have already asked you to make your case and I would ask you to return to the question. You have one minute and 40 seconds.

Senator CHRISS EVANS—I am very pleased to. And I accept the interjection from Tasmania’s worst politician. The key point is: this is the last device available to an opposition and the government is prepared to ride roughshod over that. It is the first time in the history of the parliament that people have been prevented from moving a censure motion. If the government had any courage, they would debate the issue, but, no, they do not even have the fortitude to debate the issue. They want to shut down the last device available to the opposition to prevent debate. No wonder people were concerned during the terrorism debate.

Senator Ian Macdonald—Mr President, I rise on a point of order. This motion that Senator Evans is speaking to is about him making a statement. He keeps referring to the suspension of standing orders to the debate. That is the issue that we have already
The Senate has actually made a decision on that, and Senator Evans is simply repeating that and trying to overturn the vote of the Senate. I would ask you to bring him to order.

The PRESIDENT—I have already ruled on this. Senator Evans sought leave to make a statement, which was refused—it was a different contingency—and then sought to suspend standing orders. He has one minute left to make the case.

Senator CHRIS EVANS—It is interesting: they will not debate the issue, but they want to close down every opportunity for the opposition. They want to take points of order to prevent the debate. The case I am making is that the Senate ought to be given some opportunity to debate what is happening here: the abuse of power, the arrogance, the ramming through of legislation and the complete disregard for any process. I could quote page after page of Senator Hill years ago—he was a great defender of Senate process. On day one of the new parliament, he moved to cut the number of questions and, from then on, it has been a litany of abuse—members giving us the finger is a metaphor for the government’s attitude. We ought to have this censure debate. You ought to take it on. If you think you are so right, take it on, but you are too smug and too arrogant to actually take the debate on. I am surprised that you have sunk this low this fast. I knew on 1 July that it would happen eventually, but for you to get so out of touch, so drunk on power, so quickly—(Time expired)

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (2.58 pm)—Could I say that it was just this week that Senator Evans said: I also accept that it is legitimate on occasions for a majority of senators in this place to move the guillotine. Those were Senator Evans’s words. He himself said that the guillotine was appropriate. He went on to say:

There are acceptable cases where it is rational for the Senate to agree that there is a limit to a debate.

That is what this government is about. We are managing the process to get our legislative reform through this parliament. And today we have seen a total failure from the
opposition, who shut down question time. I have never seen that happen before. I say to the Australian people: look closely at this opposition. They do not want question time. It is a prime duty of the opposition, the Greens and the Democrats to hold the government accountable and they are not even doing that today. They are shutting down question time. They are denying the people of Australia an opportunity, through them, to hold the government to account—they are not doing that. They should be ashamed of themselves. This is a complete abuse of process. So that we can get back to the proper business of the Senate, I move:

That the question be now put.

The Senate divided. [3.06 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes………… 36
Noes………… 33
Majority……… 3

AYES

NOES
Allison, L.F.  Bishop, T.M.  Brown, C.L.  


PAIRS

* denotes teller

Question agreed to.

Question put:

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

The Senate divided. [3.10 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes………… 33
Noes………… 36
Majority……… 3

AYES


CHAMBER
Thursday, 8 December 2005  SENATE  79

Webber, R.  Wortley, D.

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

PAIRS
Hutchins, S.P.  Campbell, I.G.
Milne, C.  Heffernan, W.
Ray, R.F.  Ferris, J.M.

* denotes teller

Question negatived.

Senator Hill—Mr President, unfortunately the time for questions without notice has passed. It is particularly unfortunate as the next question was my question and it was a very good one. I ask that further questions be placed on the Notice Paper.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS
Howard Government: Senate

Senator CARR (Victoria) (3.14 pm)—I move:

That the Senate take note of the answer given by the Leader of the Government in the Senate (Senator Hill) to a question without notice asked by Senator Evans today, relating to the Howard government and the Senate.

What we have seen today is the reckless and careless, wanton, indiscriminate and arrogant abuse of power by this government. What we have seen today is Senator Hill’s last question time. He is on the way out the door. Off to New York he goes and he cannot front up to his responsibilities. He is off on his ambassadorial appointment and the real tragedy is that this government has not worked out who is going to replace him. I am told it is not Senator Minchin, because today Senator Minchin would have accepted the censure motion. He would have had the brains to work out that he would not want to be the first Leader of the Government in the Senate not to accept a censure motion. Senator Hill takes that honour willingly.

The trouble is that it will not be Senator Minchin who replaces Senator Hill; it will be Senator Ian Campbell. Senator Ian Campbell will have the job. Do you know why? Senator Minchin, although he is a close supporter of the Prime Minister, is a man with a bit of integrity. He asks questions. He actually stands up for some integrity in the processes of government. As a result of that, the Prime Minister says: ‘You are not to be the leader in this place. We want a sycophant like Senator Ian Campbell.’ That is the whole question here. It is about which one of these senators can get low enough on the carpet to grovel their way to the executive wing. That is what it is all about. It is about the Senate undermining itself as a result of the craven capitulation of that group of people over there.

Senator Hill—Mr Deputy President, I rise on a point of order. Can I ask you how the honourable senator can move to take note of an answer when no answers were in fact given, because the opposition chose to avoid it?

Senator Chris Evans—I do not know whether Senator Hill has Alzheimer’s disease as well, but he actually provided an answer to my question, following which I sought to move a censure motion, which was denied. If
Senator Hill has forgotten already, we can get the Hansard for him.

The DEPUTY PRESIDENT—There is no point of order.

Senator CARR—The point I am making here is that the Senate has extremely important responsibilities to fulfil within the Australian political system. But what is happening is that this government is systematically undermining the role of the Senate because this government is determined to be absolutely craven in its capitulation to the Prime Minister. There was a time in Australian political debate when it seemed that there were people of genuine liberal values in the Liberal Party. That time has well and truly gone. Even Malcolm Fraser—about whom you could never ask, ‘Has anyone got better form?’ in terms of the abuse of the Senate—cannot stomach this government. This government is too much for Malcolm Fraser.

Senator Mason is over there. He presents himself as a man who has some liberal values. But where is he when it comes to standing up for the fundamental principles of accountability in government? There is not a word to be heard. Senator Brandis over there is another one who presents himself as the intellectual leadership of the left wing of the Liberal Party. What a joke! When it comes to the hard question of defending the principles on which you claim to have made your names, you go missing.

Here is the Manager of Government Business in the Senate. He is under the desk. He has a fine reputation for standing on balconies and urinating on students at the University of Western Australia, but he has not got the guts to come in here and defend this government. This is a shocking abuse of the Senate as a result of this government’s craven capitulation to the total dominance by this Prime Minister. As I say to you, there was a time when we could look to certain people in the Liberal Party to defend genuine liberal values. That time has gone. We are left with the doormats of Australian politics: the National Party, who claim now that they are the party of democratic values.

Senator Sherry—They’ve all disappeared!

Senator CARR—Where did they go? They are not on top of the carpet; they are under the carpet. That is what is happening here. Senator Barnaby Joyce is running around, trying to big-note himself on what a great commitment he has to the principles of the Senate. He goes missing whenever there is a question. He goes missing whenever there is a point of principle he has to actually stand up to.

Senator Sherry—He’s not missing from the cameras, though.

Senator CARR—You are quite right, Senator Sherry. He is there at the doors every morning, saying: ‘Maybe today I’ll do it. Maybe another day will go by. I’ve got another great trick in place to save Christmas, save this or save that.’ He goes missing every time. So we have a fundamental principle here. This government, in a few short months—(Time expired)

Senator BRANDIS (Queensland) (3.20 pm)—I did not believe it would have been possible for the Australian Labor Party to be more humiliated than they were at the election last year—until today. How humiliating. It was the last question time of the year, and what do they do? It was the last opportunity to hold the government to account, and they, through their own motion, suspended question time. They had run out of things to ask. They had run out of the will to discharge their role as an opposition. Instead, what did we hear? Even from the old socialist, Senator Kim Carr—one of the few socialists left in Australia today—what did we hear?
Did we hear Senator Carr say, “The government is a disgrace because their values are the wrong values; they do not stand for the values of socialism or social democracy like the ALP, like Senator Carr”? No. Did we hear Senator Carr invoke any great former Labor leaders? No. Did we hear Senator Carr invoke any policy values of the Australian Labor Party? No. Who did we hear Senator Carr quote? He quoted Malcolm Fraser. What philosophy did we hear Senator Carr invoke? He invoked liberalism and liberal democracy. It was just as humiliating for Senator Bob Brown, who not only invoked Malcolm Fraser but also quoted Robert Menzies. I say to Senator Bob Brown—who has scurried off to a press conference, no doubt—that if the Greens had had their way and if the Australian Labor Party had had their way, Australia would not be a liberal democracy. If you had won any of the great landmark elections in Australian history, like 1949—

Senator Forshaw—You would have given us to the Japanese!

Senator BRANDIS—You are all right, Senator Forshaw, because you fought the commos. I have got a bit of time for you. You have spent most of your life fighting the commos in the Sydney branches of the ALP. I cannot say the same for Senator Carr, your fellow traveller. If you people had had your way, Australia would not have become a liberal democracy. If Senator Bob Brown or the mealy-mouthed Australian Democrats had had their way, Australia would not be a liberal democracy. But the good news is that today Australia is a liberal democracy.

Senator Mason interjecting—

Senator BRANDIS—Thank you, Senator Mason! So the whole frame of reference of this debate is how good a liberal democracy we can be. You fight the issues of today on our ground, because you fought them on your ground throughout the 20th century and you lost—comprehensively; completely; lock, stock and barrel. You do not even have the pride, the intellectual courage or the political gumption—

Senator Wong—You wouldn’t debate the censure motion!

Senator BRANDIS—to invoke your own values because you are embarrassed by them, Senator Wong! You are ashamed of them. You do not even have the gumption to put them out there into the public space. Instead, you have to have a debate about our values—the values you spent the century or so of the Australian Labor Party’s existence trying to prevent from coming to pass. But, as I said before, our side of politics won the intellectual and philosophical argument in the 20th century. So now, if you want to attack us, you are reduced to quoting Robert Menzies and Malcolm Fraser—two great Australian Liberal Prime Ministers—because you are too embarrassed, too intellectually barren and too philosophically arid to quote any argument that comes from your own side. You do not have anywhere to go anymore.

Senator Wong—You wouldn’t have the argument!

The DEPUTY PRESIDENT—Order! Senator Wong!

Senator BRANDIS—Senator Wong, I understand your frustration. You are such a bright young star. If I were a bright young star like you and had devoted my public life to a defunct, spent political force, I too would be as frustrated as you are. So do not come into this place and give us lectures on liberal democracy. Come into this place and have the honesty, humility and gumption to admit that the whole argument of the 20th century that you conducted with us is an argument in which you were wrong, we were right and our ideas prevailed. You come in
here today to censure the government and all you can do is talk about liberal democracy. How humiliating! What a shame! What a disgrace! Why don’t you go away, reinvent your thinking and come back with something to say. *(Time expired)*

Senator Ludwig (Queensland) (3.25 pm)—We were the only party that was around before Federation—this democracy was built by Labor, not by you. You are nothing but a Johnny-come-lately. That is what you lot are and that is all you will ever be. That is what you fail to understand. We built it and not you. You are nothing but a Johnny-come-lately. Your Prime Minister is nothing but a Johnny-come-lately. All you have managed to do—

The Deputy President—Senator Ludwig, address your comments to the chair.

Senator Ludwig—The only contribution Senator Brandis has ever had to this debate has been, as reported, to call his Prime Minister a ‘lying rodent’. That is the only thing that he has ever managed to contribute to this debate.

Senator Faulkner—Mr Deputy President, I rise on a point of order. I reluctantly take the point of order. The Manager of Opposition Business has attributed certain words to Senator Brandis. Those words were allegedly that he described the Prime Minister as a ‘lying rodent’. Another thing Senator Brandis said in his spray was that we are not keen to ask questions. If the coalition want to answer questions they only need to look at the *Notice Paper* to see all of the questions that their frontbench, which is missing, has failed to answer. Why don’t you answer all of those questions? There are plenty of unanswered questions that you can answer before you start accusing us. Why don’t you answer all of them?

The government have demonstrated today that they do not want scrutiny. They have said, ‘We’re going to close down debate completely.’ That is what they fail to understand. By denying the censure motion today they have said that they do not want to be held to account. For the first time in history they have said they do not want debate on a censure motion. It is unprecedented. They should hang their heads in shame! They have said they want to uphold the shining light of liberal democracy, but they want to ensure that there is no scrutiny. They do not want references to committees. They do not want sufficient questions at question time. They do not want scrutiny by committees. They do not want references. They close them down. They make sure that debate cannot occur. When we want to argue a particular case, they then shut that down, choking off proper debate.

You do not want light to be thrown into dark corners; you want to scurry away. Sena-
t dor Brandis was right when he described your behaviour as rodent like, because you want to scurry away into the dark like rats. So there will be no scrutiny in this place, you have ensured that there is not a proper question time, that there are not proper references to committees and that we do not have committee stages in the debates on bills. I gave you credit before 1 July that you would not do all that you have done, but you have managed in less than six months to do it all—plus more. I did not think that you would shut down the censure motion, but you have done that as well. You have used the guillotine; you have used the gag. What more could you do? Quite frankly, I did not think you would shut down the censure motion but you did that as well!

It is shameful that you have ensured that this place cannot act the way it should. You should be ashamed of yourselves, but you are not—you are sitting there gleefully laughing about it. That is nothing but arrogance. You are out of touch with what Australians expect of this place. You have ensured that there cannot be proper debate. You only have to look at what you have done to the bills we have debated in this last week, such as the antiterrorism and Welfare to Work bills. You ensured that there would not be proper scrutiny. There were 74 government amendments to the Welfare to Work bill, and we did not get past the first few. They were not debated. Next year, you have an opportunity to do a bit better, but I doubt you will. *(Time expired)*

Senator RONALDSON (Victoria) *(3.31 pm)*—I look across at the other side and I think: what a sad and pathetic group of irrelevant former trade union hacks. I look across at a group of people who are the representatives of a policy-free zone. We have heard about the accountability of the executive today. You pathetic individuals have given up the hour a day that you are given by the process to put the executive under scrutiny. What an extraordinarily stupid and ignorant approach you have taken today. You are ignorant and you are stupid. The sad part about this is that you are totally leaderless. You are led in this place by a man who cannot sustain one single policy argument.

Senator Ludwig—Mr Deputy President, I rise on a point of order. That is reflecting on the chair. You may not have heard it, but as far as I can recall he called you ignorant. The senator should be brought into line on that matter.

The DEPUTY PRESIDENT—There is no point of order.

Senator RONALDSON—That was a pathetic point of order. I came into this place expecting that the executive and this government would be held to account by a properly organised opposition. We have nothing in this place during question time but a farcical lack of understanding of what is required to be an alternative government. You are an utter failure as an alternative government. So pathetic are they and so pathetic was Senator Ludwig’s contribution that Senator Faulkner had to stand up and give us his zoological expertise to save us from another 30 seconds of Senator Ludwig.

The other thing that I am gobsmacked about today is the denial of involvement by the Australian Greens and the Australian Democrats. They have all scurried out of here. Undoubtedly, Senator Brown has pushed the button for the press conference to get them down there. Senator Bartlett is here, and he is keeping an eye on Senator Allison’s seat because she has her eyes behind her. Quite frankly, after her contribution to date I reckon Tash has gone from sixes to about two to one on. I will take some money: two to one on, Tash for the leadership.

We see and hear time and time again the apologist for anarchy, Senator Brown, com-
ing in here and talking about democracy and the rights of the Australian people. He single-handedly wants to deny the Australian people the opportunity to properly contribute to debate in this country. He is an absolute disgrace.

Senator Lundy—How many disgraces is that?

Senator RONALDSON—That is four.

The fact that the only senator from the Democrats in here is Senator Bartlett puts paid to any notion that they take these matters seriously. This is a joke. How you could possibly give up your single most important hour in the day is absolutely beyond me. I was in opposition for six long and lonely years—which is about a quarter of where you are heading for, but it was still a very long time—but I will tell you that when we were in opposition we held the government accountable. The notion that on the last day of the sitting you would give up, for some political stunt, the one—

Senator Lundy—Mr Deputy President, I rise on a point of order. This is the opportunity for the senator to explain why the government squibbed on debating the censure motion. He has 30 seconds left and he has not gone anywhere near that issue.

The DEPUTY PRESIDENT—There is no point of order.

Senator RONALDSON—Senator Lundy, I love you to death, but that is the sort of intervention I would expect. The simple fact is that the one thing oppositions are given that they hold as a fundamental right in both this and the other place is the right to question the executive during question time. Her Majesty’s opposition has one hour—and over there a bit longer; one and a half hours—a day to question the executive. (Time expired)

Senator O’BRIEN (Tasmania) (3.37 pm)—If Senator Ronaldson has any aspirations to be the head kicker for the government, he will have to improve on that last performance. It was pathetic. He came in here after a decade in the House of Representatives and took his opportunity to have a first speech, which I thought was a cheek. I thought he would fire up after that, but he was a real failure. I am sure that plenty of government senators, after they have sat here—and some of them have already done it—will scuttle back to their offices and start opening Christmas cards. No doubt there will be a few Christmas cards there. It is a good time for sending Christmas cards. But I expect that, after a few days, when they get back to their offices and start to open them, they will find in those Christmas card envelopes not Christmas cards but white feathers, because what we saw in here today was a gutless performance by the government—the first time in the history of the Senate that a government has failed to take up the opportunity to debate its own credentials.

The government failed to have the gumption to stand up and say, ‘What we have done is justified.’ Of course, we know why they did not take up that opportunity. They did not take up that opportunity because they could not justify it, because they could not string together a 20-minute speech which had any credibility justifying the sort of performance that the government have put before the Australian people. After the Prime Minister promised that they would not be arrogant and that they would be the proper custodians of a majority in the Senate, we have seen the absolute opposite.

We heard from the Leader of the Government in the Senate in his answer to Senator Evans’s question that there was some precedent for guillotines in this place. There certainly have been guillotines, and we have supported the government on rolling guillotines so legislation could be dealt with over a set period of time. But what we see today is eight bills being guillotined. Some are not
important. Some are not even able to be debated today while we wait to see if a deal can be done on the VSU legislation. There were two bills earlier this week that we could be debating, as they needed much more debate, but they were guillotined through in two days.

The Labor Party never had the numbers to guillotine bills through this place. The only way the Labor Party could get bills through this place using that mechanism was, after the appalling behaviour of the then opposition in filibustering debates and blocking the program of the government, to go to the minor parties and say to them: ‘We need to get some legislation through. What about giving us some assistance?’ We had to persuade other parties that there was a case and that we could justify using a time device to get legislation through.

But that is not the case with this government. We have seen this government close down debate after debate. They do not have to justify it to anyone but themselves, and all the great small ‘I’ liberals who claim to sit on the other side have sat on this side opposing every move that the opposition has made to try and ensure that proper scrutiny would be applied to the government, that proper debating process would be applied, that proper inquiries would take place and that there would be a proper opportunity for the opposition to ask questions. Where have they sat themselves? Against the proposition that there ought to be proper scrutiny.

So, yes, we gave up question time today because it was the only opportunity left this year to debate the government’s credentials—to give the government a chance to stand up and defend themselves, to show that one speaker could string together a 20-minute speech and justify the behaviour of the government. Would they do it? No. That is why I say that, when the Christmas card envelopes get opened in the offices this year, they will be full of white feathers. Everyone knows what that means—that is, that your Liberal mates see this performance as a craven and cowardly performance by a government that do not have the gumption to defend themselves because they do not have the arguments to defend themselves.

This was the only time that we could have debated a censure motion. Next year we will no doubt try to debate a censure motion. We will see what the government do then. They will probably do what the Manager of Government Business did. When he had a chance to debate it, what did he do? He gagged the debate. That is the level of courage that we see from this government in this place. So we will be following the process of requiring this government to justify their actions, and we will use whatever device is necessary. Today we used a device which exposed this government for the craven and cowardly government that they are—and we will do it again. (Time expired)

The DEPUTY PRESIDENT—I call Senator Bartlett.

Senator Brandis—Mr Deputy President, I rise on a point of order. Senator Santoro was seeking the call. We have had three speakers from the left-hand side of the chamber and we have had two from the government side of the chamber. If Senator Bartlett rather than Senator Santoro is preferred at this stage there will have been four speakers from that side of the chamber and only two from the government side of the chamber. If Senator Bartlett rather than Senator Santoro is preferred at this stage there will have been four speakers from that side of the chamber and only two from the government side of the chamber. The custom has been to allow equivalence in the number of speakers from either side of the chamber, so, with respect, Mr Deputy President, you ought to call Senator Santoro ahead of Senator Bartlett.

Senator Bartlett—Mr Deputy President, on the point of order: I know that a lot of rewriting of history goes on, but if that has
been the custom it has not occurred once in the time I have been here—for the last eight years—including during the entire period that the government has had control of the Senate. There are usually three Labor, two government and one crossbench speakers. That has happened in every single take note debate, even since the government got control of the Senate. Having said that, if people want to seek leave for an extra five minutes for this debate so there is an extra government speaker, I personally do not mind. But it would be rather annoying to have the convention completely annihilated at this point, despite Senator Brandis’s protestations to the contrary.

The DEPUTY PRESIDENT—On the point of order: Senator Brandis, the practice has been for the opposition to lead off, then for there to be two speakers on the government side and a further two speakers on the opposition side, and the final position has gone to the crossbenches—

Senator Sherry—If they wanted it.

The DEPUTY PRESIDENT—that is right: if they wanted it—as has been pointed out by Senator Bartlett. Given the custom and practice, I intend to call Senator Bartlett.

Senator BARTLETT (Queensland) (3.44 pm)—As I said, I am quite happy to give leave for a further government senator to speak. I should emphasise—and it is a point worth making, particularly in the context of this debate, if we can call it that—that the Democrats are not actually the same as the Labor Party. Nor are we the same as the Liberal Party or the Greens. We are a separate party and have a different viewpoint. I think that having a diversity of viewpoints expressed is desirable. If the public could have seen us here in this chamber in the last hour or so, frankly, I think it would have been a massive discredit to the entire chamber and the political process. These days, proceedings are always broadcast over the web, but people get to see only the person speaking. They do not get to see the leers and grins and hear the laughter and mock outrage that surround us all while people are speaking. If they did, I think they would find it as hard to stomach as I often do.

In this debate I would like to talk a little bit about a person called Winston—not John Winston Howard, who is often referred to, but Winston Smith, the character from George Orwell’s novel 1984. It is perhaps the best political novel ever written to demonstrate the evils of authoritarianism and how dangerous deliberate distortions of the truth and of language can be. The other day I was rightly pulled up for saying that Minister Abetz was being deliberately dishonest because 34 times he avoided a question about how people having their income cut were being helped into work. He responded instead by smearing those people who put forward those questions. I was rightly called to order for saying that. At the time I thought: ‘How could anyone be anything other than deliberately dishonest if they did it 34 times?’ Then I thought of the inevitable outcome of the ‘group think’ that happens in 1984. By the end of the story—and it happened to the character Winston Smith—people genuinely believe that two plus two equals five. They parroted it often enough. They had their equivalent of the two-minute hate, which is basically what we have in question time every day. By the end of it all, the danger that all of us face is that we can end up believing whatever propaganda it is that we have to spout from one day to the other. If we all end up having that sort of mind-set as a result of the massively greater partisanship and divisiveness that has occurred in the Senate since the government got control of it, frankly, God help our democracy.
Senator Brandis—Don’t you think that majority rule is part of democracy, Senator Bartlett?

Senator BARTLETT—Senator Brandis, your Queensland colleague Senator Mason has spoken very eloquently—and extraordinarily loudly. I might say—about the importance of this matter. You said it yourself just before. You like making historical analogies about Labor being on the losing side of history, collectivism being on the way out and freedom, individualism and liberty being the way forward. A bit of freedom and individualism would be nice to see from the Liberal Party, because at the moment you are acting like the biggest bunch of collectivists I have ever seen. You are voting en bloc time after time, preventing the expression of a diversity of views and gagging people. Seven gag motions have been moved by the government since they got control of the Senate. Not only do we have a limit on the amount of time to debate but we get a gag on there being any debate at all, and then the question is put. We have had that seven times.

Senator Brandis—The Democrats vote en bloc as well.

Senator BARTLETT—The Democrats have never voted for a closure, Senator Brandis. This is the problem: we get a bit of half-truth and a distortion of the truth. We heard it from Senator Hill in question time when he said that the guillotine was used 211 times when Labor was in government. It was not used 211 times; it was used 11 times on 211 pieces of legislation. There is a very big difference. The government has already used the guillotine, in the shorter period of time that it has been in government, 12 times, including three times in the last week—and quite possibly it will use it tomorrow.

The key thing that has to be said is that if you look at the context of those guillotines you find that we had guillotines on the biggest workplace relations changes ever. Senator Brandis called it historic and the end of the age of collectivism—except for the collective vote of the Liberals to make it happen. But that was following no realistic inquiry. The only reason the second reading debate went on for so long was that the government did not have their amendments ready. When the amendments came down we had to debate them straightaway and had less than a day to do it. That is in contrast to the guillotines that we had in 1990 and 1992 that were spread over a two-week period. People had that much advance notice of how much time they had. We have all done things in the past which we should not have done, but how many senators on the non-government side were here in 1992? Three. (Time expired)

Senator SANTORO (Queensland) (3.49 pm)—I seek leave to make a brief statement on the matters under consideration.

The DEPUTY PRESIDENT—Is leave granted?

Senator Ludwig—No.

Senator SANTORO—What are you doing? You are gagging us. You are applying the gag, aren’t you?

Senator McGauran—You are applying the gag. You have just gagged us.

The DEPUTY PRESIDENT—Order!

Senator SANTORO—You make spurious statements.

The PRESIDENT—Order!

Honourable senators interjecting—

Senator LUDWIG (Queensland) (3.50 pm)—I seek leave to make a short statement as to why we are not going to grant Senator Santoro leave to speak.

Government senators interjecting—

Senator LUDWIG—You can give me leave or not.
The DEPUTY PRESIDENT—Is leave granted?

Leave not granted.

Senator Sherry—Mr Deputy President, I rise on a point of order. When my colleague asked for leave to be granted, Senator McGauran said yes.

Senator McGauran—No, I did not.

The DEPUTY PRESIDENT—Leave is not granted. The question is that the motion moved by Senator Carr be agreed to.

Question agreed to.

COMMITTEES
Community Affairs Legislation Committee
Reference

Senator TROETH (Victoria) (3.51 pm)—by leave—I move:

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.

Question agreed to.

NOTICES
Transfer

Senator LUDWIG (Queensland) (3.51 pm)—Pursuant to standing order 78(3), I advise that Senator Wong objects to the withdrawal of business of the Senate notice of motion No. 2 standing in the name of the Chairman of the Standing Committee on Regulations and Ordinances, Senator Watson, for 11 sitting days after today, for the disallowance of the Guide to the Assessment of the Degree of Permanent Impairment [second edition], made under subsection 28(1) of the Safety, Rehabilitation and Compensation Act 1988 and asks that the notice stand in her name.

COMMITTEES
Corporations and Financial Services Committee
Report: Government Response

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs) (3.53 pm)—I present the government’s response to the report of the Parliamentary Joint Committee on Corporations and Financial Services on its inquiry into the exposure draft of the Corporations Amendment Bill (No. 2) 2005, and seek leave to incorporate the document in Hansard.

Leave granted.

The document read as follows—

THE PARLIAMENTARY JOINT COMMITTEE ON CORPORATIONS AND FINANCIAL SERVICES REPORT INQUIRY INTO THE EXPOSURE DRAFT OF THE CORPORATIONS AMENDMENT BILL (NO. 2) 2005—JUNE 2005

GOVERNMENT RESPONSE

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Recommendation 1</td>
<td>The Government rejects this recommendation. The arguments that support removal of the 100 member rule and retention of a 5 per cent threshold for calling an extraordinary general meeting of a general company also apply for mutual companies. The introduction of a separate regime for mutual companies would increase regulatory complexity.</td>
</tr>
<tr>
<td>The Committee recommends that the Bill be amended to insert a section which provides that, for mutuals, the threshold for calling a general meeting should be 1 per cent of the total number of votes able to be cast at the general meeting.</td>
<td></td>
</tr>
<tr>
<td>Recommendation</td>
<td>Response</td>
</tr>
<tr>
<td>----------------</td>
<td>----------</td>
</tr>
<tr>
<td>Recommendation 2</td>
<td>The Committee recommends that the Bill be amended to remove the 100 member rule for managed investment funds. The Government accepts this recommendation. There should be a consistent threshold for the calling of extraordinary general meetings of managed investment funds and companies.</td>
</tr>
<tr>
<td>Recommendation 3</td>
<td>The Committee recommends that item 3 of Schedule 1 of the Bill (lowering the threshold for proposing members’ resolutions from 100 to 20) be omitted. The Government accepts this recommendation. The reforms will be reviewed in three years, with a view to assessing their impact on shareholder participation including through members’ resolutions and statements.</td>
</tr>
<tr>
<td>Recommendation 4</td>
<td>The Committee recommends that, in the event that recommendation 2 is not enacted, the Parliamentary Joint Committee on Corporations and Financial Services conduct an inquiry into the operation of s.249N after the proposed amendment has been in operation for one year. Refer to Recommendation 3</td>
</tr>
<tr>
<td>Recommendation 5</td>
<td>The Committee recommends that the proposed Bill be amended to provide that members’ statements proposed by 20 or more, but fewer than 100, shareholders should be: no more than one page in length; and received by the company by a suitable date, in order to enable distribution with the package of AGM materials. Refer to Recommendation 3</td>
</tr>
<tr>
<td>Recommendation 6</td>
<td>The Committee recommends that the Treasurer review the protection provided to the Australian Stock Exchange under s.1100B of the Corporations Act 2001. The Government accepts this recommendation.</td>
</tr>
<tr>
<td>Recommendation 7</td>
<td>The Committee recommends that the Treasurer investigate direct voting, how its greater use might be encouraged, and the full implications of its widespread use. The Government accepts this recommendation. In 2004, the Government introduced amendments to facilitate electronic proxy voting as part of the CLERP 9 reforms. The reforms also permitted body corporates to act as proxies to facilitate greater shareholder participation by allowing representative bodies or corporations to operate as proxy collection services. Amendments contained in this Bill to facilitate electronic circulation of resolutions and statements by members will further Australia’s already progressive approach to electronic communication with shareholders.</td>
</tr>
</tbody>
</table>
LABOR MINORITY REPORT

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minority Recommendation 1:</td>
<td>The Government rejects this recommendation.</td>
</tr>
<tr>
<td>Labor endorses the removal of the 100 member rule.</td>
<td>A 5 per cent threshold is equal to or lower than the thresholds in other comparable jurisdictions.</td>
</tr>
<tr>
<td>Regarding operation of the 5 per cent rule, Labor recommends a cap allowing 1500 members to support the calling of an extraordinary general meeting of the company.</td>
<td>The proposal for a cap of 1500 members fails to recognise the substantial size differences between companies.</td>
</tr>
<tr>
<td>Labor recommends that each of the 1500 members individually hold, at a minimum, a marketable parcel of 100 shares.</td>
<td>The proposal for an economic interest test would introduce complexity and cost as companies would be required to assess the value of shares held.</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Minority Recommendation 2</td>
<td>The Government rejects this recommendation.</td>
</tr>
<tr>
<td>Labor endorses the removal of the 100 member rule for mutual organisations.</td>
<td>The arguments that support removal of the 100 member rule and retention of a five per cent threshold for calling an extraordinary general meeting of a general company also apply for mutual companies.</td>
</tr>
<tr>
<td>Regarding operation of the 5 per cent rule for one member one vote companies, Labor recommends a cap allowing 5,000 members to support the calling of an extraordinary general meeting of the company.</td>
<td>The introduction of a separate regime for mutual companies would increase regulatory complexity.</td>
</tr>
<tr>
<td></td>
<td>The impact of the reforms will be reviewed in three years, with a view to assessing their impact on shareholder participation including for members of mutual companies.</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Minority Recommendation 3:</td>
<td>This is a matter for the Parliamentary Joint Committee on Corporations and Financial Services.</td>
</tr>
<tr>
<td>The Parliamentary Joint Committee on Corporations and Financial Services should review the impact of changes under the Corporations Amendment Bill (No.2) 2005, two years from the effective date of legislation introducing the changes.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Minority Recommendation 4:</td>
<td>The Government rejects this recommendation.</td>
</tr>
<tr>
<td>That the Corporations Act be amended so it is clear that companies may not delay the inclusion of a members’ resolution on any grounds other than those described by s.249 O(5)(a) and (b) of the corporations law.</td>
<td>It is important that resolutions be clear, unambiguous and worded in a manner that achieves the intended legal effect if passed. Many resolutions propose amendments to the company constitution which is a critical document.</td>
</tr>
<tr>
<td></td>
<td>A more prescriptive approach in this area would increase complexity and the cost of business regulation.</td>
</tr>
</tbody>
</table>
The practice of presenting this list to the Senate is in accordance with the resolution of the Senate of 14 March 1973 and the undertaking by successive governments to respond to parliamentary committee reports in timely fashion. On 26 May 1978 the then Minister for Administrative Services (Senator Withers) informed the Senate that within six months of the tabling of a committee report, the responsible minister would make a statement in the Parliament outlining the action the government proposed to take in relation to the report. The period for responses was reduced from six months to three months in 1983 by the then incoming government. The then Leader of the Government in the Senate announced this change on 24 August 1983. The method of response continued to be by way of statement. Subsequently, on 16 October 1991 the then government advised that responses to committee reports would be made by letter to a committee chair, with the letter being tabled in the Senate at the earliest opportunity. The current government in June 1996 affirmed its commitment to respond to relevant parliamentary committee reports within three months of their presentation.

This list does not usually include reports of the Parliamentary Standing Committee on Public Works or the following Senate Standing Committees: Appropriations and Staffing, Selection of Bills, Privileges, Procedure, Publications, Regulations and Ordinances, Senators' Interests and Scrutiny of Bills. However, such reports will be included if they require a response. Government responses to reports of the Public Works Committee are normally reflected in motions in the House of Representatives for the approval of works after the relevant report has been presented and considered.

Reports of the Joint Committee of Public Accounts and Audit (JCPAA) primarily make administrative recommendations but may make policy recommendations. A government response is required in respect of such policy recommendations made by the committee. However, responses to administrative recommendations are made in the form of an executive minute provided to, and subsequently tabled by, the committee. Agencies responding to administrative recommendations are required to provide an executive minute within 6 months of the tabling of a report. The committee monitors the provision of such responses.

An entry on this list for a report of the JCPAA containing only administrative recommendations is annotated to indicate that the response is to be provided in the form of an executive minute. Consequently, any other government response is not required. However, any reports containing policy recommendations are included in this report as requiring a government response.

Legislation and other committees report on bills and the provisions of bills. Only those reports in this category that make recommendations which cannot readily be addressed during the consideration of the bill, and therefore require a response, are listed. The list also does not include reports by legislation committees on estimates or scrutiny of annual reports, unless recommendations are made that require a response.

A guide to the legend used in the 'Date response presented/made to the Senate' column
* See document tabled in the Senate on 7 December 2005, entitled Government Responses to Parliamentary Committee Reports—Response to the schedule tabled by the President of the Senate on 23 June 2005, for Government interim/final response.
** Report contains administrative recommendations only—response is to be provided direct to the committee in the form of an executive minute.
<table>
<thead>
<tr>
<th>Committee and title of report</th>
<th>Date report tabled</th>
<th>Date response presented/made to the Senate</th>
<th>Response made within specified period (3 months)</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Australian Senate Committee for the Conference of Commonwealth Parliaments (Joint Statutory)</td>
<td>23.10.02</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>After ATSIC—Life in the mainstream? (Senate Select)</td>
<td>8.3.05</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>ASIO, ASIS and DSD (Joint Statutory) Private review of agency security arrangements</td>
<td>13.10.03</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Review of the listing of six terrorist organisations</td>
<td>7.3.05</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Review of administration and expenditure for ASIO, ASIS and DSD: Number 3</td>
<td>14.3.05</td>
<td>10.11.05</td>
<td>No</td>
</tr>
<tr>
<td>Review of the listing of seven terrorist organisations</td>
<td>9.8.05</td>
<td>Not required</td>
<td>-</td>
</tr>
<tr>
<td>Review of the listing of four terrorist organisations</td>
<td>5.9.05</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Review of the Intelligence Services Legislation Amendment Bill 2005</td>
<td>12.9.05</td>
<td>Not required</td>
<td>-</td>
</tr>
<tr>
<td>ASIO’s questioning and detention powers—Review of the operation, effectiveness and implications of Division 3 of Part III in the Australian Security Intelligence Organisation Act 1979</td>
<td>30.11.05</td>
<td>-</td>
<td>Time not expired</td>
</tr>
<tr>
<td>Australian Crime Commission (Joint Statutory) Cybercrime</td>
<td>24.3.04</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Inquiry into the trafficking of women for sexual servitude</td>
<td>24.6.04</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Examination of the annual report for 2003-04 of the Australian Crime Commission</td>
<td>23.6.05</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Supplementary report to the inquiry into the trafficking of women for sexual servitude</td>
<td>11.8.05</td>
<td>-</td>
<td>No</td>
</tr>
<tr>
<td>Review of the Australian Crime Commission Act 2002</td>
<td>10.11.05</td>
<td>-</td>
<td>Time not expired</td>
</tr>
<tr>
<td>Community Affairs Legislation Tobacco advertising prohibition</td>
<td>16.11.04 (presented 30.9.04)</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Committee and title of report</td>
<td>Date report tabled</td>
<td>Date response presented/made to the Senate</td>
<td>Response made within specified period (3 months)</td>
</tr>
<tr>
<td>-----------------------------------------------------------------------------------------------</td>
<td>--------------------</td>
<td>-------------------------------------------</td>
<td>-------------------------------------------------</td>
</tr>
<tr>
<td>Community Affairs References</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The patient profession: Time for action—Report on nursing</td>
<td>26.6.02</td>
<td>10.11.05</td>
<td>No</td>
</tr>
<tr>
<td>A hand up not a hand out: Renewing the fight against poverty—Report on poverty and financial hardship</td>
<td>11.3.04</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children</td>
<td>30.8.04</td>
<td>10.11.05</td>
<td>No</td>
</tr>
<tr>
<td>Protecting vulnerable children: A national challenge—Second report on the inquiry into children in institutional or out-of-home care</td>
<td>17.3.05</td>
<td>10.11.05</td>
<td>No</td>
</tr>
<tr>
<td>The cancer journey: informing choice—Report on the inquiry into services and treatment options for persons with cancer</td>
<td>23.6.05</td>
<td>10.11.05—NHMRC response, *(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Quality and equity in aged care Corps and Securities (Joint Statutory)</td>
<td>23.6.05</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Report on aspects of the regulation of proprietary companies Corporations and Financial Services (Joint Statutory)</td>
<td>8.3.01</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Report on the regulations and ASIC policy statements made under the Financial Services Reform Act 2001</td>
<td>23.10.02</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Review of the Managed Investments Act 1998</td>
<td>12.12.02</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Inquiry into Regulation 7.1.29 in Corporations Amendment Regulations 2003 (No. 3), Statutory Rules 2003 No. 85</td>
<td>26.6.03</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Money matters in the bush: Inquiry into the level of banking and financial services in rural, regional and remote areas of Australia Corporations and Financial Services (Joint Statutory) (continued)</td>
<td>10.2.04 (presented 15.1.04)</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Report on the ATM fee structure</td>
<td>10.2.04 (presented 15.1.04)</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Corporations Amendment Regulations 2003 (Batch 6); Draft Regulations: Corporations Amendment Regulations 2003/04 (Batch 7); and Draft Regulations: Corporations Amendment Regulations 2004 (Batch 8)</td>
<td>24.3.04</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Corporations Amendment Regulations 7.1.29A, 7.1.35A and 7.1.40(h)</td>
<td>15.6.04</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Corporate insolvency laws: A stocktake</td>
<td>3.8.04</td>
<td>13.10.05</td>
<td>No</td>
</tr>
<tr>
<td>Committee and title of report</td>
<td>Date report tabled</td>
<td>Date response presented/made to the Senate</td>
<td>Response made within specified period (3 months)</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>--------------------</td>
<td>------------------------------------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>Report on Australian Accounting Standards tabled in compliance with the Corporations Act 2001 on 30 August and 16 November 2004</td>
<td>10.2.05</td>
<td>1.12.05</td>
<td>No</td>
</tr>
<tr>
<td>Inquiry into the exposure draft of the Corporations Amendment Bill (No. 2) 2005</td>
<td>16.6.05</td>
<td>8.12.05</td>
<td>No</td>
</tr>
<tr>
<td>Property investment—Safe as houses?</td>
<td>23.6.05</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Timeshare: The price of leisure Economics References</td>
<td>5.9.05</td>
<td>-</td>
<td>No</td>
</tr>
<tr>
<td>Report on the operation of the Australian Taxation Office</td>
<td>9.3.00</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Inquiry into mass marketed tax effective schemes and investor protection—Interim report</td>
<td>25.6.01</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Inquiry into mass marketed tax effective schemes and investor protection—Second report: A recommended resolution and settlement</td>
<td>12.2.02 (presented 11.2.02)</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Consenting adults deficits and household debt—Links between Australia’s current account deficit, the demand for imported goods and household debt</td>
<td>13.10.05</td>
<td>-</td>
<td>Time not expired</td>
</tr>
<tr>
<td>Electoral Matters (Joint Standing)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The 2004 federal election—Report of the inquiry into the conduct of the 2004 federal election and matters related thereto</td>
<td>10.10.05</td>
<td>-</td>
<td>Time not expired</td>
</tr>
<tr>
<td>Employment, Workplace Relations and Education References</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bridging the skills divide</td>
<td>24.11.03 (presented 6.11.03)</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Beyond Cole: The future of the construction industry: confrontation or cooperation?</td>
<td>21.6.04</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Office of the Chief Scientist</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interim report: Indigenous education funding</td>
<td>5.8.04</td>
<td>10.11.05</td>
<td>No</td>
</tr>
<tr>
<td>Unfair dismissal and small business employment</td>
<td>16.3.05</td>
<td>*(final)</td>
<td>No</td>
</tr>
<tr>
<td>Indigenous education funding—Final report</td>
<td>21.6.05</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Student income support</td>
<td>22.6.05</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Workplace agreements</td>
<td>23.6.05</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>7.11.05 (presented 31.10.05)</td>
<td>-</td>
<td>Time not expired</td>
</tr>
<tr>
<td>Committee and title of report</td>
<td>Date report tabled</td>
<td>Date response presented/made to the Senate</td>
<td>Response made within specified period (3 months)</td>
</tr>
<tr>
<td>--------------------------------------------------------------------</td>
<td>--------------------</td>
<td>--------------------------------------------</td>
<td>-------------------------------------------------</td>
</tr>
<tr>
<td>Environment, Communications, Information Technology and the Arts References</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The value of water: Inquiry into Australia’s urban water management</td>
<td>5.12.02</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Regulating the Ranger, Jabiluka, Beverley and Honeymoon uranium mines</td>
<td>14.10.03</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>The Australian telecommunications network</td>
<td>5.8.04</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Competition in broadband services</td>
<td>10.8.04</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>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</td>
<td>8.12.04</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>A lost opportunity? Inquiry into the provisions of the Australian Communications and Media Authority Bill 2004 and related bills and matters</td>
<td>10.3.05</td>
<td>*(final)</td>
<td>No</td>
</tr>
<tr>
<td>Lurching forward, looking back: Budgetary and environmental implications of the Government’s Energy White Paper</td>
<td>14.6.05 (presented 16.5.05)</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>The performance of the Australian telecommunications regulatory regime</td>
<td>10.8.05</td>
<td>-</td>
<td>No</td>
</tr>
<tr>
<td>Finance and Public Administration Legislation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Report on annual reports (No. 1 of 2005)</td>
<td>10.5.05</td>
<td>11.8.05</td>
<td>No</td>
</tr>
<tr>
<td>Foreign Affairs, Defence and Trade (Joint Standing)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Staff employed under Members of Parliament (Staff) Act 1984</td>
<td>16.10.03</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Regional partnerships and sustainable regions programs</td>
<td>6.10.05</td>
<td>-</td>
<td>Time not expired</td>
</tr>
<tr>
<td>Matters relating to the Gallipoli Peninsula</td>
<td>13.10.05</td>
<td>-</td>
<td>Time not expired</td>
</tr>
<tr>
<td>Government advertising and accountability</td>
<td>6.12.05</td>
<td>-</td>
<td>Time not expired</td>
</tr>
<tr>
<td>Near neighbours—good neighbours: An inquiry into Australia’s relationship with Indonesia</td>
<td>15.6.04</td>
<td>8.9.05</td>
<td>No</td>
</tr>
<tr>
<td>Australia’s maritime strategy</td>
<td>21.6.04</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Human rights and good governance in the Asia Pacific</td>
<td>24.6.04</td>
<td>15.9.05</td>
<td>No</td>
</tr>
<tr>
<td>Australia’s engagement with the World Trade Organization</td>
<td>3.8.04 (presented 2.7.04)</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Committee and title of report</td>
<td>Date report tabled</td>
<td>Date response presented/made to the Senate</td>
<td>Response made within specified period (3 months)</td>
</tr>
<tr>
<td>------------------------------------------------------------------</td>
<td>--------------------</td>
<td>-----------------------------------------------</td>
<td>------------------------------------------------</td>
</tr>
<tr>
<td>Expanding Australia’s trade and investment relations with the Gulf States</td>
<td>7.3.05</td>
<td>1.12.05</td>
<td>No</td>
</tr>
<tr>
<td>Australia’s human rights dialogue process</td>
<td>12.9.05</td>
<td>-</td>
<td>Time not expired</td>
</tr>
<tr>
<td>Reform of the United Nations Commission on Human Rights</td>
<td>12.9.05</td>
<td>-</td>
<td>Time not expired</td>
</tr>
<tr>
<td>Review of the Defence annual report 2003-04</td>
<td>11.10.05</td>
<td>-</td>
<td>Time not expired</td>
</tr>
<tr>
<td>Australia’s defence relations with the United States—Report of the Delegation to the United States 28 June to 13 July 2005</td>
<td>11.10.05</td>
<td>Not required</td>
<td>-</td>
</tr>
<tr>
<td>Australia’s free trade agreements with Singapore, Thailand and the United States; progress to date and lessons for the future</td>
<td>7.11.05</td>
<td>-</td>
<td>Time not expired</td>
</tr>
<tr>
<td>Foreign Affairs, Defence and Trade Legislation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A Pacific engaged: Australia’s relations with Papua New Guinea and the island states of the south-west Pacific</td>
<td>12.8.03</td>
<td>1.4.04—Presiding Officers’ response, 10.8.05 (presented 24.6.05)</td>
<td>No</td>
</tr>
<tr>
<td>Voting on trade: The General Agreement on Trade in Services and an Australia-US Free Trade Agreement</td>
<td>27.11.03</td>
<td>8.9.05</td>
<td>No</td>
</tr>
<tr>
<td>Taking stock: Current health preparation arrangements for the deployment of Australian Defence Forces overseas</td>
<td>12.8.04</td>
<td>7.11.05 (presented 4.11.05)</td>
<td>No</td>
</tr>
<tr>
<td>The effectiveness of Australia’s military justice system</td>
<td>16.6.05</td>
<td>5.10.05</td>
<td>No</td>
</tr>
<tr>
<td>Duties of Australian personnel in Iraq</td>
<td>18.8.05</td>
<td>28.11.05 (presented 16.11.05)</td>
<td>Yes</td>
</tr>
<tr>
<td>Mr Chen Yonglin’s request for political asylum</td>
<td>12.9.05</td>
<td>-</td>
<td>Time not expired</td>
</tr>
<tr>
<td>The removal, search for and discovery of Ms Vivian Solon—Interim report</td>
<td>15.9.05</td>
<td>Not required</td>
<td>-</td>
</tr>
<tr>
<td>Opportunities and challenges: Australia’s relationship with China</td>
<td>10.11.05</td>
<td>-</td>
<td>Time not expired</td>
</tr>
<tr>
<td>The removal, search for and discovery of Ms Vivian Solon—Final report</td>
<td>8.12.05</td>
<td>-</td>
<td>Time not expired</td>
</tr>
<tr>
<td>Committee and title of report</td>
<td>Date report tabled</td>
<td>Date response presented/made to the Senate</td>
<td>Response made within specified period (3 months)</td>
</tr>
<tr>
<td>-----------------------------------------------------------------------------------------------</td>
<td>-------------------</td>
<td>--------------------------------------------</td>
<td>-------------------------------------------------</td>
</tr>
<tr>
<td>Free Trade Agreement between Australia and the United States of America (Select)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Final report</td>
<td>5.8.04</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Information Technologies (Select)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>In the public interest: Monitoring Australia’s media</td>
<td>13.4.00</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Legal and Constitutional Legislation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provisions of the Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Bill 2005</td>
<td>16.8.05 (presented 15.8.05)</td>
<td>-</td>
<td>No</td>
</tr>
<tr>
<td>Provisions of the Law and Justice Legislation Amendment (Video Link Evidence and Other Measures) Bill 2005</td>
<td>7.11.05 (presented 1.11.05)</td>
<td>*(final)</td>
<td>Yes</td>
</tr>
<tr>
<td>Provisions of the Anti-Terrorism Bill (No. 2) 2005</td>
<td>28.11.05</td>
<td>-</td>
<td>Time not expired</td>
</tr>
<tr>
<td>Legal and Constitutional References</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Reconciliation: Off track</td>
<td>9.10.03</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Legal aid and access to justice</td>
<td>15.6.04 (presented 8.6.04)</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>The road to a republic</td>
<td>16.11.04 (presented 31.8.04)</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>They still call Australia home: Inquiry into Australian expatriates</td>
<td>8.3.05</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>The real Big Brother—Inquiry into the Privacy Act 1988</td>
<td>23.6.05</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Medicare—healthcare or welfare?</td>
<td>30.10.03</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Migration (Joint Standing)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>To make a contribution: Review of skilled labour migration programs 2004</td>
<td>29.3.04</td>
<td>1.12.05</td>
<td>No</td>
</tr>
<tr>
<td>Detention centre contracts: Review of Audit report No.1 2005-06—Management of the detention centre contracts—Part B</td>
<td>6.12.05</td>
<td>-</td>
<td>Time not expired</td>
</tr>
<tr>
<td>Ministerial Discretion in Migration Matters (Select)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Report</td>
<td>31.3.04</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>National Capital and External Territories (Joint Statutory)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Norfolk Island electoral matters</td>
<td>26.8.02</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>Quis custodiet ipsos custodes? Inquiry into governance on Norfolk Island</td>
<td>3.12.03</td>
<td>7.11.05 (presented 27.10.05)</td>
<td>No</td>
</tr>
<tr>
<td>Committee and title of report</td>
<td>Date report tabled</td>
<td>Date response presented/made to the Senate</td>
<td>Response made within specified period (3 months)</td>
</tr>
<tr>
<td>------------------------------------------------------------------------------------------------</td>
<td>--------------------</td>
<td>-------------------------------------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>Norfolk Island: Review of the annual reports of the Department of Transport and Regional Services and the Department of the Environment and Heritage</td>
<td>3.8.04 (presented 2.7.04)</td>
<td>11.8.05</td>
<td>No</td>
</tr>
<tr>
<td>Indian Ocean territories: Review of the annual reports of the Department of Transport and Regional Services and the Department of Environment and Heritage</td>
<td>16.11.04 (presented 31.8.04)</td>
<td>5.9.05</td>
<td>No</td>
</tr>
<tr>
<td>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</td>
<td>16.11.04 (presented 31.8.04)</td>
<td>15.9.05</td>
<td>No</td>
</tr>
<tr>
<td>Antarctica: Australia’s pristine frontier—Report on the adequacy of funding for Australia’s Antarctic Program</td>
<td>23.6.05</td>
<td><em>(interim)</em></td>
<td>No</td>
</tr>
<tr>
<td>Norfolk Island financial sustainability: The challenge—sink or swim? Native Title and the Aboriginal and Torres Strait Islander Land Fund (Joint Statutory)</td>
<td>1.12.05</td>
<td>-</td>
<td>Time not expired</td>
</tr>
<tr>
<td>Second interim report for the s.206 inquiry: Indigenous land use agreements</td>
<td>26.9.01</td>
<td>10.11.05</td>
<td>No</td>
</tr>
<tr>
<td>Effectiveness of the National Native Title Tribunal</td>
<td>4.12.03</td>
<td>10.11.05</td>
<td>No</td>
</tr>
<tr>
<td>Public Accounts and Audit (Joint Statutory) Corporate governance and accountability arrangements for Commonwealth government business enterprises, December 1999 (Report No. 372)</td>
<td>16.2.00</td>
<td><em>(interim)</em></td>
<td>No</td>
</tr>
<tr>
<td>Access of Indigenous Australians to law and justice services (Report No. 403)</td>
<td>22.6.05</td>
<td><em>(interim)</em></td>
<td>No</td>
</tr>
<tr>
<td>Review of Auditor-General’s reports 2003-04 third and fourth quarters; and first and second quarters of 2004-05 (Report No. 404)</td>
<td>7.11.05</td>
<td>-</td>
<td>Time not expired</td>
</tr>
<tr>
<td>Annual report 2004-05 (Report No. 405)</td>
<td>28.11.05</td>
<td>Not required</td>
<td>-</td>
</tr>
<tr>
<td>Public Accounts and Audit (Joint Statutory) (continued) Developments in aviation security since the Committee’s June 2004 Report 400: Review of aviation security in Australia—An interim report (Report No. 406)</td>
<td>8.12.05</td>
<td>-</td>
<td>Time not expired</td>
</tr>
<tr>
<td>Committee and title of report</td>
<td>Date report tabled</td>
<td>Date response presented/made to the Senate</td>
<td>Response made within specified period (3 months)</td>
</tr>
<tr>
<td>------------------------------------------------------------------------------------------------</td>
<td>--------------------</td>
<td>--------------------------------------------</td>
<td>-----------------------------------------------</td>
</tr>
</tbody>
</table>
| 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 | 7.6.00 *(interim)    |                                            | No                                            |
| Biosecurity Australia’s import risk analysis for pig meat                                      | 13.5.04 *(interim)  |                                            | No                                            |
| Administration of Biosecurity Australia—Revised draft import risk analysis for bananas from the Philippines | 17.3.05 *(interim)  |                                            | No                                            |
| Administration of Biosecurity Australia—Revised draft import risk analysis for apples from New Zealand | 17.3.05 *(interim)  |                                            | No                                            |
| Regulatory framework under the Maritime Transport Security Amendment Act 2005                 | 10.8.05 *(interim)  |                                            | No                                            |
| Rural and Regional Affairs and Transport References  
Rural water use                                                                                 | 12.8.04 *(interim)  |                                            | No                                            |
| Australian forest plantations: A review of Plantations for Australia: The 2020 Vision          | 16.11.04 *(interim) |                                            | No                                            |
| Iraqi wheat debt—repayments for wheat growers                                                 | 16.6.05 *(interim)  |                                            | No                                            |
| The operation of the wine-making industry                                                     | 13.10.05 *(interim) |                                            | No                                            |
| Scrutiny of Bills  
Third report of 2004: The quality of explanatory memoranda accompanying bills              | 24.3.04 *(interim)  |                                            | No                                            |
| Fourteenth report of 2005: Accountability and standing appropriations                           | 30.11.05 *(interim) |                                            | No                                            |
| Superannuation and Financial Services (Select)  
Report on early access to superannuation benefits                                              | 12.2.02 *(interim)  |                                            | No                                            |
| Superannuation (Select)  
Planning for retirement                                                                          | 11.8.03 *(interim)  | 1.12.05 *(interim)                         | No                                            |
| Treaties (Joint Standing)  
Treaties tabled on 7 December 2004 (63rd report)                                               | 7.3.05 *(final)     |                                            | No                                            |
| Treaties tabled on 7 December 2004 (2) (64th report)                                            | 11.5.05 *(final)    |                                            | No                                            |
| Treaties tabled on 7 December 2004 (3) and 8 February 2005 (65th report)                        | 20.6.05 *(interim)  |                                            | No                                            |
Committee and title of report | Date report tabled | Date response presented/made to the Senate | Response made within specified period (3 months)
--- | --- | --- | ---
Treaties tabled on 7 December 2004 (4), 15 March and 11 May 2005 (66th report) | 18.8.05 | - | No
Treaties tabled on 21 June 2005 (67th report) | 12.9.05 | - | Time not expired
Treaties tabled on 7 December 2004 (5) and 9 August 2005 (68th Report) | 7.11.05 | - | Time not expired
Treaties tabled on 13 September and 11 October 2005 (69th Report) | 7.12.05 | Not required | -
Treaty tabled on 9 November 2005 (70th Report) | 7.12.05 | Not required | -

**DOCUMENTS**

**Tabling**

The DEPUTY PRESIDENT—I present the report of the Commonwealth Ombudsman on activities in monitoring controlled operations conducted by the Australian Crime Commission and the Australian Federal Police.

Sensor VANSTONE (South Australia—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs) (3.54 pm)—I table the following government documents:

Parliamentarians’ travel paid by the Department of Finance and Administration for the period January to June 2005

Former parliamentarians’ travel paid by the Department of Finance and Administration for the period January to June 2005

Parliamentarians’ overseas study travel reports for the period January to June 2005

Expenditure on travel by former Governors-General paid by the Department of the Prime Minister and Cabinet for the period 1 January to 30 June 2005

**COMMITTEES**

**Foreign Affairs, Defence and Trade References Committee**

**Report**

Senator LUDWIG (Queensland) (3.54 pm)—On behalf of the Chair of the Foreign Affairs, Defence and Trade References Committee, Senator Hogg, I present the final report of the committee entitled The removal, search for and discovery of Ms Vivian Solon, together with further documents presented to the committee.

Ordered that the report be printed.

Senator LUDWIG—I seek leave to move a motion in relation to the report.

Leave granted.

Senator LUDWIG—I move:

That the Senate take note of the report.

Senator NETTLE (New South Wales) (3.55 pm)—I rise to speak to the report of the Foreign Affairs, Defence and Trade References Committee entitled The removal, search for and discovery of Ms Vivian Solon, and in particular to the contribution to the report by the Australian Greens. The Australian Greens support the findings of the committee in relation to the way in which Vivian Solon was treated by the Department of Immigration and Multicultural and Indigenous
Affairs. We also acknowledge the work of the other inquiries into this matter carried out by Mr Palmer, Mr Comrie and the Commonwealth Ombudsman’s office. The Australian Greens conclude that the unlawful detention and deportation of Ms Solon, her treatment in the care of the department of immigration and the negligent lack of response after the error had been discovered are indicative of a department that is out of control and that is failing the Australian public.

The committee was provided with evidence and Mr Palmer uncovered a series of system failures. However, the case of Ms Vivian Solon indicates more than a series of system faults. It is clear that the prime contributor to the unlawful detention and deportation of Vivian Solon was the system of mandatory detention that sees people locked up first and then, somewhere down the track, questions may be asked about their detention. The other significant contributing factor to the case of Vivian Solon was a culture of suspicion and a lack of discretion and regard for human welfare within the compliance branch of the department of immigration. Mr Comrie summarised this culture by concluding:

It is difficult to form any conclusion other than that the culture of DIMIA was so motivated by imperatives associated with the removal of unlawful non-citizens that officers failed to take into account the basic human rights obligations that characterise a democratic society.

The Australian Greens note that the department of immigration and the government have agreed to implement the recommendations of the Palmer report and the Comrie report and are attempting cultural change. However, we believe that the culture that produced the frightful case of Vivian Solon and numerous other scandals that have come to light is the result of departmental officials wanting to implement the wishes of this government—that is, to be tough on illegals. Until the culture of the government and the policy of mandatory detention and related policies change, the Australian Greens are not convinced that the attempt at cultural change will be successful.

The Greens are in agreement with the recommendations of the committee report, but we have a number of additional recommendations going to issues such as the fact that the powers of arrest, detention and deportation that are vested in the department of immigration officers are the equivalent of those in state police forces, yet the oversight of these powers is virtually nonexistent. State police officers must bring a detained person before a court within hours to obtain consent to continue the detention of the person. The validity of a decision to detain or to deport a person by a department of immigration official is not tested by an authority outside the department of immigration, and a detainee may be detained indefinitely under current legislation.

Various crimes acts, however, detail a series of minimum standards of treatment of prisoners and the rights of prisoners that police must follow. The standards of treatment and the rights of detainees are not detailed in the Migration Act. The Australian Greens’ additional recommendations to the committee report go to this issue—an issue we have raised in the Senate previously, when we have attempted to put in place these requirements and regulations within our Migration Act. The current Migration Act allows for such regulations to be made by the government and indeed a number of Federal Court judges in a variety of cases have called on the government to make those regulations so that it is stipulated if not in the legislation at the very least in the regulations so that the details are there.
The Australian Greens also have recommendations which relate to section 189 of the Migration Act. This is the section about which Mr Comrie noted:

... properly based exercise of discretion in the determination of ‘reasonable suspicion’ constitutes the only protection in the section against indefinite arbitrary detention.

The Australian Greens believe that section 189 of the Migration Act should be amended to ensure that unlawful detention cannot happen again. We recommend that it be amended such that we end the practice of mandatory detention. Until that changes, we will continue to have wrongful detentions. We believe this is the best way to ensure that unlawful detention does not occur again and to ensure an element of humanity is injected back into the immigration system.

We have other recommendations about the way in which this section of the Migration Act could be changed to compel the Department of Immigration and Multicultural and Indigenous Affairs to seek the consent of a court before the expiration of a set time to continue to detain a person. We also make recommendations that detainees be informed of the reason for any medical examination and that medical examinations be conducted with the overt consent of the detainee. We go into some detail about the way in which this operates in other jurisdictions and the way in which this could also operate in the DIMIA jurisdiction.

The callous disregard for Vivian Solon after she was deported from Australia is perhaps the most shocking aspect of her story. The recent revelations about long-term permanent residents having their visas cancelled under section 501 of the Migration Act and being detained and deported to countries that they do not know have also highlighted a disturbing practice. The case of Robert Jovicic raises some parallel issues about the disregard by the Department of Immigration and Multicultural and Indigenous Affairs for human welfare in executing deportations. It also raises the issue of the interaction between the Department of Immigration and Multicultural and Indigenous Affairs and the Department of Foreign Affairs and Trade which was the subject of this inquiry.

The Australian Greens are also aware of and are concerned about reports of cases of failed asylum seekers who have been deported back to countries that they have fled from or to third countries and who have faced renewed persecution and abuse on their return to or arrival in those countries. The department of immigration has stated many times on record that it does not monitor the people it deports. The Australian Greens, in additional comments on this inquiry, recommend that the department of immigration investigate the possibility of identifying deportees at risk after deportation and institute a system whereby the welfare of those deportees is monitored, either directly by Australian government agencies or through third parties such as the Red Cross. We also recommend that the Department of Foreign Affairs and Trade and the department of immigration establish a protocol, including notification and a division of responsibilities between departments, to deal with DIMIA operations that involve the deportation and removal of people who are or were Australian citizens or permanent residents or other people who face potential risk.

Toward the end of this inquiry, I had the opportunity to meet with Vivian Solon in Sydney upon her return to Australia. She was a woman whose eyes told a story and which seemed to be yearning in a way that showed the pain and the sadness of her experience. Her story should be a warning to all of us that human rights and human welfare should always be the priority: the priority of governments and the priority of government de-
partments. Conferring the title of unlawful noncitizen on a person does not excuse any bureaucracy or individual from their responsibility to respect another person’s human rights.

When the parliament makes laws, it must not infringe on the human rights and on the human dignity of Australian citizens. Unfortunately, the current Migration Act and many aspects of it that have been supported by both of the major parties do exactly that. They infringe on the human rights and on the dignity of Australian citizens. It is important that we recall in these circumstances that borders and citizenship are an artificial construction. We should never forget that we are all human beings, and laws that deal with our fellow citizens need to respect this.

Senator BARTLETT (Queensland) (4.04 pm)—I would also like to speak to this report. I thank the secretariat, who had to wade through a lot of information in quite a tight time frame, and also all members of the committee, including the government members, who I felt played a fairly constructive role through a lot of the process. It would be pretty hard to defend the government in the case of Ms Vivian Solon, but I think that, to their credit, the government senators by and large did not run interference, try to discredit everything or set up smokescreens. They allowed the evidence to come out. I would like to see more of that.

A lot has already been said about the Vivian Solon case. This inquiry was set up whilst the Ombudsman’s inquiry into the Vivian Solon case was under way, so we were not able to fully complete the work until that inquiry had finished. That report, which has been tabled in the Senate, tells a lot. I think the committee report should also be looked at, because it adds extra information that is a useful appendix to the Comrie Ombudsman report. To that extent, I think it can play a valuable role in doing whatever is possible to make sure instances like this do not happen again, and that any culture change that we have heard a lot of about in the Department of Immigration and Multicultural and Indigenous Affairs is genuine, rather than just on the surface or piecemeal. I urge the government and the minister to take it on board in that spirit, as they say they have with the Comrie report.

The Ombudsman himself, in giving evidence to this committee as part of this inquiry, stated that his report was about the most damning report into a government department that he thought had ever been produced. Certainly, I back him up with regard to that. This report, therefore, reflects the inexcusable way that Ms Solon was treated and on top of that—and in some ways even more inexcusable—was the refusal to act once the original grievous error had been discovered and instead covering it up or dismissing it. In some ways, I think that is the most disgraceful act of all.

It is very hard to see how the original stuff-up could have been made because there were so many grievous errors and, clearly, the problem of the culture in the immigration department was central to that, along with poor administrative procedures. We then got to a stage where a number of senior figures in the immigration department office in my home state of Queensland found out about this and did nothing. It might be a natural human reaction to try to hide and hope that nobody ever finds out, but I certainly hope that, if I am faced with such a situation, I will not take the easy path out; I will act and try to do what is possible to correct the original grievous mistake rather than compound it, which is what happened in this case. Ms Solon went through an extra two years of unnecessary isolation and exile as a result of that gutless act on the part of those few people.
I think it is important to make sure that we learn the lessons from this and that it is not just seen as an opportunity to embarrass the government, the minister or the department but is taken as a lesson for all of us. I point to the example of Ms Solon because it does emphasise again why the Democrats have been so insistent on the importance of due process, the rule of law and a fair go in all areas of law. As we have repeatedly said for many years, once you allow the rule of law to be pushed aside because of some group of people who are seen to be undesirable for whatever reason, a culture is inevitably generated where it is seen as okay to avoid due process, to go around the rule of law and to make decisions on the basis of the political climate or what is perceived to be a fair enough thing to do as opposed to due process. That is why we opposed mandatory detention when it was first brought in as well as all the many draconian add-ons to that over the following decade.

That is why I and the Democrats have spoken out, voicing concern about some of the current commentary in the media and in this chamber about Mr al-Tekriti, the Iraqi man who is alleged to have been a former bodyguard of Saddam Hussein. He is an easy target. All of us can see how we can score points on that. We heard one of the interjections from the Labor side today towards Minister Vranstone saying, ‘You deport Australian citizens such as Vivian Solon and you let in war criminals!’ That is an easy point to score, but the fact is that Mr al-Tekriti did get due process. He was locked up in Woomera and Baxter for a long period of time. That should not have happened. I believe that people should not be jailed or detained in an immigration detention centre unless there is a clear risk to the security and safety of the community. That has never been alleged with regard to Mr al-Tekriti. He was detained for a number of years, but the evidence about his alleged crimes against humanity was properly examined according to due process through the Administrative Appeals Tribunal and was found to not stack up, so he was given a visa. That took a long time as well, but that is a separate issue. The simple point I want to make is that it is precisely the cases of people like that, who are an easy target and who can potentially have community outrage whipped up about them—people can go around saying he is a war criminal, Saddam Hussein’s lackey et cetera—that can lead to injustices occurring and people thinking it is okay to subvert this inconvenient rule of law.

We have also had recent publicity about Mr Jovicic, a person who had lived in Australia since he was two years old and who was deported in his 30s to Serbia even though he had never been to Serbia and did not speak the language. He has been exiled, potentially for life, from his family here in Australia. That happened under a power in the Migration Act that enables the minister to personally cancel someone’s visa on the basis of character. The reason why that power came in and was voted for by both major parties in this place back in 1998 was that the AAT made a couple of decisions overturning the minister’s decision to cancel a visa on the basis of character. The minister of the day, Mr Ruddock, said: ‘This is unacceptable. The AAT is making decisions that are not in line with community standards, so I am going to amend the act so that I can have the power personally and people cannot appeal.’

As sadly missed Senator Barney Cooney said at the time, the AAT should not be making decisions on the basis of public opinion; it should be making decisions on the basis of the law and the evidence. That is what it did with regard to Mr al-Tekriti. If extra information comes to light and it is found that there is genuine evidence about things that he has done, let us look at it and let us have due
process involved again. I have spoken about another man, Mr Noori, who is still detained in Villawood to this day after more than six years whilst his wife and children have been in the community and become Australian citizens. He is still in detention purely because he was denied natural justice to respond to allegations made against him—anonymous and false allegations based on mistaken identity. That was the finding of the full bench of the Federal Court. The allegations against him were subsequently overturned back at the Administrative Appeals Tribunal. The consequence of the failure to provide due process at the original AAT hearing is that this man is still locked up after six years, even though the AAT has subsequently found that the allegations against him do not stack up and that it was a case of mistaken identity. He has been separated from his children. His children have grown up without him. They are now Australian citizens and this guy is still locked up months after the AAT has cleared him. That is the consequence of a lack of due process.

I am concerned about some of the atmosphere surrounding the al-Tekriti case because the minister now has the power to do the same thing to people like him. Thankfully, the minister has not done it in his case and he got the right to appeal to the AAT, but the minister could have said: ‘I am making a personal decision on the grounds of national interest and national security that there be no appeal.’ The minister could say that to Mr Noori, because he had the same sorts of complaints—which turned out to be false—made about him. The minister could say it about anybody. Those are the sorts of politically driven and culturally influenced decisions of the immigration minister.

There is a culture in the immigration department that we talked about and warned about when that bill went through back in 1998 that leads to these sorts of injustices. These things are all linked. You cannot just say that they are each individual, random accidents or see each of them as a chance to score points. You have to be consistent. That is why we should be consistent with Mr al-Tekriti. That is why we need to consistently point to the problems with Ms Solon’s case, not just because of what she has been through—and that is a disgrace—but because so many other people have been through so many other equally gross miscarriages of justice and gross abuses of process. That is why we have to keep pushing, but we have to stand up for that process when it is inconvenient, when there is not the political point to be scored as well as if there is. I think that is a challenge for all of us, because it is easier said than done. That is a broader lesson I think we need to learn about some of the other contexts as well as the valuable material and information in this report. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

WORKPLACE RELATIONS

Senator WONG (South Australia) (4.14 pm)—I seek leave to make a short statement in relation to tabling some petitioning documents.

Leave granted.

Senator WONG—I have petitions from 1,883 citizens of Brand expressing their strong opposition to the government’s workplace relations changes. I have been advised that a petition from 178 citizens is not in the correct order to be tabled as a Senate petition. However, I understand that a government senator, Senator Humphries, tabled a similar document from his constituents—also expressing concern about the government’s industrial relations changes. I seek leave to table as petitioning documents these petitions from the citizens of Brand asking the Senate and the House of Representatives...
to protect workers’ job security and working conditions.

Leave granted.

HEALTH INSURANCE AMENDMENT
(MEDICARE SAFETY-NETS) BILL 2005
Second Reading

Debate resumed from 11 October, on motion by Senator Sandy Macdonald:

That this bill be now read a second time.

Senator McLUCAS (Queensland) (4.15 pm)—The history of this piece of legislation, the Health Insurance Amendment (Medicare Safety-nets) Bill 2005, is one of shameful deception and fraud. It is one of the most blatant examples of political dishonesty witnessed in the almost 10 long years of this government. It is a story, I am afraid to say, of lies—blatant lies and lies that have been found out. This is the ‘rock-solid, ironclad guarantee’ bill.

The bill makes two amendments which put into place changes to thresholds for the Medicare safety net which will come into effect from 1 January 2006. These changes to the threshold will have the effect of excluding one million people—interestingly called ‘claiming units’—from being eligible for the safety net.

The Medicare safety net policy first came into effect in March 2004. The policy pays a rebate of 80 per cent of out-of-pocket costs for MBS services—that is, out-of-hospital services—for registered participants after a threshold has been reached. Senators will recall that the level at which the thresholds were set became the subject of a series of protracted discussions between the Minister for Health and Ageing and minor party senators, who successfully negotiated for the thresholds to be set at $300 for concession card holders and FTBB recipients and $700 for all others.

The safety net’s genesis is in Minister Abbott’s A Fairer Medicare, which then became Strengthening Medicare. The safety net was the subject of the second inquiry by and report of the Senate Select Committee on Medicare. The majority report said:

The Committee recommends that the proposed safety nets contained in the Health Legislation Amendment (Medicare and Private Health Insurance) Bill 2003 be rejected in their current form.

The committee canvassed a number of alternative options, including reducing the thresholds; amalgamating the existing and proposed safety nets, including the PBS safety net, into a single integrated safety net system; and capping payments within the safety net. The conclusion that the committee drew was that the safety net, as proposed then, could not be adopted because:

... the creation of a new safety net is less critical than reducing health costs to patients at the point at which they need them. It both increases the level of complexity of the system and moves away from a commitment to bulk billing as a sound mechanism for delivering access and affordability.

That was based on the original safety net thresholds of $500 and $1,000—which we are actually moving back to today. The committee said:

At a fundamental level, the separation of the proposed safety net into two thresholds creates classes of winners and losers in the proposed health system that offends the principle of universality lying at the heart of Medicare. The Committee rejected the previous safety net proposal—that is, the one put up by Minister Patterson—on this basis, and has concerns with these ones for the same reason.

Witnesses strongly argued that the introduction of the safety net was contrary to the principles of universality. The committee report said:
The difficulty of this decision was recognised by many witnesses during discussions with the Committee, and a number of respondents who on balance advocated rejection of the legislation was persuasive. These included representatives from key stakeholder groups such as the Australian Consumers’ Association and the Australian Council of Social Services backed by, among others, Professor Deeble, Mr McAuley and Ms Mohle. Mr McCarthy put his and St Vincent de Paul’s views strongly:

The legislation in its present form, even with the proposed amendments, would not even be a bandaid solution to what is a grave national problem. The idea of a safety net is a cruel hoax on those who live in low- to middle-income families.

The committee also heard from the Mt Druitt Medical Practitioners Association, who said:

A safety net is very much like the ambulance at the bottom of the cliff rather than the fence at the top.

Apart from the equity issues identified by the committee, the inflationary effect was also recognised. I quote again from the committee report:

However the more significant impact of a system which includes uncapped out-of-pocket benefits exhibits the potential for a relaxation in price discipline by doctors, whereby prices rise under the belief that an uncapped safety net guaranteed by government will be there to catch patients with high costs or needs.

They are the reasons that the select committee of inquiry opposed the safety net in its original form — and, I must say, in principle.

Back in February 2004, Labor warned of the deception that the government was perpetuating on the Australian public. We knew that the policy undermined the principles of Medicare and was potentially inflationary — and we were proved to be right — and we knew, particularly after the thresholds changed, that it was unsustainable. However, it came into effect in March 2004 with thresholds of $300 and $500.

The policy became the centrepiece of the government’s Strengthening Medicare campaign, which involved extensive advertising across all media, from March to June. This campaign was built on the previous minister’s A Fairer Medicare package, and it cost $20 million. The government at the time said that this enormous expenditure — $20 million — was required to explain people’s entitlements to the safety net, which included the thresholds of $300 and $500.

But the policy was only in place for a very short time before serious concerns emerged. Within the first three-month period, the cumulative number of families and singles which had registered for the safety net had reached half a million people, while the first signs of a cost blow-out emerged as actual safety net expenditure outgrew the estimated expenditure by 40 per cent. Although monthly expenditure data was not available to the Department of Health until the following month, Senate estimates have confirmed that the department, which was regularly briefing the minister, would have known of this blow-out by mid-July.

By September, it was not only the Labor Party that was sceptical of the sustainability of the safety net. Journalists too were twigging to what we had been saying. This is the classic interview: Four Corners’ Ticky Fullerton interviewing the Minister for Health and Ageing on 6 September 2004. Ticky Fullerton asks:

Will this Government commit to keeping the Medicare-plus-safety-net as it is now in place after the election?

Mr Abbott replies:

Yes.

Ticky Fullerton asks:

That’s a cast-iron commitment?

Mr Abbott replies:

Cast-iron commitment. Absolutely.
Ms Fullerton:

80 per cent of out-of-pocket expenses rebat-
able over $300, over $700?

Mr Abbott said:

That is an absolutely rock solid, iron-clad commitment.

On 16 September, the Minister for Health and Ageing had a doorstop interview here in Canberra, and he said:

I absolutely guarantee that the safety net, as the government has put it into operation, will continue. I absolutely guarantee that ... The MBS is not a budget-limited, bureaucratically con-
trolled program; it’s a demand driven patient pro-
gram.

Mr Abbott gave in September his rock-solid, iron-clad guarantee, and it is our contention that, already, by that stage, he knew that it could not be sustained.

Throughout this period, Minister Abbott, along with other senior ministers, denied the existence of a blow-out in the cost of the safety net, and throughout the election period this denial continued. During the election, though, two incidents confirmed that the Medicare safety net was flawed policy. The first occurred on 16 September 2004, when the minister conducted a doorstop to release safety net data by electorate. This data re-
vealed that rebates paid under the safety net were heavily skewed in favour of high-
income electorates and, in particular, those held by Howard government frontbenchers. Similarly, it confirmed that those with lower incomes and less ability to undertake discretion-
ary spending in health were getting little benefit from the safety net.

The second incident was the release of the up-to-date costing of the policy under the Charter of Budget Honesty process. This costing was requested by Labor as a result of nominating the policy as a saving to redirect to Labor’s own health priorities. This docu-
ment revealed that the cost of the policy for the four-year forward estimates from 2004-
05 to 2007-08 had almost doubled, from $650 million to $1.2 billion dollars.

By the end of September, the deception was evident. But the government’s political timing was perfect. Trying to explain issues of sustainability, the blow-out of health costs, the inflationary effects of the safety net and the fundamental inequity of the two lev-
els of the safety net in the middle of an elec-
tion campaign was plain impossible. And so, again, Prime Minister Howard and his health minister escaped scrutiny at the relevant time.

In April 2004, however, the Prime Minis-
ter announced that the safety net would be cut. During that time, Minister Abbott was away on leave and not able to respond to criticisms that he had campaigned on a lie, particularly after giving that rock-solid, iron-
clad guarantee during the election that the safety net would not be changed. I do find it very interesting that we had to spend $20 million in the first round of the safety net— $20 million to explain to the Australian community who was going to be eligible and how they would become eligible. Not one cent was spent by the government on telling everybody that their thresholds would rise from $300 and $500 to $500 and $1,000. All of a sudden, it was not important for people to understand that they would not be eligible until their out-of-pocket costs—certainly in the instance of the second threshold—had doubled, and almost doubled for the lower safety net threshold.

Late on the Tuesday night prior to health estimates some months ago, an answer, which was extraordinarily late, to our ques-
tion on notice about eligibility for the revised safety net was received—the night before health estimates. In fact, I think it was 9:20 pm on the night previously, when I, certainly, was not at my computer. So, the night before,
the department came clean and told us that there were going to be one million Australians who would have received support and assistance under the lower safety net thresholds; finally, they told us that there were one million people who would miss out. But, given the deception, the evasion and the lack of transparency, why was I not surprised that that question was so late in being answered—so late that it was almost impossible, in fact it was impossible, to follow up those answers on the Wednesday, the day of estimates? I put on notice that if this government continues to treat Senate estimates in that way, our Senate estimates process will be severely diminished.

The answer shows that one million Australians who would have been eligible under Mr Abbott’s ‘rock-solid, ironclad guarantee’ safety net thresholds will now miss out. What is even more galling is that 800,000 of these Australians are concession card holders. They are pensioners, people with disabilities and the elderly. Two hundred thousand of those people who will miss out will be people who are eligible for the higher threshold, but by and large—due to the nature of those people who become eligible—they will be families with large numbers of children. That is exactly what the Senate Select Committee on Medicare said would occur.

We knew that the thresholds as changed were unsustainable; we knew that there would be an inflationary effect on specialist fees, and that was proven to be the case particularly with obstetrics; we knew they were inequitable; and we knew that they undermined the fundamental principle of universality in Medicare. The answers received on the night before the supplementary budget estimates this year make it absolutely clear that Minister Abbott was acutely aware of the blow-out long before September, when he made that guarantee. As I said, this is a story of deception and fraud. We know that the original safety net offends the principle of universality—

Senator Coonan—Mr Acting Deputy President, I rise on a point of order. The words ‘deception and fraud’ do reflect adversely on the minister. I have been listening very carefully to the senator’s contribution, and I realise that it is appropriate that there be a degree of latitude in these things, but I think it is getting a bit close to the bone.

The ACTING DEPUTY PRESIDENT (Senator Marshall)—Thank you, Minister. I was somewhat distracted. Senator, would you care to withdraw those comments?

Senator McLucas—I used the terminology carefully, I thought. I was referring to the story being one of deception and fraud. But if it is offensive I will certainly withdraw.

The ACTING DEPUTY PRESIDENT—As long as it was not directed at the minister.

Senator McLucas—I tried very carefully not to direct my language at the minister. I was talking of the story.

The ACTING DEPUTY PRESIDENT—Thank you, Senator. Proceed.

Senator McLucas—Thank you, Mr Acting Deputy President. As I said, we knew the original safety net offended the fundamental principle of universality. We knew the original proposal was inequitable, and we knew that it was going to be inflationary. We knew that the lower thresholds were unsustainable, as did the minister. Now we know for sure.

As I said, Minister Abbott knew probably as early as June in 2004 that the safety net had blown out, but he hid that information from the electorate. It is evident that not only Minister Abbott but also other members of the cabinet knew of the blow-out—the unsustainability of the $300 and $500 thresh-
olds. But it was an election year. It was more important to hide the information about the blow-out, so as not to scare the voters, than to come clean. The government knew before the election that the safety net thresholds would have to change. But the last thing they wanted was for the voters to know. They knew that, if one million Australians knew that they would be missing out on the support through the Medicare safety net, they might reconsider their vote. So this government kept that information from the community in order to protect their electoral standing. I move:

At the end of the motion, add:

“but the Senate condemns the Government for:

(a) its deceit and failure to come clean about what was known and when about the safety net blow-out;

(b) its inaction on the policy prior to the election even though the relevant Ministers were advised of the cost blow out;

(c) the decision to proceed with a $20 million Medicare advertising campaign prior to the election, even though the cost of the safety net was already blowing out;

(d) the policy’s inflationary effect on specialist fees;

(e) the policy’s bias toward high income earners who have a greater capacity to undertake discretionary health spending;

(f) the failure to release on an ongoing basis Medicare Safety net data by electorate (this has only been released once during the 2004 Election); and

(g) the ongoing fiscal unsustainability of the policy and its continuing growth in cost”.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (4.34 pm)—The Health Insurance Amendment (Medicare Safety-nets) Bill 2005 continues the government’s record of directing health dollars to those who least need them. As we all recall, the extended Medicare safety net was a central plank in the government’s Medicare Plus policy back in 2003. After a long and protracted negotiation process, that policy came into effect in March last year. The Democrats were very disappointed with the package. We had been pushing the government for a fairer policy which could have been put in place for the same cost.

The Medicare Plus package, including the extended safety net, was a short-term fix and it did not get our support at the time—just as these changes will not get our support now. When it was first proposed we argued, along with many others, that the safety net policy was unfair and inflationary. Now we know that was the case. The Prime Minister told ABC radio in April this year that the cost, with no change to the thresholds, would have been $1.65 billion over the next four years. That is exactly four times the original estimate.

In what is supposed to be a universal health care system, the safety net policy created two levels of access to health care: one for concession card holders and family tax benefit B recipients and one for other Australians. The safety net policy was guaranteed to drive up provider costs, which would then be passed on to consumers. Of course, that is what happened.

Health costs have risen at almost double the rate of CPI, and Australia is now spending more on health than the OECD average, where we were once firmly positioned. It makes perfect sense that, if safety net benefits are uncapped, there are no signals to rein in charges and no encouragement for doctors to stick to the scheduled fee. If a specialist decides to charge two, three, four or even 10 times the scheduled fee for a procedure, once the patient has reached the safety net threshold 80 per cent of the costs are covered by
the safety net, regardless of how unreasonable the charges are.

As was pointed out in the dissenting minority report on this legislation, an article in Business Review Weekly earlier this year reported that the government’s election policies were expected to give a boost to the earnings of listed health service companies, including radiology and pathology companies, fields where Medicare payments have increased by 11 per cent and eight per cent respectively, while for ophthalmology they are up by 13 per cent and for obstetrics, 80 per cent. And, of course, the Australian Institute of Health and Welfare’s figures for 2004 show that it is individuals, not the government or private health funds, that are covering these increasing costs.

The AIHW report shows that, in comparison to citizens of other Western countries, Australians are personally taking on a bigger share of overall health spending. Over the last decade, spending on health by individuals has risen from 17 per cent to 20.3 per cent—and this does not take into account this year’s 20 per cent rise in prescription drug copayments. Over the same period, the percentage of health spending borne by health funds has dropped by a third. It is no doubt true that raising the thresholds for the safety net from $306.90 to $500 for concession card holders and families in family tax A category and from $716.10 to $1,000 for everyone else from January next year will make it more difficult for some people to qualify and will save the government $500 million over four years. It saves money too by pushing out the date for starting the indexation, from 2005 to 2007. But it will not do anything to address the long-term structural problems with the safety net approach. There are still no price signals in the system and, more importantly, that means that more people will be denied assistance in meeting those out-of-pocket costs.

How many people will be affected by this change? According to the Department of Health and Ageing, one million fewer people will qualify for these new higher thresholds, and the Australians who will miss out will be those living in rural Australia, those living in regional towns or outer metropolitan areas or those on low incomes. For the wealthy, an extra $200 or $500 will not be difficult to find. They will still be able to afford health care and they will still get to the higher thresholds and then get some financial assistance from the government. But, for many individuals and families, another $200 or $500 means they may have to trade off other essentials in order to get the health care they need, or go without.

It is well known that the less wealthy in our community also have the poorest health. The Public Health Association of Australia, in their submission into the inquiry into these changes, noted:

… when individuals don’t access health care early because it’s too expensive, untreated conditions can worsen or become chronic, leading to increased long term medical costs. People who have their health needs met, when required, are less of a burden on the health system and save extensive hospital costs from untreated or poorly treated conditions.

Stopping people on low incomes and with chronic health care needs from accessing the safety net may indeed save the government some money in the short term but, as I think that quote points out, it will only cost more down the track. Not only is the safety net policy inflationary and unsustainable but it is also inequitable. This policy delivers more money and more benefits to the health consumers who can most afford high specialist fees. Eighty per cent of safety net costs are generated by specialists, and an article in the Australian Journal of Primary Health last year stated:
The safety net provisions will be invoked more quickly when specialist medical practitioners, diagnostic imaging services and pathology are required. Average co-payments are two or three times higher for specialist medical practitioners than for GPs.

The ABS survey of household expenditure shows that spending on medical care and health tends to be substantially higher for households with a higher net worth, accounting for 2.6 per cent of expenditure for households in the lowest fifth of household income and 6.7 per cent for households in the highest fifth of household income—in other words, the people with more discretionary income, who can sustain the high out-of-pocket costs, can afford to have treatments until they reach the safety net thresholds, at which point the government will be picking up 80 per cent of the costs. After all, if you cannot afford to pay the specialist fees, then you will not get to the threshold and qualify for the 80 per cent rebate.

The government’s own figures released last year showed not only that more people living in well-off areas qualified for the safety net but that the amount of rebate they claimed was much greater. In fact, people in some wealthy areas had claimed more than 12 times the level of safety net rebates than people in some lower income electorates. Thirty per cent of the population accesses 21 per cent of Medicare funded GP services. It is true that living in a wealthy electorate does not necessarily mean you are wealthy, but, on average, people in wealthier electorates are better off than those in less wealthy electorates. The government has tried to run the line that it is Australians most in need who are benefiting from the safety net, but this is clearly not the case.

I would also like to take this opportunity to highlight the ongoing discrimination against same-sex couples and their families which exists within the safety net legislation. Couples and families with substantial out-of-pocket medical costs are disadvantaged by the way the safety net is calculated on the basis of a definition of a family unit which only includes married or de facto heterosexual couples and their children. This means that same-sex couples are treated as two individuals with two individual safety nets. Similarly, the families of same-sex couples are disadvantaged, as the children are treated as family members of only one of the parents. That means that the medical expenses of one family member are not counted towards reaching the family’s safety net threshold. As over one-third of the submissions to the Senate inquiry into this legislation pointed out, this is unjust and unwarranted. We will be moving an amendment to fix this discrimination so that same-sex couples and their families have the same access to the safety net provisions as others.

Of course, all people who need specialist care or diagnostic services should be able to access them with minimal gap payments and out-of-pocket expenses. There should be no need for the government’s so-called safety net for anyone. As Professor Stephen Leeder pointed out in his submission to the inquiry into the legislation:

The Medicare safety net is a response to a system failure—a failure to exert price control.

His submission also said:

By subsidizing private health insurance as a means of ‘taking pressure off the public hospital system,’—so-called—

… the current federal government ceded control over a portion of health care costs.

Unsurprisingly, these costs rose, and to help citizens meet them … a safety net was introduced. There followed an ideological boon as well. By associating the term ‘safety net’ with ‘Medicare’, the hoary problem of Medicare’s universality could at last be thumped. Come now the day when the whole of Medicare might be called a
safety net, catering only for the needs of those who cannot afford to buy private care.

So, by moving away from supporting a publicly subsidised health care system with universal coverage, medical and hospital costs have increased out of control, and the government’s response to this has simply been to introduce a policy that encourages providers to increase their fees rather than helping keep those fees under control. There are many examples of government moves away from an equitable approach to health care and towards a user-pays system with special arrangements for the most disadvantaged.

One only has to look at the increasing use of copayments and special bulk-billing arrangements for specific groups to see we are heading for an American style system. There are alternatives, of course, to this approach. The government could have looked at capping payments under the safety net for certain procedures, thereby encouraging those providers to keep their charges down. Better still, the government could have spent the billions of dollars spent on the safety net on policies that would have provided equal health services for all Australians. It could have put those funds into the public health system via more funding for community health centres—in my view, that is the best way to encourage integration of services—or funding for specialist outpatient clinics or extending Medicare to midwives and allied health care providers, just to name a few alternatives that would have made a real difference. Those alternatives could have been targeted to areas of greatest need—that is, those parts of Australia that get less than their share of the Medicare dollar.

The government has not made its decisions based on good public policy or good health policy but on the basis of a desire to change the nature of Medicare and to control a cost blow-out that is in large part its own fault. This bandaid solution is poor public policy, and I predict this will not be the only change that will be made. Australians, we know, want a high-quality, publicly funded health system. Every time there is a survey asking this question, a publicly funded health system comes up tops. The coalition’s constant refrain that Medicare has no better friend than the Howard government has no credibility when it continues to fail to deliver a comprehensive, integrated health care system for all Australians.

Senator FIELDING (Victoria—Leader of the Family First Party) (4.47 pm)—The Health Insurance Amendment (Medicare Safety-nets) Bill 2005 breaks one of the federal government’s major commitments at the last federal election when it said it would keep the lower safety net thresholds. Breaking major promises—and so soon after the election—reinforces people’s low regard for, and distrust of, politicians and the political process. The government has tried to justify this massive breach of trust on the basis of cost. The Minister for Health and Ageing, Tony Abbott, has said costs would have increased from $440 million to $1.4 billion over four years. But the government knew the costs were increasing before the election.

The government’s broken election promise means one million Australians, mostly low-income families and individuals, will be worse off, as they will miss out on qualifying for the safety net next year. When combined with the increase in the Pharmaceutical Benefits Scheme safety net thresholds, families and individuals will face significantly increased health costs. Using copayments to shift costs to patients means that money goes from what one person called the unhealthy unwealthy to the healthy and wealthy. That is not what Medicare should be about.

The Department of Health and Ageing told a Senate estimates committee that, because of these changes, 800,000 concession
card holders will miss out on the safety net and another 200,000 patients on the higher threshold will also miss out. Many of these one million Australians are families living in outer suburbs and regional areas, surviving from week to week and doing their best to raise children, pay the bills and keep afloat. It is also important to point out that, because of indexation, families and individuals eligible for the lower threshold will have extra costs of $185. Those eligible for the higher threshold will have to fork out an extra $264. When you consider that the average total out-of-pocket cost per person for non-hospital Medicare services in 2004-05 was about $266, you can see many families will get no relief from the safety net. So how will this work in real life? Currently, once you have visited your GP 13 times, you become eligible for the safety net subsidies. Thanks to the government’s broken promise, you will have to visit your GP a total of 22 times before getting any cash relief from the safety net. For those on the higher threshold, it means an increase from 31 to 44 GP visits.

The Australian Consumers Association pointed out that those hardest hit will include people with chronic illness because people with chronic illnesses incur medical costs slowly and steadily over the year, while wealthier families can reach the higher threshold quickly with just a single bill from a private obstetrician. It is vital that we improve Medicare, because we all need good health services. But all the government has done is shift more health costs to those who can least afford it. The government has broken a major election promise, and one million Australians will be worse off because of it.

Senator NETTLE (New South Wales) (4.51 pm)—The Health Insurance Amendment (Medicare Safety-nets) Bill 2005 raises the threshold for the extended Medicare safety net scheme from $300 to $500 for concession card holders and from $700 to $1,000 for all other individuals and families. Once the threshold is reached, patients are entitled to reimbursement of 80 per cent of their out-of-pocket expenses in that calendar year—that is, expenses over and above the usual Medicare rebate.

This bill is a broken election promise. But worse than its being a broken election promise is the damage that this bill will cause to Australia’s health care system. This bill is another major step away from an inherently fair and universally accessible Medicare system. It is another ideological stepping stone to where this government wants to take Australia—to an American style user-pays medical system that is expensive and inefficient for the public, and favours the wealthy, along with the health care and insurance providers from the big end of town.

Mr Tony Abbott’s ‘rock-solid, ironclad guarantee’ must now be added to the list of hollow promises that this government will roll out—particularly before an election, when it wants to appear to guarantee something to voters but in fact knows that it cannot keep its word. Over the decades we have seen broken election promises from both the coalition and the ALP; however, this example should justifiably go down as among the most shameful. Surely the ‘rock-solid, ironclad guarantee’ given by Mr Abbott comes as close as you can get to a contractual commitment to the public without actually signing on the dotted line. The Greens believe that the Australian voting public deserve better than this.

Nevertheless, this broken promise ultimately amounts to something of a sideshow to the fundamental health care issue that is at stake here—that is, the further erosion of Medicare as an equitable and universal health care system. This is illustrated by the
government’s consistent refusal to listen to the great many warnings about the inflation-ary effects of the Medicare safety net. It has ignored the inequitable result of the two-tiered system that the safety net creates. It has also ignored the warnings that an equitable Medicare system would be further eroded by threshold rises such as those that are in this bill.

Medicare is primarily funded by Australia’s progressive taxation system. This approach is inherently fair because the cost burden is spread equitably throughout the population and payments for health care are relative to earnings. On the other hand we have the system favoured by this government which focuses on copayments and private health insurance, which are regressive, because payouts are the same for rich and poor alike. The rich can easily meet the costs associated with this approach, whilst others struggle to meet the financial burden. This Medicare safety net makes things even worse. The rebate is paid out to patients once they hit the ever-increasing threshold, and it is clear that it is the rich and the wealthy who will most likely make it to these levels.

In submissions to the Senate Community Affairs Legislation Committee looking into this bill, several organisations, such as the Australian Consumers Association, pointed out that this safety net disproportionately benefits those who see the top shelf private specialists and can access expensive out-of-hospital medical treatment, such as diagnostic scans, where the gap between the scheduled fee and the fee charged is at its highest.

There is a lot of quality evidence that supports the importance of universality in relation to Medicare. Gordon Gregory, the Executive Director of the National Rural Health Alliance, before the committee looking into this bill rated Medicare’s universality as its most important principle, and the Australian Greens agree. We have had much debate recently in this Senate about the need for universality in telecommunications. The same principle applies to health. Universality benefits us all, particularly in regional areas. The National Rural Health Alliance points out that where there is no doctor in rural areas of this country there is no access to Medicare, and in such places there is therefore absolutely no value whatsoever in having the Medicare safety net.

To further illustrate how these safety nets and their rising thresholds erode the concept of universal health care, I am reminded of why the notion of safety nets was rejected in the past. In the report of the second Senate Select Committee on Medicare it was stated:

One of the key objections to the— safety net— proposal from the outset was the lack of universality inherent in its design. By delineating between those eligible for a $500 threshold, as opposed to those eligible for $1,000, the concept of universal access is eroded; there fails to be a universal bar above which Australians are able to seek assistance. This represents a practical and philosophical direction of great concern to the Committee.

The report also stated:

A comprehensive system which guarantees access regardless of income and circumstances, largely negating the need for safety net, was a very popular option.

The committee went on to report that, in contrast to a fully universal Medicare system facilitated through the bulk-billing of all service users, these targeted safety nets:

... will always disadvantage some health care consumers, and require considerable bureaucratic resources and infrastructure in order to be maintained.

Such concerns are confirmed by the government’s requirement for this bill. Another point that transcends the appalling broken promises of the Howard government in rela-
tion to this bill is this government’s choice to consistently ignore the widespread warnings of the inflationary effect of the safety net scheme. The government was very clearly warned by seemingly everyone—health experts; health economists; the community through reports; the media; and the public, through the many submissions to past Medicare inquiries—yet it simply chose to ignore the evidence.

The concept is a simple one. With the implementation of safety nets, doctors—and, even more so, specialists and other practitioners, who already charge well in excess of the scheduled fees—are effectively encouraged to increase their fees and, therefore, the gap payment, as they are aware that the patient will be responsible only for 20 per cent of any excess. The safety net is essentially an open-ended, uncapped subsidy for the cost of medical treatment. Just like the private health insurance rebate, it is a perfect invitation to raise costs without guilt and an efficient recipe for health cost inflation. The Greens are among those that strongly warned of this inflationary effect. Last year I said in the Senate that this safety net was inflationary, was expensive and would encourage higher fees. As predicted, the result was severe health care inflation.

Out-of-pocket expenses have increased by 9½ per cent over the six-month period to June of this year and the average up-front payment is now $24.61 per medical visit, up from $21.02 last December. For some specialists the figures are quite astounding—the average out-of-pocket cost for obstetrics has increased by an incredible 151.8 per cent in the period from March 2004 to March 2005, and rebates for obstetricians have increased by 62 per cent from the first quarter in 2004 for the same period in 2005. There is a similar story in pathology. The latest figures show a 22.5 per cent rise in the number of pathology services ordered in the month of August this year when compared to the same month of last year. This created a 24.4 per cent jump in benefits paid, and is a good example that simply cannot be written off by reference to rising costs from advances in medical technology. Professor John Deeble correctly states that such a sudden rise in the ordering of specialists must be attributable to this Medicare safety net.

The total amount Australians spend on health care continues to grow faster than the rest of the economy. The latest figures from the Australian Institute of Health and Welfare show that in 2003-04 total spending on health care grew by $6 billion a year to more than $78 billion—that is an incredible $3,919 a year per person. These figures should be of serious concern, but there is absolutely no indication that this government is moving to change its direction to address this. In this legislation there is no serious solution to addressing inflationary health costs. This rise in thresholds is simply not good enough.

While the government initially anticipated that around 450,000 individuals and families would qualify for the safety net scheme, in fact 650,000 people qualified in its first few months. In the Department of Health and Ageing budget statement on March 2004, the cost of the revised scheme with the $300 and $700 thresholds was estimated to be $440 million for the four years from 2004-05 to 2007-08. The last estimates from the Prime Minister in April of this year said the actual figure would be closer to $1.4 billion over the same four-year period. This is a huge discrepancy of just under $1 billion. It must be noted that both these figures are government estimates—they are figures that presumably originate from the same department—and they represent an incredible blow-out.

We now know that before the last election the departments of Treasury and finance rec-
recognised the cost blow-out after detailed cost analysis of the safety net policy. This was confirmed in Senate estimates hearings. Minister Abbott claimed he was not told about this at the time and that this was the basis on which he was consequently able to give his rock-solid, ironclad guarantee with some kind of clear conscience. The government continues this denial based line of reasoning to recent times. As predicted by the experts, and as the Greens have repeatedly said, this scheme was faulty from the outset, yet this advice was deliberately ignored and—surprise, surprise—the dire predictions of a runaway cost blow-out came true.

This current version of the Medicare safety net scheme was introduced in March 2004 as part of the MedicarePlus package. This was after considerable debate and compromise with Independent senators—a discussion heavily influenced by concern that the original thresholds were just too high. The thresholds of $500 and $1,000 were considered too much for the poorest Australians, and this point was particularly pushed home by those working at the coalface of poverty alleviation. For example, the St Vincent de Paul Society stated in the second Medicare committee report:

The ludicrous implication that low- and middle-income families have a spare $500, much less a spare $1,000, available for emergencies seems to show either a total disregard for the five million or so Australians in this deprived situation, or a total lack of understanding of the struggle that they have to make ends meet.

Francis Sullivan from Catholic Health Australia called the threshold rise the equivalent of a $200 a year health tax, which is a cruel blow for poor individuals and families. Combining this with the forever rising out-of-pocket health spending as shown by the latest figures from the Australian Institute of Health and Welfare, you have a double whammy for the poor. In stark contrast, we can deduce from Mr Abbott’s figures released last year that there is a clear correlation between high safety net usage and higher income electorates. To put it simply, these figures show that the system clearly favours the rich. Furthermore, figures from the Department of Health and Ageing provided in estimates hearings show that one million people are expected to be negatively impacted by this legislation, with by far the majority being those on welfare or from lower income families.

For these reasons and from the detail that is outlined in the dissenting report, the Australian Greens will not support this bill. The Greens have a very different vision for Australia’s public health system. We regard access to health care as a human right rather than a privilege. We believe all Australians have a stake in a strong public health system. We cannot support the current two-tiered system that has one standard for the rich and another for the vulnerable.

The Greens would scrap the safety net and get on with the task of genuine systemic health care reform. We would instead invest in a universal public health system that would provide public health benefits for all Australians. For example, the Greens would increase focus and spending on preventative health care. The state and federal governments could do this by investing more in community health centres where salaried doctors can practise with other health professionals. This would be particularly helpful in rural and regional areas by providing professional support and reducing the costs of establishing and maintaining a private practice. This sort of model would also attract doctors who wish to work part time. Such measures would require genuine investment in public health care as well as genuine health care cost controls to ensure that people get the health care they need rather than the health care they can afford.
Senator HUMPHRIES (Australian Capital Territory) (5:05 pm)—In speaking to the Health Insurance Amendment (Medicare Safety-nets) Bill 2005, I obviously cannot pretend that the government is comfortable with the fact that it has to put forward legislation today in this place that has the effect of raising the thresholds for the safety nets which were introduced in the last parliament. It has introduced the concept of safety nets as an important innovation in Australian health care with an eye to addressing the bottom line in the problem that many Australians face in accessing high-quality health care—that is, the total cost to a person’s purse or wallet of accessing health care in a variety of forms, except, of course, for hospital care.

I will come back in a moment to talk about the alternatives that have been explored by Australian governments present and past in addressing the question of the total cost of health care and managing an inflation rate of health care which is in excess of the inflation rate for goods and services generally in our community. This attempt at addressing that problem is one that we feel is an important development in guaranteeing affordability of Australian health care to the community. We feel that, although the thresholds for accessing the safety net necessarily have to rise in order to contain the cost of the scheme, nonetheless it remains a vitally important part of ensuring fair access to high-quality health care in this country. Obviously, the threshold rises to $500 for concession card holders and $1,000 for non concession card holders in any given year.

The safety net was a bold new experiment when it was introduced in, I think, the first half of 2004. It has become a very important part of the way in which Australians now interact with their health system. As of September this year, there were four million Australian families who had registered for access to the safety net. Given that individuals do not need to register for the safety net, it is reasonable to expect that the overwhelming majority of Australians either have present access or can without much difficulty obtain the access they need to that safety net. The enormous take-up of the safety net, despite the intense criticism levelled at the idea from those opposite, is testament to how quickly and fully the Australian community has understood the value of a safety net.

Governments have made a number of attempts over the years to contain the bottom line cost to the hip pockets of Australians. They have acknowledged that governments, through taxes, pay for a large part of the cost of health care. They have also acknowledged that there is some necessity for the Australian community, in addition to that, to contribute to the cost of health care through a system that operates a form of price signals. Governments generally have acknowledged that that element of any health system is important.

The Hawke-Keating government introduced Medicare as its response to that particular problem. One of the features of Medicare was the promotion of the concept of bulk-billing. The idea of bulk-billing is that if a doctor bulk-bills then at least the costs associated with a visit to the doctor would be reduced to a point where, through bulk-billing, the patient would have to make no contribution to that particular visit. That theory of minimising the cost of the health system was advanced as one of the important foundation stones of Medicare. At least, it has been retrospectively. For a number of years, the number of doctors in Australia who bulk-billed rose. However, it is important to remember that for at least the first five or six years of Medicare’s operation in Australia the majority of Australian doctors did not bulk-bill. The figure of the majority of...
Australians bulk-billing, as I recall, was only achieved after five or six years of Medicare and only reached its zenith some 10 to 12 years after Medicare had first been introduced, which was at a rate, as I recall, of around 80 per cent. It has fallen back since then. The government has taken steps to attempt to push that figure higher, and it has had some success in recent years in doing so.

But I want to make the point that bulk-billing as a device to minimise the out-of-pocket costs for Australians who access it is only as good as one’s access to a bulk-billing doctor. If you live in a part of Australia where bulk-billing doctors do not exist; if you live in a community where the bulk-billing doctors, if any, do not actually have any spaces on their books to admit new patients; or if you prefer, for the sake of the quality of the care that you wish to receive, to not access the doctor who bulk-bills in your community then you will not be able to take advantage of that device to minimise your out-of-pockets costs. That is the first weakness in the argument of those who emphasise that bulk-billing is the only way to provide for affordable Australian health care.

The second problem is that bulk-billing only deals with the costs that you incur with the doctor. That generally means a GP. There are many medical specialists whom Australians consult who do not fall into that category and, as we know, the rate of bulk-billing among doctors other than GPs is notoriously low. So with regard to those sorts of costs under a regime that emphasises bulk-billing as the one way of preventing Australians being out of pocket and of having unaffordable levels of health costs, it is at that point that the system fails.

As I have said, there is a problem of geography and not being able to access bulk-billing doctors in a particular part of the country and the fact that we have never had universal access to bulk-billing. Never at the very highest level of ‘success’ of Medicare have we had universal access to bulk-billing. So you have to view bulk-billing as an imperfect tool to minimise or to reduce to nothing the out-of-pocket costs that a family or individual might face in accessing health care.

Others have suggested that the safety net that really needs to exist is high-quality hospital services and that as long as you can get to an emergency department somewhere with a particular crisis then the system does not let anybody fall through the cracks. Of course, emergency departments in public hospitals are a free service to the user. But that overlooks the fact that that particular model, whereas it might be free, is a very imperfect device for providing continuity of high-quality health care. It is, as the name implies, an emergency facility, not one for continuous and sustained access. The fact is that, even when bulk-billing was at its peak a few years ago, there were still significant costs being borne by hundreds of thousands—indeed, millions—of Australians for which the health system had no remedy or answer. It simply had no answer.

That is why this government has introduced the concept of safety nets. The simplicity and the genius of this concept is of course that it says that, irrespective of how you access the health costs and irrespective of when in the year they build up or the nature of those costs, as long as they are costs associated with the provision of health care and they are out-of-hospital costs then they are eligible to be covered under the safety net. When a person is not eligible for concessionary treatment but they reach $1,000 in out-of-pocket costs in the course of any given year, from that point on 80c out of every dollar that they spend is recoverable, and their costs amount to one-fifth of what they had previously been until that point.
That of course does not cover the totality of one’s health costs, but it is a very important device to prevent the burden of health care on those individuals and families who experience that situation from becoming intolerable. Members opposite in their sustained criticism of the safety net arrangements have, I think, failed to acknowledge that very important point. None of the alternatives provide Australians with a device to draw a line under the costs that they might incur for their health care. No-one has yet devised a way of being able to get those specialists to deliver their services through bulk-billing. Of course, there are other costs, such as pathology costs and so on, which can be very substantial and which are simply not covered by the concept of bulk-billing.

As I have said, it is important to acknowledge that this is a very significant development in Australian health care which will contribute to the quality of life of many Australians, because they are able to have the physical access to the safety nets when they need them but, moreover, they have the psychological reassurance that there will not be an unlimited drain on their finances by virtue of illness or injury in their family. I believe we cannot overstate the value of that to Australians.

Senator Nettle, in the course of her remarks, said that she believed the safety net had contributed to health cost inflation. She went to some length to describe the figures that she said made that point about increases in the amounts that were rebated in particular categories. That contention is not supported by the Department of Health and Ageing. The department has commented that there is no evidence that the introduction of the safety net has led to any increase in medical fees. The department said, for example:

With the exception of the initial phenomenon around the obstetric items coming within the scope of the safety net, which evidenced itself as an increase in fees but was actually a widening of the scope of Medicare, there has been nothing of great concern. We have also looked at IVF as another area where there has been some growth but, other than those two, we have seen no systematic evidence of anything other than normal inflationary increases in fees—normal secular trends in fee growth.

In evidence given to an earlier inquiry, the department said that it has a very sophisticated device to monitor the increase in health costs—the amount that doctors are charging their patients. It believed it had the capacity to enforce some accountability on those doctors who for no apparent reason began to increase the size of their fees and, particularly, it had the capacity to monitor where fees were increasing for particular patients—namely, those who were passing the threshold for the safety net. That is the important thing. A doctor who decides unilaterally that he is going to increase his fees because the safety net is there obviously overlooks the important fact that the majority of his patients are very unlikely statistically to be eligible for the safety net, and that doctor is likely to find that many of those patients will find another doctor, if that is possible for them.

The idea that doctors will willy-nilly increase their fees because the safety net is there to bear some of the burden of some of the patients has some inherent problems, and indeed it has been denied by the Department of Health and Ageing. Senator Nettle quoted rises in health costs in the 2003-04 financial year. Since the extended Medicare safety net only came into effect on 12 March 2004, it is very hard to see how a partial year’s figures could prove the point that she was making.

It is true that the take-up rate of those registering for the safety net has been much greater than expected. That is an indication, as I said, of the fact that Australians under-
stand the value of the safety net and believe it is worth having the protection provided by the safety net, despite the great criticism levelled at the concept by the purists who say this does not fit with Medicare. Australians are very happy to have that protection and they have enrolled in large numbers for that protection—four million Australians as of September this year. That indicates clearly that the concept is understood by Australians and is used by Australians as they approach uncertainty in particular family or individual circumstances regarding how much their health costs might be in a particular year.

I think this is a concept which is sound and which is beneficial to Australians. I note the criticism of this bill today levelled by the Labor Party and the Australian Greens, who intend to oppose it. I think it is highly ironic that parties which have opposed the concept of a safety net and do not believe there should be a safety net for Australians in this sense are nonetheless prepared to vote against a measure which effectively decreases the coverage of that safety net by raising the thresholds. There is a certain logical inconsistency about that position, it seems to me, but logical inconsistency has never been a particular problem for those opposite.

I think that we need to support this idea. We need to support the idea of having affordable health care, underpinned by a capacity to rule off costs—at least 80 per cent of those costs—at a certain point in any given year. The safety net does that. It is unfortunate that the cost is so great that it is necessary to reduce the coverage of that safety net. But, in saying that, it does not detract one iota from the reality that this is a very important innovation in Australian health care, one which is already benefiting many thousands of Australians.

Senator STEPHENS (New South Wales) (5.22 pm)—I rise to speak in the debate on the Health Insurance Amendment (Medicare Safety-nets) Bill 2005. I have to say that Senator Humphries’s calm and reasoned argument really does nothing to convince me that the rock-solid, ironclad guarantee that was given to the Australian people before the last election is being delivered at all. It was no secret that Labor was against this safety net at the last election because we believed—and still believe—that a properly funded Medicare system does not need a safety net. But this government has destroyed the once-great Medicare to such an extent that this safety net is now becoming necessary for many more people.

Now the Howard government is intent on dropping that net much further—so much further that ordinary Australians will have much further to fall. The government has presided over a massive collapse in bulk-billing rates and a massive hike in the cost of going to see the doctor. In the adjoining electorate to Canberra, Eden-Monaro, still less than 50 per cent of doctors bulk-bill and there is still an extraordinary cost in seeing a doctor. Out-of-pocket expenses in the seat of Eden-Monaro are quite extraordinary. The government has turned the Medicare system from a universal system for all into a three-tiered system that sees different levels of service and affordability, depending upon where you live and what your level of income is.

Families are now forced to pay an average of $24.60 per medical visit, compared with just over $21 last December. The ABS household expenditure survey has shown that medical costs are one of the largest expenditure items in the family budget. Some families are in the situation where they literally cannot afford to get sick. And, if they do, the stress of finding the money to pay for the
care they need will make the situation even worse.

Recently in the *Sydney Morning Herald* we were treated to even more doom and gloom about the state of access to pharmaceuticals and medical care in Australia. It was reported that an international study by a US health think tank has found that Australians are missing out on prescription drugs and follow-up medical tests because of high out-of-pocket charges. The study found that, among Australians with continuing health problems, 22 per cent had opted not to fill a script in the past year or had skipped doses, simply because of the cost. This percentage is higher than the proportion in comparable countries such as Canada, New Zealand, Britain and Germany and only lower than the proportion in the US. Despite the Howard government’s so-called safety net system for heavy users of health care, 14 per cent of the 702 Australians sampled in the study said they had spent more than $1,350 of their own money on doctors’ bills, and nine per cent had spent more than that on prescription drugs.

The worst of it is that this is before these amendments have been put in place. The people involved in this study will be even worse off after the introduction of this bill. The amendments before us today will add injury to illness for those least able to afford out-of-pocket expenses for health care: it will affect those who are more likely to be both poor and sick. This group has the least financial resilience and is most vulnerable to falling into poverty traps brought on by medical costs. And we dare not even mention the Work Choices bill or the Welfare to Work reforms that have been rammed through the Senate this week.

Figures provided by the Australian Department of Health and Ageing show that 800,000 families and welfare recipients will be hurt by the change. A further 200,000 individuals and high-income families will have to pay higher medical bills, and that means at least one million Australians are going to be directly impacted by this bill. That is at least one million sick people losing what little support they were promised at the last election. That is at least one million people who have every right to feel cheated by this government.

There is a real trend by this government—a government that describes itself as being a competent economic manager—to consistently get the figures miserably wrong. It seems that the Howard government needs to take a long hard look at the ability of its ministers to use a calculator. Alan Kohler made this comment on *Inside Business* in September regarding the performance of Treasurer Costello:

The 2005 financial year Budget outcome was published on Friday, with a final surplus of $13.6 billion. That means the estimate in the May federal Budget was out by more than 50 per cent, or $4.4 billion. Now that’s bad enough; after all it was only a month before the end of the financial year. That sort of error in the corporate world would see the chief accountant counselled, if not sacked. But in the government world he’ll be made chief executive.

The economic indicators released this week confirm this. It is completely unacceptable for the Treasurer of this country to be so ridiculously incapable of providing accurate and reliable economic forecasts. He has messed up the budget forecasts and he and the health minister have messed up the spending predictions regarding the Medicare safety net—or did they really? The other alternative is that the Treasurer and the health minister made that ‘rock-solid, ironclad guarantee’ in the full knowledge that they did not want to pay for it and the safety net would have to be slashed. Which is it—
incompetence or deception? Perhaps it is a combination of the two.

During the federal election campaign in September 2004, Treasury figures showed clearly that the cost of the Medicare safety net would be more than double the approximately $120 million originally forecast for the 2004-05 financial year. Further modelling showed that the total cost of the safety net over the four years from 2004-05 to 2007-08 would have blown out to around $1.05 billion. Yet the health minister tells us that he did not see this coming. Please!

A response received at the Senate estimates hearings in November can be trusted, I am sure, and it demonstrated that Minister Abbott was well aware of the blow-out before he made his guarantee. During estimates hearings, senior officials from the Department of Health and Ageing gave answers proving that they were aware of the problems in the scheme in August 2004, a clear month before the campaign. Not only were they aware of them but they also told the estimates committee that they had regularly provided Mr Abbott with updates on safety net progress, usually every week.

The minister denied there were safety net flaws, when confronted in July 2004. In September, when asked if the safety net would be changed, he said:

I absolutely guarantee that the safety net as the government has put it into operation will continue.

According to the Senate estimates committee answer, Department of Health and Ageing officials had already begun revising safety net costs in early August. They said: ‘It was agreed within the department that a revision of the various underlying assumptions of the safety net cost model was needed. This work commenced in August 2004.’ So even whilst the original safety net bill was being legislated, it was abundantly clear to every health expert and, clearly, to Minister Abbott that the design flaw in the safety net was that it would be inflationary and it was inevitable that the cost of the safety net would blow out. Many of the health groups that appeared before the Senate Select Committee on Medicare made precisely this point.

This policy has been a shambles from the start. Let us think about it for a minute. The safety net was not aimed at your average family who attend the GP every now and then for vaccinations or treatment of a cold; it was targeted at people who need to pay high out-of-pocket expenses associated with specialists. Specialist fees are so often above the Medicare schedule fee, leaving the patient to pay the difference. The big inflationary problem is that the safety net benefits are uncapped and unregulated. With this uncapped structure, once a patient has reached the relevant threshold, 80 per cent of the patient’s out-of-pocket expenses are reimbursed by the safety net, even if the charges exceed the norm. This leaves some less scrupulous specialists open to increasing their fees, knowing that the majority of the extra money spent will come from the hands of the government and not from their patient.

This is a scheme where the level of benefit is not tied to any price signal and is therefore effectively unregulated, so it is potentially extremely difficult to control the overall cost of the scheme. Health Insurance Commission figures show that the total benefits paid out for some individual Medicare items rose by as much as 57 per cent for the first six months of this year, compared with the same period last year. Overall, Medicare paid 19 per cent more in benefits in the six months to June compared with the previous corresponding period, despite an increase in the number of services of just seven per cent. Labor’s concern, and the concern of many observers, is that the safety net could destroy subsidised health care by funnelling public
funding to expensive, unnecessary treatments, leaving less funding for crucial treatments.

As I said earlier, the safety net does nothing to assist your average family with their GP bill, and it does nothing to help those people who cannot afford the $500 or $1,000 up-front fee to begin with. What it does is allow providers to largely charge what they like and consumers to buy what they want without regard for costs, perhaps to the detriment of those with more pressing needs. The government was on notice from the very first day that it struck the deal with the Independents, and was certainly on notice from the time that it put the legislation in place, that this would be inflationary of health costs and that the costs of the safety net would blow out.

The Medicare safety net was never designed as a long-term, robust and fair solution to that problem. It was always designed as something that the government could use to address the political problem. People do not trust the Howard government with their health care anymore, and this cynical piece of electioneering is a perfect example of why they should not. The Howard government is now demanding that people with disabilities, mental health problems or episodic illness go back to work, yet they are working against these very people. Going back to work will become increasingly difficult for people who are already struggling to afford health care if safety net thresholds are increased and they feel unable to access their care.

Further, when individuals do not access health care early, because it is too expensive, untreated conditions can worsen or become chronic, leading to increased long-term medical costs. People who have their health needs met when required are less of a burden on the health system and save extensive hospital costs for untreated or poorly treated conditions. More importantly though, people who receive necessary treatment will have a much higher quality of life and, ultimately, isn’t that what a government should be aiming for: the best results for its citizens? Increasing the safety net thresholds will not increase equity, and the proposition that such increases will reduce health costs is simply not sustainable over time. The proposal to increase the safety net thresholds simply shifts the cost burden for health onto the people in the Australian community who can least afford it.

For what it is worth, Labor now asks the Minister for Health and Ageing to stake what is left of his reputation on the statement that this cutback will be the last one. After all, as the minister continually tells us, this is the level he wanted the threshold at originally. Labor’s guess is that the safety net blow-out problem will not be fixed by this bill. The minister refuses to give Australians an unequivocal commitment that the Medicare safety net is now running on track to budget expectations and that the government will not seek to amend it again. He was happy to give a rock-solid, ironclad guarantee in the election campaign, but now he knows that he is two years out from another election and within that time he may well have to return to amend the Medicare safety net once again.

We all know why he will not give those commitments: it is not running on track. Even with these threshold changes in place, in the next two years or so, we will see the Medicare safety net blow out again, and it will blow out again because it is inflationary in its very design. In no way, shape or form can Minister Abbott come out next time he wants to increase the thresholds again and say that he did not know that this policy and this bill were seriously flawed. The bill before us today is a bad amendment to a bad bill, and Australians deserve better.
Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (5.36 pm)—I thank senators for their contributions to this important debate. The measures in the Health Insurance Amendment (Medicare Safety-nets) Bill 2005 will maintain the sustainability of the extended Medicare safety net and ensure Australians will continue to receive additional protection for high out-of-pocket medical costs. It really staggers me that Labor senators can get up and talk about this when there has never been any suggestion from Labor as to how you might deal with people who are hit with a whammy of very high medical expenses in a year. That was something that was brought to my attention a number of times, but we never heard anything from Labor.

Senator McLucas—That’s not true!

Senator PATTERSON—I listened in silence to a whole lot of codswallop from the other side, and now I am giving some information to the other side so that they can listen to and hear about the fact that there are people who are hit with a whammy of very high medical expenses in a year. That was something that was brought to my attention a number of times, but we never heard anything from Labor.

Senator McLucas—That’s not true!

Senator PATTERSON—I listened in silence to a whole lot of codswallop from the other side, and now I am giving some information to the other side so that they can listen to and hear about the fact that there are people who are hit with a whammy of very high medical expenses in a year. That was something that was brought to my attention a number of times, but we never heard anything from Labor.

From 1 January 2006, the extended Medicare safety net thresholds will increase from $306.90 to $500 for concession card holders and families in receipt of family tax benefit part A and from $716.10 to $1,000 for all other families and individuals. The current thresholds will continue to apply to all families and individuals for the current calendar year. The Medicare safety net ensures that Australians are protected against unforeseen and high out-of-pocket health care costs. I repeat: it is a protection that they never got under Labor. They would never have known or anticipated what the maximum cost was that they would face in out-of-pocket out-of-hospital expenses. Now they know. The safety net is the most important structural improvement to Medicare since its inception. The government will maintain the safety net and will continue to help the estimated 1.5 million Australians who will benefit in 2006 under the higher thresholds. I commend the bill to the Senate.

Question negatived.

Original question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (5.39 pm)—I move Democrats amendment (1) on running sheet 4772:

(1) Schedule 1, page 3 (after line 13), after item 3, insert:

3A Subsection 10AA(7) (at the end of the definition of spouse)

Add “including a same-sex partner and a person who lives with the person on a genuine domestic basis although not legally married to the person”.

As I indicated in my second reading contribution, this amendment fixes the problem in the Medicare safety net for same-sex partners and persons who live with a person on a genuine domestic basis although not legally married to that person. It recognises partner-
ships other than those defined in the bill and fixes a discriminatory problem which exists in the current law.

Senator McLUCAS (Queensland) (5.40 pm)—I indicate that the Labor Party will be supporting the amendment moved by Senator Allison. There were a significant number of submitters to the inquiry who did identify that the introduction of a safety net with a description in the way that the legislation proposed did discriminate against people whose partners were of the same gender as them. That means that those families will take much longer to reach the thresholds, as one of the partners in the family—especially in a family with children—will not be included to reach that threshold. For that reason, Labor will support the amendment.

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (5.41 pm)—I think that may be the first time that Labor has done that. That is very interesting. The Medicare benefits scheduled safety net and the private health insurance rebates are governed by different pieces of legislation and achieve separate government policy objectives. The definition of a family for the purposes of the safety net provision with regard to both Medicare and pharmaceutical benefits is set out in existing Australian government legislation. The relevant provisions are section 10AA of the Health Insurance Act 1973 and section 84B of the National Health Act 1953. These provisions state that a family comprises a person’s spouse and/or dependent child of the person. A spouse is defined as a person who is legally married to that person or a de facto of that person. Section 4 of the National Health Act 1953 explains that a de facto spouse is a person living with another person of the opposite sex on a bona fide domestic basis. Although not legally married to that person, it is a matter for individual health funds to decide what constitutes a family for the range of insurance policies they offer, having regard for the requirements of the relevant legislation, particularly community rating, which is also contained in the National Health Act 1953. Community rating is a longstanding basic principle in private health insurance and ensures that, in setting premiums, providers cannot discriminate against contributors on the basis of health, status, age, gender, religion and sexuality for the use of services. The coalition will not be supporting the amendment.

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

The committee divided. [5.47 pm]
(The Chairman—Senator JJ Hogg)

Ayes………….. 33
Noes………….. 37
Majority………. 4

AYES
Allison, L.F.  Bartlett, A.J.J.
Bishop, T.M.  Brown, B.J.
Brown, C.L.  Campbell, G. *
Carr, K.J.  Conroy, S.M.
Crossin, P.M.  Evans, C.V.
Faulkner, J.P.  Forshaw, M.G.
Hogg, J.J.  Hurley, A.
Kirk, L.  Ludwig, J.W.
Lundy, K.A.  Marshall, G.
McEwen, A.  McLucas, J.E.
Moore, C.  Murray, A.J.M.
Nettle, K.  O’Brian, K.W.K.
Polley, H.  Sherry, N.J.
Siewert, R.  Stephens, U.
Sterle, G.  Stott Despoja, N.
Webber, R.  Wong, P.
Wortley, D.

NOES
Abetz, E.  Adams, J.
Barnett, G.  Boswell, R.L.D.
Brandis, G.H.  Calvert, P.H.
Chapman, H.G.P.  Colbeck, R.
Cooman, H.L.  Eggleston, A. *
Thursday, 8 December 2005

SENATE

127

Ellison, C.M.  Ferguson, A.B.
Fielding, S.  Fierravanti-Wells, C.
Fifield, M.P.  Heffernan, W.
Hill, R.M.  Johnston, D.
Joyce, B.  Kemp, C.R.
Lightfoot, P.R.  Macdonald, I.
Macdonald, J.A.L.  Mason, B.J.
McGauran, J.J.J.  Minchin, N.H.
Nash, F.  Parry, S.
Patterson, K.C.  Payne, M.A.
Ronaldson, M.  Santoro, S.
Scullion, N.G.  Troeth, J.M.
Trood, R.  Vanstone, A.E.
Watson, J.O.W.

PAIRS

Hutchins, S.P.  Campbell, I.G.
Milne, C.  Humphries, G.
Ray, R.F.  Ferris, J.M.

* denotes teller

Question negatived.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (5.50 pm)—I move:

That this bill be now read a third time.

Senator McLucas (Queensland) (5.50 pm)—This is a very unfortunate day. The passing of the Health Insurance Amendment (Medicare Safety-nets) Bill 2005 is a very disappointing result for Australians. The passing of this legislation proves the untruth that was put to the Australian people at the last election. Minister Abbott knew from at least July 2004 that the safety nets that he had declared were going to stay—with a rock-solid ironclad guarantee—were unsustainable; yet he persevered. He continued to say that they would not change. But Mr Abbott was not the only one who knew that; it is our contention that there were many members of cabinet who understood that. Certainly, in my view, the Minister for Finance and Administration and the Treasurer knew that those safety nets would have to change.

But they did not come clean with the Australian community. Why? Because it was going to affect a million people in Australia. There are one million people who were given to understand that they would be covered by the $300 and $500 safety nets, and they have been duped. By moving this amendment today, the government will ensure that one million Australians will now not be covered by this safety net. This is peeling back the cover and finding out the truth. This is showing that Mr Abbott actually knew—he knew—that these safety nets were unsustainable.

Labor has always expressed concern about the introduction of the safety nets, at whatever level they were set. We have said that they undermine the fundamental principle of universality. We have said that they would be inflationary and, yes, they were—particularly in obstetrics. We have said that they will develop two tiers of health consumers—those who fit into the safety nets and those who do not. That has all been proved to be true.

We also said, after the government did a deal with the minor parties in this chamber, that those thresholds would be unsustainable. Certainly, health commentators agreed with that, and slowly the media cottoned on that the blow-out was occurring. If those safety nets had stayed at the same rate, there would have been a $1.2 billion cost in safety nets over four years, at those levels. Yes, they were unsustainable, but the reason that the Labor Party will vote against this legislation is because the government did not come clean with the Australian community from the period of June 2004 until the election.

The government spent $20 million telling people how they were going to be eligible
for the safety nets, who would be eligible and how they would apply. It is very interesting that the government have not signalled that they are going to spend an equal amount of money now that they have moved the safety net thresholds back to the $1,000 and $500 marks. It is interesting that they are now not going to spend the same amount of money explaining to one million Australians why they are going to miss out. Labor will be opposing this legislation and Labor will, on coming to government, I assure the minister, introduce legislation that absolutely supports the universality of Medicare.

Senator MOORE (Queensland) (5.54 pm)—Before the Health Insurance Amendment (Medicare Safety-nets) Bill 2005 proceeds to the next stage, I would like to put a couple of comments on record in terms of the process. I wish to echo Senator McLu-"cas’s comments, particularly in view of the extensive community education program that was run across this country. The community education program proclaimed the generosity of the government’s procedures and, quite clearly, at that same time made a distinction between the government’s position and that put forward by Labor.

In particular, at that time, when we were in the heat of public debate about the role of health in our community, there were outrageous comments made by members of the government about the inadequacy of Labor policy and alleging that our policies did not add up. I remember clearly newspaper columns that said that. When we responded that we had had appropriate costings done for particular policies put out by Labor, and when we talked about the extensive communication and consultation we had had with community groups and people working in the health industry, and with workers and families across this country about their genuine health needs, scorn was poured on the Labor Party, on Labor health economists and on people who genuinely wanted change in the health system.

The government claimed that only they knew about effective health care in our country and that only they could adequately balance the budget and look at health care. The message to all Australians was ‘Trust the government’—they would be able to make sure that your health would be looked after. The promises that were made—about the Stronger Medicare package and the really effective way that Medicare was going to operate—were made to the Australian community at the same time as allegations were made that people who were putting up genuine alternatives were incapable of running the health services in our country.

That is why I find it particularly worrying that, no sooner than the election was over and the government was back in place—with its increased majority, as we are constantly reminded in this place, as we are reminded that the people of Australia had made their choice—we discovered that the people of Australia had made their choice on promises that were not able to be fulfilled. We were told, after that time, that information was available to the government well before this decision that we are looking at today was made. That is genuinely worrying, because the debate and discussion about health in our community is ongoing. Rarely does a week pass without some public discussion about the importance of health services in our country.

The core element of the federal health service is the Medicare arrangement. We have talked at length for many years in this place about the history of the Medicare arrangement. We on this side have expressed concern about what we felt was a lack of genuine commitment to a strong public health system. We have said that we thought, and we had evidence from previous state-
ments that had been made by various members of the government, that they did not really understand the importance of the health system and there was not a genuine commitment to retaining this process.

When we raised these questions—again—the government rejected our claims, made allegations that we did not understand what we were doing, and reinforced their credentials to run the health system. The key component of those promises was the Stronger Medicare package. We saw the advertisements; we had the green leaflets stuffed in our letterboxes; we saw the full-page ads in the local newspapers—all about the strength of the government’s proposed Medicare system. Then, after the event, when we find out that there had been knowledge about the costing blow-out, we find that the government can then proclaim, ‘We got it wrong’ and ‘We need to lift those thresholds’.

Everybody can review processes; no-one has a problem with people looking at a system and making sure that it works effectively. That would be the basis of any strong, effective government. What we object to is that there was no discussion of the need to make these changes in the time leading up to these changes. There was no involvement of the parliament. There was no involvement of the government. There was no involvement of the Senate through the Senate estimates process. We looked very carefully at the issues, through Senate estimates questions about what was happening with the costings, what was being spent, what the modelling was and how the long-term future of these programs was going to operate. On all those occasions, we were led to believe by the government that everything was under control. Once again, the message was: ‘Trust us. We have your best interests at heart; we will get it right.’

Here we have such an important element and the key figures have been changed, and we are asked to silently accept that the changes need to happen and then say: ‘Okay, guys, you got it wrong. We will just keep on moving forward.’ In effect, that is what is going to happen. This bill will go through very soon, it will be passed, and the media attention will be gone. In fact, the awareness of this process is well past in the media. That crisis has passed. Despite all the high-level, glossy advertising that the Australian public got when this process started, there was nothing put out subsequently explaining these changes. But I suppose that is the way it operates.

It is so important in this place, which has seen so much debate over the years on the importance of the Medicare system, that there is something put here that we understand. As Senator McLucas said, it is a sad day when we have this process and we have to pass this legislation. It probably would have been appropriate if the government had at some stage apologised. We are asked from time to time on this side of parliament to acknowledge things that have gone wrong and acknowledge them to the Australian public. In fact, I began this contribution by talking about the scorn that was placed on various health policies that were promoted by our side of parliament. But in terms of this, there has not been an apology. There has not been a genuine acknowledgment that there is going to be more pain now for the Australian community—significant pain.

Various senators have talked about the number of people who are going to be impacted by this change. Significant numbers of Australians did read those advertisements, did read those booklets, did listen to the radio and TV ads and genuinely believed that they would be able to look at their personal health budgets and the range of issues that would impact on them. We have had other
debates about private health insurance and how families have to weigh up how they will handle their individual budgets, including their health budgets. But one thing they thought they knew was the threshold level of Medicare. But it is not true. It has changed. We will pass the legislation that will put that into place, and we are just supposed to say: ‘Whoops, there we go. We will move forward.’

I think the Australian community deserve better. I think they deserve an acknowledgement from the government who made the promise and could not fulfil it. We on this side have tried very hard over the last few months to find out exactly when the minister, his advisers and the department knew that this was going to happen. It seems to us that there was a significant time when people understood that these changes would have to happen to make sure that the budget implications were met, and this information was not publicly shared.

There is a message for us when we get protestations about major policies and the savings that will come, when we get promises about the way the future will be better, when we are told about how we are expected to be part of this brave new world and do better and work more effectively in the health system moving forward. When there are allegations and statements that the only problems in the health system are those that occur at the state level—building up division between the federal funding and the state funding—we hope that, when the next round of promises are made, the Australian community will at least ask the questions: the questions for which we tried to get answers in parliament. We tried to get answers at the Senate estimates process. We could not get clarity in that process, but maybe, if the government were listening to the people who will be harmed by this legislation, that would be some outcome and some movement forward.

I want to also make a minor comment about the amendment that was moved about same-sex couples and was defeated by the government. This is such a longstanding issue in our community. When I worked in the Public Service and amongst people who worked in the union movement, it was raised with us quite often. Partnerships were affected in terms of being able to get appropriate acknowledgment, and if you were in a same-sex partnership somehow your rights in the health system were not as valued as they would be if you were in another form of partnership. I think that it is sad—I suppose that is an ongoing adjective that we can use in this debate—that there was an opportunity to have that acknowledged this evening and the motion was defeated. I suppose that we need to keep the battle going. We need to keep this issue on the agenda. I think it is appropriate that we acknowledge the work of former senator Brian Greig, who never let a single debate of this nature go past without raising these issues. I think we have to acknowledge that, whilst he is not with us in the chamber in this debate, at least one of his issues will be raised again.

On that basis, I accept the generosity of the chair in allowing me to make some comments at this stage of the debate. I reinforce the comments made by Senator McLachlan that it is indeed a sad time. It is a time that we have not been able to change, but at least the message should be out there that the government knew that their promises could not be fulfilled. They did not share it with the Australian public, but we still have to wear the results.

Question put:
That this bill be now read a third time.

The Senate divided.  [6.10 pm]
(The President—Senator the Hon. Paul Calvert)

Ayes ........... 35
Noes ........... 33
Majority ....... 2

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

NOES
Allison, L.F.  
Bartlett, A.J.J.  
Bishop, T.M.  
Brown, B.J.  
Brown, C.L.  
Carr, K.J.  
Conroy, S.M.  
Crossan, P.M.  
Evans, C.V.  
 Faulkner, J.P.  
Fielding, S.  
 Forshaw, M.G.  
Hogg, J.J.  
Hurley, A.  
Kirk, L. *  
Ludwig, J.W.  
Lundy, K.A.  
Marshall, G.  
McEwen, A.  
McLucas, J.E.  
Moore, C.  
Murray, A.J.M.  
Nettle, K.  
O’Brien, K.W.K.  
Polley, H.  
Sherry, N.J.  
Siewert, R.  
Stephens, U.  
Sterle, G.  
Stott Despoja, N.  
Webber, R.  
Wong, P.  
Wortley, D.  

PAIRS
Campbell, I.G.  
Ray, R.F.  
Coonan, H.L.  
Campbell, G.  
Ferris, J.M.  
Milne, C.  
Kemp, C.R.  
Hutchins, S.P.  

* denotes teller

Question agreed to.
Bill read a third time.

COMMITTEES
Publications Committee
Report
Senator McGauran (Victoria) (6.13 pm)—At the request of Senator Watson, I present the ninth report of the Standing Committee on Publications.

Ordered that the report be adopted.

Public Accounts and Audit Committee
Report
Senator McGauran (Victoria) (6.13 pm)—On behalf of the Chair of the Joint Committee of Public Accounts and Audit, Senator Watson, I present an interim report into aviation security in Australia. 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—


On 25 May the Committee resolved to reopen an inquiry into aviation security that had been conducted during the previous Parliament. The inquiry was reopened in an environment of concerning incidents of criminal activity at Australian airports as well as significant developments in aviation security required by the Commonwealth Government.

An important component of the Commonwealth’s upgrading of aviation security was the announcement on 7 June of a review of airport security and policing to be conducted by the Right Honourable Sir John Wheeler DL.

On 21 September the Government announced its in principle acceptance of the 17 recommenda-
tions made by Sir John and additional expenditure of $194 million to further tighten security at Australian airports.

The Committee unanimously supports the recommendations made by the Wheeler Review. Based on evidence gathered to date, the Committee has resolved to table this interim report in order to allow the Government to consider its recommendations at the same time as it develops strategies to implement the Wheeler recommendations.

The recommendations contained in the Committee’s interim report refer to areas of aviation security covered by recommendations nine and ten of the Wheeler review. Recommendations nine and ten of the Wheeler Review propose respectively:

- a review of the Aviation Transport Security Act 2004 and Regulations 2005; and
- changes to background checking processes of applications for Aviation Security Identification Cards.

The Committee’s interim report makes 9 recommendations for the Government to consider.

In relation to the review of the Aviation Transport Security Act and Regulations, the Committee believes that the Government should consider requiring records be kept of every individual item of checked baggage to aid in the detection of any interference after baggage has been checked.

The Committee is also of the view that the Government ought to specify through regulation, the design of rubbish receptacles at the 11 Counter Terrorism First Response airports to ensure that no item that might pose a security threat can be concealed within them.

In relation to the background checking required for the issuing of Aviation Security Identification Cards, or ASICs as they are known, the Committee was deeply concerned that day passes in the guise of Visitor Identification Cards have been used to circumvent background checking that would otherwise be required of workers who require access to secure airside areas of airports.

The Committee has made seven recommendations to restrict the issuing of Visitor Identification Cards to exceptional circumstances and require that, when issued, VICS carry a photograph of the card holder to allow easy reconciliation of pass and pass holder. The photographs should be retained on a database for a required period to allow more certain identification of any VIC holder who is involved in criminal activity or a security breach.

One of the reasons that Visitor Identification Cards are used for airside workers is the sometimes extended periods of time taken to conduct background checks required for the issuing of an ASIC. The Committee has therefore recommended that the vetting period for ASIC applicants be reduced as a matter of urgency.

Finally, the Committee is concerned that ASICs be made easily accessible so as to minimize disruption of the operations and activities of general aviation pilots. We have thus recommended that the Civil Aviation Safety Authority provide an opportunity for pilot’s license applicants to simultaneously apply for an ASIC.

In conclusion, I would like to express the Committee’s appreciation to those people who have so far contributed to the inquiry by preparing submissions and giving evidence at public hearings.

I wish to thank the members of the Sectional Committee involved for their time and dedication in conducting this inquiry.

I commend the Report to the Senate.

Question agreed to.

ANGLO-AUSTRALIAN TELESCOPE AGREEMENT AMENDMENT BILL 2005

OCCUPATIONAL HEALTH AND SAFETY (COMMONWEALTH EMPLOYMENT) AMENDMENT (PROMOTING SAFER WORKPLACES) BILL 2005

First Reading

Bills received from the House of Representatives.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (6.14 pm)—I indicate to the Senate that these bills are being introduced together. After debate
on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (6.14 pm)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

ANGLO-AUSTRALIAN TELESCOPE AGREEMENT AMENDMENT BILL 2005

I am pleased to announce that the United Kingdom and Australian Governments have agreed to a Supplementary Agreement to the Anglo-Australian Telescope Agreement.

This Bill amends the Anglo-Australian Telescope Agreement Act 1970 to incorporate the Supplementary Agreement.

The original Anglo-Australian Telescope Agreement signed on 25 September 1969 began a major scientific collaboration between Australia and the United Kingdom. In the early 1970’s the Anglo-Australian Telescope was constructed at Siding Springs near Coonabarabran in New South Wales. With a mirror diameter of 3.9 metres and state-of-the-art design it was then one of the largest and most sophisticated optical telescopes in existence.

Over the ensuring 35 years the Anglo-Australian Telescope has made a significant contribution to astronomy, both in Australia and internationally.

Even today the Anglo-Australian Telescope remains one of the most productive major telescopes in the world, particularly amongst the 4m class of telescope. Recent scientific highlights include the discovery of “cosmic ripples” which help explain why the universe is as lumpy as it is, the discovery of the 100th extra-solar planet and the discovery of a new type of ultra-compact dwarf galaxy.

In 2001 the United Kingdom Government advised that it wanted to end its involvement with the Anglo-Australian Telescope. Under the current Anglo-Australian Telescope Agreement, either party has the right to terminate the Agreement with five years notice.

Rather than terminating the Agreement in 2006, however, Australia and the United Kingdom agreed to extend the collaboration until 2010 under arrangements that allow the United Kingdom Government to gradually reduce its funding commitment.

The extension of Anglo-Australian collaboration is a most welcome development. It has, I believe, played an important part in the development of Australian astronomy into one of our premier research disciplines. It is a discipline that brings much international recognition to our scientific and technological capacity.

The United Kingdom Government has also agreed, under the Supplementary Agreement, to gift its half of the Anglo-Australian Telescope and the associated facilities to Australia in July 2010. The Anglo-Australian Telescope will remain a valuable scientific and educational tool for Australia for many years to come.

The Supplementary Agreement makes a number of amendments to the original Agreement in order to facilitate the gradual phasing out of United Kingdom involvement.

It provides that observing time is to be allocated according to the financial contribution of each country, rather than shared equally as at present.

It explicitly allows for the Anglo-Australian Telescope Board, the bi-national body that operates the Anglo-Australian Telescope, more scope for earning external income. Associated with the Anglo-Australian Telescope is one of the most advanced and innovative astronomical instrument laboratories in the world. It has produced, and is producing, major instruments both for the Anglo-Australian Telescope and for large overseas tele-
scopes such as the Japanese Subaru Telescope in Hawaii.

The Supplementary Agreement now allows each country to determine the level of its contribution, above that minimum level, independently of the other. While the primary reason for this change is to allow the gradual withdrawal of United Kingdom funding, it also gives Australia greater flexibility in determining its contribution.

Full details of the measures in the Bill are contained in the explanatory memorandum circulated to honourable Senators.

I commend the Bill to the Senate.

———

OCCUPATIONAL HEALTH AND SAFETY
(COMMONWEALTH EMPLOYMENT)
AMENDMENT (PROMOTING SAFER
WORKPLACES) BILL 2005

The amendments in this Bill will reinforce and underscore the Commonwealth’s regulatory approach to workplace health and safety which is to ensure that the main focus should be on preventing workplace injuries, rather than punishment after the event.

On 1 March 2004, a new Part 2A of the Australian Capital Territory (ACT) Crimes Act 1900 came into operation. This Part contains two new criminal offences of industrial manslaughter: one for employers and one for senior officers. The ACT law imposes a criminal liability on employers and senior officers after the death of a worker. This is inconsistent with the overall objective of an occupational health and safety legislative framework which is to prevent workplace deaths and injuries. It is also contrary to the unified and integrated OHS legislative system established under the internationally recognised Robens model which all Australian jurisdictions have adopted, including the ACT.

The Bill would amend the Occupational Health and Safety (Commonwealth Employment) Act 1991 to insert a new section 11A. This new section would provide that Part 2A of the ACT Crimes Act and any other similar industrial manslaughter laws which might be enacted by a State or Territory and that are prescribed in the regulations will have no effect to the extent to which they seek to impose criminal liability on an employer, employing authority or employee covered by the Act in respect of a person’s death that occurs during, or in relation to, the person’s employment or provision of services to another person.

Without the criteria of prescribing other State and Territory laws, the new section could catch general criminal offences, such as manslaughter, murder and culpable driving. This would include, for example, the offence of manslaughter in section 15 of the Crimes Act 1900 (ACT). However, it is not the Commonwealth’s intention to exclude employers, employing authorities or employees from the application of these general criminal laws. Similarly, the Commonwealth does not intend to affect the concurrent operation of State or Territory laws which promote occupational health and safety provided for in section 4 of the Act.

The Commonwealth only objects to a specific type of State and Territory laws which purport to impose criminal liability in respect of a person’s death that occurs during, or in relation to, the person’s employment or provision of services to another person—that is laws like Part 2A of the Crimes Act 1900 (ACT). Only these particular types of laws would be prescribed under the new section 11A.

The Bill will apply to any conduct of a Commonwealth employer, employing authority or employee occurring on or after 1 March 2004, the day on which the ACT industrial manslaughter laws commenced.

The Bill will remove the uncertainty facing some Commonwealth employers and employees that has arisen from the ACT legislation. The amendments contained in this Bill will also provide certainty for Commonwealth employers and employees should other Australian jurisdictions enact similar industrial manslaughter legislation.

Workplace health and safety is an important issue for all Australians. The promotion of injury prevention and the best occupational health and safety practice is a key priority of the Australian Government. The Government has demonstrated this commitment by initiating the development of the National OHS Strategy and encouraging its adoption by all Australian governments and peak employer and employees bodies. For the first time in Australia, this Strategy establishes an inte-
grated approach to strive for workplaces free from work-related death, injury and disease. In particular, targets have been set for significant reductions in the rate of work-related deaths and injuries.

The Occupational Health and Safety (Commonwealth Employment) Act 1991 is the legislative basis for the protection of the health and safety at work of Commonwealth employees in departments, statutory authorities and government business enterprises. The principles underpinning the Act emphasise that workplace health and safety is a partnership between all parties in the workplace, with a particular focus on prevention.

The Government’s commitment to prevention of workplace injuries and deaths is demonstrated by amendments to the Act in 2004. These amendments ensure that obligations in the Act are underpinned by a strong and effective compliance and enforcement regime. They provide for a mix of preventative, remedial and punitive civil and criminal sanctions, including higher penalty levels, to assist all parties meet their workplace health and safety obligations and provide appropriate sanctions where these obligations are not met. This is the best way to improve workplace safety.

Industrial manslaughter laws, on the other hand, place employers and employees in an adversarial environment and create a culture of blame. This inhibits their ability to work together to eliminate workplace safety hazards and prevent the unwanted consequence of endangering workplace safety. When the tragedy of a workplace death occurs, all parties need to be able to work cooperatively to understand why it happened so that it will not happen again.

The ACT legislation singles out employers for punishment after a death. The legislation neglects the potential involvement of a range of other parties such as other employees, manufacturers, and suppliers of plant and equipment. This creates inequities and gaps in attributing responsibility in the unacceptable event of a workplace fatality or serious injury, and wrongly presumes that employers are solely responsible for all workplace injuries and deaths.

The ACT industrial manslaughter legislation also duplicates the existing offences already available under the ACT Crimes Act and ACT OHS legislation to deal with the involvement of employers and employees in workplace deaths or serious injuries.

This Bill reflects the Government’s commitment to achieving safer workplaces and ensures the focus of occupational health and safety is on prevention of a workplace injury or fatality rather than punishment after the event.

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

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

ANTI-TERRORISM BILL (No. 2) 2005
EMPLOYMENT AND WORKPLACE RELATIONS LEGISLATION AMENDMENT (WELFARE TO WORK AND OTHER MEASURES) BILL 2005
TAX LAWS AMENDMENT (LOSS RECOUPEMENT RULES AND OTHER MEASURES) BILL 2005

Returned from the House of Representatives

Messages received from the House of Representatives agreeing to the amendments made by the Senate to the bills.

Senator SHERRY (Tasmania) (6.16 pm)—by leave—I want to make a brief comment about the Tax Laws Amendment (Loss Recoupment Rules and Other Measures) Bill 2005, which has been reported back to the Senate from the House of Representatives after it passed the Senate yesterday. The central element to Labor’s proposed amendments, which were defeated, went to the removal of a $100 million threshold which effectively excluded large businesses from a benefit with respect to consolidation of their losses. The government successfully opposed the Labor amendments. The Labor Party moved the amendments, in large part,
because of evidence received at Senate Economics Legislation Committee hearings.

The Senate Economics Legislation Committee heard from the mining industry and a number of other venture capital industries about the importance of a level playing field and the removal, effectively, of this $100 million exclusion. The evidence was sufficient and so weighty that the committee unanimously—including Senator Brandis and Senator Watson—concluded that the $100 million threshold should be removed. The bill was passed through the Senate yesterday, and I challenged Senator Watson and Senator Brandis to cross the floor and vote in accordance with the unanimous findings made at the committee hearing. They failed to do so.

Yesterday afternoon was quite extraordinary. The minister responsible for this legislation is the Minister for Revenue and Assistant Treasurer, Mr Brough. The Senate passed the bill with the government opposing the unanimous recommendation to remove the $100 million threshold. The responsible minister then announced a review into the very issue. So, the Senate passed the bill, over Labor objections, and then, as soon as the bill was passed, the minister announced a review into the very issue that the government had voted down just a few hours earlier. In my 15 years in the Senate, I cannot recall a circumstance—I doubt it has ever occurred in the history of the Senate—where amendments are voted down by the government in the morning and then, that afternoon, the minister responsible, in this case Mr Brough, announces a review of the very amendments voted down. It was quite extraordinary for that to occur.

I think it goes to the height of the arrogance of this government that it rushes through its own legislation, votes down important amendments—for business, in this case—and then the minister announces a review into the very measures that he and the government had voted down that morning. It was quite an extraordinary performance, breathtaking in its arrogance. It highlights yet again how out of touch the government is, trying to rush through legislation with guillotines and other processes. I just wanted to make those few brief comments about the extraordinary nature of the government’s approach on this particular piece of legislation.

HIGHER EDUCATION LEGISLATION AMENDMENT (2005 MEASURES No. 3) BILL 2005

Returned from the House of Representatives

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

COMMITTEES

Parliamentary Library Committee
Establishment

Message received from the House of Representatives agreeing to the resolution of the Senate to establish the Joint Committee on the Parliamentary Library.

BUSINESS
Rearrangement

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (6.20 pm)—I move:

That the allotment of time agreed to earlier today be varied to provide that the time for consideration of the remaining stages of the National Health Amendment (Budget Measures—Pharmaceutical Benefits Safety Net) Bill 2005 may commence immediately till 6.30 pm and continue after 7.30 pm, in accordance with the earlier order.

Question agreed to.
Debate resumed from 7 November, on motion by Senator Colbeck:

That this bill be now read a second time.

Senator McLucas (Queensland) (6.21 pm)—The National Health Amendment (Budget Measures—Pharmaceutical Benefits Safety Net) Bill 2005, which will change the Pharmaceutical Benefits Scheme in terms of its safety net in one part was legislation that the Senate Community Affairs Legislation Committee reviewed as part of its normal process.

Senator Allison—Mr Acting Deputy President, I rise on a point of order. I was on the speakers list first. I was happy to give way to Senator McLucas, but now I would prefer to incorporate my speech as I have another meeting I have to be at. Could I seek leave to incorporate my speech? I would be happy to do that.

Leave granted.

The speech read as follows—

According to the second reading speech on this Bill by the Parliamentary Secretary to the Minister for Health and Ageing,

• “The aim of the Pharmaceutical Benefits Scheme is to ensure that Australians have affordable access to high-quality necessary medicines in the community” and
• “the PBS safety net protects individuals and families who need a large number of medicines from high cumulative costs”.

While the government may say this, the measures in this Bill do not support these aims.

This bill continues the government’s efforts to shift Australia’s health system away from a primary universal taxpayer funded system into one in which individuals are pick up more and more of the costs.

And it is another example of Government policy that asks those on lower incomes to bear a higher burden and if they can’t they miss out. Those who can afford to pick up the extra costs will do so, while those who can’t go without.

Health care costs are one of the single biggest threshold budget items for Australian families, and this policy is going to make those costs bigger.

As the AMA points out, it is curious to describe the measures in this Bill as savings measures. Rather than savings, they shift costs from the government to individual patients.

This Bill makes two changes to the current PBS arrangement:

it increases the thresholds for the PBS Safety Net making it more difficult for people to qualify; and it stops some patient co-payments from counting towards the safety net threshold.

Both of these measures will make medications less affordable.

Medicines are prescribed for sick people. And the safety net is intended to help those people who are so ill, that they need well above average levels of medication and therefore face substantial out-of-pocket expenses that come with buying medicines.
The average person who requires 52 or more scripts will not exactly be in robust health.

When the safety net provisions were introduced, a threshold was determined based on the belief that anyone on a concessional rate who exceeded one prescription per week (ie 52 prescriptions a year) would be facing significant financial barriers in affording their necessary medicines.

The government has not provided any evidence that this standard should no longer apply. Yet it is increasing the number of prescriptions that an individual or family must fill before qualifying for the safety net by 8 across the next 4 years.

And of course when the safety net was originally proposed the pension payment was increased by the cost of one prescription per week. But there are no increases in pension payments this time round to offset the increases in the safety net thresholds.

It is not just those on pensions who will be affected of course. Once these changes have been completely phased in, regular patients will be forced to find an extra $228 a year for their medicines on top of the present $874 before they are eligible for government assistance. This doesn’t even take into account the normal annual CPI increases which occur every year.

These increases for individuals and families will apply regardless of their earning capacity.

User charges do not prevent high income people from buying medicines or other health services but they do seriously hamper access for the poor and, in some cases, for low to middle income earners as well.

Not all low income people are able to qualify as concessional patients. Some individuals with a chronic illness or families with a chronically ill member will face substantial difficulties in affording medicines.

Spending on medicines is not discretionary-increased payments will therefore need to come at the expense of some other purchase or else the medicines will have to be done without.

The Australian Women’s Health Network in their submission into the inquiry into this Bill pointed out that a five country study done two years ago by an independent American research team found that 23 per cent of Australians did not get prescriptions filled because of cost and another 9 per cent of people skipped doses to make their medications last longer.

These figures were of course before this year’s almost 30 per cent increase in patient co-payments.

Honourable senators might like to remember that because of legislation supported by both of the major political parties in January this year the price of filling a prescription has already increased by almost 30%.

So people will be facing more co-payments and those co-payments are at a higher level.

We can only expect that more people will be rationing their medicines given the higher co-payments and the changes in this bill will increase the numbers of people who don’t get their prescriptions filled or skip doses even further.

Like the Medicare safety net bill just dealt with, discrimination against same sex couples and their families exists within the PBS safety net legislation.

The current legislation relating to the PBS safety net, defines a couple as either a married heterosexual couple or a de facto heterosexual couple. Similarly a family is then defined as an individual or heterosexual couple with children.

This means that same-sex couples are treated as two individuals with two individual safety nets and similarly same sex families are disadvantaged as the children are treated as family members of only one of the parents. This means the pharmaceutical expenses of one family member is not counted towards reaching the family’s safety net threshold.

We will be moving an amendment to overturn this discrimination so that same-sex couples and families have the same access to the safety net provisions as heterosexual couples and their children.

It might be true that increasing the thresholds for the safety net, as this legislation does, will make it more difficult for some people to qualify and will reduce the costs to the government in the short term.
After all, as well as the direct shifting of costs from the government to the patient, there will also be reduced costs for the government because less drugs will be used by the population as a whole because the extra costs will stop people from being able to afford them.

There is already evidence that the increases to the co-payment in January this year has stopped people from getting the medicines their doctors have prescribed for them.

In the year to August, the costs of the PBS grew by 4.84%, compared with 11 in the previous year. And the number of prescriptions filled grew by just 1.36%—down from 5.43% the previous year. This says to me that those people who need medication—those sick and elderly Australians and those families with children who are struggling to make ends meet, struggling with higher petrol prices, struggling with their day-to-day existence—are not having prescriptions filled and are not getting that vital medication that they need to ensure that they have good health.

But this government, rather than doing the responsible thing which is to look and see whether this data means that its policy of increasing the costs of medicines is placing too much of a burden on people needing medicines, is simply introducing yet another measure which makes medicines even more expensive.

And of course there is the question of what the impact of these changes will be in the long term. If people stop using medicines that they need because they can’t afford them, then ultimately it will end up costing the health system more in the long term.

People who go without services, including medication, often end up needing more expensive and more invasive treatments involving hospitalisation and surgery.

So in fact there is a greater cost to the system than if people had been able to get their medications in the first place.

This legislation is another example of the government’s short sightedness and lack of understanding of the importance of medicines in maintaining health and well-being and saving the health system money in the long run.

Spending on medicines is not necessarily a bad thing. Pharmaceuticals can keep the cost of health care down.

The Government has kept repeating its mantra of making the PBS sustainable as a justification for these mean spirited changes. And it is true that the costs of the PBS has increased in recent years.

This increase has been driven by a combination of the introduction of new drugs and a continuing strong demand for drugs which have been within the PBS for some time.

Not to mention the government’s own policy of introducing Commonwealth Seniors Health Cards which means that people on $50,000 incomes and couples on $80,000 have the benefit of extra discounts on their prescription medicines.

We know that medicine use rises strongly with age—from 52% of those aged 15-24 to 86% of those aged 65 and over—and with an ageing population the demands on our PBS will continue to grow.

We all have an interest in making sure that the PBS provides us with access to medicines at an affordable price.

But sustainability is more than just simplistic solutions that focus only on dollar amounts.

We need to keep in mind that overall spending on pharmaceuticals in Australia is, if anything, below average by international standards.

The fact is that Australia spends some 1.0% of GDP on pharmaceuticals, the UK 1.1%, Japan 1.3% and the USA 1.4%.

And the proportion of that overall pharmaceutical spending that Australia publicly funds is the lowest compared to other similar nations having universal pharmaceutical cover.

That doesn’t mean that there isn’t waste and problems that need to be tackled in our subsidising and use of medicines.

There clearly are.

Unfortunately the government is tackling the issue of changes to the PBS in the same way that it is handling reform within the health system as a whole.
Rather than doing hard policy work on the PBS to work out how we are going to sustain our PBS over time and how best to meet the health challenges of the 21st century it is looking for quick and dirty solutions.

These solutions increase health costs in the long run, make Australians pay more in out-of-pocket costs for health and undermine our universal publicly funded system.

The second part of this Bill prevents a patient’s co-payment from being included towards the safety net threshold when a prescription is filled within 20 days of a previous supply.

The reason behind this is supposedly to stop potential abuse of the safety net arrangements by stopping people from stockpiling medicines to qualify for the safety net benefits.

Unfortunately the government has not provided us with any data on how common this problem is—or even if it is really a problem.

After all as the AMA points out in their submission even if people were stockpiling in one year, this would self-correct in the following year as they would take longer to reach the safety net threshold the following year.

There is also little information on which medicines this will apply to.

The Department of Health and Ageing have stated that the “Safety Net 20 Day rule will apply only to medicines for long-term therapy. It is not intended to apply to all PBS medicines.”

The Department have also said that “the Pharmaceutical Benefits Advisory Committee will provide expert advice to ensure the new rule applies only to medicines where it is appropriate.”

Yet we have no information on what criteria the Committee will use to determine when it is appropriate to stop people’s co-payments from counting towards the safety net. Nor do we know if the Minister has to follow the advice of the expert committee.

There also seems to be an assumption that all instances of early supply are inappropriate but this is clearly not the case. Yet this Bill does not allow sufficient flexibility to allow for exemptions to apply to situations that will happen regularly and that require people to get their prescriptions filled within the 20 days timeframe.

The Committee that inquired into this Bill heard that there is no allowance for when patients must travel and need an extra prescription supply to take with them. In such cases, the patient must either pay more for their medicines and/or forgo adding the cost of that medicine towards the safety net, or return to their doctor for a special new prescription.

The Committee also heard that carers who are unable to change their shopping processes will be disadvantaged under this new system, as will nursing homes that need to supply and pack more than one month’s supply of a medicine in a dose administration tool.

People who lose or misplace their medicines will also be subject to this 20 day rule. The Committee heard that some psychiatric patients will be among those who perhaps commonly misplace medication because of their mental state. Therefore this new rule will be especially punitive for them.

It is clear that the Government is putting cost cutting before the needs of the sick.

It needs to be remembered that these changes to the PBS safety net are not taking place in isolation.

We are also seeing changes to the MBS safety net.

Therefore from the start of 2006 sick people will be subjected to the double whammy of the increased Medicare safety net threshold and the increased PBS safety net threshold when they have to access medical services and medications.

It is time that the Government combined the Medicare and PBS safety nets, set reasonable thresholds, streamlined the system and put in place some real solutions to the rising out-of-pocket costs that all Australians are experiencing in relation to health care.

Unfortunately all they seem to be able to do is to continue increasing costs to the sick and in ways which will most disadvantage those on low incomes.

**Senator McLUCAS** (Queensland) (6.22 pm)—As I was just saying, this legislation
was forwarded to the Community Affairs Legislation Committee for inquiry. I have to say, and I will get to this later in my speech, that legislation committees and other committees of the Senate do an excellent job in providing advice to legislators—in this case, the government—on the intent of the legislation that they propose. At the outset, I want to say that the Pharmaceutical Benefits Scheme in Australia must be seen as one of the most important preventative health measures that this country has at its disposal. Good investment in pharmaceuticals is good investment in health, and we know that good use of pharmaceuticals will prevent increases in hospitalisation and deliver a better quality of life. Unfortunately, the Howard government has been playing with one of the best preventative health measures that this country has.

The Pharmaceutical Benefits Scheme is internationally recognised as an excellent system for a nation to deal with providing pharmaceuticals in the best possible way to its community. When administered well, the Australian Pharmaceutical Benefits Scheme delivers low costs to consumers through excellent bulk purchases. The Therapeutic Goods Administration assesses pharmaceuticals for their efficacy. Drugs are then assessed by the Pharmaceutical Benefits Advisory Committee for their listing on the Pharmaceutical Benefits Scheme. Following that, the pricing committee of the PBAC will assess what price should be negotiated with the pharmaceutical supplier. That is a good system. It is a system that has been in place for a long time and it works well when it is administered properly.

But recently we have seen a lack of attention to the management of the Pharmaceutical Benefits Scheme—firstly by former Minister Wooldridge. Who can forget the Celebrex event? Celebrex is an excellent drug but, unfortunately, when the pricing assessment was undertaken by the pricing committee, the minister of the day, Dr Wooldridge, did not take that advice. As a result, the cost of Celebrex in this country blew out astronomically. We had cases where doctors were inappropriately prescribing Celebrex. The company did a very good job of promoting its product both to doctors and to consumers, and unfortunately that process initially resulted in a huge blow-out in the use and the cost of Celebrex, which then had to be curtailed. It has been curtailed now, and I think Celebrex is probably being prescribed properly, but the lack of attention from Minister Wooldridge cost the Australian taxpayer an enormous amount of money.

Minister Abbott is now in charge of the Pharmaceutical Benefits Scheme, and we have seen, first of all, the agreement to increase copayments by 30 per cent. In the first six months of 2005 we have been concerned to see the number of concessional scripts—that is, those prescriptions provided to concessional patients—grow by only one per cent and general scripts altogether drop by 5.1 per cent. The number of concessional scripts filled is considered an indicator of access by poorer and older Australians. The government has not evaluated the impact of the 30 per cent copayment increase, but to see those numbers not growing in the way that they should have would surely indicate to any government that the increase of those copayments has had an enormous effect. The Minister for Health and Ageing seems to have no understanding of what has happened and why, nor does he have any desire to find out by commissioning some sort of evaluation.

The RAND Health Insurance Experiment in 1993 found that higher copayments are a tool to reduce excess consumption by persons with moderate or high incomes but they may deter poorer people from access to necessary medicines. In other words, copayment...
increases impact equally on appropriate and inappropriate medication. The government, as I said, has not undertaken any research to evaluate what drugs people are not taking as a result of the 30 per cent increase in copayments. I think that is terribly unfortunate.

The other action—it is really a lack of action, I am afraid—that the minister has taken in terms of management of the copayment goes to the bills that we have had today. As I said, the legislation was referred to the Community Affairs Legislation Committee. When it was referred there were three elements to it. The first was that the thresholds for eligibility for PBS safety net entitlements would be increased. The second was what is called the 20-day supply rule—the rule that people would not be able to fill a script within 20 days of filling an earlier prescription of the pharmaceutical.

The third element was quite concerning to many witnesses who came before the committee. That was that there would be ministerial discretion on what drugs would be able to be listed on the Pharmaceutical Benefits Scheme. The witnesses who came before the committee expressed real concern about allowing the minister unilaterally, without advice from the Pharmaceutical Benefits Advisory Committee, to make decisions about what drugs would be available through the PBS. It was proposed by the government that this measure was required in order to stop people using medical interventions for purposes other than that for which they were approved. We spent a lot of time talking about the use of Spakfilla in spinal cords. I do not think that is quite the medical term that they would use.

**Sitting suspended from 6.30 pm to 7.30 pm**

Senator McLucas—Before we broke for dinner, I was speaking about a proposal that the government had to limit the availability of or in fact to allow the minister discretion on certain items that would have been on the medical benefits schedule. I need to make it plain that that was actually in a different piece of legislation to the one we are debating now. But I do want to put on the record my pleasure at the fact that the minister actually listened to the discussion that happened in the inquiry and recognised that to extend his power in the way that was being proposed in that legislation would have given Australians very little confidence in the strength of our administration of, in this case, the medical benefits schedule.

I will move to the substance of the bill that is in front of us. As I have not indicated yet but I will now, Labor will not be supporting this legislation. The two elements that are encompassed in the legislation will increase the threshold of eligibility of people on the pharmaceutical benefits safety net in terms of their entitlements and brings in another element, which is called the 20-day rule. The Labor Party is opposed to increasing the cost burden on Australians in terms of their pharmaceuticals. As I said earlier, increasing the cost of pharmaceuticals limits the access by poorer people to pharmaceuticals under the PBS. It has an ability to limit higher income persons as well, but the impact on lower income people is far more significant.

From the inquiry that we undertook, the government members’ report lists the number of witnesses who expressed concern about the imposition of higher copayments, particularly for people who are concessional patients. The AMA argued that the safety net thresholds are already high. Their concern was shared by the Health Consumers Council of Western Australia, who said:

People with chronic illnesses, the elderly and families with children will also be amongst the groups hardest hit by the increased safety net contributions for PBS medicines.
Their concern was shared by the Queensland government and the Western Australian government. The Australian Women’s Health Network expressed grave concern that medicines are being priced out of the reach of increasing numbers of ordinary Australians. The network said:

This issue is of particular concern to women because they use more hospital and medical services and medicines than men, partly in fulfilling their reproductive roles and partly because they live longer, using more services in old age. Moreover, they experience more episodes of illness. Affordability of medicines is thus crucial to women.

Women’s Health Victoria made a similar point and Catholic Health Australia argued against the proposed increases as previous price rises are already impacting on demand, resulting in budgetary savings for the government. They noted, though, that the latest data on PBS expenditure over the 12 months to June 2005 shows that PBS expenditure is running at about $250 million less on an annualised basis than if the trend established over the last five years had continued. A significant component of this saving is undoubtedly due to the volume reduction, with the latest HIC figures suggesting a reduction of around five million scripts in the year to June 2005 compared to what could have been otherwise expected.

I find it interesting that it was very difficult for government senators to find a witness who supported what the government is proposing through this legislation. In fact, the conclusion that the government senators have drawn—that is, to support the legislation—does not have the support of one witness in the report; no-one advocates that action. Labor is opposed to the additional copayments because of the concern that they will make it harder for people who are poorer to access the medicines that they require.

The second issue that the legislation covers is the 20-day supply rule. The 20-day supply rule means that if you have had a prescription filled and wish to get the repeat filled within 20 days, the patient copayment amount will not accrue towards the safety net threshold and the patient copayment will be the standard amount that applies to the person’s entitlement. Reduced safety copayments will not apply.

The government’s reason for proposing this legislation is that they contend that people stockpile towards the end of a year that the safety net is being delivered in. We asked the government for evidence of that. A very pretty graph was shown to us, but it would have been nice for us to get the actual figures. That would have convinced us a little more strongly, I think. The evidence from the department said that, towards the end of a year, people tend to purchase ahead so that they hit the safety net and therefore get a reduced medication cost. Whilst there is some evidence that that might happen, it is our view that this is probably a sledgehammer to crack a nut. What is going to happen—

Senator Moore—A very small nut.

Senator McLUCAS—A very small nut—you are right, Senator Moore.

Senator Chris Evans—A walnut.

Senator McLUCAS—No, not a walnut, Senator Evans. I think we are talking about a peanut here. We think it is a blunt instrument to address the issue, if in fact it is happening to the extent that the government is suggesting. It will impact on people who will get a prescription filled, leave it at home and end up travelling, are in another town and will have to get their repeat prescription filled. That is the sort of person that this will affect. Whilst that will not be a lot of people, it certainly may affect people in terms of the cash that they have to have in their pockets. Sena-
tor Moore and I, coming from Queensland, were of the view that the high use around Christmas time was more to do with Christmas holidays rather than the misuse of the system, but I think that might be somewhat of an aside.

We heard that certain patients, especially psychiatric patients, are especially likely to require new prescriptions within the 20-day time frame. These patients are also less likely to be able to afford the out-of-pocket costs associated with a visit to a doctor to get a new prescription. It is for those reasons that Labor will not be supporting the legislation in front of the chamber this evening. It is mainly to do with the increased thresholds and the potential effect that that will have on low-income people accessing important pharmaceuticals.

While I have the opportunity, I would just like to make some comments about the minister’s recent decision to remove calcium tablets in defiance of the expert advice that he has received from the medical fraternity. An issue came to my attention recently regarding women who are prescribed hormone replacement therapy being prescribed calcium at the same time. It was put to me that, if a doctor prescribes the calcium, a woman who is receiving the hormone replacement therapy will be far more likely to get both the hormone replacement therapy and the calcium therapy scripts filled. A lot of people think that calcium is something that is probably good for you but is something that you can do without. If women are taking hormone replacement therapy, it is essential that they take the calcium that the doctor is suggesting they take.

It has been put to me that, by the removal of calcium from the PBS in the way that the government has done, women who are prescribed hormone replacement therapy may be less likely to take the calcium that they have to take in order to retain bone strength while they are taking hormone replacement therapy. As I said, Labor will not be supporting this legislation. It has potential significant impacts on low-income people and their access to medications. In terms of the 20-day rule, I think it is a very big hammer to crack a very small nut.

Senator HUMPHRIES (Australian Capital Territory) (7.40 pm)—Senator McLucas has already touched on the two main purposes of the National Health Amendment (Budget Measures—Pharmaceutical Benefits Safety Net) Bill 2005, which the Senate is now debating. I want to make comment on both of those main elements as well. First of all, I will comment on the rise in the threshold at which a person receives the benefits of a concessional rate of payment for a pharmaceutical benefit.

The increase in the threshold is a gradual one. From 1 January next year, the number of prescriptions that a person has to get filled in the course of a year increases progressively from the present 52 scripts in a calendar year by a total of two per year until 1 January 2009. Obviously that will occasion a greater cost for those people who are heavy users of pharmaceuticals. Nobody in the government would pretend that that is a pleasant exercise to be engaged in. No-one would argue that it is in any way particularly socially advantageous to be able to increase the cost of pharmaceuticals for heavy users of those pharmaceuticals.

But one fact that we cannot escape from—and members opposite, if they were in government, would also not be able to escape from it—is that the cost of the Pharmaceutical Benefits Scheme is rising each year at an extremely high rate. Government cannot fail to react to that increase lest it generate serious problems elsewhere in the health budget or, indeed, for the overall management of...
taxpayers’ dollars. In other words, with the rise in the cost of the PBS each year, options for expenditure in other areas of health are necessarily limited and more dollars need to be found to cover those additional costs.

Each year we spend in the order of $5.9 billion on our PBS—very substantially up from previous years. That is a product of a number of things. We have been widening the number of drugs which are accessible on the PBS as a result of advice that those drugs are advantageous to increasing numbers of Australians. We have been meeting the reality that the cost of medication rises. As science makes more solutions to medical problems possible, those solutions come at very considerable cost in the development of new drugs. It has been suggested to me, for example, that the average development cost of any new drug that comes onto the market is in the order of $1 billion. Of course, those costs need to be ultimately met by either taxpayers or actual consumers of those drugs, or a combination thereof. That is why we face such enormous increases in the cost of the PBS each year.

For each year between 1993-94 and 2003-04, the PBS increased by a total annually, in real terms, of 11 per cent. That is about four times the general rate of inflation in Australia over that period. So we can see that we simply cannot consider that increase without finding more money from elsewhere to be able to feed the growing cost of the Pharmaceutical Benefits Scheme.

Very clearly, any government would like to be able to avoid having to impose an additional cost on the consumers of Australia. The government made it clear that by introducing this and the other measures in the bill it was effectively keeping pace with the increased cost of the scheme, the access by consumers to the scheme and the proportion of the scheme which is met by the actual users as opposed to taxpayers more generally. We were told that some years ago approximately 30 per cent of the cost of the
PBS was actually met by those who used it and the other 70 per cent was met by the taxpayer generally, and that that figure had fallen and these measures would push that figure back up towards 30 per cent. Again, it would be nice to avoid having to do that but, again, to fail to do that occasions very considerable cost to the taxpayer. Those opposite, again, need to explain where they would find those additional dollars. At the moment, one would assume they would be found from elsewhere in the health budget and something else in the health budget would suffer as a result.

The other important point about these measures is that they contain clear provisions that prevent people in genuine need from being unable to access a repeat prescription—an immediate supply type prescription. For example, it was suggested in evidence to the committee that a person with a serious medical problem of some kind that required them to access their repeat prescription earlier than the time specified would be disadvantaged. It was suggested that a person who might be travelling and has to get repeat prescriptions before they start to travel would be disadvantaged. It was suggested that a person who lived in regional and rural Australia who might have a long distance to travel into town to get their medicines would be disadvantaged by the 20-day requirement. In each of those cases, it was suggested to the committee that a capacity to exempt the persons concerned did exist and that a power lay with the pharmacist making the supply. In the opinion of the department, at least, it would be possible for all those cases to be covered off by the present exemptions that gave that latitude to people in those circumstances.

Clearly there is a problem with stockpiling. Senator McLucas describes it as a peanut. I note that the measures in this legislation are estimated by the department to save over $70 million in four years—some peanut! That is a lot of money to be saving and, again, it is money that helps to enlarge access to the Pharmaceutical Benefits Scheme or at least maintain the level of access that we have been able to generate in recent years. That is a very large amount of money and I think it is worth making that saving. I emphasise again that the problem of stockpiling is a real problem. It is not the imagination of bureaucrats who are intent on putting disadvantage in the way of ill people for the sake of some kind of perverse pleasure. There is a problem with stockpiling. People do take advantage of the safety net to access those medicines more cheaply towards the end of the financial year. There are not only problems for the management of the public dollar with that phenomenon but also problems with people keeping medicines for longer periods than they should. There is the possibility of those medicines becoming out of date and presenting a risk to the health of the person who might use them. They acquired them when they were cheap and they are now no longer appropriate to be taken because of the effluxion of time.

I think that these measures, while at one level unpalatable, are necessary to maintain the integrity of our Pharmaceutical Benefits Scheme. Again, I put the challenge out to those opposite: if they think that these are unfair and they do not want to accrue the savings in this bill—and those savings, I remind you, are $70 million over four years for the immediate supply provisions and a total of $210 million for the measures involved with the increase in the thresholds—and if they think that $300 million or so can be found to save the scheme from having these compromises, then I would like to know where they think the money will come from. The fact is that the scheme is an expensive one and the government needs to review continually how much it costs the taxpayer and
whether or not there are better ways of targeting those dollars.

Senator FIELDING (Victoria—Leader of the Family First Party) (7.52 pm)—The National Health Amendment (Budget Measures—Pharmaceutical Benefits Safety Net) Bill 2005 is another piece of legislation which shifts health costs to Australian families. It is interesting to hear the word ‘savings’ when they are actually shifting costs onto families; it is a new concept. My principal concern is that the bill, when combined with other measures, will lead to significantly increased health costs for families and individuals.

The bill will increase costs on families because it increases the PBS safety net thresholds. Let us look at an example to gauge the effect of the extra costs. By 2009 a patient without a concession card would have to spend at least an extra $228 each year before being eligible for the concessional rate. Concessional patients would need to spend an extra $36.80 each year before copayments are waived. The effect of increasing the threshold for the PBS safety net is compounded for families by the 30 per cent increase in copayments on 1 January 2005 and by the recent government decision to raise the Medicare safety net thresholds.

The increase in the PBS safety net will have a particularly harsh effect on lower income people who require pharmaceuticals for medical problems. The government should consider other ways to fund cuts to expenditure, rather than these measures which negatively affect vulnerable people. People living on low incomes are more vulnerable to increases in the cost of living. Many low-income households will also be forced to decide between either buying pharmaceuticals and forgoing other spending or risking their health.

The increase in the PBS safety net thresholds is just one more in a series of recent increases in health costs forced on Australian families by the federal government. If the government were genuinely concerned about the interests of families, particularly low-income and disadvantaged families, it would issue family impact statements on such policy measures so that the full impact on families could be understood. In the absence of such a statement, the evidence shows that such increases in the health costs for families are not in their interests and should be addressed by the government.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (7.55 pm)—I have an amendment, amendment (1) on sheet 4778, which has been circulated and which relates to removing the discrimination against same-sex couples. This is for all the reasons that were cited earlier in the debate and indeed in the debate we have just had on Medicare safety nets as well. But, before I move that, I would like to respond to Senator Humphries’s challenge to the Senate to find ways of containing the costs of the PBS. In fact, Senator Patterson earlier today talked about the fact that the Senate has no ideas—the coalition is the party of ideas, and where were the rest of them coming from? I thought I would give the Senate the benefit of some of the ideas that we have had on the PBS.

But, before saying that, I do think it is important for us to not get too sidelined on the whole notion that the PBS is unsustainable. It is only unsustainable because the government wants to save money on it. This is in the context that we may be looking at, as I understand it, a surplus of somewhere be-
tween $12 billion and $14 billion. Is it only unsustainable if you have a surplus that is as high as that or is it unsustainable for some other reason? I think we need to ask the government not to keep using that term, because everything is relative. I would argue, as I did in my speech in the second reading debate, that not only is the PBS lifesaving in many cases but it negates the need for more expensive and often more invasive treatments involving hospitalisation and surgery. So indeed it contributes to reducing health expenditure in other areas.

But there are some things we could do to improve the situation. It is my understanding that most of the cost increases in the PBS in recent years were due to leakage—that is, expensive drugs that are prescribed for conditions other than those for which they were listed. This is a huge problem, as I understand it. Very expensive drugs are prescribed. No doubt they are useful, but other, much cheaper drugs could easily do the job. Part of the problem here is that advertising to GPs is highly persuasive. If the government were serious about solving the cost blow-outs, as it describes them, for the PBS, then that would be an area it should look at first. I think that, if we had better information for prescribers, that would help to provide better health outcomes and lower the outlays, too. There should also be a regular review of all of the listed products for cost effectiveness and quality use. I am sure that would net far more savings than taking money away from people who are sick.

Then there is extension of the PBS to public hospitals. I think every inquiry we have had into health, the PBS, Medicare and so on has pointed to the ridiculous situation where the states are supposedly responsible for pharmaceuticals in hospitals but the Commonwealth is responsible for them outside hospitals. It does not make any sense and leads to ridiculous overuse of GPs. People are discharged from hospital and then have to go along to their GP to get a script written out. The Commonwealth is paying for that; they might as well pay for the drugs as the people are in hospital.

Improving compliance with restrictions on prescribing is much the same issue as leakage, but we could do much more to make sure that doctors do not have that leakage. With respect to the control of marketing and promotion of medicines which drive demand, I do not think there is any doubt that there is still advertising of pharmaceuticals. Quite a lot of effort goes into marketing to doctors. That is not appropriate and should be removed. As I understand it, tendering out the wholesaling of pharmaceuticals still has the opportunity to net some savings. The government said they would do this years ago but were obviously heavied by some in the industry and did not bother. They are our suggestions. Let us see the government look at those areas of savings before they suggest that they are the party of ideas when they do not have any.

Going back to my amendment, the reason for it is to remove that very serious discrimination that applies to people who live together under the same roof for a whole range of reasons and who regard themselves as living with another person on a bona fide domestic basis. Why should we discriminate against them? I am sure there are some in this place who will say, ‘It is not a real family,’ but it is. You cannot step aside from that. When people live together, whether it is in a same-sex or even another kind of relationship, whatever that might be, it is not reasonable for the government to argue that that is not a real family or a real couple.

It is terrific to have Labor come on board with this amendment. We have put it up hundreds of times in this place, so at least we are halfway there with the major parties. Maybe
the government will also consider this seriously. Families are not just mum, dad and two or three kids. Families are other groupings of people who live together for a whole range of very good reasons. I move Democrat amendment (1) on sheet 4778:

(1) Schedule 1, page 4 (after line 5), before item 1, insert:

1A Subsection 4(1)(definition of de facto spouse)

Repeal the definition, substitute:

de facto spouse means a person who is living with another person on a bona fide domestic basis although not legally married to that other person, including a same sex partner.

Senator SANDY MACDONALD (New South Wales—Parliamentary Secretary to the Minister for Trade) (8.02 pm)—The government opposes Senator Allison’s amendment for a number of reasons. Firstly, there are complex and sensitive social issues at stake on the question of recognising same-sex relations, and the government has no intention of rushing into a piecemeal approach to the law by supporting an ill-thought out change to one component. Secondly, the amendment attempts to make fundamental changes to the definition of ‘family’ for entitlements under the National Health Act, but to do so for only one area of entitlement, the PBS safety net. Thirdly, there is no cause to rush into a change of this kind without even time to check for consistencies with other entitlements under the act, nor is there any good reason to complicate the implementation of this measure. Those are the three reasons why we oppose the amendment.

Senator McLucas (Queensland) (8.03 pm)—I indicate that Labor will support the amendment as proposed by the Democrats for the same reasons we advised for the previous bill.

Question negatived.

Senator McLucas (Queensland) (8.03 pm)—I want to ask the parliamentary secretary one question. It goes to the list of drugs that will be included in the 20-day rule. During the inquiry, we talked about a number of drugs that have to be taken on a regular basis. Prednisone is one of those drugs. Could the parliamentary secretary advise if there will be a published list of those drugs which will be included in the 20-day rule?

The TEMPORARY CHAIRMAN (Senator Barnett)—Parliamentary Secretary. No?

Senator Allison (Victoria—Leader of the Australian Democrats) (8.04 pm)—Could the parliamentary secretary clarify if he does not know the answer to this question or if he is refusing to give it? It would be helpful if he clarified that.

Senator Sandy Macdonald (New South Wales—Parliamentary Secretary to the Minister for Trade) (8.04 pm)—There will be a list of the drugs and it will be done by legislative instrument.

Senator Nettle (New South Wales) (8.05 pm)—The National Health Amendment (Budget Measures—Pharmaceutical Benefits Safety Net) Bill 2005 raises the thresholds for the PBS safety net and also has provisions in it to exclude early supplies of specified PBS medicines from safety net entitlements. Under current arrangements, non-concessional patients who have reached the PBS safety net threshold of $874.90 pay the concessional rate of $4.60 for further PBS prescribed items for the remainder of the calendar year. For concessional patients, the patient copayment per prescription item is removed after they have reached the safety net threshold of $239.20 or 52 scripts within the calendar year. One change proposed by this bill involves, from 1 January 2006, increasing the thresholds beyond which pa-
tients can benefit from the safety net. For general patients, the threshold will increase by the dollar equivalent of two copayments each year until 1 January 2009, whilst for concessional patients the threshold will increase from 52 to 54 prescriptions, with further increases of two prescriptions occurring each year until 1 January 2009.

The other area of change proposed by this bill involves early supplies of medicine. This concerns patients with repeat prescriptions for a medication. They cannot normally obtain a repeat script until 20 days after the supply of the original prescription. This is designed to prevent stockpiling of medicines. However, sometimes the patient can obtain the script earlier under the immediate supply provisions of the PBS. This would apply, for example, if the medication was lost or damaged. This bill will mean that, from 1 January 2006, some PBS medicines provided under the immediate supply provisions will be excluded from safety net entitlements. This means patients already on the safety net will not be eligible for the lower copayment of $4.60 for general patients or zero for concessional patients if the repeat prescription is dispensed under the immediate supply provisions.

The government argues that these changes are needed to ensure the sustainability of the PBS. In 2004-05, around $5.9 billion in benefits was paid out through the PBS. The average growth rate for the scheme stands at 11 per cent from 1993-94 to 2003-04, and the government estimates that expenditure will increase annually by around nine per cent between 2005-06 and 2008-09. In response to this continually rising cost to the PBS, the government has introduced a range of initiatives aimed, it tells us, at containing the cost of the medicines under the PBS and ensuring the scheme’s future sustainability.

These initiatives include: increased patient copayments; efforts to increase price competition through the development of the generic medicines industry in Australia; programs aimed at changing prescribing behaviour; changes to the monitoring of entitlements to pharmaceutical benefits; the deletion of particular items, such as calcium, from the schedule; and the move to cost recovery funding for the administration of the Pharmaceutical Benefits Advisory Committee and the PBS listing process. Not only do we now have these changes to the PBS safety net entitlement but, as the Financial Review reported on 6 December, there are also still further measures in the pipeline, including, reportedly, recommendations to reduce the range of drugs available. The public has been told little about this decision making that is occurring beyond public scrutiny. We do not know why there is such need for mystery. The Greens certainly consider it unacceptable to conduct this process in private.

The Greens have long acknowledged the need to develop and implement policy aimed at keeping the PBS sustainable. That is why back in 2004 I proposed on behalf of the Greens a Senate inquiry to undertake a comprehensive review of the PBS to examine the government’s assumptions of costs and sustainability and to consider a range of possible changes to the scheme, including how we fund it. This proposal was rejected by both Labor and the coalition, and the failure to endorse that process back then means that we are still flying blindly today. The problem is that little consideration has been given to who will bear the brunt of many of these changes. That was evident with the increase in the copayment, which was supported by the opposition and the government sometime ago.

This bill is a prime example, because it is clear that these changes will also disproportionately affect the very vulnerable sectors of
society, such as the chronically ill, the elderly and others who require large amounts of medicines. The explanatory memorandum to the bill estimates that these changes will result in savings of approximately $210.3 million over the four years to 2008-09. However, we know this is a false economy. If older people, the chronically ill and others who require large amounts of medicines are unable to access pharmaceuticals because of this proposed legislation, health costs will escalate in the acute care sector. The Combined Pensioners and Superannuants Association of New South Wales explained it by saying: 'The proposed changes to the PBS safety net are not only unlikely to produce real savings, they are unjust and will penalise people unlucky enough to suffer poor health, especially those on low incomes. They will lead to worsening health outcomes and even fatalities.'

These changes will significantly affect those Australians suffering from problems that require high amounts of medication, such as diabetes, AIDS or cancer. The Chronic Illness Alliance are greatly concerned about these changes. They argue that the greatest contributor to poverty is the cost of medication, including those on the PBS. The alliance have stated that any increases in the PBS or its safety net will push families in which there is chronic illness into further poverty. It is the working poor—the genuine battlers—who the Chronic Illness Alliance say will be shifted from the marginally vulnerable to the completely vulnerable by these measures. Many of the working poor are people with chronic illnesses who are trying to maintain jobs, generally low paid and/or casual, and meet very high costs associated with their illness.

As I have stated in the Senate before, this government has no problem with imposing hardship on low-income earners and people with chronic medical conditions but, at the same time, it is also quite happy to spend billions of taxpayers’ dollars each year in subsidising private health insurance, which is predominantly taken out by the wealthy. The private health insurance rebate does not purchase a single public health service. Instead, it buys insurance. Because there is no cap on the rebate, it constitutes an open-ended industry subsidy at a time when our public health system urgently needs the funds. It is also particularly disturbing that, at the same time that Australia is facing a cost blow-out in health care and in the cost of the PBS system in particular, we are hearing about a major push from the coalition for tax cuts. This is morally reprehensible, because we desperately need money for our public health system and we do not need tax cuts that will no doubt benefit the wealthy and the healthy.

This government considers it ideologically acceptable to increase the financial burden of essential medicines on the sick and those with low incomes. The government’s record on health is a poor one. It has shown little concern for the state of Medicare, the universality of Medicare and the overburdened public hospital system, which is the cause of hardship for so many Australians in their daily lives. The goal of the Pharmaceutical Benefits Scheme is to make necessary medicines available to all Australians. It is vital component of our public health system and deserves our full support, but raising the threshold of the PBS safety net will so clearly disproportionately affect the poor and the sick that the Greens cannot support this bill. Instead, the Greens will be working towards promoting policies that improve the health of Australians who rely on a strong PBS to improve their quality of life.

Bill agreed to.

Bill reported without amendment; report adopted.
Third Reading

Senator SANDY MACDONALD (New South Wales—Parliamentary Secretary to the Minister for Trade) (8.13 pm)—I move:
That this bill be now read a third time.
Question agreed to.
Bill read a third time.

TAX LAWS AMENDMENT (2005 MEASURES No. 4) BILL 2005

Second Reading

Debate resumed from 11 August, on motion by Senator Coonan:
That this bill be now read a second time.

Senator SHERRY (Tasmania) (8.14 pm)—The primary change that the Tax Laws Amendment (2005 Measures No. 4) Bill 2005 seeks to have enacted is the creation of a new tax offset called the child-care tax offset, as outlined in schedule 1. Labor accepts that, as an election commitment—although the commitment has been breached already—the government has a mandate to implement the measure as announced in the election campaign. Labor will therefore not be seeking to oppose the creation of a tax offset as outlined in schedule 1, but that does not mean that Labor is without reservations in relation to this measure.

The child-care tax credit is not well designed. This is of course not surprising, given that it was thrown together and figured out in the intense environment of the election campaign, when the Liberal government sought to buy its way back into office with its $66 billion spending spree during the course of that campaign. This tax credit is problematic in a number of ways. Firstly, there is a question of whether the funds would have been better directed to other forms of assistance for child care. Secondly, the offset is poorly designed. The Liberal government would have preferred to give tax deductibility for child care—and we understand it was very close to announcing that option in the election campaign. However, this does not mix at all well with the current child-care benefit payment regime. Something for which a payment is received is usually not treated as deductible. So the tax credit provided the benefits of tax deductibility without having to alter the CCB.

The problem with the approach in this bill is that it involves reconciliation between the payments made to child-care agencies, payments made by Centrelink and tax records. It is a time-consuming process involving significant red tape and record keeping for individuals and involves a long delay between the receipt of the offset and the expense being incurred—and the delay could last well over two years. This would be a very difficult situation for many struggling families and illustrates yet again how out of touch this Liberal government is in respect of measures that assist families. It would have been better to consider a mechanism for families to be able to claim the expense net of CCB on the basis of the payments made. Later in the committee stage I will be moving amendments to give effect to this approach.

The essence of this problem is that the tax offset is variable with respect to income and expenditure. The Liberal government recently created two offsets that are income contingent: the 25 per cent entrepreneurs offset and the mature Australian tax offset. But these can be easily calculated in the tax returns of taxpayers. The problem with this measure is that it is not just income contingent but also contingent on the income less estimated expenditure. But the Liberal government is saying that the taxpayer cannot decide on the expenditure and thus the out-of-pocket costs until it has checked the expenses. The Liberal government agrees on a self-assessment system for the tax act generally and has recently reformed it but it will
not take the word of families with child-care benefit—in other words, it is not allowing self-assessment for them. Effectively, it is trying to be a nanny state, putting the family’s child-care expenses under the microscope and assessing every taxpayer. It would have been simpler to provide for self-assessment of the taxpayer’s child-care expense and to seek to audit perhaps a representative sample of the claims.

Secondly, there is a debt trap for parents who take up HECS for child care. There is a risk that the delayed arrangements could increase family debts because of the two-year delay between incurred expenses and the parent’s receipt of the rebate which I described earlier. For example, ABC Learning—Australia’s biggest child-care provider—has heavily advertised a $4,000 credit line offer. Parents who accept that offer will have their debt payable at least 12 months before they receive the rebate. In the case of ABC Learning, parents are obliged to pay their debt to ABC in full by the September immediately following the financial year in which the debt was incurred. Because parents will not be able to claim the rebate for the relevant financial year until their following tax return, there will be a year or more between the debt repayment date and the rebate being paid. The Director of ABC Learning, Mr Eddie Groves, said very recently that he would not charge interest on debts that could not be paid because of delays to the rebate, but the fact remains that the debt falls payable and the parents have already signed contracts with penalty clauses for overdue repayments. A further problem with the ABC Learning $4,000 line of credit deal is that it is available to all parents regardless of their eligibility for the rebate or likely ultimate rebate amount. The next issue is that no parents can claim the rebate before the 2005-06 tax returns.

As a result of the Liberal government’s decision to delay the implementation of the 30 per cent rebate by a year—which is a breach of its original election promise—parents can claim the rebate for the first time in tax returns submitted in respect of the 2005-06 financial year for expenses incurred during 2004-05 only. As noted above, expenses for the 2005-06 financial year cannot be claimed until 2006-07. The tax rebate is very complicated and an inefficient vehicle for child-care fee relief. Many parents do not and will not understand how and when they can claim the rebate or how much they will receive from it because of the policy changes made post election which I referred to, the cap and the delay to it—a breach of the election commitments given, made after the election, of course—the complexity of the implementation mechanism and the non-availability of detail or comprehensive information to parents, despite extensive government advertising and a hotline being established.

Parents who have not kept all their child-care receipts could miss out. The Liberal government is requiring parents to send in with their tax returns receipts for all child-care expenses for which the 30 per cent rebate is claimed. But the government has not made it clear whether parents who do not have sufficient records of expenses will receive the rebate for those expenses. The Assistant Treasurer, Mr Brough, has said that he expects the ATO to look sympathetically upon claims in these circumstances. We are not sure what that means. They can look sympathetically but, at the end of the day, you may not get the claim.

Sole mothers with very low tax liability do not receive the full value of the rebate. All sole parents whose tax liability in a given year is less than the amount they are entitled to receive from the child-care rebate lose all rebate dollars that exceed the sole parents tax
liability. For example, a sole parent starting up a business who has a very low taxable income because of the deductible start-up expenses will not get the amount of rebate she is entitled to where that amount exceeds the total tax payable.

Parents who pay fees to child-care providers that are not approved miss out. There are a variety of child-care providers known as ‘registered carers’, for whom the CCB is payable but at a much lower rate than for approved care. These providers are mainly nannies, family members and friends who, due to little government regulation, cannot apply to become approved child-care providers. In addition to this group, there are institutions—including preschools, creches and kindergartens—that care for pre-school-age children which are not regarded as child-care providers at all. Fees paid by parents for registered child care and educational services for pre-school-age children cannot be claimed from the rebate.

Parents with high child-care expenses will hit the cap. As a result of the government’s post-election decision to cap the rebate at $4,000 per child per year, parents with high child-care expenses will not be entitled to 30 per cent of their actual costs if those exceed $4,000. Parents who will hit the cap are, firstly, those who are entitled to the minimum rate of CCB, for example those with a combined family income exceeding $95,683 for one child or $103,739 for two children, with a commensurate rise depending on the number of children. The second group of parents who will hit the cap are those who are both working full time or by preference have their pre-school-age child or children in full-time long day care, and those who pay child-care fees above approximately $65 per day for 48 weeks per year.

Some parents will never benefit from the rebate because they will not be able to afford to pay the cost of care up front. The rebate does nothing to improve the current affordability of child care. Parents who cannot afford the upfront costs or cannot find a place in approved care miss out altogether.

Schedule 2 concerns new deductible gift recipients. Schedule 2 provides for deductible gift recipient status for a number of worthy organisations. One in this schedule is the listing of playgroup associations. Labor has long argued for and supported these listings in the past. The Chifley Research Centre listing replaces the DGR listing of the Herbert Vere Evatt Memorial Foundation Incorporated, with effect from 20 May 2005, the latter being repealed in this bill. Labor thanks the government and the minister, Minister Brough, for honouring the commitment given to the member for Hunter in this regard.

I turn now to schedule 3. At present the tax act only permits the disclosure of taxation information to the Australian Statistician for the purposes of conducting periodic surveys of research and development activities, periodic surveys of industries and compilation of Australian National Accounts. The amendment in this area enables the commissioner to provide the Australian Statistician with business income tax information collected for the purposes of the Census and Statistics Act of 1905, as requested by the Australian Statistician. In practice, this means the statistician would be able to expand his use of information to other important and emerging statistical purposes, including development of a longitudinal database of businesses and producing regional small business outputs. I am a little taken aback that the government has not rushed in an amendment to allow the tax commissioner to inform us about the tax affairs of the nominees for the RBA, but we might see some more on that next year.
Schedule 4 concerns the extension of the WET rebate to New Zealand wine producers. Under existing law, wine producers can claim a wine equalisation tax—WET—rebate of up to $290,000 per year. The rebate effectively makes $1 million of the wholesale value of each producer’s wine sales in Australia per year exempt from the WET. The existing rebate is available to wine producers who are registered for the GST in Australia. This bill provides this rebate to New Zealand wine producers. That is a rather odd tax policy outcome.

Through this bill a tax concession is provided to a foreign nation for export into Australia—and they are obviously competing against Australia in terms of wine production. The cheques will be sent from the ATO to producers in New Zealand. I must say it is the first time I have struck this approach in tax policy. The Labor Party is not entirely comfortable with the ATO sending out tax refunds to foreign nationals living overseas in a place like New Zealand.

Labor have calculated the value of the rebate to each New Zealand producer at $80,000 per year on average—and for what reason? Apparently, we are told, this measure is undertaken as a part of the CER program at the request of New Zealand. New Zealand will obviously have to withdraw its objection to the WET rebate in the World Trade Organisation as part of this proposal. The only issue of concern here is whether other FTA partners may also seek the exemption. It is a bit of a worry, I think—once we have effectively paid these New Zealand wine producers, we could have the Americans on the list, or even China, I suppose, at some point in time. We will have all these other countries lining up to be subsidised by the Australian taxpayer through the tax office. We will see whether that eventuates, but it is a concern to the Labor Party.

The real question that has not yet been answered—and it is the only issue that I have raised that I would ask the minister to respond to—is the question of what implications this measure will have for negotiation of future free trade agreements. Some existing agreements have clauses that require that Australia offer to FTA partners the same deals they offer to all other FTA partners, so it is a bit of a worry that, if New Zealand gets away with this, we will have other countries with FTA agreements claiming a similar payment and—aside from the disadvantage to the Australian wine industry—it obviously imposes a higher budget cost for Australia. Labor would like some clarification from the government as to our concerns on that particular matter. We will be supporting the bill. We do have a number of amendments to move in the committee stage to reflect the concerns that I outlined earlier with respect to the child-care rebate issues.

Senator MURRAY (Western Australia)

The Tax Laws Amendment (2005 Measures No. 4) Bill 2005 has four schedules. Schedule 1 provides a 30 per cent tax offset for out-of-pocket child-care expenses—that is, fees incurred for approved child care less child-care benefit, up to a maximum of $4,000 per child. Schedule 2 updates the list of deductible gift recipients, including various playgroups and the Chifley Research Centre, replacing the Evatt Foundation. Schedule 3 expands the purposes for which secret business tax information may be disclosed to the Australian Statistician, and schedule 4 amends the wine equalisation tax scheme to facilitate access to the existing wine producer rebate by New Zealand wine producers selling wine in Australia.

This is a relatively small bill. It adds only another 26 pages to the tax act. Schedule 1, the child-care tax offset, represents a coalition election promise. Promised as an uncapped benefit in September 2004, it was
subsequently amended, following the election, to a capped benefit of $4,000 per child. Let me clarify this issue for the Australian people: the coalition misled them about the terms of their child-care rebate policy. They backed down on the terms of an explicit promise that was evidently intended only to aid their election success.

Another aspect of schedule 1 of this bill that deserves consideration is the fact that the full rebate begins to reduce for families with incomes greater than $32,485. Thus the potential assistance that this package could provide to those who need it most appears limited, especially since families at this income level would battle to afford prepaid child care just to be eligible for a rebate. Having said that, I recognise that even families with twice this income or more struggle to afford child care.

There is no doubt that higher income families stand to gain the most from this bill. For example, consider two families who send their single children to long-day care, at a cost of $200 per week. A low-income family earning $30,000 is out of pocket by $56 and receives $16.80 in child-care tax offset benefits. In contrast, a family earning $100,000 who is out of pocket by $175.85 a week receives $52.76 in child-care tax offset benefits. So we have $16.80 for low-income families as opposed to $52.76 for high-income families. Is this fair? Is this just? No, but it is typical of Mr Howard’s agenda and his bias towards higher income families.

Whilst it should be noted that higher income families will always be out of pocket by more than low-income families because of lower child-care benefit receipts, this is naturally so and designed to be the case because they can afford the out-of-pocket expenses relative to low-income families. Why then should higher income families who experience greater out-of-pocket expenses stand to gain greater welfare benefits because of their higher relative income? That is what this bill represents: welfare for the wealthy because of their wealth. This is not in the spirit of welfare to work but rather highlights the disadvantages of Australia’s working poor.

A recent study by the Department of Family and Community Services confirms the suspicions that I have previously held regarding the impact of high child-care costs on the family dynamics of low-income earners. The report found that there is a negative relationship between rising child-care costs and the number of women who seek employment. These findings are definitive. The steep increases in child-care costs experienced by Australian families impairs the ability of women to seek employment if they so desire.

Whilst the impact on wealthier Australians is significant, the most devastating effect is experienced by low-income families. It should be noted too that the experience of a low-income family with an uncovered child-care expense of approximately $40 a week is fundamentally different from the experience of a high-income family who can ably manage an outstanding expense of approximately $120 a week. This is the argument of absolutes as opposed to relatives. The government may eagerly wish to stress that the low-income family has 80 per cent of their child-care costs covered by welfare—as opposed to only 40 per cent for the high-income family—but this obsessive focus on relativities ignores the true experience, the absolute experience, of Australia’s working poor, who battle with the burden of a $40-a-week charge as they have little or no access to excess disposable income. It is a $40-a-week charge that effectively is paid to enable such individuals to work.
Another issue relating to schedule 1 of this bill is the eligibility requirements that must be met to receive the child-care tax rebate. Eligibility is reliant on proving at least one child-care base week of approved care in the previous year. The cap of 50 hours per week remains and the benefit is effectively delayed until the 2006-07 tax year, because claims made from 1 July 2004 can only be paid out then.

Whilst I commend the government for trying to address, even if inadequately, the immense challenge of balancing work and family commitments in the child-care area—a challenge faced by a vast majority of Australians on a daily basis—the measures pertaining to child care in this bill, in the view of the Democrats, are only a beginning. Far more work needs to be done, and I urge the government to continue to review and modernise their policy on child care—they might look at the Democrats policy for a start—to provide real and effective support to the families of hardworking Australians.

The Democrats policy on child care highlights growing concern at the rising cost of child care and a belief that child care should be available to all families without a 50-hour-per-week cap and a one-year wait, based on ‘up to 30 hours of free child care for all, combined with the existing child-care benefit system, which would kick in once the free hours have been utilised’. We take what might be described as a Scandinavian view of child care: the future health, productivity and prosperity of your society are dependent on ensuring that families and their children are able to integrate with the work force and to be properly covered in doing so.

Australian society has changed. Women now fully participate in the work force. There just is not the extended family and community support network for voluntary child care that there once was. The Democrats policy tries to face up to the challenges facing Australian families—to recognise the contribution Australian families do make to our economy and definitely make to our society. It is a policy that acknowledges the true cost of child care and accepts the reality that it must, to a significant degree, be a state cost. It is a characteristic of modern, First World, developed countries that child care does entail significant state expenditure.

I have met Green fundamentalists who think we should halve Australia’s population, but, apart from that extreme view, Australians almost universally agree that on both social and economic grounds Australia must not discourage families from having children. The problem is that high child-care costs act as a discouragement, and you cannot advocate people having children without supporting the provision of child care. It is after all for their families that Australians bear the burden of the stress of two jobs or, in a flexible work age, multiple part-time and contractual jobs. Our working hours per week are apparently growing and they are among the highest in the world, according to those who survey these things. The government may have us believe that we all toil for the economy, but we actually toil for society—for our society and for the sort of life we want our families to be able to lead.

It is ironic that the government emphasises the importance of productivity and output to our national economy whilst at the same time failing to provide adequate and just support to families facing rising child-care costs as a result of meeting the demands of work. And I say that knowing that at least this policy is starting to move in the direction of making an effort in that area. By covering less than a third of the expense of child care, the government is keeping those with lower incomes under stress. Add to that the way in which the working poor will have their incomes reduced by the new workplace and
new welfare provisions, and injustice is heaped on injustice. It is bad policy.

The question then must be: how do we find the means to provide the child-care support that maximises the social return? For a start, the government can afford to consider removing the delay in funding a claim. At present, the benefit is effectively delayed until the 2006-07 tax year, which is a delay of at least 18 months. Eligibility also relies on being able to prove at least one ‘child-care base week’ of approved care in the previous year, which creates yet another delay of up to a year for families seeking child-care support for the first time.

Turning to other matters in the bill, I wish to raise the practice of providing deductible gift recipient status to foundations whose boards are controlled by politicians, who arguably have a strong self-interest, political agenda or bias. In theory, one think tank has as much right to tax incentive support as another. The first consideration is whether any think tanks at all should be funded by taxpayers. I must say I have not yet come to a view as to which side of the argument I should fall on, and I can see clear benefits in public policy terms from the work that many think tanks do. However, clear principles do need to be thought through.

One of the criteria that we might think about for a think tank to have deductible gift recipient status is that it should be genuinely independent of control by sitting politicians. I obviously have no objection to former politicians or members of political parties being members or directors of think tanks; that is perfectly reasonable. But for the Democrats, the coalition parties, the Labor Party or any other political party to have sitting politicians on a think tank which is funded through special tax concession status is, I think, a real problem in terms of a conflict of interest when those very people have to pass the laws that benefit them.

Consider schedule 2 of this bill, which seeks to transfer deductible gift recipient status from the Evatt Foundation to the Chifley Research Centre. On that board are some very able people: Senators Sherry and Evans, as well as chairperson Jenny Macklin MP, Simon Crean MP, Craig Emerson MP and Kevin Rudd MP—all very bright and able, but not many independent directors there. And here they are, putting up their hands to support and vote for a bill in which they have blatant self-interest. I do not care that the Chifley Research Centre is dedicated to Labor, socialist, Fabian or any other values; that is not an issue for me. What is an issue for me is the nature of the directors’ control over such organisations. We cannot, in this place, argue for better corporate governance, better public sector governance or good governance of churches and agencies and so on—or, might I say, the Reserve Bank board—and then allow this kind of cross-fertilisation between those who pass the laws and those who are going to benefit from the laws.

A key goal of the Chifley Research Centre is to provide ‘strategic policy advice to the federal parliamentary Labor Party’. This is another taxpayer funded contribution to the functioning of our political system and, in an indirect way, to supporting political parties. I am of the view that funding by the taxpayer relieves the recipient to some extent from excessive and consequently biased obeisance to private, corporate or union donors. So the effect of taxpayer funding is in fact to contribute to independence. This whole issue is one that deserves further thought. I have made it clear that my own mind is not made up with respect to these issues, but I do think we have to be careful about potential conflicts of interest that might arise in the consideration or passage of tax concessions or
advantages to bodies which are connected with political parties.

The amendment to the secrecy provisions of the Income Tax Assessment Act 1936 allows for expanded purposes for which business income tax information can be used—in particular, for census and Australian Bureau of Statistics purposes. I do not think this is controversial; I think it is a good idea. In fact, I have always been opposed to the peculiar Australian idea that you should destroy census information after it is taken. It is an invaluable historical record and I think that the potential privacy problems that others carry on about can be protected against in other ways. The preservation of census information with respect to the United Kingdom, for instance, has proved to be an absolutely invaluable historical, social and in many respects human record, which is of high value.

The last area I want to comment on before closing my speech in the second reading debate is the access to the wine equalisation tax rebate for New Zealand wine producers. It is sold to us as a continuation of the common market policy and a consequence of agreements between the two countries. The cost to revenue is $32 million over four years. This is not news to me: I raised it in estimates the very first time this policy appeared on the horizon. Perhaps I am being unkind to them, but I thought the Treasury people I was questioning looked suitably embarrassed, and so they should be.

I have thought about this a bit and I think it may be a result of the passage of the industrial relations reforms in New Zealand some years ago, which so impoverished and hurt that country’s economy and society that they are now reduced to developing-nation status and this WET rebate is a form of AusAID, and perhaps should be categorised as such instead of a tax concession. I suppose I should declare an interest: my father is a Kiwi, and I have to bear that particular cross. It strikes me as very strange when our Aussie dollar is going over to pay well-heeled New Zealand farmers. Without being too cruel about the whole thing, I suggest to the government that they need to rethink this entire area. I would rather see $32 million spent on Australian farms than New Zealand farms any day.

Senator WEBBER (Western Australia) (8.46 pm)—I seek leave to incorporate Senator Crossin’s speech.

Leave granted.

Senator CROSSIN (Northern Territory) (8.46 pm)—The incorporated speech read as follows—

I rise today to speak on the Tax Laws Amendment (2005 Measures No. 4) Bill 2005.

There has been a great deal of confusion over this proposed legislation. This confusion has been caused needlessly by a government which is struggling desperately to keep their election promises.

As senators in this house will be aware, the government during the 2004 election campaign announced in a desperate attempt to capture the votes of families across Australia that if elected the Howard Government would provide a child care rebate scheme where parents would be able to claim up to 30% of all out-of-pocket child care fees this year.

After the election, the Treasurer delayed the implementation by 12 months, changed the proposal by capping the rebate to $4000, made it so that parents won’t be able to receive the rebate until after the end of the financial year, and created a huge hassle for parents by requiring parents to have kept all the receipts of their child care payments for the entire year.

Whilst this out-of-touch government may not realise, but this proposal left many parents across the country disappointed and confused over the childcare rebate scheme.

In the Northern Territory the actions of the Treasurer has caused real problems for Territory fami-
lies. Almost fifteen hundred families take advantage of Community Day Care. More than seven hundred and fifty families choose to use Private Day Care. Around seven hundred families utilize Family Day Care and close to thirteen hundred families send their kids to Before and After School Care.

This legislation will have a real impact on families in the Northern Territory. Therefore it is critically important that we get this legislation right.

Today, I wish to talk on three of the problems for this legislation as it stands in its current form, before the Senate. Firstly, I wish to speak on problems with the delay of payments until the end of the financial year. Secondly, the problem of confusion caused by the government, and thirdly the problem trap of deferred payment plans.

Mr President, parents won’t get the child care rebate until the end of the financial year subsequent to the year the child care fees were paid.

In other words, child care fees paid by a parent in a financial year cannot be claimed at the end of that financial year—but at the end of the following financial year.

Here’s an example. I was contacted by an upset farther from the Northern Territory. He informed me that his pre-school child will be in their second year of school by the time he receives one cent of the rebate proposed by the government. In other words, child care fees paid by a parent in a financial year cannot be claimed at the end of that financial year—but at the end of the following financial year.

A delay of this length is simply unacceptable. Families need this rebate. As pointed out by, the Federal Member for Ballarat, Catherine King MP, who sits in the other place, in her press release dated the 11th of August; eight hundred and ten thousand working families experienced a cash flow problem in this past year.

This rebate has the potential to benefit families in the Territory and across Australia. However, when the Australian families look to the Howard Government for support and guidance, all they find is confusion.

Many Territory parents do not and will not understand how they can claim the rebate. Additionally, Territorian families have expressed that they don’t know how much the will receive the rebate because of three factors in particular. Firstly, the policy changes made post-election, especially the decision to cap and delay the rebate, secondly, the complexity of the implementation mechanism; and thirdly, the lack of detailed or comprehensible information to parents despite extensive government advertising and a hotline being established.

Mr President, let me give you another example from the Northern Territory. The Northern Territory News on the 12th of August this year contained an article titled “Parents disappointed over childcare debate relay”. This sums up very effectively the response of parents to this rebate.

A parent interviewed in the article, Tania Sellers, a Tiwi mother of twins, pays about $160 in child care each week. She said in the article “I work part-time and any little bit of extra money we can get means I don’t have to go back to full-time work and can spend more time with the kids”. However, she said she was “disappointed to find we weren’t going to get that extra money until next year”. And importantly, she states “it hasn’t really been clear how the rebate works”.

This is a clear case of how confused parents are in regards to the government’s proposal.

Parents, as in the case I just mentioned, need the rebate—and they need it now. Not in 30 months time.

Eight child care centres in Darwin and Palmerston, have offered “deferred payment plans” of up to $4000 for 30 per cent of childcare expenses, reserving the right to charge 8 percent interest per year.

This has become an attractive option for parents, who need relief now, not 14 to 30 months into the future.

However, because of this two year delay between incurred expenses and parent’s receipt of their rebate, caused by the Treasurer’s changes to the Government’s original election promise, parents may find themselves paying 8% interest on $4000 they would have received anyway, if the Government had stayed true to their election promise.

Additionally, due to the confusion over the true nature of this legislation, some parents may apply for a “deferred payment plan” even though they are not entitled to such a rebate. This is a debt trap in waiting, which could have easily been avoided by the Government, if they supported the amendments proposed by the Honourable Tanya
Plibersek M.P., when they were proposed in the other place.

It is not acceptable that the government has put parents in such a situation.

It is this combination of delay and confusion, which we’ve seen and time again from this out of touch government and Australian families deserve better.

In summary, what have I talked about today?

Today I’ve given the background to this legislation and mentioned yet another case where this out-of-touch government is struggling to keep its election promises. I have pointed out how this specifically affects the Northern Territory and its parents and families. I provided three flaws; delays in payments, confusion and the debt trap of the deferred payment plan. I have given examples of the ways in which constituents are affected by this legislation.

It is for the reasons I have outlined in my speech that I cannot and the Australia Labor Party cannot support this bill.

**Senator WEBBER** (Western Australia)

(8.46 pm)—I also rise to speak in this debate. The Tax Laws Amendment (2005 Measures No. 4) Bill 2005 has four main schedules, as has been mentioned before. The schedules introduce major changes into Australia’s tax laws. Schedule 1 gives effect to the government’s election promise of a 30 per cent child-care tax offset to offset child-care fees for families. Schedule 2 extends the deductible gift recipient status to a number of charitable organisations. Schedule 3 makes changes necessary to free up information-sharing arrangements between the Australian Bureau of Statistics and the Australian Taxation Office to enable a better understanding of the effects of our ageing population. Schedule 4 seeks to extend the wine equalisation tax to producers in New Zealand.

As we have heard, other speakers in this debate have focused on the government’s betrayal of Australian families regarding the child-care tax offset. I intend to focus on schedule 4, the extension of the wine equalisation tax to producers in New Zealand. The current law allows existing wine producers to claim a wine equalisation tax of up to $290,000 each year. This rebate allows producers to make the first $1 million of the wholesale value of each producer’s wine sales in Australia per year free of the wine equalisation tax. To be eligible, the wine producer must be registered for the GST. This new schedule will provide the same rebate to New Zealand wine producers. It is interesting to note that the wine equalisation tax was introduced with the GST. It was determined that the reduction of the previous sales tax on wine from approximately 40 per cent to 10 per cent was not in the nation’s interest. The government decided to effectively leave the tax on wine at its pre-GST levels. But it is always the devil in the detail that causes this government to come unstuck, and it is no different with the wine equalisation tax.

The wine industry quite rightly pointed out that the wine equalisation tax was not revenue neutral. Because the tax effectively was set at 29 per cent, which was then compounded by the GST, the government was set to reap a financial windfall of hundreds of millions of dollars. So the government is now proposing to extend to New Zealand wine producers the same rebate on the wine equalisation tax that Australian producers get to ensure that they are not unfairly treated in terms of selling their product in Australia. So what will we see? In simple terms, wine producers in New Zealand will now be able to receive a rebate from the Australian taxpayer of up to $290,000 each year. Therefore, New Zealand wine producers will compete with Australian wine producers with a $290,000 per year rebate that comes out of the Australian tax system.

So an industry that has been one of our success stories over the past decade in terms
of growth and export earnings will now have to compete unfairly with foreign producers in the domestic market—foreign producers who are given a leg up by the Australian taxpayer. You have to wonder about this approach. If wine producers anywhere else in the world want to compete with Australian wine producers then they can send their product to Australia, apparently. I have no problem with New Zealand wine producers doing so. If their product, for reasons of cost, quality or other factors, is preferred by Australian consumers, then so be it—and it is, increasingly. However, to allow them to also be eligible to receive a rebate from the Australian taxpayer seems to me to be taking it a step too far. I do not understand why the government is taking this approach. It is clear that there is plenty of New Zealand wine available in this country, and it appears to me to compete reasonably effectively against domestic wine producers. So why then should we extend a rebate to them?

The wine industry has seen massive growth over the last 15 years. In 1991 the industry was exporting $200 million worth of product. In 1999 this had risen to over $1 billion. In 2004 it had jumped again to over $2.7 billion. The wine industry exports Australian wine to over 100 countries, including New Zealand. We are the world’s fourth largest exporter of wine after France, Italy and Spain. In 2004 there were over 1,800 wine producers in Australia, with nearly 300 in my home state of Western Australia.

In 2003-04 over $1.9 billion worth of Australian wine was sold in the domestic market alone. In that same time frame we imported only $150 million worth of wine. Of that amount, only $88 million worth came from New Zealand. New Zealand exports more wine to Ireland, the United Kingdom and the United States of America than it does to Australia. Yet there is a significant risk to Australian wine producers. In an article in the New Zealand Herald of 14 November this year, the following information was quoted:

Wine exports to Australia have risen from 56 million litres in 2004 to 88 million litres this year and wineries such as Matua Valley, one of New Zealand’s largest, have doubled export sales in the past two years.

The export manager of Matua Valley Wines concluded by saying;

... the growth in New Zealand wines was mainly affecting small Australian wineries.

So even New Zealand producers can see that any move to extend the rebate will have an impact on Australian wine producers. It is clear that the wine equalisation tax rebate to Australian producers has not affected the ability of the New Zealand wine producers to significantly increase their sales in Australia. An increase in a single year from 56 million litres to 88 million litres represents an increase of some 60 per cent. The effects of these changes on Australian wine producers should not be underestimated.

This extension of the rebate to New Zealand wine producers will be difficult to administer and will involve procedures that are still to be worked out, as I understand it. For a New Zealand producer to access the rebate, it will need to be approved as a New Zealand participant, the wine produced in New Zealand will have to be exported to Australia and the producer or another entity will have to have paid wine tax for its taxable dealings. To be classified as a New Zealand participant the wine producer will have to satisfy the Australian Taxation Office that it is the producer of rebatable wine and that the wine has been, or is likely to be, exported to Australia. So we could end up in the situation where a wine producer has stated that the wine is likely to be exported to Australia and yet, for some reason, it does not end up in Australia. Will we be paying a rebate for that wine producer even if no wine arrives in Australia?
The ATO will have to approve a participant through a written instrument. Said instrument can be issued retrospectively. If the ATO decides to reject an application by a New Zealand wine producer to become a participant then they are required by this law to inform the applicant of the reasons for refusal. But the decision for refusal can be appealed. So we could end up in a situation where a small New Zealand wine producer has been refused participation in the scheme and then is able to appeal the decision. One assumes that a wine producer in New Zealand would want to appeal such a decision, but they might not be willing to bear the costs of undertaking this appeal in another country. Does the ATO, then, intend to allow these appeals to be heard in New Zealand? How is this scheme to be administered? From the information in the media it appears that the New Zealand government has the following view: Australia will assess, pay and generally administer the rebate, while New Zealand will be involved in the registration and application processes and, if necessary, carry out any domestic prosecutions for providing false information. So the ATO will generally administer the rebate but the New Zealand government will prosecute domestically any wine producer for providing false information. I do not believe that this shared administration of the rebate between the governments of New Zealand and Australia is necessarily workable.

Let us be clear about one thing: this rebate is essentially a subsidy to New Zealand wine producers to put them on an equal footing in terms of tax treatment with Australian producers. I would be prepared to accept that we might need to extend a helping hand across the Tasman if New Zealand wine producers were being unfairly priced out of the Australian marketplace. However, it is clear that this is not the case. If the New Zealand wine industry can increase its exports to Australia from 56 million litres in 2004 to 88 million litres in 2005, they can hardly claim that they are being discriminated against in the marketplace. As I asked earlier, if the New Zealand product can currently compete effectively on questions of quality, taste and cost, why do we need these changes? It is clear that New Zealand wine is competing effectively. Yet we now see the ridiculous situation where the Australian taxpayer is going to compensate New Zealand wine growers when it is not required. This government does not need to extend the wine equalisation tax to New Zealand producers.

We have to ask the question: will it end with New Zealand wine producers? What does this schedule represent? Will we in the Senate in coming years, as Senator Sherry outlined, extend the rebate to North American or European producers? The government needs to seriously consider what the long-term effect of this rebate will be once it is extended to wine producers in other countries. Will we see a vibrant, strong domestic industry that has achieved record levels of growth on the back of Australian innovation and research threatened by foreign producers provided with an Australian taxpayer funded rebate? It is a simple proposition—if the foreign product is any good then it will be purchased by Australian consumers. We do not need to provide cost advantages to foreign competitors, especially when part of that advantage will come directly out of the Australian Taxation Office.

The Australian wine industry has a history of innovation and research that is second to none. Much of this innovation takes place in the mid-sized wineries. Yet it is these very wineries that will now face increased pressure from New Zealand producers. New Zealand producers, who are already competing without the need for Australian tax rebates, will now be able to lower their prices further.
New Zealand exporters, who already have many advantages in bringing their wine to the Australian market in terms of a favourable exchange rate and lower costs of production, will now also get this rebate. What steps is the Australian government taking to foster the innovation of the Australian wine producers to offset these advantages? From what I can see, it is simply going to subsidise New Zealand producers.

I understand that under the terms of the Australia-New Zealand Closer Economic Relations Trade Agreement and our obligations under the WTO there is a view that we have to extend the rebate to New Zealand producers; however, the government have simply decided to make a difficult situation worse. Rather than finding another way to solve any possible trade dispute with New Zealand which clearly does not exist—based on the increase in New Zealand wine imported into Australia—they have fallen over at the first sign of dispute by the New Zealand government and wine industry and have decided to extend the rebate—a domestic taxation solution for an international trade issue. Rather than exploring other options, we will now see the Australian tax system collect revenue and then disburse it to people and companies in another country.

This government has made much of its claims to have simplified the Australian taxation system, yet the truth is that it is now more complex and more difficult to administer than ever before in our history. Extending Australian taxation law to producers in another country competing against Australian producers seems to me to be yet another complication that the law does not need. It is time that we had a government that was serious about simplifying our taxation law. It is time that we had a government that was interested in the ongoing development of a great Australian industry rather than one that caves in at the first sign of a trade dispute.

I have no problem with the New Zealand government standing up for its wine industry and the producers in that country. I would hope that we had an Australian government that does the same for our producers. But it seems to me we are strangely out of kilter when we have an Australian government standing up for the wine producers of another country. This is simply a bad way to resolve this situation. The use of our taxation system to help producers in another country is wrong.

I would like to conclude by posing the government this question: do Australian wine producers enjoy the same level of New Zealand government subsidy and rebate when they are attempting to sell their product in New Zealand? The Australian wine industry is a success story because it has been prepared to take on the world and through quality, innovation and cost compete globally. To that end, why should we accept this schedule that provides to wine producers in New Zealand advantages in the Australian marketplace that our industry does not enjoy in all the countries that we export to? If the New Zealand product is any good then let it be consumed without the need for extending this Australian rebate to it.

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (9.02 pm)—I thank all speakers who have spoken in the debate. Again, this is an important bill, and I urge all senators to support the bill before the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator SHERRY (Tasmania) (9.03 pm)—by leave—I request that we deal with the amendments on sheet 4800 first. I move amendments (1) to (10) on that sheet:
(1) Schedule 1, item 2, page 4 (lines 19 to 24), omit subsection 61-470(1), substitute:

(1) Subject to subsection (1A), you are entitled to a *tax offset for an income year for *approved child care provided in the income year if:

(a) you are an individual; and
(b) there is at least 1 *child care base week for you and a particular child in the income year.

(1A) If you have an entitlement to a *tax offset in respect of *approved child care provided in 2004-05, your entitlement can only be claimed in respect of the 2005-2006 income year.

(2) Schedule 1, item 2, page 4 (lines 25 to 28), omit the note, substitute:

Example: If there is at least 1 child care base week for you and a child in the 2005-2006 income year, you are entitled to a tax offset for the child for that income year.

(3) Schedule 1, item 2, page 4 (lines 31 and 32), omit paragraph 61-470(2)(a), substitute:

(a) the week starts on a Monday in the income year (whether or not it finishes in the income year); and

(4) Schedule 1, item 2, page 7 (line 28), omit “a child care offset year”, substitute “an income year”.

(5) Schedule 1, item 2, page 7 (line 30) to page 8 (line 19), omit the method statement, substitute:

Method statement

Step 1. For each child in relation to whom you are entitled to the *tax offset for the income year, work out amounts in accordance with steps 2, 3 and 4.

Step 2. Work out the total amount of your *approved child care fees for the child in each *child care base week for you and the child in the income year.

Step 3. Work out the total amount of your *entitlement to child care benefit for *approved child care for the child in each *child care base week for you and the child in the income year.

Step 4. Work out the lesser of the following amounts (the child offset) for the child:

(a) the amount worked out using the formula:

\[ 30\% \times (\text{Step 2 amount} - \text{Step 3 amount}) \]

(b) the *child care offset limit for the income year.

Step 5. Total the child offsets for each of those children. The result is the amount of your *tax offset for the income year.

(6) Schedule 1, item 2, page 9 (lines 17 to 25), omit section 61-495, substitute:

61-495 Component of formula—child care offset limit

The child care offset limit for approved child care provided in the 2004-2005 income year is $4000. The limit is indexed annually.

Note: Subdivision 960-M shows you how to index amounts.

(7) Schedule 1, item 2, page 9 (lines 29 and 30), omit “a child care offset year”, substitute “an income year”.

(8) Schedule 1, item 2, page 10 (line 6), omit “*child care offset year”, substitute “*income year”.

(9) Schedule 1, item 2, page 10 (line 9), omit “*child care offset year”, substitute “*income year”.

(10) Schedule 1, item 2, page 10 (lines 13 to 15), omit subsection 61-496(5), substitute:

(5) If you die during a year in respect of which you would be entitled to claim a *tax offset, the reference to your *spouse in subsection (2) is taken to be a reference to your spouse just before your death.

I wish to make a few comments about these amendments. I do not think Minister Macdonald was in the chamber when I posed my question, which was: by extending this payment to New Zealand, are we acknowledging a precedent that may have to be set with re-
spect to other countries with which we have a free trade agreement? I think Senator Coonan might respond to that.

The other issue is the tax returns we have all spoken about in our speeches in the second reading debate. I agree with you, Senator Murray; I think it would probably be good in theory to keep tax returns from previous censuses. I do not know that Senator Murray was at the Senate estimates when the tax office appeared. I have to acknowledge the very good advice of Brendan Long, my advisor, who picked up an interesting consultant’s report, a toxicity report. He pointed it out to me and wondered what the tax office would be doing with a toxicity consultant. It was revealed by the tax office that they had had to employ a toxicity consultant because the mass stored tax returns were emitting some odour in the warehouse.

Senator Murray—It was the revenge of the taxpayers!

Senator SHERRY—That is right. There was some concern that the mass stored tax returns could be poisoning the hardworking public servants in the warehouse. It is a slightly amusing story, but I suppose in the context of health and safety it is very serious in its implications. I agree with your views, Senator Murray, but I think, following the revelations at the Senate economics estimates committee—

Senator Murray—You do not want to have the keys to the warehouse.

Senator SHERRY—That is right. We may not, in fact, be able to enter the warehouse because the mass stored returns were giving off an offensive and possibly poisonous odour. It is another example of the fine work done at Senate estimates, and I hope our capacity to pose questions at some future time is never restricted.

Very briefly, in respect of Labor amendments on sheet 4800 that I have asked to be put as a whole and speaking to them all in order to save time, the amendments that we are putting in respect of entitlement to the child-care tax offset replace the words in the current bill that ensure that the child-care offset is available if, in the previous income year, the child-care benefit was received. The amendments provide that the offset can be claimed in the tax return of the year that the expense was incurred. The government have decided to have the benefit made available at the end of the year after the expense is incurred because they want to check up on every dollar spent. I referred to that in my speech in the second reading debate. This leads to a whole range of complications, not least delay. Again, I referred to the details in my speech.

The Labor Party believe that taxpayers are able to make a declaration in good faith. As I also referred to in my speech in the second reading debate, we have a self-assessment regime in respect of income tax. It seems reasonable to us to have a self-assessment regime with spot auditing in this area—hence, our amendments. As I have said, this is a cause of delay. Labor’s amendments would allow the taxpayer to self-assess the expense, with corrections to occur in the next year’s tax return. They are the reasons for us moving this block of amendments.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.08 pm)—I do thank my colleagues for their contribution. I apologise that I was not here for the beginning of the committee process. For the sake of time and to facilitate what Senator Sherry has asked—I did hear him ask what the implications will be for the WET rebate measure in relation to current and future FTA partners—what I can say is that the bill does provide separate administrative arrangements to facilitate claims by New Zealand wine producers who would otherwise need to be
registered for GST to claim the rebate. My advice is that the arrangements are supported by our close administrative cooperation with New Zealand tax authorities and apparently by mirror legislation—and the arrangements both reflect and are based on the CER, the closer economic relationship, and very close ties between Australia and New Zealand. They are, for those reasons, quite separate from the free trade agreements that may be entered into or indeed those that have been entered into.

If it is convenient to go on to the amendment in relation to the timing for payment of the rebate, my understanding is that Labor’s amendment opposes the timing for claiming the rebate and seeks to allow taxpayers to claim the rebate in the tax return for the year in which the expenses have been incurred. I can understand the logic behind it. The government takes a different view, which I will explain in a moment. Labor’s amendment opposes items 12, 13 and 14 of the amending legislation, which amends the Taxation Administration Act 1953 to ensure that a person’s entitlement to the child-care tax rebate is not taken into account in the calculation of PAYGO instalments.

Labor’s amendment to the timing would, however, require taxpayers to self-assess their entitlement to the rebate. I have heard Senator Sherry’s views in relation to self-assessment in other respects—and why not also extend it to claiming the rebate? However, taxpayers are not in a position to self-assess their entitlement at the end of each financial year regardless of how simple or straightforward their tax affairs are. While many families receive child-care benefit fortnightly through reduced child-care fees, the reduction is based on an estimate of the family’s income. Final entitlement to child-care benefit is only established after family income is determined from tax returns, and out-of-pocket costs can only be calculated after tax returns have been submitted. So we would say that the final entitlement to child-care benefit is only established after both partners have lodged their tax returns.

Child-care providers also have until the end of September each year to provide their June quarter child-care usage data, which is needed to determine the final child-care benefit entitlement. Under the amendments proposed, the majority of taxpayers would self-assess their rebate entitlement on the basis of an estimate of their child-care benefit. Once their final child-care benefit entitlement is known, taxpayers would need an amended tax assessment. This would add significant complexity and uncertainty for taxpayers, as we have seen in relation to other matters.

The government has designed the rebate so that the majority of families will receive their correct entitlement without adjustments. It will also minimise taxpayers’ interaction with the Australian Taxation Office and, of course, with Centrelink. In recognition that the payment will be made in a subsequent year’s tax return, the start date for eligibility was brought forward from 1 January 2005, as announced in the original policy proposal, to 1 July 2004. This alteration will enable families to claim an extra six months of out-of-pocket costs. As to amendment (2)—regarding schedule 1, items 12, 13 and 14, I think—Labor’s amendment—

Senator Sherry—Are we dealing with those next?

Senator COONAN—I thought I was going to deal with them all. I will wait, if you like. I did say we would go ahead and get them all done.

Senator Sherry—What does the chair say?

The TEMPORARY CHAIRMAN (Senator Moore)—Do them in bulk.
Senator COONAN—Okay. Labor’s amendment would enable parents to apply to the tax office to vary their tax instalments to allow for payment of the rebate during the year. Taxpayers would be required to estimate their entitlement and nominate an amount to be deducted from their tax liability on a fortnightly basis. However, in the government’s view it would be imprudent to have the rebate paid through reducing tax withheld, as it would be very difficult to accurately determine a person’s entitlement in advance. Entitlement to the rebate is calculated using actual family taxable income, child-care costs and child-care benefit over the course of a year. Entitlement to the rebate is likely to vary from year to year as child-care use or child-care fees do change and vary over time. Tax debts would result if parents claimed too much rebate throughout the year, which is a real likelihood. This would occur if a person’s tax liability was insufficient to fully utilise the rebate. By ensuring that the rebate is payable on assessment only, the government will ensure greater certainty for taxpayers. I understand senators opposite would agree with that worthy objective.

Families will claim the rebate in the tax year after the child-care expenses have been incurred. This means that families will lodge claims for child-care expenses incurred in 2004-05 in their 2005-06 tax return, as has been mentioned. The timing of the rebate has been constructed to ensure that the majority of families will receive the correct entitlement, once again, without adjustments. It will also minimise the interactions with Centrelink and the tax office. Whilst I have dealt with all of these amendments in one contribution, those are the government’s reasons for not supporting the amendments.

The TEMPORARY CHAIRMAN—The question is that amendments (1) to (10) on sheet 4800 be agreed to.
efficient and equitable manner than the government’s current proposals.

The TEMPORARY CHAIRMAN (Senator Moore)—The question is that items 12 and 13 of schedule 1 stand as printed.

Question put.
The committee divided. [9.25 pm]
(The Chairman—Senator JJ Hogg)
Ayes........... 36
Noes........... 32
Majority........ 4

AYES
Abetz, E.
Barnett, G.
Brandis, G.H.
Chapman, H.G.P.
Coonan, H.L.
Ellison, C.M.
Fielding, S.
Fifield, M.P.
Hill, R.M.
Johnston, D.
Lightfoot, P.R.
Macdonald, J.A.L.
Minchin, N.H.
Parry, S.
Payne, M.A.
Santoro, S.
Troeth, J.M.
Vanstone, A.E.

NOES
Allison, L.F.
Bishop, T.M.
Brown, C.L.
Carr, K.J.
Evans, C.V.
Forshaw, M.G.
Hurley, A.
Ludwig, J.W.
Marshall, G.
McLucas, J.E.
Murray, A.J.M.
O’Brien, K.W.K.
Sherry, N.J.
Stephens, U.

Stott Despoja, N.
Wong, P.

Webber, R.
Wortley, D.

Pairs
Campbell, I.G.
Ferris, J.M.
Kemp, C.R.
Mason, B.J.

Hutchins, S.P.
Ray, R.F.
Conroy, S.M.
Milne, C.

* denotes teller

Question agreed to.

Senator SHERRY (Tasmania) (9.28 pm)—On the basis of that decision, my third amendment on sheet 4799 becomes effectively redundant.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.29 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

TAX LAWS AMENDMENT (SUPERANNUATION CONTRIBUTIONS SPLITTING) BILL 2005

Second Reading

Debate resumed from 28 November, on motion by Senator Colbeck:

That this bill be now read a second time.

Senator SHERRY (Tasmania) (9.30 pm)—The purpose of the Tax Laws Amendment (Superannuation Contributions Splitting) Bill 2005 is to allow the splitting of superannuation contributions between a member and their spouse. An annual split model after the end of the financial year will be allowed, when the member can request that contributions to their fund—if their fund allows it—made in the previous year be split...
with their spouse. The split of contributions will take the form of a transfer, rollover or allotment of part of the member’s benefit to their spouse, limited by reference to the amount of contributions made in the previous year.

Funds will be able to offer contribution splitting on or after 1 January 2006. Funds do not have to offer the facility, and I think, practically, it will be very difficult for most funds to have the facility in operation by 1 January. It will only apply to accumulation funds, not to defined benefit funds. It has never really been explained why it will not apply to defined benefit funds. If you accept the principle and argue it in respect of accumulation funds, why are defined benefit fund members not allowed to do it? Senator Watson is shaking his head. Both he and I know that there are additional administrative problems, but there are enough administrative problems with this if you implement it in principle anyway.

The legislation will allow single-income couples and combined low- and higher-income couples to access two low-rate ETP thresholds and two reasonable benefit limits, commonly known as RBLs, in a similar way to dual-income families. This was a government election commitment outlined in the 2004 election policy document and the 2005-06 budget. It is the last of the government superannuation policy announcements to be presented to parliament. It is claimed in the government media release ‘A super idea for families’ that the retirement balances of women, low-income earners and non-working spouses will be in much better shape as a consequence, and that families are given more choices with broader accessibility of super to individuals outside of the work force. That is the claim, but the reality of the outcome is far from this set of superficial and grossly generalised claims.

In itself, the measure does not add one new dollar of extra contributions to superannuation. By itself, it does not add anything in terms of—

Government senators interjecting—

Senator SHERRY—The interjection is that it is not intended to. It does not add one extra dollar. This is effectively about using tax strategies to minimise taxation in respect of the two elements that I have outlined. Given that splitting will mean two sets of fees rather than one, logically individuals will not choose to split unless for the tax benefits that are conferred on those individuals who receive the benefit. I stress that will be for some individuals, certainly not the majority of members of superannuation funds. I hope to obtain a little more detail about that later.

Splitting will double the existing eligible termination payment threshold. The current maximum is $129,751. Depending on the statistics, when they are made available, that seems more likely to benefit middle-income earners. But the really interesting winner in this is the retirement benefit limit, the RBL. It is currently $1,297,886 and is made up of 50 per cent lump sum and 50 per cent pension. You would have to be on a very high income to get anywhere near the RBL. The effect of this legislation is to double the $1.297-odd million RBL—for some taxpayers. That in itself is a very significant concession to some high-income earners, depending on their circumstances.

The really interesting area—and I note Senator Watson is here and I acknowledge his expertise—is what will occur as a consequence of this, and I am not sure whether the government has considered it. The ETP limit is that to which no exit tax of 15 per cent applies. It is rebated back if you annuitise. With this splitting measure, for some people, we effectively remove the incentive for those
people to annuitise. That raises a whole set of issues that the government has not addressed with respect to this measure. The RBL effectively limits tax concessionality benefits to the super system as a whole for individuals, above which super accrued is taxed at the highest marginal income tax rate.

Given that only a tiny proportion of taxpayers ever reach $1.3 million—and that figure is indexed; it is not a fixed figure—the saving is obviously a very significant incentive for some higher income earners. They could divert 99 per cent of their contributions to a low or nil income earning spouse to almost double their RBL to $2.6 million, although that is a retirement accumulation most Australians could only dream of. Perversely, as I have indicated, particularly in respect of the ETP, both measures will substantially remove the major incentive for many people to convert part of their lump sum above the ETP limit to an annuity pension. The indirect consequence of this is to discourage annuitisation, or pension conversion, for some people.

The estimated number of beneficiaries of these two measures has not been given. We know a costing has been provided, and I ask the minister for the estimated number of beneficiaries in respect of the ETP and the RBL. I indicate that I did request this information at Senate estimates. That veteran of estimates process, Mr Gallagher, did not have the material with him at that time. I indicated in debate when I sought to refer this to the Senate Economics Legislation Committee a few weeks ago—but was turned down by the government—that I would like it. As there is a costing, there clearly has to be an estimated number of beneficiaries for each of the measures.

The Labor Party accepts that there will be some people who, for personal value reasons, would want to access the splitting provision. It is not clear to us whether it does apply to same-sex couples. I note a press article off the back of either a press release or comment by Mr Brough in which he claims it does apply to same-sex couples. I would be interested to seek some clarification of that. Obviously, the other issue that this does bring into debate—and we have considered this matter—is that you can have de facto splitting of the ETP and the RBL through divorce. Therefore, it can certainly be argued, and it has been submitted to us, that this measure puts couples who divorce on a level playing field in terms of tax treatment because, if you divorced, you could effectively double your ETP or your RBL as well, depending on the individual circumstances. What we have at the moment in some cases is a perverse incentive which, depending on their superannuation circumstances, encourages some people to divorce. In some circumstances, it actually pays them to divorce. We have to say that that is somewhat absurd. It is very difficult to overcome that particular issue.

The EM admits a major cost increase for funds, due to new systems designs and the complexity of the administration. We get the mantra of 'choice' from government all the time. This is choice for some people, certainly not all people. In this case, as in so many other cases, it is a case of choice equalling complexity and complexity equalling additional cost. There is no doubt that this will cost more in terms of the financial services. It is a significant cost issue to deliver this. It is not compulsory for a fund but, on my consultations, the reality is that every superannuation fund will move to change their administrative systems to provide for this option. The reality is that they will have to do that. That will mean a significant increase in administrative costs to be borne by the industry which will in turn be passed onto the entire superannuation fund member-
ship in a particular fund. It will be passed onto everyone in those cases, I am informed. We have a benefit that can be accessed by a minority for which the cost will be passed onto everyone, including those who cannot derive a benefit from this particular measure. I think that is a significantly adverse outcome for many in the superannuation system.

One of the other interesting aspects of this is an intergenerational finance issue. Labor believes that the take-up and cost will rise significantly above CPI. When you think about the growth of superannuation fund assets, it is logical that the long-term growth of this would rise significantly above CPI, because it will be driven both by growing fund balances and by the overall spread of superannuation as a consequence of Labor’s introduction of compulsory superannuation through the superannuation guarantee. I just point out that, like so many other government measures we have seen, we have the government walking two sides of the street.

On the one hand, the Treasurer, Mr Costello, is banging on about working until you drop because of the consequences of an ageing population. In many cases, I think the work until you drop concept is a bit overdone. On the other hand, here we have a measure that will significantly increase in cost as a consequence. It is a deliberate policy initiative of the government.

This is part of the Liberal government’s overall piecemeal and ad hoc approach to tax and superannuation. It is fundamentally fiddling at the edges and it still leaves many fundamental issues unresolved. Our second reading amendment deals with unresolved issues, and I indicate that I do not propose to call a division. The Labor Party call on the government to address some of the other fundamental issues that are still unresolved. For example, improving the incentive to save by reducing the tax burden on superannuation contributions for middle-income Australians who have missed out on the co-contribution and the surcharge tax abolition; lifting the compensation and coverage for fund members whose savings are lost as a result of theft and fraud and/or non-payment of entitlements; finding and consolidating the more than 5.4 million lost accounts containing $8.2 billion—that is a very major issue which is still unresolved—and reducing the costly new paperwork and red-tape burden of the Financial Services Reform Act and the so-called choice of funds on the financial services industry and employers.

Via our second reading amendment, we are indicating a number of other major issues that do need comprehensive reform, not just these other issues that the government has chosen to target. We believe that there should be comprehensive reforms, not just reform in the four areas I have outlined but in a range of other areas, and the Australian people will hear more about that early next year. The Labor Party strongly believe that we need a simpler and safer superannuation system that delivers a higher retirement income, or at
least the opportunity of a higher retirement income, for all Australians, not just some.

Senator Coonan—Sounds like you are in danger of having a policy.

Senator SHERRY—We had plenty of policies in this area before the last election, as you would know, Senator Coonan.

Senator Coonan—They were a bit sloppy.

Senator SHERRY—With regard to sloppiness, I would love to see you justify $8.2 billion in lost superannuation and what you propose to do about it, but we will debate those issues over the coming couple of years. For the reasons that I have outlined, Labor has done an overall assessment of the proposal and will not be opposing this measure. However, I would like an indication of the number of beneficiaries of the ETP and the RBL, which some people benefit from, and a clear indication as to whether this will be applying to same-sex couples. I move Labor’s second reading amendment:

At the end of the motion add:

“but the Senate:

(1) notes that this legislation is yet another example of piecemeal and ad hoc reform to our taxation and superannuation system; and

(2) calls on the Government to initiate fundamental reform of our superannuation system that deals with major issues such as:

(a) improving the incentive to save by reducing the tax burden on superannuation contributions particularly for middle income Australians who miss out on the co-contribution and surcharge tax abolition,

(b) lifting the compensation and coverage for fund members whose savings are lost as a result of theft and fraud and/or non-payment of entitlements,

(c) finding and consolidating the more than 5.4 million lost accounts containing $8.2 billion, and

(d) reducing the costly new paperwork, red tape burden of the Financial Services Reform Act and so-called choice on the financial services industry and employers”.

Senator MURRAY (Western Australia) (9.45 pm)—The Tax Laws Amendment (Superannuation Contributions Splitting) Bill 2005 introduces changes to the Income Tax Assessment Act 1936 to facilitate a person splitting their superannuation contributions with their spouse. This implements a 2001 coalition election commitment. Supporting amendments will have to be made to the Superannuation Industry (Supervision) Regulations 1994, the Retirement Savings Account Regulations 1997 and the Income Tax Regulations 1936—the proposed details of which, I understand, are on the Treasury web site. A fund member will be able to request a contributions split from 1 July 2006. A splitting request can only be made in respect of most of the contributions made in the previous financial year. Therefore, a fund member will have to wait until after the close of the current financial year to request that contributions made on or after 1 January 2006 be split with their spouse.

Key issues with this bill pertain to the trade-off of tax concessions for increased retirement funding provisions. The advantages are that single-income couples will have access to two eligible termination low-rate thresholds and two separate reasonable benefit limits, which is a doubling of the tax concession. If the superannuation benefits are converted to income streams in retirement, each member of the couple will have access to the superannuation pension and annuity rebate, which is a doubling of the tax concession. Low-income and non-working
spouses will have access to and control of their own superannuation.

The disadvantages are that two separate accounts for single-income couples could result in two lots of fees and charges for what is effectively one contribution; there will be additional administration and systems costs for funds; there will be additional tax concession costs and complexity and the bill narrows the tax base further; members of some defined benefit funds may not access the scheme; and contributions can only be split with a spouse. Subsection 6(1) of the Income Tax Assessment Act 1936 defines ‘spouse’, even when not married, as the husband or wife and living together on a bona fide domestic basis. This appears to exclude same-sex couples, which is unfortunate, unnecessary and unjust.

The explanatory memorandum statement that single-income, low-income families will benefit most is contestable. In all probability, it will be high-income families with surplus income that can be channelled into personal super contributions that will be most able to take advantage of the tax benefits created by this bill. Further clarification is required on the eligibility of the non-working spouse to claim government co-contribution amounts using super channelled from the working partner. The estimated first-year cost of the tax concession is only $4 million, rising to $100 million in 40 years. The costing seems low if the scheme is well received by those who seek to maximise their benefits, but the reasonable benefit limit does act to keep tax costs down.

The current draft regulations have been subject to extensive industry comment. Splitting is supported, but there are arguments over the timing. ASFA, ISFA and CPA Australia all believe splitting superannuation at the retirement stage will better maximise superannuation than splitting at the contributions stage. ASFA acknowledges that annual splitting of contributions will likely give non-working spouses more control over superannuation assets than splitting at the retirement stage.

In the near future, all heterosexual couples will be able to improve their savings for retirement by splitting their superannuation contributions in a tax effective manner. This is the vision set forth in the Tax Laws Amendment (Superannuation Contributions Splitting) Bill 2005, which seeks to make amendments to the Income Tax Assessment Act 1936. My reference to heterosexuality is no mere slip of the tongue. It is the plain English translation of the definition of ‘spouse’ contained in this bill. For many Australians, the term ‘spouse’ does not derive connotations of sexual preference or gender identity. For most, it is a term of respect that is used to formally identify a loved one, a partner or a spouse. Yet, according to tax law, one’s partner or loved one can only be of the opposite sex. That is, according to tax law and, by extension, the legislation that governs much of superannuation, your partnership is legitimate only if you are heterosexual. If you are male, your spouse must be female. If you are female, your spouse must be male. If neither option applies, your relationship is something else, something less meaningful—according to the tax act—and certainly something that costs you more in tax terms, which is where an injustice sits. What we have here is an inconsistency that needs to be corrected.

As recently as the Superannuation Legislation Amendment (Choice of Superannuation Funds) Bill 2004, the Democrats succeeded in moving an amendment to allow for same-sex couples to receive superannuation death benefits at the same rate as heterosexual couples. Such individuals had previously been subjected to a 15 to 30 per cent tax impost on receipt of superannuation death
benefits, unlike their heterosexual counterparts who benefited from a tax-free status. As is the case today, the debate centred on the definition of ‘spouse’. At the time, Senator John Cherry, my colleague and friend, introduced the concept of an interdependent relationship to tax law for the purpose of addressing this odious and entirely unnecessary discrimination. Outlined in subsection 27AAB of the 1936 tax act, this definition, which encapsulates a more accurate non-discriminatory concept of partnership, superseded the definition of ‘spouse’ in relation to superannuation death benefit provisions.

According to this bill, superannuation contribution splitting means an amount ‘designated as a spouse contributions-splitting amount in regulations made for the purposes of this definition’. We need to correct this inconsistent and unjust application of law. If this bill is passed as written, we will be faced with the situation whereby affected individuals will qualify for superannuation entitlements, such as death benefits, on the basis of their partnership in some instances, but under identical circumstances they will contemporaneously fail to qualify for this super-splitting entitlement. I have provided an amendment to address this problem and in so doing to provide equity and consistency.

The comprehensive definition I provide is an aggregation of two definitions within the 1936 tax act—the definition of a spouse according to subsection 6(1) and the definition of an interdependency relationship contained in section 27AAB of the same act. It should be noted that nothing that I am proposing is new and, in this regard, it should not be considered at all controversial. It is not a partisan stance. It is not a matter of politics. It is simply a clarifying amendment dedicated to fairness. Indeed, administrators will be thankful for the reduction in complexity that currently exists when attempting to describe a partnership arrangement for different superannuation circumstances.

On other matters related to this bill, I wish to highlight the benefits and costs that are likely to be achieved. This bill establishes a trade-off of tax concessions for increased retirement funding provisions. As with all trade-offs, it is on the balance of advantages and disadvantages that the proposition is ultimately judged. It is in this instance and on these grounds that I feel the government has achieved, overall, a marginally positive outcome which deserves our conditional support. I take that view because I think the advantages to women in a disadvantaged situation, and the low cost that is estimated, should incline us to support the bill.

Demographically speaking, we are an ageing population. This is a social phenomenon consistent throughout the Western world, which presents a number of specific challenges. Perhaps the most challenging is the means by which an increasing number of retirees are able to fund their existence in their ageing years. This is an especially difficult challenge since the combination of retirement, an ageing population and retirement funding dilemmas are all inextricably linked.

Our system relies on the ageing workforce. They contribute their taxes, which in part help to provide social and welfare funding. In those circumstances, I welcome the criticisms expressed by the shadow minister because I feel, and my party feels, that the government continues not to attack superannuation from a structural basis or to review it in a holistic manner. I note the alertness with which Senator Watson greeted that statement, but the fact is that while people like Senator Watson may have an overall and structural view as to how superannuation should be constituted that has not been reflected in Treasury policy to date.
In years to come, it is this same funding that will be placed under increasing strain as more taxpayers retire than join the workforce. This funding dilemma is in part ameliorated by superannuation. Its existence—indeed, its purpose—is to enable Australians to self-fund their retirement. In so doing, they would ease the strain on the system. It is natural therefore for the government to explore as many options as possible to support workers and aspiring retirees to achieve their self-funding goals. In that respect, the government is to be commended for having attempted, through a number of measures, to direct itself towards that objective.

The intent behind allowing income earners to split their superannuation contributions with their spouse is to align the future economic benefit of the deferred provision, as represented by superannuation, with the future use of the provision, which is to support both spousal partners. This enables single-income couples to gain access to two eligible termination low-rate thresholds and two reasonable benefit limits—in effect, a doubling of the tax concession afforded to self-funding retirees. As a consequence, both members of the partnership are able to convert their disaggregated retirement savings into two income streams in retirement, which also represents a tax concession. According to the government, this will be of particular assistance to low-income and non-working spouses, who will have access to and control of their own superannuation entitlements.

Whilst these aforementioned aspects of the bill are advantageous to a workforce saving for retirement, they are by no means simple. This increased complexity is of concern. As I said earlier, two separate accounts will be needed by single-income couples, which could result in two sets of fees and charges for what is effectively a single contribution.

According to APRA’s statistics, we already have over 24 million superannuation accounts in our system. A proposition that suggests dramatically increasing this number, perhaps without a corresponding and proportional increase in the sum total of funds invested, should be of concern. It is an additional burden that our superannuation system might not welcome. Moreover, it has been suggested that a number of superannuation funds will not be able to accommodate this legislative change, implying that it will be advantageous for some and an opportunity cost for others.

It should be noted too that the true economic benefit that resides in the tax concession is only of concern for the individuals at risk of exceeding the reasonable benefit limits, which in 2005 are approximately $650,000 and $1.3 million for lump sum RBLs and pension RBLs respectively. Considering the quantum of these, it is obvious that the benefits proposed by this are likely to flow to affluent single-income couples, whilst the burden represented by tax lost is carried by the whole system. Clearly, this would be an undesirable outcome and falls short of a comprehensive plan to manage the complex issue of funding Australia’s future retirees. As I remarked during my speech, Minister, we will, on balance, support this bill, but I must say it is not with a great deal of enthusiasm.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (9.57 pm)—In the spirit of Christmas cheer, I note that the Tax Laws Amendment (Superannuation Contributions Splitting) Bill 2005 will be supported and I thank senators who have participated in the debate.

I am now summing up the bill on behalf of the government. The superannuation contributions splitting measure will assist fami-
lies to maximise the benefits available in superannuation and provide an avenue for spouses to share their superannuation benefits. The government regards it as important for families with only one working spouse in the family or where one spouse receives a low income. It will particularly assist low-income or non-working spouses to have superannuation assets under their own control—I remember clearly that this was part of the original policy purpose and rationale—and to have their own income in retirement. This measure is expected to benefit women in particular.

The bill before us contains the consequential tax changes required to support the introduction of a contributions splitting regime. The specifics of how contributions splitting will operate are contained in regulations which were released by the government for consultation on 12 October this year.

This measure is a clear indication of this government’s intention to deliver meaningful reforms to the superannuation system, and it adds to the earlier reforms on co-contribution and choice. The splitting of superannuation contributions builds on other reforms that the government has undertaken to improve access to superannuation to encourage Australians to plan and to save for their retirement. For instance, with effect from 1 July 2004, the government removed the work tests that previously applied to people up to the age of 65 who wanted to contribute to superannuation. Every Australian under the age of 65 can now take advantage of the tax concessional environment provided to superannuation. For some people it allowed them, for the very first time, to make their own superannuation contributions. I note that this measure might not be endorsed by others, but the government considers that this was quite a visionary reform, breaking the traditional link of superannuation as solely an employment related benefit.

The ability to split superannuation contributions also delivers on our commitment to encourage individuals to save for their retirement in order to secure a higher standard of living than would have been possible had they relied on the age pension alone. The government not only supports this commitment with significant taxation concessions; we have also legislated to provide a range of other incentives to encourage individuals to accumulate superannuation savings. A little while ago I mentioned the co-contribution; it is an initiative that I am particularly proud of. The government’s co-contribution is, I think, an excellent example of this. Eligible personal superannuation contributions made by low-income earners are now matched at $1.50 for every dollar contributed, up to a maximum of $1,500. In addition, from 1 July 2005 the superannuation surcharge has been abolished, thus furthering the government’s policy of providing incentives for and encouraging superannuation savings, particularly for those who can and should save for their retirement.

The ability to split superannuation contributions will provide the opportunity for many Australians to maximise their retirement savings outcomes. I think it is very important to emphasise that the splitting of superannuation contributions will benefit many families. We are proud of the fact that it is a measure that will particularly assist low-income or non-working spouses to have superannuation assets under their own control and to have their own income in retirement. The way in which this measure is likely to assist women is, I think, particularly commendable.

I commend this bill to the Senate. I will respond to some of the matters that have been raised in the debate, but I do want to take the opportunity to indicate that the government will not be supporting Labor’s second reading amendment. However, Senator
Sherry did ask about the costings and the number of beneficiaries. My advice is that an estimate of the number of beneficiaries has not been published. The explanatory memorandum does detail the cost to revenue of this particular measure. The appropriate place to seek those numbers is in the Senate estimates process. They are not available during the course of the debate tonight. I do understand that Senator Sherry has sought that information in the recent hearings of the Senate estimates committee, and that is where it is proceeding.

Senator Murray raised the issue of whether splitting is eligible for co-contribution. In response to that, I would say that the amount split to the spouse is technically a rollover and not a contribution. Therefore, my advice is that it is not eligible for a government co-contribution. I trust that clarifies that particular point. Another point that Senator Murray raised was the potential for two lots of fees and charges—the splitting leading to two sets of accounts and therefore two sets of fees. The point is that, if a partner has ever worked, they are likely to have their own account already, and splitting is optional if there is any concern on the part of the individual about fees.

With those comments as part of my summing up, I commend this bill to the Senate. It completes a suite of policy announcements that I had under my immediate portfolio purview during the time that I was in the portfolio. I do think that it is a very important measure and the government will welcome the support of senators.

Question negatived.
Original question agreed to.
Bill read a second time.

In Committee
Bill—by leave—taken as a whole.

Senator MURRAY (Western Australia) (10.06 pm)—I move Democrats amendment (1) on sheet 4775:

1A Subsection 6(1) (definition of spouse)
Repeal the definition, substitute:

spouse, in relation to a person:
(a) includes another person, who although not legally married to the person, lives with the person on a bona fide domestic basis as the husband or wife of the person;
(b) includes a person in an interdependency relationship as defined in section 27AAB.

I made extensive remarks with respect to this amendment during my speech on the second reading, and the issue is very familiar to you, Minister. So unless you wish to question me further on it, I am going to keep my remarks to a minimum.

In a sense, this could be regarded as an amendment designed to correct a technical inconsistency. As the minister is well aware, the definition that I seek to introduce would make consistent the disparate definitions which exist within the act. What the amendment does is:

Repeal the definition, substitute:

spouse, in relation to a person:
(a) includes another person, who although not legally married to the person, lives with the person on a bona fide domestic basis as the husband or wife of the person—
the minister would recognise that comes from one part of the act—and then the amendment says:
(b) includes a person in an interdependency relationship as defined in section 27AAB.

And the minister would recognise that comes from another part of the act. So I think it is a
fairly sweet, if I could say, blending of the two. If the minister wishes to clarify matters further with me, I would be happy to debate them.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (10.08 pm)—Thank you, Senator Murray. I did listen to your more extensive comments during your second reading contribution, and now, I will be brief. The government is unable to support the Australian Democrat amendment. It would replace the existing definition of ‘spouse’ in the Income Tax Assessment Act. The definition of ‘spouse’, of course, as Senator Murray would be well aware, does underlie a range of taxation deduction and offset provisions in the Income Tax Assessment Act. In fact, my information is that a quick search of the ITAA has turned up more than 57 separate sections which rely on the definition of the term ‘spouse’. The proposed amendment, therefore, would certainly have very far-reaching and unforeseen ramifications across a wide range of taxation matters, and I think I have actually said that before when we have had these exchanges in other debates. It would need to be very carefully thought through, were one to approach this particular issue.

As you know, in relation to some other matters the government has in fact introduced a different treatment for interdependency. In addition, the proposed use of the term ‘interdependency relationship’, as defined in section 27AAB of the act, potentially results in some very inappropriate outcomes. For example, it is difficult to imagine that two elderly siblings living together or perhaps an adult child caring for an aged parent should be uniformly treated as ‘spouses’ for tax purposes. They are some of the reasons, for the purposes of recording the government’s position, that we are not able to support the proposed amendment.

Senator MURRAY (Western Australia) (10.10 pm)—I wonder if I could assist the minister with some extra information. Thank you, Minister, for your answer. If you know your food, you would remember that 57 is the famous number of the variety of Heinz products and is probably a suitable number for the range of relationships that seem to exist between people in the rich fabric of humanity! Having displayed a little knowledge of food, I actually wanted to make a serious point. I am grateful for a letter of 24 November from the Minister for Finance and Administration to the leader of the Australian Democrats in which he indicates that he is examining the issue of interdependency relationships with superannuation scheme members and those sorts of issues more fully. So I take some hope from that that the government is actively looking to make consistencies apply where they are appropriate. I accept your point, Minister, that a mother and a son would never be regarded in tax law, or any other laws, as spouses, even in the most generous of those—

Senator Mark Bishop interjecting—

Senator MURRAY—Apart, I suppose, from Oedipus, just to display the fact that I knew why Senator Bishop was laughing! I do not think we will get into the oedipal discussion at this time of night. But I wanted to let you know, Senator Sherry, that I know the government is looking at these areas.

Senator SHERRY (Tasmania) (10.12 pm)—I thought we would be debating much, and far-ranging issues, tonight, but I think I will stay away from Oedipus on this occasion! I take it from the minister’s comments on this issue that this bill as it is currently constructed does not allow interdependent or same-sex couples to benefit from this measure. Can I just have that confirmed?

Senator COONAN (New South Wales—Minister for Communications, Information
Technology and the Arts) (10.12 pm)—Yes, that is right.

Senator SHERRY (Tasmania) (10.12 pm)—Okay. The minister has confirmed that is correct. It makes me wonder how there got to be a report in the media, allegedly quoting Minister Brough or a spokesperson, that the bill does cover same-sex couples—but the media works in many and varied ways. We have had it confirmed that the bill will not cover them; therefore, I assume that those interested in this particular issue will hold the government accountable both for not including interdependent and same-sex couples in the splitting provision and for possibly—I say ‘possibly’ because I do not necessarily accept that the minister or his spokesperson was accurately quoted by the media— misleading same-sex couples as to any benefit to them under this superannuation splitting bill when, as the minister has indicated, they are not covered by this particular provision. The Labor Party believe that interdependent and same-sex couples should be covered by superannuation splitting. We see no good reason for not doing so. It is their money, and there are other issues we have debated on other occasions, and therefore we will support the amendment.

I have one point I wanted to clarify with the minister, so I will take this opportunity. I note she said on a number of occasions in her second reading speech this amendment will benefit many families. She then went on to acknowledge my request for the precise numbers of how many people do benefit and indicated I had pursued this in estimates. But I noted the wording of the minister’s response very carefully and that there was no undertaking that if I do ask about this again in estimates I will receive an answer. I would like a response to the question of whether I will receive the numbers on which the estimated cost has been based and the estimated number of beneficiaries and families from these measures.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (10.15 pm)—I should just say, not that you arecontending that Mr Brough may have been accurately quoted, that I am not aware of the report. I have placed the correct information on the record here. With respect to the other issue—that is, the number of beneficiaries—obviously the committee controls the process. The government will comply with its obligations as it sees appropriate. Not being the minister or having this particular information, I cannot advance any firmer answer in relation to your request, but obviously the government will meet its obligations to provide information that is properly sought.

Senator SHERRY (Tasmania) (10.16 pm)—I do not wish to unduly keep the committee, and I will not. I will just make the point—Senator Murray is smiling because he knows as well as I do that that is still a very evasive response—that that is not a commitment to provide the figures.

Senator Coonan interjecting—Senator SHERRY—I accept you do not know. You do not hold direct portfolio responsibility in this area anymore, so I accept you may not know. However, we have had a boast that this will benefit many families. What is the number? If you are going to boast that it is going to benefit all these families throughout Australia, then I would have thought it logical that you would give us the number—that you would have that in your brief, your speech, and that, given my questioning on this issue, you would be able to
produce the numbers tonight. I am disappointed. I do not want to keep the committee any longer. I have made my point about this matter.

Question negatived.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (10.18 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

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

Second Reading

Debate resumed from 7 December, on motion by Senator Ellison:

That this bill be now read a second time.

Senator SHERRY (Tasmania) (10.18 pm)—I think I should acknowledge the officers’ very hard work. It is close to Christmas and we are all expected to be here at this hour of the night doing all of this hard work. I wish to say to them: have a good Christmas and I will see you at estimates. I hope we get to the next bill before the guillotine at 11 pm. I indicate that I will be seeking to incorporate my speech at the appropriate time. There may be other senators who wish to do so, and it would be useful if that process could be facilitated.

The government, in December 2004, announced a major review of the aspects of the self-assessment regime for individual taxpayers. Although many of the changes can be effected by regulation, some require legislation. The first tranche of bills to give effect to these changes has been passed into law with the Labor opposition’s support. I will just make the point that we do not oppose everything, as the government continues to arrogantly claim and mislead the Australian people.

Senator Murray interjecting—

Senator SHERRY—We did oppose the GST, Senator Murray, but I will not go over that tonight. This is the second tranche of legislation to give effect to these reforms. It involves major changes which the Labor opposition supports. The bill introduces the other changes of the Review of Aspects of Income Tax Self Assessment that require legislative change. They key changes are: (1) to reduce the period by which the ATO can audit a taxpayer with simple tax affairs from four to two years and, for more complex taxpayers, from six to four years; and (2) to radically change the process by which tax rulings are made to ensure that where a taxpayer relies upon ATO advice, including oral advice formally requested, the taxpayer will be free from penalties, to expand the situations in which the commissioner is bound by advice tendered to the taxpayer, to specify time limits on the provision of a ruling, to allow the ruling to made electronically and to give the commissioner more flexibility in the date at which a ruling applies.

This legislation gives additional protection for taxpayers by ensuring that, after two years have expired, the tax commissioner cannot normally audit their tax affairs. Currently it is four years. For taxpayers with more complex affairs the current limit of six years is reduced to four. Currently, ATO private and public rulings will only bind the commissioner in specific cases. The bill expands the scope in which the commissioner will be bound by undertakings made and provides the capacity for the taxpayer to rely on oral advice formally requested from the
commissioner without penalty, even if that advice is erroneous or the commissioner’s interpretation changes. The rulings system is changed to provide for more timely and consistent rulings. I will now turn to the measures in the bill in more detail.

Schedule 1 amends the Income Tax Assessment Act 1936 to make a number of changes to reduce the periods during which the Commissioner of Taxation may amend income tax assessments in a range of circumstances. The period in which the commissioner can amend an assessment for most individuals or very small business taxpayers will be standardised at two years. A four-year amendment period will apply for taxpayers with more complex affairs. The purpose of these amendments is to ensure that the time during which taxpayers experience uncertainty over whether they have correctly self-assessed their income tax liability approaches the minimum required for the ATO to identify the majority of incorrect assessments of that type and correct them. The government has decided that the period during which the commissioner may amend the assessment of an individual to increase or decrease their tax liability should be reduced to two years. Taxpayers excluded from the two-year period will generally have a four-year amendment period, unless a special amendment period applies.

Taxpayers with more complex affairs, including businesses that are not in the simplified tax system, have a four-year amendment period. This reflects the greater time generally needed for the Australian Taxation Office to complete compliance activity for this type of taxpayer. Therefore, the two-year amendment period excludes: a taxpayer that carries on a business or a partnership in a business that is not in the simplified tax system; a taxpayer that is a beneficiary of a trust estate at any time in that income year, unless the trust is a simplified tax system taxpayer, or the trustee of the trust in that capacity is a full self-assessment taxpayer—for example, a corporate unit trust, public trading trust or superannuation fund; a taxpayer if, in that year, that taxpayer or another entity entered into or carried out a scheme, either alone or with others, for the sole or dominant purpose of the taxpayer obtaining a scheme benefit in relation to income tax from the scheme; and other high-risk and special cases prescribed by regulation. Fraud or evasion cases will continue to have an unlimited amendment period, as people who engage in calculated behaviour to evade tax should remain permanently at risk.

The current powers to extend the standard amendment periods generally continue to apply, an example being the power of the Federal Court to extend time where the commissioner has commenced an examination of a taxpayer’s affairs. The present six-year amendment period for the commissioner to give effect to part IV A, the general anti-avoidance provision, and certain other anti-avoidance provisions is abolished. Schemes where someone entered into or carried out the scheme with a dominant purpose of the taxpayer avoiding tax will, like other complex cases, be subject to a four-year amendment period. This will not be limited to where part IVA applies; it also applies where a scheme is defeated by any other provision, provided the relevant purpose is present. From the 2004-05 income year, the amendment period for loss and nil liability assessments will be the same as for assessments with positive liabilities. Transitional rules for taxpayers who lodged nil liability returns for earlier income years will enable those taxpayers to obtain finality for those earlier years.

Schedule 2 to this bill amends the Income Tax Assessment Act 1936 and the Taxation Administration Act 1953 to implement a new framework for Australian Taxation Office
advice. The ATO gives a wide range of advice to taxpayers and their representatives about how, in the Commissioner of Taxation’s opinion, the tax law applies or would apply. That advice ranges from general information for the public to advice relating to specific taxpayers and arrangements. Since 1992, the tax law has made certain categories of ATO advice, called rulings, binding on the ATO. Where the ATO has issued a ruling that applies to a taxpayer, the taxpayer is not liable to pay more tax than the ruling requires, even if the ruling turns out to be wrong. In such a case, the taxpayer cannot be liable for penalties or interest either. Some non-ruling advice from the ATO also currently gives taxpayers protection from penalties. The report recommended that the current system be expanded in scope and effectiveness to provide protection in a wider range of circumstances.

The bill replaces the existing provisions on rulings entirely. It makes certain categories of ATO advice or rulings legally binding on the commissioner where taxpayers rely on rulings that apply to them. The categories of rulings are: public rulings, private rulings and oral rulings. In some cases this bill also gives taxpayers protection from interest charges in the absence of a ruling. This protection applies where they reasonably and in good faith rely on: advice, other than a ruling or a written statement in a publication by the commissioner, unless the advice is labelled as non-binding; or the commissioner’s general administrative practice.

On the whole the Labor opposition accepts these changes to the rulings system as meaningful and appropriate. The Labor opposition notes that the government has a major rebellion on its hands in relation to this bill. There are three pieces of correspondence that I will seek to incorporate a little later. These are letters from coalition backbenchers and senators to the Treasurer calling for changes in relation to this bill, which have been rejected. In retaliation, Mrs Bishop, the member for Mackellar, has orchestrated an extraordinary backstabbing of the Treasurer. She orchestrated a Joint Committee of Public Accounts and Audit inquiry into the taxation system targeted at the impact of the interaction of self-assessment and complex legislation and rulings, and the application of common standards of practice by the ATO across Australia.

This attack on the Treasurer, Mr Costello, is an attempt to re-open the issue of the tax penalties that have been applied to participants in mass marketing schemes and employee benefit arrangements. The key point is consistency of the ATO’s administrative practice and use of penalties and prosecutions. The debacle of the Gerard affair has emboldened the backbench into taking direct action in defiance of the Treasurer. The first witnesses to the inquiry should be Mr Gerard and the tax commissioner. I have correspondence from Senator Johnston and a reply from the Treasurer about this matter, and a petition from a range of discontented and rebellious government backbenchers, both senators and members. At the appropriate time I will seek to have these incorporated.

Senator MURRAY (Western Australia) (10.27 pm)—The Tax Laws Amendment (Improvements to Self Assessment) Bill (No. 2) 2005 contains two schedules and represents the second half of legislative amendments stemming from Treasury’s Report on Aspects of Income Tax Self Assessment, tabled in August 2004. The first half of the legislative amendments was implemented by the Tax Laws Amendment (Improvements to Self Assessment) Bill (No. 1) 2005. These measures pertained to the report’s recommendations on penalties and shortfall interest charges. This bill finalises an undertaking by the government to implement all 30 legislative recommendations made in the aforemen-
tioned report and as such should be considered as the second half of an overall strategy by the government to improve equity and clarity for taxpayers with respect to the self-assessment of tax returns.

These are taxpayer-friendly amendments but, importantly, they also retain the necessary elements to deter tax avoidance and illegal activity. As such, the measures contained in this bill rely on and pertain to acts of good faith on behalf of taxpayers. Greater freedom to act in good faith and to be trusted on this basis is a valuable right that I hope taxpayers will fully appreciate, for this leap of faith by the government contrasts sharply with the restriction of freedoms in other spheres of our personal lives, as recently illustrated by the restrictions on civil liberties in the terror bills.

The proposed measures are a useful improvement on the current provisions contained in section 170 of the Income Tax Assessment Act 1936, and the government should be congratulated on implementing this outcome. However, this could not have been achieved without the invaluable input from a range of commentators who contributed to the outcomes of the Treasury’s report into taxation self-assessment. That range of commentators includes the Senate, which through its committees has been investigating and exploring these matters for many years. Notable contributors include the Institute of Chartered Accountants in Australia, the Law Council of Australia, the Corporate Tax Association and the firm Ernst and Young. I am pleased to see that the government in their wisdom have been guided by these bodies with respect to this bill.

Schedule 1 amends the ATO’s assessment methodology by reducing and standardising the time limit that applies to most taxpayers from four years to two years. This does not apply to large business taxpayers and taxpayers with complex tax affairs. Amendments related to anti-avoidance provisions will be shortened from six years to four years. For taxpayers with a nil liability for an income year, the period of review that I have just described will now apply as opposed to the unlimited period of review that currently exists. This is a commonsense approach. Another welcome change is the comprehensive redrafting of section 170 of the Income Tax Assessment Act 1936. There will always be unanimous support from the community at large for measures undertaken by the government in simplifying and modernising taxation legislation.

Schedule 2 improves the ATO’s ability to provide a wider range of advice to taxpayers. Some of this advice, known as rulings, is legally binding. This schedule intends to widen the scope of the binding nature of ATO advice to provide greater protection and certainty to taxpayers who act on advice—but not necessarily a ruling—in good faith from the Australian Taxation Office. This schedule replaces existing legislation that pertains to rulings from the ATO entirely. A new set of categories are established including public rulings, private rulings and oral rulings.

One cautionary note raised by the Institute of Chartered Accountants in Australia that I wish to expand upon is the capacity of the ATO to effectively implement the measures contained in this bill. The ICAA assert that the ATO may lack the ability to manage the increased advisory role through either a lack of staffing numbers or a lack of staffing capability. These are two measurable resourcing issues that need to be monitored by the government, and I hope the minister in her remarks will address this point. The government needs to ensure that the benefits that can be achieved by this bill are fully utilised by staff members who are equipped to carry out the new requirements. This bill has the
full support of the Australian Democrats, and I urge the government to continue its simplification of the suite of tax acts.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (10.32 pm)—I thank both of the senators who have taken part in the debate and, given the time, I will try and be very brief in my summing up. Senator Sherry has gone through the salient features of this bill, but on 24 November 2003 the Treasurer announced the review of aspects of the income tax self-assessment to determine whether the self-assessment arrangements did in fact strike the right balance between protecting the rights of individual taxpayers and protecting the revenue for the benefit of the whole Australian community. Importantly, the review found that there were a number of refinements to the present arrangements that would improve certainty and reduce compliance costs for taxpayers without significantly affecting the capacity of the tax office to collect legitimate income liabilities, and so the bill implements the remaining legislative recommendations of the report.

The first measure reduces the periods during which the commissioner may amend income tax assessments in a range of circumstances. The period in which the commissioner can amend an assessment for most individuals or very small business taxpayers will be standardised at two years. A four-year period of review will apply for taxpayers with more complex affairs. The period for review and amendment of assessments involving arrangements with a dominant tax avoidance purpose will be four years. This will reduce the amendment period where the general anti-avoidance provision part IVA applies from six years and also applies to other cases with a dominant tax avoidance purpose.

Discussions about the review of self-assessment and the proposed amendments have centred on the issue that the provisions should be retrospective. This argument is raised in discussions about the treatment of investors in mass market investment schemes and employee benefit arrangements. The bulk of mass market investment scheme and employee benefit arrangement participants would not be assisted by making this bill retrospective to the period when schemes first became an issue. This is because the vast majority of assessments were amended within four years, and under the measures in the bill the commissioner would still have four years to amend.

It is important to understand that making the shorter review period recommendations retrospective would potentially reverse many amended assessments, including those based on the general anti-avoidance provisions in the legislation. It would also restrict the commissioner’s ability to raise amended assessments for those years, despite the claimed tax benefits being considered to be unavailable under the law in such circumstances. The proposal would be unfair to those taxpayers who also incorrectly self-assessed their tax liability but who subsequently settled their disputes with the Australian Tax Office. Taxpayers who have neither settled nor pursued their disputes through the courts could receive an advantage that is unwarranted. It would be grossly inequitable if a taxpayer who has invested in an arrangement that the courts have found does not result in the tax benefit intended by the taxpayer were now to gain from retrospective application of the changes to self-assessment. It would not be to the benefit of the wider community, including the majority of taxpayers, who have paid their correct tax liabilities within the time allowed, to make the proposed retrospective changes to the law.
Finally, the measures contained in this bill are important steps in improving the taxpayers’ experience of the self-assessment system. The government is committed to improving certainty for taxpayers by improving the taxation system. Senator Murray asked about tax office resources. My advice is that the Australian Taxation Office has allocated $8 million to the Australian Taxation Office to improve the timeliness of private rulings, and about $11 million is allocated to the oral ruling system. For all of the reasons I have mentioned, I commend the bill to the Senate.

In response to Senator Sherry, I can indicate on behalf of the government that we are happy with the incorporation of the documents that I was shown, being a letter from Senator Johnston and a reply from the Treasurer. But Senator Sherry did indicate some other documents—

Senator Sherry—It was tabled in the House of Representatives.

Senator COONAN—I thought that was right, yes. In that case, that is fine.

Senator SHERRY (Tasmania) (10.38 pm) I seek leave to incorporate the two documents.

Leave granted.

The documents read as follows—

Dear Senator Johnston

Thank you your recent letters concerning the Tax Laws Amendment (Improvements to Self Assessment) Bill (No. 2) 2005. I trust that our discussions on 14 September 2005 and your subsequent meeting with Treasury officials on 15 September 2005 have somewhat alleviated your concerns in relation to this Bill.

The first concern raised in your original letter was that the legislation should more fully reflect the recommendations contained in Treasury’s Report on Aspects of Income Tax Self Assessment (the Report), particularly recommendations 1 and 6. I note that the Bill comprehensively re-writes parts of the income tax law, rather than just enacting the recommendations of the Report, and interacts with other provisions in the tax laws, so that reading the Bill in isolation may not lend itself to a full understanding of its impact. However, the Report’s recommendations are fully implemented by the Bill.

Recommendation in the Report on Aspects of Income Tax Self Assessment states that taxpayers who reasonably rely on advice from the Austra-
lian Taxation Office (ATO) should receive a level of protection as follows:

- For all legally binding advice, taxpayers will be protected from amendments raising additional primary tax penalties and interest charges.
- For all other written advice (unless that advice is clearly labelled non-binding) and oral advice given to taxpayers or their agents, taxpayer will be protected from penalty and interest charges.
- No penalties or interest will apply where taxpayers follow long standing ATO administrative practice.

The Bill gives effect to recommendation 1 by establishing that:

- Legally binding advice (whether by public rulings, private rulings or oral rulings) gives complete protection from tax otherwise payable, penalties and interest to taxpayers who follow it (per section 357-60 of the bill).
- All other written advice (unless dearly labelled as non-binding) and oral advice from formal inquiry centres provides protection from penalties and interest. Section 284-215 of Schedule 1 of the Taxation Administration Act 1953 ('the TAA') provides the protection from penalties, and section 361-5 of the Bill provides protection from interest.
- Taxpayers who follow general administrative practice will be protected from penalties and interest. The new section 361-5 of the Bill will work together with the existing section 284-215 of Schedule 1 of the TAA to provide taxpayers with protection from both interest and penalties.

Recommendation 6 in the Report on Aspects of income Tax Self Assessment states that where the ATO changes a public interpretation or long-standing practice to the detriment of taxpayers, that should become effective prospectively and, where necessary, from a future date that gives affected taxpayers reasonable time to become aware of and act upon that new interpretation.

The Bill gives effect to recommendation 6 by establishing that:

- The date of effect of a public ruling cannot be retrospective if it is detrimental to taxpayers and the public; ruling changes the Commissioner's administrative practice (per section 358-10 of the Bill).
- Where an earlier public ruling and a later public ruling apply to a taxpayer, the taxpayer can choose which public ruling to rely on (per section 35745 of the Bill).
- A taxpayer cannot suffer penalties and interest if they follow a draft public ruling.
- section 361-5 of the Bill (interest) and section 284-215 of Schedule 1 of the TAA (penalties).
- Once a person has commenced a scheme relying on a public or a private ruling, the ruling cannot be withdrawn (per sections 358-20 (public rulings) and 357-75 (private rulings) of the Bill).
- A later public ruling cannot withdraw a private ruling if the income year or the scheme to which the private ruling relates has begun to be carried out (per section 357-75 of the Bill).
- A scheme is taken to have begun to be carried out if a contract requiring that scheme has been entered into.

In addition the explanatory memorandum to the Bill outlines that the ATO should make dates of effect for changes to public rulings prospective where taxpayers need time to adjust to the change (paragraph 3.57 to 3.60).

The second concern raised in your original letter was that the legislation must have specific application to those taxpayers or groups of taxpayers whose complaints are said by some to be the catalyst for the Treasury Report on Aspects of Income Tax Self Assessment and whose circumstances (past, present and future) fall within the principles enunciated by recommendations 1 and 6.

I would draw your attention to my 24 November 2003 announcement of the Review of Self Assessment (Press Release 2003/098). The Review was intended to identify whether there are refinements to the present (self assessment) arrangements that would reduce the level of uncertainty for taxpayers, reduce compliance costs and
enhance the timeliness of TO audits and amendments, while preserving the capacity of the ATO to collect legitimate income tax liabilities'. It was not intended that the Review re-examine the circumstances of mass marketed investment scheme (MMIS) or employee benefit arrangement (EBA) participants. The ATO's settlement processes for MMIS have been the subject of prior review by the Commonwealth Ombudsman, the Senate Economics Reference Committee and the Australian National Audit Office. EBA arrangements have been separately reviewed by the Inspector-General of Taxation.

The third concern raised in your original letter was that the legislation should apply retrospectively in order to abide by and to address more fully the principles that this Bill seeks to enact. My 16 December 2004 announcement of the Government's response to the Review of Aspects of Income Tax Self Assessment (Press release 2004/106) clearly states that 'The Government proposes that the legislative changes will generally apply to assessments from the 2004-05 income year'. Making the legislation retrospective would invalidate actions taken by the Commissioner that were sanctioned at the time, with dramatic consequences for taxpayers' confidence in the system. This is the reverse of what the Review set out to achieve. Moreover, applying the Bill retrospectively would not in fact assist most of the taxpayers caught up in MMIS/EBA schemes. Making the advice recommendations retrospective would not assist these taxpayers, as those few who had valid rulings have already received their protection from interest, penalties and increases in primary tax. The vast majority of MMIS/EBA participants did not have rulings or act in accordance with the Commissioner's general administrative practice. In most cases it was audit action taken after taxpayers had self-assessed on the same basis sometimes for two or more years. Participants (other than those who promoted or received a fee relating to another's participation) in MMIS were offered the opportunity to settle during 2002 with no penalties imposed and full remission of interest, plus an opportunity to enter into payment arrangements. Some 90 per cent of MMIS participants settled on that basis. Furthermore, the Commissioner has given me guarantees that if further cases arise where people have acted on ATO advice, they can be dealt with appropriately under the existing law.

Making the shorter review period recommendations retrospective would not assist most MMIS/EBA taxpayers, as their assessments were amended within four years. While retrospectively shortening amendment periods would assist those taxpayers to whom Part IVA has been applied after four years, this has arisen very rarely in EBA cases. I have looked into the potential anomaly you raised whereby a person might have their 2003-04 assessment amended for up to six years using Part IVA of the Income Tax Assessment Act 1936, while they 2004-05 assessment could only be amended for up to four years. However, I am advised that this rarely arises in practice as, since the Vincent decision in 2002, the ATO no longer raises alternative Part IVA assessments after four years and only rely on Part IVA at all after 4 years if special circumstances apply. Thus no alteration to the Bill is necessary in this respect.

The final concern raised in your original letter was that the legislation should more clearly define and control the Commissioner's ongoing ability to act retrospectively and unilaterally in making rulings in circumstances which might amount to a breach of the principles giving rise to the change in the law that this Bill seeks to enact. Rulings are merely expressions of the Commissioner's opinion of the way in which a relevant part tax law applies—taxpayers are not obliged to follow ATO rulings and they are not bound by them. However, the Bill establishes that if a ruling does apply to you, and you act in accordance with it, then the ruling is binding by law on the Commissioner. If the law then turns out to be less favourable to you than the ruling provides, you are protected by the ruling from any adverse consequences.

The Commissioner can only make a private or an oral ruling at the request of a taxpayer. Public rulings are provided at the discretion of the ATO and are prepared in conjunction with panels containing representatives from the accounting and legal professions. There is no obligation on the ATO to make public rulings on a particular topic, or to make rulings requested by either taxpayers or the Government. To change this princi-
ple would fundamentally alter the Commissioner of Taxation’s obligation to act independently of external intervention and I could not support such a change.

As outlined earlier, the Bill ensures that where a public ruling changes the Commissioner’s general administrative practice the date of effect of a public ruling cannot be retrospective; that when an earlier public ruling and a later public ruling apply to a taxpayer then the taxpayer can choose which public ruling to rely on; and that once a person has commenced a scheme after relying on a public or a private ruling, the ruling cannot be withdrawn.

Your 28 September 2005 letter then provides suggested drafting changes to the Bill and its explanatory material in relation to the protection for taxpayers who act in accordance with the Commissioner of Taxation’s general administrative practice. However, I am concerned that these suggested changes go well beyond recommendations 1 and 6 of the Report on Aspects of Income Tax Self Assessment.

Recommendation 1 states that taxpayers who follow the Commissioner’s general administrative practice should be protected from penalty and interest. Your suggested drafting would result in taxpayers who follow the Commissioner’s general administrative practice also being protected from additional primary tax. This clearly goes beyond the intent of recommendation 1 which states that only legally binding public, private and oral rulings should attract protection from additional primary tax.

The draft Tax Laws Amendment (Improvements to Self Assessment) Bill (No. 2) 2005 does not define the term ‘general administrative practices’, leaving it to take its ordinary meaning, in line with current tax law. You suggest that taxpayers could be provided with additional certainty by including a definition of ‘general administrative practice’ in the Bill. However, the definition which you propose is so broad that it goes against the ordinary meaning of the term. Under your proposal, a single piece of advice given by one ATO officer inconsistent with the Commissioner’s general practice and/or the Commissioner’s published views could be considered ‘general administrative practice’.

Furthermore, your suggestion that general administrative practice cover any statement made by a judge in a reported decision of an Australian court or tribunal, would cover both ratio decidendi and obiter dicta. In practice, such a definition would place the Commissioner in the extraordinary position of having to continuously publish announcements saying which judicial statements he disagreed with, even where such statements could in no way be construed as part of the ratio of a decision.

You have raised a proposal that the application date for the changes relating to general Administrative practice be made retrospective from the 1994-95 income year. As outlined above, the Report on Aspects of Income Tax Self Assessment was never designed nor intended to apply retrospectively, and the Government has only ever announced an intention to adopt the Report’s recommendations prospectively. No legislative change should retrospectively invalidate actions taken by the Commissioner that were sanctioned at the time.

As previously discussed, applying the Bill retrospectively would not in fact assist most of the taxpayers caught up in MMIS/EBA schemes. However, any retrospective legislation would be likely to have dramatic consequences both for revenue and for taxpayers’ confidence in the system.

I trust this information, together with our previous discussion of these issues, addresses your concerns in relation to the Tax Laws Amendment (Improvements to Self Assessment) Bill (No. 2) 2005. Please feel free to distribute this letter amongst our colleagues on whose behalf you wrote earlier.

Yours Sincerely

Peter Costello

The Hon Peter Costello MP Treasurer
Parliament House
CANBERRA ACT 2600

Dear Treasurer,

Thank you for your letter dated 10 October 2005 concerning the Tax Laws Amendment (Improvements to Self Assessment) Bill (No. 2) 2005. My
colleagues and are grateful for the time you have given to this matter and your detailed response. However, my colleagues and still maintain that our concerns have not been alleviated. In fact we are now even more concerned that the Bill in its present form reduces rather than improves the protection available to taxpayers.

In year public announcement of the Review of Aspects of Income Tax Self Assessment dated 24 November 2003 you said “The review of the self-assessment system will examine whether the right balance has been struck between protecting the rights of individual taxpayers and protecting the revenue for the benefit of the whole Australian community.” It is apparent that any “review” is an examination of past events and it is also apparent that a review is neither necessary nor undertaken unless the system requiring review has been the subject of numerous significant complaints or protracted disputes.

In making 54 recommendations for legislative and administrative changes Treasury has itself recognised that the “right balance” has clearly not been struck.

Recommendation 6 in particular concerning “administrative practice” goes to the very heart of the mass marketed investment scheme (MMIS), employee benefit arrangement (EBA) and retirement village (RV) disputes. Consequently, it seems to us, illogical (and dubious public policy) to conduct a “review” that concludes upon the basis of past events and it is also apparent that a review is neither necessary nor undertaken unless the system requiring review has been the subject of numerous significant complaints or protracted disputes.

In relation to “administrative practice” we note your advice on page 4 that the draft legislation “does not define the term ‘general administrative practice’, leaving it to take its ordinary meaning, in line with current tax law.” My colleagues, however, see it is our duty and responsibility to introduce statutory provisions that are clear and unambiguous. As you know, one of the consistent problems with tax legislation is that taxpayers are very often forced to take proceedings in the Federal Court or the High Court seeking judicial interpretation of a statutory provision when a precise definition in the legislation would have more efficiently resolved the matter. I draw your attention to the comments of the Inspector-General of Taxation in his report concerning EBA taxpayers dated 5 August 2004 at paragraph A3.235 “More recently, the Federal Court in Prebble v FCT (2002) raised the possibility that the conduct of the Commissioner in issuing favourable advices for particular arrangements may amount to a general administrative practice,” and at A3.237 “In such circumstances it is reasonable to assume that these taxpayers were not aware of the fine legal technical distinctions between advices that bind the Commissioner and those that do not.”

It is also relevant to point out here, that despite the Court’s view, the Commissioner of Taxation has steadfastly refused to accept that there was any such “general administrative practice” and has refused to apply the decision to other cases upon the basis that the decision is only applicable to the individual litigants in each action.

On the basis of past practice and precedent, there is a very high probability that in leaving the term undefined, there will be continued uncertainty and unavoidable costly and protracted litigation.

In relation to your advice that the Bill gives effect to recommendation 6 we respectfully disagree and draw your attention to the provisions of section 361-5 which will continue to allow the Commissioner to alter and refuse to be bound by advice (other than a ruling), a statement in a publication approved in writing by the Commissioner or a general administrative practice, and then to retrospectively impose a to liability.

We make the comment here that the draft Bill in any event, only affords protection against the imposition of penalties where the Commissioner alters an administrative practice. However, GIC/interest will still be imposed on any tax liability after the expiry of 21 days after the Commissioner alters position and provides notification of the alteration.

Furthermore, the draft Bill seeks to overrule the provisions of section 284-215 which currently prevents the imposition of a tax liability in cir-
circumstances where a taxpayer has acted in reliance upon an administrative practice. This is a retrograde step that will make the tax legislation more uncertain and make the self-assessment system unfair and takes this legislation the opposite direction of each of the Rosa recommendations and the Treasury recommendations and accordingly cannot reasonably be supported.

In our view the better position is that, given that the Tax Commissioner has unlimited resources and expertise both legal and administrative and input into legislation, it should be incumbent upon him to ensure that advice, opinion, rulings and administrative practices are proper and without error and above all binding. Taxpayers on the other hand, in stark contrast have general, input, limited expertise, scarce resources and virtually no ability or capacity to anticipate their circumstances with respect to the legislation. Notwithstanding, the current system it is only taxpayers that face or are exposed to any real risk and uncertainty. The Commissioner has absolute legislative and discretionary control over the provision of advice, opinion and administrative practices under the umbrella of the two principle income tax Acts. Consequently, we see that the balance equity and justice would demand in these circumstances that the Commissioner should bear the greater responsibility.

This legislation does not, in our view, implement the Treasury recommendations and does not resolve current problems with the self-assessment system.

We would suggest that the way forward to consider our specific concerns with the proposed amendments that were submitted to your office, with a view to making changes that will remove those concerns while still achieving the objective of resolving current outstanding disputes and improving certainty and fairness for taxpayers into the future.

I look forward to further discussion and resolution of all our concerns before this Bill is introduced into the House.

Yours faithfully

David Johnston
Senator for Western Australia

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

TAX LAWS AMENDMENT (2005 MEASURES No. 5) BILL 2005

Second Reading

Debate resumed from 7 September, on motion by Senator Patterson:

That this bill be now read a second time.

Senator SHERRY (Tasmania) (10.40 pm)—We are dealing with the Tax Laws Amendment (2005 Measures No. 5) Bill 2005. I have just handed my speech to the minister. I seek leave to incorporate my speech, given the hour. There is one thing I do need to do—that is, I have a second reading amendment that is being circulated on sheet 4806. I would need to formally move that second reading amendment if the minister is okay with the speech.

Senator Coonan—I am a bit concerned about a reflection on Minister Brough—not only his athletic prowess. There is a reference in here to certain actions in relation to the tax office which I am not entirely sure is appropriate to be incorporated. It is on page eight.

Senator SHERRY—I do not think it is unparliamentary. It says, ‘This is a tumble turn that would make Ian Thorpe proud. What a backflip’.
Senator Coonan—No, you are talking about overriding the tax office. That is a very different issue, Senator Sherry.

Senator SHERRY—Where it says, ‘The minister has overridden the tax office’?

The ACTING DEPUTY PRESIDENT (Senator Crossin)—Order! Are we having the speech incorporated?

Senator Coonan—No. Leave is not granted.

Senator SHERRY—Well, we will go through until 11 pm then. Tax Laws Amendment (2005 Measures No. 5) Bill 2005 contains six schedules of measures.

Senator Murray—Madam Acting Deputy President, I rise on a point of order. The point is that the shadow minister will now give the speech, for which leave to be incorporated has been refused. It does strike me as the action of a late hour rather than of any sensibility. I implore you to ask the minister to reconsider.

The ACTING DEPUTY PRESIDENT—Senator Murray, there is no point of order.

Senator Coonan—I have indicated one sentence that I found objectionable. Senator Murray, it is a matter for Senator Sherry. If he chooses to excise the offending sentence, all will be well.

Senator SHERRY—I am not going to excise it, because it is not unparliamentary. I will read that section now, although the Hansard will look a bit disjointed. The offending paragraph at the bottom of page eight says, ‘Now in this bill Minister Brough has totally abandoned a measure that was introduced late in 2004. This is a tumble turn that would make Ian Thorpe proud. What a backflip from the Liberal government. The minister has overridden the tax office and the Treasury—but, no surprise; he is quite skilled at such legislative acrobatics, which he has been forced to do for the last nine months.’ What is so unparliamentary about that?

Senator Coonan—Madam Acting Deputy President, I raise a point of order. That is attributing a quite improper action to a minister of overriding the tax office and the Treasury. I just do not think it is appropriate to do that.

The ACTING DEPUTY PRESIDENT—Minister, it is not a point of order. My advice is that it is not unparliamentary.

Senator SHERRY—By comparison with what we heard in here today, I thought it was pretty tame. I was very confident it was not unparliamentary. It goes on to say, ‘Still, we should be clear what is at stake here. Minister Brough is repealing the laws he himself introduced. Although Labor supports the measures, I have to highlight the minister’s incompetence in creating uncertainty for the sector but not getting things right in the first bill. The Senate’s deliberation is not helped by this repeated practice of introducing, amending and then repealing bad tax law.’ I move the second reading amendment standing in my name:

At the end of the motion add:

“but the Senate condemns the Government for

(a) the mismanagement of the legislative program by continuing to introduce tax bills with significant errors and anomalies requiring costly and cumbersome legislative correction;

(b) creating uncertainty for the small business sector by again changing debt equity provisions; and

(c) failing to bring forward a cognate bill to deal with all necessary changes to the consolidation regime”.

I seek leave to incorporate the rest of my speech.

Leave granted.
The speech read as follows—

THE PROVISIONS OF THE BILL

Schedule 1 modifications to exemptions for foreign earnings

S23AG provides for individuals working in foreign service (usually aid contracts) to receive tax free income under certain circumstances. The measures this bill are designed to make it easier to be eligible for the concession in particular by clarifying what constitutes a break in the foreign service (a break cannot exceed 1/6th of a maximum 91 day period of service).

Labor does not oppose the refinement but does draw the Senate’s attention to the issue of the size of these taxation concessions. The Tax Expenditure Statement does not separate between the concession applicable under s23AG and s23AF which relates to tax free income for residents involved in projects specified by the Minister. The combined cost of the concessions is over $600m per annum!

But the Government has failed in the tax expenditure statement to separate the costs between s23AF and s23AG measures. Minister Brough has provided advice to the member for Hunter in relation to this disaggregation. However, the information was not complete.

Labor would now ask the Minister to provide to Labor a clear disaggregation between s23AF and s23AG measures. This is possible as s23AF measures need ministerial approval although s23AG does not.

Failure to disaggregate the measures would imply that the Minister’s approval under s23AF was not enforceable. The Minister might like to clarify this. Also s23AF and s23AG need to be disaggregated, especially for tax payers with assessable income above $80,000. We ask the Minister to provide the information to the opposition.

Taxpayers have a right to know how much of their money is forgone in tax breaks.

2 Refundable film tax offset Extension of offset to high budget television series

Currently a 12.5% refundable tax offset applies expenditure for large scale films, telemovies and television mini-series which have a high degree of expenditure taking place in Australia (minimum of $15m, a maximum of $50m and 70% local expenditure).

These changes provide that budget television series (as distinct from a short running mini-series) will be covered by the offset with the intention of attracting such operations to locate in Australia. Whether the offset will achieve this objective depends on the relative tax treatment of the investment in alternative jurisdictions, and whether the operation is a resident for tax purposes. Although documentaries cannot receive the current concession, documentary styled series will be able to receive the concession.

The sector has sought bundling of different projects to meet the current minimum thresholds. Although moving such an amendment would assist domestic industry Labor accepts that such bundling is unlikely to achieve the primary objective of seeking to attract foreign film production into Australia.

3 Consolidation

Consolidation occurs when the group forms a single entity for tax purposes. The regime began in July 2002. Changing the tax regime to provide for consolidation has proved to be an extraordinarily complex affair and subject to amendment 11 times since the regime began. This is the 12th amendment.

These amendments have three objectives:

1. to apply the same rules for deductibility of bad debts for a group with a foreign head company as apply to an Australian group (called an MEC or Multiple Entry Consolidated Group);
2. to apply the same rules for deductibility of swap losses for a group with a foreign head company as apply to an Australian group (a swap loss occurs when debt is swapped for equity when the book value of the debt is greater than the market value of the equity); and
3. grants an extension for irrevocable choices. When a consolidation occurs there are one-off choices to be made (currency valuation and choice of depreciation regimes). This bill extends the period such choices have made by 12 months. This is correction of a govern-
ment error. The bill enacting revokable choices was passed just 9 months ago. Clearly, this did not allow enough time for the choices to be made and this bill grants another 3 months (which may also prove to be insufficient time). This is another example of Minister Brough not being able to sufficiently manage the legislative agenda.

Although Labor does not oppose these changes the whole process of tax amendment to the consolidation regime is becoming very messy. In fact it represents a continuing fiasco of legislative mismanagement. The Government has opted for a regular pattern of review rather than a major once-off reform initiative. This option is questionable and it would be better for the Government to seek to deal with the consolidation issue in one bill.

This point notwithstanding the extension of the time limit for revokable choices is an example of the government seeking to correct a correction. I now renew the call of the Member for Hunter for the government to bring forward a cognate consolidation bill dealing with all these matters in one bill.

4 Thin capitalisation, transitional provisions
Thin capitalisation provisions seek to counter the threat of international groups setting up front companies in Australia, with a thin capital base, but borrowing heavily in Australia to claim the income tax deduction.

The rules associated with asset valuation of intangible assets (especially goodwill) have now changed in Australia due to the adoption of International Accounting Standards on 1 January 2005. In order to ensure that no individual is disadvantaged as a result of these changes, a three year transition regime is provided for under this bill so that for the purposes of the requirements of the thin capitalisation provisions an entity can elect to use accounting standard in-force prior to 1 January 2005.

This measure is supported by the opposition.

5 Forestry managed investments
There is currently a concession for ‘seasonally dependent agronomic activities’ that allows a deduction for prepaid expenditure of plantation forestry managed agreements. The expenditure occurs with the establishment period when trees are planted.

This is called a tax deferral concession: a deduction that is brought forward for an expense that is not yet incurred. The immediate deduction is granted to the taxpayer for expenditure even though the business may not incur the expense for some years.

This concession is very generous, a deduction to a taxpayer for an investment is a major supplement to the return on the investment from any other profits.

Labor recognises the importance of the sector in regional Australia and does not here oppose the changes. Still, two points can be added. The first is that the explanatory memorandum on this schedule is exceedingly brief and no policy rationale is given for the change. This tends to support the second point that the measure is simply the government making good a deal made in the election context for political purposes.

6 Debt and equity interests
The Government has brought forward legislation to empower the Commissioner of Taxation to deem that repayment of certain related party at-call loans are to be treated as unfranked dividends for tax purposes.

Owners of small family companies provide the capital and cash flow to those companies as required by the business. They withdraw the funds when the cash flow of the company allows. Typically the owners have treated this capital advance as a loan and the withdrawn as a repayment. The loan interest charged by the owner is a deduction in the hands of the company.

The ATO has been concerned that this process was tax evasion and convinced the Government to bring forward legislation late in 2004 to make the repayment a deemed dividend and accessible income (a tax penalty).

In response to lobbying from the sector, the Minister has already changed the implementation date of his own arrangements.

Senator MURRAY (Western Australia) (10.44 pm)—In the hope that peace has now
broken out, I seek leave to incorporate my speech with regard to Tax Laws Amendment (2004 Measures No. 5) Bill 2004.

Leave granted.

The speech read as follows—

The Tax Laws Amendment (2005 Measures No. 5) Bill 2005 proposes six schedules of amendments to various taxation laws. It has been indicated that several measures contained within this bill require enactment as early as possible since they have either retrospective effect or are due to commence operating in 2006.

This is a small omnibus bill this time, with just 34 more pages to add to the Tax Act, but for anyone thinking its simple, the Explanatory Memorandum is 71 pages.

It is my intention today to concentrate on schedules one and four, pertaining to tax exemption provisions and thin capitalisation provisions respectively.

Before I do that I will briefly mention the other schedules.

Schedule 2 extends the tax offset for Australian film production expenditure to high budget television series.

Schedule 3 clarifies the operation of the bad debt rules and the setting of tax cost of assets and utilisation of losses for multiple entry consolidated (MEC) groups and to ensure that such rules account correctly for swap losses.

Schedule 5 extends the operation of the ‘12 month rule’ for certain prepaid expenditure by investors in forestry managed investment schemes by two years until 30 June 2008.

Schedule 6 amends a technical rule to allow for related party at call loans, currently classified as equity, to be classified as debt. Schedule 6 addresses the high compliance costs faced by small business in having to classify all “intercompany at call” loans as equity rather than debt. Whilst the reduction in compliance costs is a positive, there is some concern that these measures may allow excessive negative gearing.

The Democrats are deeply concerned by our excessively generous negative gearing regime, which we opposed. These two in concert, as noted by the reserve Bank and the Productivity Commission, produce negative economic side-effects.

Schedule 1 addresses foreign income tax exemption regulations as defined in section 23 AG of the Income Tax Assessment Act 1936. It should be noted at the outset that these amendments will apply with retrospective effect.

Foreign income that is taxed at its origin should not theoretically be taxed again on entry to Australia. This double-taxation prevention mechanism was the original intent of the foreign income tax exemption provisions contained in the Income Tax Assessment Act of 1936.

It was a measure introduced on the grounds of equity and thus all subsequent amendments to this component of the act should accordingly be judged on whether its equitable purpose is enhanced or impeded.

The purpose of Schedule 1 is to simplify the onerous debit/credit method of calculating eligibility for foreign income tax exemption, and as a consequence it can be viewed as an equity enhancing measure, justly deserving of the Democrats’ support.

Whilst the requirement of 91 days of continuous foreign employment still applies, the means by which short breaks are calculated during the accumulation of the service period has been replaced with a new “one sixth rule”.

The new rule allows different foreign service periods to be aggregated, so long as the period of absence that separates them does not exceed one-sixth of the total number of days of foreign service at any time.

Otherwise stated, foreign employed individuals are able to accruve one leave day for every day worked without affecting their ability to aggregate periodic terms of foreign service.

In addition to the new one sixth rule, a special provision is also introduced by this schedule that retrospectively applies to individuals employed in Iraq between 1 January 2003 and 30 April 2004.

During this time, the Iraq Coalition Provisional Authority suspended the operation of the Iraqi personal income tax system, and Australians em-
ployed in Iraq during this transitional period did not pay tax on their earnings as a result. This breached the requirements of section 23 AG of the Income Tax Assessment Act 1936, preventing its application by those concerned since: foreign earnings derived in a foreign country is not exempt from tax under this section if the amount is exempt from income tax in the foreign country.

Thus the proposed amendment effectively overrides the provisions of section 23 AG (2) for the aforementioned period thereby reinstating the tax free status.

The final amendment contained in Schedule 1 specifies that the death of a foreign employed Australian no longer prevents the 91 day test from being met, so long as the pre-existing intention of the employee was to continue working to meet this exemption condition. Once again this is a measure designed to support the equitable purpose and nature of the underlying law and deserves the Democrats full support.

Schedule 4 delays the introduction of new International Financial Accounting Standards for thin capitalisation positions of Australian firms, by applying accounting standards as they existed prior to 1 January 2005 for a further period of three years.

This transitional measure will provide ill-prepared or unethical Australian corporate entities with a further three years to meet international and best practice standards on thin capitalisation regulations.

The question that I ask of legislators is how much leniency should be provided to entities who, with the benefit of three years of hindsight, still do not meet internationally recognised standards that pertain to thin capitalisation standards?

The first formal designation of proposed changes to thin capitalisation provisions was contained in an exposure draft by the Australian Accounting Standards Board released in December 2002.

Yet here we are today, considering a further three year delay to standards designed to protect the interests of stakeholders. Whilst I will not vote against such a measure, I think it is fitting to criticise the delay and the let-off.

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

The Senate divided.  
(The President—Senator the Hon. Paul Calvert)

Ayes……….. 32
Noes……….. 37
Majority……… 5

AYES
Bartlett, A.J.J.  Bishop, T.M.
Brown, B.J.  Brown, C.L.
Campbell, G.  Carr, K.J.
Conroy, S.M.  Crossin, P.M.
Evans, C.V.  Faulkner, J.P.
Forshaw, M.G.  Hogg, J.J.
Hurley, A.  Kirk, L.
Ludwig, J.W.  Lundy, K.A.
Marshall, G.  McEwen, A.
McLucas, J.E.  Moore, C.
Murray, A.J.M.  Nettle, K.
O’Brien, K.W.K.  Polley, H.
Sherry, N.J.  Siewert, R.
Stephens, U.  Sterle, G.
Stott Despoja, N.  Webber, R. *
Wong, P.  Wortley, D.

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

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

The Senate divided.  
(The President—Senator the Hon. Paul Calvert)

Ayes……….. 32
Noes……….. 37
Majority……… 5

AYES
Bartlett, A.J.J.  Bishop, T.M.
Brown, B.J.  Brown, C.L.
Campbell, G.  Carr, K.J.
Conroy, S.M.  Crossin, P.M.
Evans, C.V.  Faulkner, J.P.
Forshaw, M.G.  Hogg, J.J.
Hurley, A.  Kirk, L.
Ludwig, J.W.  Lundy, K.A.
Marshall, G.  McEwen, A.
McLucas, J.E.  Moore, C.
Murray, A.J.M.  Nettle, K.
O’Brien, K.W.K.  Polley, H.
Sherry, N.J.  Siewert, R.
Stephens, U.  Sterle, G.
Stott Despoja, N.  Webber, R. *
Wong, P.  Wortley, D.

NOES
Abetz, E.  Adams, J.
Barnett, G.  Boswell, R.L.D.
Brandis, G.H.  Calvert, P.H.
Chapman, H.G.P.  Colbeck, R.
Cooman, H.L.  Eggleton, A. *
Ellison, C.M.  Ferguson, A.B.
Fielding, S.  Fierravanti-Wells, C.
Fifield, M.P.  Heffernan, W.
Hill, R.M.  Humphries, G.
Johnston, D.  Joyce, B.
Lightfoot, P.R.  Macdonald, I.
Macdonald, J.A.L.  Mason, B.J.
McGauran, J.J.J.  Minchin, N.H.
Nash, F.  Parry, S.
Patterson, K.C.  Payne, M.A.
Ronaldson, M.  Santoro, S.
Scullion, N.G.  Troeth, J.M.
Trood, R.  Vanstone, A.E.
Watson, J.O.W.  ""
Thursday, 8 December 2005  

SENATE  

197  

PAIRS  

Hutchins, S.P.  
Kemp, C.R.  
Milne, C.  
Campbell, I.G.  
Ray, R.F.  
Ferris, J.M.  

* denotes teller  

Question negatived.  
Original question agreed to.  
Bill read a second time.  

Third Reading  

Bill passed through its remaining stages without amendment or debate.  

ADJOURNMENT  

The PRESIDENT—Order! It being 10.53 pm, I propose the question:  
That the Senate do now adjourn.  

Tasmania: Comalco Aluminium Smelter  

Senator WATSON (Tasmania) (10.53 pm)—Tonight I rise to celebrate 50 years of aluminium production in Tasmania at the Bell Bay smelter. In doing so, I would like to compliment the management and the staff, current and past, on a great record of achievement and to acknowledge the company as a great corporate citizen. The Bell Bay aluminium smelter started its operating life as a joint venture between the Commonwealth and Tasmanian governments. It started production on 23 September 1955. It was the first aluminium smelter in the Southern Hemisphere; hence the significance of my speech tonight. It took over six years to construct. The plant is situated in Bell Bay, along the Tamar River, about 50 kilometres north of Launceston near historic George Town, and has contributed immensely to the economic growth of the area.  

As electricity is a major raw ingredient in the smelting of aluminium, Tasmania was chosen as the location because of our abundant supply of hydro-electric power at the time. The smelter has been a major electricity consumer since its construction, supporting the growth of the state’s hydro-electric resources in particular and the economy in general. Today, the plant is the single largest consumer of energy in the state, using roughly the same amount of power as the entire city of Hobart. As a side note, Australia has more than 40 per cent of the world’s commercial-grade bauxite reserves. Bauxite is a primary source of alumina, which in turn is a key component of the aluminium smelting process.  

As I mentioned earlier, the project was a joint venture between the Tasmanian and Commonwealth governments to fill the growing world demand for lightweight aluminium in the aircraft and manufacturing sectors. In 1960, Comalco Industries Pty Ltd—a member of the Rio Tinto Group—obtained the Commonwealth’s shareholding of the smelter. The smelter has been operated by them ever since. Today, the smelter directly employs about 550 people, with a further 100 full-time contractors working on the site. It produces 167,000 tonnes of product each year, 70 per cent of which is exported. Last year, the smelter paid $40.1 million in salaries and paid $3.6 million in government taxes. Furthermore, the smelter spent $124 million securing goods and services from over 450 Tasmanian suppliers.  

Over 1,800 Tasmanians rely on the smelter for their livelihood. The local community of George Town is also heavily dependent on the smelter. The company interacts very significantly with and contributes significantly to voluntary organisations within the area. As honourable senators realise, George Town was founded in 1804 and is Australia’s third oldest settlement. The construction of the smelter led to an explosion in the population of the town, growing from approximately 300 in the 1950s to over 6,500 today.  

As important as the economic sustainability of the smelter is its environmental sus-
tainability. It is very important. In the early nineties, the smelter faced a particular challenge with the flooding of the world market by cheap Russian aluminium which had been stockpiled by the previous Soviet Union administration. The smelter initiated a number of efficiencies and reforms and withstood the challenge to emerge as a continuing profitable operation in today’s world market. Over the past 15 years the smelter has achieved a 74 per cent reduction of greenhouse gas emissions per tonne of aluminium produced and has been reaching enviable targets regarding water use and fluoride emissions. Recent years have seen a consistent and unrelenting effort from Comalco to ensure that the smelter is as sustainable environmentally as it is economically. In closing, we see that the Comalco Bell Bay smelter has been an important part of Tasmania for 50 years, contributing significantly to the Tasmanian economy and creating an important and sustainable industry. It is my hope that, with continued good management, the next 50 years will be as successful.

Australian Muslim Community

Senator CONROY (Victoria) (10.58 pm)—Since 11 September 2001, concern about the possibility of a terrorist attack has been prominent in the minds of many Australians. Understandably, the community expects the government to do all it can to minimise the risks to the safety of our people. Earlier this week, the parliament passed strong new antiterrorism laws. I supported the need for enhanced powers to be given to our law enforcement agencies to deal with the terrorist threat. I believe that they are necessary to protect the Australian community from the very real threat of attack causing a grievous loss of life. In the wake of the September 11 attacks and subsequent bombings in Bali, Madrid and London, we simply cannot afford to pretend that a terrorist attack could never happen here.

Senators would be aware that the people who perpetrated these hateful crimes claim to be acting in God’s name. They claim to be defending the Islamic faith. They claim to be conducting a holy war against Islam’s enemies. Of course, these claims are false and misrepresent the message of the Islamic faith. Tonight, I urge the wider Australian community to not be misled by the claims of the terrorists about the beliefs and values of their Muslim fellow citizens. One of the great privileges of public office is the opportunity to meet with the leaders of community organisations and hear their views on matters of public debate. One organisation that gives an insight into the true nature and beliefs of the Muslim community in this country is the Australia Light Foundation.

The ALF was formed by Turkish migrants in 1978. Since its inception, the ALF has grown in numbers. Today, its membership also includes Muslims who have migrated in recent years from the former Yugoslavia and from Africa. The central aim of the ALF is to provide an environment where Muslim youth can be taught the values that enable them to live as good citizens and remain faithful to their religion. The ALF operates a community centre in the western Melbourne suburb of Tottenham. The centre is a place where the Muslim community can come together to pray, to socialise, to play games, to discuss the issues of the day and to provide mutual support. Young members help students with their homework or assignments. Support is offered to citizens who have difficulties with English. New migrants are assisted to adapt to the Australian way of life. The ALF fields soccer and volleyball teams in local competitions. Hundreds of people regularly visit the centre. It is the focus of their community life.

Last month, like millions of their fellow Australians, ALF members held a function to cheer on the Socceroos and celebrate as they defeated Uruguay and qualified for the
World Cup finals. Another thing ALF members share with many other Australians is the importance of their religious faith in their daily lives. The ALF community centre has a library which includes a collection of books dealing with the proper interpretation of the Koran. Contrary to some media coverage about the Islamic literature being read by Muslim youth, these are not books filled with hatred and calls for the destruction of Western society. Rather, as my friends from the ALF point out, they emphasise that Islam forbids the killing of innocent people, irrespective of the cause and regardless of religious, political or social beliefs.

Community leaders have made it clear to me that they consider terrorist attacks like the ones we have seen this year in London and Bali as breaches of the teachings of the Koran. They condemn them without qualification. They have also told me plainly that they want to do all they can to ensure the safety and security of the Australian community. Many members of the Muslim community have come to Australia from countries plagued by violence and run by repressive regimes. Perhaps more than some Australian born citizens, they treasure the liberty and the peace that we enjoy in this country and do not want to see it put at risk.

The recent arrest of 17 men on terrorism related charges in Sydney and Melbourne has heightened public sensitivity to the risk of a terrorist attack. Following the terror raids and headlines proclaiming the danger of home grown terrorists, many Muslim Australians have had a tough time of it. They have unfairly had to endure suspicion, abuse and, in some cases, assaults. Leaders of the Australia Light Foundation have told me how women in particular are afraid to go about their daily routine. Wearing the hijab, or Islamic headdress, has attracted derision and threats of violence. People have said they are afraid to go shopping or eat out at a restau-

rant. Muslim workers have been labelled as terrorists in their workplaces.

Politicians across all parties need to state clearly that this sort of behaviour is unacceptable and un-Australian. Unfortunately, that is not the message that comes from some quarters. Community relations are not helped when members of parliament like the member for Indi and the member for Mackellar call for the banning of the hijab in schools. I acknowledge that more senior members of the government have rejected these calls. Nevertheless, the fact is that the narrow-minded, ignorant and intolerant draw comfort when their views are seemingly endorsed by members of the national parliament. Some in the Muslim community are left with the impression that the right to practise their religion freely is under threat. Comments which divide our community like this undermine our ability to fight the terrorism. They serve to alienate young people, in particular, in our Muslim communities.

According to the last census, there are over 280,000 Muslims living in Australia. Out of this community, 17 men face terrorist charges. There is no justification for treating the entire Muslim community as scapegoats for the few who are alleged to be involved in terrorism. There needs to be recognition in the wider Australian society that the overwhelming majority of the Muslim community are every bit as opposed to terrorism as they are. When I talk to Muslim Australians, they are well aware of the threats posed to their families and friends by extremists and they want the full force of the law to be brought to bear against them. They know that Muslims were amongst the victims on September 11. They know that Muslims perished in the Bali attacks. They know that Muslims died on buses and trains in the London bombing.
Terrorists who have no regard for human life regard Muslims and non-Muslims alike as expendable in the pursuit of their destructive ambitions. The war against terror does not represent a clash of civilisations or a battle of religions but, instead, a fight between good and evil. In my experience, this is well understood by Australian Muslims. They want strong laws to prevent terrorist outrages and punish would-be perpetrators. Nevertheless, there is a fear in some parts of the Muslim community that they will be unfairly targeted by police and security forces under the new terror laws. I am sure that is not the intention of this government or any member of this Senate.

Nevertheless, the fears of the Muslim community are understandable. They hear prejudiced and ill-informed views on talkback radio. They are frustrated that in the broader community it is often the views of extremists that dominate public perceptions about the nature of Islam. Against this backdrop, it is absolutely fundamental that governments do all within their powers to assure the Muslim community that the new antiterror laws will not be abused. That is why Labor argued that there should be additional safeguards in the antiterror laws. Some of those safeguards were included as a result of strong advocacy by state Labor premiers and the bipartisan Senate Legal and Constitutional Legislation Committee report.

Labor would go further to give all Australians an additional level of confidence that these laws would be implemented fairly. We would establish a permanent oversight agency for the operations of the Australian Federal Police. We would increase the resources of the Inspector-General of Intelligence and Security. We would also expand the role of the Joint Standing Committee on Intelligence Services to include oversight of the antiterrorism activities of the Federal Police. If Australia is win to the battle against terrorism, we have to recognise that we are all in this fight together, whatever our religion and whatever our cultural background. We must not allow the terrorists to distort our perception of the religion of Islam—a faith professed by more than one billion people around the globe—for their own mad ends. We have to avoid at all costs the sense of alienation that fuels the terrorist cause. Governments need to recognise the work being done by organisations like the Australia Light Foundation. They need to work with them to defeat the extremists who threaten the values that all Australians hold dear.

Howard Government: Senate

Senator BARTLETT (Queensland) (11.07 pm)—We have had a number of debates in this chamber in the last week or two about how appallingly the coalition government have behaved in abusing the role of the Senate since they gained control of it by the narrowest of margins in July this year. We have had the usual claims and counterclaims from various sides about what has been done this time, how dastardly or otherwise it is, what was done in the past, whether that was worse, better or different and all of the usual sorts of things that get thrown backwards and forwards until, at the end of it all, it creates enough confusion that everyone assumes that politicians are just pots calling kettles black.

I thought I should take the opportunity to lay out in a more measured way some of the basic facts regarding this matter. I believe that the simple, plain and unvarnished truth is that, when you add up and compound all of the various ways that the coalition government has acted in this Senate in the last six months to curtail scrutiny, to close down debate and to generally ram through serious and major legislative changes without adequate scrutiny, what we have seen in the last
few months is indeed unprecedented in its contempt for the Senate and for democracy.

I note that today’s Crikey, which is distributed to many people in this house, published a crib sheet sent out to government members by the senior adviser of the Leader of the Government in the Senate, Senator Hill, headlined ‘The facts’, which I guess is the first untruth in it. I pulled up the minister for using it today when he said that the record for top guillotiner sits with former senator Bob McMullan, who used it 57 times on 16 June 1992, closely followed by Senator Ray, who allegedly used it 52 times on 13 December 1990. That gives the impression, which was obviously enough to confuse Senator Hill when he was reading from this today, that there were 57 separate guillotines moved. Of course, there was one guillotine moved which covered a total of 57 pieces of legislation. The key point with regard to that particular guillotine from 1992 is that it allowed debate to occur over seven full days from when the time management motion was put in place.

Another key difference was that, during that period of time, over the seven full days from 16 June to 25 June, it allowed debate on committee reports, government documents, notices, matters of public importance, business of the Senate and things like that—things that have been deliberately and specifically removed by the government. A key part of their guillotine approach that has been mostly unremarked upon is the fact that they not only curtail debate on the legislation at hand but prevent any other business occurring in the Senate, including the business of the Senate. The same comparison can be used with the 1990 example. As we would all know, that included not 52 totally separate and different pieces of legislation with no connection but a number of packages of bills dealt with cognately. It was a rolling guillotine with extra time allowed to be added if it was needed, which allowed approximately 36 hours of debate over six full days. Again, that allowed other business to occur.

One important context of that is that the coalition at the time had spent around 11 days debating the appropriation bills, which is hardly a crucial matter. It was important to get them passed, obviously, but it is hardly a matter that vitally needs extensive debate. That was in the days when speeches at the second reading stage could take 30 minutes, which may have something to do with why they have since been reduced to 20 minutes.

The other point that needs to be made is the fact that there had been significant committee inquiries into the key legislation in each of those packages over a long period of time prior to them actually being considered. If you contrast that with what the government has done just in the last few weeks, going back to the Telstra legislation, we have had four separate guillotines moved, each of them without any notice or consultation whatsoever, each of them dramatically curtailing debate and each of them preventing scrutiny of large numbers of amendments. Quite astonishingly and with unbelievable gall, the minister’s crib sheet actually dared to suggest that the Telstra legislation from this year was an example of the government allowing ample debate. As we recall, the length of time for debate, from the day they were introduced in the House of Representatives to the day they were guillotined through here, with a Senate committee inquiry in between, amounted to less than one week. And that was to consider five pieces of legislation—not just the bill to allow the sale of Telstra but four other significant regulatory pieces of legislation. I well recall having to stand up and start the debate on the legislation within a minute of it being made public. That is the sort of commitment to scrutiny the government have.
We have seen this government move the gag or closure motion—that is, that the question be now put—seven times just in that short period of time since they came to have control of the Senate. As I said yesterday, we have seen the number of committee references that have been agreed to halved and, correspondingly, the number of committee references opposed doubled. That shows another example of the significant amount of scrutiny that has been prevented. What I think is perhaps the most blatant giveaway in the minister’s cheat sheet that he distributed to his colleagues comes under the heading ‘Time spent on committee references and disallowance motions’. Here they say that time for Senate government business has been lost in these areas due to what they call ‘procedural and vexatious motions’. That is what committee references and disallowances have been reduced to in the mind of this government—procedural and vexatious motions.

For those people who do not know what a disallowance motion is—and that may include some members of the government, if they think they are just vexatious and procedural—I advise that a disallowance motion is the only way that delegated legislation or regulations can actually be debated in this chamber. There are over 1,500 pieces of delegated legislation gazetted by this government every year. In the period since the government got control of the Senate, in the second half of the year, in 33 sitting days there has been a grand total of three disallowance motions debated, which is actually fewer than the number that was moved in the first half of that year—when there were only 22 sitting days—when there were four disallowance motions debated. And that total of seven disallowance motions for the year is certainly nothing out of the ordinary.

So to suggest that three disallowance motions, applying to 1,500-plus pieces of delegated legislation and regulations—which is the only way that those matters can be debated in the Senate—is vexatious and procedural just shows what the government’s mentality is. Already government senators have absorbed what is to them the self-evident truth that any matter that is brought forward by a non-government senator is just a waste of time because it is not going to get through and we should stop wasting time bringing it up.

The same applies with committee references. As everyone in this Senate would know, normally with committee references everybody has sorted them out and agreed on them before they are put up. So we put them up, they are voted on and they go through in a second. But when we have the government now refusing to allow scrutiny of basic broad policy matters, those committee references have to be put to a vote, the case has to be put and debate has to occur—and now, apparently, referring a matter to a Senate committee for examination is also just vexatious. That is where we have got to.

Having said all that, I think it is important that we try to put a bit of a brake on this continual tit for tat and dragging back through Hansards of the last 20 years, because none of us have totally clean hands here. We all know that guillotine motions can be justified. Every party in this place, including the Greens and Senator Harradine when he was here, voted for guillotines at various times. Indeed, on one occasion there was a collective guillotine moved as an act of self-discipline by all sides in this chamber to ensure that we got through a package of legislation in a final fortnight. The key matter is to ensure that the legislation has had the opportunity for adequate scrutiny and is sufficiently urgent. That has certainly not occurred on any of the occasions the government has used the guillotine here.
I said today—and I now correct the record—that the Democrats had never supported a closure motion. We did once—and I believe that was a mistake. It was 1998 and I was part of that. We moved a closure on a censure motion moved by the government against Senator Bolkus. I had been in here for only six months, so perhaps I was a bit too youthful and had not learned adequate patience. I also remember supporting a guillotine on the environment bills in 1999, which I would not have done in retrospect.

The number of non-government senators who were in this place when the 1992 guillotine went through is three. So if you want to wag your finger at those three and say, ‘Bad Senator Ray, bad Senator Faulkner and bad Senator Sherry,’ that is fine. There is only one senator here who was in the Senate during the big guillotine in 1980 when 16 bills were put through in three hours—and I do not think he should be criticised. It is time we moved on. (Time expired)

Internet Pornography

Senator BARNETT (Tasmania) (11.17 pm)—Tonight I stand to speak on the issue of internet pornography and its regulation. Last month 62 members of the federal coalition signed a letter to the Prime Minister calling for a ban on access to pornographic, violent and other inappropriate material via the internet. The signatories believe the internet should be regulated in a similar way to other media. If adults wished to opt in to access the material then of course that would be their right and they would have to apply for their right of access.

It is too easy for children to access all manner of material on the internet, and I believe the system should default automatically in favour of protecting our children before we start considering the rights of adults. At this time of year as we move into the Christmas and the summer season, when children are on holidays and spending long periods of time on the computer at home or in public places like libraries, it would be inevitable, either by accident or by design, that they might be exposed to material they are simply not mature enough or socially skilled enough to cope with.

Let us not be naive about this. If this material is available on the internet, children may access it for a laugh and a giggle with their peers or they may access it by mistake in the course of their journey on the net. It would probably take them less than a minute from switching on the computer to accessing pornography or a pornographic site. Compare that with the problems facing a child who, for a laugh, attempts to buy a restricted magazine from a newsagent. It is nigh impossible—but why bother with the hard copy when you can access it electronically away from the supervising eyes of parents and other adults and do it so fast no-one would notice? And, for the unsuspecting child, the X-rated magazines at newsagents can be hidden from their view, but a pornographic image can fill their screen in a flash on the internet.

I have three children who already access the internet and I know will need to continue to access the internet in the coming years for their education and for other reasons. It fills me with dread to think what they could be confronted with in terms of pornography, violence and other material before reaching mature age.

General access to this material at public facilities is an area of particular concern. According to the Australian Library and Information Association survey of its 91 members in late 2003, the majority of libraries in Australia did not apply filters. There is currently no legal obligation on public libraries to use filtering to prevent children accessing pornography. Children had access to pornogra-
phy on the internet at the State Library of Tasmania in Hobart in August this year. I wrote to the state Minister for Education, the Hon. Paula Wriedt, alerting her to this and asking for an immediate ban. The minister’s response was that she acknowledged the problem but there would be no ban. There would be a review of the procedures appropriate at the library. Today, some months later—in December—there is still no action. It defies belief that students, especially minors, can be vulnerable to online porn at public libraries, of all places. The US Child Internet Protection Act, for example, requires public libraries to install pornography filters on all computers providing internet access as a condition of receiving government funding.

It is also important to prevent access to this material in the home, unless a particular adult user has ‘opted in’. Options include filtering applied at the internet service provider level—for example, Telstra, Optus or Primus. It could be applied on the basis that those customers who wish to access pornographic or other adult material could apply to do so. An Australian government review last year found there were a number of difficulties in mandating filtering at the server level, with the cost of applying the filters being $45 million to establish and ongoing costs being $33 million per annum. In my view, given the significance and magnitude of the reform, it could be seen as a small price to pay for the protection of our children. This reform would be supported by parents and would have the effect of filtering out pornography at home and on public sites, with the onus being on adult users to apply for unrestricted access if they wish.

The Australian government has established and funds NetAlert, monitoring safety on the net. The government should be commended and congratulated on that initiative. In addition, the Federal Minister for Communications, Information Technology and the Arts, Senator Helen Coonan, has announced an internet audit to ensure internet providers are complying with their codes of practice, and recently introduced a $2 million National CyberSafe Program, and I thank the minister for those initiatives and for that effort.

The government also bans X and RC material from being hosted by Australian internet service providers and content hosts, and requires all ISPs to provide filters at cost, or below, to consumers. It can fine ISPs if they do not comply with the industry codes. While I acknowledge that these are moves in the right direction, especially the safety audit, I do believe our government should regulate the internet at home and in public places to ensure the best interests of children are protected.

A survey reported in a discussion paper by the Australia Institute called Regulating Youth Access to Pornography, dated 2003, found that 84 per cent of boys and 60 per cent of girls had been accidentally exposed to pornographic material on the internet, while two in every five boys had deliberately used the internet at some stage to see sexually explicit material. The survey found that 93 per cent of parents were in favour of filtering out pornography available on the home computer, let alone those in public buildings. The survey also drew a link between prolonged exposure to this material and tolerance of sexual aggression. Is this the reason that some men see women as a fashion, to be used one day and discarded the next? Women deserve respect and our children protection from obvious indecency. Any civil rights claim to automatic access is overridden by these principles.

One can only presume that, unchecked, these statistics concerning internet misuse will continue to grow. They certainly will not reduce unless action is taken. In any event,
why is the internet so different from any other medium? Likewise, the fact that it is difficult—I admit—and costly to regulate does not mean we should keep a hands-off approach. If an adult family wishes to restore its right to have access to pornographic material and other material on the internet that may be deemed inappropriate, then so be it, but if the family includes children then the parents must acknowledge their responsibility and duty of care to ensure their children do not become victims.

Tonight I wish to acknowledge the good work and leadership of a number of organisations and individuals who hold similar concerns to my own on this issue—for example, the Fatherhood Foundation headed by Warwick and Alison Marsh. They have done a lot of good work on this issue over a long period of time and they have recently produced a report titled Sexual Integrity. In the introduction they say:

We thank you for taking the time to read Sexual Integrity. The Sexual Integrity publication is the result of the Sexual Integrity Forum that was held in Parliament House, Canberra on 8-9 August 2005.

That forum was supported by a whole range of federal members of parliament—bipartisan, across party—and that should be acknowledged, and their work in highlighting some of these issues is well noted.

I also wish to acknowledge the work of the Australian Family Association and Bill Muehlenberg in particular, who has a leadership role with the association; the Australian Christian Lobby and the leadership of Brigadier Jim Wallace; and, importantly, the mothers and fathers, and others, in the community who try hard to protect, care for and nurture their children under very difficult and, at times, challenging circumstances.

My views on this topic were published in today’s Age, and I have already received vitriolic and offensive emails and feedback regarding the so-called attack on civil liberties, and saying internet regulation is too hard and cannot be done. I will not give up. I will not give in to this pressure and nor, I suspect, will the 61 other members of the federal coalition who felt motivated to pen and sign a letter of concern to the Prime Minister. The care and protection of children, no doubt, will remain a paramount consideration amongst federal coalition MPs.

Jezzine Barracks and Kissing Point

Senator McLUCAS (Queensland) (11.27 pm)—I want to take the opportunity this evening to mention a very good example of the Howard government’s arrogance and the inability of its members to represent their constituencies. I refer to recent events in Townsville, and the actions of the federal member for Herbert, Mr Peter Lindsay. The Commonwealth is proposing to dispose of Department of Defence land known as Jezzine Barracks, and Kissing Point, an area with important historical and heritage values, at the western end of Townsville’s Strand.

The Townsville City Council, led by Mayor Tony Mooney, has established a community alliance to save the site. This alliance includes the local RSL, the National Trust, and many historical and museum associations. It has already gained the support of thousands of local people through petitions and displays throughout the community.

The council has funded a campaign to persuade the federal government to protect Jezzine Barracks and Kissing Point through the establishment of a community trust for the area’s future management. The government has also been asked to provide funding for public facilities. The alliance campaign has included advertisements featuring members of the alliance who are prominent mem-
bers of the Townsville community, many of them noted conservatives.

The ads have run on radio and in local print media, and they ask the public to sign petitions, provide feedback to the government’s community consultation team, or direct their calls to their local member of parliament, the Liberal member for Herbert, Mr Peter Lindsay. But instead of joining the fight to save Jezzine Barracks and Kissing Point, Mr Lindsay has been quietly white-anting the people of Townsville.

It has been confirmed that the alliance’s radio advertisements had been taken off air because of a complaint by the member for Herbert. He personally phoned the manager of 4TO Townsville and HOT FM Townsville to have the ads taken off air, claiming that they were unauthorised political ads and that prosecutions might occur if they were not pulled. Mr Lindsay also tried to exert influence on the Townsville Bulletin to have print ads pulled as well. In both cases, the interests of Townsville prevailed. The ads are back on the air, and the Bulletin flatly refused to give in to Mr Lindsay’s pressure.

Mr Lindsay’s actions are typical of the Liberal-National Party’s political thuggery and arrogance. Increasingly, if something is not going their way, they resort to this sort of bullying, browbeating and threatening behaviour. And all this from a person who stands up in public and says he supports Townsville’s fight for Jezzine Barracks and Kissing Point. We know the member for Herbert’s record on these matters. Some time ago, Townsville sought to acquire land at Pallarenda which was excess to federal government requirements. ‘Oh yes,’ said Mr Lindsay, ‘I’ll support Townsville.’ But what happened? The land was sold to private interests for commercial development, and there was not a peep of protest from Mr Lindsay, not a whimper. There was no apology to the people of Townsville, nor was there an explanation.

They community’s campaign in Townsville is another major test for Mr Lindsay as a local member, and once again he is failing abysmally. It is all because he has not got the spine to stand up to the Howard government to get a just result for Townsville. When it comes to supporting Townsville, when it comes to standing up to his bosses in Canberra, Mr Lindsay is lacking a spine, but he is only too willing to use standover tactics against a broad cross-section of the community who are fighting for their city. He has even been haranguing members of the alliance and local councillors to get them to support the government’s plans to develop a large part of the site and turn it into a sardine city housing development.

Mr Lindsay has topped this all off with one of the most spineless, laughable claims in Townsville’s political history. In his response to his acts of political thuggery, Mr Lindsay stated in yet another media release, ‘I just sought to help members of the Jeziine Alliance avoid possible prosecution.’

**Senator Eggleston**—Madam Deputy President, I raise a point of order. I think the word ‘spineless’ is a reflection on a member and is unparliamentary language. I would ask you to ask for it to be withdrawn.

The **ACTING DEPUTY PRESIDENT** (Senator Moore)—I have thought about that, Senator, and I do not accept that point of order. I think those terms are within the context of the debate.

**Senator Eggleston**—I think you could say the member ‘lacked conviction’ or something like that—but not ‘spineless’. ‘Spineless’ is quite a derogatory term and it is not the kind of language which should be used in a parliamentary setting.

**Senator McLUCAS**—Madam Deputy President, if it would help, I accept the hon-
ourable senator’s point that Mr Lindsay is ‘lacking in conviction’. I accept your comment, Senator Eggleston.

The ACTING DEPUTY PRESIDENT—Thank you, Senator.

Senator McLUCAS—As I was saying, Mr Lindsay stated in another press release, ‘I just sought to help members of the Jezzine Alliance avoid possible prosecution.’ What a joke, that he sought to help members of the community to avoid prosecution. Prosecution from whom? That is the sort of bullying that we are experiencing from the member for Herbert. Mr Lindsay is spinning out of control. He has found himself in this situation because he has chosen to push the Canberra line to the detriment of his local community. I encourage Mr Lindsay to grow a spine—

The ACTING DEPUTY PRESIDENT—I would rephrase that, Senator, please.

Senator McLUCAS—I encourage Mr Lindsay to stand up for Townsville.

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

Senate adjourned at 11.33 pm

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]

Civil Aviation Act—Civil Aviation Safety Regulations—Airworthiness Directives—Part—

105—

AD/B737/272—Thrust Reverser Ground Logic [F2005L03965]*.
AD/B747/163 Amdt 3—Fuselage Internal Structure [F2005L03916]*.
AD/B747/290 Amdt 1—Trailing Edge Flap Actuator Attach Fittings—2 [F2005L03915]*.

AD/B767/18 Amdt 1—Off-Wing Escape Slide System [F2005L03913]*.
AD/BELL 206/160 Amdt 1—High Forward and High Aft Crossstubes [F2005L03912]*.
AD/DO 328/5—Landing Gear Uplocks [F2005L03960]*.
AD/DO 328/6—Engine Control Cable Heating Tubes [F2005L03959]*.
AD/DO 328/10—DC Power Unit 1VE Bus Bar [F2005L03955]*.
AD/DO 328/21—Ground Spoiler Actuator [F2005L03941]*.
AD/DO 328/32—Honeywell GP-300 Guidance and Display Controller [F2005L03927]*.
AD/DO 328/36—Passenger Seat Frame Attach Caps [F2005L03902]*.
AD/ECUREUIL/115—Tail Rotor Drive Shaft Rivets [F2005L03925]*.
AD/F100/53 Amdt 2—Main Landing Gear Sliding Member [F2005L03899]*.
AD/GENERAL/56 Amdt 3—Cable Operated Control Systems—Duplicate Inspection [F2005L03897]*.

106—

AD/RB211/34—High Pressure Compressor [F2005L03920]*.
AD/TAY/12 Amdt 5—Low Pressure Compressor Ice Impact Panels [F2005L03919]*.

107—

AD/PHZL/82—Hub Certified Service Life [F2005L03924]*.
AD/PHZL/83—Propeller Hub Cracks [F2005L03923]*.
AD/PHZL/85—Propeller Blade Thrust Bearing [F2005L03921]*.

Sydney Airport Curfew Act—Dispensation Reports—
   12/05 [5 dispensations].
   13/05 [10 dispensations].
Veterans' Entitlements Act—Determination of Warlike Service (North East Thailand (including Ubon)), dated 28 November 2005 [F2005L03896]*.
* Explanatory statement tabled with legislative instrument.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Tomson Case**

(Question No. 1054)

Senator Ludwig asked the Minister for Justice and Customs, upon notice, on 4 August 2005:

Tomson case given to the Senate Legal and Constitutional Legislation Committee during additional estimates on 14 February 2005. *(Hansard* reference L&C p182):

(1) Has compensation been finalised; if so, what is the offer and when will it be submitted to Mr Tomson; if not, can details be provided on the outstanding matters under consideration that are delaying the finalisation of this matter.

(2) For the outstanding matters identified in paragraph (1), can information be provided on how these matters will be progressed.

Senator Ellison—The answer to the honourable senator’s question is as follows:

The Government is considering its response to the House of Representatives Standing Committee on Legal and Constitutional Affairs review of Modern-day usage of averments in customs prosecutions.