INTERNET
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the Senate and committee hearings are available at

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

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

- CANBERRA 103.9 FM
- SYDNEY 630 AM
- NEWCASTLE 1458 AM
- GOSFORD 98.1 FM
- BRISBANE 936 AM
- GOLD COAST 95.7 FM
- MELBOURNE 1026 AM
- ADELAIDE 972 AM
- PERTH 585 AM
- HOBART 747 AM
- NORTHERN TASMANIA 92.5 FM
- DARWIN 102.5 FM
FORTY-FIRST PARLIAMENT
FIRST SESSION—FIFTH 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. Nicholas Hugh Minchin
Deputy Leader of the Government in the Senate—Senator the Hon. Helen Lloyd Coonan
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. Nicholas Hugh Minchin
Deputy Leader of the Liberal Party of Australia—Senator the Hon. Helen Lloyd Coonan
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 Nigel Gregory Scullion

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

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

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

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

iii
HOWARD MINISTRY

Prime Minister The Hon. John Winston Howard MP
Minister for Trade and Deputy Prime Minister The Hon. Mark Anthony James Vaile MP
Treasurer The Hon. Peter Howard Costello MP
Minister for Transport and Regional Services The Hon. Warren Errol Truss MP
Minister for Defence The Hon. Dr Brendan John Nelson MP
Minister for Foreign Affairs The Hon. Alexander John Gosse Downer MP
Minister for Health and Ageing and Leader of the House The Hon. Anthony John Abbott MP
Attorney-General The Hon. Philip Maxwell Ruddock MP
Minister for Finance and Administration, Leader of the Government in the Senate and Vice-President of the Executive Council Senator the Hon. Nicholas Hugh Minchin
Minister for Agriculture, Fisheries and Forestry and Deputy Leader of the House The Hon. Peter John McGauran MP
Minister for Immigration and Multicultural Affairs Senator the Hon. Amanda Eloise Vanstone
Minister for Education, Science and Training and Minister Assisting the Prime Minister for Women’s Issues The Hon. Julie Isabel Bishop MP
Minister for Family, Community Services and Indigenous Affairs The Hon. Malcolm Thomas Brough MP
Minister Assisting the Prime Minister for Indigenous Affairs

Minister for Industry, Tourism and Resources The Hon. Ian Elgin Macfarlane MP
Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service The Hon. Kevin James Andrews MP
Minister for Communications, Information Technology and the Arts and Deputy Leader of the Government in the Senate Senator the Hon. Helen Lloyd Coonan
Minister for the Environment and Heritage Senator the Hon. Ian Gordon Campbell

(The above ministers constitute the cabinet)
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<td>Senator the Hon. Christopher Martin Ellison</td>
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<td>Minister for Fisheries, Forestry and Conservation</td>
<td>Senator the Hon. Eric Abetz</td>
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<td>The Hon. Gary Roy Nairn MP</td>
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<td>The Hon. Gary Douglas Hardgrave MP</td>
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<td>Parliamentary Secretary to the Minister for Finance and Administration</td>
<td>The Hon. Dr Sharman Nancy Stone MP</td>
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<tr>
<td>Parliamentary Secretary (Foreign Affairs)</td>
<td>The Hon. Teresa Gambaro MP</td>
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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
Shadow Assistant Treasurer, Shadow Minister for
Revenue and Shadow Minister for Small
Business and Competition
Gavan Michael O’Connor MP
Joel Andrew Fitzgibbon MP

Shadow Minister for Transport
Senator Kerry Williams Kelso O’Brien

Shadow Minister for Sport and Recreation
Senator Kate Alexandra Lundy

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

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

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

Shadow Minister for Immigration
Anthony Stephen Burke MP

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

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

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

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

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

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

Shadow Parliamentary Secretary for Education
Kirsten Fiona Livermore MP

Shadow Parliamentary Secretary for Environment
and Heritage
Jennie George MP

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

Shadow Parliamentary Secretary for Immigration
Ann Kathleen Corcoran MP

Shadow Parliamentary Secretary for Treasury
Catherine Fiona King MP

Shadow Parliamentary Secretary for Science and
Water
Senator Ursula Mary Stephens

Shadow Parliamentary Secretary for Northern
Australia and Indigenous Affairs
The Hon. Warren Edward Snowdon MP
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The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 9.30 am and read prayers.

BUSINESS
Rearrangement
Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (9.31 am)—I move:

That—
(a) on Wednesday, 8 February 2006:
(i) the hours of meeting shall be 9.30 am to 11 pm,
(ii) the routine of business from not later than 4.30 pm shall be general business order of the day no. 47 (Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005)—second reading speeches only, and
(iii) at 11 pm, the Senate shall adjourn without any question being put; and
(b) on Thursday, 9 February 2006:
(i) general business order of the day no. 47 (Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005) have precedence over all other business till 1 pm and from not later than 3.45 pm to 5 pm, and
(ii) at the conclusion of (i), the routine of business shall be:
(A) consideration of government documents under general business,
(b) consideration of committee reports, government responses and Auditor-General’s reports under standing order 62(1), and
(c) adjournment.

Question agreed to.

DEFENCE LEGISLATION AMENDMENT (AID TO CIVILIAN AUTHORITIES) BILL 2005 [2006]

Second Reading
Debate resumed from 7 December 2005, on motion by Senator Coonan:

That this bill be now read a second time.

Senator MARK BISHOP (Western Australia) (9.31 am)—The amendments in the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2005 [2006] arise from recommendations from a statutory review of part IIIAAA conducted by Mr Blunn AO and General John Baker AC, DSM. This was tabled in the parliament on 2 March 2004 after having been delivered to the government, I am advised, in January of that year. The Senate might recall that the provisions of part IIIAAA, which were enacted in September 2000, at that time were quite controversial within the community and equally within the parliament but, judged in the light of unfortunate experience, were a necessary extension of the powers of the military to assist domestic policing authorities in the event of a civil emergency.

In summary, those existing laws enable the Governor-General to make a written order to call out the defence forces, they direct the Chief of the Defence Force to utilise members of the Defence Force to assist civilian policing authorities to protect Commonwealth interests against what is termed domestic violence and they also assist states in circumstances where the domestic violence is such that it is beyond the capacity of the states to deal with.

Significantly, the laws were passed prior to the September 11 2001 attacks on New York and Washington. The statutory review examined the laws in light of the lessons learnt from that event and unfortunate subsequent terrorist events. The statutory review made a number of observations which are
quite pertinent: firstly, the processes involved in the civil call-out arrangement were time consuming, complex and limited the effectiveness of any eventual call-out; secondly, the current provisions are unsafely restrictive in being focused primarily on a siege or a hostage concept; thirdly, as experience has shown, security threats may be more mobile or occur at several different geographic locations within a limited time frame; fourthly, the current laws do not provide for anticipatory operations such as might be necessary to protect infrastructure or actually disrupt a terrorist event in its planning stages, prior to it coming to fruition; fifthly, restrictions imposed on the use of reserve forces are unjustified, particularly in light of the changing nature of operational requirements of the defence forces; sixthly, there is an unsatisfactory lack of clarity regarding the legal responsibilities of ADF personnel who can be called upon to undertake tasks in the various jurisdictions and territories in Australia.

Recommendations arising from the review provided the framework for the development of the amendments that we are now considering. I note, however, that the review was tabled in March 2004 and we are under time pressure to consider and pass these amendments some five weeks before the opening of the Commonwealth Games. The current minister cannot be held responsible for that situation, but by any objective assessment it is quite unsatisfactory.

By way of an aside, I note that the opposition has been criticised for insisting on mandatory review of national security legislation after a period of operation. I note that, in respect of the civil call-out provisions, that review has resulted in proposals being brought forward that will make the provisions more effective. Most notably, the review found that the existing laws do not reflect the evolving threat environment, including the unfortunate reality learnt by experience.

This was outlined in the Defence submission to the Senate Legal and Constitutional Committee. Those lessons include: terrorist techniques now commonly use innocent bystanders as targets rather than simply as hostages; mass civilian casualties are often a particular terrorist objective; suicide is now a common method of attack by terrorists; warning times of impending action might be extremely short or indeed nonexistent; the normal concept of deterrence arising from criminal law is not a realistic concept against terrorist groups or individuals who might be more intent on taking their own life to support their own particular cause; cooperation between agencies is essential in order to obtain better intelligence and conduct more sophisticated surveillance and border controls to provide adequate warning to the appropriate authorities; there is likely to be a greater call for anticipatory action possibly involving the ADF in order to respond to intelligence and secure potential targets indicated in those intelligence assessments; incidents may go beyond a single site and consist of a series of situations or involve rapid movement rather than one strategic location—and clearly the London bombings were an example of that; the potential use of chemical, biological, radiological or nuclear agents must be recognised as a reality; the totality of expertise that can be marshalled should be made available under the civil call-out regime; and a terrorist attack at one site might prompt the need for protective action to be taken at other geographic locations.

In addressing those realities broadly, the amendments can be broken down into three categories. The first category extends the call-out measures to new domains, the second category relates to improvements of procedural aspects and the third category relates to response to operational activities. In re-
spect of the first group of amendments, which relate to extending into new domains, it can be regarded as an oversight that the original amendments to part IIIAAA did not extend to the maritime environment. Nor did they apply to aviation or to critical infrastructure, even in circumstances in which damage or destruction of that critical infrastructure would or could result in loss of life.

For those who are critical of the codification of Commonwealth powers in respect of these new domains, it should be recognised that advice is that power to utilise the military, particularly in respect of the aviation and maritime environment, is available under the general executive powers of the Commonwealth under sections 61 and 68 of the Constitution—and that is right on the point. It makes sense all round for the extent of those powers to be both codified and regulated from the point of view of training, effective operation and subsequent accountability.

In respect of the issue of critical infrastructure, some criticism has been advanced that, on a reading of proposed section 51T, there is empowerment for a member of the ADF to use force potentially causing death or injury to another. Further, that power extends to taking action to ‘protect against a threat to designated critical infrastructure’. In other words, the argument is based on questioning the extent to which members of the ADF should be empowered to use force to protect infrastructure. That argument, however, ignores the fact that before infrastructure can be designated as critical infrastructure under section 51C(b) of the act the authorising minister must believe, on reasonable grounds, that there is a threat of damage or destruction to that infrastructure. As well, the minister must believe that damage or destruction would directly or indirectly endanger life or cause serious injury to other persons. In other words, the decision, on advice, that the destruction of or damage to that infrastructure would result in the endangerment of life or serious injury is a decision that is appropriately made by two ministers.

It would be unrealistic, for instance, to expect individual members of the ADF to know the chemical dissipation rate of a particular poison dumped into a water supply system or the end consequence of termination of a power supply to an emergency ward in a hospital. Their job is to undertake orders in light of the decision made at ministerial level that the infrastructure is critical because the damage or destruction would directly or indirectly endanger life or cause serious injury to others. As such, the empowerment to use reasonable force is, we believe, one that is necessary and appropriate.

In respect of the creation of the aviation division within part IIIAAA, the existing provisions were enacted prior to the September 11 attacks on the United States, which clearly showed that threats from aircraft have the capacity to cause mass casualties. Currently, there are not provisions within the legislation to enable the ADF to conduct operations against air threats, but action has been taken under a broad interpretation of the extent of underlying executive powers—during the Commonwealth Heads of Government Meeting in 2002, for instance. We believe this is an unsatisfactory situation, because it has meant that ADF personnel involved in dealing with aerial threats have not been covered by specific statutory authorities and protections that currently apply to members of the ADF who might be called out in a land based civil call-out situation.

In essence, the proposed legislation would provide a mechanism whereby an aerial threat scenario could be identified, and members of the ADF called out as a preventative measure in anticipation of such a potential event. Examples could be the 2002
Commonwealth Heads of Government Meeting or, potentially, the forthcoming Commonwealth Games. The practical reality is that the existing mechanisms for call-outs are too cumbersome to address the speed of response required in respect of a potential aerial threat, and the new provisions effectively pre-authorise the Chief of the Defence Force to use the ADF to counter those threats if such were to materialise. With respect to those who have voiced concern about these provisions, I note that the proposed amendments essentially reflect the current practice of calling out the ADF under section 61 of the Australian Constitution but, by codification of those powers, provide a far more satisfactory regime for training, operation and accountability measures.

In respect of the creation of an offshore division within part IIIAAA, the amendments recognise the reality that the ADF is likely to be the principal agency equipped to conduct maritime counter-terrorism in related operations. It makes sense to ensure a consistent legislative approach for both land based and offshore activities. The significance of empowering the ADF to be called out in the maritime environment is, we believe, self-evident. Critical infrastructure such as oil and gas rigs, pipelines and shipping—including dangerous shipping that could be commandeered by terrorists before entering our ports—all arise as potential issues that it would be unwise and, indeed, irresponsible not to be addressed by government.

As mentioned, the second group of amendments seek to improve several procedural aspects of the current operation of the act. The first is known as the expedited call-out, which would apply in urgent and unforeseen circumstances and, in particular, in circumstances in which it would be inefficient and ineffective to undertake the comprehensive call-out procedures. An example that comes to mind is intelligence indicating that a tanker carrying petrochemicals or even ammonium nitrate had been commandeered by terrorists and that vessel was shortly to enter an Australian port. It is an example in which expedited call-out of special forces to board the vessel would be necessary.

The second area relates to having a common base for dealing with any possible breach of criminal law during the conduct of civil call-out by the ADF and having a standardised approach to prosecution. It is currently the case that members of the ADF who are called out to assist civilian policing authorities are required to comply with eight separate and distinct state and territory codes in respect of criminal conduct. This situation was acknowledged as an area that required attention by the Leader of the Opposition when releasing Labor’s national security blueprint.

In the blueprint the Leader of the Opposition noted the fact that Black Hawk helicopters to support counter-terrorism operations by Sydney based special forces units will be moved to Holsworthy in Sydney. Mr Beazley made this point:

If those soldiers had to fly in those Blackhaws to respond to a terrorist incident or the threat of a terrorist incident tonight, the powers of the state police they cooperate with would be different depending on whether they were flying north to Brisbane, south to Melbourne, or east to Sydney’s CBD ...

This, we believe, is a significant issue because the practical reality is that members of the ADF called out to assist civilian authorities might be involved in a situation where the use of force results in damage to property, injury and even potentially death. Clearly we would expect that in undertaking their duties members of the ADF would comply with relevant criminal law. The question is how to make that accountability operate in practice. This bill will ensure that a
uniform set of criminal laws, being the laws of the territory of Jervis Bay, will apply to members of the ADF in the event of a prosecution resulting from their participation in a domestic security operation. That position will, of course, apply uniformly across Australia.

While the provisions will create a far better regime under which the ADF will be able to prepare and train for potential security operations, there are equally uncertainties that have been created. For instance, what law will apply to members of the ADF from the point in time that a call-out order is made and until they reach their designated post? I ask the minister to respond to that point in the committee stage of the bill.

Further complications arise in the context of where the scheme of the act is to preserve the authority of state and territory commissioners of police in respect of a situation of domestic violence. Questions arise as to whether that authority is dissipated by Commonwealth override of state criminal laws and the role of the state directors of public prosecution in respect of enforcing applicable criminal law. In short, while it is quite unrealistic to expect members of the ADF to become sufficiently familiar with the eight differing criminal justice systems that exist in the Australian states and territories, it must be questioned whether lack of consultation with the states and territories has actually complicated issues of accountability and authority.

The third category of amendments responds to the actual operational activity of members of the ADF who might be called out. In this category the amendments recognise that reserves have a vital role to play in civil call-out and that the present restriction on calling out reserves to assist civilian authorities cannot be justified. In particular, it might be the case that reservists have particular chemical, biological or other expertise that is not available, or not available to the required standard, within the regular defence forces. The proposed amendments also clarify appropriate methods of identification of members of the ADF, particularly those who might be special forces. In particular, the current legislation requires all ADF members to wear appropriate uniform and name identification. In respect of the special forces, it is recognised that another form of identification is appropriate to protect their anonymity but to enable appropriate accountability. It is therefore proposed that alternative identification such as a number might be utilised in those situations.

The amendments in this category also recognise that modern threats can sometimes be mobile and not fixed in terms of location. Again, the London bombings is a recent unfortunate example of how the current legislative provisions may be too restrictive insofar as they are very location specific. Finally, in respect of this category of amendments concerning operational activities, the proposed amendments recognise that, in certain circumstances, as a matter of tactics and operational procedure, it may be prejudicial to broadcast in advance the areas where military action might be taken. Obviously, notification of an area where military action might be taken is desirable from the point of view of informing the public, if only so that the public can avoid the area. Equally, however, it has to be recognised that such notification may alert potential terrorists to the nature of protective and preventive activity, diminishing the success of that operation and its ability to protect the public. In that context, the legislation appropriately imposes constraints on where and when that procedure can be utilised.

In conclusion, the opposition supports these national security measures but believes the pressure of time has prevented appropriate
ate analysis of the interaction between state and territory laws. Accordingly, the opposition reserves our position in respect of recommendations of the Senate Legal and Constitutional Legislation Committee and proposes to move a second reading amendment. I understand that a second reading amendment has been circulated in my name. I will briefly speak to that now. It is an amendment to schedule 6, item 13 after subsection 51WA(4).

The ACTING DEPUTY PRESIDENT (Senator Brandis)—Senator Bishop, the Clerk advises me that that is not a second reading amendment; that is a committee stage amendment, which you appear to be foreshadowing.

Senator MARK BISHOP—Indeed, the Clerk is right. I am foreshadowing an amendment to be moved in the committee stage. I will speak to it in due course. I also foreshadow for the minister that I have some questions in the committee stage on the immunity of defence personnel from civil action when travelling to designated sites. That concludes my remarks.

Senator WEBBER (Western Australia) (9.51 am)—On behalf of Senator Ludwig I seek leave to incorporate his remarks.

Leave granted.

Senator LUDWIG (Queensland) (9.51 am)—The incorporated speech read as follows—

The Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2005 will amend Part IIIAAA of the Defence Act 1903, which deals with the use of the defence force, including reservists, to protect Commonwealth interests, the states and self-governing territories, against domestic violence.

This amendment comes on the back of the legislative change that was put in place prior to the Sydney 2000 Olympic Games, but it is also designed to cater for emerging circumstances which may present themselves in the future.

The amendments enacted by the Parliament in 2000 reflected several recommendations from Judge Hope’s Protective Security Review (AGPS 1979), which found that assistance to civil authorities lacked accountability, was anachronistic and unsuited to the current environment. However, it was the potential for terrorist attacks at the Sydney Games which was a major catalyst for the legislation.

Section 51XA of the amended Act provided for a review of orders made under Part IIIAAA within three years of commencement. This review was completed by Mr Anthony Blunn AO, General John Baker AC DSM (retired) and Mr John Johnson AO APM QPM. The report was presented to the Minister for Defence in January 2004 and it is the recommendations from that review which form the basis for the current amendments.

Among items of note to come out of the report were:

- Part IIIAAA recognised only a narrow set of circumstances in which domestic violence might be likely to occur. While this was suited to the environment at the time of the original amendments, the Part does not reflect the current environment nor does it reflect the 2002 Leaders’ summit arrangements for Terrorism and Trans-national crime.
- Experience in application of the legislation has been gained only through planning and exercise activities, which revealed flaws that could inhibit the resolution of anticipated crises.
- Part IIIAAA is essentially based on siege and hostage concepts and does not cater for a wide range of possible terrorist scenarios, including that of a fast moving terrorist incident, of which now, unfortunately, we are all too aware can happen.
- Currently there is no provision for anticipatory operations by the Australian Defence Force, which may be required to protect Commonwealth assets. There are also several issues relating to the use of Reservists.
- Finally, there are still issues surrounding the rationality of actions in a military context and the consequent legal responsibility borne by the military.
The Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2005 seeks to correct the problems and anomalies that exist in the current legislation by making nine key changes to Part IIIAAA.

These are:

- ensure that any ADF elements (including the Reserves) can be employed effectively in operations in support of domestic security;
- provide for the Commonwealth to assume all responsibility regarding criminal offences committed by ADF personnel when operating under Part IIIAAA;
- allow the use of reasonable and necessary force when protecting critical infrastructure designated by the authorising Ministers;
- enable a response to incidents or threats to Commonwealth interests in the air;
- enable a response to incidents or threats to Commonwealth off-shore interests;
- provide for numerical identification of ADF personnel rather than name identification in certain circumstances;
- allow the broadcast provisions (which come under subsection 51K(2), and require a declaration of a general security area to be published) not to apply in circumstances which would jeopardise an operation;
- ensure that the powers under Part IIIAAA can be invoked in a mobile terrorist incident as well as in a range of threats to Australia’s security;
- provide expedited call-out arrangements where the authorised call-out is for a sudden and extraordinary emergency.

Among the submissions that were received by the committee for the inquiry into this bill, many were concerned with the provisions which would allow for increased use of the military in civilian settings, the so-called ‘militarisation of society’ and the accountability of the military in criminal offences which could occur under the legislation.

These are all fair concerns, but were dealt with in detail by members of the committee as part of the inquiry. The Greens would have us all believe that this Bill will lead to our troops running loose on our streets, but this is certainly not the intention of this Bill.

This Bill is a sensible change which would ensure that, should any circumstance emerge when a defence force response to domestic violence or a terrorist attack is required, the correct provisions are in place to enable this to occur.

Current restrictions on the use of Reserve Forces in domestic security procedures do not reflect the integrated nature of the defence force. In some situations, specialist skills may be required such that the Reserves or ADF personnel provide the best response.

At the moment, ADF personnel are required to wear surname identification while operating in an official capacity. This does not preserve the anonymity of specialist forces, which in some cases may be an operational imperative. A suitable numerical or other form of identification would ensure the identity of Special Forces members is protected but ascertainable should the need arise.

Likewise, the requirement for radio or television broadcasts of a General Security Area or Designated Area could jeopardise a covert siege or hostage recovery operation. The Bill would reduce the notification requirement in such circumstances but otherwise appropriate public notification would remain a requirement.

In regards to concerns over the responsibility of ADF personnel involved in allegations of illegal activity, this Bill will provide that the CDPP will assume jurisdiction of any personnel when operating under Part IIIAAA. This ensures the ADF can prepare and train for potential security operations under a consistent legal framework and will allow for a uniform set of criminal laws to be applied in multiple jurisdictions in which ADF personnel may operate.

Creating a uniform criminal regime that applies to members of the ADF in a call out situation is consistent with Labor’s National Security Blue Print. This approach recognises that the ADF will need to be trained to operate in all State and Territory jurisdictions and it is not possible for serving members to become sufficiently familiar with the varying requirements of each jurisdiction’s crimi-
nal law. It is also probable that such domestic security operations could be cross jurisdictional.

While the explanatory memorandum of the Bill states that State or Territory Police would investigate criminal acts done or alleged to be done by ADF personnel, the Police Federation of Australia made a submission to the Senate Legal and Constitutional Committee inquiry that this provision should be expressly stated in the legislation. It is intended to write to the Minister for Defence to request the Government agree to an amendment to include a note reflecting the terms of the Explanatory Memorandum.

The amendments do not change the Defence Act, or those provisions enacted in 2000 in relation to Part IIIAAA concerning the preclusion of these powers in industrial disputes or legitimate political dissent. To those who believe this Bill may infringe the rights of the average person, section 51G of the current Act provides that the Chief of the Defence Force must not stop or restrict any protest, dissent, assembly or industrial action, except where there is a reasonable likelihood of death or serious injury to persons or serious damage to property. This Bill, if enacted, would sit within the regime of the current Act and would be subject to the same protection.

In conclusion, the amendments contained within this Bill retain the existing processes provided in Part IIIAAA but provide greater transparency for the role of the ADF in domestic security operations. Labor’s concern is that the Government’s delay in bringing forward these reforms to Civil Call Out processes have resulted in measures being unavailable in the lead-up to the Commonwealth Games. If enacted, the time these measures are in place the ADF will have around 40 days to train and prepare under the amendments.

Like everything the Government does, this amendment is overdue and has left our defence forces behind in their preparations for protecting the community during the up-coming Commonwealth Games.

However, Labor welcomes the fact that the Government has finally recognised the problem and acted accordingly. Labor supports the amendments contained in the Defence Legislation Amendment (Aid to Civilian Authorities) Bill.

Senator PAYNE (New South Wales)  
(9.51 am)—I want to make some brief remarks in relation to the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2005 [2006] which the Senate Legal and Constitutional Legislation Committee had the opportunity to consider in inquiry and hearings last week. The committee tabled its report on the bill yesterday. The bill is intended to amend part IIIAAA of the Defence Act 1903. It makes consequential amendments to both that act and other defence legislation. As Senator Bishop alluded to, and was alluded to in the second reading speech by Senator Coonan towards the end of last year, these amendments proposed for the Defence Act 1903 are drawn from recommendations made in the Blunn report which was undertaken as a statutory review of part IIIAAA.

The intention is to improve the responsiveness of the Australian Defence Force to domestic security incidents, in particular in the current threat environment. I think it is fair to say that that was the context in which the Legal and Constitutional Legislation Committee, in its consideration of the proposed amendments in the bill, held its hearings, received its submissions and made its report. Broadly speaking, the amendments will permit the utilisation of the Defence Force to protect the states and the self-governing territories against domestic violence—as it is referred to in the Constitution—and to protect Commonwealth interests. The amendments have a number of provisions. I would like to go through those, firstly, and then come to the committee’s report.

The amendment bill provides that the Commonwealth assume all power with respect to criminal offences committed by ADF personnel when they are operating under part IIIAAA of the act. It ensures that any ADF elements—and that includes the
reserve forces—can be employed effectively in operations in support of domestic security. It allows the use of reasonable and necessary force when protecting critical infrastructure which is designated such by the authorising ministers. It enables the call-out of the ADF to respond to incidents or threats to Commonwealth interests in the air environment. Similarly, it enables the call-out to respond to incidents or threats to Commonwealth interests in the offshore areas. It ensures that ADF members who are acting under division 2 are not required to wear a surname and identification if those same members are also called upon to act under division 3. It provides that, in the event that the broadcast of acts under division 3 would jeopardise an operation, the broadcast provisions which are outlined in section 51K(2) of the act do not apply. It ensures that the powers conferred to the ADF under part IIIAAA can be accorded to the ADF in the course of dealing with a mobile terrorist incident and a range of threats to Australia’s security. It also provides expedited call-out arrangements where the Prime Minister or the other two authorising ministers authorise call-out and the CDF utilises the ADF in the event of a sudden and extraordinary emergency. I understand that the departments and agencies who were consulted by Mr Blunn and his colleagues for the review universally agreed that the current application of part IIIAAA is very narrowly focused, and so narrowly focused in fact that it is not of great use in any situation but that of a limited siege-hostage situation—and even then it has constraints which make it cumbersome.

What this amendment bill will assist in, it is envisaged, is a far more flexible and responsive capacity for the ADF and for the protection of Australia. As I indicated in my earlier remarks, it does provide for four additional call-out mechanisms: in relation to critical infrastructure, incidents offshore, aviation incidents and, of course, the question of an expedited call-out.

The committee received a number of submissions raising concerns about what could be described as a blurring of a police and military function. Whilst we considered those—and in fact made specific reference to them in our report—I think the weight of evidence and the view of the committee was that those concerns now need to be weighed against the reality of quite changed security circumstances, not just for Australia but for a number of countries around the world, and that, on balance, the initiatives contained in the bill are an appropriate response to ensuring we are best prepared to meet those changed circumstances.

There was some discussion, both at the committee and in submissions, about references in the department’s submission, in the second reading speech and in other discussions about whether the call-out powers are indeed a last resort. That reference was made but it is not specifically referred to as such in the bill. That discussion led the committee to recommend in its report that the amendments to part IIIAAA should indeed include a statement of intent: that the part should only
apply when all other avenues of response have been considered and rejected. I wait to hear the government’s response on that matter.

As Senator Bishop alluded to, there are extensive amendments in relation to the application of criminal laws which will come into effect when the ADF is engaged in such a call-out. After taking evidence on this particular issue and after considering the responses provided to the committee by the Department of Defence and at the hearing itself, we did consider that it is important for there to be a consistent framework for the application of criminal laws to members of the ADF when they are participating in such a call-out. That is not possible if members of the ADF have to contend with the differing criminal laws of all of the jurisdictions in Australia, and so the application of the laws of the Jervis Bay territory, as provided for in this bill, address a number of those concerns.

I want to make a couple of brief points in relation to the use of the reserve forces, because it was a matter considered at some length during the committee’s hearing. One observation I would make is that the changed nature of the reserve forces in Australia—a change in their capacity, in their skilling and in their engagement in military activities—is perhaps not appreciated as fully as it might be by some of those who made submissions to the committee. This is an area to which this government has paid a great deal of attention in recent years and, as the witnesses from the department observed on the day of the hearing, it is in fact the case that the reserves now are very much integrated into certain parts of the force structure, and that does fit them adequately for participation in call-outs such as those envisaged in the bill.

As the report notes, the key issues here are about training and capability of both the units and the individuals concerned. That is not just a matter for the reserves; it is a matter common to the permanent force as well and one which, in the committee’s view, is appropriately left, in the bill and under the act, to the discretion of the Chief of the Defence Force. That person is, after all, best placed to determine the most appropriate deployment of members of the ADF.

To conclude: the underlying principles that inform the operation of part IIIAAA remain the same as they were under the original Defence Act. The first principle is that the ADF should only be called out as a last resort where civilian authorities are unable to deal with an incident. That matter was also discussed in consultation with the states and territories. It was raised with us by the Police Federation and by other submitters. The second of the principles is that, where the ADF is called out, civil power remains paramount. The third principle is that ADF members remain under military command. The fourth principle is that, if called out, ADF members can only use force that is reasonable and necessary in the circumstances, and the fifth principle is that ADF personnel remain subject to the law and are accountable for their actions.

In making our report, the committee resolved that we believe that the bill does meet an identified need for legislation that effectively clarifies the rules for the call-out of the ADF in the current security environment and extends the provisions for that call-out to such events as aviation incidents and offshore incidents to reflect that security environment. The proper application of these powers, which are indeed considerable—and that has been acknowledged along the way by the committee and members of the committee—will continue to require a high degree of training for ADF personnel and, indeed, the support of a well-crafted military doctrine, as the report says.
One issue which I did raise in the hearing process concerns the training of members of the ADF to exercise what are largely regarded in this country as police powers, particularly in relation to search and seizure. I think it is important that that training process be a high priority and be made explicit and not left to the mystery and fog of some activities of the ADF so that we in both the parliament and the general public can be confident that the training has been carried out effectively and comprehensively. Other than those caveats to which I have referred, the committee recommended that the bill proceed.

Senator BARTLETT (Queensland) (10.02 am)—The Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2005 [2006] deals with important matters. For that reason, I think it needs to be said up front that it has been brought forward in too hasty a manner and has not had the sort of scrutiny that I think it should have had, notwithstanding the consistently fine efforts of the Senate Legal and Constitutional Legislation Committee. I think there has also been a less than desirable amount of consultation with the states because, on the rare occasions that defence personnel are called out, it is likely to be in situations where there has been or probably still is police involvement as well. That is less than desirable and that needs to be stated up front.

The legislation is amending powers that already exist, particularly powers that were codified under legislation of the same name from 2000. That legislation was also put through rather hastily, on that occasion with the rationale of the upcoming Sydney Olympic Games. On this occasion, I think one of the rationales given is the upcoming Commonwealth Games in Melbourne. I am not sure if there is a pattern emerging whereby every time we have a major international sporting event we slip in some major legislation regarding this sort of issue on its coat-tails as a way of pushing it through quickly. Whatever that pattern might be, I think it is not desirable to have that haste occur on issues as important as this.

The reason that that haste is not desirable is not just because of the risk that inadvertent consequences may occur, that the legislation may not be drafted as precisely as it should be or that there may be flaws within it but also because it does leave the issue open to different understandings, to misinterpretations and to greater apprehensions than there might otherwise be. I think it is important that, when we are dealing with a matter such as the potential call-out of our defence forces for use within Australia, we do so in a very measured way. It is a very serious matter, and there is a very long history, which I will not go into today, about why there is such an apprehension about using defence forces in your own country.

There is apprehension in the community about the threats from terrorism. Balanced against that, there is apprehension in the community about whether the legislative responses to those threats should give government and government officials and agencies undue power or power that could potentially be misused, down the track, against Australians and people living in Australia. We have had that debate as well, more particularly with regard to the security laws. As I said a few times with regard to that—and it did come up during the Senate committee inquiry—there is apprehension, particularly amongst Australia’s Muslim communities, that they are the target of or are potentially open to being targeted by some of these extra powers in a way that would be unjust and they have inadequate protections against that. When that fear exists, as it does—and that was mentioned in evidence, in passing but nonetheless mentioned, by one of the witnesses from the Muslim Civil Rights Ad-
vocacy Network—I think it is important that, in discussing legislation like this, we do it in as measured and sober a way as possible, because we do not want the misapprehension developing in the community that the Defence Force may be called out at the drop of a hat at any civil disturbance at all and have guns trained on Australians. That is not the reality of what this legislation allows, and the prospects of it happening are remote in the extreme.

That is one of the reasons why rushing legislation like this is less than desirable, because it can enable undue concerns to arise. There are nonetheless legitimate concerns about the legislation and they are touched on to some extent in the committee report, and Senator Payne, the chair of that committee, has mentioned them. In raising those concerns on behalf of the Democrats, I want to make it very clear that that should not be misinterpreted as our saying that we do not believe these powers might be needed and should therefore not be considered for legislation. But we do say that we need to make sure that there are protections against those powers being misused. They are some of the concerns that we have.

The Democrats do not dispute that there are dangers—new dangers and new situations that we need to respond to—and codifying how those responses might occur is wise, but I believe there are flaws in how it is being done. Part of the key debate with the major legislation back in 2000 was about the importance of putting in place some form of legislative framework. There is no doubt that the powers already existed. Of course, prior to 2000 there had been call-outs of the Defence Force on rare occasions within Australia. The powers already existed under the Constitution, but they were not codified in any way. Using the Defence Force in any situation like this and having to rely on the vagaries of common law to determine where the boundaries might be for the power they can use, I think, would be far from satisfactory. Putting in place a legislative framework actually can contain those powers, potentially, rather than expand them.

In raising those concerns, it is not saying that these sorts of issues should not be put in legislation but more that there are inadequate protections. Senator Payne referred to one of them, which is the recommendation of the committee that it be made explicit in the legislation that these powers only be used as a matter of last resort when all other matters had been considered. That was the assurance given in the second reading speech by the government, but it does not appear in the legislation. I am concerned that it also does not appear that the government has responded positively to that recommendation because it does not appear that that has been addressed in the government amendments that have been circulated. That is certainly a concern.

The Labor Party amendment that Senator Bishop has foreshadowed also goes to a perceived inadequacy in the legislation. The amendments that Senator Brown has circulated again go to looking to address potential inadequacies in the scrutiny of the use of these powers, particularly around the issue of use of force—naturally enough the most controversial area. It is not the fact so much that troops might be called out; it is what they might be able to do. Obviously, that issue of their ability to use force where necessary is always going to be the most contentious. The amendment that I have had circulated goes to that issue as well. It does not seek to prohibit the use of force but seeks to make it absolutely beyond doubt that, if force is used, it does not include anything that could be seen as torture. The current wording in the legislation is:

... in exercising powers ... a member of the Defence Force must not ...
(b) subject the person to greater indignity than is reasonable and necessary in the circumstances.

I believe—and indeed similar views were raised by the Human Rights and Equal Opportunity Commission and also in the submission from Dr Ben Saul—that that wording does not offer sufficient protection. The Human Rights and Equal Opportunity Commission also drew attention to a repeated use of the phrase ‘in the use of these powers that consideration must be given to our international obligations’.

Giving consideration or having regard to our international obligations, particularly under the International Covenant on Civil and Political Rights, is not the same as ensuring that we comply with those obligations. Certainly it is the Democrats’ view that it should be made crystal clear that these powers will only be used in a way that is consistent with that convention, particularly article 6, which deals with the right to life. Rather than saying that we will have regard to or give consideration to that convention and that obligation, it has to be consistent with it. That is the rationale behind the Democrat amendment, which tries to tighten up the wording so it does not simply say, ‘must not subject the person to greater indignity than is reasonable and necessary in the circumstances’, but says that people will not be forced to endure any form of treatment which contravenes the convention against torture.

I think that is particularly important given the debate around the world at the moment about whether torture is now being seen as a legitimate weapon in the battle against terrorism. In raising this matter, I do not in any way suggest that members of the ADF are likely to or have a mind to in any circumstance inflict torture on people. I am saying that, when we are putting forward legislation that allows the use of force in these extreme circumstances, it sends an important signal if we put it in that legislation and affirm it in a crystal clear way that we reject, as a parliament and as a country, the use of torture under any circumstances. I think that is particularly important given the wider global debate.

In all of the explorations of these issues by this Senate and by Senate committees about the potential use of torture in places like Iraq by coalition forces in recent times, clearly there has not been a single scrap of evidence that Australians have been involved in that. Indeed the evidence, such as there is, is that Australians have raised concern about the potential use of torture by others, as have British authorities in some circumstances.

But the fact is that Western nations, particularly the United States, are being seen to toy with the idea, to put it politely, that torture may be appropriate in some circumstances. There is an obvious concern that that raises with many people around the world, and there is the obvious counterproductive and destructive aspect of such an approach. In my view, it makes it much more difficult to address and overcome some of the challenges presented by the terrorism threat. If democratic governments are going to be seen to acquiesce to or accept activities like torture, all you do is increase the spiral and cycle of violence. I believe it would be a very positive move of wider value to specify Australia’s rejection of such an approach when we define what is an acceptable use of force by our defence personnel in exceptional circumstances. I ask the Senate and the government to give serious consideration to the amendments that the Democrats have circulated.

There are wider issues about where the constitutional limits are on the ability of the federal government to call out our defence forces domestically. Clearly, there are pow-
ers under the Constitution for that to be done if it is requested by the states. In those circumstances, there is no dispute, and one would hope that there is always the opportunity for consultation and cooperation in that regard. Where it becomes a less clear situation is when there is not a specific request from the states and the Commonwealth is using its executive powers in the more general sense. As with these areas, I do not think you could ever be definitive about what fits in and sits outside the constitutional powers.

Concerns were raised by people with some expertise during the Senate committee process about this matter. There is an obvious risk that, if troops are used in a situation and harm is caused to somebody and it is later found that the call-out of those troops was unconstitutional, that raises a very serious potential problem. Those concerns and debate about that were also raised with the legislation in 2000. There is nothing new in this legislation that expands that concern. Inasmuch as there were unresolved questions about the constitutional limits or constraints of this power and where they might lie, I do not believe there is anything new in this bill that expands that concern any further.

Obviously this bill expands powers, or the scope for call-out in certain circumstances, but those that say that this bill expands the opportunity to circumvent constitutional protections I think are misunderstanding the situation. Where there are clear constitutional protections, legislation of course cannot override the Constitution. The issue is around the uncertainty of where the limits lie. I do not think anyone can ever categorically establish that until, and if, one gets a High Court case to consider that matter, and hopefully there will not be a circumstance where we need to define that.

In summary, there are concerns with the legislation, but not with the fact that it exists. The Democrats do not dispute the fact that powers could be needed in extreme circumstances, nor do we dispute the desirability of codifying those powers. We do have concerns about whether or not that is done adequately on this occasion.

I emphasise, to put it clearly on the record, that there are specific aspects of the legislation that I believe are desirable. The decision to remove the restriction on the use of reserve forces, on balance, is appropriate. There has been a change in the way the reserves are used, and assuming the powers are being used appropriately in the rare circumstance of calling out the troops then calling out reserves as part of that should at least be an option. That aspect is not something that I believe is a problem. On balance it is an appropriate move, although there were some concerns raised about it in submissions to the committee.

The enabling of the call-out of the ADF to respond to incidents or threats to Commonwealth interests in the air and offshore is in itself a wise move. Again, one could say the power was there but was not codified, but I think to codify it is appropriate. The issue is how those powers are defined, but the clarifying of the ability for the call-out powers to apply to activities in the air and offshore is appropriate.

But concerns remain, and we will expand on them further in the committee stage, about some less than tight wording of some aspects of these powers. Those are in the context that one of the other changes in this legislation enables the Prime Minister alone in certain circumstances to make written or verbal call-out orders. There is the issue of rapid response that can apply in the sorts of incidences that may arise in the modern era, and I acknowledge those, but to enable just one person to make a verbal call-out order is a very big power. It is quite a significant
change, and I do not think that the circumstance and the issues surrounding it have been given as much scrutiny as they should have—it brings me back to where I started—because of this being more rushed than it needed to be. That is always a danger in any situation when we are setting the laws, let alone in areas as important as this.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.22 am)—The Greens oppose this legislation. The legislation attempts to override the Constitution in a most brazen fashion. The law of this land comes from the Constitution and is qualified by the Constitution, and section 119 of the Australian Constitution says:

The Commonwealth shall protect every State against invasion and, on the application of the Executive Government of the State, against domestic violence.

This legislation brazenly sets out to override the caveat that the Commonwealth be restricted in deploying troops against domestic violence by the need for the state government involved to make a request. The brazenness with which this legislation overrides that constitutional check and ascribes to the Prime Minister, or the two other ministers named, the ability to call out the troops to employ them against Australians on Australian soil without the authority of the relevant state government is breathtaking.

I say to every senator who will vote on this matter: read section 119 and indeed section 118 of our Constitution and consider whether your obligation is to defend our Constitution or to enhance the right of this Prime Minister in his arrogance to take unto himself powers which are not there and which are disallowed by the Constitution. Section 118 of the Constitution says:

Full faith and credit shall be given, throughout the Commonwealth to the laws, the public Acts and records and the judicial proceedings of every State.

This legislation rides roughshod over that full faith and credit which shall be given, at least as the Prime Minister is concerned, and effectively abolishes state law and says that, in determining whether or not troops called out against Australians by this or any future Prime Minister have acted lawfully, you will go to the statutes applying to Jervis Bay—not New South Wales, not Western Australia, not South Australia, not Tasmania, not Victoria, not Queensland, not wherever. Australian troops are brought out against Australians in a domestic situation of crisis without the authority of the state, but look to the statutes of Jervis Bay, says this arrogant government in this legislation, and it is quite explicit about it.

If you look at division 4A—Applicable criminal law—51WA(2), it says:

The substantive criminal law of the States and the other Territories, as in force from time to time, does not apply in relation to a criminal act of a member of the Defence Force that is done, or purported to be done, under this Part.

How dare the government give immunity to Defence Force members called out by a Prime Minister, very probably for a political reason, from the laws of the state that apply! Of course, it will be too late to get a ruling from the High Court to prevent what actions are initiated under this legislation by the defence forces at the behest of the Australian Prime Minister against Australian citizens. There will be, no doubt, challenges in the High Court following that event but, waving this piece of Constitution crushing legislation, this or some future Prime Minister can order out the troops to attack Australians in a domestically charged situation in a way that this nation has never seen before.

Let me give you an example: I was in the rainforests of the lower Gordon River in 1982-83 when a peaceful blockade of citizens, against the wishes of the then state and federal governments, was taking place to
prevent the building of the Franklin Dam—and we know consequently that the citizens involved there have been vindicated. However, let us go back to that charged situation. It ended in 1,500 good Australian citizens being arrested. Six hundred were taken to prison. None of them was convicted of any criminal offence consequently, but that did not matter. At the height of that charged situation, members of the then conservative government called for the troops to be brought out.

Under this legislation, the Prime Minister—I doubt Malcolm Fraser would have done it but I have no such doubt about the protectiveness of the current Prime Minister—could call out the troops whether or not the Tasmanian government wanted it and employ them against those good Australian citizens who were there defending the national interest as they saw it, peaceably. Because under this legislation you do not have to say there is any violence; all you have to do is make a reasonable assessment that there is a threat of violence—exactly what conservative members of this parliament were doing at the time they called for the troops to be brought out.

Moreover, I can tell you that during that period the police came to me, when I was in prison, and told me that they had information that violence was going to break out and I should come out and call off the blockade. The deputy senior officer in the Tasmania Police approached me on that premise. So the threat of violence was established in the minds of the police authorities. The whole situation fitted into this piece of legislation. Whether or not the Tasmanian government of the day had wanted it, the troops could have and, I believe, may well have been called out in those circumstances.

This is extraordinarily dangerous legislation. It does not just trespass against our national Constitution, written so clearly by the founding fathers just over a century ago; it also trespasses against the basic spirit of this liberal democracy. The question that arises, of course, is: what does happen if there is a real civil emergency verging on civil war? That is why section 119 of the Constitution is there. It says:

The Commonwealth shall protect every State against invasion and, on the application of the Executive Government of the State, against domestic violence.

That is, if the state government requests it. So there is provision in extraordinary circumstances for the troops to be called out if a state government requests it.

I do not know how we arrogate to ourselves the right to override the Constitution. In fact, we cannot but we may think we can. This is ‘think we can’ legislation, where this parliament is being asked by this Prime Minister and his cabinet to daringly say: ‘Well, that Constitution was written in the 1890s and this is 2006 and we have a non-federalist government centralising powers. If the Constitution stands in the way, forget it; put a piece of legislation through the Senate. No doubt it will be rubber-stamped by the government majority in the other place.’ And it has been. Through it goes while the nation is diverted by the sensational inquiry into the Australian Wheat Board and various other matters.

There is more. The Greens amendments here before the Senate are to give Australian citizens at least the assurance that the International Covenant on Civil and Political Rights will be written into this legislation. We may breach the Australian Constitution—although the Greens will not be supporting that—but are other members of this assembly happy to also breach the International Covenant on Civil and Political Rights? If not, you will be supporting the
Greens amendment which says that a test of any action in this legislation will be that it is not in conflict with the right to life as contained in article 6 of the International Covenant on Civil and Political Rights.

We take note of the government’s own Human Rights and Equal Opportunity Commission, which in its submission to the Senate through the committee inquiry said that proposed clauses 51T(2A) and 51T(2B) in this legislation ‘impermissibly widen the circumstances in which the Defence Force is authorised to use lethal force’—beyond the limits set by international law. The New South Wales Council for Civil Liberties and the senior legal authorities in the country expressed concern to all of us in the committee proceedings leading up to our debate today.

Finally, the Greens are moving to amend this legislation by saying: let us remember that we are a democracy and that the people elect a parliament but do not elect a Prime Minister. While the Prime Minister may think that he should have all the powers that this legislation, which he drew up, would give to him, against the strictures of the Constitution and what Australia has stood for over the last 100 or so years, the Greens say that, if the Prime Minister does call out the troops against Australians, parliament should be recalled pronto and either house of parliament should have the right to veto that prime ministerial decision or, in the absence of the Prime Minister, the decision by the Minister for Defence and call off the troops if they are being used for political purposes. It is an extremely important caveat on the excessive and wide-open opportunity for abuse that is written into the legislation which the Howard government has put before the Senate today.

Senator TROOD (Queensland) (10.38 am)—It is a good opportunity to participate in this debate—the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2005 [2006] is an important piece of legislation—particularly after Senator Brown’s rather incendiary contribution to the discussion. The legislation does raise important issues. It is certainly true that, in relation to the evidence before the Legal and Constitutional Legislation Committee, some concerns were expressed about the general direction of the legislation—in particular, the anxiety that some witnesses expressed that it would result in an increasing militarisation of Australian society or that the boundaries between civilian and military authority in Australia would become increasingly blurred.
and that that was an undesirable development in Australian political culture. I agree with that. I think that, if that were to be the case, it would be an undesirable development in Australian political culture because that has not been our tradition. It has been our tradition in Australia to keep, generally speaking, some separation between the use of our military forces and indeed the use of our policing forces for essentially domestic situations where police forces are of course uniquely well trained.

But I have to say that I think that the fears that have been expressed on this subject have been overstated. Over the 100 years since Federation, there have been many occasions on which the Australian defence forces have been called out. They have been called out, of course, in response to natural disasters, in support of government agencies. They have been asked to provide essential services in the event of strikes—in 1949, in 1953, in 1981 and in 1989. They have been asked to come out in support of the protection of Commonwealth facilities in relation to the possible hijacking of aircraft. Of course, contingency arrangements were made in relation to the Olympic Games in Sydney. I think the one occasion when the Australian defence forces were called out in support of a particular danger of the kind that is envisaged in this bill was in relation to the Hilton bombing in 1978. There is certainly a history of the Australian defence forces being called out in support of civilian needs.

But what is significant about these numerous precedents is that there has been not one occasion in over a century of these call-outs when the soldiers have ever fired upon an Australian citizen. I think that tells us something about the way in which governments since Federation have looked upon this particular power. They see it as a power which is only to be used in particular dire and difficult circumstances. It is not a power that is used, generally speaking, when a Prime Minister has a whim that he wants to suppress some kind of civilian disturbance or something of that kind, as Senator Brown has intimated; it is a power which is used only in very direct circumstances.

The important thing about this bill is that it constrains the circumstances in which that power can be used. It does not give a general authority on behalf of the government to be able to go out and use this power when it seeks to do so; it actually sets down criteria and establishes thresholds. It establishes circumstances in which the power can be used. It is appropriate that the bill should do that. I think many of the fears that have been raised by the witnesses to the legislation committee and also in some of the contributions to the debate this morning have overstated the anxiety that perhaps follows from parts of this bill.

My colleague Senator Payne has been through many of the provisions and matters which were discussed before the Legal and Constitutional Legislation Committee of the Senate. I do not want to spend a great deal of time on them. I just want to make a quick point on the criminal questions which arise in relation to this bill. The bill in fact seeks to plug a shortcoming which exists in the legislation with regard to accountability. I think we are all agreed that there ought to be a measure of accountability when force is used in Australia, whether it is on behalf of the police force or whether it is calling out the Australian defence forces. Those Australian defence forces, when they are called out, ought to be accountable, and they ought to be accountable to some kind of criminal jurisdiction—as indeed defence forces are if they are called out in relation to defending Australian interests overseas, where of course we have the law of armed conflict which applies and which is expanding as time goes on.
It is entirely appropriate that there should be a measure of accountability within the context of the call-out of these forces. Some suggestions have been made in the evidence—and Senator Brown has reiterated them, as has Senator Bartlett—that these provisions do not actually go far enough. They want a rather more restrictive regime, one which actually gives a greater degree of accountability in relation to the call-out of forces. I want to make two quick points about that.

The first point is that the call-out of Australian forces is an exercise of the executive power of the Commonwealth. It may be that that power is being used in support of the states and territories and in particular with regard to certain threats that states and territories see but, in fact, it is the executive power of the Commonwealth which is being used, and it is being used in support of those states and territories where that particular circumstance arises. So the use of executive power puts the use of these forces in a unique position. Because they are in a unique position, it is desirable that they are subject to a unique arrangement. That unique arrangement is that they should be accountable to the Commonwealth rather than to the states and territories. So the bill provides that the Director of Public Prosecutions should be the prosecutorial authority should a prosecution actually be needed.

The second point is that the bill also provides that the laws of the Jervis Bay Territory, which I understand essentially means the criminal laws of the ACT, will apply. It also requires that the Director of Public Prosecutions will at some juncture make a judgment about whether or not a prosecution should take place. Before the Senate Legal and Constitutional Legislation Committee, there was some suggestion that there was an inclination on the part of directors of public prosecutions to be somewhat biased and that we needed a further measure of protection against the bias of the DPPs. I must say, I find that a curious challenge given the fact that most federal and state DPPs around the country jealously guard the particular powers which they have. They regard themselves as independent. DPPs in Queensland and, indeed, New South Wales notoriously are offended by any suggestion that they take a partisan view. There is no reason that I can see that, in relation to this particular piece of legislation, a federal DPP might not equally take an unbalanced view as to whether or not a prosecution should be launched. So there are anxieties here but, to my mind, they are anxieties which can be eased by a close examination of the bill.

I commend the bill to the Senate. I congratulate the chair of the Senate Legal and Constitutional Legislation Committee, Senator Payne, for her conscientious leadership of the discussion on the matter and, in particular, I congratulate the committee staff who worked under tight deadlines and who were required to produce a report in a very short time. They did a very good job, as usual.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (10.47 am)—I thank all of the senators who have made a contribution to the debate on the Defence Legislation Amendment (Aid to Civilian Authorities) Bill 2005 [2006]. The second reading speech, which was incorporated and tabled, summarises the government’s position on this with great clarity. I do not think it is necessary in summing up to go through that. There are some amendments before the Senate, which will obviously be dealt with briefly in the committee stage, which could well be put off briefly for intervening business.

I just make the point that the original amendments to the defence legislation in relation to aid to civilian authorities were put...
in there for very good reasons to give clarity to the law that pertains to the use of Australia’s defence forces in aid to civilian situations. These can be complex. They have certainly, since the first amendments were put in place, become more important in the view of the government because of the rising threat of terrorism globally and the quite clear potential threat for terrorism within Australia. There has been a review of those provisions and that review has certainly guided the amendments that are before the Senate now.

I think all of those involved in the debate have sought to assist the government in balancing the very important civil liberties and accountability measures within the bill. The government has looked closely at the recommendations of the committee and the discussions within the Senate committee and has sought to accommodate concerns where we believe we can balance those concerns against the security considerations of the nation, which are regarded by many—and are certainly regarded by me—as the first priority of the Commonwealth government. I sincerely thank all the senators who have contributed, and I particularly thank the members of the Senate Legal and Constitutional Legislation Committee, which did some important work on this legislation, and the Senate staff who contributed as well.

Question agreed to.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.50 am)—I would like to record the Greens and my opposition to the second reading.

Bill read a second time.

Ordered that consideration of this bill in Committee of the Whole be made an order of the day for a later hour.

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

Report of Community Affairs Legislation Committee

Senator HUMPHRIES (Australian Capital Territory) (10.51 am)—by leave—I present the report of the committee on the provisions of the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005.

Ordered that the report be printed.

DEFENCE LEGISLATION AMENDMENT (AID TO CIVILIAN AUTHORITIES) BILL 2005 [2006]

In Committee

Bill—by leave—taken as a whole.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.52 am)—The Greens will be moving the amendments that I foreshadowed in the second reading debate. The government amendments (1) to (10) come up first in the order on the running sheet, and they begin with a declaration of designated critical infrastructure. I might begin by asking the minister to explain what limitation is put on that declaration.

The TEMPORARY CHAIRMAN (Senator Marshall)—I will ask the minister to move those amendments first and then respond to your question.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (10.52 am)—by leave—I move together government amendments (1) to (10) on sheet PA330:

(1) Schedule 2, item 3, page 24 (after line 30), at the end of section 51CB, add:

(5) If the infrastructure, or the part of the infrastructure, is in a State or a self-governing Territory:
(a) the authorising Ministers may make the declaration referred to in subsection (1) whether or not the Government of the State or the self-governing Territory requests the making of the declaration; and

(b) if the Government of the State or the self-governing Territory does not request the making of the declaration referred to in subsection (1), an authorising Minister must, subject to subsection (6), consult that Government about the making of the declaration.

(6) However, paragraph (5)(b) does not apply if the authorising Ministers are satisfied that, for reasons of urgency, it is impracticable to comply with the requirements of that paragraph.

(2) Schedule 3, item 1, page 27 (line 21), after “section 51A”; insert “or 51AA (as the case requires)”:

(3) Schedule 4, item 1, page 33 (after line 29), after subsection 51CA(2), insert:

Expedited call out by an authorising Minister and another Minister

(2A) An authorising Minister, together with the Deputy Prime Minister, the Minister for Foreign Affairs or the Treasurer, may make an order of a kind that the Governor-General is empowered to make under section 51A, 51AA, 51AB, 51B or 51C if the Ministers are satisfied that:

(a) because a sudden and extraordinary emergency exists, it is not practicable for an order to be made under that section; and

(b) the Prime Minister is unable to be contacted for the purposes of considering whether to make, and making, an order under subsection (2) of this section; and

(d) the circumstances referred to in subsection 51A(1), 51AA(1), 51AB(1), 51B(1) or 51C(1) (as the case requires) exist.

(4) Schedule 4, item 1, page 34 (line 7), after “subsection (2)”; insert “or (2A)”.

(5) Schedule 4, item 1, page 34 (line 8), omit “authorising”.

(6) Schedule 4, item 1, page 34 (line 13), omit “authorising”.

(7) Schedule 4, item 1, page 34 (line 18), omit “authorising”.

(8) Schedule 4, item 1, page 34 (line 28), omit “authorising”.

(9) Schedule 4, item 1, page 34 (line 29), omit “authorising”.

(10) Schedule 4, item 1, page 35 (line 28), omit “authorising”.

I table a supplementary explanatory memorandum relating to the government amendments. I am informed that the memorandum was circulated in the chamber yesterday. My apologies to Senator Brown: I was just seeking some advice on the running sheet when, I understand, you asked a question. If you could repeat it for my benefit, I would appreciate it.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.53 am)—Amendment (1) is to do with a declaration of designated critical infrastructure. The legislation says that the defence forces can be deployed by the Prime Minister, the Minister for Foreign Affairs or the Treasurer—extraordinarily enough—to defend critical infrastructure. But when you look at it, there is no qualification on that. It could be any communication, for example. It could be defending a computer which is connected to the Commonwealth information output in the country.
The point that I want to establish is that any of those three ministers—the Prime Minister, the Minister for Foreign Affairs or the Treasurer—can determine what is critical infrastructure, and there is no limitation on that. It is not specified. As we know, a minister can find that any piece of infrastructure in the country is critical. I just wanted to have it established that there is no limit on what can be designated as critical under these circumstances. I ask the minister: could a dam in Tasmania; or a coal ship in the ports of Newcastle, Wollongong or Gladstone; or loading facilities—if a protest were taking place for some reason—be designated as critical infrastructure?

What is extraordinary is the appearance of the Treasurer on the list of the three people who can call out the troops. I was wrong in my speech on the second reading when I mentioned the Minister for Defence. It is not that minister. The Deputy Prime Minister, the Minister for Foreign Affairs or the Treasurer are involved here. I would like the minister to make it clear to the Senate just who can call out the troops and under what circumstances.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (10.56 am)—The critical infrastructure will be determined at the time, relevant to the threat. I know that Senator Brown would like more clarity around that, but obviously threats are hard to predict. I think the concept of critical infrastructure in a terrorism threat situation is not a particularly complex one. To create some sort of list, or even guidelines, as to what it might be would be likely to be playing into the hands of the people you are trying to defend the country against in a potential threat—which is the situation in which you would require Australian defence forces to become involved.

The other question, as I heard it, was in relation to the involvement of senior ministers. My advice, and the government's view, is that you clearly need responsibility to be held by key senior ministers in the government who are responsible to this parliament. As I understand it, under the existing law the Prime Minister is the only one who can act as a proxy, effectively, for the Governor-General. That was the original concept. We have broadened it to create a bit more flexibility in the circumstances where the Prime Minister would not be available at short notice. The structure that we have put in place to maintain not only accountability but also a high level of responsibility is that, in effect, you have only members of the National Security Committee of the cabinet—of which clearly the Treasurer is a member. That is the reason why the Treasurer is there. It is not because of his day job as Treasurer; it is because of his job as a member of the National Security Committee.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.58 am)—That means that if the Prime Minister, in any manner of ways, were to be temporarily out of contact—he may be ill, on holidays or at the pictures—and an urgent situation were to arise, the Treasurer could take over the authority that this bill so wrongly gives to the Prime Minister, with the states excluded, to call out the troops. Ditto the Deputy Prime Minister—which would be the Leader of The Nationals under the current situation—and the Minister for Foreign Affairs. What we have here is a creeping authorisation of members of government, usurping the Constitution, to authorise the call-out of troops against Australian citizens. This is fundamentally dangerous legislation.

We cannot say, 'Let's look at this as this nation currently works.' What we have to do is project a century ahead, look at the history of other countries and ask, 'In circumstances
in which we could find ourselves of an ero-
sion of our democratic security and the cohe-
sion of this nation, could not this legislation
be interpreted in such a way that a future
Treasurer or Prime Minister could call out
the troops against the interests of the citizens
of the country as a whole and with the state
governments, who are constitutionally em-
powered to authorise such a call-out, put
aside by this piece of legislation?” The an-
swer is, very worryingly—yes, that can hap-
pen. The amendment is not acceptable to the
Greens.

Senator IAN CAMPBELL (Western
Australia—Minister for the Environment and
Heritage) (11.00 am)—I think two points
need to be made quite clearly. Firstly, the
rhetoric of Senator Brown, effectively advis-
ing people that the intent of this law is to
have some sort of Dr Strangelove character
unleashing the lethal force of the Australian
defence forces against Australians, is cer-
tainly stretching things or at the very worst
building a straw man. One of the features of
the law is that one of the authorising minis-
ters would have to be the Minister for De-
fence or the Attorney-General and at all
times two ministers are required to authorise
a call-out in the circumstances envisaged by
this law. The circumstances envisaged by
this law, based on all legal advice given to
this government and previous governments,
are that the use of the Australian defence
forces in these circumstances is entirely con-
stitutional. It does not usurp the Constitution,
as Senator Brown claims.

A call-out would be done in the event that
the civilian forces—these would generally be
authorities of the state government such as
the police force or some other force—had
been overwhelmed and there was a need for
a greater force to come in and assist. This is
the design that is envisaged. It is something
that national security requires, and this law
as it stands and the amendments we seek to
make today are to add clarity to that, not to
usurp the Constitution. That is not what we
seek to do. We are trying to make Australia a
safer place and to do so in a way that would
deal with a potentially extraordinary situa-
tion. We seek to ensure, to pick up Senator
Brown’s, I think, fair point, that when we
make laws in this place we do need to think
10, 20, 30 or 50 years down the track.

This law is being amended because it was
put in place back in 2000, as I recall, and has
been reviewed, quite properly, by eminent
Australians with expertise in this area. These
amendments before the chamber at the mo-
moment reflect that review. That is not to say
that a future parliament could not review the
operation of this act; I am sure it will. But we
are putting in place what we think are sensi-
able, sound accountability measures that en-
sure that one of the authorising ministers is
the defence minister or the Attorney-General
and that at all times two ministers are re-
quired. It is the government’s view, and I
think we have the support of the opposition
on this, that those ministers should, appro-
priately, be members of the National Security
Committee of cabinet. The practical and sen-
sible reason for that is that these are the min-
isters who are on a regular basis in touch
with and briefed on security issues that affect
the nation and the world and so have a con-
text and a level of information built up, gen-
erally speaking, over a long period of time as
would help and guide them in the decisions
to utilise the powers within this law.

Question agreed to.

Senator BARTLETT (Queensland)
(11.05 am)—by leave—I move Democrat
amendments (1) and (2) on sheet 4825:

(1) Schedule 2, item 5, page 26 (line 24), omit
“greater indignity than is reasonable and
necessary in the circumstances”, substitute
“to any form of treatment which contravenes
the Convention against Torture and other
Cruel, Inhuman or Degrading Treatment or Punishment”.

(2) Schedule 3, page 32 (after line 13), after subsection 2B, insert:

(2C) Despite subsection (1) and (2B), in exercising any powers in accordance with Division 3B, a member of the Defence Force must not, in using force against a person, subject the person to any form of treatment which contravenes the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment”.

I referred to these amendments in my speech on the second reading. I think they are important for the specific precision and detail of the legislation where force may need to be used by defence personnel. I think they are also important in that the Australian parliament can send a clear signal by ensuring that this provision is inserted in the law.

The provision that I am dealing with goes after subsection 51T(2) of the bill and deals with the use of force. I will go through the detail of that subsection to make the context clear. It says that members of the Defence Force, in exercising their powers, must not, in using force against a person:

(a) do anything that is likely to cause the death of, or grievous bodily harm to, the person unless the member believes on reasonable grounds that doing that thing is necessary to:
   (i) protect the life of, or to prevent serious injury to, another person ... or
   (ii) protect, against the threat concerned, the designated critical infrastructure in respect of which the powers are being exercised; or—
   and this is the relevant second part—

(b) subject the person to greater indignity than is reasonable and necessary in the circumstances.

This amendment specifically goes to that issue of subjecting a person to greater indignity.

There are concerns about having the right to cause someone’s death to protect infrastructure and whether or not that is problematic. I think Senator Brown will expand on that when he moves his amendment. But this Democrat amendment is very specific. It goes solely to that component which talks about subjecting a person to greater indignity than is reasonable or necessary in the circumstances. The second Democrat amendment does a similar thing in regard to the use of force. It attempts to make it clear that the person, in exercising those powers with the use of force, must not subject a person to any form of treatment which contravenes the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment. The government may say that this prohibition against any form of treatment which constitutes torture is covered by the wording which says that the person exercising the powers will not subject a person to greater indignity than is reasonable or necessary in the circumstances, but I do not believe it is. I do not think that is clear enough. If it is covered then it can be improved by making it absolutely crystal clear that that is the situation.

This specific matter was raised before the Senate Foreign Affairs, Defence and Trade Legislation Committee inquiry. The Gilbert and Tobin Centre of Public Law submission by Dr Ben Saul, who has a lot of expertise in this particular area, states that there is, as I said in my speech in the debate on the second reading, wider concern around the world and certainly amongst democratic nations that there is a stepping back from the absolute opposition to the use of torture under any circumstances by democratic nations, particularly in regard to the attitude of the current United States government. It was also the subject of a recent Law Lords decision in the United Kingdom. It categorically ruled out the use of torture under any cir-
cumstances and detailed the many reasons why that clear opposition to the use of torture has developed in Western democracies.

At a time when there is even the slightest indication—and I suggest it is more than a slight indication—that that strong commitment of Western democracies to rule out torture in any circumstances is in question, it is very important for Australia and the Australian parliament and government to make it clear that, as far as our nation is concerned, that is simply not an issue. There is a wider benefit that could come from putting this amendment in, as well as making it crystal clear that, if circumstances arise in which a member of the Defence Force believes that the use of force is necessary, that cannot involve subjecting that person to any form of treatment which contravenes the convention against torture. I think it is important to put that in; I do not think it is clear enough in the current legislation.

I want to emphasise that this amendment does not in any way suggest that this is a run of the mill sort of thing that a member of the ADF would want to do or that this is in any way something that I have a concern is likely. But, as the minister himself just said, we do need to look at this legislation not just in terms of now but also down the track as well as evolving international standards. In that context, I think it is important to make that categorically clear in the legislation and to take the opportunity to send a strong signal that this country’s commitment to refuting any form of treatment which constitutes torture and its definitions of cruel, inhuman or degrading treatment or punishment is rejected. I urge the Senate to take that view and to use this opportunity to send that clear message and to improve the clarity of the legislation when it comes to what is probably one of its core parts, where circumstances arise in which force may be needed to be used.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (11.12 am)—I thank Senator Bartlett for moving this amendment. I am sure that all senators would share his views in relation to abhorrence of torture. Probably one of the great experiences I had in the summer adjournment of the parliament was the privilege I had of meeting United States Senator John McCain on 2 January in Sydney. It was a great opportunity and, knowing that I was to meet the Republican US senator from Arizona, I took the opportunity to read his biographical work on not only his own life up to about the time of his release from being a prisoner of war during the Vietnam War but also on his father, Admiral McCain, and his grandfather, Admiral McCain. The book, quite elegantly, is called Faith of My Fathers. I recommend it to Senator Bartlett and any other good senators who want to read of the first phase of an incredibly important American life and of someone who is touted as a potential Republican candidate for the next presidency.

He is an awesome character whom it was a great privilege to meet, not to exaggerate too much. But his importance in the context of this debate is that Senator McCain has been a leader of political activity in the United States to ensure that that country upholds all of its conventions and policies in relation to its abhorrence of torture. He has also had particular personal experience, having been subjected to endless years of torture as a prisoner of war during the Vietnam War. The book goes through the impact of that, and anyone who reads that story could not be other than affected and would share the passion that Senator Bartlett has in relation to this issue.

If the government thought that accepting these amendments would in fact add anything to or reinforce in any way the significant layers of not only international law but
Australia’s commitment to all of the relevant international conventions that prohibit torture—and which are in fact domestic law that, in the case of this particular statute, is built in through the Jervis Bay territory criminal laws which contain all of the relevant offences appertaining to torture and specifically assault and malicious wounding—we would have no hesitation in doing so. But I am assured by the best advice available to the Commonwealth that the legal framework that is in place achieves everything that Senator Bartlett quite properly wants us to achieve and that these are entirely redundant or unnecessary, although the motivation behind them is absolutely correct.

Senator Bob Brown (Tasmania—Leader of the Australian Greens) (11.15 am)—The Greens support the amendments. The minister has turned around the argument. If the amendments do not interfere with the government’s view of the protection in the legislation then he should have no worry in accepting them.

Senator Bartlett (Queensland) (11.16 am)—I understand what the minister is saying and I appreciate his at least putting on the record the clear-cut position of the government’s abhorrence of torture in any circumstances. I think that in itself is valuable to have on the record. As he pointed out, the fact that Senator McCain has had to undertake some admirable work in recent times to make this crystal clear in a US context is a sign that that total and absolute abhorrence of torture is at risk of becoming less than absolute amongst some of our allies. Obviously, if the minister is as strongly and categorically advised as he has said, he would take that advice, as I would in his circumstance. I will just repeat that this was specifically raised as a concern in one of the submissions to the Senate committee inquiry by a person on behalf of a couple of bodies that I believe have quite strong reputations as well. If, as the minister says, it is redundant then it certainly will not do any harm. As I said, I think the broader value of making this categorical statement should not be completely dismissed either. I think it is appropriate to re-emphasise that. It is not just a whim to make a point; it is in response to a specific concern raised in the Senate committee inquiry.

On the wider point, which goes to the next amendment, the Human Rights and Equal Opportunity Commission’s submission, whilst not referring to the torture issue, also referred to the International Covenant on Civil and Political Rights. The fact that we are a signatory and have ratified these conventions does not make them automatically applicable under Australian law. However, I accept and acknowledge what the minister said about existing law and other wider laws covering the matter the Democrats have raised. It is not particularly unusual for things to be inserted into legislation for the purposes of removing doubt. In fact, one of the clauses in this amending bill does that in a few places where, for the purposes of avoiding any doubt, something is spelt out. I believe this would have been a good opportunity to do the same in this circumstance.

Question negatived.

Senator Bob Brown (Tasmania—Leader of the Australian Greens) (11.19 am)—The Greens oppose schedules 2 and 3 in the following terms:

1. Schedule 2, item 5, page 26 (lines 11 to 25), **TO BE OPPOSED**.
2. Schedule 3, item 3, page 31 (line 30) to page 32 (line 13), **TO BE OPPOSED**.

This effectively opposes the relevant parts of the legislation that allow the defence forces to be called out. I will quote from proposed section 51G:

Restriction on certain utilisation of Defence Force
In utilising the Defence Force—
that is, the Prime Minister utilising the De-
fence Force—
in accordance with section 51D, the Chief of the
Defence Force must not stop or restrict any pro-
test, dissent, assembly or industrial action, except
where there is a reasonable likelihood of the death
of, or serious injury to, persons or serious damage
to property.

If you condense that down to just property,
the Chief of the Defence Force, acting on the
direction of the Prime Minister, can intervene
on a protest by Australians where he or she
thinks there is a reasonable chance of serious
damage to property. In other words, the
Prime Minister can have the Chief of the
Defence Force send troops into action
against Australians who are protesting on
any account. There is no big protest in Aus-
tralia, there is no great civil protest in this
country—not the Vietnam moratoriums, not
the Franklin or other great conservation stou-
shes, not dissent on the wharves, even
though there is explicit apparent exclusion
for industrial disputation in this legislation—
that has not involved what could be per-
cieved by the Prime Minister or the head of
Defence of the day as a serious threat to
property, whether you are looking at the riots
in Launceston against the railway fares to
Deloraine in the 1870s or recent opposition
to industrial law, which saw the breaking of
the doors at the front of this building. The
provisions in here are for the Prime Minis-
ter—and, indeed, the Treasurer of the day, if
the Prime Minister is away—to call out the
troops against Australians without the say-so
of the state government involved, overriding
section 119 of the Constitution. This is in-
herently dangerous legislation and it is not
necessary.

Surely the caveat that the state Premier or
the state executive involved has to give as-
sent is a very sensible one. That is why it is
in the Constitution. Undoubtedly that was
negotiated because the states explicitly did
not want legislation where the Common-
wealth—which took the power to have de-
fence forces when the states’ defence forces
were dissolved at the time of Federation—
had the power to intervene in the states with
troops against Australians, without the au-
thority of the state government, without, in-
deed, the request of the state government.

But here we are today riding roughshod over
that very sensible balance of power, that
check on federal executive power written
into the Constitution—or attempting to, be-
cause the Constitution is not changed by the
law of this country.

But what I think is extraordinary here to-
day is that both the big parties—the coalition
and the Labor Party—are prepared to try to
legislate against that constitutional check in
defence of Australians. It is the right of all
Australians to protest and it is the right of the
defence forces never to be called out against
Australians except in the most extraordinary
circumstances, and there is a check put in
there that the state executive has to request it
before it can happen. That is swept aside by
the Labor Party supporting the coalition in
this legislation. And, presumably because the
two big parties agree to it, there is very little
conjecture in the press, and the public out
there does not know this legislation is pass-
ing the parliament in this way today.

Here we have it: if the Treasurer or the
Prime Minister think that there is a serious
threat to property from a protest somewhere
in Australia they can call out troops. They do
not have to see whether the police in that
state are able to handle the situation first.
They may consult with the Premier but do
not have to take any notice. They may con-
sult with the state executive but do not have
to do anything more than that. This legisla-
tion is not needed. Let me stress here again:
were you to accept that all the powers given
to the defence forces in this legislation could
be necessary in some terrorist situation in our
country in the coming months or years, you
would have to question why it is not wise to
stick with the constitutional provision that
the state executive involved should give as-
sent or call for the use of troops under those
circumstances.

If COAG has agreed to it, that does not
change my argument one bit. I think the po-
laritical system—the two-big-party system—is
letting down the Australian people here to-
day. The opposition is failing in its duty to
protect the fundamental right of Australians
to not have the defence forces brought out
against them on the pretext that there is an
inherent threat to property. There does not
have to be damage to property, according to
this legislation; it just has to be that the
Prime Minister or the head of the Defence
Force perceives that there could be. I ex-
plained earlier how that is exactly the situ-
ation that arose in the Franklin campaign, and
it would be exactly the same situation that
you could point to in a hundred other cir-
cumstances in this nation’s history where
citizens have protested to improve the future
of the country but the Prime Minister of the
day may not have agreed.

The effect of these amendments is to em-
power the submission to the Senate by the
Human Rights and Equal Opportunity Com-
mission that I mentioned earlier, that this
legislation impermissibly widens the circum-
stances in which the defence forces are
authorised to use lethal force to kill Aus-
tralians. We must remember here that the Nur-
emberg trials’ dismissal of the ‘I was carry-
ing out orders’ defence is overturned by this
legislation. So, if a Defence Force member
or members do kill Australians in a protest
situation, they can plead that they were tak-
ing orders. We are not debating that. There
will be no debate here. It is just accepted by
the opposition that we should write that into
law. It is quite extraordinary that that is hap-
pening.

On behalf of the Greens, I object whole-
heartedly, fundamentally and very deeply to
what is happening with the passage of this
piece of legislation. I think that if Australian
citizens knew about this, many, many Aus-
tralians, who are proud of our defence forces,
would not want them to be able to be used
politically against fellow Australian citizens.
I can tell you, Mr Temporary Chairman, we
all know that people in the defence forces do
not want to be put in that situation either, and
nor should they be—that is why we have
police forces. But here the defence forces
can be used as a police force against Austra-
lian people for a political reason, and could
claim to be legal because this legislation says
so.

There is no inherent extra protection
against terrorism in the extraordinary extra
powers this legislation gives to the Prime
Minister to deploy the defence forces. Those
extra powers, including the right to kill to
defend property from a threat to violence—
not real violence but a threat to violence—go
way beyond the pale. That is why the Greens
amendment, while it does not remove all the
offence of this bill, is essential to at least
qualify it.

Senator IAN CAMPBELL (Western
Australia—Minister for the Environment and
Heritage) (11.29 am)—The assertions made
by Senator Brown simply cannot go unan-
swered. Senator Brown says that the Aus-
tralian people are not aware that this is happen-
ing and that there is some sort of secret con-
spiracy between the two major parties to slip
this through under the noses of the Australian
public. Quite frankly, it is an insult to the
Australian public to make such an absurd
assertion in one of the most democratic insti-
tutions in the world—that is, in this parlia-
ment—on a day when the broadcasting lights
are on and anyone anywhere in Australia who has any interest in this issue and access to a wireless, a transistor radio, a car radio or the internet can hear the debate.

Senator Brown says that it is a conspiracy between the big parties. The big parties are big parties because most of those Australian citizens that you referred to vote for them, for the coalition parties—that is, the Liberal Party and the National Party—or the Australian Labor Party. These people are not silly; they are well informed. We have a vigorous media in this country, including the Australian Broadcasting Corporation, who are represented behind the glass screen at the back of this chamber. We have a vigorous print media, a vigorous electronic media, who report actively and vigorously on the issues that affect the communities and people of this nation. To say that there is some sort of conspiracy between the big parties—parties who happened to have won the hearts and minds of millions of Australians at successive elections and significantly outweigh the relatively few who choose, for their own good reasons, to vote for Senator Brown’s party—is false. That is why you should not insult the intelligence of Australians by suggesting that there is some sort of slight going on.

I think it is also very sad that a senator who has been elected to this place would so comprehensively misrepresent what the law before this chamber and the changes to that law would do, by saying that it is about killing Australians and trying with a rhetorical device to link the actions of this government to what occurred at the Nuremberg trials in the aftermath of World War II and the atrocities committed by Adolf Hitler. They are outrageous linkages. What is outrageous is that Senator Brown would seek to mislead the Australian people in such an obvious way by saying that the legal defence of following orders would be overturned by this legislation, when in fact the absolute opposite is true.

We are here in the parliament trying to put in place the legal framework that exists with police forces. We are trying to put in place clarity around the use of the Australian Defence Force in circumstances that are constitutional. If they were unconstitutional, they would be illegal regardless of this law. Senator Brown is actually right about that. Out of the 10 things he said, he was probably right on one of them. The circumstances that Senator Brown described in which the defence forces would be called out would be illegal regardless of this legislation. That is the constitutional position. You cannot change that. What we are trying to do is put clarity around that by putting a legal framework around it which upholds all of those conventions and which upholds the Australian Constitution.

What does the Australian government seek to do? With the support of the Australian Labor Party, for which we are thankful, we seek to protect Australians. What is at the core of this legislation? The basis of this legislation is that, in the event that a civilian authority has been overwhelmed and critical infrastructure is at risk, potentially through a terrorist threat or any other threat, Australians’ lives would be put at risk. The real reason that the Australian Defence Force would be called up under this law is to save the lives of Australians that would be put at risk because that infrastructure was under attack and the civilian authorities could not defend it. It is constitutional now; it will be constitutional if it ever occurs. God help us if it does. Let us hope it never does but, if it does, it will be constitutional. It will be legal, and nothing in this law will change that. For Senator Brown to seek to do what can only be regarded as very pathetic political point-scoring on such an issue and to misrepresent what we are seeking to do in such a flagrant
way is beneath him. I think he is trying to score points in a way that is beneath him and is quite contemptible. He should really think carefully about the way he handles this issue. If he were telling the truth about the intent of this law, it would be a different matter, but what he has said is a misrepresentation of what we are seeking to do and a misleading of the Australian people by doing so.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.36 am)—Clause 51WB, ‘Defence of superior orders in certain circumstances’, states:

(2) It is a defence to a criminal act done, or purported to be done, by a member of the Defence Force under this Part that:

(a) the criminal act was done by the member under an order of a superior ...

Senator MARK BISHOP (Western Australia) (11.37 am)—At the outset, I had not intended to engage in this discussion, but I do believe it is appropriate to respond to the somewhat provocative points made and perspective taken by Senator Brown in the amendments before the chair and to place on the public record the longstanding interest and involvement of the opposition—the Australian Labor Party—in this matter so that people who are listening to this broadcast, firstly, are not misled and, secondly, do have a proper, sound and accurate appreciation of the real detail and the real intent behind this bill. The issues under discussion are critical, they are important and they bear great consequence. They have been before this chamber on many occasions, in more recent years arising out of the events of September 11. More particularly, they have been under intensive, repeated and detailed discussion by my forebears in this portfolio over the last three or four years. The issues have been regularly addressed in detail, and the complaints and criticisms raised by fair-minded people have in substance been addressed.

One of the interesting matters in that regard is that, when I agreed to attend the Senate Legal and Constitutional Legislation Committee inquiry into this bill, I was very surprised at the relatively small number of submissions to this inquiry. I was surprised at the day of hearing by the fact that there were only half-a-dozen representatives of various groups who attended to give evidence. Their evidence of course was of value and of assistance to those of us who were involved in that hearing.

I recall that when the predecessors to this bill were before the parliament—essentially in the period from 2002 through to the middle of 2005—there was intensive ongoing discussion. In the relevant House and Senate inquiries into the bills at that time hundreds of submissions were made. The inquiries conducted by my predecessors in this portfolio and other members of various parties involved days and days of intensive hearings. And there were days and days of intensive negotiations between the non-government parties, and days and days of intensive negotiations between government and non-government parties before resolution of the matters in dispute was achieved. With the current bill, most of those issues, if not all of those issues, have been addressed and resolved and are not challenged in this bill. Those who made submissions to the inquiry have not revisited those issues. By and large, the principal matters are resolved and are accepted in our community.

What concerned me about the submission by Senator Brown was the almost deliberate use of Orwellian doublespeak language. He repeatedly said words to the effect that the Australian defence forces were going to be called out at the whim of the Prime Minister and used against the Australian people in the defence of property—as I understand the general proposition that he put. A number of things need to be put on the record in expla-
nation of that set of propositions advanced by Senator Brown. The first is that it is not at the whim of the Prime Minister, as the previous amendment demonstrated. There is essentially a three-tiered approach to the use of power in this bill. Firstly, the Prime Minister may substitute for the Governor-General. Secondly, in the absence of the ability to have the Prime Minister substitute for the Governor-General, you have to have the consent of two ministers: the Minister for Defence and the Attorney-General. Thirdly, if the Prime Minister and one or other of the other two ministers are absent or not contactable for whatever reason, there is a third tier of protection inserted into the bill whereby another senior minister of the government, chosen from the National Security Committee of cabinet, is entitled to participate with, from memory, either the Minister for Defence or the Attorney-General in signing off on the critical infrastructure order.

There is a three-tiered, staged process of descending authority from the Prime Minister to members of the National Security Committee. As far as the opposition is concerned, in all instances affecting this type of threat or matter of urgency, they are the appropriate people who should be informed and should be making the decision. The Prime Minister—the head of government; the Deputy Prime Minister in his absence; the first legal officer of the Crown; the Minister for Defence; and the Minister for Foreign Affairs all participate in that committee. That would certainly be the case if Labor were in power and, as I understand it, that is the case with the government as well. They would be regularly briefed, be fully on top of the issues and be able to participate in the deliberations on such an important matter.

The next point I want to address is this argument that it is the Australian defence forces—some outside, evil, Machiavellian agency—that are going to be used against the Australian people. One makes the obvious point in response, as I made at the relevant Senate committee hearing: the Australian defence forces come from and are part of our community. They are one and the whole of us. They are not some agency that is different, distinct, remote and separate from us. When they sign up, they act according to law and only according to law and are under the direction of lawful authority, under the chain of command or at the lawful direction of the relevant minister through the chain of command in operational matters.

That is entirely proper, and I have never seen an instance where that has not occurred, or if it did occur was not the subject of the appropriate disciplinary proceedings within the ADF. To suggest that there is a conspiracy on behalf of or on the part of the Australian Defence Force to engage in some sort of untoward activity is simply an outrageous suggestion that needs to be rebutted by the opposition, simply because the Australian Defence Force come from and are part of us and act on our behalf in these most terrible of occasions.

Another point I should make in response is that my memory is that the word ‘collusion’ was used and that there was an allegation that the government and the opposition, the two big parties, had engaged in some form of collusive activity or conspiracy—unstated but by implication underhanded, secret and untoward—to mislead, cover up or hoodwink the Australian public as to the content and intent of this bill. Let me say on the record: there has been no such activity participated in or entered into by the opposition or by the government, as the minister at the table said. All of our deliberations have been on the public record. We are properly critical of the government’s short time frame for allocation of timings prior to the Commonwealth Games. Nonetheless, the content of the bill, arising out of the report by the
three eminent persons, has been publicly available since March of 2004. This bill was introduced into the parliament last November or December. It has been the subject of public hearings, and it has been the subject of discussion via receipt of public submissions, as Senator Bartlett referred to in two or three matters he picked out from submissions he thought had not received sufficient attention.

In terms of the content of the bill that Senator Brown finds particularly offensive, we do accept—and I repeat what I said in my second reading contribution—that it makes sense all round for the extent of the powers in this area to be both codified and regulated from three points of view: firstly, training; secondly, effective operation; and, thirdly, subsequent accountability and responsibility when the powers are exercised in the field.

In respect to the issue of critical infrastructure, which is really the matter behind Senator Brown’s comment—he used the emotive word ‘property’—his criticism has been advanced that on a reading of the proposed section 51T there is empowerment for a member of the ADF to use force potentially causing death or injury to another. That power is taken to protect against a threat concerning the designated critical infrastructure. As I said at the outset, that argument ignores the fact that, before infrastructure can be designated as critical infrastructure under section 51CB of the act, the authorising minister or ministers must believe on reasonable grounds that there is a threat of damage or destruction to that infrastructure. In addition, the minister must believe that damage or disruption would directly or indirectly endanger the lives of or cause serious injury to other persons. In other words, the decision on advice that the destruction or damage of that infrastructure would result in the endangerment of life or serious injury is a decision that is appropriately taken by the minister or the different level of ministers, as I outlined before. In those circumstances, we are of the view that the empowerment to use reasonable force is one that is both necessary and appropriate, that the safeguards in place are necessary and appropriate and that the accountability provisions after the activity are necessary and appropriate.

Those points were addressed in my second reading contribution. It is worthwhile in the committee debate to again put them on the record to some way go to rebut the misleading argument that was advanced earlier by Senator Brown.

Senator BARTLETT (Queensland) (11.49 am)—As many speakers from all sides have said, this is an important issue. It goes right to the heart of some key traditions certainly of Australia and, I would argue, of wider Western liberal democracies. I need to put a few things on the record to make clear the Democrats’ position, as we will be supporting the Greens’ amendments, for reasons that I will outline, but in doing that I am probably going to spend most of my time disagreeing with most of what Senator Brown has said. I want to indicate why we are supporting his amendments whilst not wanting to suggest that we agree with some of his analysis.

The amendments, to bring the chamber back to the specific amendments before us, relate to the use of force. They relate to when the ADF are called out, what type of force they are able to use under what circumstances and the protections around that. Obviously, that includes the use of force that could involve the death or grievous bodily harm of somebody. The protections around that need to be as strong as possible. That is where the Democrats’ concerns lie—that the protections around that are not as strong as possible.

That does not mean that I agree with a lot of the analysis put forward by Senator
Brown. I want to clarify a few of those matters. I do not believe it is accurate, as he suggests, that the legislation subverts the Nuremberg defence or anything like that. He read out a section about it being a defence to a criminal act by a member of the Defence Force if it was done under the order of a superior. He did not read what was written underneath that section, which in addition refers to the order not being manifestly unlawful. If a superior officer—and this has already been established—gives an order to ‘go and shoot that person in the head because he’s annoying me’, that is manifestly unlawful. Clearly, this is part of the training of defence personnel now. As is always the case, you can argue at the margins, but the Nuremberg trials, as we all know, were about manifestly appalling abuses of human rights at the highest level; they were not about a judgment made in the heat of a particular incident regarding what type of force to utilise. So the Nuremberg context is completely inappropriate because any orders that might in any way lead to actions that would be placed in a Nuremberg type context would be manifestly unlawful and that defence would not be available.

The issue of constitutionality is another one that needs to be emphasised a bit more. A lot of these arguments were examined in more detail back in 2000, when the primary aid to civilian authorities legislation was passed. People who are interested in exploring the detail of this matter should read the transcript of the Senate debate and especially the Senate committee report on that legislation. That report details the history of this whole area of calling out the troops in certain circumstances. It details circumstances where that has occurred in the past in Australia. On a few occasions troops have been called out with authorisation to use force, and at other times they have been called out in other civil circumstances but that authorisation to use force has not been involved.

It is an important part of our tradition that the military is clearly seen as being for the defence of the nation, not as an arm of government to be used against its own civilians. It is also a key part of our tradition that the military is seen as being clearly distinct from the sorts of civil order activities of the police. The point was appropriately made during the Senate committee inquiry that too much movement of our military towards involvement in civil activities would constitute a danger. The flip side of that must be recognised—that if we seek to rely solely on our police in circumstances which really start getting into attacks on the nation, we also run the risk of militarising the police, which is also something that we want to guard against. So we need to operate within all of those contexts.

With respect to the federal government’s use of such constitutional powers, there are still genuine questions about how wide-ranging the constitutional power is. Those questions were already there having regard to the existing legislation. Indeed, they were already there before the legislation came into force in 2000. The fact that troops had been called out in the past, before 2000, demonstrated clearly that the power was there. Section 119 of the Constitution has been quoted. It says that the Commonwealth shall protect every state against invasion and, on the application of the states, against domestic violence. But there are other sections of the Constitution apart from 119.

One could also argue about how you would define ‘invasion’ under section 119. Certainly, some could say, in some sorts of terrorist incidents, that that could be equivalent to invasion, particularly when one keeps in mind what would have been difficult to envision when the Constitution was being
pulled together in the 1890s. The founding fathers probably would not have envisioned jet airliners flying into 60-storey buildings. They would have had enough trouble envisioning a 60-storey-high building, let alone a jet airliner. So that section alone is open to interpretation.

Apart from that, clearly there are a number of aspects under section 51 of the Constitution that the federal government could rely on in certain circumstances in order to call out the troops. One that is perhaps most germane is the external affairs power. In recent years the federal government has entered into a range of international agreements to deal with terrorism. That, in itself, could be relied upon. That is the same power, as Senator Brown would know, that was relied on, thankfully, to prevent the Franklin dam from being built. The majority in the High Court case was only four votes to three. At the time it was seen as potentially subverting the intent of the Constitution. I am glad that the High Court at that time had the wisdom to see that the federal law was being appropriately applied with respect to the external affairs power.

In certain circumstances that could also be applied in this regard, as could other sections, such as section 51(vi), section 51(xxxix) and the general executive power under section 61. To say that it is a massive attempt to completely subvert the Constitution is to overstate things. That is not to say there are not question marks about how far those powers go. But that is really a debate for constitutional lawyers and there will always be different opinions on such matters. Unless there is a definitive High Court ruling, we will not know. Clearly, there are other grounds here. That is not to say that it is not desirable to involve the states, to consult with the states and ideally to get the cooperation of and an invitation from the states. Concerns have been raised by the states—specifically by the New South Wales government in this inquiry—that the level of consultation in putting this legislation together was less than ideal. That is of concern.

I turn again to the issue of the use of force and those powers, because this was touched on in the committee report, and it is the reason why the Democrats are of a mind to support the amendments and why we are concerned about the totality of the bill if it is not amended. The use of force is obviously at the pointy end, if you like, of these situations. The committee made a couple of recommendations. We have already touched on one of the recommendations, which was to clarify quite clearly, as a statement of intent, that this section should only be used when all other avenues have been considered and rejected. It appears that the government has chosen not to go down that path.

Perhaps more important to the specific matter before us is the issue that was raised in evidence given by the Human Rights and Equal Opportunity Commission about what test would be used in determining a decision to make an order that could potentially lead to the loss of life. The human rights commission proposed the addition of what is called a proportionality test. They were doing this in the context of ensuring that the legislation clearly complied with article 6 of the International Covenant on Civil and Political Rights which deals with the right to life—clearly, they were raising a fundamental issue. Their view was that the safeguards in this legislation needed to be strengthened or clarified. As stated in their evidence before the committee:

The commission’s submission is that in view of the fact that these orders authorise measures that may well lead to the loss of life—the test of—
‘reasonable and necessary’ is not a stringent enough condition to reflect the international law requirement of proportionality.

I am not suggesting we should adhere to international law for the sake of it or have our decisions tugged around unthinkingly by international law, but this area of international law has been developed over time specifically because of the need to get these sorts of powers and the limits on them as precise as possible. We should take great heed of and rely on how those are developed, because they are developed as a result of experience in the extreme circumstances that this legislation envisages.

The Senate committee did recommend that a stronger proportionality test should be included—what they have called ‘the least restrictive means test’. I will not go into what that means, but it basically gives a better sense of proportion to the situation than just a general overview of what is reasonable or necessary. That was a recommendation by the committee. It does not seem to me that the government has taken up that recommendation, and I think, in the absence of that, the powers for the use of force here are not framed as tightly and as safely as would be desirable, and that is a significant concern.

That is not to say that this is going to happen tomorrow or that the more extreme circumstances that have been suggested are likely to happen. As I said at the start, this legislation is dealing with a pivotal and fundamental area. That is why I think you do need to try and approach it with as forensic and precise an examination as possible, because you are putting something in place potentially for a long time. As has been said, the powers will only be used in extreme circumstances, and it is when you are in those extreme circumstances that you will need to have the most precise definitions and proscriptions as possible in place.

That is why the general concept of putting in place legislation is desirable—because otherwise it is not confined, it is not defined and you just have general, open-ended executive power, and I do not think that is desirable at all. In putting the legislation forward, I think it has to be codified as tightly as possible, particularly given the government’s refusal to adopt even the quite mild recommendations of the committee. I think that indicates genuine grounds for concern.

The CHAIRMAN—The question is that schedule 2, item 5 and schedule 3, item 3 stand as printed.

The committee divided. [12.08 pm]
(The Chairman—Senator JJ Hogg)

Ayes…………… 54
Noes…………… 8
Majority……… 46

AYES

Abetz, E. 
Barnett, G. 
Boswell, R.L.D. 
Brown, C.L. 
Carr, K.J. 
Colbeck, R. 
Crossin, P.M. 
Faulkner, J.P. 
Ferris, J.M. 
Fieravanti-Wells, C. 
Forshaw, M.G. 
Humphries, G. 
Hutchins, S.P. 
Joyce, B. 
Lightfoot, P.R. 
Lundy, K.A. 
Mason, B.J. 
McGauran, J.J.J. 
Moore, C. 
O’Brien, K.W.K. 
Patterson, K.C. 
Polley, H. 
Ronaldson, M. 
Scullion, N.G. 
Sterle, G. 
Troid, R. 

Adams, J. 
Bishop, T.M. 
Brandis, G.H. 
Campbell, I.G. 
Chapman, H.G.P. 
Conroy, S.M. 
Eggleston, A. * 
Ferguson, A.B. 
Fielding, S. 
Fifield, M.P. 
Hogg, J.J. 
Hurley, A. 
Johnston, D. 
Kirk, L. 
Ludwig, J.W. 
Macdonald, I. 
McEwen, A. 
McLucas, J.E. 
Nash, F. 
Parry, S. 
Payne, M.A. 
Ray, R.F. 
Santoro, S. 
Stephens, U. 
Troeth, J.M. 
Webber, R.
Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.12 pm)—by leave—I move Greens amendments (3) and (4) on sheet 4816 together:

(3) Schedule 4, item 1, page 37 (after line 11), after section 51CA, insert:

**51CB Parliamentary disallowance of call outs**

An order made in accordance with section 51A, 51AA, 51AB, 51B, 51C or 51CA is a disallowable legislative instrument for the purposes of the Legislative Instrument Act 2003.

(4) Schedule 4, page 37 (after line 11), after section 51CA, insert:

**51CC Parliament to sit following making of a call out order**

If an order is made in accordance with section 51A, 51AA, 51AB, 51B, 51C or 51CA, each House of the Parliament must sit within 6 days of the order being made.

These amendments effectively mean that, if there is a call-out of troops by the Prime Minister of the day against the Australian people for some reason involving a threat to public order and property, parliament must be recalled within six days, and either house of parliament has the ability to make that prime ministerial call null and void. This is a democratic safeguard being built in against some future abuse of this power by a Prime Minister, a Treasurer or a Minister for Defence. It is an absolutely important safeguard being brought in here. You can only vote against this safeguard if you do not think the parliament has primacy, and if you think the executive and indeed the Prime Minister, who is not even mentioned in the Constitution, should have primacy in our federation, a century after the Constitution was written. It is a very, very important Greens amendment. It is a safeguard against the abuse of power. I cannot see that there could be any reasonable argument that the parliament should not be brought in in such an extraordinary circumstance as a call-out of the troops by a national executive to prevent some domestic threat arising in Australia.

Senator BARTLETT (Queensland) (12.14 pm)—The Democrats support these two amendments. We have made a long-standing attempt in this parliament via many amendments and, indeed, a private senator’s bill currently on the Notice Paper to require the parliament to approve the use of the military overseas. Obviously, this legislation deals with emergency situations, so the practicality of the parliament authorising in advance the call-out is nonsensical, but the principle of being able to debate and vote on that call-out after the fact, particularly if it is an order of continuing effect, is appropriate and consistent with that principle.

I will not detour totally down the side path of whether it is appropriate for the parliament to authorise the sending of troops to battle overseas or to keep that power with the executive, but our position has been long-standing that it is appropriate, except in an emergency, for the parliament to make those decisions. I note in passing that the new leader of the Conservative Party in the UK has floated as a potentially desirable reform—as I might say have a number of members of the governing Labour Party as well—that parliamentary approval of the use of troops overseas is an appropriate approach for that country to take, as it is, at least in technical terms, in the United States.
This legislation obviously does not involve the use of troops overseas but it does involve the use of the Defence Force. After the fact, it still would be appropriate, firstly, to require the parliament to sit and, secondly, for the parliament to have the opportunity should it wish to make such an order disallowable. The reality is such that it probably is a measure that is unlikely to mean a lot in the vast majority of circumstances because the call-out, in most circumstances, would be in response to a specific incident and an immediate incident. It is not likely to be one that would be stretching out over six days or more but, nonetheless, there is the power there for the order to have continuing effect for longer than six days, as I understand it. So, for consistency of principle, it is appropriate for that power to be there. I will also just emphasise that this is a matter of sufficient significance and sufficient import that it should be automatic that the parliament have the opportunity to be informed about it and to debate it if it so chooses.

**The CHAIRMAN**—The question is that Greens amendments (3) and (4) on sheet 4816 be agreed to.

The committee divided. [12.22 pm]
(The Chairman—Senator JJ Hogg)

Ayes............ 7
Noes............ 40
Majority........ 33

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

NOES
Adams, J.  Bishop, T.M.
Brandis, G.H.  Brown, C.L.
Campbell, I.G.  Carr, K.J.
Chapman, H.G.P.  Conroy, S.M.
Crossin, P.M.  Eggleston, A. *
Faulkner, J.P.  Ferris, J.M.
Fielding, S.  Fierravanti-Wells, C.
Fifield, M.P.  Forshaw, M.G.
Hill, R.M.  Hogg, J.J.
Hurley, A.  Hutchins, S.P.
Kirk, L.  Ludwig, J.W.
Lundy, K.A.  Macdonald, I.
Mason, B.J.  McEwen, A.
McGauran, J.J.J.  McLucas, J.E.
Moore, C.  O’Brien, K.W.K.
Patterson, K.C.  Polley, H.
Ray, R.F.  Santoro, S.
Stephens, U.  Sterle, G.
Trood, R.  Webber, R.
Wong, P.  Wortley, D.
* denotes teller

Question negatived.

**Senator MARK BISHOP** (Western Australia) (12.25 pm)—I move opposition amendment (1) on sheet 4827:

(1) Schedule 6, item 13, page 47 (line 13), after subsection 51WA(4), insert:

Note: It is not intended that this section or Act restrict or limit the power of State or Territory police to investigate any criminal acts done, or purported to be done, by Defence Force members when operating under Part IIIAAA of this Act.

I will speak very briefly to this amendment. On 7 February, the shadow minister for defence, Mr McClelland, wrote to the new Minister for Defence, Dr Nelson, requesting government consideration of an ALP amendment which seeks the insertion of a note in the bill in relation to the investigation of ADF members who commit an offence when operating under part IIIAAA of the act. We sought the inclusion of a note stating:

It is not intended that this section or Act restrict or limit the power of State or Territory police to investigate any criminal acts done, or purported to be done, by Defence Force members when operating under Part IIIAAA of this Act.

We sought the inclusion of a note stating:

Dr Nelson responded: ‘As this note reflects the government’s intent and would be seen to state explicitly what is already implicit in the legislation, I agree.’ My understanding is that
the amendment moved by the opposition is acceptable to the government. It is self-explanatory.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (12.27 pm)—We support the opposition amendment.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.27 pm)—Likewise.

Question agreed to.

Senator MARK BISHOP (Western Australia) (12.27 pm)—In my second reading contribution, I foreshadowed that I had a question or two to ask of the minister. I might ask those questions now and seek a formal response from the minister, as I understand he has spoken to his advisers. Firstly, what law applies to members of the Australian Defence Force who are travelling to a designated area for an operation? Secondly, what law applies to members of the public who are involved in an accident or incident with members of the Australian Defence Force who are travelling to a designated area for an operation?

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (12.28 pm)—I hope this answer will cover Senator Bishop’s question. It may fall short in relation to members of the public. If I cannot get that answer while I am on my feet, perhaps I could take the question on notice and ensure that the answer is tabled so that all of the Australians who are tuned to the Parliamentary News Network, and who are absolutely riveted to this debate, will also be able to access it. Of course, we all would hope that these laws are never required to be utilised; that is the reality that we would all hope and pray for.

The answer is that, prior to call-out, the ADF personnel in Australia are subject to the laws within the relevant jurisdiction—which may include a state or territory—Commonwealth law and the Defence Force Discipline Act. Therefore, prior to being called out and force assigned by the CDF to a part IIIAAA tasking operation, they will be subject to state and territory criminal laws. So prior to tasking and prior to the call-out, the existing state, territory, Commonwealth and Defence Force Discipline Act laws apply. Once the ADF personnel are called out and force assigned from CDF to a part IIIAAA tasking or operation, they will be subject to the criminal laws of the Jervis Bay Territory and will no longer be subject to the criminal laws of the relevant state or territory. Of course, that takes us back to the debate we had in relation to torture on the amendment moved by Senator Bartlett.

With respect to the relevant civil laws, a civil action could be brought against an ADF member in relation to actions done in the course of a part IIIAAA call-out. It is normal practice for the Commonwealth to indemnify its officers and members of the ADF where their actions are reasonable and consistent with their duties. Normal state and territory laws apply to members of the public. They are not affected at all by this bill. The existing state, territory and Commonwealth laws that apply to members of the public will not change.

Senator MARK BISHOP (Western Australia) (12.31 pm)—The minister used the word ‘call-out’. My question was in the context of travel. Does that mean when the part IIIAAA order is signed off by CDF or his delegate the act of travelling to the call-out area to engage in the operation is comprehended by the meaning of ‘call-out’?

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (12.31 pm)—The answer is that once they are assigned, and that is a word I did use in the answer, by the CDF, those
forces that are assigned—and they would be a defined unit, a defined group of people or even a defined person or persons—will be the subject of this law and it would not matter where they are. They could be travelling from a defence base to the site of the action from anywhere, potentially.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (12.32 pm)—I move:

That this bill be now read a third time.

Question put.

The Senate divided. [12.37 pm]

(The Deputy President—Senator JJ Hogg)

Ayes............ 33
Noes............ 7
Majority........ 26

AYES

Bishop, T.M.  Brandis, G.H.
Brown, C.L.  Campbell, I.G.
Carr, K.J.  Chapman, H.G.P.
Crossin, P.M.  Eggleston, A. *
Faulkner, J.P.  Fielding, S.
Fierravanti-Wells, C.  Fifield, M.P.
Forshaw, M.G.  Hogg, J.J.
Hurley, A.  Hutchins, S.P.
Kirk, L.  Lightfoot, P.R.
Ludwig, J.W.  Lundy, K.A.
Marshall, G.  Mason, B.J.
McEwen, A.  McLucas, J.E.
Moore, C.  Nash, F.
O’Brien, K.W.K.  Patterson, K.C.
Polley, H.  Stephens, U.
Trood, R.  Webber, R.

NOES

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

* denotes teller

Question agreed to.

Bill read a third time.

BUSINESS

Rearrangement

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (12.41 pm)—It being only a few minutes short of the time when the Senate would normally go to the matters of public interest discussion, I move:

That the matters of public interest discussion be brought on.

Question agreed to.

MATTERS OF PUBLIC INTEREST

Asia: Economic Growth

Senator TROOD (Queensland) (12.41 pm)—Only twice over the last 500 years have there been significant shifts in the locus of global power. The first occurred during the 17th century, as western Europe rose to prominence. The second took place in the later part of the 19th century and the early part of the 20th century, as the United States rose to strength. The 21st century will almost certainly see a third great transition—the rise of Asia.

This will not take place immediately, but it has already begun and it will be at least as profound as either of those earlier eras. It will first be an economic transition, as Asia becomes the dynamic centre of the global economy. But politically, strategically and culturally, great change will confront the international community. Australia will certainly not be immune from the impact of this global shift. We should not be fearful of it. Though the change is not without perils and
dangers, it is overall an opportunity to seize—provided we are prepared and willing to make the national investments.

Asia’s rise is being led, of course, by China. Its economy grows at around nine per cent per annum, and it is now the world’s largest importer and exporter of numerous manufactured goods, commodities and agricultural products. Its global currency reserves are not only massive but they are helping to finance much of America’s fiscal and current account debt, and Chinese corporations are reaching out to become truly global enterprises. Militarily, the Chinese continue to spend vast sums on the modernisation of their defence capabilities. Diplomatically, China is more actively and constructively engaged in regional and global organisations than at any time in its modern history, and its people are more mobile, travelling widely abroad for pleasure, business and education.

China’s story is important, but there is a great deal more than this to Asia’s rise. Japan, still arguably the world’s second-largest economy and with one of the world’s considerable military capabilities, is both a global and a regional giant. After a decade of stagnation its economy has returned to growth, and corporate restructuring and innovation are helping to reassert the leadership of Japanese business around the globe. India’s size, expanding military capabilities and increasingly strong global growth add another profoundly important dimension to Asia’s rise.

Nor should the contributions of other Asian states be overlooked. They have largely recovered from the devastating financial crisis of nearly a decade ago and their economies are also enjoying strong growth. South Korea is taking a course that seems likely to lead to greater independence from the United States policy in East Asia.

ASEAN, after years of introspection, is once again finding the confidence to pursue greater economic and political integration, with Asia playing a pivotal role.

There is of course nothing preordained about Asia’s rise. Events could easily dictate a different course, as took place in 1997. China will have to manage numerous social, political and economic challenges if its rise is to continue successfully. The region is burdened by historical tensions that cannot be easily set aside, and several of the world’s most acute trouble spots are in Asia. It is also a matter of deep concern that relations between China and Japan are at their lowest ebb in decades. Other perils may also lie ahead, not least the outbreak of a regional health pandemic that could threaten the lives of millions. Assuming the risks can be avoided, Asia will be well on its way to being the focal point of global geopolitical affairs by the middle of this century. It will not necessarily be a politically and economically integrated Asia in the manner of western Europe. Indeed, viewed from the vantage point of 2006, this seems unlikely, despite the signs of progress in that direction. Rather, Asia’s place in world affairs will be significant for a range of other reasons, not least the following ones.

Asia currently accounts for about 26 per cent of world trade, and its proportion continues to grow. By mid-century, three of the world’s four largest economies are likely to be located in Asia—China, India and Japan—where trade, financial and to some degree labour markets will be more integrated. An increasing proportion of the world’s intellectual capital will be found in Asia, with business innovation underpinned by large investments in research and development and elite education institutions. While the US is likely to retain its position as the strongest military power through the first half of the century, that power relative to China will be
eroded. Asian ideas and values are likely to be spread more pervasively across the globe as a result of the spread of Asian popular culture, business practices and more active diplomatic activities. Asia will be more self-confident about its place in world affairs and thus less likely to be sympathetic to outside intervention in those affairs. Nevertheless, I expect the United States will certainly maintain an important strategic presence in the region.

These changes will result in a profound shift in global geopolitics. If that were to occur peacefully without conflict or undue tension, it would be a considerable accomplishment since historically global shifts of such magnitude have generally been highly divisive and fractious. We may be fortunate, but it would be wise to be cautious given the extent of the change I contemplate. Australia’s national interests are directly and acutely engaged by these changes. Even if the security dangers turn out to be overstated, we have a wide range of security interests that need to be protected there. At the same time, the challenges of engaging with an economically powerful, commercially competitive, politically assertive and culturally confident group of countries with profoundly different political cultures and commitments to democracy will certainly test us.

As we all know, we are not of Asia. Our population will remain small relative to many of the most significant Asian countries. Yet geographically there is no other part of the world to which we more naturally belong, where our national interests are potentially at greatest risk but also where the opportunities to advance those interests are the most promising. Since the end of the Second World War, Australians have managed the challenge of Asian engagement with some success. I am especially proud of my own party’s accomplishments, not least the Howard government’s participation in the first East Asia Summit in December 2005. Historically, our record is a strong one. But there is hardly any reason for complacency. We will fail the challenge of Asia’s rise if we do not secure, maintain and invest in a comprehensive knowledge and understanding of the region.

Our knowledge of Asia is a significant national asset but at the moment there are some disturbing signs that we are treating it with neglect, even contempt. Over the last 15 years we have seen, as Professor Michael Wesley has put it, the silent collapse of Asian studies in Australian universities. Although the news is not all bad, a 2002 report by the Asian Studies Association of Australia identified some troubling trends. The percentage of Australian students whose studies involve anything to do with Asia is small and declining. The study of Asian languages, with the exception of Chinese, is also declining, in some cases critically. The population of people with Asian teaching and research expertise is ageing, with nearly half the population over the age of 50 and 75 per cent over 40. In recent years some of our best Asian faculty members have been lured overseas. Our expertise in important parts of the region, once so strong and of direct importance to the national interest, has declined. Indonesia and India are two cases in point. The number of Asian studies departments in our universities is contracting as are the number of research centres specifically dedicated to the study of Asia.

The steady erosion of expertise verges on a national disaster. If it continues we will have fewer people to teach Asian studies, fewer people with language skills, fewer people with Asian expertise to place in business and fewer people to provide analysis in government agencies such as intelligence, Defence and foreign affairs. These are not losses we can afford. There are many reasons for these depressing statistics, but all of us
with an interest in preserving our skills—politicians, the community, governments, universities, all of us—stand charged with national neglect. There is, however, more to be concerned about in our quest for Asian knowledge than the decline of Asian studies.

Over the last 15 years there has been a decline in Australia’s diplomatic representation in Asia. Overall, the number of DFAT responsible employees increased between 1990 and 2005 in both South-East Asia and North-East Asia. When, however, we disaggregate the figures between Australia based and locally engaged staff, the picture changes. The business end of our representation, the Australia based staff, has declined in both regions. Over the same 15-year period, North-East Asian numbers have declined around about 23 per cent and in South-East Asia around 20 per cent. The loss appears to have been especially significant at several key posts. No doubt technology and other efficiencies account for some of this decline, but the trend is unmistakably down and it is a matter of deep concern.

Also troubling is Australia’s investment in research and development relative to our Asian neighbours. There is a general trend towards increasing Asian investment in knowledge; as a consequence our own strength is being eroded. The growing strength of North-East Asia is especially marked. As a percentage of GDP, China currently invests increasing amounts—now 1.23 per cent. Korea invests 2.64 per cent, Japan 3.15 per cent and Australia just 1.62 per cent.

Anecdotal evidence suggests that Australian businesses are still finding commercial engagement with Asia too hard. Trade between Australia and Asia looks strong and in some areas it is, but we still have a $3 billion trade deficit with Asia. It is easy to act as the region’s quarry, and free trade agreements may help, but in an intensely competitive environment commercial success is harder to achieve. As much as anything else there seems to be an attitudinal problem to overcome here. As the executive of one of Australia’s largest companies recently remarked, ‘If we even look at Asia our share price falls.’

Popular Australian reaction to events where Australians have found themselves in trouble in Asia—Schapelle Corby, Michelle Leslie, Van Nguyen and the Bali nine—all suggest that we have a very long way to go before we gain a satisfactory understanding of Asian law, customs and social values. It is not enough for our media just to report the sensational from Asia, whether it be a drug trial or a natural disaster like the tsunami. We need more consistent and informed media reporting: stories and material that get Asia and its customs, traditions and values into the Australian consciousness. We should do this not because we wish to emulate Asia but because we cannot hope to succeed there—we cannot hope to change the things we find difficult, such as the death penalty—if we do not know and understand.

I am the first to acknowledge that Australia has made considerable progress in engaging with Asia over the last 50 years. But I think it is at least a fair bet that it is about to become a whole lot more difficult as Asia rises. This presents us with a national challenge. We can ignore it and accept the possibly disagreeable consequences or we can seize the opportunities that accompany it. We have all the resources we need to do the latter but we had better get on with it.

Migrant Workers

Senator LUNGY (Australian Capital Territory) (12.55 pm)—I rise in this place today to raise a matter of public interest relating to the employment of skilled migrant workers who have been forced to work under appalling circumstances and well below the Aus-
tralian federal award in some of Canberra’s restaurants and cafes.

The ongoing shortage of skilled chefs under the Howard government’s neglect of much-needed training and apprenticeships created the circumstances for these unfortunate and regrettable events that I will now outline. I am hopeful that bringing these issues to the parliament will help bring justice to the workers involved and remind the minority of employers who choose to do the wrong thing that it is unacceptable and will be challenged.

In late 2005, Canberra businessman Mr John Harrington and his executive chef placed advertisements in Filipino newspapers to specifically attract skilled Filipino workers to Australia to be employed in the hospitality industry. After applicants to the advertisements underwent trade tests in Manila of their capabilities, it has been reported, about 30 highly trained Filipino workers were recruited and offered employment sponsorship in Australia. A number had previously been employed in world-class restaurants and international-standard hotels in a number of countries as chefs. Some of these workers have since been employed in Canberra under the Liquor and Allied Industries Catering, Cafe, Restaurant, Etc. (Australian Capital Territory) Award, and the conditions of the subclass 457 Business (Long Stay) Visa.

According to Migration Regulations 1994, the criteria for employment under a subclass 457 Business (Long Stay) Visa require:

(i) the applicant will be paid at the level specified in the nomination; and
(ii) that level will be not less than the level of remuneration provided for under relevant Australian legislation and awards; and
(iii) the applicant’s working conditions will be no less favourable than working conditions provided for under relevant Australian legislation and awards.

However, after their arrival in Australia and employment in Canberra, approximately 15 of these migrant workers have had cause for complaint and some have been forced to work in conditions they have described as the worst that they have ever experienced.

These problems have already received an airing in the media over the last two weeks. As a result of an approach by the Liquor, Hospitality and Miscellaneous Union for assistance and after reading these disturbing statements on Friday, I issued a media release calling on those employers involved to address the complaints of these migrant workers and that of their union, the LHMU. I called on the employers to take steps to resolve the problems or I would name and shame them in parliament.

The LHMU is acting on the complaints it has received from its members, and on behalf of these workers has filed formal complaints to the Australian Capital Territory Human Rights Office and relevant occupational health and safety bodies, sought investigations by the Office of Workplace Services and approached the Department of Immigration and Multicultural Affairs to investigate possible breaches of the 457 visa conditions. The claims are based on the underpayment of the workers under the Australian federal award. The amounts sought have a combined total of around $31,000. I have also heard first hand the workers’ complaints of racial vilification and discrimination.

These claims, if proven, constitute a breach of the provisions of their subclass 457 employment visa and the ACT Human Rights Act—not to mention that they constitute behaviour that is completely unacceptable in any workplace based on common decency. The complaints have been made by LHMU members Mr Louie Sales, Ms Dona-
bella Cruz and Mr Dario Deguzman. Mr Deguzman’s story was outlined in a *Canberra Times* article on Saturday, 28 January. The *Weekend Australian* reported on the same day that the Holy Grail was involved in the complaints. I think it only fair to name the Holy Grail restaurant of Kingston and Civic in that it has received a wage claim from the LHMU regarding Mr Dario Deguzman and is the subject of an ACT human rights complaint. However, I am advised that discussions and negotiations in relation to the wage claim are occurring in good faith and both parties are working towards a resolution.

The other two establishments involved in the specific complaints brought to my attention are Zeffirelli’s pizza restaurant of Belconnen and Dickson and the Milk and Honey restaurant in Civic. The ACT Chamber of Commerce is representing Zeffirelli’s and I am advised that, following clarification of award entitlements, some back payments are to be made to staff. The LHMU are hopeful that the underpayment of wages will be resolved shortly. I urge the parties to continue discussions.

What is the substance of these complaints? I found it moving and extremely disturbing to hear the personal accounts of these workers and I relay their stories as outlined in their complaint statements to the ACT Human Rights Office. While originally employed by John Harrington and Ashley Delandar in Manila the workers had been told that they were ‘sold’ by Mr Harrington to their employer for between $6,000 and $8,000 each. Mr Sales has worked extensively in the Middle East, South-East Asia, on international cruise ships and in England. Despite this wealth of experience, he has been repeatedly directed to work as a kitchen hand and perform other menial and repetitive tasks. According to Mr Sales:

On one occasion … the chef retrieved discarded food from the rubbish bin and ordered me to eat it.

He goes on to say that the chef had:

… repeatedly said to me ‘I paid for you to come to Australia, if you don’t work hard enough I will send you back to where you belong.’

That is, the Philippines. Mr Sales also states:

I do not want to return to the Philippines yet because my family relies on my Australian income to live. I wish to remain in Australia and only ask to be paid properly and treated with dignity and respect. I want to be treated like a human being and not forced to eat scraps from the rubbish bin, or insulted, derided, pushed and jostled in the kitchen for no apparent reason.

After beginning employment on September 8, 2005, Mr Sales was no longer able to work in this environment and left his employment at Milk and Honey on 8 January 2006.

Donabella Cruz was also recruited from Manila after answering an advertisement titled ‘Chefs for Australia’ placed in the Philippines national daily newspaper the *Manila Bulletin*. Ms Cruz states that she works well in excess of her contracted hours and describes her treatment by her employer as ‘abusive and threatening’ with constant disparaging comments made about her country and her people. She said:

They often speak to me offensively and place dangerously excessive workloads on me. I am not allowed rest or to have meal breaks that I am legally entitled to—we can work from 9 am till 3 pm and not get a break—sometimes longer. I have been berated, abused and humiliated in front of other workers.

In her statement Ms Cruz says she asked her employer to abide by the contract he had signed. He told her that she ‘was only a trainee’ and that ‘he was not obliged to pay what had been agreed, because it is the maximum’ and ‘if you do not work harder’ he would ‘send you back to the Philippines’. Ms Cruz goes on to say:
When I suffered a severe third degree burn to my arm my employer refused to obtain or provide any medical treatment for me. The pain was very bad and I cried every day and every night. It was three days before I was able to find and see the doctor. The doctor gave me 10 days off.

Ms Cruz has also stated that she feels alone and as if she has been deliberately tricked to work in Australia as a slave. She also said:

The fact that I and my colleagues have been bought, sold and traded like some cheap commodity is extremely upsetting, and makes me feel like I am just some sort of a manual labour device to be used, abused and then discarded. This makes me feel sick and disgusted.

I hope that giving these complaints an airing in this place will ensure that they receive quick consideration by the ACT Human Rights Office and that justice is dealt out as soon as possible.

In relation to the wage claims, my understanding is that the Office of Workplace Services is continuing its investigations. This will presumably assist the union in ensuring that moneys owed under the relevant awards are paid up by the employers as quickly as possible. But the complaint lodged with the Department of Immigration and Multicultural Affairs in relation to breaches of 457 visa conditions has had a very disappointing response. The LHMU sought assistance from DIMA in relation to these matters. In a meeting this week the department told the union that these were just allegations. At no time has the department made contact with any of the workers, nor sought to discuss their situation. What a disgraceful brush-off. Surely it is incumbent on the department to investigate such claims and oversee the very contracts which they have approved.

The LHMU sought assistance from the department of immigration on a number of fronts. The first was that the workers involved be helped to leave their current workplaces and find alternate employment. The union also requested an extension of the 28-day limit in order for this to occur. Despite its active role in facilitating the recruitment of these workers, it appears the department wants to wash its hands of any responsibility to ensure their fair treatment under Australian law.

When the LHMU inquired as to what checks were made on compliance by the employer, DIMA advised that they only send out a form to the employer nine months after the worker begins. According to the LHMU, it is not aware of any worker who has ever been asked by DIMA about what employment standards are really like in their place of employment. This response by the department of immigration is simply unacceptable, and provides little to no protection for skilled migrant workers.

Since 1996, the Howard government has granted some 302,000-plus subclass 457 visas. I find it deplorable that over 300,000 people have been recruited in Australia under Australian conditions and yet the provisions of their visas and Australian law do little to protect them or provide them with recourse if they are unfairly treated by their employers who break the law.

Yet what is the Minister for Immigration and Multicultural Affairs prepared to do? She talks tough on changing the inherently bad culture of the department of immigration, a culture which has resulted in the minister sitting by and watching the inhumane and unfair treatment of the people whom the department of immigration deals with. It is one thing to roll out the rhetoric about 'people being our business' and to implement change programs and quite another to continue to allow such treatment of people working in this country. The minister must do more, but the reality is that it will not get better under this minister or under this government. This is a very sad state of affairs for all the mi-
grant workers who find themselves in such appalling circumstances.

But it is conditions such as those that I have mentioned today which are likely to become the harsh reality which faces the most vulnerable Australian workers—particularly those who are brought here and then employed here—under the Howard governments extreme industrial relations laws, which are due to take effect next month. If this is the situation now, even with not all of those laws proclaimed, what is it going to be like after next month when the power of the unions to be effective in their organising efforts is further diminished and the scope and veracity of Australian awards is further undermined by the Howard government?

It is easy to make the observation that this government is one which does not care about people employed in this country, wherever they come from. It does not care about the awards or minimum conditions; or the loss of overtime or the underpayment of penalty rates and wages; or the basic working conditions, from occupational health and safety through to basic human rights.

I hope that by raising these issues today I help these workers find justice. I know that some investigations are continuing, and I have made every effort to reflect accurately on the situation at this point in time. I have had some conversations, as I mentioned, with employers and/or their representatives and have been heartened by the fact that there seems to be a willingness, at least by some, to try and find a resolution to these disputes.

I also would like to congratulate the Restaurant and Catering Association in the Australian Capital Territory, because they seem very concerned about the fact that the law is being broken and that they are not in a position to guarantee that all of their members are abiding by the laws. I am pleased to see that they have undertaken to have further meetings with the LHMU to discuss this, with the hope of getting a positive outcome for all. There is a great deal of goodwill from the vast majority of employers in the restaurant and catering sector and they, like me and the union, are concerned about people who are not abiding by the law. Most of all, we all—employers and employees alike—face a collective challenge to try and find the balance in abiding by the law and treating workers with dignity in a climate where, quite frankly, the Howard government seems to be encouraging exploitation.

Asylum Seekers

Senator BARTLETT (Queensland) (1.10 pm)—I would like to speak today on what I believe is a matter of great public importance, and that is the issue of the need to ensure proper treatment and proper assessment of the asylum claims of those who have arrived from West Papua. There was a fair degree of publicity surrounding their arrival a few weeks ago.

I have already expressed in the public arena my views about this and how I believe it is inappropriate that those asylum seekers were removed to Christmas Island. They arrived on Cape York, the tip of my state of Queensland, and there is ample space in many detention centres in Australia for any period of time they needed to be detained. To remove them at great public cost to the most remote and inaccessible place possible, Christmas Island, I believe was unnecessary and actually hinders their claims being processed speedily and effectively, because it takes longer for people to get there, longer for their claims to be put together and longer for assistance to be provided to them. It is just generally made more difficult than it otherwise would be, so it is a counterproductive approach.

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Having said that, I want to raise some of the wider issues because I think all of us, whatever our view about their specific case, need to look at some of the wider issues that this situation brings up. We also need to take the opportunity to look at some of our own country’s history in this area. It is curious and a bit strange that, despite asylum seekers being such a hot topic in the political arena in recent years, we have had very little decent examination of what our country’s real history is with regard to asylum seekers, apart from extremely shallow and imprecise sweeping statements—and to some extent I, too, have made some of those.

The West Papuan refugees provide a very special opportunity to examine that, because one part of the history of how we have dealt with asylum seekers that is very rarely examined or detailed is how we handled asylum seekers from West Papua back in the 1960s and the early 1970s. Thousands of people fled across the border in the period following the Indonesian takeover of West Papua after the colonial Dutch regime moved out in 1962. I do not want to sidetrack to the serious problems that were involved in Indonesia taking sovereignty over West Papua, beyond saying that it was clearly an appalling process which ended with the completely inaccurately named ‘act of free choice’. Despite that, it was a process that was—sadly and shamefully—authorised, verified, ratified and accepted by the United Nations. Regardless of how bad the process was, there can be no doubt—unlike with the East Timor parallel that some people draw—that Indonesian sovereignty over the West Papuan area is recognised internationally.

However, what is also quite clearly established is that, in exercising that sovereignty and ensuring they retained it, Indonesian officials, military and police in the past perpetrated very serious human rights abuses over a long period of time. They are widely documented and, while there may be disputes about specifics, I do not think there can be any dispute about the general reality that they occurred. I have to say that I do not think there can be much dispute that such human rights abuses still occur, although the severity of them may be less than what it was in the past.

I draw particular attention to a book written by Australian historian Klaus Neumann, called *Refuge Australia*, which looks at this issue of how Australia has historically handled refugees and asylum seekers. It is worth referring particularly to a chapter in that book dealing with border crossers, because of course in those days Papua New Guinea was an Australian territory, so we did have a land border crossing with West Papua, and people in their thousands crossed that border—some of them seeking asylum; some of them being what we would call economic refugees; and some of them just moving across the border as they always had, because it is an artificial border for the traditional people in those areas. Nonetheless, there were many who quite clearly were seeking to flee the Indonesian control in West Papua at the time, and quite clearly many of them did claim a genuine fear of persecution.

It also needs to be clarified that in the 1960s and 1970s Australia’s migration laws were very different to what they are now. The level of discretion was pretty much open-ended in whatever way the government chose to rule with regard to asylum claims; it was not the codified law that exists today. The other thing that was different was that Australia did not actually ratify the 1967 protocol to the refugee convention until 1973. That protocol updated the refugee convention. Prior to then, in precise terms, the refugee convention only applied to people fleeing events that had occurred in Europe prior to 1951. Although the spirit of
the convention obviously meant more than that, the precise legal terminology did not include people fleeing current events. The 1967 protocol fixed that, but Australia did not ratify or adopt that until 1973. Indeed, one of the key reasons why our government did not do that at that time was precisely because it did not want to have any extra restrictions on our discretion over whether we accepted asylum seekers from West Papua.

What is particularly interesting in the book by Mr Neumann that I referred to is his detailing of cabinet minutes and public pronouncements from the time by the government about the factors that informed the approach of the Australian government to asylum seekers from West Papua. It was quite a harsh line in the early years, although the former Dutch colonial rulers took responsibility for some people who were accepted. There was a more selective acceptance of some refugees from 1965 onwards, but the factors at that time included a fear that if we started taking a small number that would lead to a mass influx of refugees, and Australia was anxious not to encourage the movement of people across the border. A second factor, which is not so relevant today, was not wanting to burden a future independent nation of Papua New Guinea with a large number of people in that refugee-like situation.

A third factor, which is very relevant today, was the clear view of the Australian government that it did not want to harm the relationship with Indonesia, and the need to retain or establish a harmonious relationship with Indonesia was a key factor in determining the approach towards asylum seekers. The final factor was public opinion. It is quite clear from the documentation of the time that there was a desire on the part of government not to make this a big public issue and not to have public sympathy start developing for asylum seekers, because that would increase the pressure on the government to have to accept them. It would also harm the relationship with Indonesia.

In detailing all these factors, I am not in any way trying to suggest that it is inappropriate that they be taken into account. They are all very understandable factors for any government to be concerned about. Indeed, it is totally appropriate for all Australians to be concerned about us having a good relationship with Indonesia. I think we in Australia very much underestimate just how much very positive progress Indonesia has made in democratising itself in recent years. I for one very strongly praise many of the steps Indonesia has taken. Particularly given the situation they have come from and the history of that country, the very positive progress Indonesia has made is nothing short of astonishing. However, that should not overshadow the fact that there are still problems, as Indonesians themselves acknowledge.

There are still problems with human rights abuses in West Papua—particularly towards the indigenous people of that region. However, in raising concerns about ensuring that West Papuans get better treatment and that the 43 current asylum seekers get proper assessment of their claims, I believe that that concern should not bleed across into knee-jerk Indonesia bashing. This can very easily happen, as we saw with the public concern over the Schapelle Corby situation, where legitimate questions about an individual situation very easily bled across into general Indonesia bashing and displaying of prejudices and ignorance that harmed the relationship unnecessarily. We need to guard against that very strongly.

I say that even in the broader context of the debate and prejudices within Australia about Muslims as a result of some of the actions in other countries—quite tellingly, I might say, not in Australia—and the overre-
action of some Muslims to cartoons published in Europe. That has led to people within Australia—not at government level obviously, but elsewhere in the community—again flagging these myths and prejudices that somehow Islam is incompatible with democracy, and other farcical suggestions like that, and to people suggesting that somehow we should restrict the entry of Muslims into Australia. I categorically reject any such assertions, as I am sure every member of this parliament does, but we want to make sure that there is no extra opportunity for those sorts of prejudices to get extra currency as a result of legitimate concerns about a specific situation.

I have no doubt, despite my criticisms of the locating of these asylum seekers on Christmas Island, that their claims will be fully assessed on a case-by-case basis and on the merits of their situation. Of course, we cannot just rely on bland assurances from the Indonesian government or anybody else that these people will not be harmed. Those sorts of assurances cannot be accepted at face value, particularly given the history. I again go back to that history and the book of Mr Neumann, to use that example.

In December 1964, one of the first people from West Papua to be accepted by Australia as a refugee was Dioni Jakedewa, who had fled from there with other people. He was accepted by the Australian government and given a five-year residence permit. He was allowed to remain in New Guinea and was not returned, as many others had been up to that point. We could contrast that with the fate of his brother, a man by the name of Mesak Jakedewa. In May 1965, the then Minister for Territories, Mr Barnes, responded to a question in parliament about the suggestion that returned refugees were being ill-treated in West Irian, or West Papua.

I quote from the Hansard of the House of Representatives of that time, when the minister said, ‘I say very definitely, there is no evidence of this occurring,’ even though, according to Mr Neumann’s book, the files of the departments of territories and external affairs contained references to refugees who had reportedly been beaten, imprisoned or murdered after their return to West Irian, or West Papua. Indeed, one day after that categorical response from the minister back in 1965, the brother of Dioni Jakedewa, Mesak, was sent back across the border and the territory’s local intelligence committee reported that he was killed by Indonesian troops within less than a month of his return.

That is history. It is important to detail that and become more aware of it because, as the saying goes, quite wisely: ‘If you don’t remember your history, you’re condemned to repeat the mistakes of it.’ Much has changed since then. We have ratified the protocol of the convention; we have adopted a codified migration act, for all its flaws; and the Indonesian government has massively advanced in democratisation. But some of the pressures that applied in the 1960s are still there and some of the decisions that were made in the 1960s that led to situations where people were being returned to face mistreatment are potentially still able to be made today. We need to be aware of that history and make sure that we do not repeat those mistakes. I am sure the Australian government will be aware of that. On this occasion, many Australians are aware of the current situation. I urge the government to act on this expeditiously but appropriately with regard to those asylum seekers, but also be aware of the wider need to maintain a strong and positive relationship with Indonesia, regardless of individual situations. (Time expired)
Department of Defence: Legal Services Division

Senator MARK BISHOP (Western Australia) (1.25 pm)—Military justice is a matter on which the Senate has a close, continuing and abiding interest. It remains a running sore and, as we know, has become a significant disincentive for young people to enlist in Australia’s armed forces. For recruitment to our dwindling armed forces, that of course is catastrophic. And it is of the government’s own making, because it has again failed to adequately address this particular problem. I should say at the outset that we seriously hope that the government’s announced changes will work, although I enter the caveat that we are not greatly optimistic. We hope, too, that the CDF’s audit of training establishments will also be useful in identifying the causes of such a vicious culture.

There is much more to it than that, though. Last night in the adjournment debate I spoke about the excessively litigious and combative nature of the Department of Defence. This is the end of the chain in the military justice system. It is the stage where aggrieved ADF personnel end up after the system has failed them in seeking some form of redress. For some, a simple apology might be sufficient; for others, though, it involves compensation for the loss they have suffered—emotionally, physically and their career—yet for most it is a bitter and fruitless struggle. Remedies are rarely achieved.

The legal division, amongst others, defends the Department of Defence from all claims by ADF personnel who seek redress for harassment they have suffered. This is not an attack on the people who work in that division but on the government and sections of the military hierarchy that direct its activity. Millions of dollars are being spent to defend the government against claims by those who have suffered at the hands of the failed military justice system. The message to those people is simple: ‘Go away; we’ll fight you all the way to bankruptcy’—no matter the case, no matter the cost and no matter the merits of their particular case.

The legal division has 220 staff, 120 of whom are lawyers. It also uses the services of 320 legal officers. That is a total of 540 persons. The budget for last year was some $57 million. That is what the victims of failed military justice are up against when they consider any claim for redress. As I explained last night, the deck is totally stacked against them. There is no limit to the cost of defence, and millions could be spent in any one case rather than pay even the most minor amount of compensation. For instance, half a million dollars was spent in defending a naval doctor for malpractice in the Western Australian Medical Board—completely in breach of the relevant Attorney-General’s guidelines.

Put simply, there is no means for redress for any ADF person who proves that they have been wrongly treated. For those who suffer the defeat and frustration of the military justice system, there seem to be only three avenues. First, complainants can seek what is termed ‘damages for defective administration’—that is, where error on the government’s part is found in making any decision and loss is suffered, modest compensation is paid. Of course, this is standard practice across the Commonwealth. Second, for a small number of females in particular, the Human Rights and Equal Opportunity Commission, HREOC, is used. Finally, the last resort is legal action in the courts. For the first, it must be said that success is limited if measured monetarily.

Of the 50 claims settled by payment of compensation for defective administration, the averages in the last two years have been only $17,000 and $11,000 respectively. For
someone whose career has been destroyed, it goes without saying that this is just peanuts. For them, the option of action for damages in the courts is simply too expensive. And, as Defence will use its $57 million budget against you, it does not happen in the real world. The result is a large number of bitter people, sometimes in middle age, with lost careers and poor prospects. These are very sad cases and the system simply gives them no opportunity for adequate redress.

Throughout such a process, too, there is inevitably a pattern of aggressive and non-cooperative behaviour. Sadly, this also seems to be the behaviour of contracted solicitors whose contracts with Defence seem to be a pipeline to the Mint. The detail of those payments is on the public record. Given the attitude of ‘never settle’ and ‘fight to the death’, the returns are assured.

This has been a very difficult matter to come to grips with. Military justice should extend to the need for remedies for the aggrieved and the victims when the system fails them. Innocent people wrongly treated are entitled to redress, but there is simply no means by which this can be achieved. There simply has to be a better way. The F111 de-seal-reseal liability may be a precedent to some extent. At least liability was conceded and an ex gratia scheme provided—albeit one that was totally arbitrary and unfair. That human disaster is every bit as bad as the asbestos case against James Hardie.

In short, it is about time it was acknowledged that failures in military justice are inevitable. Compensation for wrongdoing and negligence must be given fresh consideration. It should avoid the pain and cost of court action, which will always be beyond most people’s budgets. Bereaved parents whose young are taken from them by sheer negligence or bastardry should be given special consideration. Certainly, the current system is both fruitless and pointless for many. At the end, there is certainly no justice in it for them.

Indeed as last year’s Senate report found, failed process rarely results in any acknowledgment of liability. Wrongdoers are rarely brought to justice, and counselling is as tough as it gets. It is only when there is a public scandal that action is taken, and even then it is totally inadequate. One can only wonder how many victims fail because their case has not received any publicity. And I must say that representations to members of parliament have been treated in the past with the same contempt by relevant ministers. It is not long since the former Minister for Veterans’ Affairs advised me on a very sad case of failed military justice. She simply told me that the subjects of personal representations to me as a senator were being looked at and that I should not worry myself about them. That is typical of the arrogance of the Howard government—and, thankfully, she is no longer the minister.

Everywhere you turn on this subject you face a brick wall. I know the experience of so many others in this place is the same. There is an attitude of complete contempt for the individual. It is almost as if it is an accepted rule that when you enlist you forgo all the rights that are part and parcel of our community and of a normal system. Ask questions, challenge the system, seek redress or justice, and you have to watch out.

I do not believe for a minute that the recent changes put in place by the Howard government to fix military justice are going to have a great effect. They can certainly have no effect while the old combative attitudes and cultures of the Defence Legal Division continue. It is simply about time that the review of military justice took another step. It is about time military justice reform was extended to cover the entire process, and not just the investigation and inquiry stage.
Until liability is clearly sheeted home in every case and victims are properly compensated, there can be no real justice at all.

Recherche Bay

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (1.34 pm)—I am an extremely happy guy today. I have been waiting for this day for a long time. I can tell the chamber that at one o’clock the Premier of Tasmania announced the official go-ahead for the purchase of Recherche Bay, a peninsula in Tasmania that under other circumstances would now be the domain of the bulldozers and the chainsaws.

I want to talk about a wonderful outcome for Tasmania, for Australia and indeed for the planet. Recherche Bay is now rapidly being recognised as the site of one of the most extraordinary events of positive human history in recent centuries.

To this beautiful little place right on the southern tip of Tasmania came the French fleet of D’Entrecasteaux—two ships laden with hundreds of sailors and scientists—in 1792. They returned, after circumnavigating Australia, in 1793. There has been a good deal written about the gardens that they built ashore and the observatories and the scientific work done there, which improved knowledge for the whole world. But of course the greatest cause for celebration was the meeting of the French with the Aboriginal Palawa people—the Lyluequonny tribe—at Recherche Bay in 1793. Two totally different cultures—people of different races, with different languages, religions and cultures, from opposite ends of the planet—very carefully put aside the potential for seeing difference as division and instead saw difference as something to be explored and celebrated. Over the following weeks, after that initial handshake one frosty February morning in southern Tasmania between the Chief of Lyluequonny and the botanist Labillardiere at Southport Lagoon, there followed feasts, athletic contests, musical interludes and a remarkable interchange of ideas between these people.

We do celebrate the great battlefields of the world where, through agony and bloodshed, human division has been fought out until conquest is had. But here we have the opportunity to celebrate a coming together of people of entirely different expressions of humanity, in this most beautiful and spectacular part of our nation, to explore and celebrate each other. It ended in utter sadness, as separation occurred when the French had to sail away. However, before that there was joy, happiness and all the best that there can be in celebrating the diversity of humanity.

It so happened that three generations ago the peninsula on which most of this was centred—the north-eastern corner of Recherche Bay, where the ships were anchored when the French arrived in 1792, under the snow-capped mountains of the now World Heritage area—had been sold, after many previous decades in private hands, into the Vernon family’s ownership. It was the proposal by the Vernons that they develop their property and that they realise its potential as an asset—like other landowners around the world would do, like we Australians would want to do to maximise the potential of such a magnificent asset. After the go-ahead for a road across the Southport Lagoon by then Premier Bacon some five years ago, the bulldozers did move in, and a road was under way. It was stopped by court action. That impediment was more recently removed. It might be remembered that the Minister for the Environment and Heritage here announced national heritage listing for the peninsula on the same day as the Vernons were given the go-ahead to capitalise on their asset. That was on 6 October last year.
The potential was there for yet another divisive, quite huge protest in Tasmania over our fantastic environment. But this time it was different: it was a fight not over a crown asset but over a private asset. Looking at that potential for legal action, for protest, for uproar, for unhappiness, I made contact again with Rob and David Vernon in October last year. I can tell you there have been a lot of ups and downs since then. The potential for a sale has been on, it has been off, I have had to withdraw offers in the process and so on. But two great entities moved in.

First of all, on 21 October last year the Tasmanian Land Conservancy put to me that they should be the recipient of the land, they should be the new owners of the land, if a sale could be made. That took out of contention a change of ownership and put it, potentially, to a neutral organisation which would protect the land forever. On 23 November last year there came a call from Dick Smith, this great Australian, saying he would put up the money if it would help save the land. On 6 January this year Dick spoke to Rob Vernon to make it clear that he was going to ensure that the money would be available if the sale could be worked out.

I have to say here that during this process the Vernon brothers quite magnanimously kept open the window of opportunity. Whereas the process to road and to log the area ought to have got under way in November—a bit of wet weather intervened, so then it would have been in January or February; it certainly would be under way now—they delayed that so negotiations could continue. I will not ever forget the honourable way in which the Vernons gave, at their expense, this opportunity for all Tasmanians and for everybody to gain out of this. I salute that generosity with which they allowed this outcome, which we can celebrate today, to unfold.

It was a bit daunting when I got a letter from the Tasmanian Minister for Environment and Planning, Judy Jackson, in December last year saying that the government there would not assist in any purchase, either dollar for dollar or in any other way. But things have changed this year with the sale proceeding. Thanks to the repeated good offices of Dick Smith, the Tasmanian Land Conservancy and the Vernon brothers, the Tasmanian government has come into this very positive equation and in recent weeks has converted what was a strained agreement because it meant both the parties having to give quite a lot away—the landowners, the Vernons, and the Tasmanian Land Conservancy, which is a small organisation without upfront the wherewithal to be able to get into the business of raising the money to pay back to Dick Smith over the coming 12 months and to manage the land. It is a big, big job that they have taken on. The Tasmanian government’s intervention—and Premier Lennon has announced some $680,000 to augment the $2 million upfront which Dick Smith has put forward and which has guaranteed this process—means that, instead of an outcome where people feel this is not as good as it could have been, there is now a very happy outcome. I want to thank the Tasmanian government for that and I want to thank everybody who is involved.

The generosity of the public kept my spirits going through some pretty trying times in the last few months. After the rally in Hobart, in which some 4,000 people turned out, on 5 November last year, we decided we would test the water and put out a pledge form for people to say, ‘Well, we’ll put in $1,000 if the land can be rescued.’ Within a week over 100 people had sent in pledges of $1,000 or more.

I can tell the chamber that, without really pushing it—because I felt it was not legitimate to push for more pledges except where
the opportunity obviously arose when I spoke in New South Wales, Victoria, South Australia and elsewhere about this potential—$238,000 has been pledged at this stage. With the potential of the input from government legislation—which has come under the Howard government—for dollar for dollar matching of donations to protect this nation’s heritage and its important lands and wildlife, I think we are going to move rapidly towards raising the money that is required.

Let me say again that Dick Smith offered $100,000 upfront as a gift. He has forgone interest on his loan and he is going to top it up if we fail at the end. I feel honour bound to do everything I can to return the money to Dick because he is a philanthropist and he has other ventures that he wants to be involved in. But thank glory for this great Australian who has made this happen. Thank glory for the Vernon brothers, who said: ‘The door is open.’ No matter how tough the negotiations were, when I rang Rob Vernon, he said: ‘Our door is still open. We’ve got plans and we are going to go ahead with those plans but for now the door is still open to you.’ We both come from the bush but we come from different sections of it. His and his brother’s magnanimity in talking about this issue to get this result is a terrific thing.

I will be celebrating this for as long as I draw breath. This is a fantastic outcome for Australia. It is a fantastic outcome for the community of nations, not the least France. I am looking forward to speaking to the French ambassador tomorrow to detail how we got to this outcome, and I will be going to Paris to talk about it when the opportunity arises because I think the French would love to hear this story. What a great outcome. What a wonderful outcome from everybody who has been involved.

What a great community, government, private enterprise and non-government organisation outcome—an outcome that is going to ensure the future of one of the great historic landscapes of the world. Professor John Mulvaney, who has been such a tireless worker for this outcome and is the doyen on the archaeological history and the knowledge of contact between the Europeans and the Indigenous Australians, says that Recherche Bay is without doubt a World Heritage landscape in its own right and it should become part of the western Tasmanian World Heritage area. It is just such a great outcome. Everybody involved needs a pat on the back—and I add to that the government, which brought through the legislation that means that people who donate to this historic outcome and to ensuring it for the future will get a tax break to enable that to happen.

I am just so happy about this. I hope that I have been able to share some of that happiness. I say to any senator who has not seen one of these little books on Recherche Bay that it is the French diary of this contact with the Indigenous people. It is a fantastic book. Please come and take one off my desk—and you will experience some of the joy that I have got today out of this outcome.

Asylum Seekers

Senator NETTLE (New South Wales) (1.48 pm)—I would like to share with the Senate this afternoon the fantastic experience that I had last week when I met a group of 43 West Papuans who are currently based in Christmas Island. They are students and members of the independence movement in West Papua. Many of them brought their young families with them. What they have been experiencing first-hand in their country is something that I spoke about in the chamber yesterday. What they have been experiencing has been described by a number of studies done by Sydney university, by Yale
University and, indeed, in the last fortnight, by the UN Secretary-General on the Prevention of Genocide, who said that these people are at risk of extinction.

During World War II, many of the indigenous people of West Papua supported the 8,000 troops and other allied forces that were based in Merauke—which is the place where these 43 West Papuans left from before they arrived in Australia two weeks ago. General MacArthur had his headquarters in Jayapura, which is now the capital of West Papua.

I had the great thrill of spending a couple of days with these people, who invited me into the accommodation that is being provided for them on Christmas Island. They talked to me about the frightening experience that they had had in making their way in a traditional long boat. Herman is the spokesperson for that group. His father chopped down a large tree in Jayapura and spent a month hollowing out that tree to make a traditional Melanesian long boat. These 43 people, many with young children, travelled all along the north coast of West Papua and around Merauke in the far south of West Papua.

It was a six-week journey. They were on the ocean for six weeks. They gathered fuel along the way. They had to be very careful when buying fuel. So that the Indonesian authorities did not notice the large amount of fuel that they were buying, they bought fuel along the edges. Some people joined them along the way and then they travelled to the far north coast of Queensland—a journey that they told me would normally, in good weather conditions, have taken between 10 and 11 hours, but their experience was five days at sea. There were rough seas. At one stage they say that they were being pushed in the direction of Indonesia but they had to keep going—and they did keep going in these rough seas.

I spent quite a bit of time with one young man who explained to me how he cupped his hands and caught rainwater because they had run out of water and food. I met two beautiful young girls—Herman’s daughters, twins—who were born the second time Herman was imprisoned by the Indonesian military for being involved in peaceful protest. This young boy that I met caught rainwater in his hands and put it into a container so that he could feed Herman’s three-year-old twin girls and give them some water for that treacherous sea journey. Unsurprisingly, at Christmas Island last week they were not very interested in going for a swim or a surf with me, because their experience in the water, coming across in the boat, had been really frightening.

The young man also explained to me about when he was placed in the Hercules as one of the 43 West Papuans and they were taken from where they landed on the far north coast of Queensland over to Christmas Island. He said they were extremely frightened because they did not know where they were going and they were concerned that they were being taken back to Indonesia. In talking with them about where they were, perhaps unsurprisingly, they did not have a clear idea of where Christmas Island is. When I was with them last week, some of them thought they were in Australia or on an island just off the coast of Australia. So some of the locals on Christmas Island sat down, welcomed the West Papuans into their homes, and pulled out an atlas to show them where Christmas Island is. When they opened the atlas to show them, the faces of the young man and his younger brother, who he was looking after, fell when they realised how close they were to Jakarta. Of course, from Christmas Island it is just a one-hour flight to Jakarta, but it is a five-hour flight to Perth. They had no understanding of the fact that they had been taken to somewhere so
close to Jakarta, to Indonesia, which they had been fleeing. They kept asking me when we were down on the coast, ‘Which way is Indonesia?’ They wanted to know which way Java was from where they were.

Just last week, when I was preparing to speak at a public meeting in Perth, one of my colleagues spoke with the father of the young man I spent time with. The young man, with his two younger brothers, was put on the boat by his parents. They are the only three children of this pastor from the highlands of West Papua. The pastor has subsequently been visited by the Indonesian security forces and asked whether the three boys on the boat were his. He had no choice but to say yes. When he was speaking with the community in Perth, we asked him: tell us why you put all of your children on that boat. He is not a man who has very much English, but he said: ‘Because I wanted them to live. The next generation of West Papuans are at the forefront of the genocide that we are experiencing from the Indonesian military, and I want my children to live.’ It is that simple. He put his kids on the boat, his three young boys, because he wanted them to live. It is incredible to think of a parent making that decision. The best opportunity for his children to live was to put them on this traditional long boat and for them to travel across the sea to seek asylum and protection in Australia, rather than to stay in West Papua. The pastor has experienced what happens to young students who are involved in the independence movement in West Papua.

I spoke before about Herman, and, as I said, he has twice been imprisoned for being involved in peaceful protest in West Papua. And when I met the young men in the detention centre on Christmas Island, I was introduced to one young man whose father had been imprisoned by the Indonesian military for 20 years for raising the West Papuan flag. He had been imprisoned with Xanana Gus-mao and died from poisoning whilst in prison. I was introduced to another young man, whose relative was shot two weeks ago in Waghete in the northern Highlands Paniai region of West Papua. A fourteen-year-old boy, Moses, was walking to school through a marketplace. As the Indonesian military have admitted, they shot into this marketplace at unarmed civilians, and Moses was killed on his way to school that day. He was shot along with others, who have subsequently escaped from the custody they were being held in. These are the experiences that these people have of what is going on in West Papua.

The father of the young man who I met last week told another story. He was asked: ‘When is D-day for the West Papuans? When is it too late?’ He said: ‘Let me tell you a story to describe that situation. Let me tell you about an area of the highlands my friends have visited. They say you often go to the schools there and there is no teacher. The kids are playing outside and it is four weeks into the school term. They ask the kids, “Where is the teacher?” And they say, “The teacher didn’t come back after the holidays.”’

There is a West Papuan man, an incredibly charismatic man, who has been involved in training with the Indonesian security forces. He is now travelling through the highland regions offering parents the opportunity to take their children to Java, where schooling will be provided free of charge. It is not just any schooling; it is schooling in fundamentalist Islamic schools where jihadists are trained. So young boys, 10- to 13-year-olds, in West Papua are being offered the opportunity to either stay where they are and not get adequate schooling or go, free of charge, to militia training schools in Indonesia. That is an awful choice and circumstance for people to be offered. It is frightening.
A West Papuan colleague of mine who is currently living in Perth speaks of the same thing happening 30 years ago when boys in his class, the strong boys, were taken out of their schools in the highlands by the Indonesian military, not to jihad schools, but to be trained up as soldiers. I do not want to see a generation of young West Papuans trained up to come back to their families with guns and a fundamentalist mentality. We are already seeing genocide occurring at the hands of the Indonesian military. I do not want to see more West Papuans being trained in this way. I use the word ‘genocide’ because that is the word the United Nations uses. It is the word used by the studies that have looked into these activities. I spoke about this yesterday and described those activities. When they looked at the definition of genocide in international law they found that it fits with the activities being perpetrated upon the West Papuan people at the hands of the Indonesian military. So I use that word with full understanding of its significance and consequences.

Australians must not sit on their hands and let this occur. We must take every step that we can to ensure that our neighbours across the sea do not die. The similarities between West Papua and Indonesia are astounding. In recent reports by the United Nations, many members of the Indonesian military forces currently operating in Indonesia have been implicated in human rights abuses such as in the massacre in Liquica. One such person is now, for example, the head of the police in West Papua. The commander of the TNI in East Timor has also been transferred to West Papua. The Indonesian military intends to bring another 5,000 troops into West Papua. Many of them are coming straight from Aceh. Eurico Guterres, a notorious militia commander from East Timor now operates in West Papua. (Time expired)

QUESTIONS WITHOUT NOTICE

Australian Wheat Board

Senator LUDWIG (2.00 pm)—My question is to the Minister for Justice and Customs, Senator Ellison. Does the minister recall saying yesterday that AUSTRAC is only able to monitor payments made within Australia and payments coming into and going out of Australia? Is the minister not aware that the Cole commission has already heard evidence that the AWB was channelling money from Australia into a Jordanian bank account? Can the minister explain how his claim yesterday that no money ever went out of Australia can possibly be correct, given evidence before the Cole commission demonstrates that the AWB not only created an account in Jordan but transferred funds from Australia into this account? Doesn’t this transfer of funds from Australia fall squarely and directly within the responsibility of AUSTRAC? Why has the minister, despite being aware of the scandal for over three months, thus far failed to direct AUSTRAC to check the Australian end of Saddam’s money trail?

Senator ELLISON—I can tell the Senate that AUSTRAC is assisting the Cole inquiry. It has signed a memorandum of understanding with the Cole inquiry to provide that assistance, so that answers the first question. That is what AUSTRAC doing. The second part of the question represents a total misunderstanding of the answer that I gave yesterday. That was that payments made overseas—not payments taken out of Australia but payments made in foreign jurisdictions—do not fall within the jurisdiction of AUSTRAC. Of course payments which are made into Australia and out of Australia and domestically within Australia fall within AUSTRAC’s jurisdiction. AUSTRAC is assisting the inquiry and has signed a memorandum of understanding.
What the people of Australia should real-
ise is that, in this beat-up that the opposition
are engaging in, they are hurting Australian
wheat growers by the sensationalism. It is
the Australian wheat growers who will suffer
at the end of the day. What people have to
remember when the opposition criticise the
government in relation to the Cole inquiry is
that, if they had their way, Saddam Hussein
would still be in power. That is what people
should remember. We remain resolute, as we
have said time and time again, that the Cole
inquiry should take its course, and we will
provide every assistance to it, which we are
doing.

Senator LUDWIG—Mr President, I ask
a supplementary question. Can the minister
tell the Senate, which he failed to do yester-
day, when the memorandum by AUSTRAC
was signed and what the width and breadth
of that memorandum was—to which points it
went? Can the minister explain to the par-
liament why he failed to act? Is it because he
was not across his brief, or did he fail to act
because he was protecting his Liberal mates?
Will the minister now act within his depart-
ment and AUSTRAC to investigate the Aus-
tralian money trail?

Senator ELLISON—I have answered the
question. AUSTRAC is assisting. If the
memorandum of understanding is available
for tabling, I will table it. It has been signed
between AUSTRAC and the inquiry and, if
Mr Cole is agreeable, I will table it.

Law Enforcement: Drugs

Senator FERRIS (2.04 pm)—Mr Presi-
dent, before I ask my question today, I ac-
knowledge the presence in your gallery of a
former Liberal Leader of the Opposition
from the great state of South Australia, Mr
Dale Baker. My question today is for the
Minister for Justice and Customs, Senator
Ellison. Will the minister update the Senate
on the success of our law enforcement and
border protection agencies in keeping dan-
gerous illicit drugs off our streets? Is the
minister aware of any other policies?

Senator ELLISON—I thank Senator Fer-
ris for what is a very good question. It is
good to see Senator Ferris back in the Senate
and back as whip for the government. This is
a very important question. It comes on the
heels of a very important drug bust yester-
day, which was carried out by the Australian
Federal Police and the Australian Customs
Service. Some 46 kilograms of crystal
methamphetamine, commonly known as
‘ice’, was the basis of this operation. It is
alleged that the drug was hidden in a speed-
boat imported from Canada. It amounts to
one of the largest seizures of this sort of drug
in Australia. It is worth remembering here
that the very good work done by the Austra-
lian Federal Police and Customs has resulted
in keeping some 460,000 hits of this very
dangerous drug off the streets of Australia. It
involved overseas law enforcement. The
great cooperation that we received from
overseas law enforcement is very much ap-
preciated. I can say that, in this case, it was
the very good work by the Australian Federal
Police in setting up these sorts of relation-
ships with overseas law enforcement that
gives us the intelligence that we need to
crack down on organised crime that traffics
in drugs. Of course, Customs is doing a great
job at the border, keeping illicit drugs out of
Australia using its container X-ray equip-
ment, which we have funded over the last
few years, and also the skills of the men and
women involved in the Australian Customs
Service.

The government has maintained a very
strong stance in relation to our Tough on
Drugs strategy. Our Tough on Drugs policy
has involved in excess of $1 billion worth of
expenditure and it fights the war on drugs on
three fronts: education, health and law en-
forcement. The education of people, particu-
larly young Australians, about the evils of illicit drugs and the harm they can cause, reduces demand. In health, there is treatment of those who do have a problem with drugs in order to rehabilitate them and put them on a straight course where they can realise their full potential as a member of Australian society. Lastly and importantly, there is law enforcement to reduce supply. We have seen a reduction in the supply of heroin—a reduction which has resulted in a marked decrease in overdose amongst heroin addicts. That is a great testament to the work done by law enforcement, particularly the Australian Federal Police and the Australian Customs Service.

Senator Ferris asked me about alternative policies. I note that the Greens recently changed their policy in relation to illicit drugs. It was an important change when you look at what the Greens had advocated in relation to the supply of cannabis and amphetamine type stimulants. But I note on their website that they still plan to increase the availability of harm reduction programs, including needle and syringe exchanges and medically supervised injecting rooms. We remain resolutely opposed to injecting rooms. We believe the New South Wales option does not work. While I am on that subject, I might remind the Senate that the Leader of the Opposition, Mr Beazley, has supported injecting rooms. In relation to the policy that we have adopted, we will achieve much more success by fighting the drug war on those three fronts than by providing illicit drugs to addicts.

The PRESIDENT—Before we continue, I would like to welcome to the Senate all those young men and women in the public gallery who participated in the Heywire competition. It is great to see you here. Well done!

Australian Wheat Board

Senator O’BRIEN (2.08 pm)—My question is to Senator Abetz, representing the Minister for Agriculture, Fisheries and Forestry. Can the minister confirm that the Wheat Export Authority is responsible, under the Wheat Marketing Act 1989, for monitoring, examining and reporting on the performance of AWB Ltd and the benefits to growers? In carrying out this responsibility, doesn’t the Wheat Export Authority examine contracts entered into by AWB and analyse, assess and report on AWB’s pricing performance and supply chain arrangements? Can the minister explain why the Wheat Export Authority knew nothing of the $300 million paid by AWB to Saddam Hussein under the UN’s oil for food program through the contracts it examined? Can the minister also advise how it is possible that the Wheat Export Authority knew nothing of the massive increase in transport costs covered by these contracts?

Senator ABETZ—I could wax lyrical if I wanted to about these issues but, as the honourable senator knows, there is a royal commission being undertaken at this very moment to consider those issues that the honourable senator has raised. It would be highly inappropriate for me to comment as to what the WEA actually knew about the situation.

Senator George Campbell—Gutless!

The PRESIDENT—Order! Senator Campbell, would you withdraw that improper remark.

Senator George Campbell—I withdraw.

The PRESIDENT—Thank you.

Senator ABETZ—Given that there is a royal commission under way, it would be highly inappropriate to canvass the issues raised by the senator, asking what was or was not necessarily known. I represent the
minister for agriculture in this place. It is not within my specific portfolio. Whilst we have a royal commission under way, I think that that is the best approach.

Having said that, I did note in the question the comment about funding to Saddam Hussein. I now note that Kevin Rudd, the shadow minister for foreign affairs, is asserting that some of that money may have been used to fund international terrorism and suicide bombers. That is a very important step for the Australian Labor Party to have taken, because previously they were in denial that Saddam Hussein was the sponsor of international terrorism and funding the families of suicide bombers. I used to think it was $25,000 per hit—and what a terrible term to use in that context—but, interestingly enough, the figure that Mr Rudd now uses is in fact higher: $33,000. Have no doubt, if the Labor policy were to be adopted, Saddam Hussein would still be in power, funding international terrorism and suicide bombers. We on this side of the chamber make no apology for our stance in ridding the world of this dictator and sponsor of international terrorism.

Opposition senators interjecting—

The PRESIDENT—Order!

Senator Chris Evans—You have no moral authority now.

The PRESIDENT—Senator Evans, your colleague has the call and shouting across the chamber is disorderly.

Senator O'BRIEN—I ask a supplementary question, Mr President. Is the minister saying he does not have a brief on the Wheat Export Authority and the AWB from Mr McGauran? Does the minister expect grain growers, who fund the Wheat Export Authority—it is they who fund it—and stand to suffer as a result of the kickback scandal, to believe that the Wheat Export Authority did not notice any irregularities? Has the author-

ity been asked to explain why it failed to detect AWB was receiving an unusually high price for Australian wheat sold to Iraq and the use of the fictitious transport company Alia—and Mr McGauran, and Mr Truss before him, received a full annual report from the Wheat Export Authority—or is this actually just another case of a series of negligent ministers not doing their jobs properly?

Senator ABETZ—Senator O'Brien can pretend to be Inspector Clouseau but, as far as we are concerned, the best way to get to the bottom of this is to allow Royal Commissioner Cole to do his job. I remind those opposite that Royal Commissioner Cole did a fantastic job in getting to the bottom of the corruption in the building industry, and I have no doubt that he will do a thorough job on this as well. When we have his findings, I think it will be appropriate then to consider those findings and see what actions ought to be taken.

Asylum Seekers

Senator PAYNE (2.14 pm)—My question is to the Minister for Immigration and Multicultural Affairs, Senator Vanstone. Will the minister advise the Senate of the progress of efforts by her department to meet the targeted intake of refugees in Australia in 2005-06?

Senator VANSTONE—I thank Senator Payne for her question. She has a longstanding interest in Australia's refugee and humanitarian program. In fact, I have good news for all senators, who undoubtedly will share with senators on this side in being very proud of Australia's refugee and humanitarian settlement. Even, I think, the Greens could be proud of what the government does in this respect and go out and say to Australians, 'You should be proud of what the government you have elected is doing.'

This year will be a bumper year for the intake of refugees into Australia. I remind
senators that it was this government that increased the refugee intake from offshore by 50 per cent from 4,000 to 6,000, along with 7,000 places for special humanitarian entrants, who are often people from refugee camps coming to join friends and family who are already here.

Resettling this many people—it is about 7,000 a year—is an enormous job, and I want to acknowledge the work my department does, the settlement services providers do and the International Organisation for Migration does in assisting us in locating refugees all around the world, getting them to Australia with their health and medicals done and the resettlement that happens here.

This month we will have almost 700 arrivals into Australia from offshore. Given that we have 6,000 refugees a year, you would expect some months to have about 700. They will come from places like Afghanistan, Burma, Burundi, Congo, Ethiopia, Iran, Iraq, Laos, Kenya, Liberia, Rwanda, Serbia, Montenegro, Sierra Leone, Sudan and Uzbekistan. I mention those places because there are some people on that side of the chamber among the minor parties who would have Australia believe that we do not welcome refugees and that somehow we want only people who look and speak like us to get asylum in Australia, whereas Australia has always opened its heart to people most in need. It is important to note that people coming from these countries are most in need, and the only reason we can afford to bring them and give them the tremendous resettlement services we do is that we do not have an open-door immigration policy. We work with the United States—

Opposition senators interjecting—

Senator VANSTONE—United Nations High Commissioner for Refugees. I note that senators opposite think it is funny. We might do a question one day on what they did to the refugee program, turning it to special needs, which some people thought was an ungracious way of buying seats, but if we want to make this political we will come back that.

We work very closely with the United Nations High Commissioner for Refugees, and we take their advice on who is most in need. We do not take the people smugglers’ advice on who they can dump on our shores; we go to the United Nations High Commissioner for Refugees and ask, ‘Where are the people most in need?’ These are people who have had to endure hardship that most Australians never even think about. They include children who know no life other than outside a refugee camp, in many cases without power or running water. When they arrive, they will be connected with our world-class integrated humanitarian settlement scheme. I might not have time in this part of my answer—I feel sure Senator Payne will have a supplementary question—to outline some of the benefits that are provided. It is important to highlight those benefits, because we are not a country that says, ‘You’re most in need. Come here and we’ll just dump you.’ In fact, we have a very well integrated and sophisticated resettlement scheme. (Time expired)

Senator PAYNE—I ask a supplementary question, Mr President. The minister has advised the Senate about the nature of the humanitarian intake and the challenges of resettlement that are experienced. Can the minister further outline to the Senate the benefits to which she was alluding in relation to those resettlement processes?

Senator VANSTONE—I thank Senator Payne. I am sure the Greens would like to go out and tell Australians how proud they can be of the resettlement program that the government they elected has put in place. It is a program that provides accommodation on arrival, basic household items like furniture, fridges and washing machines—a first for
most of these people—and a link to financial services and banks and helps with shopping for food and household items and how to use an ATM card. It links arrivals to Centrelink, Medicare, health and education, and we have recently very significantly strengthened those services.

Senator Carr interjecting—

Senator VANSTONE—I will come back to the interjections from Senator Carr. I hope he does not regret having raised that matter.

Senator Carr—I never would regret having a go at you.

Senator VANSTONE—I will remember that. In any event, 150 refugees will go to Perth, nearly 200 to Melbourne, nearly 100 to Sydney, about 70 to Brisbane, over 80 to Adelaide, 31 to Darwin and Hobart, 15 to Launceston and 10 here to Canberra. Senator Lundy might do something to increase the intake by the ACT government. (Time expired)

Australian Wheat Board

Senator CONROY (2.20 pm)—My question is to Senator Coonan, the Minister representing the Minister for Trade. Is the minister aware of comments by Nationals senator Barnaby Joyce where he expressed sympathy for the AWB executives on the basis that they were merely doing their job of trying to get a good deal for Australian wheat farmers? Can the minister indicate whether Senator Joyce’s view reflects the government’s trade policy, a policy that saw $300 million funnelled to Saddam Hussein? Isn’t this what the Volcker report said happened when it found that the largest beneficiaries of the kickback scandal, including the $300 million paid by the AWB, were the Iraq ministries of defence and military industrialisation and the Iraqi intelligence agency? Does the minister accept Senator Joyce’s view that ‘you’ll never get anywhere unless the right people are looked after’, even if the so-called ‘right people’ are in Saddam Hussein’s government?

Senator COONAN—Thank you, Senator Conroy, for the question. It is based on a completely false premise, of course. This continual approach by—

Honourable senators interjecting—

The PRESIDENT—Order! There is too much discussion across the chamber while the minister is trying to answer the question. I ask the Senate to come to order.

Senator COONAN—What I was saying was that the ALP and the opposition in this place appears to be persisting in some sort of ‘Get Senator Joyce’ campaign, which is completely—

Opposition senators interjecting—

The PRESIDENT—Order!

Senator COONAN—What I was saying before the noise got so loud that I could not be heard was that the ALP appears to be persisting in some sort of ‘Get Senator Joyce’ campaign, but they have framed their questions completely on a false premise. What in fact we know about the AWB wheat contracts is, first of all, that the Australian government was not a party to the AWB contracts. We certainly know that they were administered by the United Nations. We know that there is not a skerrick of evidence to suggest that any government minister was aware of any subsidies in the AWB wheat contracts, and there is certainly no conclusive evidence that any government department or government official was aware.

In any event, as previous answers have stressed, the matter is of course subject to the Cole inquiry. In a moment I will indicate that Justice Cole considers that he has adequate terms of reference to be able to make the findings of fact that need to be made to get to the truth of this matter. That is what the government intend should happen. That is why
we have established the Cole commission. I must say that what is very interesting in relation to Senator Conroy’s question is the fact that Senator O’Brien and his colleague Craig Emerson back in 2003 put out a press release to this effect:

In the absence of evidence to support the allegations, Australian wheat growers are entitled to dismiss the claims as an attempt to promote the sale of United States subsidised wheat in the Iraq market.

I must say that that sounds very familiar, and in fact that is what happened.

Opposition senators interjecting—

The PRESIDENT—There is far too much noise on my left. I would ask you to come to order.

Senator COONAN—What I was saying was that, while it might be expedient now for the Labor Party to be suggesting that somehow or other this government knew, clearly in the circumstances we have got an inquiry to look at all of the facts and circumstances. This is the most transparent inquiry there has been because the inquiry has all of the documents relating to AWB, it has all of the documents that relate to DFAT or to any government department, and the Cole inquiry has in fact said that they have that. They are entitled to call witnesses. Lest there be any doubt, this is what Mr Cole said last Friday when he looked at the terms of reference to indicate if he was appropriate. He said—and it is a statement by the commissioner:

The terms of reference require and permit me to consider whether any decision, action, conduct, payment or writing of any of the three Australian companies mentioned in the final report—and he refers to the Volcker inquiry—might have constituted a breach of any law of the Commonwealth, state or territory—in fact, that relates to the three companies. But he goes on to say—(Time expired)

Senator CONROY—Mr President, I ask a supplementary question. Is the minister aware of an incident reported in the Volcker inquiry in which Saddam’s son Qusay withdrew $1 billion in cash from the Central Bank of Iraq just after the invasion had started, with some of these funds potentially being those obtained through the AWB kickback scandal? Isn’t it likely that this money was used to fund the ongoing insurgency in Iraq? Doesn’t this mean that the AWB’s approach of looking after the right people has increased the risks faced by Australian troops in Iraq?

Senator COONAN—What I can tell Senator Conroy through you, Mr President, is that the Volcker report found that there was insufficient evidence to make a finding that AWB knew that payments made by AWB et cetera were on account of trucking fees. AWB, obviously, was not found culpable in the Volcker inquiry.

Senator Faulkner interjecting—

The PRESIDENT—Order! Senator Faulkner, shouting across the chamber is disorderly—you know that. I would ask you to come to order.

Senator Faulkner—When DFAT were interviewed they didn’t tell the truth.

The PRESIDENT—Senator Faulkner, are you reflecting on the chair or are you going to come to order?

Senator Faulkner—No.

Senator COONAN—He went on to say: It necessarily follows that the knowledge of the Commonwealth of any relevant facts is a matter to be addressed by this inquiry and is within the existing terms of reference of the letters patent.

Senator Chris Evans—Mr President, can you invite the minister to table Senator O’Brien’s press release that she referred to.

CHAMBER
The PRESIDENT—The minister may do what she likes. I am not in a position to ask her to table any documents, and I will not.

Snowy Hydro Limited

Senator FIFIELD (2.27 pm)—My question is to the Minister for Finance and Administration, Senator Minchin. Will the minister inform the Senate of the government’s plans for the sale of its stake in Snowy Hydro?

Senator MINCHIN—I thank Senator Fifield for that question, because this issue does affect his great state of Victoria. As I think most people know, the New South Wales Labor government announced last year that it had decided to sell its 58 per cent stake in Snowy Hydro Ltd, and it is clear that New South Wales is going to proceed with that sale regardless of whether the other two shareholders, Victoria and the Commonwealth, decide to sell or not. Victoria has 29 per cent of this company and the Commonwealth has 13 per cent. We have now decided, in light of the actions of New South Wales, that there is no value in the Commonwealth holding on to its minority 13 per cent stake in these circumstances and that in fact it is in the interests of Australian taxpayers that we join with the New South Wales government to sell our shareholding.

I think the most important thing for senators to note, coming as they do from all the states, is that this sale will have absolutely no impact on the volumes of waters flowing down the Snowy, Murray and Murrumbidgee rivers. The public own the water and all that Snowy Hydro Ltd has is a licence issued by the New South Wales government that permits it to make use of that water, but that licence permanently locks in for 75 years this company’s obligations to make annual releases into the Snowy, Murray and Murrumbidgee rivers.

Those New South Wales state government obligations to maintain this licence are further enshrined by the agreements that New South Wales has signed with the Commonwealth and Victoria and locked in through the Murray-Darling Basin Agreement. So all of those people—and there are many—with interests in the flows down these three rivers, whether it is for the irrigation or the environment or other uses, can be absolutely assured that the sale of Snowy Hydro, primarily by New South Wales but now with us joining in, will not affect in any way those flows. I have noted that some say a privately owned Snowy might seek to escape those obligations; that is categorically not possible because of the interlocking agreements legally binding the company. Any bidders for this company—and New South Wales prefers an IPO, which would be our preference too—must comply with those water rights rules.

We have formally flagged with the New South Wales government and the company that there is an issue about the notification to irrigators of the timing of the required releases into the Hume and Blowering dams and how irrigators can have their views heard on those issues, and New South Wales and the Snowy company are happy to discuss that with us. I should also emphasise that this sale will not affect the obligation of the company to maintain its headquarters in Cooma. That was part of the agreement that all governments reached at the time of corporatisation.

Snowy Hydro Ltd is actually a very important part of the national electricity market. It does provide peak generation capacity, and its role is vital to providing a competitive national market. So I do welcome New South Wales’s decision. I think it naturally
following that we should sell our shares. The Victorian government is considering its position. Victoria joined with New South Wales and the Commonwealth to corporatise the Snowy back in 2002, and the logical outcome of that agreement between the three governments is that we should now proceed to a full sale.

**Political Party Donations**

Senator MURRAY (2.31 pm)—My question is to the Minister representing the Special Minister of State. Minister, does the government support the fundamental principle of Australian electoral funding law that the Australian Electoral Commission must be able to verify the nature and source of significant political donations? Does the government realise that offshore based foundations, trusts or clubs, or individuals funded from tax havens, making political donations to Australian political parties are a real danger, because those who are behind those entities are often hidden and beyond the reach of Australian law? Is the government aware that a number of democracies, including New Zealand, Canada and the United Kingdom, ban foreign donations to domestic political parties, to stop foreign influence in domestic political affairs? When will Australia follow their lead by similarly banning foreign donations to the political parties of Australia?

**Senator ABETZ**—Mr President, I know what motivates this question from Senator Murray; I am sure it is the $18,000 international donation that the Australian Greens received from the Greens in Sweden, a country that I note does not have any disclosure laws. I am sure that is the motivation behind Senator Murray’s question. In relation to international donations, the government’s view is that in Australia there has to be disclosure of the source of those funds—at the moment, if they are above $1,500. We believe a more sensible threshold would be $10,000. So any source of funding that is above that threshold that comes to a political party from overseas would need to be disclosed. If there is a suggestion that all international donations should be stopped, that might be something that the Joint Standing Committee on Electoral Matters, or other people, might want to look at. As far as I am aware, it is not on the government’s agenda to do that, because we in general terms believe that that sort of funding flow is appropriate, and it seems that the parties have received benefits from all sources. But, having said that, I will pass that on to the Special Minister of State to see if he has anything further to add.

**Senator MURRAY**—I thank the minister for his answer. Just to assist the minister, in the last seven years there has been nearly $2 million worth of foreign political donations to Australia, according to the AEC records. Mr President, I ask a supplementary question. Is the government aware that in the last seven years foreign donations have come in from the Channel Islands, New Zealand, Sweden, the Philippines, Great Britain, Liechtenstein, Germany, China, Hong Kong, the United States, Japan, India, Fiji and Taiwan, amongst others? Is the government aware of public concern that our democracy is for sale?

**Senator ABETZ**—I do not believe that the Australian public are of the view that our democracy is for sale, in the terms so exaggeratedly put by the honourable senator. I believe that most people in Australia say that we have, in general terms, a fair system, one that can of course be improved—and I look forward to the electoral reforms that were previously announced by a former Special Minister of State which I believe will enhance the electoral system. Once those reforms are implemented, I think we will have a very robust electoral system which the
Australian people will have even greater confidence in.

**Fisheries and Forestry Policy**

**Senator PARRY** (2.35 pm)—My question is to the Minister for Fisheries, Forestry and Conservation, Senator Abetz. Will the minister please outline to the Senate how the Howard government is successfully balancing the key concerns of conservation and jobs in the areas of fisheries and forestry; and, further, is the minister aware of any alternative policies?

**Senator ABETZ**—I thank Senator Parry, who is an excellent senator from my home state of Tasmania and who has a longstanding commitment to balancing the needs of conservation with those of two of Australia’s and indeed Tasmania’s important industries, fishing and forestry. Mr President, it is with real enthusiasm that I take on this portfolio—a portfolio which, as you know, has crucial relevance to our home state of Tasmania. The Howard government has a proud record of successfully balancing conservation with jobs, a record in fact which has no parallel, thanks to the work of my predecessor.

As a government we are interested in ensuring that our crucial fishing and forest industries prosper for generations to come, while at the same time ensuring that our environment is properly managed. The government is committed to a sustainable and profitable fishing industry in this country. This approach was typified by the attitude of my predecessor, Senator Ian Macdonald, who late last year announced the $220 million Securing Our Fishing Future package, which not only ensures the sustainability of our fisheries but will help those fishers who wish to leave the industry to do so with pride and dignity.

Similarly, the Howard government has an unparalleled record of balancing conservation with jobs and the human need for timber resources. This approach was shown in our 2004 Tasmanian Community Forest Agreement, which saved the jobs of 10,000 timber workers in Tasmania while simultaneously protecting an extra 180,000 hectares of forest. As a result, Tasmania now has some 50 per cent of its landmass protected from logging and an amazing 100 million trees protected from harvesting, together with a job-rich and vibrant forest sector.

I was asked about alternative approaches. There are two. The first is that of the Australian Greens, which is not to balance conservation and jobs; it is simply to clear-fell tens of thousands of forestry related jobs in this country—hardly a balanced approach, particularly when the alternative source of timber is from clear-felling tropical rainforests in south-east Asia in a totally uncontrolled way. But the Greens have just recently changed, albeit marginally, their kooky policy on drugs, so we live in hope that they might also do it in the area of forestry.

The second approach is that of the Labor Party. We recall Mr Latham’s approach—or was it Senator Brown’s or indeed Senator Faulkner’s approach? Labor’s approach at the last election was the reason they did so very poorly at the ballot box. I note as an aside that today Premier Lennon is now trying to trip into the forests, hand in hand with Senator Brown, on the issue of Recherche Bay. It appears that Labor has not learnt the lessons of history.

Labor does not, in its policy platform, commit to the regional forest agreements around this country. We have the Labor Party betwixt and between—between Mr Ferguson and Mr Albanese, you would not know where the Labor Party stood. And now you have the spectre of even the Tasmanian Labor Party doing financial deals with the Greens, and you have the spectre of another Green-Labor accord in Tasmania. Just as the
Tasmanian people punished Mr Latham, the Labor Party and the Greens, so too will they punish Mr Lennon and the Greens at the next state election.

Aged Care

Senator McLUCAS (2.39 pm)—My question is to Senator Santoro, the Minister for Ageing. Can the minister confirm that 31 December 2005 was the deadline for aged care providers to meet upgraded fire safety standards introduced in 1999? Can the minister confirm that, as at 19 January 2006, 36 per cent—53,000 residential aged care beds—failed to meet the deadline and do not yet meet the 1999 standards? Is the minister aware that his predecessor indicated last year that all nursing homes that failed to meet the 1999 standards by the deadline would have their certification reviewed? Is this still the government’s policy, and when will those reviews be carried out? Will non-compliant facilities be sanctioned in any way?

Senator SANTORO—I would like to thank Senator McLucas for her answer—

Opposition senators interjecting—

The PRESIDENT—Order!

Senator SANTORO—I mean her question. I have been reliably informed by my department that there are only 10 nursing homes in Australia that do not fall within the accreditation and certification processes that have been referred to by Senator McLucas. I am more than happy to expand on that through a more detailed reply if she wishes.

Senator McLucas—Mr President, I ask a supplementary question. I ask why the website has not been upgraded. Why was the website changed from 19 January to 23 December? As to those 10 homes, I think it would be appropriate that the information be tabled in this place as to which homes are not yet compliant with the 1999 fire regulations.

Senator SANTORO—I can assure the Senate and I can assure Senator McLucas that the performance of this government in terms of the issues referred to by Senator McLucas is exemplary compared to the previous government’s record. Senator McLucas asked me about the website, and I can assure Senator McLucas that immediately after this question time I will ask the question of my department. If the website needs to be updated, I will certainly arrange for that to be the case.

Australian Wheat Board

Senator SIEWERT (2.42 pm)—My question is to the Minister representing the Minister for Agriculture, Fisheries and Forestry, Senator Abetz. My question relates to the 2004 performance monitoring activities of the Wheat Export Authority, the WEA, of the AWB. Is the minister aware that the WEA questioned the AWB in 2004 about the provision of kickbacks in 2004? Is the minister aware that AWB considered the issue of payments to a Jordanian trucking company and the relationship of the wheat price to global benchmarks in its performance-monitoring activities? Is the minister aware that they submitted a confidential performance review to the minister for agriculture? Is the minister aware of the WEA activities? Did the WEA report to the minister about the kickbacks, the trucking company or the extent to which the price exceeded global benchmarks? Did the WEA report this in its confidential performance review?

Senator ABETZ—I refer the honourable senator to the answer that I gave to Senator O’Brien.

Senator SIEWERT—The minister has not answered my question. I can repeat it again and add a supplementary question, which is—

Honourable senators interjecting—
Senator SIEWERT—I will simplify it for the minister: will the minister confirm whether the WEA reported on its activities to the government in 2004? My supplementary question is: will the minister release the confidential ministerial reports of both the 2004 performance review and the special 2004 wheat marketing review carried out by the WEA?

Senator ABETZ—Those supplementary matters go beyond that about which Senator O’Brien asked previously. I would imagine that the WEA did report to the government, so I would imagine that to be the case. In relation to confidential reports, I would assume that they would remain confidential. But the one point that I would make about this is that for once the Greens have led on policy, because we must remember: if the Greens policy of 1991 had been adopted, the Saddam Hussein regime would not have been in existence and all these wheat deals would not have been able to take place. Poor old Senator Brown: when the West does not invade, he condemns the West for not invading; when they do invade, he condemns them for actually invading. The Greens are betwixt and between with their policies unless it is anti the coalition of the willing. In relation to the wheat issues, they are being explored by the commissioner and I think we should rely on his advice. (Time expired)

Senator Bob Brown—Mr President, I rise on a point of order. The question from Senator Siewert was whether the minister would release the two reports she referred to. The answer is yes or no. The minister should answer yes or no to that question.

The PRESIDENT—There is no point of order and the minister has concluded his answer.

Housing Market

Senator CARR (2.46 pm)—My question is to Senator Minchin, the Minister representing the Treasurer. Is the minister aware that the chair of the coalition’s backbench Treasury committee, Mr Steven Ciobo, is quoted in the Age of 6 February 2006 as saying:

Australian real estate is among the most expensive in the world.

... ... ...

Those on lower incomes are struggling to save a deposit for a home. Nearly 9 per cent of Australians spend one-third of their pay on rent and simply don’t have the capacity to put additional money aside.

Does the government agree with Mr Ciobo that Australia is facing a housing affordability crisis? Is the minister aware that, as part of his solution to this problem, Mr Ciobo has proposed means testing the first home owners grant on the basis of household income as well as capping the value of the home that can be purchased? Can the minister indicate whether the government intends to adopt Mr Ciobo’s proposals?

Senator MINCHIN—Can I first say that the most important thing for home purchasers and home owners in this country is to maintain as low as possible the level of interest rates that pertain to mortgages, and we welcome the announcement by the Reserve Bank today that the interest rates will not be moving. That is another reflection of the great economic management which the government have brought to this country. We have stable and low interest rates, which gives consumers, renters and home owners confidence to enter the housing market with a much greater degree of certainty than that which prevailed when those opposite were running this country in the most appalling fashion, which saw interest rates go through the roof and low-income people deprived of any possibility of entering the housing market because of the interest rates inflicted on them by those opposite. So, because of the disgusting record they had in office, we are
not going to put up with any lectures from the Labor Party about housing affordability.

Senator Chris Evans—This is a lecture from your own backbench!

Senator MINCHIN—When it comes to the issues that Senator Evans rightfully draws my attention to, having said that interest rates are the most important factor in relation to housing, the home owners grant that we most sensibly introduced at the time of the new tax system’s introduction was very much and overtly in recognition of the consequences for home purchasers of the introduction of the goods and services tax. We made it quite clear at the time that it would not be means tested, and we have held to that very clear policy from that time forward. This was and is a grant which acknowledges the one-off impact of the goods and services tax on the purchase of a home. It is an appropriate and very popular grant. It is administered by the Labor states, as Senator Carr knows.

We always welcome and encourage the non-frontbench members of the coalition team putting forward their ideas with vigour and enthusiasm. I can attest to that being the case in the coalition party room. I have great respect for Mr Ciobo, his intelligence, his interest in policy development and his concern to ensure that the maximum number of Australians do have the opportunity to purchase a home. But in this case the government’s policy is quite clear, and we will maintain the non-means-tested home owners grant.

Senator CARR—Mr President, I ask a supplementary question. If the government is doing such a great job on housing, why is it that house prices are now equivalent to six to nine times annual household income, as opposed to three times annual income some 10 years ago? Why hasn’t the government done anything to address the fundamental problems in the Australian housing market or to improve affordability for average Australians? Why won’t the government develop a national housing strategy to address these problems?

Senator MINCHIN—Our national action plan to ensure that Australians can buy houses consists of ensuring that interest rates remain low, that unemployment remains low, that real wages maintain their growth and that the economy remains strong. All our policies have been directed at that and they were totally absent when Labor was in office.

Rural and Regional Health Services

Senator SCULLION (2.50 pm)—My question is to Senator Santoro, the Minister for Ageing, representing the Minister for Health and Ageing. Will the minister advise the Senate of what the government is doing to provide improved medical services to people living in rural and regional Australia? Is the minister aware of any alternative policies?

Senator SANTORO—I thank Senator Scullion for his question, knowing that he has a very special interest in matters that affect rural and regional residents, particularly in the area of health care. The Howard government has invested money to make the health system certainly a better one than it was when we took over from the Labor Party, and rural and regional Australians have benefited tremendously from the policies implemented by the Howard government.

The Minister for Health and Ageing announced last month that the number of qualified doctors and nurses has significantly increased during the years as a result of Commonwealth government initiatives. Since Strengthening Medicare began, approximately 750 practices have begun to employ nurses. There are 480 additional students in
university medical schools, an extra 189 doctors are GP registrars, there are 549 more overseas trained doctors practising in Australia, there are 1,860 more temporary resident doctors who have accessed the new four-year visa, and bulk-billing rates in rural and remote areas have increased by 15.8 percentage points to 68.6 per cent.

Senator Abetz—That’s a very good record.

Senator Santoro—It is a very good record. I acknowledge the interjection by Senator Abetz, who also has a keen interest in rural and regional health matters, particularly from a Tasmanian perspective. Looking specifically at the rural health strategy that is being implemented by this government, which is worth $830 million, there are currently 116 regional health services around Australia providing community nursing and allied health services to more than 1,000 communities. Under the More Allied Health Services Program, Divisions of General Practice are employing allied health professionals and are linking them with general practitioners so that doctors in rural and remote communities can focus on general practice.

Under the Medical Specialist Outreach Assistance Program, assistance is provided to medical specialists so that they can deliver outreach services to people living in rural and remote areas. From this year, the Howard government is offering scholarships under the Rural Allied Health Undergraduate Scholarships Scheme. There will be 65 scholarships in 2006, rising to more than 180 in three years. This is important, because, if health professionals come from the country, they are more likely to work in the country. In addition, thanks to the government’s $1.1 billion Medicare safety net, more than 1.5 million people around Australia will continue to receive good health care regardless of where they live. The government has a very good record of delivering better health services in country areas, thanks to the measures that I have outlined, and the Australian public is recognising that good work.

Turning to whether I have any indication of what the alternative policies are, the Labor Party basically has two health policies. One is Medicare Gold and the other is to abolish the 30 per cent rebate which provides financial assistance to some 10 million Australians who take out private health insurance. Those opposite would sabotage that if they were to get their hands on the wheels of running the country. Kim Beazley, the Leader of the Opposition, has barely mentioned health since becoming opposition leader, and this year the shadow spokesman for health, Julia Gillard, has asked only a handful of health related questions. So insignificant is health to the Leader of the Opposition that he has not asked even one question. Medicare Gold is the only policy they have. This was an unfunded and utterly embarrassing faux pas by the Labor Party prior to the last election. It was rejected overwhelmingly by the people of Australia at the last election, and I am sure that I will have a lot more to say on it in the future.

Richard Niyonsaba

Senator Hurley (2.55 pm)—My question is to the Minister for Immigration and Multicultural Affairs. Is the minister aware of the case of two-year-old Richard Niyonsaba, who arrived in Australia with his family from Africa on 3 November 2005 but died two days later? Can the minister confirm that Richard Niyonsaba’s family had documentation from the International Organisation for Migration indicating that their son required intensive medical assistance upon arriving in Australia? Can the minister explain why the family’s caseworker from ACL, the private firm carrying out settlement
services in the region, did not ensure that intensive medical assistance was provided to Richard Niyonsaba immediately upon his arrival in Australia? Given that there will not be a coronial inquest into this matter, will the minister now instigate her own public inquiry into the events surrounding this tragedy?

Senator VANSTONE—I do not know that I thank the senator for the question, but nonetheless—

Senator Carr—How ungracious!

Senator VANSTONE—I note that the remark of the senator interjecting could in fact be made to him about his earlier interjections in relation to this matter. The starting point here is that a young boy has lost his life, in Australia, within a few days of his family believing that they were coming here to every possible door opening to them. By anybody’s standards, that has to be judged to be a tragedy. I have said so before, but I again extend my sincere condolences to the family and to the Burundian community.

There have been comments by one person in particular in relation to this matter on the level of assistance provided to the family on arrival in Australia. I do not believe those comments to be well informed. I do note that on 17 January the New South Wales Coroner decided to not hold an inquest into Richard’s death. I think that tells us something. The coroner had the opportunity, if it was deemed appropriate—if there was something he could find out that would be relevant to the death—to have a coronial inquiry and he decided not to do so. I am not going to say any more about this particular case at this time. I would be happy to offer the senator a private briefing on it. I would point out, however, that the caseworker assigned to that family was also of Burundian background. There has been some suggestion that there was a communication breakdown. I would just make the point that that is my advice: it was a Burundian caseworker. The settlement assistance provided to humanitarian entrants is, by any comparison internationally, exemplary. I do have someone in my department, following the coroner’s decision not to hold a coronial inquiry, who will give me a full report on what happened.

Senator Hurley—But no public independent inquiry.

Senator VANSTONE—I will make a decision about whether that is necessary, but the coroner has decided that there is no need for a coronial inquiry. Nonetheless, I have asked for full and detailed advice on what happened. The advice I have at the moment, which is not confirmed, does not point in the direction you would hope it would, Senator.

Senator HURLEY—Mr President, I ask a supplementary question. Is the minister also aware of concerns raised by Dr Murray Webber, of the Newcastle Refugee Health Clinic, in a letter of 2 November 2005 to the New South Wales office of the Department of Immigration and Multicultural Affairs, in which he cites other cases of refugees not receiving adequate health care from ACL?

Senator VANSTONE—I have not seen the letter to which the senator refers, but undoubtedly the question of whether the care the government expects to be provided is provided will be addressed in the report that will come to me from the department. I want to stress that there is no excuse if something has gone wrong that should not have gone
wrong. That will have to be answered for if it has happened. It is not my advice that that is the case at this point. I offer what I believe is some helpful advice to people interested in this—that is, find out the facts before you impugn a motive, a lack of faith or a lack of competence.

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

QUESTIONS WITHOUT NOTICE:
ADDITIONAL ANSWERS

West Papua

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (3.00 pm)—I wanted to add to an answer I gave yesterday to a question from Senator Nettle relating to West Papua. The answer is that the Australian government takes seriously reports of alleged human rights violations in Papua. We continue to urge the Indonesian government to investigate suspected human rights abuses and ensure that the human rights of all Indonesians are respected. The Australian government is aware of a range of reports, including from the University of Sydney’s Centre for Peace and Conflict Studies, on the human rights situation in the Indonesian province of Papua. We have brought the allegations contained in the University of Sydney’s report to the attention of the Indonesian government.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS

Australian Wheat Board

Senator O’BRIEN (Tasmania) (3.01 pm)—I move:

That the Senate take note of the answers given by ministers to questions without notice asked by opposition senators today.

I particularly want to focus on the answer by the Minister for Fisheries, Forestry and Conservation, Senator Abetz, to my question and part of Senator Coonan’s answer to Senator Conroy’s question. Firstly, isn’t it remarkable that when a minister of the Crown stands up in this place, answerable to the Australian people, he relies upon the reference of certain matters to a commission of inquiry in order to deny the public and the parliament information?

The minister could not answer, for example, a simple question as to whether the Wheat Export Authority is responsible under the Wheat Marketing Act to monitor, examine and report on the performance of AWB Ltd. Apparently, because of that inquiry, the minister cannot answer that question. He could not tell us whether the Wheat Export Authority was required to examine contracts entered into by the AWB and analyse, assess and report on AWB’s pricing performance and supply chain arrangements, allegedly because there is a commission of inquiry. He could not answer a question as to whether he had a brief on the matter. That must have also been because of certain matters being referred to a commission of inquiry.

He certainly could not tell us whether the government had any knowledge as to why the Wheat Export Authority apparently did not know anything about the $300 million paid by AWB to Saddam Hussein under the UN’s oil for food program. Enough comment has been made about that publicly by ministers of this government to the media and in the other place to know that this government hitherto has not had a problem in answering questions about the AWB and the oil for food program, but apparently it has decided that it has become too hot and it is making too many mistakes so it has shut down its accountability through the parliamentary process and is refusing to answer questions.
I think the Australian people ought to know that under the Wheat Marketing Act the Wheat Export Authority is required: ... to monitor nominated company B’s— that is, AWB International’s— performance in relation to the export of wheat and examine and report on the benefits to growers that result from that performance.

It has, under section 5 of the act: ... power to do all things that are necessary or convenient to be done in connection with the performance of its functions.

So the Wheat Export Authority has wide powers. Under part 5D of the act it has authority to get any information, documents and copies of documents in custody or control of the nominated company, which is AWB International, or a related body of the nominated company that it considers relevant to the operation of the export pools that AWB has control of. Of course, the export pools are the pools of wheat which provided the wheat exported to Iraq and the basis for the $300 million in payments, allegedly for trucking, that AWB managed to funnel to Saddam Hussein’s accounts.

So the Wheat Export Authority has, since its inception, had enormous powers—indeed, a responsibility and an obligation—to investigate the performance of AWB in terms of these contracts. If it was doing its job, wouldn’t it have seen some remarkable payments being made to AWB Ltd? The government is saying, ‘We’re not going to tell you what we know about that because there’s an inquiry.’ I want to know what it has told the inquiry about that, what access the inquiry has to the Wheat Export Authority’s documentation, when it is actually going to pull the Wheat Export Authority before the commission and whether the commission is going to ask them what they told the government in those secret reports that have not been provided.

In the short time available I want to deal with the false and misleading misrepresentation that Senator Coonan made regarding a press release by Dr Emerson and me in June 2003—it has been done in the other place before, and frankly I would have thought the government would have learned—in which Dr Emerson and I called on the government to investigate claims that there were kickbacks being paid with respect to the AWB’s performance. In the last paragraph, after calling for the inquiry, we say that in the absence of any evidence we would have to dismiss the claims that this had occurred. But the previous eight or so paragraphs and the heading call for an inquiry—an inquiry which the government refused to conduct. (Time expired)

Senator McGauran (Victoria) (3.06 pm)—The week began with the Leader of the Opposition, Mr Beazley, making all sorts of claims and promises on the ABC that this was going to be the issue of the decade and the issue to bring the government down. There were claims of government ministers connected with bribes and corruption. In fact, even the Prime Minister was to be linked with it all. What is more, they went a step too far in the House yesterday, claiming that all of the government is linked with the bribes and corruption and therefore linked to suicide bombers. What a shrill lack of credibility was brought to the debate yesterday. That was how they began the week.

At best, we can say we have seen a lot of heat but no light at all. If you ever doubted that the opposition were using this issue—using it not in the public interest, not in the national interest and certainly not in the interest of the wheat farmers—to milk it for whatever political advantage that the desperate opposition on the other side could get out of it, you need not have, because that is exactly their motivation. According to the Australian Financial Review, it was leaked from
the caucus meeting—which, as we know, would be a correct report because those caucus meetings leak like a sieve—that on Monday Mr Beazley was hosing them down, telling them that the expectations at the beginning of the week were not going to be met and they were not going to get a ministerial scalp out of this. So forget about the national interest; it was all about getting a ministerial scalp, about discrediting the Prime Minister.

Do not think that the public do not see through that. Of course they see through all of your shrill shrieking and misrepresentation of the whole Cole inquiry. To instil a few facts into this issue is what is needed, not the opposition’s shifting from one allegation, one claim and one assertion to another. As each one has been proven false, as you prejudice the royal commission, your credibility has sunk in the public eye; it could not have sunk lower. The government has acted properly and creditably. From the time of the Volcker inquiry we have acted according to the recommendations of that inquiry. We have set up a transparent and open royal commission with references that give the ability to call government ministers or officers of the Department of Foreign Affairs and Trade. The government has not turned a blind eye to this issue. We have put in charge of that royal commission a former New South Wales Supreme Court judge, the Hon. Terence Cole. He is known to the other side as the former royal commissioner into the building and construction industry. He is a man who knows how to get to the bottom of corruption if there be any. He knows all about royal commissions and how to conduct them. He has not felt constrained at all in administering this inquiry.

We have said from these front benches, as has been said in the lower house, that the government will not prejudice this royal commission. We will not jump in early and follow it line by line, piece of evidence by piece of evidence, claim by claim and counterclaim by counterclaim. It is neither the correct thing to do when you establish a royal commission nor is it in the national interest. But when those recommendations are handed down by the most credible man who could possibly run the royal commission, rest assured that whatever the findings and recommendations, the government will implement them to the full. We have said that much.

On the other side, you decided to take the advantage, following it line by line, claim by claim and counterclaim by counterclaim, and along the way have been proven incorrect and each claim has been shown to be false. Time does not permit me to go through those claims. Perhaps you should bring on an MPI so that we get a little more time or we could discuss it in general business on Thursday. But your initial claim against the Prime Minister in regard to a letter he wrote in 2002 simply shows the absurdity of the effort you are making to drag this government down. On each occasion you have been knocked on the head over it. In the time I have left, I say that we simply reject the opposition’s claim that the government has acted improperly. (Time expired)

Senator McLucas (Queensland) (3.11 pm)—The answers that the government gave today on the AWB wheat scandal simply mirrored what we heard yesterday. They were no different to what we have heard before. They are designed to hide the truth, to cloud the air and to muddy the waters. They are not designed to do what our community expects of this government and that is to come clean—to come clean about what it knew, when it knew it and what involvement this government has had in the whole affair.

Senator McGauran is wrong. Justice Cole has been given certain terms of reference, but not wide enough to ensure that the facts
will be found out and known. It is incorrect to say that Justice Cole will be able to get to the bottom of it. I concur with Senator McGauran: Justice Cole is an eminent person to do the job that he has been given. But the job that he has been given does not include investigating the role of this government and the role of the bureaucracy that advised the government. That is the issue that we have with the inquiry as it stands and that is the issue that this government will not come clean with the Australian community about.

In taking note of the answers I want to also take note of the comments that Senator Abetz made. We know that in this place Senator Abetz likes to think of himself as an eloquent speaker and, in fact, wrote a column about that at some stage last year himself. Vainly, again today he was trying to be a comedian by accusing Senator O’Brien of being Inspector Clouseau. I suggest to Senator Abetz that it would have been more appropriate if some of the people on his side had been asking questions and trying to find out what was happening. That is on the points that they did not know about, but surely there were enough indications that things were going wrong to suggest that questions should have been asked. I prefer Mr Kevin Rudd’s description of the Prime Minister, the Deputy Prime Minister and the Minister for Foreign Affairs, when he talked about them as using the Sergeant Schultz excuse of ‘I know nothing’. It is amusing but also accurate. They knew nothing because they did not want to know anything.

The themes of the answers we have heard today and yesterday are: we don’t know, we can’t remember, the dog ate my homework. This is what we are hearing from this government. It is simply not good enough for the Australian community, particularly the wheat industry in Australia, to be provided with this sort of misinformation, just a plain cover-up or denial. Senator Coonan went on to accuse the Labor Party regarding a ‘Get Senator Joyce’ campaign. I thought that was quite amusing because for us to get Senator Joyce we actually have to stand in line. There are many others on that side who are trying to get Senator Joyce. We had the spectacle of Senator McGauran’s defection last week, ostensibly because he could not bear Senator Joyce’s behaviour. He had to leave the National Party because he could not bear Senator Joyce’s behaviour. Further to the coalition’s problems are those running particularly in Queensland. Senator Boswell’s pre-selection has had to be deferred so that Senator Boswell can go and collect the numbers a bit more. It is a tricky time in Queensland for the coalition at the moment.

Senator Boswell—Your father would be proud of you.

Senator McLUCAS—I will send him the speech. Senator Boswell is clearly under attack from Senator Joyce’s faction in the National Party. The National Party in Queensland is getting smaller, but it is not as small as the Liberal Party in the state arena. We have the ridiculous situation where a coalition of sorts is presented to the Queensland community but we still cannot get agreement about what the role of each party is. We have the bizarre appointment of Senator Santoro as the Minister for Ageing. The last election Senator Santoro faced was in the seat of Clayfield—a blue ribbon Liberal seat—and he was absolutely trounced. He has not faced the electorate in the state. This is about the debacle of the coalition in Queensland. (Time expired)

Senator BOSWELL (Queensland—Leader of The Nationals in the Senate) (3.16 pm)—I am deeply appreciative of Senator McLucas’s concern for my numbers. Her dear old dad is a lovely person and he is one
of my numbers. He was the chairman of the Hughenden branch and a very staunch Boswell supporter. I thank her for her concern and ask her to talk to her father. But we are debating a motion to take note of answers to questions. Senator McLucas was diverted slightly; she lost her way about halfway through her five-minute contribution.

This was going to be the killer blow to end all killer blows. This was going to drive the National-Liberal coalition into the dirt. We were all going to be running for cover concerning the Wheat Board. What a big, big fizzer. This has not got off the ground. Even your leader admitted to caucus that you were not going to get any heads on this one, that it was quietening down a bit. You have been asking questions all over the place. That is your right and you should do that. But the government has established the Cole inquiry. It has established an inquiry that will get to the bottom of this. All your probing and the futile questions you are asking here will be dealt with by the commissioner, Mr Cole.

**Senator Forshaw**—So they’re good questions, then?

**Senator BOSWELL**—They have not hit paydirt yet; that is all I can say. You have been spraying around but you have not struck a blow yet. The Cole inquiry has been established and has expanded its terms of reference to get to the heart of the matter. This is where the matter will be resolved. They have had full and open access to DFAT—all the documents and all the officials. The Prime Minister has clearly stated that all the ministers called will be invited to attend. But you guys have been whipping up hysteria. All you have been doing is driving a wedge into the Wheat Board, upon which Australian farmers depend so heavily to market their product.

There are two distinct things here. Everyone wants to get to the bottom of whether there has been corruption. But there is also a very clear understanding in the country that the Wheat Board is an essential part of marketing the industry. Making the connection that we have corruption on one side and that therefore the Wheat Board is ineffective is totally wrong. We are talking about two totally different issues. One is about corporate governance and the other is about how we market our wheat, and they should be very, very separate. It is important that we do not play into the hands of vested interests that want to destroy the Wheat Board and see this as an opportunity to get rid of it: international grain traders, people that want to see the Wheat Board destroyed because it provides an essential service to Australian growers and about a $15 a tonne premium to Australian farmers.

As a member of the National Party and a member of the Senate, I want to stand up for the Australian Wheat Board and say that it has provided a wonderful service to Australian wheat growers. When the farmers make the decision that it is no longer useful as a one-desk seller then they can come to us and say, ‘It’s served its purpose; it is the judgment of the wheat growers that it is not required any longer.’ But until they do that the National Party is locked solidly into the Wheat Board. It is an act of faith with the National Party and it will not be abandoned by the National Party. We will fight for its existence. That is not to say that we do not want to get to the bottom of these claims. If there is anything substantial about them, the Cole inquiry will make its report and then it will be duly followed through by a process. Let us not throw the baby out with the bathwater. This is an essential way to sell our wheat. There is $1 billion worth of subsidies going into American wheat and EU wheat every day of the year. While our farmers have to compete against that, the Wheat Board is the way to go. *(Time expired)*
Senator FORSHAW (New South Wales) (3.22 pm)—If ever the hypocrisy, the duplicity and the deceit of this government was exposed, it is being exposed now with this scandal regarding the corrupt payments to Saddam Hussein’s regime. We have heard pathetic defences coming from ministers in question time today and elsewhere, and also from the speakers during this debate on the motion to take note of answers. Let me just deal with a couple of those, starting with the argument that the government have established the Cole royal commission and therefore they are going to get to the bottom of it, so we should just let Commissioner Cole get on and do his job. The problem with that argument is, firstly, that the terms of reference are limited in terms of what Commissioner Cole can actually make findings about.

Secondly, that argument is being put by people from this government who have made an art form of standing up in this parliament when other royal commissions have been held, asking questions and having questions answered about what is being investigated. I can recall back in the days of the royal commission into the Penny Easton and Carmen Lawrence issues in WA, day after day Senator Vanstone—who was then an opposition frontbencher—getting up here and trawling through all the issues. And more recently, with the royal commission into the building industry that Senator McGauran mentioned, the fact that that royal commission was being conducted did not stop members of the government from standing up in parliament and pre-empting the findings, making claims and dealing with the issues that were being covered by that royal commission. So do not try now, when your own government is under the microscope, to hide behind the argument that it is somehow sub judice because it is being dealt with by the Cole royal commission.

Senator Boswell just said, ‘They’re going to find out whether there was corruption.’ There has been corruption—we know that. That has already been found through the UN and the Volcker inquiry and it is clearly evident. What is now being inquired into is: how did it occur; who knew about it; why did it occur; and why is it being covered up? Clearly the evidence is pointing to a total failure on the part of this government and departments administered by ministers of this government. They either knew and did not say, or they did not know.

Senator Coonan said that there is no evidence that any minister was involved. Either ministers did not know—and therefore they were negligent and ignorant—or the evidence will prove that they did know. Whichever way it is with this argument by the government that they did not know and therefore they are not culpable or guilty, the fact is, at the end of the day, the responsibility rests with the government. It rests with the ministers. Senator Coonan, Senator Abetz and most of the other frontbenchers here are lawyers. They know that old adage ‘ignorance is no excuse’.

Let me make another point. I can remember a former Prime Minister, when he was Leader of the Opposition back in the mid-seventies standing up in this parliament and talking about what were reprehensible circumstances. That, in part, related to what was happening with borrowing money overseas. What we have here is clear evidence of corrupt payments—$300 million being paid to a dictator responsible for some of the worst atrocities that have occurred in recent times—and the government sit there and say it is not their fault. The fact is the AWB is a creation of the government; it is a body set up to look after the interests of the wheat farmers. That $300 million would have done a lot of good to assist farmers. But, no. What
happened? It got paid to that murderous dictator in Iraq.

Senator McGauran, the former National Party member, talks about us not having a ministerial scalp. Senator McGauran, you would know all about getting ministerial scalps, mate, because when you ratted on your former party, your former party lost a ministerial position. What hypocrisy and obfuscation we are getting from this mob. (Time expired)

Question agreed to.

**Political Party Donations**

Senator MURRAY (Western Australia) (3.27 pm)—I move:

That the Senate take note of the answer given by the Minister for Fisheries, Forestry and Conservation (Senator Abetz) to a question without notice asked by Senator Murray today relating to political donations.

The release last week of the Australian Electoral Commission’s 2004-05 funding and disclosure report revealed a particularly worrying donation from overseas. This was the massive $1 million donation to the Liberal Party from Lord Michael Ashcroft, a British citizen. This is believed to be the largest single donation from an individual in Australian political history. It has ruffled some feathers but has it attracted the outrage it could have? We do not know, because the AWB scandal dominates the media at present.

The former Liberal Party president, Mr Shane Stone, who secured Lord Ashcroft’s donation, claims it was merely a personal donation and that this lord had no business interests in Australia. But what interest does he have in terms of Australia’s negotiations, submissions and attitudes to international efforts to close down or regulate tax havens, including Belize? What interest does he have in that matter?

Rich people and a million dollars are not easily parted. There is no such thing as a free lunch and we are right to ask what this donation actually bought—just friendship and gratitude, or access and influence? We are especially right to ask such a question in this particular case, as Lord Ashcroft is not just your ordinary British Tory, he is not just a formidable and wealthy businessman but he is and has been a person of some notoriety and controversy in Great Britain. He reportedly sparked outrages in the 1990s when he kept the Conservative Party financially afloat while living as a tax exile in the Central American state of Belize. There is a long and dishonourable tradition in the United Kingdom of granting a seat in the elitist and unelected House of Lords to big political patrons. Apparently as a condition of getting a peerage, Lord Ashcroft returned to live in Britain in 2000. However, he is reported to still have many business interests in Caribbean tax havens. In Britain, where foreign political donations are now banned, Lord Ashcroft was reported as the person who essentially prompted such a ban—a ban which was referred to by some as the ‘Ashcroft clause’.

Under British law, a donation of more than £200 sterling or $A470 is allowed only if it comes from a person eligible to enrol to vote in Britain or from registered corporations operating in Britain. Similarly, in the United States it is unlawful for foreign nationals to make donations. United States citizens living abroad can donate. Similarly, Canada and New Zealand have laws prohibiting foreign donations. The Democrats have long called for donations from overseas entities to be banned outright. We have no problem with donations from Australian individuals living offshore. The fundamental principle of Australian electoral funding law is that the Australian Electoral Commission must be able to verify the nature and source of significant political donations. Offshore based foundations, trusts or clubs or indi-
individuals funded from tax havens making political donations to Australian political parties are a real danger, because those who are behind those entities are often hidden and beyond the reach of Australian law.

As I said, a number of democracies, including the United States, New Zealand, Canada and the United Kingdom ban foreign donations to domestic political parties to stop foreign influence in domestic political affairs. When will Australia follow their lead by similarly banning foreign donations to the political parties of this nation? Only when agencies like the AAP, the press media or the media in general start to put pressure on about this fundamental principle. Otherwise, self-interest will mean that it just will not happen. In the last seven years, foreign donations totalling $2 million have come in from the Channel Islands, New Zealand, Sweden, the Philippines, Great Britain, Lichtenstein, Germany, China, Hong Kong, the United States, Japan, India, Fiji and Taiwan. Is the government aware of public concern that our democracy is for sale? Australian citizens think there must be no foreign interference or influence in Australian domestic politics. It is a big issue in other countries and it should be a big issue here too.

Question agreed to.

PETITIONS

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

Information Technology: Internet Content

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

We, the undersigned citizens of Australia draw to the attention of the Senate the common incidence of children being exposed to Internet websites portraying explicit sexual images. These images may involve children/teens, sexual violence, bestiality, and other disturbing material. Many such websites use aggressive, deceptive or intrusive techniques to induce viewing. We submit to the Senate that:

- Exposure to pornography is a form of sexual assault against children and should be considered, like all sexual abuse of children, as a serious matter causing lasting harm.
- It is not adequate to charge individual parents with the chief responsibility for protecting their children from Internet pornographers determined to promote their product, OR to expect parents to teach children to cope with the damaging effects of pornographic images AFTER exposure.
- It is the primary duty of community and Government to prevent children being exposed to pornography in the first place by placing restrictions on pornographers and those businesses distributing such material.
- Internet Service Providers (ISPs), should accept responsibility for protecting children from Internet pornography, including liability for harm caused to children by inadequate efforts to protect minors from exposure.

Your petitioners therefore, pray that the Senate take legislative action to restrict children’s exposure to Internet pornography. We support the introduction of mandatory filtering of pornographic content by ISPs and age verification technology to restrict minor’s access.

by The President (from 12 citizens)

by Senator McGauran (from 30 citizens)

by Senator Ronaldson (from 50 citizens)

by Senator Watson (from 30 citizens)

Abortion

To all Australian Senators,

We, the undersigned, believe the Therapeutic Goods Administration should decide whether RU486 can be used in Australia, not the Health Minister.

We call on all members of the Senate to support the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005 currently before you.

by Senator Adams (from 3,235 citizens)
Workplace Relations
To the Honourable President of the Senate and Members of the Senate assembled in Parliament:

The petition of certain citizens of Australia draws the attention of the Senate to the fact that Australian employees will be worse off as a result of the Howard Government’s proposed changes to the industrial relations system.

The petitioners call upon the Howard Government to adopt a plan to produce a fair industrial relations system based on fairness and the fundamental principles of minimum standards, wages and conditions; safety nets; an independent umpire; the right to associate; and the right to collectively bargain.

The petitioners therefore ask the Senate to ensure that the Howard Government:

(1) Guarantees that no individual Australia employee will be worse off under proposed changes to the industrial relation system.
(2) Allows the National Minimum Wage to continue to be set annually by the independent umpire, the Australian Industrial Relations Commission.
(3) Guarantees that unfair dismissal law changes will not enable employers to unfairly sack employees.
(4) Ensures that workers have the right to reject individual contracts and bargain for decent wages and conditions collectively.
(5) Keeps in place safety nets for minimum wages and conditions.
(6) Adopt Federal Labor’s principles to produce a fair system based on the fundamental principles on minimum standards, wages and conditions; safety nets; an independent umpire; the right to associate; and the right to collectively bargain.

by Senator Ludwig (from 1,724 citizens)

NOTICES
Presentation
Senator Stott Despoja to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) Committee’s 34th session was held in New York from 16 January to 3 February 2006,

(ii) the 34th session examined the Australian Government’s combined fourth and fifth periodic reports on 30 January 2006, and the Australian non-government organisation (NGO) shadow report on the Implementation of CEDAW, prepared by the Women’s Rights Action Network Australia and endorsed by more than 100 organisations, on 23 January 2006,

(iii) the shadow report acknowledged that there ‘have been clear improvements in the status of women during this reporting cycle’, but a number of challenges remain for women in Australia, particularly in the areas of violence against women, leadership and political participation, law and justice, housing and utilities, health, education, and economic security and employment, and

(iv) the shadow report makes a number of recommendations in each of these areas, noting changes which must be implemented if CEDAW is to be fully realised in Australia;

(b) congratulates all those involved in contributing to and compiling the Australian NGO shadow report; and

(c) calls on the Government to implement the recommendations contained in the shadow report before the Australian Government presents its combined fifth and sixth periodic reports to the CEDAW Committee in 2008.

Senator Humphries to move on the next day of sitting:

That the Joint Committee of Public Accounts and Audit be authorised to hold a public meeting during the sitting of the Senate on Thursday, 9 February 2006, from 10.30 am to 12.30 pm, to
take evidence for the committee’s review of Auditor-General’s reports.

Senator Brandis to move on the next day of sitting:

That the time for the presentation of the report of the Economics Legislation Committee on the provisions of the Future Fund Bill 2005 be extended to 28 February 2006.

Senator Ellison to move on the next day of sitting:

(1) That estimates hearings by legislation committees be scheduled as follows:

2005-06 additional estimates:

Monday, 13 February and Tuesday, 14 February and, if required, Friday, 17 February (Group A)

Wednesday, 15 February and Thursday, 16 February and, if required, Friday, 17 February (Group B).

(2) That the committees consider the proposed expenditure in accordance with the allocation of departments to committees agreed to by the Senate.

(3) That committees meet in the following groups:

Group A:

Environment, Communications, Information Technology and the Arts
Finance and Public Administration
Legal and Constitutional
Rural and Regional Affairs and Transport

Group B:

Community Affairs
Economics
Employment, Workplace Relations and Education
Foreign Affairs, Defence and Trade.

(4) That the committees report to the Senate on 28 March 2006 in respect of the 2005-06 additional estimates.

Senator Ellison to move on the next day of sitting:

That the continuing order relating to the allocation of departments and agencies to standing committees be amended to read as follows:

Departments and agencies are allocated to the legislative and general purpose standing committees as follows:

Community Affairs

Families, Community Services and Indigenous Affairs
Health and Ageing

Economics

Treasury

Industry, Tourism and Resources

Employment, Workplace Relations and Education

Employment and Workplace Relations
Education, Science and Training

Environment, Communications, Information Technology and the Arts

Environment and Heritage
Communications, Information Technology and the Arts

Finance and Public Administration

Parliament

Prime Minister and Cabinet
Finance and Administration
Human Services

Foreign Affairs, Defence and Trade

Foreign Affairs and Trade
Defence (including Veterans’ Affairs)

Legal and Constitutional

Attorney-General
Immigration and Multicultural Affairs

Rural and Regional Affairs and Transport
Transport and Regional Services
Agriculture, Fisheries and Forestry.

Senator Stott Despoja to move on the next day of sitting:
That the Senate—
(a) notes the final report of the Commission for Reception, Truth and Reconciliation in East Timor, which:
(i) provides a comprehensive analysis of Indonesia’s occupation of East Timor and the effect of this occupation on the Timorese people,
(ii) reinforces the right of the people of Timor-Leste to self-determination and challenges the role of the Australian Government in delaying the recognition of that right,
(iii) records the unlawful killings, enforced disappearances, forced displacement, detention, starvation and torture of the Timorese by Indonesian forces,
(iv) calls for reparations from Indonesia and other members of the international community such as Australia, ‘who looked the other way’ and thus ‘bear a portion of responsibility’ for the atrocities committed, and
(v) was delivered to the United Nations by Xanana Gusmao, the President of Timor-Leste on 20 January 2006; and
(b) calls on the Australian Government to:
(i) acknowledge its role in denying the people of Timor-Leste their right to self-determination and prolonging their suffering at the hands of Indonesian forces,
(ii) offer reparations to the Government of Timor-Leste in accordance with the recommendations made in the report,
(iii) encourage the Indonesian Government to ensure the delivery of reparations to the people of Timor-Leste, and
(iv) recognise the importance of reparations in assisting Timor-Leste to heal the wounds of occupation and rebuild a stable, democratic and well-functioning civil society.

COMMITTEES
Economics Legislation Committee
Meeting
Senator FERRIS (South Australia) (3.32 pm)—by leave—At the request of the Chair of the Economics Legislation Committee, Senator Brandis, I move:
That the Economics Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 9 February 2006, from 9.30 am till 11 am, to take evidence for the committee’s inquiry into the provisions of the Future Fund Bill 2005.
Question agreed to.
Selection of Bills Committee
Report
Senator FERRIS (South Australia) (3.33 pm)—I present the first report of 2006 of the Selection of Bills Committee.
Ordered that the report be adopted.
Senator FERRIS—I seek leave to have the report incorporated in Hansard.
Leave granted.
The report read as follows—
SELECTION OF BILLS COMMITTEE
REPORT NO. 1 OF 2006
1. The committee met in private session on Tuesday, 7 February 2006 at 4.19 pm.
2. The committee resolved to recommend—
That—
(a) the provisions of the Aged Care (Bond Security) Bill 2005, the Aged Care (Bond Security) Levy Bill 2005 and the Aged Care Amendment (2005 Measures No. 1) Bill 2005 be referred immediately to the Community Affairs Legislation Committee for inquiry and report by 27 March 2006 (see appendix 1 for a statement of reasons for referral);
(b) the provisions of the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2005 be
referred immediately to the Finance and Public Administration Legislation Committee for inquiry and report by 27 March 2006 (see appendix 2 for a statement of reasons for referral); and

(c) the provisions of the Family Law Amendment (Shared Parental Responsibility) Bill 2005 be referred immediately to the Legal and Constitutional Legislation Committee for inquiry and report by 27 March 2006 (see appendices 3 and 4 for statements of reasons for referral).

3. The committee resolved to recommend—
That the following bills not be referred to committees:
- Bankruptcy Legislation Amendment (Anti-avoidance) Bill 2005
- Financial Framework Legislation Amendment Bill (No. 2) 2005
- Fisheries Legislation Amendment (Cooperative Fisheries Arrangements and Other Matters) Bill 2005 [2006]
- Jurisdiction of Courts (Family Law) Bill 2005 [2006]
- Jurisdiction of the Federal Magistrates Court Legislation Amendment Bill 2005 [2006]
- Ministers of State Amendment Bill 2005

The committee recommends accordingly.

4. The committee deferred consideration of the following bill to the next meeting:
Bill deferred from meeting of 7 December 2005

(Jeanne Ferris)
Chair
8 February 2006

Appendix 1
Proposal to refer a bill to a committee
Name of bill(s):
- Aged Care (Bond Security) Bill 2005
- Aged Care (Bond Security) Levy Bill 2005
- Aged Care Amendment (2005 Measures No. 1) Bill 2005

Reasons for referral/principal issues for consideration
The industry is unsure of the potential liability that they are signing off to. The third bill is complex and requires inquiry.

Possible submissions or evidence from:
ASCA, ANHECA, CHA, ANF, HSU, LHMU, Professor Warren Hogan.

Committee to which bill is referred:
Community Affairs Legislation Committee
Possible hearing date: 3 March 2006
Possible reporting date(s): 30 March 2006

Appendix 2
Proposal to refer a bill to a committee
Name of bill(s):
Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2005

Reasons for referral/principal issues for consideration
The bill contains substantial changes to existing electoral practice and as a result should be considered in detail.

Possible submissions or evidence from:
Australia Electoral Commission

Committee to which bill is referred:
Finance and Public Administration Legislation Committee
Possible hearing date:
Possible reporting date(s):

Appendix 3
Proposal to refer a bill to a committee
Name of bill(s):
Family Law Amendment (Shared Parental Responsibility) Bill 2005

(continued)
Reasons for referral/principal issues for consideration

Further analysis required as to why the existing control of division of parenting by courts is not considered adequate; concerns that this bill will see parents’ interests take precedence over the best interests of children; the effect of introducing shared parenting as a starting point will jeopardise the safety of some children and their family members; and, how the new system would provide the right support for Indigenous communities, among other issues.

Possible submissions or evidence from:
Law Society of Australian and State and Territory Law Councils; National Legal Aid; the Federation of Community Legal Services; the Sole Parent Union; the Domestic Violence and Incest Resource Centre; the National Council of Single Mothers and their Children; Women’s Legal Services Australia; the National Abuse Free Contact Campaign; Women’s Safety After Separation; SPARK Resource Centre; and, the National Network of Indigenous Women’s Legal Services, among other groups

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

Possible hearing date:
Possible reporting date(s):
The Senate divided. [3.38 pm]
(The President—Senator the Hon. Paul Calvert)

Ayes…………... 31
Noes…………... 38
Majority………. 7

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

NOES
Abetz, E.  Adams, J.
Barnett, G.  Boswell, R.L.D.
Brandis, G.H.  Calvert, P.H.
Campbell, I.G.  Chapman, H.G.P.
Colbeck, R.  Coonan, H.L.
Eggleston, A.  Ellison, C.M.
Ferguson, A.B.  Ferris, J.M. *
Fielding, S.  Fierravanti-Wells, C.
Fifield, M.P.  Heffernan, W.
Hill, R.M.  Humphies, 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.

PAIRS
Bishop, T.M.  Kemp, C.R.
Stephens, U.  Watson, J.O.W.

* denotes teller

Question negatived.

SHEEP STUDY

Senator STOTT DESPOJA (South Australia) (3.42 pm)—I move:

That there be laid on the table by the Minister representing the Minister for Education, Science and Training, no later than the conclusion of question time on 7 February 2006, all data including analyses, any reports and conference papers relating to the sheep study (NLRD 309/2002, 20 February 2002) conducted by the Commonwealth Scientific and Industrial Research Organisation on the effect of transgenic peas on the immune response of sheep.

Question negatived.

GOVERNMENT APPOINTMENTS TO PUBLIC BOARDS

Senator MURRAY (Western Australia) (3.43 pm)—I move:

That the Senate, having expressed its view on 7 December 2005 that all appointments made by the Government to public boards, authorities and agencies should have regard to specific principles and criteria, calls on the Government to establish and publish principles and criteria governing all appointments to public boards, authorities and agencies.

Question negatived.

WEST PAPUA

Senator NETTLE (New South Wales) (3.43 pm)—I move:

That the Senate—
(a) notes:
(i) that elections for regional government in West Papua have again been delayed by the Indonesian Government,
(ii) reports of increasing human rights violations by the Indonesian military and militias in West Papua,
(iii) the recent arrival of 43 asylum seekers in Australia seeking refuge from persecution in West Papua, and
(iv) the renewal of joint training and cooperation between the Australian Defence
Forces and the Indonesian Kopassus special forces; and
(b) calls on the Australian Government to:
(i) suspend joint training and cooperation with the Indonesian special forces until a thorough and independent investigation of their involvement in human rights abuses in West Papua has concluded,
(ii) not sign on to any agreement between Australia and Indonesia that requires Australia to recognise Indonesian sovereignty over West Papua and remain silent about human rights abuses that occur in West Papua at the hands of the Indonesian military and militias,
(iii) work towards restoring human rights to the West Papuans,
(iv) facilitate a meeting between the Indonesian Government and the West Papuan independence movement, and
(v) respect the rights of the West Papuans to determine their own future.

Question put.

The Senate divided. [3.47 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes…………. 8
Noes…………. 46
Majority………. 38

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

* denotes teller

Question negatived.

COMMITTEES

Rural and Regional Affairs and Transport References Committee

Extension of Time

Senator SIEWERT (Western Australia) (3.52 pm)—I move:

That the Rural and Regional Affairs and Transport References Committee be authorised to hold a meeting during the sitting of the Senate on Wednesday, 8 February 2006, from 4.30 pm, to be briefed by a panel of experts in relation to the committee’s inquiry into water policy initiatives.

Question agreed to.

BUDGET

Proposed Additional Expenditure

Consideration by Legislation Committees

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.53 pm)—I table the following documents:

Particulars of proposed additional expenditure in respect of the year ending on 30 June 2006 [Appropriation Bill (No. 3) 2005-2006].

Particulars of certain proposed additional expenditure in respect of the year ending on 30 June 2006 [Appropriation Bill (No. 4) 2005-2006].

Senator ELLISON—I seek leave to move a motion to refer documents to legislation committees.

Leave granted.

Senator ELLISON—I move:

That—

(a) the documents I have just tabled, together with the Final Budget Outcome 2004-05, which was presented out of sitting on 28 September 2005 and tabled on 5 October 2005, and the Advance to the Finance Minister as a Final Charge for the year ended on 30 June 2005, which was tabled on 7 February 2006, be referred to legislation committees for examination and report; and

(b) consideration of the Issues from the Advance to the Finance Minister as a final charge for the year ended 30 June 2005 in committee of the whole be made an order of the day for the day on which legislation committees report on their examination of the additional estimates.

Question agreed to.

Portfolio Additional Estimates Statements

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.54 pm)—I table portfolio additional estimates statements 2005-06 for portfolios and executive departments in accordance with the list circulated in the chamber.

COMMITTEES

Scrutiny of Bills Committee
Alert Digest

Senator GEORGE CAMPBELL (New South Wales) (3.54 pm)—On behalf of the Chair of the Standing Committee for the Scrutiny of Bills, I present Scrutiny of Bills Alert Digest No. 1 2006, dated 8 February 2006.

BUDGET

Consideration by Legislation Committees

Additional Information

Senator FERRIS (South Australia) (3.55 pm)—On behalf of the respective chairs, I present additional information received by the Community Affairs and the Environment, Communications, Information Technology and the Arts Legislation Committees relating to hearings on the 2005-06 budget estimates.

ABORIGINAL AND TORRES STRAIT ISLANDER HERITAGE PROTECTION AMENDMENT BILL 2005 [2006]

Report of Environment, Communications, Information Technology and the Arts Legislation Committee

Senator FERRIS (South Australia) (3.55 pm)—On behalf of the Chair of the Environment, Communications, Information Technology and the Arts Legislation Committee, Senator Eggleston, I present the report of the committee on the provisions of the Aboriginal and Torres Strait Islander Heritage Protection Amendment Bill 2005 [2006] together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

GENETICALLY MODIFIED FOODS

Return to Order

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.56 pm)—I present documents in relation to the Senate order for production on genetically modified foods. However, due in part to the volume and complexity of the request, the documents relating to FSANZ application No. A484 were not able to be made available today. While they are not part of the current batch of documents, the government intends to have them made available as soon as practicable.
COMMITTEES
Membership
The DEPUTY PRESIDENT—A message has been received from the House of Representatives notifying the Senate of the appointment of Mr Lindsay to the Joint Standing Committee on Electoral Matters in place of Mr Anthony Smith, and Mr Anthony Smith to the Joint Committee of Public Accounts and Audit in place of Mr Baldwin.

BUSINESS
Rearrangement
Senator ALLISON (Victoria—Leader of the Australian Democrats) (3.58 pm)—by leave—On behalf of Senators Nash, Moore and Troeth, I move:

(1) That the time allotted for the remaining stages of the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005 be as follows:

<table>
<thead>
<tr>
<th>Stage</th>
<th>Time Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Second reading</td>
<td>commencing immediately until 11 pm today; from not later than 10 am until 1 pm on Thursday, 9 February 2006</td>
</tr>
<tr>
<td>Committee of the whole</td>
<td>from not later than 3.45 pm until 4.25 pm on Thursday, 9 February 2006</td>
</tr>
<tr>
<td>Third reading</td>
<td>from not later than 4.25 pm until 4.45 pm on Thursday, 9 February 2006</td>
</tr>
</tbody>
</table>

(2) That this order operate as an allocation of time under standing order 142.

Question agreed to.

Senator Fielding—I would like it recorded that Family First voted against the motion.

THERAPEUTIC GOODS AMENDMENT (REPEAL OF MINISTERIAL RESPONSIBILITY FOR APPROVAL OF RU486) BILL 2005
Second Reading
Debate resumed from 8 December 2005, on motion by Senator Nash:
That this bill be now read a second time.

Senator NASH (New South Wales) (4.00 pm)—I rise today to speak in continuation on the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005. In 1996, this parliament allowed an amendment to the Therapeutic Goods Act 1989. That amendment made the minister for health ultimately responsible for decisions in relation to the importation, trial, registration and listing of RU486 and other abortifacients rather than the Therapeutic Goods Administration, the statutory body usually responsible for the approval 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. In 2006, we are 10 years on and there is much more data available. RU486 is now approved in 35 countries, including the United States, New Zealand, France, Israel, Sweden, Russia, Turkey, Tunisia and Britain, but not Australia.

As a senator for the people of New South Wales, my role is to strive to ensure that policies are in place for the benefit of the people I represent. My role is to ensure that I remain open-minded, prepared to consider all views and ideas, in order to provide the best possible outcomes for those people. It is often not an easy task to pursue an idea that may be perceived to be difficult. Yet, when there is a sense of purpose, when you know that encouraging debate on an issue of im-
I draw to the attention of the Senate the fact that this bill has been co-sponsored by a Liberal senator, a Democrat senator, a Labor Party senator and me, a member of The Nationals. This is not about party policies. This is about four senators in this place as individuals, with enormous support, who believe, regardless of belonging to different parties, that passing this bill is the right thing to do. I am advised that this is the first time in the history of this place that four members of different parties have co-sponsored a private senator’s bill. I think it brings great strength to the bill that, regardless of our individual philosophies and ideologies, we are united in our belief that passing this bill will be of benefit to people in this country.

I want to very clearly outline what this bill is about. There has been much emotive debate surrounding the issue of RU486. It is important that people have a very clear understanding of the intent of this private senator’s bill regarding RU486 being debated here in the Senate this week. This private senator’s bill was introduced as a result of growing concern that the approval process for drugs such as RU486 was inadequate and that there was a need for a debate regarding that process.

This bill is not about abortion. While the issue of abortion is very difficult and very sensitive—and I respect people’s right to hold the views they do regarding that issue—this bill is not about abortion. Let me explain. We live in a society in which termination is lawful. While we would all like to see as few abortions as possible and we would all like to see much greater education and prevention of unwanted and unplanned pregnancies, we have to deal with the fact that terminations do occur. We also have to acknowledge the fact that, in this nation, we have already had the moral debate about abortion, and the outcome was that termination is lawful. It is lawful under state and territory laws across this land and has been so since the 1970s.

This debate is not about being pro choice or pro life. Those who argue on that basis have misunderstood the intent of this bill. This bill is about whether a method of termination should be allowed to be assessed by the Therapeutic Goods Administration to determine if it is suitable for use in Australia. In spite of those who try to make it more complex, it is as simple as that. This bill is about whether the health minister of the day or the Therapeutic Goods Administration should be responsible for deciding the quality, safety and efficacy of this drug and other abortifacients.

There has been some argument that the responsibility should remain with the minister as there is a necessity for parliamentary scrutiny of this drug because it is related to abortion. Can I point out that it is not parliamentary scrutiny; it is the scrutiny of one minister—the health minister of the day. The minister does not have to inform the parliament if he or she rejects an application for approval of a restricted drug, and, if a drug is approved, the only requirement of the minister is that he or she informs the parliament within five sitting days.

The argument has been put during this debate that the use of restricted drugs such as RU486 is a social policy issue and therefore needs the approval of the minister. I would argue that the social policy issue was determined with the changes to the laws in our states and territories that allowed for lawful termination. This is not a social policy issue. This country has had that debate. This is about determining whether or not a particular method of termination is suitable for use in this nation.
The question is: who is best able to assess this drug? In what has become a very emotive debate, the heart of the debate—indeed, the crux of this bill—is who is best able to assess it. I would put to honourable senators and to the people of Australia that it is the Therapeutic Goods Administration. There is no one person in this parliament who is qualified to make clinical and/or therapeutic judgments on this drug. If we take the premise that the debate about abortion has been had and the result was lawful termination then we should be allowed to assess methods for that termination.

I am not going to stand here today and argue as to the safety of this drug. There is a deluge of information on the safety or otherwise of RU486. Depending on what you read, you could be equally convinced that it is either completely safe or completely unsafe. Reading information from the internet does not give us the ability as legislators to determine the safety of this drug—or, indeed, of any drug. I can assure you that I do not have the qualifications or ability to assess the quality, safety and efficacy of this drug. And that is exactly the point of this bill. As I said earlier, I do not believe that any of my colleagues in this place—or indeed in the other place—have the ability to do this either. And I do not believe that any of my colleagues in either place could, in all honesty, disagree with me on that. The ability to assess the quality, safety and efficacy of this drug rests with the Therapeutic Goods Administration.

I have listened very carefully to all sides in this debate. I have read carefully and studied the views of the community. I have listened to those who attended the Senate committee inquiry, and I respect the views of all of those people. However, one of the views of those that are against the bill is that they do not believe that RU486 is safe. There is much varied literature regarding this drug but, as I said before, there is much information supportive of both sides in this debate. As Benjamin Disraeli said, there are three kinds of lies: lies, damned lies and statistics.

Those who are against the use of RU486 because they are concerned about the safety aspects of these types of drugs should not be concerned about supporting this bill. This bill does not say that RU486 should be used in this country. This bill does say that the Therapeutic Goods Administration should be allowed to assess the drugs in this category. Those people who have concerns about safety should welcome the assessment by the TGA if they are so sure that this drug is unsafe. If their concerns about safety are correct then the TGA would not approve the drug for use in Australia.

There have been concerns put forward that RU486 would lead to an increased incidence of abortion. These concerns are unfounded and could not be substantiated by any submission or witness to the recent Senate committee inquiry into this bill. There have also been concerns put forward about the ability to safely administer the drug in rural areas, saying that the circumstances were not appropriate for use in those areas. Quite frankly, I think this is an appalling slight on our rural medical practitioners. If a situation was not suitable for a woman to use RU486, quite simply the practitioner would not prescribe it.

The Therapeutic Goods Administration is trusted by this government to ensure that medicines and medical devices used in this country are of a very high standard and at least equal to, if not better than, that in comparable countries. We have a TGA that is highly regarded the world over. The government turns to the TGA to ensure that the delivery of medicines and medical devices in this country is of the highest possible standard. According to the Therapeutic Goods Administration’s 2004-05 annual report,
49,343 items were listed on the Australian Register of Therapeutic Goods.

Can I just say on that that there has been some argument about RU486 not being therapeutic as it does not treat a disease. I would argue that the Therapeutic Goods Administration assesses many drugs that are not for a disease—for example, the oral contraceptive pill—and it also assesses medical devices such as prosthetic joints, intrauterine devices, medical gloves, syringes, condoms and disinfectants. Many of those who oppose this bill are letting the words used in the name of the body most able to assess this drug cloud the fact that the Therapeutic Goods Administration is indeed the body most able.

We trust the Therapeutic Goods Administration to evaluate and monitor around 50,000 items for the people of this nation, often dangerous drugs, and we believe they will do it safely and effectively. Yet the opponents of this bill are saying that the TGA does not have the ability to determine the quality, safety and efficacy of eight particular drugs because those eight drugs fall into a restricted category. That is eight drugs out of almost 50,000 items that we entrust the TGA to put on the Australian Register of Therapeutic Goods. Those drugs are alprostadil, carboprost, dinoprost, dinoprostone, gemeprost, mifepristone, misoprostol, prostaglandins and vaccines against human chorionic gonadotrophin. We are saying at the moment that the TGA has the ability to assess and approve 49,343 drugs, items and devices—but not those eight.

There are those that say the TGA does not have the ability to make a moral evaluation of the social issues surrounding the drug RU486 and others like it. The Therapeutic Goods Administration does not need to have that ability. The moral evaluation of the social issues has already been done in the debate in this nation that led to termination being lawful. How can we say that, in a society where termination is lawful, we will allow surgical termination and yet we will not allow medical termination to even be assessed? It is illogical.

There have been, and will be, many speakers on this bill. There will be many different points of view; there will be many different arguments. There will be emotive arguments. What I ask is that we look at this bill for exactly what it is: a bill that would allow a method of termination to be assessed by the Therapeutic Goods Administration, the only body properly qualified to do so in a society where we have agreed that termination is lawful. I urge senators to support the bill.

Senator TROETH (Victoria) (4.15 pm)—As my colleague Senator Nash has said, the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005 seeks to remove responsibility for approval for abortion drugs, particularly RU486, from the purview of the Minister for Health and Ageing and return it to the Therapeutic Goods Administration. I am a co-sponsor of this bill in the Senate. I believe strongly in the reasons for this bill and I will be voting for it. As Senator Nash has said, we must separate politics from medical decision making. In 1996, amendments to the Therapeutic Goods Act were passed that placed medications such as RU486 in a special group of drugs known as restricted goods. According to these amendments restricted goods cannot be evaluated, registered, listed or imported without the written approval of the Minister for Health and Ageing. RU486 is the only medicine that is subject, as far as I know, to the restricted goods condition.

It is interesting to note that the act, as it was amended in 1996, also effectively
banned the entry of RU486 into Australia not only for use as an abortifacient but also for a number of other possible uses such as an emergency contraceptive, in the treatment of some breast and brain tumours, and as treatment for endometriosis and irregular bleeding. In any case, prescription of this drug will lead, we hope, to a wider choice of drug for the medical profession and the alleviation of suffering for patients. Medicines used for any purpose other than abortion are evaluated and regulated by the Therapeutic Goods Administration and do not require additional approval from the minister.

What does the TGA do in this process? It is charged with identifying, assessing and evaluating the risks posed by therapeutic goods that come into Australia. It applies any measures necessary for treating the risks posed and monitors and reviews the risks over time. The TGA is a responsible professional body and it is regarded by the government, and I would imagine by the entire scientific community within Australia, as being qualified to manage the risks.

It is also necessary for the purposes of this debate to know that there is a group called the Australian Drug Evaluation Committee which, together with the TGA, makes the recommendations on who can prescribe the drug, how it can be used, and under what circumstances it can be used, and it can also apply any measures necessary for treating the risks which are posed. That particular group is made up of clinicians and key medical experts and it is appointed by the Minister for Health and Ageing. Its brief includes: the quality, the risk benefit, the effectiveness and access within a reasonable time of any drug referred to it for evaluation as well as medical and scientific evaluations of applications for registration of prescription drugs. It also provides services to other government departments, committees and community based organisations on a wide variety of regulatory matters related to prescription medicines. This group has particular professional qualifications in clinical medicine, pharmacology, toxicology or general practice. It has six core and 16 associate members and the review process is exhaustive. The group looks at all sides of the issue, examining the conditions of manufacture, the clinical impact and, of course, the safety of the drug.

Against this scenario of objective scientific measurement we have the view that responsibility for approving the drug should lie with an elected member of parliament, who is also the health minister. It is not that I object to the present holder or indeed any holder of that office personally. It is simply that I do not believe that any of my esteemed colleagues in their particular career as members of parliament have the required scientific knowledge to assess any drug in the considered and stringent way that we accept drugs should be assessed in Australia. Even with expert advice, which I have no doubt is offered to the minister within his office, the decision still rests with the minister and I do not agree, and have never agreed, that that is a desirable aspect.

While I would like to confine this particular debate to the removal of power from the minister to the Therapeutic Goods Administration, I accept that inevitably, because of the results of this drug being used, we will enter into the wider abortion debate. There have been claims that approval for this drug—assuming that it is approved—will lead to ‘do-it-yourself’ abortions, as they have been termed, and ‘backyard abortions’, which is another term, and that it will make abortion too easy. There is nothing easy about abortion.

Abortions must comply with state laws, or the procedure thereof, and they must require medical oversight and approval—and that is
so, whether the procedure is medical or surgical. A woman will still be required to satisfy the same tests to have a lawful termination using this drug as she would with a surgical termination. It is my belief that the Therapeutic Goods Administration would place caveats around the use of this drug so that it would be used under proper, lawful medical supervision and so that the dreadful scenarios that have been put to us by opponents of this bill are simply fairytale stuff.

If this drug is approved, Australia will join other countries where it has been approved for use: the United Kingdom, the United States, much of western Europe, Russia, China, Israel, New Zealand, Turkey and Tunisia. As well, other scientific bodies that are within Australia, such as the Australian Medical Association, the Royal Australian and New Zealand College of Obstetricians and Gynaecologists and the Rural Doctors Association of Australia, all endorse the use of RU486 for medical termination of pregnancy.

I live in Victoria and I subscribe to the Menhennit ruling, made some 35 years ago, that abortion is legal to satisfy concerns about the health of the mother. And, by and large, that particular tenet is subscribed to by most state governments. Most Australians accept that particular status quo. What we are debating here today is the way in which one of the avenues to reach that objective is to be regulated. As my colleague Fiona Nash has said, this is not a debate about abortion; this is a debate about one of the procedures that we would like to offer as a choice to women, should they contemplate that particular choice of dealing with their pregnancy.

So, what are we to do? Are we to have the safety and efficacy of an internationally used drug determined by an objective science and evidence based national authority? The choice is to be made by the Senate. I know my choice, and I will be voting for the bill.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (4.24 pm)—The Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005 is not about whether or not abortion is or should be legal. That issue was resolved decades ago by every state and territory government in the country, and women can terminate unwanted pregnancies provided they meet the criteria set out in those state laws.

This bill is not about the morality, the desirability or otherwise of abortion. It is not about whether women are wilfully having abortions when they should not or just because it is available to them. It is not about feminism or whether the clinics, public and private, are acting out of self-interest—and, believe it or not, some people say so. It is not about whether women can or should be coerced into motherhood or harassed and shamed out of terminating the pregnancy. It is not about the intimidation women experience from protesters outside clinics photographing them and accusing them of murdering children.

Laws and regulations do not change a woman’s determination to terminate an unwanted pregnancy, even if they do not protect her from this kind of intimidation. They just affect the safety and the quality of the experience. It is not about the safety of RU486. If it were, there would be no reason not to rely on the TGA’s assessment of the risk. It is not about the current rate of abortion and how to get it down. The current rate is 75,000 to 80,000 a year, and dropping by all accounts. It is numerically lower than it...
was 30 years ago in this country, when there were very many fewer women here.

We have the figures for Scotland, Sweden, England, Wales, Switzerland and other countries where overall abortion rates did not increase following the availability of RU486. After the introduction of RU486 in New Zealand, our nearest neighbour, in 2004 there was a very small decrease for the first time in seven years. Of course it would be good to reduce the number of unwanted pregnancies—there is no question about that—and the need for abortion that arises from those unwanted pregnancies. But there is no cause to panic. It has nothing to do with ethics, the absence of values in schools, women’s careers, the rights of the unborn or dodgy anti-abortion government funded pregnancy counselling.

Let us be frank. This debate is taking place because a very small number of determined Australians think that by defending the ministerial veto on RU486 there is a chance that abortions—a dozen, 100, maybe only one—can be stopped. I respect them for their tenacity and their conviction, but they are wrong and they represent the less than 10 per cent of the general population that holds that abortion should not be available to women, regardless of the method. No amount of push polling, or selective, creative interpretations of history, or manipulation of statistics or studies changes the fundamentals. Abortion is legal in this country. Democratically elected men and women in state and territory parliaments made laws with regard to abortion and the criteria that must be met to terminate a pregnancy—and they did this 30 years ago.

Women cannot and should not be coerced into motherhood against their will. Difficult as abortion is, women have terminated unwanted pregnancies throughout history, in all countries and in all cultures. Women have put their lives at risk rather than bear a child that they cannot rear, and there are numerous compelling and often complex reasons for this. Some women only discover when they are pregnant that they have a gynaecological cancer, and can lose not only their pregnancy but also their chance of ever conceiving again.

Parenting is not easy. It is no piece of cake if you are low paid, if you are in insecure work, if your partner is violent, if you have a serious anxiety disorder, depression or a disability, if you are in poor physical health, if you are single with two kids who are already a handful, or if your parents would banish you as an unmarried mother. The risks of having an unwanted pregnancy are high. There are many years between puberty and menopause. For typical women in sexual relationships for most of their 30 or so reproductive years, pregnancy is a possibility every single month, and that adds up to around 400 occasions in a lifetime. Sixty per cent of women seeking terminations were using contraception that failed.

The Reverend Dr Dean Drayton of the Uniting Church said this week:

The decision to have an abortion is not just a moral issue but a social one. While the current debate attempts to pass moral judgement on the act itself, it ignores the many emotional, physical, financial and social issues that often create a situation where a woman is forced to consider an abortion.

The Uniting Church hopes that those engaged in this debate do not lose sight of the complexity of the issues.

This is why it is galling listening to the men—and it is mostly men—who have such contempt for women who terminate unwanted pregnancies, who have neither compassion nor understanding of the huge and, for many, daunting task of taking an embryo the size of a grain of rice to adulthood. It is okay for people to hold particular ethical or
religious views that lead them to oppose abortion but it is not okay for them to impose their position on others who do not. Women are fully human. We will act on our own set of values and can be trusted to make reproductive health decisions for ourselves or to share those decisions with those we trust. An estimated one in three women have had an abortion, and I am one of them.

Fortunately, this bill is not about any of these things. The bill is quite simple. It removes the responsibility for approving the use of the abortion pill in Australia from the health minister and moves it to the agency that approves all other pharmaceuticals, the Therapeutic Goods Administration. Opponents of this bill have suggested that the TGA is not capable of correctly assessing the safety of RU486 and, by implication, that the Minister for Health and Ageing is. Both assertions are completely wrong.

The minister says that doctors cannot be trusted to use the drug properly, but doctors in the World Health Organisation, the Royal Australian and New Zealand College of Obstetricians and Gynaecologists, the Australian Medical Association, the Public Health Association of Australia, the Rural Doctors Association of Australia, the UK Royal College of Obstetricians and Gynaecologists, the International Federation of Gynaecology and Obstetrics, the US Food and Drug Administration, the American Medical Association and the American College of Obstetricians and Gynaecologists say that RU486 should be available to women as a safe alternative to surgical abortion, used in accordance with appropriate medical guidelines and supervision.

RU486 enables women to abort very early in pregnancy—indeed, as soon as the pregnancy is confirmed. Surgical procedures cannot be done before six weeks. It is ironic, I think, that opponents of abortion and RU486 also campaign against late term abortions but are silent on this benefit of this abortifacient.

But the key question here is who has the expertise to make a judgment about the safety and efficacy of a drug that is used for legitimate purposes. The current law not only gives the minister for health a veto over the availability of RU486; it specifically prohibits the assessment of safety and efficacy by the TGA before the minister decides. What a ridiculous system we have! How is the minister to make his decision without the input of the agency that has the expertise to do the assessment—particularly a minister who has no training in either science or medicine and who, I point out, is not a woman? The minister is not required to use any particular criteria in making his decision. The only process set out in the legislation is the requirement to inform the parliament if he approves an application, which will then go on to be assessed by the TGA.

The current minister’s opposition to any change has sent a clear message to possible sponsors of the bill: ‘Do not bother.’ So for 10 years none has, until now. Professor Caroline de Costa made an application to use RU486 for her patients, under the practitioners scheme. That process should take two to three weeks, but, six weeks later, she still has not heard back from the TGA. Other doctors have done likewise; they have made similar applications.

We have heard a lot about the importance of the parliament’s role in all of this, but the truth is that it has no role whatsoever. The decision is not disallowable, cannot be amended and is not open to challenge by parliamentarians or sponsors or women affected. There is no debate in this place. In fact, the parliament will not be informed of the reasons for the decision and will not even hear about it if the application is rejected.
RU486 is not a do-it-yourself, home alone option, as some would suggest, although many women choose RU486 because they see privacy and being in control as being advantages over surgical termination under anaesthetic. Supervision by a doctor is a must, as is access to emergency medical services. Everyone agrees with that. This bill does not change existing laws on abortion in Australia. If RU486 were made available, women and doctors would still need to comply with the relevant state criminal codes regulating the procedure.

It is not only women who may want to use the drug to terminate a pregnancy who miss out. RU486’s antiprogesterone action may be a useful therapy for conditions that include inoperable meningioma, Cushing’s syndrome, breast and prostate cancer, glaucoma, depression, endometriosis and uterine fibroids. Unfortunately, because of the current situation, Australians with these conditions miss out on access to this drug or are forced to cope with intolerable delays in trying to get that access. It is not enough to say that the current legislation allows RU486 to be imported under its special access scheme. In practice the scheme is unworkable. Doctors are worried about being involved in supplying a drug that the TGA has not been able to evaluate—and therefore for which it has not provided the normal assurances about drug use on which doctors depend for their indemnity requirements.

RU486 is safe and effective—not 100 per cent. No drug can claim that. Many other drugs are freely available but have many more side effects and pose much greater risks to the users. The opponents of this bill have made much of the small number of adverse effects associated with the drug, but I urge senators to look at the data carefully. At the end of the day, I urge them to make no judgment about the safety. That is the job of the TGA. No-one in this chamber is qualified to make that judgment, and they should not. All safety is relative, and risks are always weighed against benefits. So, for the sake of Australian women, I urge senators to support this bill.

Senator MOORE (Queensland) (4.36 pm)—Many speakers in the first part of this debate on the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005 will make similar comments. There is much that I am going to say that has already been said, so I will try to amend my comments. It is important that, when we have any bill before our parliament, people understand exactly what the terms and nature of the legislation are. I hope people have taken the opportunity over the last several months to read the bill and the explanatory memorandum and to understand exactly what this debate is about. It is not a national referendum on the rights or wrongs, legality or morality of a woman’s right to choose to abort. In fact, it seeks to clearly identify for all our community where the appropriate assessment process for the safety, efficiency and quality of a medication should be.

There has been no attempt to hide the purpose for which this medication would be used. In fact, throughout the evidence we have seen much information, medical and social. It has been from people who have used different forms of abortion treatments and people who are deeply opposed to that form of treatment—but people who wanted to have a say in the debate. My concern is that I am not quite convinced that the bill was the debate.

It is clear that there is an overwhelming interest in the safety of Australian women, and that is something that we all share. One positive aspect to come out of the volume of correspondence that we have all received and the level of interest is that there is an agree-
ment that women in Australia must be safe and they must have safe choices. What we have before us to consider as a voting parliament is the assessment process.

Four women from across party backgrounds have combined to put before the parliament a private member’s bill. We believe that we should reaffirm the right of the Therapeutic Goods Administration, the TGA as it is commonly called, to do the job for which it was established, for this particular group of medications. We talk mainly about RU486 because that is the drug that is most commonly known and that was most spoken about in the previous discussion in this place in 1996 when the amendment was first introduced. It did not refer, and does not refer today, only to RU486 but to a group of medications, as is public information and available on the internet. There is no confusion about that. But in common parlance throughout this debate and the correspondence process people have focused on RU486.

We have heard from previous speakers and no doubt we will hear in the future exactly what the role of the TGA is. Again, I really encourage people in this debate to look at the information and to find out what our TGA does. That would be a positive step. How are medications evaluated in this country and by whom? Exactly what processes are used? What follow-up is done? What roles do the various expert panels, which Senator Troeth described, have? Who takes positions on those panels? The key positions in the TGA are by ministerial appointment, so there is an acknowledgement that there is that link with the parliament. You do not wake up one morning and find yourself on an expert panel for the TGA. There is some expectation that you have gained that position through the community, through your scientific expertise and through your knowledge of the issue.

Our TGA is widely regarded and respected, not just in Australia. After all, about 50,000 medications have been viewed and assessed by this body—and I will not name them all; they are there on the website. You can find exactly what medications Australians are able to access after the TGA has fulfilled its role to ensure that they meet the safety, efficiency and quality expectations of our community.

What we are asking in our bill is that that expectation is extended to the group of medications that are used mainly for abortion. And that is the key difference in the debate. It has been the key difference in all the correspondence we have had. That has been what some people want the debate to be about. As I have said before in this place, if that is what people want to debate, bring it forward and have that debate. Have another debate at this level—I am not quite sure what the methodology would be—in this place about whether Australians want or support the right of women in the country to choose.

One of the things I have found most confronting through the last few months is how many people want to tell me what most Australians want, how many tools they are able to bring forward to tell me what most Australians want and how many tools people are prepared to bring forward in their letters, emails, submissions and evidence that absolutely prove the comments they are making. But when you actually dig deeper, you find that people need more information and they sometimes do not really fully understand the information they are quoting with conviction.

One of the senators on our panel used to ask the people who came before us: ‘This particular amendment was put forward in 1996; we have lived with it for 10 years; what is different now?’ We have moved with, amongst other things, the increase in world-
The clearest message for me out of all of it was that we need to have this large volume of evidence efficiently and independently assessed. As has been said by previous speakers, this parliament is not the place for that form of medical assessment to be done. That kind of decision must be appropriately referred to the government body which has been designed to fulfil that role—and is seemingly quite confidently able to fulfil that role for all other medications in the country.

To the people who raised questions about the efficiency, funding and processes within the TGA, my response is that if they have concerns about how the TGA operates then those concerns are valid for all medications. As some witnesses—not many—have raised concerns in this inquiry about the ability of the TGA to fulfil its role with regard to safety, efficiency and quality, perhaps what we should do is review the funding for and the processes within the TGA. I do not believe that is necessary. Instead of using that particular lever in making those arguments, we should be ensuring that we are absolutely confident with the Therapeutic Goods Administration on all levels. The feedback that we get from international sources and also from the various medical bodies in this country—many of whom felt that it was important that they give evidence to our inquiry—is that they have that faith. They also believe that there has to be effective interaction between the medical practitioners and the TGA accreditation body.

A major concern was raised in the recent inquiry about the group of drugs listed as a result of the amendment passed in this place in 1996. If the major concern about that group of medications identified in this bill is their safety, surely that should be able to be assessed by the body which is qualified to do the assessment for all other medications. A clear message out of the inquiry should be the reinforcement of the role of the TGA. Surely we would be able to agree on that.

However, if the difference goes deeper than that and is specifically about the usage of the medication, there will be no agreement. There cannot be agreement on that issue, because the evidence, the passion and the emotion around the issue of abortion in this country continues to be great. I believe that none of that debate was unexpected by the people putting up this particular private member’s bill. However, that is not reason enough not to put forward the bill. What we need to do is to take up our responsibility as elected members of parliament and see what we can do to ensure the safety of Australian women. The debate must reinforce the role of the TGA to ensure that Australian women have effective and safe choices, and our community must ensure that they are treated with respect and have their judgments respected.

It is not good enough that people are prepared to impose on others their particular views and ideas about what is right. A question that I consistently asked people who came before our committee who were in the medical profession and who were giving evidence about their concerns about the
safety of RU486 was whether there was anything in the proposed legislation that would force them to use this particular medication. Where was the compulsion to use this process? There is none. The amendment that we have put before the parliament carries no compulsion. The amendment that we have put before the parliament gives clear responsibility to a group that has been developed for that job.

I do not think it would have been possible to have this full debate without getting into the debate about abortion in Australia. However, when we are considering this particular piece of legislation we must move away from those issues and focus on the safety and medical aspects. I know that is difficult. I know that there are people in the community who have made cases that the particular use of this drug means that there is an extra role for elected politicians. I do not agree with that premise. As has been said before, the legality or otherwise of abortion is determined at the state government level. Various parliaments have passed various rules about that. It is important that our community fully understands that. The issues about the morality of the drug lie with individuals. People must have the freedom and the respect to make up their own minds on those issues. I am hopeful that there is the degree of respect in our community to allow those decisions to be taken with freedom and independence.

I am concerned that so many people who wished to have their say in this debate were unsure about the exact terms of the debate. They are still confused about whether or not we are looking at legalising RU486. They are still concerned about anything that we will be doing in this particular process that would in any way force people to take actions with which they would not be comfortable, I ask that those people who are involved in this debate please read the legislation. Ask the questions. Do not confuse this debate with one that you may wish to have. This is not the time or the legislation.

I want to acknowledge some of the people who are in the gallery who have been working in women’s health for many years and who have been deeply involved in these discussions. It is important that in processes like this their voices are heard.

After this round of debate, we will have more. Regardless of how the vote goes tomorrow afternoon in this place and in the House of Representatives, the discussion will not end. No piece of legislation, no amendment, remains unchanged. There is nothing in our democracy that should be outside the ability to be reviewed by this parliament; by any parliament. In terms of how we do it, however, what I hope is that we can learn through this process that we can discuss difficult issues and are able to have very serious disagreement. All of us would acknowledge that the last few public hearings have not been the easiest things to get through, but we have survived. One of the messages out of this process should be that we can have these debates and that we are mature enough to be able to have different perspectives yet clearly understand what our roles are.

At this time, I seek leave to table a series of petitions on this issue that we received yesterday, which I have passed through the two whips.

Leave granted.

Senator MOORE—I will read what the topic is—what people were signing. These petitions were clearly on the topic of the legislation. They say:

We, the undersigned, believe medical experts, not the Federal Health Minister, should determine the availability of RU486 in Australia.

My hope and expectation, in terms of our democratic system, is that people who are prepared to put their names to these petitions as well as the letters and statements have
fully read the legislation and understood what it was about. My hope is that this debate will ensure that the people of Australia will fully read the legislation and understand the real issues.

The Google aspect of this process should be admired, because it means that people have taken an interest. I think the degree of interest surely reinforces the need for appropriate medical, safety and efficiency assessment so that our goal to ensure that women are safe is obtained and that we in parliament are able to appropriately do our job, not pretend that we know what all Australians want, nor that we know what should happen and that we have any special ability by being elected to this place to have skills beyond our own knowledge—and that includes being able to assess medical safety, regardless of how knowledgeable we are in other ways. I commend the people who made the effort to be part of the process, to contact the senators and to be involved, but I beg that you actually understand and accept what we are debating and do not get confused with some other debate.

Senator HUMPHRIES (Australian Capital Territory) (4.54 pm)—I rise today in this debate to comment both on the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005 which is before the chamber and on the report into this legislation which was tabled by the Senate Community Affairs Legislation Committee earlier today. Let me say at the outset that this inquiry was very difficult. It, superficially, examined a fairly simple question—and that is whether the decision about the availability of particular abortifacients in Australia should be a decision made by the Minister for Health and Ageing or a decision made by the Therapeutic Goods Administration of Australia. In practice, of course, it was impossible in the course of this inquiry to separate that simple question from the complex political, ethical, religious and moral issues which are associated with abortion. This minefield issue was further complicated by the relatively short reporting period that the committee had to deal with, coinciding with the Christmas-New Year period. Senators made particular efforts to comprehensively cover the issues confronting them in the course of this inquiry, notwithstanding those impediments. I particularly want to take the opportunity to thank senators on the committee for accommodating my personal travel requirements during that period of time.

What we have in front of us with this report is, notwithstanding those limitations, a comprehensive assessment of the evidence that was given to the committee by both sides of this debate about the operation of RU486 and the impact it would have on Australian medicine if it were to be legalised for use as an abortifacient. We have distilled the essence of nearly 2,500 submissions and letters to assist senators in making a decision on this legislation. In accordance with previous issues before Senate committees which were of an ethical or moral character—issues such as human cloning—the committee has made a decision not to make a recommendation about the bill itself. It has not decided to recommend that the Senate should either support or oppose the legislation. What it has done instead has been to give the arguments surrounding this issue clear understanding and articulation so that it is possible for senators unfamiliar with issues surrounding the operation of this particular drug to better understand what it is that they are voting on. Given the ethical and moral overlay relating to abortion that I spoke about before, it would have been quite pointless to have attempted to go beyond that point.

I hope that senators in the short time available will have an opportunity to read this report. Despite the fact that the report
makes no finding on the bill, all the participants in the inquiry did form very strong views about the bill itself. My view is that the bill is a mistake and should not be supported. That view is not based on a particular view about the risks associated with RU486. I acknowledge that a very sizeable body of evidence about the risks associated with the use of RU486 in this country and elsewhere was placed before the committee. In many respects there is a need for further and better data about the operation of this drug, and those issues about the effects of the use of this drug on women’s bodies are issues which could be properly placed before the Therapeutic Goods Administration. In that respect I do not subscribe to the view put to the inquiry that the TGA is incompetent or ill-equipped to make an assessment of the physical properties—the medical risks—associated with the use of this drug in Australia.

However, the point is this: if the medical risks—the physical properties—of RU486 were the only issue to be resolved in this debate we would have no reasonable grounds to quibble with this legislation or the referral of this matter pursuant to that to the TGA. But it is not just about the properties of RU486; it is not just about the chemical operation, the clinical operation, of RU486. The issue is much broader than that. The issue is that RU486 is not just another drug. It facilitates a medical procedure that is not just another medical procedure. This drug and the procedure it facilitates are among the most contentious and controversial aspects of modern medicine today. As the group calling itself Doctors Who Respect Human Life put it to the inquiry:

Abortifacient drugs such as RU486 are unique in that no other drugs are designed to end a human life. Therefore their use demands a unique level of public scrutiny and accountability.

And, indeed, it does.

Controversial issues which arouse great passion and great contention in the Australian community are properly issues for this parliament to consider and for this Senate to vote upon. We would not delegate to a statutory body key decisions in Australian public life. We would not ask a statutory body to decide, for example, whether plutonium should be enriched in Australia; we would not ask a statutory body whether we should drill for oil on the Great Barrier Reef; we would not ask a statutory body to modify the rights of Australians in some pertinent way. But I think that if we pass this legislation today we are passing to a statutory body a seminal decision of our age: whether this new development in abortion practices in Australia should be allowed or should not be allowed.

The fact is that this is an important decision for the Australian community and therefore it is an important decision for the Australian parliament. The point has been made in this debate this afternoon that the decision about abortion was made long ago by parliaments at the state and territory level in Australia and that therefore this parliament, the Commonwealth parliament, has no choice but to follow suit, to rubber-stamp the use of chemical abortifacients in Australia to facilitate the existing decision to allow surgical abortion in Australia. It is true that surgical abortion has been allowed in one form or another in Australian states and territories for some time by the decisions of state and territory parliaments, but chemical abortion is a whole new beast. It is a different concept and deserves different consideration.

Chemical abortions essentially occur outside hospitals, clinics and doctors’ surgeries. Of course, the administration of the drug is designed to occur in those places, but the operation of those drugs takes place in women’s homes, in women’s workplaces and in all sorts of other places where access to
appropriate medical assistance may not be as fulsome as it is in clinics and hospitals. In any case, I do not think that this parliament can be snookered in its decision-making role by a decision made perhaps decades ago by state and territory parliaments. The question of whether medical abortion, chemical abortion, should occur in Australia is a decision which today falls on the shoulders of the Australian parliament by virtue of this legislation. We therefore need to make that decision and not defer it to somebody else to make.

Incidentally, all the state and territory parliaments which over time considered the question of access to surgical abortion in Australia had their debates. They debated whether women in those particular states or territories should have access to that kind of procedure. In a sense, by passing this legislation today we would not be having that debate here, except marginally; we would be asking a professional body, a body of technocrats—without being disparaging of them—to have that debate and make that decision. I do not doubt that the scientists, the doctors and so forth who make up the professional body which advises the Therapeutic Goods Administration are well placed to be able to assess the technical operational questions surrounding RU486, but they are not equipped to make the ethical, social and political decisions which would surround the use of RU486 in Australia.

Abortion is a profoundly different procedure from other medical procedures. As I said, in all Australian states and territories there is specific legislation governing the circumstances in which an abortion may occur by surgical means in those states or territories, but there is no legislation governing, for example, a hysterectomy, a tracheotomy or a varicose vein procedure. Why? Because abortion is different. Abortion has an overlay which goes beyond the mere properties or the mere possibilities presented by medical science. It is an issue which is uniquely controversial and uniquely difficult and which uniquely demands the attention of Australian law-makers. As, again, Dr van Gend from Doctors Who Respect Human Life put it in the course of the inquiry’s hearings:

... RU486 is uniquely contentious in its action, raising serious moral issues and obviously therefore requiring a special level of scrutiny and accountability by our elected representatives.

That, of course, is the point. We make those decisions. We are paid to make those decisions. They are difficult decisions—absolutely difficult decisions—but they are decisions that the Australian community expects its elected representatives to make and therefore we should not shirk that responsibility.

I want to conclude by making reference to the fact that there has been intense debate in front of the committee about these issues. At times the proceedings of the committee were very difficult. I do not think that on all occasions we covered ourselves in glory in the way in which the proceedings themselves actually occurred. It is fair to say that there were points when witnesses were not treated with the respect that perhaps they should have been because of the passion and intensity with which these issues came before the committee and continue to vex the Australian community. But that merely reaffirms how important it is that we continue to overview this sort of decision and that we are part of that decision, not merely the mailbox that sends that decision to a body which is not elected and not accountable to the Australian community.

I do not tend to quote members of the Greens party in this place, but I will quote Senator Christabel Chamarrette, who was a Green in the Australian Senate. She said
when the 1996 amendments to the Therapeutic Goods Act were being debated:

There is not only a health issue in the narrow sense—that is, whether the drug is safe—but also a question of whether the availability should be limited for ethical or policy reasons in the context of social policy. This debate is yet to be heard.

... ... ...

I ... affirm the right of this parliament to have scrutiny over such issues.

If this bill is passed today, we give up that scrutiny; we no longer have a role in scrutinising that process or that decision. That would be a sad development, in my opinion. The Australian community are certainly divided by this issue, but their divisions and passions about this issue—the fact that they do not agree about it—is no excuse for us to overlook that disagreement and pass the decision on to somebody else. It is our responsibility, and for that reason I believe we should reject the legislation before the house today.

Senator Nettle (New South Wales)
(5.08 pm)—The Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005 is about who is best placed to assess the safety of the drug RU486, about who can determine whether this drug is safe for use in Australia. The Greens and the majority of people in our community believe that the body that has been set up by the government to assess the safety of drugs—that is, the Therapeutic Goods Administration—is best equipped to make this decision about whether this drug is safe for use in Australia. The Greens say that the Therapeutic Goods Administration has the appropriate experts and is in the best position to decide whether the drug is safe because it was set up for that specific purpose. It is trusted by the whole of the Australian community with the responsibility to determine whether every other drug is safe for use in Australia. The Greens say that that should also be the case in relation to this drug.

It is worth asking the question: what is the point of the government setting up an organisation like the Therapeutic Goods Administration specifically for that purpose, if we want to stop it from doing its job? What is the point, if we want a Minister for Health and Ageing who is able to say to a body he sets up and appoints to carry out this important responsibility, ‘You can’t do your job’? The Greens say: let the Therapeutic Goods Administration get on with doing its job of making decisions about whether the drug is safe for Australian women.

There are others in the community who hold the view that, somehow or other, the minister for health is best placed to decide whether or not this drug is safe. With all respect to current, former and future health ministers, the Greens do not share the view that one individual is better placed in making this decision than the body set up to do this for the whole country. Health ministers are just individuals and do not necessarily have any medical training. They can seek advice from anywhere they choose; they can base their decision on information from anywhere they like. They do not have to base it on medical evidence. They can base it, if they choose, on their own personal views and their ethical, religious or moral perspectives. There is no accountability in the way in which one individual makes any such decision.

It is unfortunate that many people who oppose this view mistakenly believe that having the health minister decide whether this drug is safe or not for use in Australia somehow offers a form of parliamentary scrutiny. This is not correct. A Parliamentary Library research note explains:

Under current arrangements, the Minister is simply required to notify the Parliament of a decision.
sion to approve an application for evaluation by the TGA. Given the fact that such a decision would not be disallowable—
by the parliament—
this does not amount to a significant level of parliamentary scrutiny. Further, the Minister is not required to table decisions not to approve such applications, meaning that the Parliament would neither necessarily be informed nor have the capacity for any oversight of such a decision.
And neither does it require the reasoning and the rationale on which the health minister may make such a decision. The better process is to allow the Therapeutic Goods Administration to do its job in the open, transparent and accountable way that government departments are designed to work, and to carry out this very task. This would allow it to gather together the experts and have a fully accountable, independent, transparent and scientific evaluation of this drug. This method of decision making about the safety of this drug is good governance, and this is the manner in which the Therapeutic Goods Administration was set up and designed to operate. It is authorised to evaluate, approve and regulate therapeutic drugs in the public interest.

We all—and governments in particular, having set the body up—know that the Therapeutic Goods Administration operates using robust and thorough risk assessment procedures. That does not mean, of course, that it gets it right 100 per cent of the time. No science is that exact, and no decision-making body like that is that exact. Some people who oppose this bill have pointed to a handful of well-known examples where the Therapeutic Goods Administration has changed its recommendations and advice in relation to particular drugs, and these people have sought to use this to prove that the Therapeutic Goods Administration makes mistakes. But, in fact, these examples do not suggest that the Therapeutic Goods Adminis-

stratation is unreliable. Rather, they show that the Therapeutic Goods Administration is capable—as it should be—of reasonably reacting in the public interest to new information whenever it surfaces. They are evidence of the way in which the Therapeutic Goods Administration has an ongoing role in determining the safety of drugs that are used in the Australian community.

Unlike the decisions of a single unaccountable member of parliament—who, like any individual, may be prone to powerful internal and external influence—the Therapeutic Goods Administration is set up and transparently designed to protect the public from vested interests. When it comes to health care and the pharmaceutical industry, we all acknowledge that there are very powerful interests involved; it does not matter if the pressure comes from profit-chasing pharmaceutical companies or from desperate consumers with chronic and life-threatening illnesses. The Therapeutic Goods Administration has been set up and is relied on in this country to dispassionately protect the public interest through its clear, accountable and transparent standards and via full reporting through the minister to the parliament—unlike that single individual health minister, whomever that may be.

The Greens agree with the submission that came from Sexual Health and Family Planning Australia, which argued that the Therapeutic Goods Administration provides:

... appropriate, objective, apolitical conclusion based on the efficacy, quality and safety of a drug and its suitability for use by Australians.

The Therapeutic Goods Administration is held in high regard by the World Health Organisation. It has the prestigious status of being a World Health Organisation Collaborating Centre. That is not a status that is afforded to all such regulatory bodies in countries around the world. Rather, the TGA, like
a number of others, has been singled out for recognition for the work it does.

Unfortunately—and others have mentioned it—during the debate there have been people who have misunderstood what the debate is about and have sought to have a debate about whether or not people should be able to access terminations in this country. Unfortunately for them, we have had that debate. That is not to say that people agreed with it, but it has been settled. It is right for people to express their views, but, unfortunately, this debate we are having now is not around that issue. This is about what is the appropriate body to determine whether a drug is safe or not. As I keep saying, the Greens believe that that is the body we have set up to make such decisions in all cases—the Therapeutic Goods Administration.

As I said, the problem for people pursuing that argument is that, when we have had debates about whether access to termination should be available, we have come to the outcome that nearly every other modern Westernised nation has reached. The World Health Organisation describes terminations, either surgical or medical, as one of the safest medical procedures that people are able to access. In July last year it placed RU486 on its list of essential medicines. There is an inherent weakness in the argument being put forward by opponents of this bill that this drug is unsafe and therefore it should be rejected. If that were the case then one would imagine that people who are concerned about such issues would want to see its safety and efficacy evaluated by the Therapeutic Goods Administration. If there is genuine dispute over the safety of the drug then it is the Therapeutic Goods Administration that is best placed to cut through any disputed evidence.

Unfortunately—and, again, others have mentioned this—as we often see in intensely political debates, statistics are used in a whole variety of different ways. Indeed, the same statistics are used to substantiate very different arguments. There has been inaccurate reporting of statistics. For example, a number of people who oppose not only this bill but also all access to terminations will talk about the figures for people within the community who are concerned as a way of substantiating their argument. Unfortunately, when you then look at the actual questions that were asked and the answers that were provided, what you find is that even those organisations which are seeking to get a different result find again and again that the majority of Australians support the right of women to access terminations in this country.

A lot of the studies that have been done by people opposing this bill unfortunately have not followed the sorts of rigorous processes that we expect of organisations that are doing such studies. There have not been independent polls carried out. They have not been willing to release the questions that they have put forward. One example is a survey that is available on the Australian Federation of Right to Life Associations website. We heard about this today from Professor Terence Hull, a professor of demography at the ANU. He said he would be giving it to his students as an example of the way in which a survey should not be done. It involved ringing up 12,000 people in order to get the 1,200 answers that were used.

Professor Hull today went through the reasons why he would be using this as an example of the way not to carry out surveys. He quoted from their website the preface that was put when people were asked these questions. Prior to being asked questions about their attitudes about this issue, people were read a preface which came from a particular perspective. When we talk about push polling, this is what we are talking about—
people being given a particular view and then being asked if they agree with that. It is really sad to see people choosing that method as the way to try to substantiate their views. It is perhaps not surprising when time and time again for decades people in the Australian community have been asked what their view is and the majority of Australians have said that they think women should be able to choose.

A related argument that was pursued by opponents of this drug concerned the claim that the availability of drug RU486 would increase the number of terminations carried out in Australia. But, when pressed about this issue in the Senate inquiry in Melbourne on Friday, certainly one of the doctors who was claiming there would be an increased number of terminations if RU486 was available had to admit that there was no evidence of that. He had to say to me that from nowhere in the world could he provide evidence of where that had been the case. The only evidence like that he had seen related to other drugs but not to RU486. It is unfortunate to have that kind of argument being put forward and not being able to be substantiated. The committee in fact heard evidence that, where RU486 had been available—in places like Sweden—it actually reduced the overall number of terminations that were carried out.

Of course, it is always worth noting that one of the features of this particular drug is that it can be used early in a pregnancy. When we put as a primary concern the issue of women’s health, to be able to carry out a termination earlier than later in the pregnancy brings great benefits for the health of the woman involved. That is what this drug enables people to do. Also, women who make the difficult decision to proceed with a termination are able to proceed with that termination at the time that they make that difficult decision rather than wait around for a long time and experience stress and angst because they cannot access the medical procedure that they at that time are requiring to access.

Again, unfortunately there has been some misinformation in relation to RU486 being used in rural and remote settings—and that led to the Chief Medical Officer needing to comment through his spokesperson that the Minister for Health and Ageing had misinterpreted the information that had been provided to him. That is an example for us of the difficulties that occur when a minister for health is put in that position. It is not their fault. They are appointed to that position with no medical training and they have to interpret advice that they seek and they can misinterpret it, which is what happened in this instance. That is all the more reason that that decision should be made by the medical experts, who are used to assessing the safety and efficacy of drugs, rather than by an individual who happens to have been placed in that portfolio and may or may not have any understanding of the issue.

To conclude, the Greens are proudly a pro-choice party—but that is not the issue we are talking about here. The issue we are talking about here is: who should make a decision about the safety and availability of this drug in the community? The Greens say that that is the body set up to do this very job: the Therapeutic Goods Administration. We are pleased to have the opportunity to be able to be supporting this private member’s bill. We want to see the body tasked with this job, the Therapeutic Goods Administration, looking at the evidence—looking at the 35 other countries where this drug is available and looking at the circumstances of the millions of women who have been using this drug for many decades in other countries—and, on the basis of that evidence, making a decision on whether or not this drug should be available in the community. I certainly want the medical experts deciding issues that relate to
women’s health in this country, rather than the man or woman who happens to have been assigned to a particular portfolio and who may have no medical training in this area. I want to see the experts do their job. That is the opportunity we have with supporting this bill before the Senate.

I seek leave to table another part of the petition that Senator Moore just tabled, in which people are expressing their views in relation to this particular bill.

Leave granted.

Senator Nettle—Thank you. I commend this private member’s bill to the Senate.

Senator Minchin (South Australia—Minister for Finance and Administration) (5.25 pm)—I begin my remarks on the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005 by congratulating the members of the Senate Community Affairs Legislation Committee on their report—and I do mean all members on both sides of this issue. I particularly congratulate the chairman, Senator Humphries—and, in doing so, commend him on his contribution to the debate and say that I endorse everything that Senator Humphries has said and I share his view on this matter.

Despite my regard and respect for the proponents of this bill, I am not at all persuaded personally to support the bill—and I do hope that a majority of senators are not persuaded to support this bill. I do not believe that there are convincing arguments available to us to support a change in the current arrangements regarding approval processes for RU486. I do prefer that the authority for the question of approval should remain with the Minister for Health and Ageing. The minister—whether of a Labor or Liberal government or whatever—is, by virtue of the office and by virtue of being a member of a duly elected government, publicly accountable for his or her actions. They are accountable to the public and the parliament for whatever decisions he or she may make. I do think that it is arguable that support for this bill is an abrogation of the role of the executive government and the parliament and its responsibility—and, in the case of this particular drug, I think that that would be a very grave mistake.

I agree with Senator Humphries that this is not just any old drug. The great flaw in the proponents’ case is that we should just treat RU486 like any other drug that the Therapeutic Goods Administration deals with. As a member of the cabinet, as Minister for Finance and Administration, I obviously have much to do with the TGA. I mean no reflection upon the TGA. It is a very worthy body. But the fact is that its daily dealings are with therapeutic pharmaceuticals—medicines that are designed to cure diseases and illnesses. Indeed, part of its charter is to ensure that we do not approve the use of any drugs that may cause harm to unborn children. That is one of its roles and responsibilities. This drug’s purpose, in being used as an abortifacient, is to destroy a foetus—to destroy an unborn child. Thus, quite clearly, its use raises very serious social and ethical issues which, in my view, should be the responsibility of a duly elected and accountable minister in a government—accountable to the public and the parliament—and not be the pure and sole responsibility of a committee of officials.

I must say that I found most persuasive an opinion piece in the Australian of 31 January by Monique Baldwin—who is described as a full-time ‘drug regulatory affairs associate with a pharmaceutical company in Sydney’—who deals with the TGA every day of her working life as a professional in seeking approval for the drugs which her company manufacturers. In my view, she makes a very persuasive case, with her intimate knowledge
of the operation of the TGA, that it should not have the sole responsibility for dealing with this drug, because it is not like any other drug which the TGA deals with. So, for those still undecided on their position on this very significant issue, I do commend that article.

It is true to say, as Senator Nettle says, that this is not a debate as such about whether or not we the parliament should be here and now approving RU486. It is, in fact, a debate about the process by which such a decision should or should not be made. I concede that. But I cannot see how you can possibly divorce from even that debate the ethical questions which are therefore raised. This is a conscience vote, yet we are being asked to suspend our consciences by dealing with this as nothing more than a mechanical matter. I think that would be an abrogation of the true responsibility of every member of this Senate to bring to bear their conscience on this very significant issue. I openly say that I bring to this a conservative disposition. I personally uphold the sanctity of innocent life from conception onwards. I am personally alarmed by the number of abortions that occur in this country. I am alarmed by the number of pregnancies that are terminated. I bring to this debate personal experience in that a former girlfriend of mine had an abortion when we were in a monogamous relationship, and I cannot divorce that experience in my life from this consideration. I do not believe that the parliament should be, or should even be seen to be, doing anything that might bring about or encourage a greater number of abortions in this country.

I am also very concerned by the medical risks which this drug does have for mothers. I was quite moved by the views of Senator Alan Eggleston, who, I guess, in the broad church of the coalition would normally be seen on the small ‘l’ liberal side of the argument. But, as a medical professional, he has made clear to his colleagues his very serious concerns about the health risks to women of the use of this particular drug. I really do have great difficulty with, and cannot support, any repeal by virtue of this bill of ministerial responsibility for the approval of this particular drug.

I want to refer briefly to some points made in this debate, in the report and in the Parliamentary Library document—which I commend—in relation to this matter. There is the suggestion that there is not in fact any requirement on the minister, in exercising his or her current role, to have regard to expert advice in determining whether or not to approve this drug—specifically, the licensing, import registration, evaluation and importation of the drug. The fact is that there is not any possibility of any responsible minister in any government not seeking expert advice at any stage in the consideration of a request for the evaluation, registration, listing or importation of this drug. But, to the extent that that is an argument that is made, it may be that in due course a requirement for the TGA to seek such expert advice from the national Health Ethics Committee of the NHMRC could indeed be formalised.

It is also argued that, while the current legislation requires the minister to table any written approval within five sitting days in the parliament, there is no such requirement with regard to any decision not to approve. Again, I would say to the Senate that any responsible minister, in my view, would table a decision not to approve, albeit that the law does not actually require that. But again, I think that is also something that quite properly could be formalised in any subsequent consideration of the way in which the question of the approval or disapproval of this particular drug should be handled.

I will conclude my remarks at this point, but can I just say that I am pleased that the
government was able to facilitate debate on this serious issue. I have nothing but high personal regard for the proponents of the legislation, but I profoundly disagree with their perspective on this matter and I urge senators to oppose this bill.

Senator FIELDING (Victoria—Leader of the Family First Party) (5.34 pm)—Everyone has an opinion about abortion. It is one of those controversial issues that sparks great community debate. We have seen that in the last few weeks in relation to the abortion drug RU486. This debate has been prompted by a private member’s bill introduced by a National Party senator, Fiona Nash. The Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005 is designed to shift responsibility for approving the drug from the health minister to the Therapeutic Goods Administration—that is, the TGA—a body which examines the safety of drugs. Put simply, the question is: who decides on RU486? Do we want our elected leaders deciding whether this drug should be approved in Australia or do we want to give that decision-making power to unelected bureaucrats?

Family First believes that this is a unique drug which raises major social policy and ethical issues as well as medical and safety issues. We cannot consider the social policy issues without taking into account community attitudes. That is not the job of the Therapeutic Goods Administration; that is the job of elected politicians. That is, after all, why people elect us. That is why we are paid. The TGA itself told the Senate parliamentary committee inquiry, on 15 December, that it cannot consider social and ethical issues, only the technical questions around the quality and safety of drugs.

Family First strongly believes that policy decisions should never be made by unelected bureaucrats; their job is to advise on policy and implement policy decisions. As I said earlier, in discharging our responsibility, we as elected politicians must consider community attitudes when we make decisions.

So, in the case of RU486, if a doctor sought approval from the health minister to use the drug, you would expect the minister to seek advice from the TGA, as they are the drug safety experts. However, you would also expect the minister to take into account many other issues, including community attitudes. That way the minister would be carrying out his or her duty of gathering all the information and then making a decision.

We know where the community is at on the abortion issue. Regardless of whether Australians support or oppose abortion, we know that the overwhelming majority of them are concerned about it and want the numbers reduced. An editorial in the Sydney Morning Herald on 4 January this year summed it up well. It said:

A substantial majority supports abortion on demand—but at the same time an even greater majority is uneasy with the number of procedures carried out and wants the abortion rate cut somehow.

The latest research from the Southern Cross Bioethics Institute reveals that Australians think that the number of abortions in Australia each year—90,000—is too high and should be reduced. They want their elected leaders to find ways to reduce the number of abortions. We also know from research that many women who have abortions do not feel they have a choice. Many have abortions due to a lack of financial or emotional support and do not feel they will be able to cope if they have their baby. Family First believes that as a community we have an obligation to offer women alternatives to abortion. For example, governments should fund agencies that provide practical support to pregnant women both before and after the birth of the child.
The Southern Cross Bioethics Institute’s research into RU486 is interesting. It found that 75 per cent of Australians had ‘little or no knowledge’ of the drug. Once people were told about the drug, only 17 per cent supported introducing it. The majority, 59 per cent, said they wanted the decision delayed.

We all know that abortion is a subject of national interest. That is why the RU486 issue was referred to the Senate Community Affairs Legislation Committee, of which I am a member. Family First has labelled the inquiry a farce. Given the importance of this issue, it is a joke that the committee reported to the parliament only today, the debate started just a few hours later and the vote will be tomorrow. What a waste of thousands of dollars of taxpayers’ money, flying committee members and staff around the country to public hearings, when politicians will have less than a day to examine the report. Think about this: late last year when the government was ramming through its industrial relations changes and the Telstra bill, members of the Democrats, the Greens and the Labor Party were all howling with rage about the abuse of the Senate process. Family First felt the same. Just a few months later, here we are with another bill that is being rammed through, but, because it is one that most of the Democrats, Greens and Labor senators support, suddenly concern about ramming bills through seems to have disappeared.

Another reason the minister should retain control over approvals of RU486 is because he or she is accountable to the community for what he or she does. The TGA is not. When the TGA originally approved the morning-after pill, the manufacturer said it must be available only with a doctor’s prescription. Just 12 months later, a TGA committee removed this restriction and the morning-after pill became available over the counter at chemists. And no-one batted an eyelid. Within six months of that decision, a newspaper investigation found that only two out of 10 pharmacies it visited were following proper guidelines when selling the pill. The TGA was not called to account for its backflip. Had the minister been responsible for that decision, you can be sure there would have been much greater public accountability.

Family First is pro women, which is why we must also consider the potentially serious medical and psychological effects, and the deaths overseas, associated with RU486. Doctors and pharmacists are not required to report adverse effects of a drug to the TGA. This means the TGA cannot monitor the effects of a drug, which is a serious issue. On the other hand, the health minister could ensure that mandatory monitoring was a condition of approving its use.

Supporters of the bill say that we should trust the doctors. We are told they will devise safeguards and protection. But, in the United States, the Food and Drug Administration—the equivalent of the TGA—admits that doctors ignore its conditions, such as limiting the use of RU486 to the first 49 days of gestation. We also know that the FDA has received reports that more than a dozen women have taken RU486 while having an ectopic pregnancy. In theory, none of this is supposed to happen.

Supporters of the bill also want us to take comfort from the fact that more than 30 countries have approved RU486. But given that it cannot be used effectively without a prostaglandin like misoprostol, you would think they would tell you that no countries have approved use of this drug for abortion. In fact, it is used off-label and against the manufacturer’s advice. The reason the manufacturer of the prostaglandin wants nothing to do with this is that it could cause possible malformation to any surviving unborn child.
Let us look back. It was 10 years ago, back in 1996, that the parliament decided that the health minister should be responsible for approving RU486 by passing the Therapeutic Goods Amendment Bill 1996. At the time, Labor senator Belinda Neal said:

These issues need to be addressed by the executive of this government ... with absolute and direct accountability ... 

Greens senator Christabel Chamarette said:

We deserve to have parliamentary scrutiny of decisions. We deserve to have a voice on issues and not simply leave them to boards of experts.

Nothing has changed. The onus is on those who seek to repeal that bill to show there has been sufficient change since 1996 to warrant such action. Not only have they failed to do so, they have not even attempted to do so. We all know RU486 is like no other drug. It is designed to cause an abortion and end the life of an unborn child. Family First believes this is a major policy issue of social, moral and ethical importance. The community elects, and pays, politicians to do their job, and that includes tackling tough issues like abortion and considering the community’s views as well. For Australia’s elected politicians to wash their hands of this, to pass off their decision-making power on a policy issue like RU486 to unelected bureaucrats, would be a gross dereliction of our duty and a real insult to the people who put us here in the first place.

Senator BARNETT (Tasmania) (5.47 pm)—I stand here today to oppose the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005 and its repeal of ministerial responsibility for drugs, including abortion drugs, in the category of restricted goods. I believe we are taking a huge backward step in removing ministerial responsibility and accountability from the management of abortion drugs such as RU486, especially when we do not have to in order to get the best of all outcomes from this debate. The best of all outcomes would involve an improvement in the way responsibility for approval or rejection of the use of drugs, such as RU486, is managed. Such an option would pick up the best of technical and ethical advice in dealing with this issue together with the need for accountability to our bosses—the Australian people.

I oppose the bill because we are not dealing with just another prescription. This is not just another drug. RU486 is a killer drug. It is designed to terminate a pregnancy. A therapeutic drug, on the other hand, is designed to cure or treat an illness. Pregnancy is not an illness. Pro-abortionists want the drug for destroying the life of an unborn baby. It is what sets RU486 apart when advocates argue that we are dealing with just another drug. Even the drug company Pfizer—the manufacturer of the drug Cytotec, which must be used in tandem with RU486 to end the pregnancy and expel the foetus—says it cannot vouch for the safe use of Cytotec in an RU486 abortion.

The bill before the Senate is designed to remove the responsibility for approval of RU486 from the minister and substitute responsibility for that drug with the Therapeutic Goods Administration. I oppose this bill, but I do want to flag at the outset what I believe could be a better process in dealing with abortifacient drugs. Under the current process, the minister must table his notification of approval of an abortifacient drug on the restricted goods list in both houses of the parliament. This, in my view, is inadequate. It is inadequate in terms of ensuring parliamentary scrutiny.

The improved process, in my view, would require the minister to seek advice from the Australian Health Ethics Committee as a subcommittee of the National Health and
Medical Research Council. The minister would then prepare a written statement of the reasons to support his approval or rejection. Under the current process, he is only required to notify an approval. So he would prepare a written statement of the reasons to support the approval or rejection of the drug and table these in both houses of parliament. This would then be subject to a parliamentary disallowance motion. That is a suggestion in terms of an improvement to the current process.

The inquiry into RU486 explored the concept of expert advice and the committee was advised that a committee of experts could be constituted to advise the minister if the current arrangements prevail. That is one of the options that was put to our committee by Dr Renate Klein. Given, as my colleagues have said, that we are not here to debate the merits and ethics of abortion but instead the administrative arrangements for dealing with abortion drugs, the improved process that I referred to earlier is something that should be considered very seriously.

The committee received 2,496 submissions and 2,292 additional pieces of correspondence—a total of 4,788 public contributions to the inquiry. The committee considered the bill at public hearings on 15 December, 3 February and 6 February. As a committee member, I want to thank the chair, Senator Gary Humphries, for his leadership. I also want to thank Elton Humphfrey and his team at the secretariat for the work they did under very considerable pressure to get the job done within the time available.

Members of the committee—and, no doubt, other senators and members—received an enormous amount of correspondence from all sides of the debate. We received hundreds and thousands of letters and emails, and that further demonstrated to me why this issue is too important to leave to the hands of technical experts.

Reproductive Choice Australia, the pro-abortion group, said to our committee of inquiry, ‘Politics has no place in medicine.’ What an extraordinary attitude. Every day, politicians have to assess and decide appropriate health policy. If this drug is of such profound consequence as to require a conscience vote of MPs in the federal parliament, then it surely logically follows that ultimate responsibility for management of the drug must reside with the elected government, which is in turn accountable to parliament. The role of the TGA, with its team of experts, would be as an advisory body and not sole arbiter. To date, no state or territory government has acquiesced and devolved its powers relating to abortion to bureaucrats.

It is worth quoting from remarks made by the Prime Minister today at lunchtime when he summed up the principle of accountability. He said,

I think there are a number of issues that have to be considered, not only the medical implications of it but also the principle that important decisions affecting the community should be made by people who are accountable directly to the community. I’ve never been one, incidentally, who believes it makes much sense to devote an enormous amount of time and energy and commitment of one’s life to win election to parliament, and to the high office of decision-making, and then to spend the next stage of life busily handing over decisions to people who are not accountable.

That quote was sourced from an AAP site.

I am voting against the bill for the above and several other reasons. RU486 poses undue health risks for women. The use of RU486, or medical abortion, carries with it a 10 times higher risk of death than surgical abortion, according to the latest research by Dr Michael Greene from Harvard University in the United States. This is not a just a
morning-after pill. In five to eight per cent of cases, women require a follow-up surgical abortion, which is particularly problematic in isolated and rural areas.

There have been eleven fatalities around the world, so far, associated with the use of RU486 as an abortifacient. These are known fatalities based on a voluntary reporting system in most of the countries. One occurred in France, one in Sweden, one in Canada, three in Britain, and five in the United States. Five of the fatalities were due to septic shock following clostridium sordellii infection; two resulted from haemorrhage, one of which was from a ruptured ectopic pregnancy; and one was from coronary thrombosis. The drug has been banned in Canada and, last week, restrictions similar to a ban were imposed in Italy.

In the United States, the congress is considering the RU486 Suspension and Review Act, which would suspend all sales of RU486, subject to an inquiry of the Food and Drug Administration. In addition, there is an investigation into the Food and Drug Administration’s handling of the approval process for RU486 following four deaths in California. For every woman who dies in association with an RU486 abortion, there are 70 women who suffer life-threatening complications, including severe haemorrhage, sepsis and ruptured ectopic pregnancy.

The Therapeutic Goods Administration is empowered by the act to consider the safety, quality and efficacy of a drug. Of course, ‘efficacy’ means that the drug does exactly what is stated on the tin: it achieves the purpose for which it was designed. In this instance, I believe that is not the case. The TGA has no power or competence to consider the broader social and ethical impacts that may follow if a drug is registered for import and use in Australia. It does not have that power.

Under the existing restricted goods provisions, the Minister for Health and Ageing can consider the social and ethical impact of an abortifacient drug. If the bill is passed and these provisions are removed then the social and ethical implications of introducing RU486 into Australia cannot be taken into consideration.

It is also worth considering the appropriateness and applicability of the Therapeutic Goods Administration to approve access to RU486. A number of submissions and correspondence argued, based on common dictionary definitions of ‘therapeutic’, that therapeutic goods are those which remediate or prevent an illness, and that mifepristone, RU486, should not be classed as a therapeutic good and not be monitored or regulated by the TGA. I agree with this view. RU486 is a drug designed to end a life, not to cure it. Pregnancy is not an illness, as I said earlier, and therefore it could be argued that the TGA regime has no legal jurisdiction over abortifacients.

On page 9 of our Senate committee report, it is stated that it needs to be clarified that, in the legislative context, the relevant definition of ‘therapeutic goods’ is that contained in the Therapeutic Goods Act. Section 3 of the act states that the term ‘therapeutic goods’ includes goods ‘for therapeutic use’. ‘Therapeutic use’ is also defined in section 3 of the act. I want to make it clear for everybody by putting on the record the definition of ‘therapeutic use’ according to the act:

(a) preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury in persons or animals; or
(b) influencing, inhibiting or modifying a physiological process in persons or animals; or
(c) testing the susceptibility of persons or animals to a disease or ailment; or
(d) influencing, controlling or preventing conception in persons; or
(e) testing for pregnancy in persons; or
(f) the replacement or modification of parts of the
anatomy in persons or animals.

I subscribe to the view that the comprehensive list of therapeutic uses in the Therapeutic Goods Act makes no specific reference to causing an abortion.

It is also worth noting that if the TGA assumed responsibility for the evaluation and approval of RU486 it would also assume ultimate responsibility for several other abortion drugs and vaccines on the restricted goods list. Subsection 3(1) of the TGA Act 1989 states the definition of restricted goods. The Bill will repeal this definition and remove the requirement for ministerial approval before restricted goods can be imported, evaluated, registered or listed.

Besides RU486, mifepristone, the following medicines are currently listed as restricted goods which cannot be imported without ministerial approval: alprostadil, carbot prost, dinoprost, dinoprostone, gemeprost, mifoprost, misoprostol, prostaglandins and vaccines against human chorionic gonadotrophin. Advocates of the drug incorrectly state that RU486 is the only medicine that is subject to the restricted goods condition. This is set out in their explanatory memorandum. However, RU486 is just one of the class of medicines defined as restricted goods.

How can this cocktail of abortion drugs, together with the controversial drug RU486, which is currently under intense scrutiny around the world, be the sole province of a team of unelected officials who would have ultimate arbitrary powers? RU486 can be used in the early to mid stages of pregnancy, up to 20 weeks. What is stopping another drug being designed in the months or years ahead to kill an unborn baby late term? Nothing at all. It would be up to an unelected team of bureaucrats, no matter how expert, in the TGA. What a cop-out for federal members of parliament.

On this score it is worth quoting two senators who spoke in the debate 10 years ago, when the minister for health was given the power of veto over restricted goods under the TGA Act of 1996. Greens senator Christabel Chamarette said:

We deserve to have parliamentary scrutiny of decisions. We deserve to have a voice on issues and not simply leave them to boards of experts.

ALP senator Belinda Neal said:

... we acknowledge that this issue raises large concerns within the community. It raises issues beyond purely health issues. These issues need to be addressed by the executive of this government and addressed with absolute and direct accountability ...

What has changed in the last decade? Nothing. Abortion remains as emotive an issue as it has always been. It costs Medicare more than $11 million a year. Federal funding is provided without any requirement for independent counselling—and by ‘independent’ I mean from a non abortion provider—and without any requirement for informed consent or a cooling-off period. In my view, this is appalling public policy.

The majority of Australians believe that the estimated 91,000 abortions each year in this country are too many. I agree. What are we doing to fix the problem? One in four pregnancies aborted is far too many. What are we doing to help? By passing this bill we will send all the wrong messages to young Australians—that abortion is no big deal and that now there is a pill which somehow sanitises the experience and the trauma.

I wholeheartedly support the recommendation in the report concerning counselling, which I believe should be available in the prenatal period, especially where a woman is contemplating an abortion, and the postnatal period and that these counselling require-
ments be covered by Medicare. Medicare funding of abortion, as I indicated, costs $11 million a year. I cannot see why, if it is funded at all, counselling should not be included in that publicly funded process.

As noted by the committee chair, Senator Gary Humphries, in his report:

... the Committee is not making any recommendations relating specifically to the Bill. However, it notes that a number of groups and individuals both supporting and opposing the Bill expressed concern over the number—
in my view, the very high number—
of abortions in Australia and the critical need to address wider personal and social problems. They urged the implementation or enhancement of a range of programs and services aimed at reducing unwanted pregnancies and supporting women through pregnancy.

Finally, I would like to quote from the recommendation. It says:

The Committee recommends that increased financial support be provided to improve sex education, including better education on responsible human relationships; wider availability of information about and access to contraception and other fertility control techniques; ensure independent professional counselling for women considering a termination of pregnancy, counselling post termination and counselling for relinquishing mothers as required; greater social support for women who choose to continue with their pregnancy—

and I wish to emphasise the wonderful work of the pregnancy support services around Australia—

and increasing the availability and affordability of child care.

I thank the Senate.

Senator ADAMS (Western Australia) (6.05 pm)—I rise this evening to speak to the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005. I wish to preface my remarks by stating that this bill is not a personal attack on the current minister for health or those who have gone before him. I am a member of the committee that did the inquiry and, as a midwife and someone who has worked for a very long time in rural Western Australia and also in New Zealand, I found the inquiry very interesting. I thank all those people who put forward submissions. Over my break—as it was termed; it was not really a break—from Christmas and New Year through until the end of January I did look at most of the submissions. We had over 1,000 presented to us, along with other correspondence, which was put into another category. A number of submissions were put forward that did not address the terms of reference, so they were put into a different category.

In terms of the process, as a committee we looked at the number of submissions and we were all allowed to put forward types of submissions that we would really like to hear about. There were 2,400 submissions in all, and it was a great honour for those who came to present to us, because their submissions were considered to be of such relevance and importance to such an important issue. Those supporting the bill—as I certainly am—were able to invite the people they wished to appear.

As a result of my own area of expertise, I tried to get a very practical debate. The first people I asked to appear were the administrators, including the Therapeutic Goods Administration, the Department of Health and Ageing, the Australian Medical Association and the Rural Doctors Association of Australia. The Association for Australian Rural Nurses, a number of health care people, people who work in the consultancy area and people who have been involved in research appeared later. During the whole program, some excellent people appeared on that side of the debate, as they did on the other side. I would like to put on the record that as a committee we looked very carefully at which
people and organisations we asked to appear before us.

I will speak later about rural women and our rural doctors, but I would like to state now, as a woman and as a midwife, that I am absolutely appalled at the number of abortions that occur. I do not think anyone who took part in the inquiry would not be. I agree wholeheartedly with the recommendation at the end of our committee report, which Senator Barnett has just read, and I think that education is really the only way that we will be able to reduce these abortions or terminations of pregnancy.

The purpose of the bill is to move the responsibility for approval of RU486 from the Minister for Health and Ageing to the Therapeutic Goods Administration, known as the TGA. The drug RU486 belongs to a special category of drugs under the Therapeutic Goods Act 1989 known as ‘restricted goods’, which cannot be evaluated, registered, listed or imported without the written approval of the minister for health. Further, any such written approval must be laid before each house of parliament by the minister within five sitting days of being given. Under the act, the minister does not have to report to the parliament the number of applications for RU486.

Restricted goods are defined under the act as:

... medicines ... intended for use in women as abortifacients.

It is important to note that medicines used for any purpose other than abortion are evaluated and regulated by the TGA without any requirement for approval from the minister. The restricted goods provisions were incorporated into the act in 1996 as a result of amendments introduced to the Therapeutic Goods Amendment Bill 1996 by Senator Brian Harradine, known as the Harradine amendments.

The Therapeutic Goods Administration does not comprise faceless and nameless bureaucrats, as has been stated by a number of individuals. That has really annoyed me because, being a health professional, I regard these people as very, very special. They are a team of highly respected experts in their fields of expertise. The TGA has to date overseen the evaluation and approval of over 50,000 therapeutic goods and therapies in Australia, making it the most experienced and qualified entity in the country to evaluate this category of drugs.

The TGA, as a member of the World Health Organisation and the World Health Organisation Collaborating Centre, has access to other countries where RU486 is being used. I know those countries have been put on the record today, so I will not read out the list of those countries. Of interest to me, as a former New Zealander, is that the TGA has a memorandum of understanding with its New Zealand counterpart, Medsafe. It was signed in 1993 and an agreement has since been signed, in 2003, for the establishment of a joint scheme for the regulation of therapeutic products. I believe the TGA and its respective advisory committees are the correct group of people to make the decision as to whether this drug is safe and to provide the relevant guidelines to ensure that Australian women and their medical practitioners have the opportunity to make an informed decision on whether they can have a medical rather than a surgical termination.

I know from listening to some of the speakers before me that there has been sceptical comment about the guidelines. I visited New Zealand in the last few weeks and would like to speak tonight about its guidelines and the way that they are organised. I know it is getting away from the bill, but our whole inquiry has gone to the issue of the termination, how it works, what is safe and what is not and all of the rest. I would like to
bring forward the guidelines that are used in New Zealand to give people an understanding of how they work. New Zealand has special GPs who have been trained in termination procedures, in counselling and in how to deal with affected people. If a woman, for her own reasons, presents to her GP and says she wishes to terminate her pregnancy, under law that GP, if they have not done that training, must refer the woman to one of these specialist GPs.

Women do not go to the pharmacy and get RU486 over the counter. It is prescribed to a clinic and the medical termination must be done at a clinic. The women must have access to trained psychologists, counsellors and people like that who form part of the clinic staff as well as the specialist GPs. If the women are approved as being medically fit to undergo this termination, rather than a surgical termination, and it is their wish to have a medical termination, they are then advised and given every piece of information that they need to make the decision. They are then given the drug at the surgery or clinic and allowed to go home for two days. They have 24-hour access to that clinic and they are not allowed to go any further than four hours away from it in case of any problems. On the third day they come back to the clinic and have their misoprostol. Often, within four hours, they will abort or miscarry at the clinic. So with these guidelines the woman’s safety is absolutely paramount and there is no way that that person will be left without support.

When the process is finished, if they are fit enough and healthy, they are allowed to go home, but they must return in two weeks time. I have been told and we heard at the hearing that, women being women, they might forget to come back or they might forget to do this or that. No medical practitioner is going to allow a woman to go through this type of termination if they do not consider that they are suitable candidates for it. That is just not going to happen. I would like people to really think about that. The minister asked the Chief Medical Officer from the department to provide him with information about the drug, and there was a comment included about rural doctors. As a rural person and a midwife, as I said, I have worked everywhere—right out in remote areas. These medical professionals, especially rural doctors, have a terrific lot of knowledge and expertise. They have to do an extra two years of training before they are even allowed to have a Medicare number in a rural area. As far as having a surgical procedure to back this up, that must happen. They are not going to allow anyone to go through this without that.

There was a very good submission to the inquiry from the Broome Regional Aboriginal Medical Service. There have been many comments that Aboriginal women might not be the right people to have this drug if it were approved in Australia. These six doctors from Broome were saying that they are 3,000 kilometres from Perth and that at the present time, because of the elective surgery waiting list in Broome, Kununurra and Derby where they do elective surgery, there is no way that they can do their terminations. They may be able to but it is very difficult. It means that the woman has to go to Perth on an aircraft, stay in Perth to have her termination, if they can get her in somewhere—by herself, usually, because of the expense of an escort going with her—and then go back again. These doctors know their patients very well and they would be very happy to treat them in their own community. In the Kimberley there are about 10 different areas where they have surgical backup. As they said, one in four pregnancies miscarry. They are always dealing with miscarriages so they have to treat these people all the time.
I think rural doctors do have the expertise. I really thank the Rural Doctors Association for putting forward such a good submission to prove just where they feel they can deal with these issues. I feel, as far as our report goes, we have really done very well. There are very good arguments for and against. I recommend the report to anyone who has doubts about what is going on. I commend the bill.

Senator POLLEY (Tasmania) (6.20 pm)—I rise to speak on the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005. Before I proceed much further I want to acknowledge the thousands of submissions received from many individuals and organisations. They are submissions that clearly indicate that this piece of legislation and its potential ramifications lies close to the heart of many Australians—so much so that they felt strongly inclined to put pen to paper to voice their concerns. I also acknowledge that when legislation is presented in this chamber for debate an open mind is required, a mind that pushes personal beliefs aside and listens to the arguments both for and against. I can stand here with a clear conscience, knowing that I have given the legislation my best and fairest judgment. Sometimes one wonders, when legislation such as this is presented, why it has been rushed through, and I refer particularly to the limited time the Senate Community Affairs Legislation Committee had to study submissions, attend hearings and draw conclusions.

Let us get one thing very clear here: RU486 is not a simple drug like paracetamol. This drug will expel human life, and its consequences on the health of women are varied and dependent upon constant medical supervision. The question that springs to my mind is: why are we considering allowing the TGA to make a decision about a drug that kills? The TGA’s role is to assess therapeutic goods. A therapeutic good is a good that is to be taken for therapeutic use. Is RU486 for therapeutic use? It is clear that it is not.

The term ‘therapeutic’ should not be bandied about loosely. It refers specifically to goods that are given to remediate or prevent illness. They provide a cure and promote wellbeing. The following description of ‘therapeutic’ comes directly from the TGA’s website:

... “therapeutic use” means use in or in connection with: preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury in persons ... influencing, inhibiting or modifying a physiological process ...

It may be argued that RU486 fits this category. However, RU486 does not have a positive health benefit for the women who use it. The description of ‘therapeutic’ continues:

... testing the susceptibility of persons ... to a disease or ailment; or influencing, controlling or preventing conception in persons; or testing for pregnancy in persons; or the replacement or modification of parts of the anatomy ...

These are a few of the definitions of therapeutic use, and RU486 does not fall into any of the categories that are used for defining the role of the TGA.

While the TGA regulates all drugs in Australia, its authority specifically only relates to the safety, efficacy and quality of a drug. It is expert at dealing with raw data. However, as an unelected body it is not appropriate for it to make decisions about goods that have a social or a moral dimension. In its regulatory role the TGA only has to consider drugs on a technical basis. It does not have to address the moral and ethical issues associated with RU486. Let us not kid ourselves here: no matter which way you analyse it, no matter what technical terms you apply, whether you call it a foetus or an embryo or, as I do, a baby, at the end of the day this drug is designed to terminate the life of a child—at what cost?
You may be thinking at this point that I am taking the moral high ground and that I am making judgements about pro-abortion or pro-choice. However, at this time I am focussed upon the health of Australian women. RU486 requires constant or close medical supervision during its administration and for up to five days after it has been taken. The level of medical supervision is paramount to ensuring that the drug effectively terminates the pregnancy. However—as I have discovered through discussions with medical practitioners and through evidence given during our hearings—while in principle it is a simple process, the reality is that the foetus is not always expelled the way it is supposed to be. This drug has, in some instances, resulted in serious infections in the women who have used it, and the effects could include losing a fallopian tube, endometriosis, and—in some very extreme cases reported in the United States—death. It is as simple as that.

RU486 is not a medicine; it is a drug with potentially serious side effects. The definition of ‘medicine’, from the dictionary, is ‘an agent, such as a drug, used to treat disease or injury’. Pregnancy is not a disease, nor is it an injury. RU486 is designed to disrupt an entirely healthy pregnancy. RU486 is a drug with potentially serious side effects. By allowing the TGA the authority to decide its use we would be effectively allowing them to facilitate the violation of human rights rather than to limit such violations.

The competence of the TGA is restricted to assessing medicines on medical grounds. Leaving out the cruel human rights considerations raised by RU486, the faceless public servants of the TGA should not make the decision. RU486 is not comparable with any other drug that may be considered by the TGA. It is a drug that ends life and has the potential to harm another. Is that safe? Is that effective? Is that quality? This is not merely a medical matter and therefore the decision regarding the use of RU486 should not be left to the TGA. This is a unique drug, a drug that should be in a category all of its own, a drug that cannot be grouped with other drugs or even considered broadly in the same context as any other drug.

Many people have voiced their concerns about this bill, and I am sure I am not the only one who has received correspondence from concerned constituents. Let me read an extract from the submission from the Catholic Women’s League of Tasmania:

Induced abortion using RU486 has features not met in surgical abortion. The apparent simplicity when compared to a surgical abortion is likely to result in those close to the women regarding it as a relatively trivial event. The process has particular psychological risks. Abortions performed using RU486 can be very stressful because time elapses as the baby dies and is then expelled by the actions of prostaglandin misoprostol. The process is prolonged and painful. The expulsion is a traumatic experience. It can occur unexpectedly at home...at work or in a public place...and then...how to dispose of it?

Please let me reiterate that my comments here today are not about condemning those who are pro-choice or pro-abortion. Even with my conservative views I am the first to admit that there are times when a mother’s life needs to be saved and there are some circumstances when an abortion is in the woman’s best interests. My main concern is the health of women. Put the ideological views aside and let us make decisions that are in the best interests of the health of Australian women and our society.

Let us also make a decision based upon the medical services that are required for monitoring the women who use the RU486 pill. Bear in mind that many Australians do not have the privilege of living close to hospitals and medical practitioners. Obviously I am concerned for Tasmanian women and those who live in some of Australia’s remot-
est communities and/or are disadvantaged in some way. Picture a woman who lives in a rural community who has been offered RU486 and is requested to stay close to, or in regular contact with, her doctor. How practical is this for a woman who has other young children look after, who does not have transport and who is perhaps not used to regularly contacting her doctor? What happens when complications occur and the expulsion of the baby does not quite go to plan? Or alternatively, from the perspective of a busy medical practice, what happens if the doctor who prescribes the drug forgets to remain in contact with the patient? Doctors are only human and it is known to have happened in other circumstances affecting women. And patient workloads are getting increasingly heavier. Is it fair to lumber GPs with the increased responsibility of the close monitoring of a patient to ensure all goes to plan?

Given that scenario, this drug seems a bit hit and miss. There are too many variables, too many risks and not enough guarantees for the safety of women. Many rural and isolated women do not have ready access to emergency facilities and the time delay in getting the appropriate help could be very serious and even fatal. The supposed ‘benefits’ for rural women should be dismissed.

If you think I am dramatising the side effects of RU486, consider this: the US Food and Drug Administration have registered over 600 reported adverse reactions to RU486. Reporting adverse reactions is not mandatory and estimates are that only about 10 per cent are reported. Five women have died as a direct result of RU486 and the use of RU486 in America is now under review. The US Food and Drug Administration have now issued a warning regarding the serious side effects of the drug. Another factor that requires due consideration is that a surgical procedure will be required in up to 23 per cent of cases of women using RU486 to stop excessive bleeding and to totally complete the abortion. That is almost a quarter of all cases. A quarter of all cases will require a surgical procedure to abort a foetus regardless of the use of RU486 but with even more trauma for women.

Former Senator Brian Harradine presented a background paper to Hansard on 9 May 1996, and I will read a section of that which has particular relevance to the point I am making. He said:

Of critical concern are the short and long term ill-effects on women exposed to RU486. Women taking the drug are advised to live within about 40 kilometres of an abortion clinic. RU486 is promoted as a simple do-it-yourself, private, demedicalised abortion. Yet it requires three or four visits to a specialised medical centre, the taking of up to five hazardous drugs, vaginal ultrasound that all may result in serious complications.

As a mother and grandmother, I dread to think of the implications of allowing such a drug free rein within Australia. I dread to think that this chamber might very well be condemning our daughters to a horrible death or complications that may remove the opportunity for them to ever conceive again.

Former Senator Harradine concludes:

... people on both sides of the abortion debate agree that the importation, trials, registration and marketing of such agents raise major public health and public policy issues and should not be left in the hands of bureaucrats and science technologists. There should be ministerial responsibility subject to effective parliamentary scrutiny.

In my view, nothing has changed in the last decade. Further thought should be given to the reason this drug was brought into existence in the first place. Potentially its use as an armoury for the control of population growth attracted the necessary research, promotion and funding required. Developing countries were to be the target for the introduction of RU486. Ninety thousand abor-
tions are performed each year in Australia and if this bill is passed that number has the potential to increase to levels we have never seen before or should wish to see. An increase in the number of abortions will also increase the load on our public hospitals and medical practitioners, and with our health system in the mess that it is in the extra load is definitely not needed.

I have presented a number of arguments which clearly are beyond the criteria of the TGA risk management approach. Will the TGA take the social issues into account? Will they determine the ramifications of increasing abortions in Australia due to the introduction of this drug? Will they make recommendations for increased funding to support services for women who suffer mental anguish and stress post abortion? Will they determine the cost to the health budget for the requirement for increased medical intervention and assistance as a result of RU486? How will they tackle the moral ramifications of RU486?

Let me tell you how they will deal with all of these issues. Put simply, they will not. It is not within their jurisdiction or authority to do so. Again, I ask you today in this chamber: how can we, elected by the people of Australia to represent their views and opinions and to provide unbiased judgment and fair scrutiny, vote for the Therapeutic Goods Administration to allow RU486 to be provided to our daughters? From the thousands of submissions I have read, I note that the absolute majority are against changing the status of RU486. I believe I am reflecting my constituents and the Australian electorate at the moment and for the reasons outlined and, based on the evidence from the hearings and the submissions, I will not be supporting this bill.

Senator SANTORO (Queensland—Minister for Ageing) (6.35 pm)—I congratulate and thank Senator Polley for her very thoughtful and even provocative contribution. I share most of her views and I commend her for putting them as sincerely as she has. I am on record in this place, including in June last year, as a supporter of any measures which will encourage a reduction in the rate of abortion in Australia. When I spoke on this issue last June I said that while I have my own private views I do not believe that government has any business regulating the life choices of citizens. And while my views remain unabashedly on the pro-life side of the abortion debate, I do not resile from my position that private views are private and should of necessity remain separate from the public duties of legislators. We are not a theocracy and, at least on this side of the chamber, we are not supporters of interventionist government. But with this private member’s bill, the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005, we are presented with what is quaintly termed a ‘conscience vote’, which in the Westminster system is a very peculiar beast.

My position on this bill is well known. I have received hundreds of representations against the passage of this bill and, surprisingly, as I think Senator Polley intimated, very few representations in favour of it. I want to stress that. It is something that I have found incredibly surprising. There are very, very few views in favour of it. A number of my colleagues have and will eloquently expound, as Senator Polley just has, on the social impact, safety data, and very strong arguments for continued restriction of abortifacients. Suffice to say, I am far from persuaded by the rather trite argument that, since the TGA gives the sole approval to many pharmaceuticals which are potentially harmful or fatal, there is no case for special treatment of RU486 and its ilk.
We tolerate risk with pharmaceuticals because we balance that risk against the likely impact of unchecked progression of a given disease or injury. Contrary to the bizarre commentary of some pro-abortion doctors in recent weeks, I cannot regard pregnancy as a disease. As both a father and a Christian, I regard pregnancy as a blessing, a gift, an opportunity and a life. I also note with some sense of irony that many of my colleagues who are most strongly in favour of assisted reproduction funding—which I also wholeheartedly support—are equally leaders in the laissez-faire approach to termination. In contrast, I support IVF because it is a miracle for parents, not as some abstract dimension of a values-free concept of choice. As I said, a number of my colleagues will make the detailed case against RU486, and I do not intend to duplicate their comments. Rather, I want to take this opportunity to comment on two aspects of this so-called conscience vote.

My first concern is that, while I recognise the reasoned position taken by some of the proponents of RU486 and this private member’s bill, I cannot help but feel that we are being asked to accept that only one side of the argument represents good conscience. I say this because it is implicit in the request for a conscience vote that we are asked to form a position based on our private views and legislate accordingly. If we were asked simply to reflect on the conscience of the nation, the evidence would be very clear. It is clear in the work done by the Sexton Marketing Group for the Southern Cross Bioethics Institute, which showed that Australians want a reduction in the rate of abortion without a ban. And it is clear in the research carried out by Market Facts and released by the Australian Federation of Right to Life Associations just last weekend, which found that a slight majority of Australians oppose the decision to terminate a pregnancy for social or financial reasons. Those data certainly inform my conscience, but those propagating RU486 tell us that such democratic views are immaterial. We are told only one side reflects good conscience or good faith because, we are assured, there is urgency in this issue. That urgency is presumably to facilitate more abortions, which is against the valued and measured view of the nation. And that urgency is what has been used to rush this bill without time for considered and careful public debate on the merits or morals of chemical abortion. For that reason alone, I will vote to reject the bill.

My second concern about this debate lies with the elevation of abortion choice as an incontestable right, like some golden calf presented in place of a more complete debate over the philosophy and value of life. I am particularly concerned at the occasionally subtle—and in many cases quite open—attacks on my colleagues who hold a particular religious view which values life above casual choice. In particular, those who have claimed there is a greater need for this reform simply because the health minister of the day is a committed Catholic have introduced an ugly note of bigotry and anticlericalism into this place. To those who want unfettered access to RU486 and who may seek change of other legislation which is inimical to Catholic or other Christian views, I give this counsel: if you want a conscience vote then impugning the real conscience of those who grieve for unborn children does you no credit and reduces your arguments to prejudice.

Regardless of the outcome of this debate, I would sound a call to this chamber and to this parliament to never again accept denigration of Christian or any other religious views as biased, baseless or ill-informed. These are views which reflect our deepest history and our core values, and without them our society would be much the poorer. I will be voting against this bill.
Senator FAULKNER (New South Wales) (6.41 pm)—The Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005 has been the subject of a highly emotionally charged debate since it was introduced last year. It is important in this second reading debate that we understand very clearly what this bill will do and will not do. This is not a bill to import or approve the importation of RU486; that decision can only be made by the Therapeutic Goods Administration. This is not a bill to remove parliamentary scrutiny of any decision by the TGA about RU486; that scrutiny does not currently exist.

This is not a bill to change the laws concerning abortion; those laws are state matters. This bill will remove the Minister for Health and Ageing’s power to veto—alone and without consultation—any application to the TGA to evaluate RU486. It will end the anomalous situation where, amid all the many dangerous and potentially deadly drugs prescribed by Australian doctors and used in Australian hospitals daily, RU486 has been removed from the responsibility and oversight of the Therapeutic Goods Administration. Supporters of this state of affairs say that the potential side effects and risks of RU486 are too great to leave the decision in the hands of the TGA.

No-one has suggested that the TGA ought not to assess the risks and efficacy of chemotherapy drugs—drugs with awful side effects. No-one has suggested that the TGA ought not to assess the risks and efficacy of medications for heart disease, immune system disorders and cholesterol, all of which have side effects and all of which have risks. That is why we have a Therapeutic Goods Administration. That is why the Therapeutic Goods Administration looks carefully at drugs brought before it.

Many pharmaceuticals studied by the TGA have the potential, if prescribed wrongly or carelessly, to cause injury or death. Yet those drugs do not need the health minister’s approval for an application to the TGA. For those drugs, the TGA’s expertise is perfectly acceptable. The reason for the inconsistency is that RU486, among its other possible uses, such as treating fibroid tumours, endometriosis, Cushing’s syndrome, meningiomas and some kinds of breast cancer, can be used to cause a deliberate miscarriage of pregnancy—a non-surgical abortion. That is the reason this drug has been treated so differently. Concern over risks and side effects is an alibi for the real reason: the determination to keep this option closed to Australian women.

Although the majority of Australians consider that a woman’s decision to continue or to end a pregnancy is a private one, there is still a minority who would like to block women who have made the decision to have an abortion from access to safe termination services. In this minority there are those who have treated this bill as an opportunity to raise a question most Australians consider settled. This simple question of process—that experts, not politicians, should decide if a drug is safe and appropriate for import—has become a proxy for a campaign against Australian women’s right to control their own fertility and choose for themselves whether to continue or end a pregnancy.

So while the question of access to safe and legal pregnancy termination is not the question before the Senate today, for complete transparency I will go on the record as saying that if it were the question before us today I would vote in favour. It is not my right or the right of any politician, or indeed any person, to decide for any woman whether she can end a pregnancy. That is her decision. That is her choice. Nor is it the role of any politician to sit in the consulting room and
tell a doctor how to treat their patient or to stand over the TGA and tell them which drugs they can or cannot assess. No question of Australian health should be determined solely on the private moral views of the health minister of the day.

Senator BARTLETT (Queensland) (6.48 pm)—The Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005 is important, and this debate is important. I am one of those who find it desirable that we have an opportunity from time to time to express our views more genuinely and openly, as we are doing in this case via what is a fairly rare occurrence—that is, a conscience vote. It is a reminder of the diversity of views that often gets hidden in parliament beneath the fairly rigid straitjacket of the party line.

Within the Democrats we have what I say is a great privilege, although also an extra challenge, in having the right to a conscience vote on every piece of legislation. I think that presenting the opportunity to do that should be taken up more often. I am not quite sure why issues like this are determined to be a conscience vote when I can think of some other very important debates that we have had in this chamber on issues that affect the lives of all Australians and that could not be seen as anything other than moral or ethical issues but where the party discipline or straitjacket has come down. We all recognise the need for party discipline, but I think that we could all benefit—and our nation could certainly benefit—from more opportunities for a bit of flexibility in that regard and for people to be able to speak and vote according to well-informed, strongly held views from time to time.

I do understand the strong feelings that many people have about the issues that this legislation raises. Sometimes we could all do better in showing respect for opposing or divergent views that others hold, although that difficulty in showing respect is sometimes understandable when those views occasionally are expressed in highly offensive ways. I use by way of example the extraordinarily offensive, inflammatory and, frankly, puerile advertisement placed in a newspaper today by a group calling themselves Australians Against RU-486. It stated: RU-486 will probably kill only a few Australian women. Is that okay with you, Senator? Car accidents kill thousands of Australians every year. We do not hear people calling for the banning of cars. Tobacco and alcohol kill thousands. Almost all drugs have some risks. Crossing the road has some risk. To say that by virtue of this legislation, under which we would allow the risks of this drug to be assessed by a group of health experts rather than by the random choice of the random health minister of the day, we are labelled as killers shows where people’s strongly held views cross the line to become stupid, inflammatory abuse.

That is part of the problem with some of the debate surrounding this matter. It is not the fact that people have strongly held, genuine and informed views that is the problem; it is the way in which they seek to impose those views on other people. To label as murderers people who choose to have an abortion or who assist someone to do that and to label RU486 as a human pesticide or a drug designed to kill babies is an abuse of language and a vilification of women. It is a vilification of women who find themselves in a situation of extreme difficulty. The last thing they need is this sort of abuse.

I see my role as a senator and indeed as a Democrat to stand with those women in their right to choose, and their right to choose in an environment which has real meaning to the word ‘choice’, an environment free from
such abuse and an environment where choice means having all of the options both available and affordable. That means that the chances of them making the choice that is right for them is maximised. It is crucial in this policy area, as in any other, to try to retain an approach which is logical and consistent, and to not get diverted by emotive and misleading rhetoric. If you are against abortion, do not have one. But whilst ever it is legal in Australia it should be a choice for each individual woman to make for herself, rather than having a range of hurdles, obstacles, inconsistencies and abuse put in her way.

As is the case with all of us here, there are some activities that some of my fellow Australians engage in which I am not enthusiastic about. Sometimes I might seek to explain or outline why I think such activities are less than desirable. But just because I find something personally ethically offensive does not mean that I should be able to use my position as a member of parliament to try to outlaw it. If you oppose this legislation because you oppose abortion then, to be consistent, you should also be moving to prevent Medicare funding of abortion; to ban IVF, which involves the production of many surplus embryos as part of the process; and to amend the current situation with regard to RU486 by banning it altogether rather than by leaving it up to the individual, unaccountable choice of the health minister. If you are genuinely concerned about the safety of RU486 it is far more logical and safer to have any potential health risks assessed by medical experts in the Therapeutic Goods Administration, as occurs with every other drug, rather than leave it up to one individual minister.

It was quite possible that the current health minister, Mr Abbott, who as everyone knows is strongly personally opposed to the use of RU486, could have been, in the most recent reshuffle, out of that position. So it is quite feasible that we could have had a Liberal minister in that position today who is strongly in favour of the use of RU486. There are both here and in the House of Representatives Liberal ministers who will, I am sure, vote in favour of this legislation. Frankly, the same problem would arise: we could have a pro RU486 minister deciding to support the drug on philosophical grounds rather than on its health aspects and its proper assessment. Whoever that person might have been, the fact is that the so-called protection that people opposed to RU486 see in the current arrangement is not a real protection at all and is certainly not a protection that is based around this facade and false cloak of concern for the health impacts of the use of RU486 on women.

Since when do politicians—or, as it currently stands, one politician, the health minister—decide on the safety of a drug? Senator Fielding said that that is what people elect us for. It is not what people elect us for. I do not think a single person voted for me—and I suspect for anybody in this chamber—on polling day on the basis of my ability to assess the safety or otherwise of a drug for release in Australia. What they do elect us to this parliament to do is to ensure that there is a coherent and credible regime put in place to ensure that all pharmaceuticals approved for release in Australia have their safety and adequacy properly and competently assessed. They elect us to do all we can to ensure the safety and health of Australians, and to ensure that all Australians have as many affordable and effective choices as possible available to them in deciding on matters that relate to their health. It is an absurd anomaly to have that principle put to one side solely for one category of drug and solely on the basis—as we all know when you strip away everything else—of some people's individual ethical or moral opposition to the concept.
and reality of abortion. It is an illogical approach and for that reason it should be removed.

I would also like to note the approach taken with this legislation. Some have suggested that this has been a rushed process. Contrast it with the approach taken last year on a range of crucial and complex bills to do with matters like workplace relations, security laws and welfare. All of these involved complex—very complex in some cases—and far reaching laws which were introduced at short notice and in some cases with a time frame that provided less than two weeks for reading the large amounts of legislation, for the public to put in submissions, for public hearings to be held and for the committee to produce a report.

While this bill is important, it is exceedingly simple and very straightforward. It was tabled in December after being foreshadowed for a long time and having been the subject of debate backwards and forwards for 10 years. There was over a month for submissions, albeit over Christmas, and three public hearings were held in three different cities seeking to get the views of a wide range of people from throughout the community. Last year we had the guillotining of debate on those major pieces of legislation with minimal notice, coupled with piles of new amendments dropped in the Senate. On this occasion all senators have known, and knew before the debate started, how much time is available for debate on the legislation. I only wish we could have a process even close to approximating this for some of those other matters.

I received, as I am sure many of us—probably all of us—did, many hundreds of emails and letters on this legislation and related matters from people who are strongly opposed to RU486. I would in this instance agree with Senator Santoro’s comment, although I was not so much surprised about that but about the volume of those in comparison to the volume in favour of the legislation. That is an interesting fact, and I note that. It is important to take account of what people contact their politicians about. Frankly, I would encourage people to do a lot more of it, even though it means there are more emails for us to read and respond to. We need to be as open as possible to the views of the community. I endeavoured to read all of those that I could tell were from Queensland, even though many had a lot of commonality in theme. As I said at the start, I respect and understand why people hold those views. They basically had the theme of being opposed to abortion, but in our society I believe that that has to be a choice for each individual woman to make.

One aspect I did find frustrating, though, with some of those emails and correspondence was the fact that many people put forward arguments against RU486 on the basis of calling themselves pro-family; that somehow or other this drug is an anti-family thing. Frankly, I just wish those people genuinely concerned about the family had shown the same sense of urgency, outrage and concern at the end of last year when we had welfare legislation being pushed through this place which dramatically reduced the income of many of the poorest Australian families, including sole parents. That will have a far greater impact on the families of Australia than whether or not one more drug is available for them in considering their health options.

It is worth reminding the Senate and the community of the history of the anomaly of RU486 and that group of drugs being the only ones subject to approval via the health minister of the day instead of via the Therapeutic Goods Administration, as are all other pharmaceuticals. It was inserted via an amendment to a Therapeutic Goods Admini-
istration legislation amendment bill back in May 1996. That amendment was moved by former Independent senator Senator Harradine. That amendment was opposed by all Democrat senators at the time but was unfortu-
nately supported by the government of the day and the opposition of the day—and by
one Greens senator at the time.

There was an endeavour in March 2001 by the Democrats to move an amendment to another Therapeutic Goods Administration amendment bill to reverse that situation. That again did not receive the support on the re-
cord of anyone else in the Senate at the time. I think that was because people have always been concerned about this—they recognise that this is a potentially divisive debate. Even those who did not agree with the current situation—people on all sides of the political fence—felt it was better to just let sleeping
dogs lie.

It is important to note the contribution of those who last year decided it was time to
wake the dog up again, as it were, not to let the sleeping dog continue to lie. They de-
cided to once again push the matter and again looked for a Therapeutic Goods Ad-
ministration amendment bill in order to move amendments to try and reverse what I
believe is an absurd and outdated anomaly. This anomaly came about as much because
of the political dynamics of 1996 as because of a well-thought through policy decision of
the majority of senators at the time.

I particularly note Senator Lyn Allison from the Democrats, who pushed this more
than anyone initially in flagging potential amendments to other TGA bills that were
around. But I also note those men and women—women in particular—from other
political parties who pushed this issue within their own parties. To some extent, I recog-
nise that for some of them that was more difficult to do internally with their own party
than it would have been within a party like the Democrats. I particularly acknowledge
the extra courage and determination of all of those senators, and those women in particu-
lar, who pushed this issue and who were willing to put their hands up—and to some
extent stick their heads up along with it. That is not always easy, and it is important to ac-
knowledge that.

While I am doing that, as Senator Nash said, this is probably the first private sena-
tor’s bill since Federation in 1901 that has had four senators, names attached to it from
four different parties. That in itself is also something to note and to celebrate. I obvi-
ously feel more celebratory about it because I support the bill, but the fact that senators
can come together from four separate parties on any matter and put it forward into the
arena for political debate is something that should be celebrated. I would do so even if it
was a topic matter I did not support, if perhaps not quite so enthusiastically.

It is quite rare for private bills introduced in the Senate to be passed into law. Accord-
ing to the list in the appendix of Odgers, there have only been eight. If this does pass
the Senate, as I hope it does, and then passes the House of Representatives, this will be
just the ninth private senator’s bill to do so in over 100 years—and a couple of those, I
might say, were quite small, almost adminis-
trative, matters. So that is something to note; that shows the significance and import-
ance of the efforts of the many people who have
pushed this matter forward for debate. I ac-
knowledge their efforts in that regard.

To make it clear, there have been other
private member’s bills initiated in the other
place that have passed into law. But nonethe-
less it is fairly rare, not least because of the
very tight party discipline that has been a
characteristic of Australian parliamentary poli-
tics for a long time and which I men-
tioned earlier on. That is all the more reason why it is admirable and notable that this matter has got this far.

I urge those senators who are still considering their vote on this to vote in favour of it and recognise that it is as much about good public health administration as it is about some of the moral and ethical issues that people have raised through the course of this debate. If it is successfully passed through this Senate on the vote tomorrow afternoon, then I also urge the same of those members of the House of Representatives still considering this matter.

Senator MARSHALL (Victoria) (7.07 pm)—I seek leave to incorporate my second reading speech.

Leave granted.

The speech read as follows—

I rise to add some remarks to this important debate on the Therapeutic Goods Amendment (Repeal of Ministerial Responsibility for approval of RU486) Bill 2005.

At the outset, can I indicate that I am very supportive of the bill before us, co-sponsored by Senators Allison, Moore, Nash, Nettle and Troeth and I will be voting in favour of it.

In fact, I take this opportunity to pay tribute to the five senators who have put their names to this bill by way of co-sponsoring its introduction into the Senate.

I note how unusual a practice this is.

I was not here in the chamber back in 1996 when the original decision was taken to restrict the importation of and access to Mifepristone in this country and it’s a decision that’s review, I believe is long overdue.

That’s why I congratulate the senators who have co-sponsored this bill before us today.

This is a debate about governance and consistency.

It is about who is best to decide what drugs, regardless of their chemical composition and/or supposed-effects, are safe enough to be imported and used in this country – an individual politician who would always inevitably come with a set of ideological and/or ethical standards and who may also not possess any medical intelligence whatsoever (as is the case with the current Minister for Health) or an Administration stripped of ideological and ethical shackles and charged with assessing and monitoring drugs based on rigorous science and medical standards.

For me, the fact that the TGA is currently charged with assessing and managing the risks associated with the other 50-odd thousand medicines and drugs Australians currently rely on for their healthcare proves that this is the body with the expertise to undertake this very same role in relation to RU486 and all other drugs for that matter.

That is essentially why I support this bill.

But this is not the only reason why I support the bill.

Over the past few months, but more particularly over the past few weeks, senators will have been inundated with correspondence, faxes, telephone calls and many form letters at their offices – both back in the electorate office and here in Parliament House.

Most of these have been alarmist, dogmatic, faith-based appeals and even medical assessments with little regard for the facts surrounding the issue we are actually debating today.

Some even go so far as to call those of us who will support this bill, murderers; tell us that we will have blood on our hands; or threaten to withhold electoral support for us at subsequent elections.

That is any elector’s prerogative and right. However, I would just submit to those people that I make decisions in this place based on what I believe are best public policy principles – not threats.

As you know and as the Prime Minister himself has emphasised, this debate is not about the virtues or otherwise of abortion – surgical or medical – it’s about whether a single Member of Parliament or the Therapeutic Goods Administration should decide on the safety of the drug.

And that is precisely the debate we are having today.
Senators may recall receiving one particular email – a very succinct one providing six points about what the vote on this bill is about. The email was from Sexual Health and Family Planning ACT and I will draw on aspects of it throughout my speech. However, I want to make mention of a reference it makes to a quote in an article written by Dr Leslie Cannold, an ethicist and researcher at the University of Melbourne in *The Age* newspaper on 4 December 2005, and I quote:

The vote was never about abortion, or even the safety or effectiveness of RU486. It was about who should decide if RU486 is safe and effective enough to be marketed in Australia: the Health Minister or the Therapeutic Goods Administration. This no-brainer of a question is essentially about good governance.

And that is precisely right.

Decisions about the health of all Australians need to be made on the basis of medical evidence by the experts charged by government with precisely this risk assessment role.

However one of the main arguments put forth by those opposed to this bill is that the drug – Mifepristone – is far too dangerous and risky to allow into Australia.

But to quote from the submission of Reproductive Choice Australia to the Senate Committee considering this bill, ‘this claim is illogical. The TGA is the body charged to assess the risk of drugs. On what expertise and process have those who claim the drug is too risky for the regulator to assess relied? How can an evidence-based evaluation of the drug’s safety put women at risk? What sense does it make to deem a drug too unsafe to have its risks properly and impartially evaluated? Isn’t the point of such an expert assessment to weigh the medical evidence and deliver a considered judgement about the risk/benefit profile of the drug? If the evidence exists to support claims that the drug is unsafe, shouldn’t those expressing concern about risk welcome the vindication likely to come from a proper evidence-based evaluation by the TGA?’

As it happens, the evidence does not support claim that RU486 is a particularly risky pharmaceutical.

- The World Health Organisation;
- The Royal Australian and New Zealand College of Obstetricians and Gynaecologists;
- The Public Health Association of Australia;
- The Royal College of Obstetricians and Gynaecologists (UK);
- The Australian Medical Association;
- The American Medical Association;
- The American Association for Advancement of Science;
- The US Federal Drug Administration;
- The European Federation of International Gynaecology and Obstetrics;
- The American College of Obstetricians and Gynaecologists; and
- Cochrane Collaboration

all support the availability of RU486 and conclude on the basis of the medical evidence that the risks posed by the drug fall well within acceptable limits and are outweighed by the benefits.

The Royal Australian and New Zealand College of Obstetricians and Gynaecologists in its submission to the Senate Committee sought to compare the side effects and maternal mortality of medical termination with surgical termination.

And I quote from the submission:

Serious complications are rare and occur in approximately 4/1000 procedures with either method. Mortality and serious morbidity occurs less frequently than if a pregnancy went to term. A recent Danish study of 50,000 surgical procedures reported a complication rate of 3.4/100 within two weeks of the procedure with bleeding, re-evacuation or infection being the most common.

Maternal mortality rates relating to surgical termination in Australia and North America are of the order of 0.3-0.8/700,000 and most recent data indicates the commonest cause was related to anaesthesia.

Serious complications with medical terminations are rare with overall rates due to haemorrhage infection of 2.7-3.0/700 and 2.0/100 requiring surgical evacuation of retained tissue.

The Royal Australian and New Zealand College of Obstetricians and Gynaecologists;
There have been four maternal deaths recently reported from North America where there has been an association with medical termination of pregnancy. Although mifepristone has not been sited as the causative agent, this gives an estimated mortality rate comparable with that of surgical termination.

No intervention is without risk. One cannot avoid risk.

And that is true.

RU486 has been used by over 21 million women worldwide in more than 30 countries, including the US, UK and New Zealand.

There is such a greater mass of evidence available today about RU486 compared with back in 1996 when the decision we are seeking to reverse today was first made.

In November 2005, the Federal Council of the AMA revised its position on Termination of Pregnancy to include the statement: “Where the law permits termination of pregnancy, non-surgical forms of termination (such as RU486/mifepristone) should be made available as an alternative to surgical abortion in cases where they are medically deemed to be the safest and most appropriate option based on the appropriate clinical assessment.”

The change to the AMA’s position was made because it now believes the necessary research on non-surgical forms of abortion has been done and has reassured it that the risks to a woman of using RU486 is acceptably low.

Perhaps this is why some elements of the community are confusing today’s debate. Perhaps, with all of the evidence available it is glaringly obvious that the risks associated with RU486 are equal to or could be even less than that for surgical abortion.

Some argue that the drug is in a league of its own, but again, as is made clear in the submission by Reproductive Choice Australia — and I quote - “such claims are also incorrect. There are a number of pharmaceuticals that are both registered in Australia by the TGA and used in a broad range of healthcare settings that can end human life, including morphine sulfate. Nor can it be said that RU486 is the only medicine capable of harming an embryo/foetus or causing miscarriage. Currently, the TGA lists around 55 drugs or categories of drugs that either ‘cause, are suspected to have caused or may be expected to cause an increased incidence of human fetal malformations or irreversible damage’ or have ‘a high risk of causing permanent damage to the foetus’. These include the anti-malarial Quinine, several vaccinations, numerous anti-epileptics and the mental illness treatment Lithium salts.”

It’s worth noting that RU486 can be used to treat a variety of illnesses and life-threatening conditions, including: inoperable meningiomas; Cushing’s syndrome; breast and prostate cancer; glaucoma; depression; endometriosis and uterine fibroids. In addition, the drug has shown promise in the treatment of HIV/AIDS, dementia and progesterone-dependant uterine and ovarian cancer.

Indeed, despite claims that RU486 was designed specifically as an abortifacient it was actually designed by its health care company-creator Roussel Uclaf as a treatment for serious endocrine conditions like Cushing’s syndrome. The discovery that the compound could induce very early abortions was an unexpected outcome of this investigation.

It’s worth noting the ridiculous situation people like Mary Lander find themselves in trying to access RU486 in Australia. Many would remember Mary Lander and her situation from a story aired on the 7.30 Report late last month.

Mary Lander suffers from a skull-based brain tumour.

As Reporter Nick Grimm noted, Mary’s tumour itself is not likely to be deadly, but as it grows it’s pressing against her brain, causing damage. Surgery to remove the lump would also be likely to result in brain damage. Faced with the prognosis, Mary Lander looked overseas for other options and she found one in the United States.

The answer was mifepristone or RU486.

To quote from the transcript of the story: - ‘NICK GRIMM: Australia’s drug watchdog, the Therapeutic Goods Administration, can grant approval support for RU-486 to be imported under its special access scheme. It’s meant to accommodate the needs of people like Mary Lander. It took her four weeks to get the TGA’s blessing.

CHAMBER
CHRISTINA RICHARDS: It’s a very time-consuming process. It can be very costly. And when you’re very, very sick the last thing that you need to be doing is spending your energy on trying to apply for a drug that is very contentious.

NICK GRIMM: The TGA granted Mary Lander a permit to import RU-486 valid for six months. However, she discovered there was a catch. Spelt out in the approval letter was a warning that the TGA would not provide any assurances or indemnity about the drug because it is unregistered. Mary Lander says that clause has made doctors refuse to prescribe the drug. Four months on, she still can’t get it into the country and the approval will expire in just two months.

MARY LANDER: I guess the bureaucrats will say they have a due diligence responsibility to make sure that the legislation is being administered in such a way they are required to administer it. But I think there’s a human side and human cost to all of that that needs to be brought into that.

NICK GRIMM: How would you describe the process that you’ve had to go through?

MARY LANDER: I think it’s really quite inhumane. I mean to have to subject somebody to something like that, knowing that the drug is a viable treatment option for a particular tumour. ‘It’s a ridiculous and unfair situation. People like Mary Lander are being caught up in the politics that are intertwined with RU486.

The situation must be rectified. But not only do the current restrictions on the importation and use of Mifepristone cause people like Mary Lander distress, they interfere with the rights of the states in this country.

In Australia, the states regulate abortion. The curtailment of the legitimate regulatory scope of the TGA to assess RU486 by the Commonwealth improperly interferes with State policy and law in this area. And it should be lifted.

To tackle another point, as the AMA stated in its submission to the Senate Committee considering this bill, ‘restricting access to RU486 in the unsupported expectation that this will reduce the number of abortions performed is not reasonable’.

To go back to the email from Sexual Health and Family Planning ACT, ‘Making a non-surgical option available to women will not increase the abortion rate. Medical abortion, like surgical, requires appropriate medical supervision and women in most states will still need to persuade a medical practitioner their abortion is necessary for them to comply with relevant state criminal codes regulating the procedure.

Overseas experience shows that the availability of medical abortion does not increase the overall number of abortions that take place, as was recently acknowledged by the Australian Christian Lobby.

The introduction of RU486 in Germany in 1999 has seen a steady rise in the number of women choosing a medical abortion, but a relatively steady rate of abortion over all.

Increasing numbers of American women are also choosing medical over surgical abortion, but the US recently recorded its lowest overall rate of abortion in 30 years.

In Sweden, abortion rates actually declined after medical abortion was introduced.’ At the end of the day, abortion is a subject for discussion between a woman and her doctor and a decision for the woman. The method a woman chooses to terminate her pregnancy should be her decision and should be supported by the medical profession and the wider community, whatever that decision is.

We had that debate decades ago. It’s over. And as the email I received states, ‘We are all entitled to our opinions and beliefs. But medical decisions should be made on the basis of rigorous and up-to-date medical evidence. And who better to evaluate the medical evidence than the TGA?’ it asks.

Likewise, as the AMA states in its Committee submission, ‘The AMA believes that the TGA is best placed to decide upon the safety of all medications and therapeutic products including RU486 and should be given the opportunity to judge the safety and efficacy of this medication as it does all others. It is the best qualified authority to decide when and
where and with what support services this drug should be made available. They must exert their
judgement freely, fairly and away from undue
pressure. The AMAs judgement is that the TGA
will find the drug to be as safe as many others
that are available in Australia and that the safety
profile is acceptable."
Rational consideration suggests that in the same
way as the TGA fulfils its mandate with regard to
other drugs — ensuring they are of an acceptable
standard and that Australian patients have access
to them within reasonable time frames — it should
be politically unshackled so it can undertake this
work with regard to RU486.

However rational consideration of this issue
seems simply impossible for some. As the Repro-
ductive Choice Australia Committee submission
states and I will conclude with this quote:
‘If arguments in favour of retaining the effective
ban on RU486 are not grounded in logic, what is
their source? One candidate is faith. Eighty-two
per cent of Australians support a woman’s right to
choose whether or not she has an abortion. This
figure declines only slightly for religiously identi-
fied Australians, 77 per cent of whom support a
woman’s right to choose. However, the small
minority of Australians (9 per cent) who oppose a
woman’s right to choose — and presumably fa-
vour a retention of the ban — are predominantly
people of “faith”.
Yet Australians of all religions and cultural back-
grounds have good reason to oppose the influence
of faith rather than logic-based arguments in pol-
icy decisions that affect all of us. This is because
in pluralist democracies the religious and cultural
rights and freedoms we enjoy depend on the re-
fusal of government to favour one group’s reli-
gious or cultural outlook over another. As has
been shown in many countries across the globe,
the State’s imposition of the values of one reli-
gious or cultural group on the whole can under-
mine national cohesiveness and sabotage democ-
cracy. Australians must hold on to our principles
that religion has no place in politics and politics
has no place in medicine. Upholding this conviction
does not make our democracy values-neutral
but a unifying repository for values shared by
most of the world’s religions and subscribed to by
the people of all successful democracies: justice,
equity, respect, tolerance, honesty, integrity, per-
sonal responsibility and trust.’
I thank the Senate and call on all senators to sup-
port the bill.

Senator MILNE (Tasmania) (7.07 pm)—
Contrary to much of the advertising and pub-
lic discussion, the question before the Senate
today is not whether pregnancy terminations
should continue to be legal in Australia. That
is another debate under the jurisdiction of
state parliaments. The question before us is:
who should have responsibility for approving
the use of the chemical abortion drug RU486
in a country in which it is legal in every state
and territory to have a termination if the
mental or physical health of the woman is at
risk? Should responsibility for approving
RU486 lie with a single member of parlia-
ment, the Minister for Health and Ageing, or
should it lie with the Therapeutic Goods
Administration?

What does that responsibility involve if
you are the person or organisation making
that decision? It involves assessing the safety
of taking the drug. One has to ask: who is
best informed or equipped to determine if a
drug is safe for use by humans — a politician
who may have no medical training at all, or
the organisation specifically set up and
trusted to make that decision about every
other drug on the market in Australia today?
The Therapeutic Goods Administration is
accountable at every stage. Can the same be
said of one parliamentarian?

I think it is dangerous for politicians to in-
volve themselves in medical decision mak-
ing. Parliamentarians should set the policy
framework, and the medical experts should
assess what is safe within that framework.
The policy framework has already been de-
termined. Parliamentarians in state parlia-
ments around Australia have determined that
termination is legal in Australia today. There-
fore, the decisions about how that procedure
is performed safely are a matter for medical experts and for women in discussion with their doctors. If surgical abortion has already been approved by state parliaments, by parliamentarians like ourselves—in other words, if it is legal—why should the alternative option of chemical abortion not be available if it is safe?

To be safe and to comply with state laws, abortions, whether procured medically or surgically, require medical oversight and approval. If a state requires that a woman satisfy physical and mental health tests before qualifying for a surgical abortion, she will be required to satisfy the same tests to have a lawful termination using medical methods. So failing to support this bill will continue to force women into surgical procedures when a chemical option is available. For many women, a drug may be a better option for their physical and mental health than surgical intervention. They may recover their physical and mental health faster if they can access the procedure at an earlier stage and be secure in their own surroundings, supported by those who care for them. How logical is it for politicians to say that it is okay for women to have a surgical termination but not a drug induced one? If you are opposing this bill, that is exactly what you are arguing.

Decisions about the health of Australians need to be made, on the basis of medical evidence, by the experts charged by the government to assess risk—namely, the Therapeutic Goods Administration. This administration assesses and monitors almost 50,000 drugs on which Australians rely for their health. The only drugs in Australia that are not currently permitted to be assessed and monitored by the TGA are those intended for use as an alternative to surgical abortion. This is inappropriate. If we trust the TGA to assess the risks on every other occasion, why not on this one? Would you trust the health minister to determine if the latest cancer drugs were safe? Many of these cancer drugs have horrendous side effects. Many of these drugs could cause death if used in wrong or inappropriate ways, yet we say that the TGA has the responsibility to assess the risk and effectiveness of the drugs. We trust it to do that. Would we trust a health minister to do so?

The World Health Organisation placed RU486 on its list of essential medicines in July 2005. Europe has 15 years of experience of this drug, which is widely available internationally—in Sweden, France and Great Britain, for example. It is endorsed as safe and effective not only by the WHO but by the Public Health Association of Australia, the Royal College of Obstetricians and Gynaecologists, the American College of Obstetricians and Gynaecologists, the Australian Medical Association, the American Medical Association, the American Association for the Advancement of Science and the Federation of International Gynaecology and Obstetrics.

Whilst I respect everyone’s view on the matter of whether abortion should be legal in Australia, I do not think it is appropriate to confuse that issue with the matter before us. The matter before us is simply: who should decide what medical options are available to give effect to a decision the state parliaments of Australia have made—namely, that termination is legal in Australia? I believe that the Therapeutic Goods Administration—medical experts—should make that decision and not one parliamentarian. I support the bill.

Senator PATTERSON (Victoria) (7.14 pm)—I wish to make a very short statement on the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005 to put my position on the public record. I start by thanking the Prime Minister for responding to the
suggestion I made, when I was the Minister Assisting the Prime Minister for Women’s Issues, that we be allowed to have a conscience vote on this bill. That was important and it was one of my contributions in this debate.

I know that I will disappoint some people in the way in which I will be responding on this bill. The people who were surprised by my vote on the euthanasia bill, when I voted to oppose euthanasia, most probably would have thought that I would automatically vote on this bill in a similar way, but I have always been an issues person who tries to take each issue on its merits and evaluate it in that way. That does not always mean that I end up with what some people would see as a consistent response. So be it. I have never claimed to be right. In any of the conscience votes, I believe that I have always done my best to evaluate the situation and make a decision using my limited intellectual ability to come to a conclusion. We always anguish over the conscience votes because they are always tough and there is no right answer. It is a matter of degrees and a matter of trying to weigh up all the arguments.

This bill is not about the legality or otherwise of abortion. I regret that that is the way in which some of the debate has proceeded. There has been an avalanche of mail. If you ever want to privatise Australia Post, I would suggest that one way to actually increase its shares would be to raise an issue like this, because I am sure Australia Post has done a lot of business. I want to thank all the people in the sorting room downstairs for the mammoth task they have undertaken in the last few days. But it is good to see that the public are involved and interested. Although the response has been overwhelmingly to vote against the bill, there have been some letters that have thoughtfully—as have the others—put their proposition and point of view. But it is not about abortion, and some of the arguments have muddied the waters in this debate.

We all know that we had this debate 30 years ago. The states and territories have legislated in relation to abortion and currently, in accordance with the relevant state and territory laws, a woman can access abortion legally in this country. I grew up in the inner city suburbs of Sydney. As a young person, I remember leading a patrol of guides and being at a camp site with one of the girls whose mother was a backyard abortionist and hearing the stories that she as a young person related to us, with our ears wide open, about her mother’s activities. I can think of only some of the outcomes of those backyard abortions that that person performed while she sent her kid off with two shillings to buy a milkshake down the street while she ‘fixed the girl up’. Many of those girls ended up in atrocious conditions, with septicaemia and other terrible outcomes.

We have had the debate. The states have legislated on abortion. Personally, I—as I am sure most, if not all, who are voting in this chamber on this bill—would prefer that there were fewer abortions; in fact, none if possible. We would want to see more done to reduce the number of unwanted pregnancies, whether it is teenage pregnancies, pregnancies of people entering into new relationships or pregnancies of people who have been partnered for significant periods of time who do not think they can afford a child. I think every one of us would want to see fewer unwanted pregnancies. However, if we want to face up to the situation, however much we would prefer not to see an unplanned or unwanted child being conceived, I think we are wishing for the nirvana.

I have been interested in the RU486 debate as it has progressed and nobody I have seen has discussed the fact that over time we
have moved from one form of surgical abortion to another. One method was used and now medical practitioners prefer another method of surgical abortion. We never had a health minister who had the responsibility of saying, ‘We will not give a Medicare item number for this form of abortion versus another.’ A clinical decision was made by doctors that a different form of surgical procedure was better for patients. The second form is now used more frequently. It is never to be vetoed by a health minister; it is a clinical decision made by medical practitioners undertaking what is legal in each legislation. If it is not legal then the states have a lot to answer for. If they are not enforcing their laws, the states should be looking to enforce their laws. As I said, there has not been a call for the health minister to have the right of provision over a Medicare item number for one form of surgical abortion over another.

People have come in here and said that RU486 has been used by thousands of women, and so on. There have been various arguments. I do not feel competent to stand up and argue for RU486. That is not what I am doing in supporting this bill. I am saying that I do not have the competency to assess RU486. We have a process for assessing the efficacy and safety of drugs used in Australia, and that is the process that should be used. Passing this bill does not guarantee that RU486 will be deemed safe or made available. It may be, but it may not be. Passing this bill will mean that, should a sponsor apply to market the drug, the TGA will evaluate the drug on its merits, as it does for every other drug which is not an abortifacient.

Had a company written to me when I was the health minister and sought to have RU486 evaluated, despite my keen interest in things medical I do not think that I would have had sufficient expertise to make the decision not to allow the TGA to evaluate the drug. I would have sought the advice of the expertise of the TGA. And if the drug to be administered needed a Medicare item number, I would have sought the advice of the Medical Services Advisory Committee. I do not think the decision to allow or prevent the TGA from evaluating this drug should depend on the view of the minister of the day, whether it was me two years ago, Tony Abbott today or somebody else in the future. I believe we have a process and that is the process that ought to be followed.

I believe the best course of action is for the same procedure to be used as is used for every other class of drug which is not an abortifacient, and that is for the TGA to assess whether the drug should be available in Australia. Then it is up to the clinicians to make a decision, knowing their patients, as to which form of abortion is appropriate, whether it be surgical or medical. They will do that, as they have done with changing from one form of surgical abortion to another.

As I indicated, the Medical Services Advisory Committee may be involved if a separate Medicare item is required. I do not know whether it is, but, given the need for RU486 to be delivered in a way in which more supervision is required than for other drugs, it may be. We do have measures for other drugs—for example, some arthritic drugs—where we have special Medicare item numbers and special requirements in the delivery of those drugs. So it may not just be the TGA. But I believe that we have a process. If we do not think the TGA is up to the task then it is up to us to change the TGA. But we have a process. I do not believe it should rest in the hands of the health minister.

One journalist asked me the other day where I was in 1996. I had done a lot of research on RU486 in 1996. I do not actually remember the debate, which surprises me because I had done a lot of research on it. I
may have been away in the Antarctic; I do not remember, and I have not had time to go back and see where I was. But in 1996 we did not know enough about this medication. I think there is enough known now for a proper, professional assessment—whatever that may be. I am not arguing for or against RU486. What I am saying is that it should be evaluated appropriately and a decision made, and then doctors should be left to make decisions on a clinical basis. But woe betide doctors who misuse any form—surgical or medical—outside the law. The states ought to be making sure that their legislation is upheld to the letter of the law.

This is a major issue. As I said, I do not claim to be right. All I have done is use my understanding and ability to think an idea through as far as I possibly can. I regret that hundreds of people who have written to me will be upset, but I have been elected here to make a judgment as best I can, given the information I have got. I will not always satisfy everybody, but in this instance I believe it is appropriate for the TGA to make the decision and I will be supporting the private member’s bill.

Senator SHERRY (Tasmania) (7.24 pm)—It is relatively rare that I find myself in absolute agreement with the previous speaker, Senator Patterson, and I do about the way she has approached this matter. Like her, I voted to prohibit euthanasia, for reasons that I outlined on that occasion. This is the third time during my almost 16 years in this place that we have been allowed a conscience vote. The bill before the parliament in this case is the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005. I think the title of the bill aptly outlines the issue and the purpose of the bill. A conscience vote is very rare and is usually allowed on issues that affect human life. I welcome and accept the responsibility that is placed on my personal judgment, and I hope that those who disagree with the conclusion I come to will understand that I have given the matter considerable thought. I have read much—though not all—of the correspondence and I have spoken to a number of people and listened to the views of people on both sides of the issue.

I thank all those who have written and spoken to me and I also thank and commend the members of the Community Affairs Legislation Committee. Although their report was tabled only a few short hours ago, I have had the chance to look at their considerations. It is not easy; these issues are never easy. It is a well-written and thoroughly researched report, so I thank all the members of that committee who participated.

Previously I participated in two other debates with a conscience vote: the prohibition on euthanasia and the restrictions on stem cell research. On those occasions, as I explained, my principal concern was for what is referred to as the sanctity of life and its importance to Western society. Our society is based on a Judaeo-Christian ethic of respect for individual human life. I am an amateur student of history, still reading and learning, and unfortunately throughout history practice has often horribly deviated from the sanctity of human life. But I strongly believe that that central principle is still very important in our society. As I said in my two previous contributions on conscience vote issues, I try to approach each issue with practical questions: will it work, and what will be the adverse human consequences of a particular policy? I found my decision to support the prohibition on euthanasia relatively easy, and I voted to support the prohibition, for the reasons I outlined in my speech on that occasion; similarly, in respect of restrictions on stem cell research, on which I found it more difficult to reach a conclusion. Much of the debate on this bill has been characterised as being for
or against abortion. I do not believe the central issue of this bill should be whether one supports or opposes abortion. With respect, I think that is a simplistic approach. It is not the central issue on which I ultimately base my decision.

On the issue of abortion: I do not agree with abortion. To me, it is the destruction of evolving human life and I find it highly disturbing that abortions are carried out in the community. However, abortion is legal in Australia. Frankly, I have to say that reversing that is very unlikely. There are significant indirect human consequences of backyard illegal practice. As a consequence, if I ever were faced with a decision in this place, I would find it difficult and I would be unlikely to vote to outlaw abortion. However, if it is to continue to remain legal, abortion should be a truly last resort after the exercising of reasonable, independent and, I would argue, mandatory counselling in addition to medical advice. It should certainly not be late term. Obviously, there has been a rapid improvement in the life expectancy of premature babies. They are living healthy lives thanks to medical science. Abortion is primarily, but, in my view, not exclusively, a decision for a woman to make. I think the interests of the father should also be considered.

I have to say that I do get somewhat annoyed at the simplistic slogan of ‘choice’ being applied to complex issues. Issues of this type—in fact, issues of most policy types that we deal with in this place—are rarely simple. I note the growing tendency in public policy terms to wrap controversial and complex issues in the simplistic notion and slogan of ‘choice’. Choice has become a mantra. The real world is often more complex than simply being able to say, ‘It is an individual’s choice.’

Whilst the consequences of this bill are closely linked to the issue of abortion, I have not regarded that as the central issue. There may or may not be a greater number of abortions—I simply do not know—as a consequence of the passing of this bill. I would certainly hope that there were fewer abortions in our community. But I am simply not in a position to make that judgment. I respect the views of those who have made the judgment, but I am certainly not in a position to make that judgment.

So the principle on which I have made up my mind relates fundamentally to what is appropriate, independent, expert, arms-length decision making about the use of or prohibition of particular drugs in Australia. I do not believe that the decision making belongs with an individual minister. If we allow such a process to continue—I point this out to those who strongly oppose abortion and, in this case, the use of RU486—what happens when the current Minister for Health and Ageing, Mr Abbott, concludes his position and a new minister with a different point of view is appointed? That seems to me to be a ridiculous approach to the legal use or otherwise of a drug in this country. Presumably, a new minister at some point in time will have a different view and simply reverse the prohibition. I think that is not an appropriate approach to decisions on any form of drug and in this case RU486.

I do not agree with all of the views of the current health minister, Mr Abbott, on abortion. I share many of his concerns. I note that he does claim that he can exercise independent judgment based on expert advice. I do not accept that argument from the minister. I do not believe that anyone on an issue such as this can exercise independent, arms-length judgment. I do not believe that the minister, Mr Abbott, can do so on this issue. If he truly asked himself whether he could, I do not believe he could conclude that. I certainly do...
not believe I could if ever I were a minister with that decision-making power. Therefore, the decision on the evaluation of a drug and its particular merits should be made by, in this case, the TGA.

As I said earlier, to some extent this issue has turned into a de facto debate on abortion and the parameters on which abortion should be allowed in Australia. I would welcome that debate. In fact, I would welcome a bill before the parliament. I know it is currently a state responsibility but I certainly believe that, in this day and age, a constitutional head of power could be found to ensure national, uniform laws on abortion that are consistent across the country. As I indicated earlier, whilst I have significant concerns about some aspects of abortion and the parameters in Australia, if ever I were in the position I would cast my vote in the way in which I have indicated. Any particular amendment to the parameters for the exercising and use of abortion in this country I would consider on its merits if I ever had the opportunity to consider such a piece of legislation. For the reasons I have outlined, I will be supporting the legislation before the Senate.

Senator WEBBER (Western Australia) (7.35 pm)—Before I commence my remarks and thoughts on the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005, I would like to start by congratulating the proponents of this piece of legislation, including you, Madam Acting Deputy President Troeth. It is no small task to take on what can be such an emotional, divisive and somewhat distracting debate to try to actually bring forward a piece of very straightforward and sensible administration in this country. I would like to congratulate all four of you. I would also like to congratulate the Senate Community Affairs Legislation Committee for the way the inquiry into this bill was conducted, given the divisive nature that the wider debate has. As has been outlined, the debate seems to have become wider rather than focused on the piece of legislation itself.

I think the result of the committee’s deliberations was achieved usually with a great deal of tolerance, respect and harmony, which is no small challenge. To the main committee members I express my congratulations. I would also like to pay tribute and give my thanks to the committee secretariat, which had to work with all of us—we brought to the table our differing ideological views, temper from time to time and even belligerence from time to time. As usual, the secretariat was ably led by Elton Humphery and I think they did a superb job in fairly tight and sometimes adverse and trying circumstances.

I rise to make my contribution in this debate and, in doing so, I need to make a confession. It is actually a little embarrassing to admit this—considering that I apparently stand here at the moment with the power to make medical decisions on behalf of the Australian public, as the legislation currently stands—but I am not a doctor; in fact, I possess no medical qualifications. I have not studied medicine or anything vaguely related to medicine, and I have always been under the apparently mistaken impression that therefore I was not qualified or best suited to make those decisions on behalf of others. So I never expected to be standing here today with the power to do so, but the legislation as it currently stands enables me to do just that.

Fortunately, I do not have to be too hard on myself, because I am actually not the only person here today who has to make that confession. I am not even in the minority. Here in the Senate we do not seem to have too many people with medical qualifications; yet each and every one of us gets to make the decision about how one particular category
of drugs is to be treated. As it stands at the moment, each and every one of us individually will determine whether those drugs should be treated as safe for use in Australian circumstances. The dilemma is that, even amongst those of us in this parliament who do hold medical qualifications, the views are divided.

Under the legislation as it currently stands, it would seem that any one of us can give medical advice on this issue—only on this category of medications, not on any other—regardless of our qualifications or what we bring to the table. So we are subjected to a variety of views on these particular medications. And haven’t Australian women been treated to a wide variety of opinion over the last couple of weeks! According to our own Minister for Health and Ageing, giving rural women, in particular, access to the drug known as RU486 would increase their risk of adverse outcomes, largely because of insufficient infrastructure to help them if something went wrong during the termination or the abortion. But, according to the member for Moore—a GP and an advocate for sensible medical treatment—the health minister asked ‘a very warped, stupid question and got an equally stupid answer’. So it would seem that we cannot agree.

So whose advice should we take? Dr Sharman Stone has pointed to medical information that shows that this particular drug is a safe alternative to surgery. She has pointed out that, while rural women often do not have access to surgical procedures—particularly in my home state of Western Australia—country GPs will be able to supervise the drug’s use, providing women with more options. Meanwhile, our health minister has suggested that perhaps cold showers may be an effective solution to the problem of unwanted pregnancy. So whose word should we take—the current minister for health or Dr Sharman Stone, a member of this parliament who represents rural and regional women? Rarely before has the Australian public been blessed with such diversity of opinion.

If we are going to have a debate about medications and their effects on individuals, perhaps we should have a debate on whether or not to allow, say, Viagra, to be sold to unsuspecting Australians. As I understand it, an editorial in the US journal entitled, conveniently, Contraception noted that Viagra has a mortality rate of five deaths per 100,000 prescriptions. The Adverse Drug Reactions Advisory Committee received 20 reports describing heart attacks linked to the use of Viagra which included four fatalities. Clearly, if we allow this to continue, we are taking a risk with the health and safety of Australian men—let alone the health and safety of those who have sex with them! Surely the men of Australia deserve to be protected from such a dangerous drug. No, of course they do not: Viagra has been legitimately assessed by the Therapeutic Goods Administration as safe for use by Australian men under certain circumstances—a luxury that we do not allow drugs like RU486.

Despite my relative lack of medical experience, I have been able to learn some facts about RU486. I will share some of them with you so that you too may become a qualified medical expert. In the United States, RU486 has been available since 2000. Since then, 400,000 medical abortions have been carried out in the USA. The number of deaths occurring in these instances is approximately one in 100,000. Those of us on the committee were given this information in graphic detail. In the same country, the number of women dying during childbirth—a statistic that was not shared with us—is 12 in 100,000. Here in Australia the maternal mortality rate is an average of 8.2 deaths per 100,000. That is better than in the USA—absolutely—but is still much higher than deaths allegedly in-

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volving RU486. Indeed, in Australia alone, there were eight deaths in 2003 resulting from childbirth or subsequent complications. As the committee heard, childbirth can be an extremely risky proposition for some women.

Despite my lack of medical qualifications, I am quite competent in the field of counting. These numbers show quite obviously that, rather than banning RU486, the health minister—if he is concerned about deaths—should seriously think about addressing the dangers of childbirth, because it would seem to be far more risky to Australian women than having a look at the use of RU486. I again quote my fellow Western Australian, Dr Washer, the member for Moore, who said: ‘One-third of all pregnancies end in miscarriage. Are you going to ban pregnancy in country towns?’

We have the capacity in country towns to deal with a miscarriage but, according to others, we do not have the capacity to administer this drug in country towns and look after the women.

This is another thing I have learned during my recent crash course in medicine: if someone takes this drug, the risks being talked about—infection, bleeding and death—have nothing to do with mifepristone. It is not the drug that causes them; it is ending the pregnancy. Ending a pregnancy, whether by delivery, spontaneous abortion—a miscarriage—or by election, through a medical or surgical abortion, is associated with certain risks. Both a term delivery and a miscarriage at six weeks bring with them a risk of infection and/or bleeding. So it seems to me that those who are concerned about this drug should stop pointing out to everyone that country women often do not have access to adequate medical care and actually start fixing the problem.

I am going to move away now from the medical story and focus on something that everyone in this chamber knows a lot about—that is, politics. That is why we are here today. It seems to me that this debate has had very little to do with medical facts and women’s health. Certainly, those that have approached me to ask me to vote against the legislation have brought very little to the table on those two counts. I cannot help thinking that if safety were a concern we would not be talking about this today. The decision would be left to the same people who approve heart medication, cancer treatments and other such challenging drugs. This debate is about politics. This is about either putting decisions about the health of Australian women in the hands of one person or deciding that all drugs should be examined by the same professional body and exposed to the same expert assessment. This is about a small minority of people who wish to impose their views on the rest of the country.

Whilst Senator Patterson and those of us that support this legislation say, quite rightly, that this debate should not be about abortion, because it is about the role of the Therapeutic Goods Administration, many have tried to make this debate about abortion. As we all know, and as has been mentioned, the abortion laws—women’s right to abortion—are determined by various state and territory governments. It is not the province of any federal legislator or the federal parliament to determine what should or should not be in the criminal codes of our various states and territories. In my home state of Western Australia we have changed our regime for access to terminations on numerous occasions—most recently when the changes were brought about by Cheryl Davenport, a former Labor member of the legislative council. We have decided in Western Australia that a woman seeking a termination on medical grounds will not be committing a crime. It has at last, some years ago, been removed from the Criminal Code.
This debate should not be an abortion debate. If people want to have an abortion debate they should appeal to their state legislators to change their laws. It is not the province of the federal parliament to dictate that. We should not even be discussing that matter today. This matter is about the TGA being able to make an informed decision, based on evidence, about a certain category of medications. It is not a matter for politicians to decide based on ignorance or a desire to enforce their moral code on the rest of us. Australian women are also capable of considering philosophical problems. We need to let them do just that.

So I stand here today to show my respect for the Therapeutic Goods Administration, a professional body comprised of experts who should never be referred to, cheaply, as faceless, unelected bureaucrats. These are sound, ethical and expert people providing the best advice that anyone in Australia has access to. It is those in the medical profession and at the TGA on whom the Australian public rely for accurate and comprehensive advice about their unique health matters—all of their health matters—and we should not be excluding one category. More importantly, I stand here today to show my respect for the women of Australia. I am going to allow each and every one of them to make their own decision about what is best for them for their health, their lives and their families if and only if the TGA says that these medications are safe for use.

Senator McGAURAN (Victoria) (7.49 pm)—I rise to speak on the private member’s bill, the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005. Despite the stated intentions of the bill—that is, to place the decision on the safety and release of RU486 into the hands of the Therapeutic Goods Administration—in essence and in truth this is a vote on pro-abortion and anti-abortion beliefs. This is because RU486 is another aid to the process or act of abortion. If it were not so, we would not be elevating the matter to the level of a conscience vote in this parliament.

A conscience vote in parliament is extremely rare and inevitably arises on matters of pro-life and pro-choice issues. The conscience votes I have been involved with in my term in parliament have been the euthanasia issue of 1996 and the embryo experimentation matter of 2002. Both were clearly embedded in moral stances and life issues, as is the bill before us. So I notify the Senate that my vote will be against this private member’s bill. I respect the fact that this is a conscience vote, where each is free of party disciplines. But the core of the decision we make today ought to be clear. If you believe that life begins at conception—that is, the body grows and the soul exists—then what choice do you have but to reject the act, the aid or the promotion of abortion?

Since the landmark case in 1969 titled the Menhennit ruling, which effectively legalised abortion on demand, the number of abortions in this country has risen until it is now nudging 100,000 per year. It is accepted across the social spectrum and from every point of view that this number is disturbing; this much we agree on. Another consequence of the Menhennit ruling over the past 35 years or so is that what was fundamentally an early-term abortion judgment—in essence, up to about 12 weeks—is now being reasoned to justify late-term abortions. This new dimension to Menhennit has reached the outer limits, with a documented case of an abortion at eight months in Melbourne and even evidence taken in the committee hearing into this bill that an abortion at nine months is acceptable on the grounds of the unfettered rights of women over those of the unborn child.
Whilst this is the point our society has reached since the Menhennit ruling, there has also been a seismic change in the attitude of pro-choicers and society towards that ever-posed question, ‘When does life begin?’ When Menhennit ruled, the common belief of pro-choicers was that the foetus was not ‘life’ at anything less than 12 weeks. Science has been the instigator of this major shift in attitude. Science has proven that all senses and early body forms exist within seven days, and the rate of growth of the embryo between one and seven days is as fast as that in any other term of the whole human growth experience. In other words, the embryo is hurtling towards its human existence and selfhood. I make this point to show that the old debate of whether the foetus is ‘life’ or not is over. Society and even pro-choicers now accept that it is ‘life’. The science is far too compelling.

What today’s abortion debate really centres on is how much weight is given to the rights of the woman over the rights of the unborn child. So it is a rights debate—complete rights, unfettered rights, limited rights, equal rights and so on, but it is a rights debate. And that is exactly what we are debating here today: the rights of women to have abortions by yet another method. Therefore, the bill before the Senate goes beyond a debate on process only and it is absurd to try and convince those of us participating in the debate that it is otherwise.

It follows then that I give my support to the continuation of the 1996 amendments to the Therapeutic Goods Act 1989 that placed substances such as RU486 in a special group of drugs known as ‘restricted goods’, on the basis that they are drugs which are intended to be used to induce abortions in women. ‘Restricted goods’ is the proper term for drugs that induce abortion. A substance is therapeutic if it relates to the treatment or cure of a disease, and drugs that induce abortion are not administered to women with the intention of treating or curing a disease.

Furthermore, the TGA has no reference by which to judge the ethical, moral, social or psychological impact of this drug. Judgments and decisions made about such medicines require a higher level of scrutiny, and that inevitably should lie with the elected federal representatives. No-one should doubt that passing this bill by voting to support it will inevitably see the release of RU486, particularly given the modus operandi of the TGA. In the past, it has been heavily reliant on sourcing its standards and its conclusions from equivalent overseas agencies, in particular the USA Food and Drug Administration.

While it is said that the TGA is in the best position to judge the safety of RU486, that argument fails to look at the issue as a whole or acknowledge that there can be exceptions in the referral of drugs to the TGA. This is one such exception. Therefore, I conclude it is a risk to refer the matter to the TGA, based on its methodology and its inability to consider the moral and ethical aspects of this drug’s use.

Medical evidence given in the committee hearings into this bill, along with individual research based submissions, produced compelling evidence that this drug is not safe. It is certainly not, as it was originally marketed, a convenient do-it-yourself, at-home procedure. In fact, it relies upon three visits to the doctor and a cocktail of other drugs beyond RU486. The possibility of death from the use of RU486 has been recorded in the New England Journal of Medicine, which estimates the rates of maternal mortality related to its use as being about 10 times those of surgical abortions. The possibility of infection, haemorrhaging and the need to return to undergo a surgical procedure is even higher. Furthermore, researchers suggest that
this chemical procedure is more psychologically traumatic than the surgical procedure. One of its so-called attractions is privacy—home alone. But this does not justify its release. It is in fact a good reason not to release it.

It is worth noting that, where this drug has been most frequently used, the very body that released the pill onto the market, the US Food and Drug Administration, is currently investigating a number of deaths associated with RU486. It has recently convened a meeting with the Centers for Disease Control and Prevention to investigate these deaths. This ought to be of serious concern to anyone advocating the release of this drug onto the Australian market. That is, deaths, permanent injuries and psychological scars are ever-increasing as this drug is popularised.

Further, in discussing the safety of the drug, not enough attention has been given to the drug misoprostol, which is the second and equally potent drug in the cocktail of drugs required to enact the termination. This drug will not be placed under the scrutiny of the TGA as an abortifacient. This is because it is not labelled for the purpose it is going to be used for. It is a drug used to treat ulcers. Evidence was given before the committee that in trials of misoprostol as an abortifacient in 40 per cent of cases the drug failed in its purpose. The concern over its safety for such use has prompted the manufacturer to issue a statement that it is not involved or in any way endorses the use of misoprostol as an abortifacient either separately or in combination with other medical therapies. In fact labelling for the drug contains prominent warnings and contraindications for its use by pregnant women. In short, the cocktail of drugs used to achieve termination is of unacceptable risk.

In conclusion, Australians in the great majority now believe that there are too many abortions, estimated to be between 90,000 and 100,000 a year. This is common ground for pro-choice and pro-life advocates. Care and counselling services for women before and after any decision are also common ground. I urge the Senate to reject this bill and work on what is common ground.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (8.02 pm)—I congratulate the two speakers before me who have put totally different points of view. Indeed, Senator Webber gave some fascinating insights into the statistical analysis, which we need to make a decision on here, but more particularly into the real purpose of reviewing this legislation, which is to remove the Minister for Health and Ageing as the arbiter of a drug which, like so many other thousands of drugs, should go through to the Therapeutic Goods Administration and then its use become a matter for doctors to determine with their clients.

It might not seem like it, but Senator McGauran and I have got some things in common. We both come from the bush and have very conservative backgrounds. I have to tell a little story that I do not find all that comfortable, I suppose. I went knocking on the door of the Liberal Party too many years ago. Senator McGauran has done that just recently. The trouble is, I was late and the door was shut on me. So Senator McGauran has had a bit of better luck there.

At the same time I was at medical school. I went on to practise medicine and if there was one thing that terrified me it was the prospect of having to deal with somebody who wanted an abortion. But I was in family medical practice and very quickly was faced with this dilemma. For a conservative young man, I can tell you it was a horrific dilemma, until I realised that it was not my right to make a decision; it was my right to give information and counsel. So when the woman
involved, and very often it was a very young woman, wanted an abortion and spoke to me about that—and we are talking here about the early 1970s, and how the world has changed since then—I would ask her to come back if possible with her partner at night and spend as long as it took to explain the options of becoming a mother, adopting out the child or proceeding to the option which I was being requested to provide, which was an abortion. In those days that required a plane flight from Tasmania to Melbourne. I found it was not only my choice but my responsibility to go through all those options. It became very evident that, if the people involved wanted an abortion and I was to deny them that, they would simply go somewhere else. How I wish that the options had been wider. We are discussing here the ability of doctors to be able to prescribe a drug-induced abortion as against an instrument-delivered abortion to women and, hopefully, their partners who are faced with that dilemma. Of course it is something we should be able to counsel about as medical practitioners but it is not something we as politicians should deny as an option available to women in those circumstances.

I say this to my male colleagues in this place because I would not presume to give this counsel to women: we have to advisedly allow those who have the knowledge and are confronted with the on-the-ground circumstances, which can be extraordinarily complex and outside our own cultural experience, to have all the options available to give to patients, to people—these are human beings, of course—who are in an invidious situation and want help and the best options available. For us to continue to preclude from this option, on Senator McGauran’s own figures, something like 100,000 women each year, is just beyond the pale. How can we politicians say, ‘This option shall not be among the options available to women in that circumstance’? Of course we cannot. If there are senators listening to this who are having difficulty making up their minds, let me as a past medical practitioner ask you not to make this decision as a politician but to allow it to go to the medical practitioners of this nation and the people who come seeking their advice. I support the legislation.

Senator EGGLESTON (Western Australia) (8.08 pm)—The debate on the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005 has been very interesting both here in the Senate and in the public arena since the matter was first raised towards the end of last year. It seems to me that there have been two streams in this debate, the first arguing that there is a pressing need to have RU486 available to the women of Australia and the second about whether the categorisation of abortifacient drugs in a special reserve category, with their availability subject to ministerial approval, should remain in place.

Presumably everybody here in the Senate knows that I practised as a GP obstetrician in a large regional centre in WA for quite a long time. With that background, my questions about RU486 are: firstly, does RU486 add anything useful to what is already available in Australia for termination of a pregnancy, particularly in rural and regional areas, which is where I worked for some 22 years? Secondly, is RU486 as convenient and safe as methods of termination already available in Australia?

I suppose we have to look a bit at the history of maternal morbidity and mortality, and also look at the history of abortion, perhaps over the last century. Of course, things have come a long way since 100 years ago, when everywhere in the world there were very high death rates associated with having babies, and there had been for centuries past. The fact that women were forever pregnant
and had a much shorter life span—largely because of the complications of obstetrics—had much to do with the secondary social position of women in society. Men lived longer; women tended to die in childbirth and were often anaemic and tired from endless pregnancies.

Abortion 100 years ago was a very secret thing. Nobody knew about it, but presumably it occurred and was done by backyard abortionists. And, of course, there was a high incidence of complications from abortions. But, in both obstetrics and the termination of pregnancy, things have changed greatly. In the latest triennium of Australian maternal mortality figures, I think there were only 34 deaths in over 760,000 births. That was for the three years from 1997 to 2000. It is interesting that 20 years before that, in the triennium from 1964 to 1967, there were over 200 deaths in roughly 600,000 deliveries. So, over the century, maternal mortality has fallen steadily. We in Australia now have, in effect, abortion on demand. It is performed in hospitals, under hospital conditions and with a very low complication rate. So it is an interesting observation that we now have a very safe set of figures for both deliveries and terminations of pregnancies.

I have found, in discussions of RU486, that there is a widespread misconception that it is a kind of superior morning-after pill. In fact, as Senator McGauran has said, RU486 is far from being a morning-after pill and is much more complicated to use than the morning-after pill. The morning-after pill is taken as two pills 12 hours apart within 72 hours of unprotected intercourse. It might produce light bleeding, like a period, but that is the end of it. By contrast, RU486 is recommended for six- to seven-week pregnancies and, in some countries, is used to terminate pregnancies of up to 14 weeks.

Furthermore, the use of RU486 is much more complicated than taking the morning-after pill and much more complicated than going to hospital for a surgical termination of pregnancy. It involves at least three separate visits to the doctor over 14 days. On the first visit the woman is given an anti-progesterone pill to kill the baby. At the second visit, two days later, she receives Prostin to induce contractions to expel the foetus, and at 14 days she is reviewed to see if the abortion is complete. If it is not, the woman is admitted to hospital for a surgical procedure to evacuate the contents of the uterus after any infection has been treated. By any measure we would have to agree that the use of RU486 is a much more complicated procedure than a woman just going to a hospital in the morning to have an ultrasound and then having a short surgical procedure carried out to perform a termination of pregnancy. It is a much more complicated procedure, and it is not done in a hospital.

According to the website RU486facts.org, the incidence of adverse after-effects with RU486 is very high and it is said that 23 per cent of the adverse effects have been judged to be severe. For example, there is a seven per cent haemorrhage rate. It is well known that deaths have occurred from haemorrhage from the use of RU486. It is significant that because of the risk of haemorrhage in RU486-induced home abortions it is reported that the People’s Republic of China has banned the use of RU486 in China. I think that is very interesting, given that the Chinese government has long had a policy of limiting its population. One would have thought that if this drug were convenient and simple to use, without any untoward after-effects, then probably the Chinese government would have promoted it among its own population.

Sepsis is the other significant, severe complication of RU486 abortions. According
to a World Health Organisation study, 30 per cent of women who had an incomplete RU486 abortion developed pelvic infections. There is growing evidence, in addition, that mifepristone, which is the antiprogesterone drug used to kill the foetus in RU486, actually depresses the immune system, making the woman concerned more susceptible to the infections which cause septic shock. So my conclusion has to be that, far from adding to the range of safe methods for the termination of pregnancy available in Australia, making RU486 available in this country would be a significantly retrograde step, adding avoidable risk to any woman using this drug to terminate a pregnancy.

It seems to me that there is something in common between supporters of home deliveries and those who are calling for RU486 to be made available in Australia to induce abortions in non-hospital settings. In the case of home deliveries, the argument is that, since the incidence of complication in childbirth is low, most home deliveries will be incident free. The catch is that it is not possible to predict in which deliveries unexpected complications like haemorrhage or obstructed labour will occur. The same applies to home abortions induced with RU486. It is impossible to predict beforehand which ladies using this medication will suffer severe and significant complications in the home environment and have adverse effects thereby. It seems to me that there is a certain naivety about those driving this move to have RU486 made available in Australia in failing to recognise that the possibility of serious consequences from the use of the drug, including death, really does exist and that they really do occur.

I came into this debate when I was asked to express a view about Dr Sharman Stone’s rationale for permitting RU486 to be made available in Australia, which was that it would be convenient and useful for women in regional Australia to have access to this drug to induce abortions rather than go to a hospital for a surgical termination of pregnancy. At the time I felt that I had to express my disagreement with Dr Stone. In contrast to Dr Stone, I believe that RU486 would be hazardous for use in regional Australia because quick access to a surgically equipped medical facility is frequently not available to women in country areas and, if it is, they often have to drive a long way to get there.

The view that I expressed was also expressed by the Chief Medical Officer of the Commonwealth when he was specifically asked by the minister about the use of RU486 in country areas. In addition, the same view has been expressed in a letter circulated to members of the federal parliament by Mr David Gawler, a consultant surgeon at the Royal Darwin Hospital. He specifically mentioned that he believed that there would be particular problems in the use of RU486 with Indigenous women in remote communities in the Northern Territory. I am aware that other doctors working in areas with high Indigenous populations, such as Broome, have, as Senator Adams said, expressed a contrary view to the surgeon, Mr Gawler. But I have to say that my own experience in dealing with pregnant Indigenous women in the Pilbara was that it was a common experience that it was difficult to get them to return for follow-up. In view of the requirement for return visits with RU486, I can foresee difficulties with the use of this drug with Indigenous women in remote areas.

So, from my point of view, I cannot see any net gain to the Australian community from permitting RU486 to be made available in Australia as a means of terminating pregnancy instead of using the currently available and safe surgical methods, which are, from my experience, much simpler and certainly, as I said, much safer to implement for the women concerned.
Turning to the second dimension of this debate, concerning ministerial approval for abortifacient drugs, I would like to make some brief remarks. Abortifacients are not the same as other drugs used to treat medical conditions. It seems to me impossible to deny that such drugs as these involve broader social considerations about our society and, in fact, about who we are and what we stand for.

For me, one of the major causes of concern about the use of RU486 is that it would be difficult to collect data on the number of abortions performed in Australia since most of these abortions would go unreported. From a public health, general sociological and general public interest point of view I think it is important to know how many terminations of pregnancy are being performed in our country. It is a commonly held view that there are between 90,000 and 100,000 abortions performed annually in Australia. I think it is a matter of concern that the number of abortions has reached that level, particularly as the figure includes an increasing number of mid- to late-term abortions on what would otherwise be viable foetuses. This is certainly a trend which I think we as a society should be giving deeper consideration to.

The purpose of the private member’s bill before the Senate today is to remove ministerial authority and to include RU486 in the list of restricted goods which are abortifacients and to leave the evaluation of the use of abortifacient drugs to the Therapeutic Goods Administration. Abortifacient drugs are not the same as other medications. They are not there to treat leukaemia, some rare disease or some common disease like bronchitis. Abortifacients are drugs which induce abortion and mean that an abortion occurs. So, quite apart from the safety issues I have mentioned, it seems to me that there are broader public interest issues surrounding the issue of abortion which mean that decisions about the use of such drugs in Australia require ministerial overview, and, accordingly, I will be voting for the status quo.

Senator WONG (South Australia) (8.24 pm)—The Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005 before the chamber tonight is clearly a controversial and sensitive matter. Its controversy and its sensitivity lie perhaps less in what the bill seeks to do and more in the broader debate the bill has ignited. It is a broader debate that has its roots in the contrasting and deeply held beliefs within our community. I respect that some of my colleagues and many of my constituents hold views different from those I hold. I hope that we in this chamber and in the community can conduct this debate with respect for each other’s different views and without personalising the discussion of the merits of the issues.

I recognise that many of those opposed to this legislation are so because they are more generally opposed to abortion either because of their faith or ethical framework or for another reason. However, as has been discussed before, and it is a point that has been made by previous speakers, this is not a bill to legalise or outlaw abortion. In this country we have already come to a position where a woman can legally terminate a pregnancy. That is a matter that has been debated, that has been discussed within the Australian community over many years and each state and territory has arrived at what is the status quo. In fact, it is an issue that continues to be debated and discussed. What we are debating here tonight is not whether abortion should be accessible but whether the body that this parliament has determined should assess the safety of therapeutic goods, of drugs and of medicines should be permitted also to assess the safety and appropriateness of this particular drug. I believe it should.
There are two primary arguments against this legislation that I wish to address. The first is the issue of safety and the second, and what I think is a more important argument in many ways, is the ethical considerations associated with this drug, which those who oppose the bill suggest require more than the Therapeutic Goods Administration’s approval. For this reason they suggest it should remain within the purview of elected persons, in this case the minister.

I turn firstly to the issue of safety. I want to emphasise that I believe there must be a scientific and evidence-based assessment of whether this drug is safe and, if it is safe, on what basis it can be used. However, I do not believe that this chamber is the place in which such an assessment would be properly undertaken. The need for such assessment to be undertaken by relevant experts is one of the reasons the TGA exists at all—to ensure that the Australian community has the benefit of impartial evaluation and proper assessment in relation to drugs. If we have believed that the TGA is competent to assess and monitor the some 50,000 drugs Australians currently use, then I ask: why not this drug? If this drug is not safe then, as with any other drug, we in this place assume that the TGA will do its job and that this drug will not be available in this country.

Those who support this bill do not argue for RU486; we do not argue for this drug. We argue for its assessment by the TGA. If those who oppose it believe the TGA cannot properly assess the safety of this drug, do they also argue therefore that other drugs should not be assessed by the TGA or do they argue for the abolition or reform of that body? In general, they do not. Generally, the debate in relation to the TGA’s involvement has been the criticism that the TGA will not take into account the ethical considerations associated with the use of this drug rather than the issue of safety.

Turning to this second issue, I agree that ethical questions should not invariably be determined by scientists or experts. That is why we have debates within this parliament and within our community as to the ethical boundaries of things such as medical research. It is also why the availability and accessibility of abortion has been and continues to be debated at length by the Australian community. But I want to make a number of points in relation to this. If the ethical issue at the core of this bill is whether or not we should allow abortions in this country, the community has already discussed that issue—albeit that there are those who vehemently disagree with the status quo. What we are debating here is in fact not that issue; what we are debating here is a method of terminating a pregnancy, not whether or not a woman can do so.

The second point I want to make is this: I fail to see how requiring ministerial approval meets the call for ethical consideration in any event. Ethical consideration of the competing views within the Australian community will not be adequately or comprehensively dealt with simply through ministerial approval. If the health minister happened to be somebody who was avowedly pro-choice, would those opposed to this bill believe that she or he could adequately weigh their views or that ministerial consideration in those circumstances would be sufficient ethical consideration of all the issues associated with the use of this drug?

I also voice my disappointment at the way in which our current health minister has handled this debate. I believe he has demonstrated his inability to objectively consider the arguments for and against this drug. His interventions into the debate, such as his suggestion that unscrupulous doctors would prescribe drugs for desperate women, are misleading and arguably inflammatory and they do nothing to convince me—and, I am
sure, many others—that he is in fact the appropriate person to make the assessment as to the availability of this drug.

As I said at the outset, the ethical issue at the core of this debate is really whether or not abortion should be available. That is the way the public debate has occurred, even if—and I emphasise this, as others before me have emphasised—that is not the matter before the chamber in relation to this bill. The passage or failure of this bill does not actually affect the availability or otherwise of abortion in Australia.

It seems to me that the decision to terminate or not terminate a pregnancy is an intensely personal issue and an issue of conscience. I do not believe that anybody benefits from the politicisation of these personal and conscience based decisions. I believe that there should be limits on the extent to which any of us impose our personal moral views upon others, particularly when one is a parliamentarian. That is a difficult issue, because there is an ethical and moral dimension to so much that we consider in this place. But it seems to me that we as parliamentarians should be cognisant of certain boundaries, of the extent to which we as legislators have the right to impose our own moral position onto others. We cannot, nor should we, do so with impunity. Sometimes I fear we do it in this place without articulating it clearly or discussing it.

We should ask ourselves this question: is this something that I as a legislator should be imposing upon my fellow citizens? Is it appropriate to impose one’s own view about the right ethical choice onto others in the context of such an intensely personal and difficult decision as the decision to terminate a pregnancy? I do not believe it is, and for that reason I describe myself as pro-choice. It seems to me there should be in this place a distinction between what our personal choice might be or what our own conscience might tell us and what we as legislators should impose upon others.

I will be supporting this legislation. I am cognisant of the views of many of those who have written to me from my home state of South Australia who obviously feel very strongly about this issue. I want to place on record my thanks to the committee for the way in which they have dealt with this matter and the enormous workload that they have had in presenting the report to the Senate. Perhaps more importantly in this context, I want to place on record my thanks to the women from the cross-party group who are sponsoring this legislation. It is unusual in this place to have such a thing occur, and it is good that there are occasions when our different political beliefs and our membership of different political parties do not prevent us from pressing an issue that we regard as important for the benefit of women in Australia.

Senator JOYCE (Queensland) (8.34 pm)—This is a very historic time in our parliament. There are very few times that one has the opportunity to have a responsibility for making a decision about a defining social issue that will permeate through the annals of our nation. It will be acknowledged as a personal position of commitment by the senators in this chamber. As with many other historical debates in other parliaments throughout the world, your position on this shall be written down in history and your role judged by history accordingly. As it is a conscience vote, it does the unusual thing of definitively stating who you are and the ethical issues that drive you.

This is a debate about the role of government and on the question of its determination in the lives of others and on the question of life itself. So many at times brilliant speeches have elucidated on the proficiency
of this parliament to deal with a complex issue such as this while obviously reflecting the social inclination of the constituency from which those speakers were elected.

No doubt there are doctors more qualified than a minister without a medical degree, and they would be far more abreast of medical issues; no doubt we could find accountants more qualified to be a minister overseeing the Treasury; no doubt there are natural resources engineers more capable than a minister with oversight over the environment; no doubt there are telecommunication technicians who would be more apt to oversee that role of the government than an elected representative.

Are we to have rule by experts in their field rather than elected representatives? That would be a very disturbing brave new world. If you believe that, then what on earth are you doing here—unless by some outstanding coincidence you are a technical expert on every issue on which you proffer an opinion in this chamber? We could outsource basically every job in this parliament, and maybe that is a debate that would ultimately give greater technical expertise to the management of the nation. But it would, at the very least, assuage the whole role of the democratic process.

The vote tomorrow is about whether parliamentarians believe they have a role on the most crucial social issues or whether we start running away from difficult issues and start diminishing the parliamentary role further. I have always stated that the Senate has been usurped, and this is a further step that moves members and senators to a more honorary position than to one that actually reflects their position in government.

If this is not an argument about abortion but, as stated, an argument about the most appropriate and most qualified body to assess a drug, then those who vote for this motion must, by reason of this, support the further removal of other areas of governance to those who, though not elected, are better qualified. What is the recourse of the voter if the appointed panel of the TGA is a complete affront to their personal views? Will they accept the decision, or will they apply for a political remedy, most likely at the next election? Irregardless, I believe strongly they will try and pursue a political manipulation of the committee to suit their political purpose, even though they put their hand on their heart stating that their key motivation at this stage is to remove the assessment of this drug from the political process.

There is one thing that has definitely been portrayed during this debate, and that is that this is a highly contentious issue by reason of the closely held views of the citizens of Australia. The proponents of this bill believe that this ethos of political representation should not be respected. They believe a direct political remedy, reflected in the ministerial authority, should be subordinate to an unelected bureaucrat. By removing the path of authority on an issue, we allow the progression of unelected bureaucrats to attain the mantle that we believe, and the community believes, we have been elected for. The minister should be responsible for reflecting a hands-on role on contentious issues.

I believe that the contentiousness of this issue is exactly why this decision should be attached to the process and should be immediately answerable to the parliament. I believe that enacting a decision that endorses the disenfranchising of the citizen by the removal of ministerial control is itself an admittance that the parliament is not up to the job and does not have the qualifications to make decisions affecting contentious issues—and I believe that political parties and members of political parties who endorse this position reflect that no-one in their min-
isterial authority would ever have the competence to be able to deal with these issues.

We cannot after this say that this issue is peculiar when other issues in other areas could be handed to those with better qualifications. This is going to lead to the corporatisation of government—the final frontier—and it will unfortunately be endorsed by many on the opposition benches and on our own. Many have stated that this is not an abortion debate and that they are not driven by strong bias on that issue. I am afraid I do not believe you, as I certainly have a strong view and it drives my motivations. I am sure if you were honest you would acknowledge it is driving yours. Others have launched schools of red herrings to further their cause and assault the primary truth—that they are really driven by pro-abortion motivations. It reminds me of reading about the Hon. TB Van Buren, who said that his role as an abolitionist during the slavery debate in 1865 was to proffer the argument that slavery should be abolished because it ‘banished free white labour’. It was a very noble outcome based on a very ignoble premise. No doubt history would advise that the ownership of one individual against their will totally and absolutely by another is repulsive. But people did not say that at the time, and there was wide and acknowledged acceptance of slavery.

No-one benefits from abortion; all are hurt. Let us make that the starting point, rather than stating that there is nothing unusual about the process or the number of abortions currently being done in Australia. The RU486 process, with the culmination of little hands and legs, glazed eyes and a skull being flushed by the mother down a toilet, is especially psychologically and physically brutal. It is important for the honesty of my motives that I once more put on the record that I believe that a person has the right to proceed through life without another person believing they have the right to kill them. I object to the action, not to the person, and obviously have grown up in association with many friends who have had abortions.

The right to your life is inalienable and commences at conception. The fact that you are not conscious of your right is irrelevant in a just society. Neither a person asleep, a child born or a child unborn should have their right calibrated by consciousness. Furthermore, there is a philosophical morass if rights develop with your own physical development, or inherently it would stand to reason that a person’s right to their life would continue to change between the in utero, childhood, adolescent and geriatric stages of life. Because of this, throughout this chamber there would be varying degrees of a right to life. The value of the lives of the various senators would, because of their age, be different. This is, of course, implausible and repulsive. The argument that one form of abortion is allowed therefore all should be allowed is to state that because there is a train line that takes people to a place of imminent death, there is nothing wrong with building a highway there as well.

Likewise, I am not embarrassed to say that I have a Christian faith—2,000 years of which have inspired the freedoms that our culture here in Australia is based on. It is obvious that the respect of all human life is a fundamental tenet of that faith. I am guided by my faith and make no excuses for that. A vast number of my constituents in Queensland hold similar views.

Finally, there is a strong link between RU486 and the death of women who would have survived had they had a surgical abortion. The argument that this number will be small and therefore is acceptable repulses me, as it will the child who loses their mother or the husband who loses their wife or partner. The deaths of those women, which will happen, must rest on those who
decide tomorrow. It will remain as a stigma far greater than all others in the processes that follow or have come before. Because this chamber is the instigator of the act that leads to the deaths, we have to be responsible for those deaths.

If for no other reason than that I do not want to meet the child who lost their mother because of my vote or to meet the father who lost their wife because of my vote or to meet the parent who lost their daughter because of my vote, I will be voting against RU486. I do not believe there is an acceptable level of collateral damage when it comes to human lives when there is an alternative which is far safer. As to RU486 and the safety of the child, it kills virtually all of them, so the argument that is stated about the safety of RU486, while ignoring half the people it affects, is completely disingenuous and dishonest.

However, I acknowledge that this is a parliamentary process, and I acknowledge that people want to come to a just parliamentary outcome. As such, I hope that the belief that we can come to a just outcome can be furthered and that if amendments are suggested they are taken on board. If there is an absolutist position and no amendment is ever contended or changes anybody’s views, it just goes to show and justify that this was purely a pro-abortion, pro-life debate.

Senator McLUCAS (Queensland) (8.45 pm)—The Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005 that we are dealing with today, if passed, will remove the effective legislative restrictions on the importation of RU486 and other drugs which facilitate a medical rather than surgical abortion. The effect of the passing of this bill will mean that decisions about the safety, quality and effectiveness of the drug would pass to the Therapeutic Goods Administration, the entity in this country which evaluates all other medicines that are used in our country. It is a bill about the method of approval of a drug. It is not a bill that debates abortion as such.

The Labor Party has determined that it has a predisposition to support an end to what has been an effective ban on RU486, that RU486 be dealt with by the TGA in accordance with its normal procedures and that members of the caucus exercise a conscience vote on the bill. The following is my personal position on the legislation. Strong views are held by many, if not all, senators in this place. I respect that there are many who are vehemently opposed to women accessing abortion by whatever means. Strong views are also held by many, including me, that women, whatever their means or wherever they live, should have the right to terminate a pregnancy within the state and territory legislative systems that are in place. Those strong views on each side must be respected, but in doing so we have to recognise that this is a debate about the method of approval of a set of drugs, not about the legality of abortion.

As we make these important decisions, it is critical that we are in full possession of the facts. I commend those who provided evidence to the inquiry of the Senate Community Affairs Legislation Committee for their advice and commend the committee for their report. It has been unfortunate, but not unpredictable given the sensitivity of the issue, that many of the facts about RU486 have been misrepresented in the lead-up to this debate. The women of Australia—in fact, all Australians—deserve better than that. I believe it is the responsibility of all members of parliament to ensure that the facts are heard and not blurred or muddied.

The current legislative arrangements mean that there are special restrictions on the im-
portation of RU486 that do not apply to any other medicine, including others which can be and are used to assist in abortions. RU486 is defined under the Therapeutic Goods Act 1989 as a restricted good. Under the act, written ministerial approval is required to import restricted goods into Australia. Approval may be given with or without conditions. A written approval must be laid by the minister before each house of the parliament within five days of it being given. However, any application refused is not required to be reported. The Customs (Prohibited Imports) Regulations 1956, made under the customs acts of 1901, prohibit the importation of goods, including substances, that purport to produce abortions, unless the secretary or an authorised officer has by instrument in writing granted permission to import the goods and the instrument is produced to the collector. It is those pieces of legislation that this bill intends to change.

Much has been said about the history of the Harradine amendment made in 1996. There are those who say that there was a deal between the then Senator Harradine and the government in exchange for support for other bills. Others say that that position is untenable as it occurred prior to when the balance of power was held by Senator Harradine. I do not know the truth—I was not here—but what we do know is that in 1996 much less was known about the drug, so more caution would have been expected. Much less clinical evidence was available. But we should also remember that we operate in a political environment where the rewriting of history is an oft-used tactic and the absolute truth of deals will never be known. Frankly, what happened in 1996 is not relevant to today’s debate.

RU486, or mifepristone, is a synthetic steroid that blocks the action of progesterone, the hormone that is essential for pregnancy. The drug has been licensed for use in humans since 1988 and is now available in the United States, Canada, the UK, many countries in Western Europe, Russia, China, Israel, Turkey and New Zealand. RU486 is primarily used in combination with prostaglandin to induce early abortions, up to nine weeks. In all those countries this is done under medical supervision, although in some countries women may be allowed home if they can access medical care in case of emergency. We know that many doctors and women consider that a medically induced abortion is preferable to a surgical abortion for a range of reasons, including that an anaesthetic is not required, that medical termination can be performed much earlier than a surgical abortion and that some women find it more acceptable as it enables greater involvement in the process.

By using RU486 and prostaglandin, between 92 and 97 per cent of women will abort completely. The remainder will require a surgical procedure to complete the abortion. Fewer than one woman in 1,000 will experience severe bleeding. In France, where RU486 is available for use under medical supervision, the drug is used in about 10 per cent of the 200,000 annual abortions done in the country. In more than a decade, researchers there have found that the pill has not replaced surgery as the most common method of abortion. It has also not increased the total number of abortions. The use of RU486 as an abortifacient is supported by the Royal Australian and New Zealand College of Obstetricians and Gynaecologists, the AMA, the Family Planning Association, the Public Health Association of Australia, the Doctors Reform Society and many other women’s groups.

It is also important that we do not confuse RU486 with the morning-after pill Postinor. The actions of these two drugs are completely different. Postinor acts to prevent the implantation of the embryo in the uterus.
However, there has been considerable confusion in the community which needs to be unravelled. Postinor, the morning-after pill, is available without prescription as an S3 medicine. It is kept behind the counter at a pharmacy and a pharmacist must provide advice on its sale. It is not an abortifacient, because it is taken before implantation has occurred. It is prescribed completely differently to the way that RU486 would be prescribed if the TGA found it to be safe.

No drug—either prescribed by a doctor or purchased over the counter—is without risk. That is why appropriate authorities like the TGA exist to evaluate, register and list drugs for use in our community. Further, the TGA establishes the course of therapy for using drugs in consultation with appropriate authorities. In this case, consultation would be expected to include the College of Obstetricians and Gynaecologists, the College of General Practitioners and the Rural Doctors Association, among many others. For example, in New Zealand RU486 can only be taken in a licensed facility, and the procedure occurs within that facility. In Australia, it is expected that the drug may only be prescribed if an ultrasound has been performed, and that facilities will be available if complete evacuation does not occur.

Any death from any drug is a tragedy. The recorded death rate from RU486 is less than one in 100,000. The death rate from a completed pregnancy is 12 in 100,000 in developed countries. From all available evidence, RU486 is in fact a remarkably safe drug. But I reiterate: it is not for us as politicians to assess the safety of RU486. That should be done by appropriately qualified technicians who have at their disposal evidence and the skills to evaluate the evidence. Much has been made of the four women who died from a rare bacterial infection after taking RU486, although a causal link has not been identified. There are some facts around these cases that have not been promulgated by the opponents of RU486 but that need to be known. Firstly, twice as many women have died from this infection following childbirth as from the use of RU486. There have been eight deaths against four. The four deaths referred to all involved the administration of RU486 vaginally, instead of orally. Vaginal administration of the drug is considered off-label use, which is allowed but not recommended by the FDA. No causal link has been established between the taking of RU486 and the deaths of these women.

Opponents of RU486 alternatively state that this bill will mean that women will be taking RU486 irresponsibly to unthinkingly procure an abortion, or that women will be traumatised by the experience of a medical abortion, which they must experience alone. There is no evidence that Australian women have abortions unthinkingly. In fact, such a suggestion is offensive in the extreme. We know that over the past decade the proportion of medically funded abortions done for teenagers has fallen by 12 per cent, while the proportion of abortion patients over 35 rose by 37 per cent. We also know that an abortion patient was 40 per cent more likely to be married or in a de facto relationship in 2002 than in 1992. It seems that the decision to have an abortion is increasingly a family planning decision, usually made by a middle-class woman in a committed relationship. Our health care system is well able to cope with restrictions on use, appropriate medical monitoring, the provision of informed consent, patient information and support, and the reporting of adverse reactions. All of these can be put in place to ensure the safe use of RU486 if—and that is the important word—it is deemed to be safe by the TGA.

Much has been made of the potential problems and benefits of making RU486 available to women living in rural and remote areas. Women in rural and remote areas
are entitled to the same level of health care as women living in, say, Sydney. It is true that they do not always get it, but we should not be putting extra barriers in their way. If we think that women in these remote areas have inadequate medical care for the use of RU486, then the logic is that we must also admit that their care is inadequate for managing spontaneous abortion, birth and a whole range of health problems. We are happy to let doctors in these areas deliver Medicare funded services and prescribe PBS medications, many of which must be carefully monitored. So why is RU486 any different in this respect?

Many women seeking abortion seek support and counselling regardless of whether the abortion is done surgically or medically, and that support is currently available. Whether it is sufficient or delivered appropriately is another debate, but can I say that the current move to require women to receive prescribed forms of pretermination counselling is driven by those seeking to limit women’s choice and options rather than to provide support to women coming to a decision. It is very important to note that the evidence shows that where RU486 has been introduced into a country the rate of terminations has not risen. The committee received evidence that the number of terminations in the UK, the USA, Germany and Sweden stayed constant after the introduction of RU486. In fact, there is some evidence that the rate of termination has fallen in some of these countries.

I urge all participants in this debate to be factual with their contributions. I urge the media to challenge incorrect, graphic and emotive language, and I encourage our community to look past the language of fear to the facts. It is really important for us all to note one crucial fact here: this is not a vote about whether or not abortion should be allowed in Australia. Abortion is a legal procedure in Australia. The debate about the legality of abortion and who can access it occurs in the parliaments of the states and territories. This debate is about allowing a drug, which has been around for some time and widely used overseas, into Australia for clinical use, which must be subject to scientific and ethical approvals and not the personal beliefs and biases of any health minister.

Minister Abbott has today been extremely defensive about his position. But I put it to the Senate that, if the minister were of a different disposition, my position would not change. Any politician, in my view, is not equipped to be making decisions about the availability of RU486, which would be legal in Australia after the appropriate assessment of its quality, safety and efficacy were complete. Clearly, the use of RU486 will not come without a whole set of guidelines. Those should be put in place by the experts. That is not precluded by this bill. It is time for RU486 to be treated as any other drug in Australia. That is what this bill does and that is why I will be voting for this bill.

In closing, I wish to commend the four women proponents of this bill. They have worked together extremely well and they have been courageous. The women of Australia will thank them in future if this bill is successful. I also commend Professor Caroline de Costa, a professor of obstetrics and gynaecology from Cairns in North Queensland, who was courageous enough to put an article in the Medical Journal of Australia which has been recognised by many as the catalyst for this debate.
isterial discretion. Like many senators, I imagine, my office has been flooded with correspondence on this issue. Much of it, I regret to say, has not focused on the very issue of the bill—the matter of ministerial discretion. Rather, it has assumed that we are taking a decision to extend the right of abortion. Overwhelmingly, the correspondence has been opposed to that assumed extension.

But we have other opinions on this subject. On 19 January this year the Australian published a Newspoll survey in which the question was asked, ‘Would you personally be in favour of or against RU486 being available in Australia for use by qualified medical practitioners?’ In a sample of 1,200, the following percentages responded in the positive: across all categories, 68 per cent; women, 70 per cent; men, 66 per cent; the age category 35 to 49, 71 per cent; and tertiary educated respondents, 76 per cent.

But whether or not we are in favour of RU486 is not the question before us. The question before us is whether the approval or otherwise of medicines should be vested only in the impartial statutory authority established specifically to carry out the task. Before I address the issue, let me record that I am deeply troubled by the estimated 85,000 abortions that apparently take place in Australia each year. I doubt there are any women who undergo the procedure who are not profoundly affected and perhaps even traumatised as a consequence. Nor can we easily dismiss the body of religious and ethical opinion that abortion is a reprehensible action offending their deepest convictions about the nature and sanctity of life. But the reality is that, subject to physical and psychological need, abortion is legal in all Australian states and territories. Whatever we do this evening or tomorrow in the Senate will not change that reality. Notably, this has been recognised by the President of the Uniting Church in Australia, Dr Dean Drayton. In January he said:

We have already had the public debate about abortion. The issue is whether or not this particular drug is safe to be released for use in a country where abortion is legally available.

That, indeed, is our task—to decide on the desirability of the Minister for Health and Ageing retaining the discretion to ban a registered drug. That discretion was secured by the minister in 1996 as a result, some commentators say, of a deal struck between the government and Senator Harradine. Of course, politics is often about deals, compromises and bargains, some good and some otherwise. Perhaps on that occasion the passage of the bill was worth the price. But, in retrospect, from the perspective of good public policy, this may not have been the Senate’s finest hour. The reason is that it removed from the duly accredited Commonwealth agency—the Therapeutic Goods Administration—the responsibility to make a decision about the suitability of a drug for use in Australia. It gave that responsibility to the minister—the only drug in relation to which he has that discretion.

In public policy terms it is a very peculiar discretion. It lacks adequate accountability, offers no transparency and, perversely for a drug said by its opponents to be so dangerous, does not permit scrutiny and examination by the one agency able to do it professionally—the Therapeutic Goods Administration. Considering the level of legislative and regulatory control of therapeutic goods in this country and the expectation that Australians have that such products will be safe, of high quality and comparable to the best available elsewhere in the world, that is an extraordinary situation indeed. I think it is an untenable one. We now have the opportunity to correct this anomaly by placing the power where it belongs.
The Therapeutic Goods Act 1989 vests the power to assess the efficacy, quality and safety of medicines used for therapeutic purposes in the TGA. The 1989 act, in part, defines ‘therapeutic use’ as:

... influencing, inhibiting or modifying a physiological process in persons or animals; or

... influencing, controlling or preventing conception in persons ...

In my view, the act of 1989 is onerous for the TGA. The obligations it imposes are heavy—and so they should be. In 2004-05 the TGA discharged that responsibility by approving more than 11,000 applications for registration and listing, testing over 1,200 products, receiving 421 reported breaches, completing 349 investigations, issuing 161 formal warnings, and it had persons or companies charged with 106 criminal offences.

The administration employs in excess of 500 staff. Its medical and pharmaceutical professionals are specialists in their fields with levels of expertise that are of the highest order. I have heard no suggestion in this debate that the TGA is anything other than a well-run, competent and highly professional agency. It would seem that few, if any, on either side of the debate contend that the TGA does not fulfil the terms of its charter. Indeed, from all reports, it complies with those responsibilities with unquestionable probity, the highest level of relevant scientific expertise and a will to make decisions and present its findings and recommendations in an unbiased manner. As the TGA itself notes:

... the regulatory framework is based on a risk management approach designed to ensure public health and safety while at the same time freeing industry from any unnecessary regulatory burden.

The Senate Community Affairs Legislation Committee received a great number of submissions and heard evidence from witnesses that strongly support the TGA when assessing restricted drugs such as RU486 and contend that the argument should be focused on the nature of the bill and the discretion the minister exercises.

Dr Haikerwal, the President of the Australian Medical Association, told the committee:

Our membership is wide and reflects the same diversity as exists in the community.

In reference to abortifacients he said:

These are the only drugs to require this kind of ministerial approval. This section of the act has effectively banned the entry of RU486 into Australia not only for use as abortifacients but also for the number of other possible uses, such as emergency contraception, treatment of endometriosis and treatment of some breast and brain tumours.

Dr Sally Cockburn said it was nonsensical to claim that RU486 is too unsafe to be evaluated by the TGA, as some appear to be arguing. She also pointed out that normally the minister would seek advice from the TGA as to the safety of a therapeutic good but that, under section 23AA of the act, any request to evaluate a restricted drug must be in writing. The catch-22 for the minister is that he cannot ask the TGA to assess RU486 without signing off on it. This he does not wish to do.

Professor Caroline de Costa, from the Department of Obstetrics and Gynaecology at James Cook University, said in her submission to the Senate committee that she had read every available study on RU486, in English and French. She declared that she is ‘convinced of the usefulness and safety of the drug’ and that ‘the debate should be about removing the very unusual power of the federal minister for health and the opportunity be given to the TGA’. She also confirmed evidence provided by other witnesses that misoprostol and other drugs which have TGA approval for different applications are currently prescribed off label to induce abortion but are not as effective as RU486. Other
peak professional bodies to conclude that RU486 should be available in Australia include the Royal Australian and New Zealand College of Obstetricians and Gynaecologists, the Rural Doctors Association and the National Association of Specialist Obstetricians and Gynaecologists.

I will now return to Dr Haikerwal's evidence. He expressed the utmost confidence in the TGA's competency when he said:

We believe that the TGA is best suited to decide upon the safety of all medications and therapeutic products including RU486 and should be given the opportunity to judge the safety and efficacy of this medication as it does for all others. It is the best qualified authority to decide when and where and with what support services this drug should be made available. They must exert their judgment freely, fairly and away from undue pressure.

These views were supported in much evidence to the committee. Dr Leslie Cannold, medical ethicist at the University of Melbourne, offered that a conscience vote misrepresents the bill by asserting it is about a moral or legal stance on abortion whereas, she said, 'in reality it is about the integrity of Australia’s framework for ensuring the quality, safety and efficacy of the medicines we take, and that’s what the TGA is for'.

To date, the TGA has approved around 50,000 therapeutic products for use in Australia. Given such a volume, there can be little question that the TGA has amassed a high level of expertise and understanding of its obligations. The Parliamentary Library’s research note on the issue says:

The TGA's risk management role means that it is specifically charged with identifying, assessing and evaluating the risks posed by therapeutic goods, applying any measures necessary for treating the risks posed, and monitoring and reviewing the risks over time.

The TGA has consistently discharged that duty, and its professionalism is recognised by its listing by the World Health Organisation as a collaborating centre.

I think I have made my position clear. If this bill is defeated, one of the conclusions that we might draw is that today’s Senate agrees with the government’s decision in 1996—a decision which, in my view, corrupted a regulatory regime which enjoys considerable professional integrity and, as far as one can tell, public confidence. The inference could also be drawn that a resolution in the negative declares a lack of confidence in the professionalism and expertise of the very body charged to maintain confidence in all medicines sold in Australia.

If given the power, I do not know whether the TGA will approve RU486 for sale in Australia. I do believe, however, that it will discharge its responsibility for assessing the medicine conscientiously and, if it approves it, it will only do so after comprehensive assessment consistent with the highest standards it has established. If the TGA decides to list RU486, it will have made a decision consistent with policy in many other countries—but I leave that to the TGA. As a matter of sound policy, we should allow the TGA to do the job it was authorised to do and pass the bill.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.15 pm)—In considering the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005 two issues have exercised my mind: firstly, the issue of abortion; and secondly—and in the context of this bill more importantly—the role of the Therapeutic Goods Administration, or TGA.

Firstly, I come into the abortion debate with a commitment to the concept of the sanctity of human life. Every human life is unique and is to be treasured and valued by society. Most people accept this proposition
without much hesitation. Unfortunately, equivocation enters the debate when the question is asked: when does human life begin? The only logical, scientific and consistent answer to this question is: at conception. At conception our unique genetic make-up has been determined, and there is no logical, scientific, moral or other consideration which can establish after conception a time certain for the commencement of human life. Interestingly, no-one argues that human life commences before conception. But if human life does not start at conception, it is incumbent on those arguing that proposition to tell us exactly when human life does commence. No-one has done so with a satisfactory and consistent construct.

Secondly, this bill is designed to take away ministerial responsibility for the approval of one drug, and one drug alone: an abortifacient. The responsibility for its approval would instead be given to a group of officials. I have agreed to limit my comments this evening, so I encourage those interested in this issue to read the excellent column in today’s Sydney Morning Herald by Senator Fierravanti-Wells, and the additional comments of Senators Humphries, Barnett, Fielding, Polley and Joyce, as well as the Family First additional comments, to the Senate committee report that was tabled today. Looking across the chamber, I also invite people to read the excellent speech given by Senator Polley. In short, they represent a clear, logical and democratic approach to the issue before us. Their insurmountable advocacy urges a no vote.

I will be voting no for the following reasons. I support the sanctity of human life. The TGA deals with therapeutic goods—goods designed to prevent or treat a disease, illness, defect or injury, to quote Dr Baldwin—whereas RU486 is designed to kill and expel from the mother’s womb the developing child. Therefore it is not therapeutic, unless we describe pregnancy as an ailment. As an aside, I cannot accept that a developing child is just a bundle of cells, as some seek to describe it. Those that have suffered a miscarriage will quickly tell you that it is more than just bumping your knee and losing a few cells. There is not only the physical side but also a deep emotional hurt, suggesting more than simply a few cells being lost. In any event, our humanity is surely not to be determined by the number of cells we may have on any particular day.

RU486 is not therapeutic. The TGA is not designed to deal with the moral, social and ethical issues surrounding any particular drug. It simply deals with technical, not moral, issues. That is why I am attracted to the proposition of referring these issues to an expert ethics committee and that the minister’s decision become a disallowable instrument. Parliamentarians are elected as representatives of the community to make these judgment calls, difficult though they be. No matter what our views on abortion, we fail in our duty if we want to outsource or subcontract our responsibility to, albeit decent, but nevertheless non-elected and unrepresentative, officials.

There are also genuine health concerns based on peer reviewed studies and questions about the usage of RU486, which have been canvassed in this debate. I am willing to accept that the TGA is possibly the best body to determine some of these claims and counterclaims as to the efficacy of RU486. But I do not accept that the TGA is expert to deal with the moral and social issues that have arisen as a result of this debate. Indeed, in all conscience, I cannot outsource the moral and ethical issues arising from this debate to an unelected body when I am elected by the Australian people to make these judgment calls, fraught with difficulty though they be. In short, the case for change by the proponents has not been made out. That is why I
believe ministerial responsibility should remain, albeit with the addition of parliamentary oversight. I thank the Senate.

**Senator FIFIELD** (Victoria) (9.22 pm)—In many respects, the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005 has become a proxy battle for a debate for which the Australian public and few parliamentarians have an appetite—the rights or wrongs of abortion. State and territory parliaments determine the legality of abortions and the circumstances under which they can occur. This parliament does not. The law in the states has created what might be called a demilitarised zone in this area of social policy. There is a community consensus on state law as it stands. There is no desire in the community to reopen the abortion debate. This is not a concession to moral relativism by our state parliaments or the community; it is merely a recognition that life is sometimes very complex and not as neat as we might like.

But this bill is not about the pros and cons of abortion, although it has been used by some as a vehicle for some shadow-boxing. I very much regret that some aspects of the debate have taken on the characteristics of a referendum campaign. A yes-no referendum style approach, with associated campaign tactics, helps neither to inform nor to edify discussion on a bill of this nature. We all need to recognise, regardless of our views on abortion, that it is an awful thing. No-one rejoices in it. There are no winners. It is a terrible and difficult decision for any woman. But we live in an imperfect world; there is often no ideal way to handle the circumstances in which people find themselves. We must also recognise that people have a god-given free will. The exercise of that may not always please each of us, but people have the right to exercise it.

This bill is not about the whether or the when but rather the how of abortion. In my view, judgements on the safety, efficacy and appropriateness of a drug or a procedure should be a matter for determination by competent authorities, doctors and their informed patients. But I should make it clear that my vote for this bill in no way reflects a lack of confidence in Minister Abbott. He is a man of character and of great intellect and compassion. He is a diligent and competent minister. But these should be matters for determination by medical experts and by informed individuals, not by ministerial discretion.

Although this is a conscience vote, I thank my constituents and the members of my party in Victoria who have taken the time to put their views to me from both sides of this debate. I have many friends who I know will not agree with my decision but whose views and counsel I nevertheless value and respect. I have a deep regard for the rationale of many who want to maintain ministerial discretion. Indeed, I share the world view of many of those who oppose this bill. But that world view leads me, on this occasion, to a different conclusion. I will be supporting this bill in the Senate.

**Senator HOGG** (Queensland) (9.26 pm)—I rise this evening to oppose the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005, as it seeks to remove the transparency and accountability of this parliament in a very sensitive area of public policy. This transparency and accountability was put in place in 1996 in response to grave concerns held about the drug RU486. Those concerns remain today. A Parliamentary Library research note on the issue of RU486 says, inter alia:

… RU486 belongs to a special category of drugs under the *Therapeutic Goods Act 1989* (the Act), known as ‘restricted goods’, which cannot be
evaluated, registered, listed or imported without the written approval of the Minister for Health. Further, any such written approval must ‘be laid before each House of the Parliament by the Minister within 5 sitting days of being given’.

This gives the parliament the right to scrutinise the decision of the minister and to hold the minister accountable for the reasons supporting the minister’s decision. In such a contentious area, this surely has to be seen as good parliamentary practice.

Dr David van Gend, in the Courier-Mail of 1 December 2005, puts quite simply the reason for ministerial accountability:

The Parliament in 1996 aimed to prevent recurrence of the debacle in 1994 where a junior official in the Health Department approved the importation of RU-486 without the minister’s knowledge.

It raises the issue as to why there needs to be ministerial intervention on RU486 when other drugs are approved by the Therapeutic Goods Administration, the TGA. Again, Dr van Gend says in the Courier-Mail of 1 December 2005:

RU486 is a unique drug in that no other drug is designed to end a human life, and so its importation demands a unique level of public accountability.

Monique Baldwin, in an article in the Australian of 31 January 2006, says of RU486:

It is not designed to prevent, treat or diagnose an illness, defect or injury. It is not therapeutic. It is designed to cause an abortion that will end a developing human life. RU486 raises serious ethical and social concerns that go far beyond scientific analysis.

This is a compelling argument in itself for RU486 to be treated differently, even today, as it was clearly embraced by this parliament in 1996.

The bill, whilst not seeking to debate the demerits or merits of RU486, simply seeks to remove the open and transparent accountability process of 1996 and shunt off the approval process to the TGA, which is required to consider not the public policy aspects of the debate but only the clinical aspects. This would be a retrograde step indeed. The public policy debate is important to people such as me as it crosses the line of some of my most personal and fundamental beliefs.

One such belief is the right of every human being to life. When it comes to human life, I do not make exceptions or value judgments on the importance and value of such life. Each human life is important, precious and unique. We are only given one chance at this life; there are no second chances. I subscribe to the view therefore that each human life should be treated with absolute respect and dignity. Each human life has the right to be nurtured, protected and fostered to maturity without external interference of any sort. I maintain that no individual, collective or government has the right to summarily terminate another’s life. Life is so precious. Life is so important. Life is a continuum. It is not a series of disjointed or unrelated stages. I have a consistent approach in supporting the dignity of human life from its conception to death. That is why I am: opposed to abortion; opposed to the death penalty and opposed to euthanasia. I understand that others do not necessarily share my views on one or all of those issues but I like to think that I have a consistent approach. That is, the value of life does not change because of differing circumstances of human life or differing value judgments about the quality of that life. At the end of the day the unborn life, the unborn child, does have rights and, in particular, the right to life. Making RU486 readily available to terminate that life is unconscionable in my view. RU486, as stated earlier, is no therapy for the unborn child.

Evidence received by me clearly suggests that there has been no change in the circumstances that had parliament deem it necessary in 1996 to make the importation of
RU486 the subject of ministerial approval and parliamentary scrutiny. The fact that other countries have approved the drug for use does not make it a correct or proper decision in Australia. There have been grave medical concerns expressed about the effects of RU486. The devastating effect still remains for the unborn human life in that it is summarily terminated. As Monique Baldwin, in the Australian on 31 January 2006, said:

The TGA was never designed to negotiate the public policy complexities that accompany debate about such a drug. This task lies with our elected and accountable representatives. And they should not wash their hands of this responsibility:

There is no compelling reason to change the current approval process. Clearly, the bill raises more issues than it resolves. The debate today will not resolve issues such as the abortion-breast cancer link, post abortion psychological issues and pregnancy or abortion counselling. I therefore believe that the bill should be rejected.

In closing my remarks I want to thank those members of the Community Affairs Legislation Committee on both sides of the debate who pursued the issue diligently and brought down an excellent report. I also want to thank those people on both sides of the debate who have contacted me either by fax, email or letter and offered me their views, which I have considered in putting my views together. Having said that, I have noted in the chamber that there have been distributed proposed amendments to the bill in the committee of the whole stage. Whilst I have only had a brief chance to read those, because my speech was prepared obviously well in advance of the circulation of the document or my knowledge of it, my brief reading seems to tell me that it will improve the process and I think that, whilst I may well be opposed to the bill as it currently stands, I would be quite happy to entertain the amendments as circulated and I would listen to the debate when it undoubtedly takes place at the committee of the whole stage. It seems that the outlined proposals indicating that the minister would be required to seek written advice from the Australian Health Ethics Committee, to consider that advice and prepare reasons for approval or refusal to approve the importation, are a vast improvement on what currently exists. I note also the proposal at the committee of the whole stage requiring consideration of a proposition that written approval or refusal to approve in accordance with this section is a disallowable legislative instrument for the purposes of the Legislative Instruments Act 2003, and there is also a proposal in the circulated amendment sheet that the minister must give written notice together with a statement of reasons of approval or of the refusal to approve the evaluation, registration or listing of restricted goods in accordance with the section.

Whilst I have only had a very brief and cursory look at that proposal, it does seem to me to fit in with basic comments that I have put on the record this evening in respect of this bill. I would be opposed to the bill passing in its current form but if these amendments were to see favour in this chamber, I would be quite happy to support them unless I can be persuaded otherwise at the committee of the whole stage. I commend opposition to the bill as it stands and, given that there seems to have been amendments proposed to the bill at the committee stage, I would seek support for those amendments.

Senator SIEWERT (Western Australia) (9.37 pm)—In rising to address the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005, I would like to clarify what exactly is the question that we senators are being asked to address and ultimately decide on tomorrow. Before I do that, I would like to congratulate the proponents of this bill on
having the guts to put it up in the face of a lot of opposition from what I believe is a minority—but a noisy minority—in the community. In doing so, I am mindful that there has been extensive media coverage, public debate and constituent lobbying, much of which I believe has been tangential to the question, if not misleading.

The question we are being asked today and tomorrow to make a decision on is whether the Minister for Health and Ageing is the most appropriate person to decide if the drug RU486 and other abortifacients should be made available in this country or if their availability should be determined by the Therapeutic Goods Administration in the same manner as every other drug in this country. This clear question is being clouded by the same turbulent and emotive debate which has for many years surrounded the issue of abortion.

I fully agree that abortion is a very difficult and sensitive subject, but it is one which has been subject to considerable public debate. The fact is that abortion is legal in Australia, but what is before us is not that debate. The opponents of this bill are using it as an excuse to reopen and sidetrack this debate. The issue in question is who should decide if a pharmaceutical drug will be allowed into this country. When you think about it, it could potentially be the start of a slippery slope if today this parliament decides that the health minister should continue deciding about this type of drug. What other types of drugs do we think the health minister should decide about?

The TGA has a very specific purpose. It is infinitely more qualified than any health minister will ever be to assess the medical appropriateness of drugs for listing in this country and is free from any accusations of real or potential political influence. If there are significant health implications of taking medications then these should be subject to a rigorous scientific assessment that takes into account and balances the full weight of the medical evidence of the benefits, the risks and the unknowns. The ethical question of whether abortion should be available in Australia has already been decided and is not up for debate today. Abortion is currently safely available in Australia, with the regulation of provision varying from state to state. To paraphrase Prime Minister John Howard—not something I do regularly—the vote slated for February 2006 is about whether a single member of parliament or the Therapeutic Goods Administration, the TGA, should decide on the safety of the drug.

I think it is particularly important to separate politics from medical decision making. Decisions about the health of Australians need to be made on the basis of medical evidence presented by the experts to those charged by our government with the risk assessment role: the TGA. As has already been discussed by previous speakers on this bill, pharmaceuticals such as RU486 intended for use by women as abortifacients are the only drugs the TGA does not have the authority to evaluate and regulate. Yet, since its establishment in 1989, the TGA has fulfilled its responsibility to both assess and monitor the almost 50,000 other drugs on which Australians rely for their health. Why is this one class of drug considered to be so bad?

I do not think the opponents of this bill are really serious about their argument of safety. If they are talking about safety, why do they not argue for similar bans on tranquillisers, mood elevators, Valium, Prozac or many other drugs? Many of these have some very serious questionable social and medical consequences, and arguably have many more side effects, adverse consequences and may even lead to deaths. This issue is about the use of abortifacients.
RU486 is a drug that is recommended by the World Health Organisation, particularly in developing countries. It is a drug that provides an alternative to a surgical procedure for the termination of a pregnancy and therefore gives women more choices. This debate is about women’s health and their choices in a country where termination of pregnancy is already frequently performed. It is particularly important for women living in remote and regional communities.

Termination of pregnancy does occur in Australia, and the best health outcomes are where there is ready access to high-quality services in early pregnancy. RU486 should be one of the options in this setting. The family planning debate has been conducted for a long time in the public domain. The issue now appears to be whether individuals should have choice in this sphere of activity or whether the government has a duty to regulate it. I support the idea that contraceptive use by men or women is a personal decision and support the right of women to choose whether or not to have children.

Even if you disagree and support the notion that family planning is an area for regulation, there is still the issue of whether or not abortifacient drugs may be preferable to surgical abortion, which is already legal in this country. Again I state that we are not being asked to debate this issue; we are being asked to debate whether the health minister should make this decision or whether it should be made by the TGA. Some of the opponents of this argument refuse to understand or acknowledge the basic facts of this debate, and that saddens me greatly. This debate is about whether the TGA should be making the decision on this drug—whether they should be making a medical decision based on facts, I, with the other Green members of the Senate, support this bill.

Senator KIRK (South Australia) (9.45 pm)—I also rise this evening to speak in favour of the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005 and to outline the reasons why I support the removal of the ministerial power of approval of RU486 and other abortifacients from the Minister for Health and Ageing and its transfer to the Therapeutic Goods Administration, or TGA. As many other speakers have noted, this debate has been clouded by issues which, although they are of considerable social significance, are not the subject of this legislation. We are not, here, being asked to determine whether access to abortion should be legal in Australia. The states and territories have legislative power over the subject matter and the various parliaments have legislated to provide for the circumstances in which a woman may lawfully terminate an unwanted pregnancy.

As many speakers have said, this issue has already been decided and was done so some 30 years ago. Australian women have already won the right to access legal abortion, and there are no moves afoot within the states and territories to change the existing law. Australians continue to be overwhelmingly in favour of a woman’s right to choose. According to the latest Australian Survey of Social Attitudes, in 2003, 81 per cent of Australians said that a woman should have the right to choose whether or not to have an abortion. I am one amongst this overwhelming majority of Australians. Nor are we being asked to determine whether RU486 is safe. This has, however, been the focus of much of this debate and it is therefore a matter that I will briefly address in my remarks today.

What we are being asked to determine is the process by which there may be access by Australian women to a method of abortion that is accessed by thousands of women worldwide. The issue is whether this drug
should be dealt with like any other drug. It really is a straightforward question: should the minister for health have the power to determine the safety, efficacy and quality of the drug RU486 or should this decision be given to the TGA?

As we are all aware, today the Senate Community Affairs Legislation Committee released its report summarising the findings of the inquiry into this bill. I have had the chance to read the majority of the report, and I commend both the senators and the committee secretariat for a most comprehensive report that clearly sets out the issues in this debate. According to its website, the committee received over 2,300 submissions, as well as 2,160 of what might be described as anti-choice letters and some nine pro-choice letters. Like most other senators, I have received hundreds of emails and letters on this issue. In fact, just before I came down here tonight I checked my in-box and found some 40 additional emails that I had received in the last hour or so. The majority of those that I have received are from people who oppose abortion full stop. Many others question the safety of the drug RU486, citing serious side effects and the deaths of women overseas.

But this bill is about neither of these issues. With respect to all of the people who wrote to me and to other senators, this bill is not about proposing to change existing laws. As I said before, this bill does not propose to, nor can it, change existing state and territory laws in relation to abortion; nor does it seek to make a determination of the safety or otherwise of RU486. This bill is about the process by which RU486 should or should not be approved for use in Australia. It proposes to give the TGA, rather than the minister for health, the responsibility for approval of the drug.

I support the objective of the bill, as I believe that placing the responsibility for approval of RU486 with the minister is inappropriate for the following reasons. First, the minister for health does not have the capacity for, or specific expertise in, assessing the safety and efficacy of therapeutic agents. I say this in relation to not only the current minister for health, with respect, but all ministers for health, be they past, present or future. In fact, I think it is the case that very few, if any, members of parliament or members of the government have the capacity to make this assessment.

Secondly, singling out drugs such as RU486 for ministerial approval does not improve the safety of drug regulation and prescription in Australia. Much has been made in this debate about the need for there to be political accountability in the making of the decision on whether to approve the drug RU486. The democratic process requires that the government act in the interests of the people it represents, yet here the existing process allows just one person, the minister for health, to make the decision on whether or not to approve the drug for use in Australia.

The present system precludes the role of the TGA from the process of evaluating medications such as RU486 without the written approval of the minister. The act does not require that the minister seek advice or that he or she give any reasons or follow any protocol when making a decision regarding an application in relation to these drugs. Every other drug is evaluated by the TGA solely on its scientific merits, without ministerial involvement, subject to clear standards of accountability and transparency for evaluating clinical evidence. We in Australia are well served, I believe, by the professional competence and integrity of the TGA. That clearly came out during the committee’s inquiry. There is no reason at all to exclude one group of therapeutic agents from the act by
having a separate process such as that which exists for the drug RU486.

I said that I would make a few comments in relation to the issue of the safety of the drug. As I said at the outset, I certainly do not profess to have any expertise in this area; I cannot make an assessment of the safety or otherwise of the drug. That really is something that ought to be left to the experts. I would prefer that safety were not part of this debate because, as I said in my introduction, this bill is not about whether RU486 is safe but about who is qualified to decide.

This is what we know about RU486. Two million women in 35 countries have chosen to use the drug. It has been subject to numerous studies and wide scrutiny. The US based Association of Reproductive Health Professionals says it is safer than aspirin, Tylenol and Viagra. RU486 has been judged as safe by the Australian Medical Association, the Royal Australian and New Zealand College of Obstetricians and Gynaecologists, the Rural Doctors Association, the National Association of Specialist Obstetricians and Gynaecologists and many other individual members of the medical profession.

Many medications are unsafe or need monitoring under certain circumstances. GPs are trained to know when to prescribe drugs or treatments. They do not have a one-size-fits-all approach and they are careful to weigh up an individual’s physical and mental health and social situation and to know when to exercise caution or to suggest other options. This is what they are trained to do.

In the time I have remaining I want to make brief mention of the fact, as other speakers have, that RU486 has applications other than the termination of pregnancy, some of which are potentially life saving—or would be if patients were able to access them. Patients with certain brain tumours and endocrine conditions have been told by their doctors that RU486 would be the best possible treatment, but under the current system they are unable to receive this treatment. I am informed that some of the people in this situation have been through the arduous process of getting approval from the TGA to import the drug. However, there is a catch: because by necessity the approval can only be limited, it is not covered by medical indemnity insurance and so they are often unable to find a doctor who is willing to prescribe the drug.

In closing I say that it is time we had this debate and I welcome it. In 1996 the drug RU486 was effectively banned. For 10 years Australian women have been prevented from choosing what, for many, would have been the safest method of abortion. There are 35 countries, including the United States, Britain and New Zealand, which have judged RU486 to be safe. Most Australians support a woman’s right to choose. However, as I said in my opening remarks, this bill is not about the legality of abortion, nor is it about whether RU486 is safe. Whether RU486 is safe is something that should be left to the TGA, an organisation eminently qualified for this decision. In my view this is something that the medical experts ought to decide and for that reason I will be supporting this bill.

Senator McEWEN (South Australia) (9.55 pm)—I will speak briefly on the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005. At the outset I thank the members of the Senate Community Affairs Legislation Committee and the staff of that committee who conducted the inquiry into this matter under very difficult circumstances. I also wish to record my appreciation for the work of the four women senators from the major parties who jointly sponsored this bill.
I support the proposed amendments to the Therapeutic Goods Act that, if passed by this Senate, will have the effect of giving the Therapeutic Goods Administration the ability to determine whether Australian doctors should be able to prescribe RU486 for Australian women. That is, I am of the view that the TGA, the organisation that the parliament has charged with the responsibility to make determinations about all other medicines that are available in Australia, should also make a determination about medicines such as RU486 that are able to be used to bring about the termination of a woman’s pregnancy.

I support this bill for a number of reasons which I shall briefly outline. Before I do that I acknowledge that some people, including members of this parliament, are vehemently opposed to the concept that a woman should have the right to terminate her pregnancy whether by surgical or medical intervention, whether legally or illegally procured and regardless of any of the many reasons that women may seek to procure a termination. I respect the right of those people to hold that view; I know that for many it is based on strongly held religious or personal beliefs. I appreciate that persons who hold those beliefs will use every opportunity to state their objections to abortion and will do what they can to sway the rest of us to their view.

I have been around long enough to know that the opponents of a woman’s right to choose to legally terminate a pregnancy will not go away and that from time to time we will again have to revisit the issue of whether women should have access to legal abortion. The evidence is clear that most Australians believe a woman should have that right and, as evidence to the Senate Community Affairs Committee has shown, women will continue to seek to terminate their pregnancies regardless of the legal or medical regime in place because, for some women, there is no alternative than to have to make that awful decision.

I note that many opponents of this bill in their communications to me consistently failed to address the reasons why women find themselves in a position to have to even contemplate terminating their pregnancies. Conveniently ignored are the circumstances of rape, incest, paedophilia, ignorance, domestic violence, poverty, lack of education, lack of access to contraception and the numerous other reasons why women and girls find themselves pregnant when they do not want to be pregnant. Also too often ignored are the implications for a woman and her family, including other children, if an unwanted pregnancy continues.

However, this is not a bill about whether a woman should have the right to terminate her pregnancy, and at this time in all states of Australia abortion is legally available to women who want it and who meet certain criteria. Opponents of a woman’s right to choose may not like it but that is the fact of the matter.

This is a bill about whether a minister of the Crown should have the power of veto over availability of a medicine that could, if it is approved by the TGA for use, provide women and their doctors with an alternative method of achieving an outcome that they are going to anyway be seeking to achieve by other means. The reason the minister currently has the power of veto is that 10 years ago a former senator who was vehemently opposed to abortion was able to exploit his privileged position as a member of parliament to gain parliamentary prohibition on giving Australian women an alternative method of managing their reproductive health.

This bill is an opportunity for the parliament to overturn that decision of a decade ago and to restore the decision about the
availability of medical treatment for women to where it should rightly always have been—with the TGA. The TGA is the appropriate body to make the decision about whether RU486 is available for prescription by doctors for their patients. Nothing in the submissions to the Senate inquiry demonstrates other than competence by the TGA in its role in evaluating the safety of the many drugs that it assesses, and continually monitors, for use in Australia. As we know, RU486 is approved for use in many other countries and has been in use in some of those countries for many years. The TGA will be able to benefit from the experience of those other countries if and when it makes an assessment about making this drug available for use in Australia.

Much has been said by opponents of this bill about the alleged potential complications and ill effects that may follow the use of RU486. This debate is so full of contradictory evidence that it is even more essential that the independent TGA make the decision about availability. It should not be up to us in this parliament to decide whether or not women should have access to this drug. It should not be up to us to do a risk evaluation of this drug; we are not competent to do so. That is the role of the TGA, and there is no shortage of information about this drug and its effects that the TGA will be able to take into account if and when it makes that determination.

The TGA is the appropriate body to make the determination about the availability of RU486. However, whether or not a woman is prescribed this medical method of termination, should it become available in Australia, will be up to a woman’s doctor and the woman concerned. I have great faith in the ability of Australia’s medical practitioners to take into account the whole circumstances of a woman’s situation when prescribing this drug—just as they take into account the circumstances of their patients when prescribing any other drug.

The occasionally hysterical scaremongering that has accompanied this debate has done a disservice not only to the medical profession but to their patients who find themselves in the regrettable situation of having to contemplate termination of pregnancy. The parliament is not the place to arbitrate on what decision a woman in those circumstances should make. Let us pass this bill and then allow the processes of the TGA to determine whether or not medical abortion via the use of prescribed drugs should be available. And let us leave it to the woman, the people who support her and her doctor to determine the best method of achieving the outcome that the woman determines she wants.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (10.03 pm)—I join the debate tonight because those on the speaking list who are listed to come before me are not available, so I want to just make a few comments. I first of all want to congratulate the senators on both sides of the argument, who have argued their cases with dignity and with a calmness that is so often missing in some of these debates.

This is a fairly simple question: should decisions regarding access to RU486 be made by the minister for health or by the Therapeutic Goods Administration? I know this debate has reopened the whole abortion debate. In some ways, it has been used by many people as a proxy for that very important, serious, moral debate about abortion, how it should be regulated and how readily it should be available. But the reality is, as Senator Fifield said, that that is a matter for the states; it is not a question that is in the control of the federal parliament and it is not a question that we are considering here to-
day. That is not the issue before the parliament. The issue before the parliament is the question of who should make the decision about this drug. It is also a fact that abortions are legal in Australia and do take place. That is not the issue.

There have been some excellent speeches. But I want to touch on an issue that arose today, and that is the claim by Mr Abbott, the Minister for Health and Ageing, that somehow he has been attacked because of his religious beliefs. This is not about Mr Abbott and it is not about any particular minister for health. I hope one day in a Labor government to be given the opportunity to serve as minister for health, but I would have the same view then that I have now: that it should not be left to me to make decisions about the efficacy of a drug proposed to be introduced into Australia. I do not have any expertise in that matter, and neither does Mr Abbott. The point is that that decision should be made out of a political environment; not by a politician, not by a person who is under the political pressures that we have all come under in recent weeks, but by an independent body, based on the best scientific and medical advice. It seems to me that that is a very clear and easy decision to make.

I do not think this is about Mr Abbott’s personal or religious views. He is entitled to those. I do not call those into question at all. But whatever one’s personal or religious beliefs, the point is that no politician in the role of minister for health is best placed to make that decision. And some of the arguments about accountability have been farcical, because I do not remember ever getting a say about these decisions when the minister for health makes them. There has been no parliamentary accountability since decisions have been taken.

I want to make very clear that in saying that the question of abortion is not before us today I do not wish to hide behind that. A lot of people consider this to be a debate about abortion. It is not, but I am very clearly and publicly expressing my position that I am pro-choice and have been for many years. I want to put that on the record, but it is not the point of this debate and it is not the point of the legislation. I have a fundamental problem with men trying to tell women how to handle issues of their own fertility and health. It seems to me that that is fundamentally wrong and that it ought to be the woman’s decision about what is best for her and any potential child that might come from a pregnancy.

I support a woman’s right to choose, but I want to make it very clear that people have to focus on the fact that that is not the debate before us. I am very aware of that, because we had the debate in Western Australia only some five years ago, when a close friend and colleague, Cheryl Davenport MLC, a member of the upper house in WA, led the charge to reform the abortion laws in Western Australia. That was successful. The WA parliament, which split much like we will—along non-party lines—supported legalising abortion. Abortion had been practised in the state for many years, but when a particular practitioner was arrested and charged for performing an abortion the issue was brought to a head. That matter was resolved in the state jurisdiction by the state parliament, as is our legal arrangement—and, as we know, various regimes apply in each of the states.

I know that there are very strong opinions in the community and the Senate about these issues. Given that the provision that gave the minister the role to make this decision arose out of a fairly murky arrangement without much debate about its merits, it seems to me that the debate today comes down to this: the opponents of the bill have to prove why this drug, and this drug alone, should be treated differently to every other drug that would be
made available to Australians. To oppose this bill, the proponents of that view have to establish why this one drug alone should be treated differently to every other medicinal drug brought into this country. For every other drug, we deem that the TGA is the appropriate body to make the decision, but somehow this is special; somehow RU486 is different.

I do not think the case has been made for that. Sure, it involves in some of its uses the question of abortion, but the issues of safety, efficacy et cetera are for the TGA, just as they are for a range of other drugs—thousands of other drugs—that are now available in Australia. It is a decision for the TGA, to be made on scientific and medical grounds, not for politicians in the heat of a political argument. To pick out one drug with multiple uses and say, ‘No, we won’t allow this drug in; we’ll leave the decision about that drug to a particular member of the government,’ does not make sense. There is no consistency of approach. As far as I am concerned, no case has been made out as to why RU486 should be treated any differently to any other drug—and all those considerations that have been raised by some people about efficacy, potential safety issues, side effects et cetera are properly examined in a political-free environment by those with expertise and access to the best evidence. That is the way RU486 should be treated—just as all the other drugs are.

In closing, I make the point that I think that the parliament is growing in maturity. I think over recent years we have handled the euthanasia debate, the stem cell debate and now this debate in a very mature manner. It is not something that I thought would be possible at the start of the euthanasia bill, but we got through that and we got through a very difficult debate about stem cell research a couple of years ago with a maturity that I think has done the parliament a great deal of credit. People have argued their case fiercely, but they have done it with goodwill, maturity and an ability to see other sides of the argument. It is a credit to the parliament, and the fact that people are able to take different positions and the parties are able to relinquish control of those issues and allow a conscience vote has been taken as a very positive sign about the health of our democracy. But, as I said, I think the decision before us is fairly simple. I do not think there is any case as to why this particular drug should be treated differently to any other. I do not think that case has been made out, and I will be supporting the bill.

 Senator FIERRAVANTI-WELLS (New South Wales) (10.12 pm)—With the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005 I am facing the first conscience vote of my parliamentary career. I will be opposing the bill. This is an issue which has generated much controversy and debate. Indeed, I have received as much correspondence regarding RU486 as with the changes to industrial relations, Welfare to Work and voluntary student unionism. They are letters written with passion—mostly handwritten—by ordinary Australians whose concerns have prompted them to put pen to paper about something they feel very strongly about. This is a drug designed to kill, and Australians are entitled to have a strong view about this. It is a drug which raises medical, social and ethical issues. They are all complex in their nature and they require careful scrutiny and accountability.

In June 1996, the Therapeutic Goods Act 1989 was amended so that medicines intended for use as abortifacients—which covers RU486—became restricted goods. They need to have the approval of the minister for health before they can be imported, evaluated by the Therapeutic Goods Administration or registered on the Australian Register.
of Therapeutic Goods. Written ministerial approvals, including any conditions, must be tabled before parliament within five days of the approval being given. There is no provision for disapproval.

It is important to look at the definition of ‘therapeutic’ in the act. It says:

therapeutic use means use in or in connection with:
(a) preventing, diagnosing, curing or alleviating a disease, ailment, defect or injury in persons or animals; or
(b) influencing, inhibiting or modifying a physiological process in persons or animals; or
(c) testing the susceptibility of persons or animals to a disease or ailment; or
(d) influencing, controlling or preventing conception in persons; or
(e) testing for pregnancy in persons; or
(f) the replacement or modification of parts of the anatomy in persons or animals.

In short, this debate is about whether RU486 should remain in its TGA restricted goods category or whether it should be treated like any other drug and assessed by the TGA. RU486 is not a therapeutic drug. It does not fall within the definition I have just quoted. RU486 is like no other drug. It is a drug that is designed to kill.

I believe the current restrictions should remain so that approval of RU486 is something that the elected government of the day, through its health minister, takes responsibility for and not the TGA. Indeed, the concept of ministerial discretion is a longstanding feature of the Westminster system. It means that sometimes governments need to make decisions about difficult and controversial issues, but most importantly they need to be accountable for those decisions. This is one such decision.

The TGA is obliged to look at a drug only on its safety, efficacy and quality. Ethical and social criteria are not considered, nor are the potential psychological aspects of this drug. Whilst recognising that the TGA is an experienced body, whatever one’s view the TGA is not designed to deal with the morality of any drug. It is not an elected body. It is not accountable to the electorate.

The current requirement for ministerial scrutiny can be understood only in light of events which were precipitated by the decision of an unidentified official within the TGA to authorise the importation of RU486 in 1994 for clinical trials in Australia. That action set in train a series of events culminating in the halting of a Victorian trial of the drug and four separate departmental investigations into the trials ordered by the then Minister for Health and Human Services, the Hon. Dr Carmen Lawrence MP. As an abortifacient, RU486 was a prohibited import unless exempted by the Department of Human Services and Health pursuant to the Customs (Prohibited Imports) Regulations. It was understood that no such exemption would be given unless the minister was consulted. Neither the Minister for Human Services and Health nor the Minister for Family Services, who had responsibility for the Therapeutic Goods Authority, were consulted prior to the exemption by the departmental delegate.

Clinical trials of the drug were carried out in Australia by the Sydney Centre for Reproductive Health and by Monash University Department of Obstetrics and Gynaecology at the Family Planning Association of Victoria. The Australian trials were part of worldwide trials by the Special Program of Research Development and Research Training in Human Reproduction. Senator Graham Richardson, the health minister at the time the exemption was granted, acknowledged that official parliamentary undertakings had been breached and said the government would see whether it could rectify the situa-
tion. He later retired and, until trial procedure breaches were exposed, the government and relevant departments remained uninvolved.

Despite claims that the TGA had rigorously scrutinised and strictly evaluated the drug prior to authorising approval during Senate estimates hearings on 25 May 1994, Dr Malcolm Wright, head of the drug evaluation branch of the TGA, demonstrated that this was not correct by stating that the TGA had not carried out an assessment of the quality, safety and efficiency of this product. There had been no independent assessment of legality and questions were raised about whether the trials were actually within the law. Trials were suspended on 16 August 1994. This was the background against which the amendment to the TGA Act was introduced and passed, requiring ministerial scrutiny over any application for the importation of RU486 or any other prostaglandin antagonist.

The then ALP senator Belinda Neal said:
... we acknowledge that this issue raises large concerns within the community. It raises issues beyond purely health issues. These issues need to be addressed by the executive of this government and addressed with absolute and direct accountability ...

The then Greens senator Christabel Chama-rette said:
We deserve to have parliamentary scrutiny of decisions. We deserve to have a voice on issues and not simply leave them to boards of experts.

Furthermore, the TGA approval process is most often based on research developed by drug companies. Prominent bioethicists, such as Dr Renate Klein, agree that research to date has been less than adequate in its controls and its reach.

Those promoting RU486 advocate the drug as a safe and easy form of abortion which can be administered with a minimum of fuss. That is not the case. At the recent launch of Australians Against RU486, Dr Catherine Lennon, a Sydney GP, raised some important statistics: in the United States RU486 does not work to abort pregnancy for up to 10 per cent of women who use it; the use of RU486 to abort pregnancy increases your chances of dying to one in 100,000 compared to surgical abortion, where the chances of dying are one in one million; in the US, where RU486 is available, up to 10 per cent of women who use it experience severe bleeding and complications that require further medical attention; users of RU486 are required to make three separate trips to the doctor, take two different medications—mifepristone-RU486 and then, 48 hours later, a second drug, misoprostol—Cytotec—and wait 14 days before the result of the treatment is known.

Dr Lennon cited a recent study which showed that 60 per cent of Australian women are opposed to the introduction of RU486 when provided with details, including complications of the RU486 abortion pill, the time frame compared with surgical abortion and the increased risk of death as compared with medical abortion. The polling, conducted in December 2005 by Quantum Market Research, surveyed over 500 Australian women between the ages of 18 and 45 from all states and territories.

Dr Lennon quoted Edouard Sakiz, who was Chief Executive Officer of Roussel Uclaf, the French company which developed and manufactures the RU486 drug in France. In 1989 he stated that ‘RU486 is not at all easy to use. In fact it is much more complex to use than the technique of vacuum extraction. True: no anaesthetic is required, but a woman who wants to end her pregnancy has to live with her abortion for at least a week using this technique. It’s an appalling psychological ordeal.’ It is also interesting to note the recent publications where Pfizer, the
maker of misoprostol, warns that it cannot recommend its use in the termination of pregnancies because of potential risks. These timely warnings that the second component of the RU486 regime should not be used for abortions can only lend greater strength to the argument for ministerial oversight. In short, many of the researchers and physicians readily admit that RU486 is not safe enough to administer without close medical supervision.

The RU486 debate should not be a pro-life or pro-choice issue; it should be about responsibility and accountability. This is a drug like no other drug and therefore ought not to be treated like other drugs. I think the Prime Minister put it best today when he said that it does not make much sense to devote an enormous amount of time, energy and commitment of one’s life to win election to parliament and to the high office of decision making, and then to spend the next stage of life busily handing over decisions to people who are not accountable. I note that the amendments that have been circulated by Senators Barnett and Humphries seek to strengthen provisions regarding advice to be sought by the minister, consideration of that advice, tabling before the parliament and disallowance of the decision. While I oppose the bill, I am happy to give consideration to these amendments. In short, as the Prime Minister said today: ‘Important decisions affecting the community should be made by people who are accountable to the community.’

Senator WORTLEY (South Australia) (10.25 pm)—Tomorrow we will vote on the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005. In recent weeks I have received hundreds of letters and emails on this topic from across Australia, including my home state of South Australia. I have considered the information provided by numerous organisations who took the time to present their views; I considered the bill and the report tabled today. It is clear that this is not a bill for or against abortion. That debate has already been had in Australia: abortion is legal in all states and territories. This is a bill that deals with the decision-making process. It is about transparent and accountable practice in the evaluating, registering and listing of drugs in Australia. This bill seeks to remove responsibility for approval from the Minister for Health and Ageing and hand it to the Therapeutic Goods Administration, the TGA.

The real issue we are debating is whether a single member of parliament—the minister—or the Therapeutic Goods Administration should rule on the safety and availability of the drug RU486. It is my view that the current process of having the decision reside with the minister alone is flawed. The minister is simply required to notify parliament if approval is granted under his authority for evaluation by the TGA of a drug. This decision would not be disallowable by the parliament and therefore could not be considered parliamentary scrutiny. The minister is also not required to inform the parliament of his decision not to approve an application. This means that today parliament is not necessarily informed of these decisions; nor does it have the capacity for oversight of any decisions made by the minister.

However, it is the role of the Therapeutic Goods Administration to carry out a range of assessment and monitoring activities and to ensure the Australian public has access to therapeutic advances. The Australian Drug Evaluation Committee, established more than 40 years ago, is an expert committee of the TGA. Members of this committee are appointed by the minister and are required to have professional qualifications in numerous areas, including pharmacology, toxicology, clinical medicine or general practice.
Through the TGA, the Australian Drug Evaluation Committee advises the minister for health and the Secretary of the Commonwealth Department of Health and Ageing. They examine the conditions of manufacture, the clinical impact and the safety of drugs.

Since its establishment in 1989, the TGA has monitored and assessed nearly 50,000 drugs on which Australians rely for health reasons. Supporting this bill means that the evaluation of RU486 will follow the same procedures that are used to evaluate other drugs and medical devices in Australia. The TGA is the authority charged with assessing the risk of drugs. We have no reason to doubt that the TGA would weigh the medical evidence and deliver a considered judgment about the risk and benefit profile of the drug.

Research indicates the antiprogestrone RU486 is also capable of improving and saving the lives of seriously ill Australians who for the past decade have been denied ready and affordable access to treatment for serious medical conditions including breast and prostate cancer, glaucoma, depression, endometriosis, Cushing’s syndrome, uterine fibroids and inoperable meningiomas. The current ban appears to have curtailed research into the drug’s uses. Indeed, the Secretary of the Commonwealth Department of Health and Ageing acknowledged that only a small number of cancer patients had gained access to the drug. The Special Access Scheme was designed to allow registered medical practitioners to request approval to import unapproved therapeutic goods into Australia to treat individual patients with case-by-case evaluation of applications; it has been described as stressful, time-consuming and expensive. There are often lengthy delays and some patients, despite being classified as ‘very seriously ill’ have been unable to import the drug.

The Senate is not voting to approve or reject the drug RU486; it is debating who should have the authority to make that decision—the minister or the TGA, which is the accredited Commonwealth agency established to make those decisions on other drugs. As with other drugs, RU486 will require TGA approval for importation and use. This is the case for drugs not currently approved. It is not the role of any politician to determine whether the drug RU486 is safe. That is not the intention of this bill. It is about ensuring that the proper authority—the TGA, which is made up of qualified experts—be given regulatory oversight of RU486.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.30 pm)—The importance of the debate on this private member’s bill is demonstrated by the fact that senators are exercising a conscience vote. This is something which is not common in the parliament. The Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005, as the title suggests, seeks to remove the responsibility for approval of RU486 from the Minister for Health and Ageing and provide it to the Therapeutic Goods Administration. Of course, in the normal course of events, the Therapeutic Goods Administration is an institution tasked with the approval of medication and drugs which are for the treatment of illness and other sicknesses. The current process for approvals is detailed in the bill’s explanatory memorandum.

In 1996, amendments to the Therapeutic Goods Act were passed which placed medications such as RU486 in a special group of drugs known as restricted goods. According to the 1996 amendments, restricted goods cannot be evaluated, registered, listed or imported without the written approval of the Minister for Health and Ageing. In addition, any such written approval must be laid be-
fore each house of the parliament by the minister within five days of being given. RU486 is the only medicine that is subject to the restricted goods condition. One would therefore ask why RU486 attracts such attention. Put simply, RU486 acts to terminate a pregnancy. That is where the issue lies.

The consideration of the report by the Senate Community Affairs Legislation Committee—and I compliment the committee on the report and the work they have done over the last two months—reveals that the safety of RU486 remains an issue of concern. In medically induced terminations, RU486 can be used in conjunction with prostaglandin, a drug that stimulates contractions, resulting in the effective termination of pregnancies of less than seven weeks. Reported adverse side effects of RU486 include infection and septic shock. Haemorrhage, ruptured ectopic pregnancies, abdominal pain and nausea are also reported. Clinical trials conducted in the United States identified that surgical abortion was needed after medical abortion with RU486 and that there was a failure rate in six to eight per cent of cases.

One can see when looking at the Senate report that there are indeed concerns in relation to the possible harmful effects of this drug. Looking at the Senate report, I note that some submissions to the Senate inquiry referred to adverse events and deaths associated with the use of the drug and also concerns raised by the United States Food and Drug Administration. Although the United States Food and Drug Administration approved the use of RU486 in 2000, the decision is one of ongoing controversy. There remain grave concerns about the safety of this drug. In November 2004, the FDA reported that it had received reports of 676 adverse events, ranging in severity from minor symptoms such as nausea and dizziness to serious complications such as blood loss, ectopic pregnancy and rare bacterial infections which have been fatal in some cases.

Reference was made to at least 10 deaths having been associated with the use of RU486 in Europe and United States. Particular attention has been paid to the deaths of four young women in California over the past two years. These women all died of the same infection of the uterus within a week of taking RU486. Three of the families are now suing the manufacturer, Danco. The company says it has no answers as to how this occurred. The FDA is investigating recently reported serious adverse events associated with RU486 and has issued a public health advisory highlighting the risk of blood infection when using the American equivalent of RU486 in a manner that is not consistent with approved labelling. The FDA is reportedly convening a high-level meeting with experts from the Centers for Disease Control and Prevention early this year to examine these recent deaths.

There is also a move in the US congress to pass legislation suspending sales of RU486. The Italian government recently restricted imports of RU486 following the suspension of a trial of the drug in Turin. The trial was suspended after one in 20 women given the drug had partial abortions at home followed by excessive bleeding. I note also that a trial of the drug in Canada was suspended after the death of a young woman from toxic shock syndrome. In clinical trials in the United States, surgical abortion was needed after medical abortion using the American equivalent of RU486. As I said earlier, that failed in six to eight per cent of cases. The maternal mortality rate for RU486 abortion is estimated to be 10 times the rate for surgical abortion carried out at the same period of gestation.

The Senate Community Affairs Legislation Committee endorsed the conclusion of
one submission that was made—that is, that the jury is still out on the safety of RU486. This is fair enough. But there is mounting evidence that the safety of this drug is an issue of crucial importance. It would seem therefore that there is little contest in relation to the potential harm of this drug to the health of women. I believe that, when you add the other aspects of this debate to it, this issue is one which should be decided only by the minister.

There has been a central question asked as to whether it should be the minister or the Therapeutic Goods Administration who approves. As I said earlier, why is there such a tension to this drug RU486? There are a number of reasons: one, it involves the termination of a pregnancy; two, it involves potentially serious effects which are harmful to women’s health, as I have mentioned; and, three, it is one which has been under the purview of the Minister for Health and Ageing. This is not just another drug. When you look at the social aspects of this and the concern that has been raised in the community about the debate on this particular drug, it is appropriate that a decision rest with the minister concerned. In fact, the Catholic Archbishop of Sydney emphasised the important distinction between therapeutic goods, which relate to the treatment or cure of disease, and a drug which acts to terminate a pregnancy.

People who have a concern with the minister having responsibility for this decision have expressed doubts about the lack of transparency and accountability. I believe that the foreshadowed amendments, which have been referred to by previous speakers, merit close attention. I understand that amendments are proposed in relation to the exercise of approval by the minister. I believe they go a long way to addressing the concerns expressed by many people who support the bill. The amendments require that the minister must seek certain advice before exercising his or her discretion. The decision to approve or not approve must be reported to the parliament. What is more, that decision must be subject, or is subject, as a disallowable instrument to the scrutiny of parliament.

I believe that those amendments really do answer the concerns people have expressed about the minister exercising this sort of control. I think discussions about who is the particular minister of the day or his or her particular beliefs are not appropriate in this debate. I believe that what we have in place has worked well, but I am prepared to support these amendments as being a means of addressing some of the concerns expressed and offering a degree of accountability to not only the people of Australia but also the parliament.

Having regard to those factors that I have outlined, and having considered this matter very carefully, I will not be supporting this bill. I might just add that I certainly agree with other senators who joined in this debate that this matter has been carefully considered by the Senate committee. I again congratulate them on their hard work—albeit that I do not agree with some of the members and their views—and I also congratulate those other senators who have contributed to this debate in a rational and mature fashion. This is, after all, a very important issue. As I said at the beginning, this is a conscience vote—and that demonstrates the importance of the debate. It is not something that we do every day in this parliament.

Senator BOSWELL (Queensland—Leader of The Nationals in the Senate) (10.40 pm)—I join this debate not expecting to have to speak tonight, but I will proceed. We are debating the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005. The movers of this bill had to prove one thing:
they had to show there was a good reason to undo what both sides of parliament had agreed on in 1996. They have failed to do this. They have not put up a convincing argument to justify turning the original approach on its head.

The fact is that Labor and the coalition in 1996 agreed that ministerial oversight of RU486 needed to be present in an explicit way. They decided this after a single TGA official caused flawed trials of RU486 to be undertaken in Australia without ministerial knowledge. The drug evaluation branch of the TGA at the time stated:

TGA has not carried out an assessment as to the quality, safety and efficiency of this product.

The Melbourne trial was stopped when the consent forms were exposed as being totally inadequate. Carmen Lawrence, as health minister, suspended the trials in August 1994. In 1996 the TGA Act was amended with the support of both sides of the parliament. At that time, Labor Senator Belinda Neal noted:

... we acknowledge that this issue raises large concerns within the community. It raises issues beyond purely health issues. These issues need to be addressed by the executive of this government and addressed with absolute and direct accountability ...

Even Greens Senator Chamarette agreed, saying:

We deserve to have a voice on issues and not simply leave them to boards of experts.

What significant event has happened since that time of unity across the board to change the approach to dealing with this abortion drug? If anything, the intervening time has allowed more information to come forward which actually reinforces the wisdom of the parliament’s earlier decision.

Already this year we have seen major international developments that go to the heart of public policy on RU486. The US Food and Drug Administration is revisiting the safety issues of RU486 with a special investigation with the Centre for Disease Control into recent deaths linked to RU486. That inquiry is happening as we speak. It follows public health warnings, new medication guides and warning labels on the use of RU486 issued in 2005. As I told the Senate last year, the new medication guide of the drug manufacturer, Danco, states:

About 5-8 out of 100 women taking Mifeprex will need a surgical procedure to end the pregnancy or to stop too much bleeding ... Some women should not take Mifeprex. Do not take it if:

- you cannot return for the next 2 visits.
- ... ...
- you cannot get emergency medical help in the two weeks after you take Mifeprex.

That is the drug company’s advice. And this drug is supposed to help rural and outback women. In Danco’s patient agreement form, the woman must sign her name to the following statements:

7. My provider gave me advice on what to do if I develop heavy bleeding or need emergency care due to treatment.

8. ...

9. I know that, in some cases, the treatment will not work. This happens in about 5 to 8 women out of 100 who use this treatment.

This is on the label. It continues:

11. I understand that if the medicines I take do not end my pregnancy and I decide to have a surgical procedure to end my pregnancy, or if I need a surgical procedure to stop bleeding, my provider will do the procedure or refer me to another provider who will. I have that provider’s name, address and phone number.

There is also a congressional subcommittee looking into the original approval process used by the FDA and the FDA’s response to five deaths and hundreds of other adverse events related to RU486 abortions. As well,
there is a bill calling for the suspension of RU486 sales until a complete safety review is done. That is in America.

In Italy, last month, the government announced it was restricting imports of RU486 after a trial was suspended following one in 20 women experiencing partial abortions at home with excessive bleeding.

In Canada, a trial was also suspended after a death. RU486 has never been licensed in Canada, despite its liberal abortion laws. There is also a lot more information now in the medical literature pointing to the comparative dangers posed by chemical abortions as opposed to surgical abortions. As the Senate committee pointed out in the body of its report:

... the overall mortality rate associated with medical abortion is 10 times higher than the mortality rate for surgical abortions at 8 weeks' gestation ...

So when you put it all together, when you add into the equation all these inquiries and their results, the investigations, the suspensions of trials, the restrictions of imports and the medically adverse findings, RU486 is not performing well. In fact, it is performing like a dog. RU486 is doing worse than when parliament decided to put the decision about its use under its ministerial wing. A lot of the focus in this debate has been turned on to the current health minister. We would do well to remember that health ministers come and go. We have had several since Carmen Lawrence first stopped trials of RU486 in Australia. Health ministers come from a range of backgrounds. Who knows who the next health minister will be? Any bill aimed at getting around a particular minister would be a short-sighted affair and could even backfire on the bill’s supporters in times to come. I hope this bill is not aimed at one minister.

A lot of my work over my 23 years in the Senate has been chasing down bureaucratic decisions in estimates committees or approaching ministers with information about how their experts are not so expert after all. I can cite numerous examples—from Biosecurity Australia in the banana debate, which many here will be familiar with; to stem cell research; and to the distribution of various government assistance programs—where the experts have got it totally wrong. Experts do have an important place, but they are limited by the resources available to them and by their sources of funding, which may be based on a user pays approach such as the TGA depends on. They may be experts but they can only be experts within the guidelines they are given. For example, the TGA may rely on outdated international research because to update findings requires a drug company to fork out lots of money, which they will not want to do.

In important cases, where the community is much involved, such as with RU486, I believe it is most important for the portfolio minister to have a role in the final decision. It may be that he or she will accept the experts’ findings. It may be that he or she sees that there are limitations on expert analysis and thinks there should be more information, more studies or a delay in order to await the outcomes of overseas investigations. All these matters are duly weighed by a minister but can have no place in a limited and narrow analysis by a so-called expert.

The community has a stake in this decision. Who will be their expert and their representative? Who will adjudicate their interests, if not the democratically elected representative of a system of parliament and executive government? This bill asks senators to agree that the minister is not a fit and proper person to assess advice from a bureaucratic organisation that is funded by the industry it is set up to regulate. If that is to be the way of good governance in Australia, why do we need ministers at all? Why don’t we all go home and leave it to the experts?
We are not elected to leave it to others precisely when issues of great public interest such as this come along. This is when we really earn the Comcars, the first-class seats, the salary and the superannuation. If we duck the tough questions, what are we doing here? Every portfolio issue that comes across our desks is an invitation to use judgment and wisdom in assessing its pros and cons. No one person could possibly be qualified in all these areas on which we are called to cast our vote, so we use advice and we appoint specialists—geniuses in very narrow fields. But we will rue the day when we let those same unelected and unaccountable advisers run this country and weigh up all the issues that a minister must.

I believe the case for a ministerial role in approving RU486 is the same now as it was in 1996. I think it is even more necessary today. The bill’s advocates have not made the case that the current system is so bad that it needs to be changed. What evidence is there to support the prediction that the current system will not work? If the drug had been approved by the TGA with widespread support around the country and the minister failed to recommend the same, then that would be a poor ministerial decision that would have many consequences for both the minister and the government. But has that happened? Are we at such a parlous stage that the only solution is to throw out the process and start all over again—replace an open process with one that is not transparent, not accountable and presided over by unelected specialists? The current system has not failed anyone to date. Let us be clear about that.

The movers of this bill are convinced that a religious based prejudice will prevail. Perhaps this bill is really about the movers’ own prejudices, because there is no basis for thinking that the existing system does not work. It is the same system that has worked under other health ministers, to Australia’s benefit. Does anyone here think that Carmen Lawrence was wrong to stop trials of RU486? Does anyone think that Michael Wooldridge somehow let the side down? What has the current health minister ever said on this issue that would make it urgent to bring in a private member’s bill to redress some terrible failing?

Following the announcement of this bill, the minister for health sought advice from experts, and that advice was promptly rejected out of hand by the movers of this bill. Why? It was expert advice, after all, and directly related to the issues raised by the movers of this bill, who argued that rural women needed access to chemical abortion drugs because surgical abortion services were not too readily available. Here is why: it turned out that access to urgent medical care was an issue with RU486. No-one denies this; it is on the drug manufacturer’s own medication guides. We all know that it is often difficult to access medical services in the bush, particularly for the more remote communities. Yet here is a drug which requires several follow-up visits to a doctor with ultrasound equipment. Plus, if something goes wrong, as it does in five to eight per cent of cases, by the drug manufacturer’s own admission, there has to be emergency medical care on stand-by. What are we going to do—send in the Royal Flying Doctor Service, medivac them out?

These are facts, not fiction. Any health minister who failed to release this information would be grossly negligent. I urge senators to think about whether the current system has failed. If it has not, should we abandon the Westminster principle of ministerial oversight for the tyranny of unelected experts funded by the drug companies they must judge?

Debate interrupted.

Senate adjourned at 10.56 pm
The following government documents were tabled:

- High Court of Australia—Report for 2004-05.

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]

- Civil Aviation Act—Civil Aviation Regulations—Instruments Nos—CASA 04/06—Exemption – use of mobile phones and PDAs when loading fuel [F2006L00325]*.
- CASA 14/06—Permission and direction – helicopter special operations [F2006L00334]*.
- Civil Aviation Safety Regulations—Airworthiness Directives—Part 105—AD/F2000/2—Third Crewmember Oxygen Mask Box [F2006L00322]*.
- AD/S-PUMA/64—CPI 503 Emergency Locator Transmitter [F2006L00324]*.
- Class Ruling CR 2006/3.
- Customs Act—Tariff Concession Order 0515414 [F2006L00295]*.
- 2005/55—Overseas conditions of service – household help.
- 2005/56—Housing assistance – amendment.
- 2005/57—Overseas conditions of service – travel costs.
- 2005/58—Remote location leave and travel.
- 2005/59—Housing assistance – amendment.
- 2006/1—Disturbance and vehicle allowances – amendment.
- 2006/2—Overseas conditions of service – post indexes.
- 2006/3—Maternity leave – amendment.
- 2006/4—Overseas conditions of service – benchmark schools in Singapore and Vanuatu.
- 2006/5—Army completion bonus scheme – intelligence categories.
- Higher Education Support Act—Funding agreements, dated—
7 November 2005—
Murdoch University.
University of Wollongong.
8 November 2005—
Australian Maritime College.
University of Canberra.
11 November 2005—
Australian Catholic University.
Swinburne University of Technology.
The University of Queensland.
14 November 2005—The University of Adelaide.
15 November 2005—
Curtin University of Technology.
University of Western Sydney.
21 November 2005—
Southern Cross University.
The University of New England.
25 November 2005—James Cook University.
29 November 2005—
Batchelor Institute of Indigenous Tertiary Education.
The University of New South Wales.
2 December 2005—
Charles Sturt University.
Edith Cowan University.
The University of Sydney.
Victoria University.
5 December 2005—La Trobe University.
8 December 2005—
The Flinders University of South Australia.
Monash University.
University of Ballarat.
University of Technology, Sydney.
12 December 2005—
University of South Australia.
University of Tasmania.

The University of Western Australia.
13 December 2005—Tabor College.
14 December 2005—
The Australian National University.
Christian Heritage College.
15 December 2005—
Macquarie University.
Royal Melbourne Institute of Technology University.
16 December 2005—
Avondale College.
Central Queensland University.
19 December 2005—The University of Newcastle.
21 December 2005—The University of Notre Dame Australia.
4 January 2006—Charles Darwin University.
6 January 2006—Deakin University.
20 January 2006—The University of Melbourne.

Judiciary Act—Legal Services Directions 2005 [F2006L00320]*.
National Health Act—Determinations—
HIB 03/2006 [F2006L00331]*.
HIB 04/2006 [F2006L00332]*.
* Explanatory statement tabled with legislative instrument.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Minister for Veterans’ Affairs: Official Engagements
(Question No. 168)

Senator Mark Bishop asked the Minister for Veterans’ Affairs, upon notice, on 8 December 2004:

With reference to the Minister’s official engagements on 15 November 2004:

1. Where did each engagement occur.
2. What was the nature of each engagement.
3. What was the start and finish time of each engagement.
4. (a) When was the Minister invited to, or when did the Minister first become aware of, each engagement; and (b) on what date did the Minister commit to attending each engagement.
5. (a) Who attended each engagement; and (b) in what capacity did they attend.
6. What was the cost incurred by the Commonwealth in arranging or ensuring the Minister’s attendance at each engagement.
7. Will the Minister provide details of invitations or approaches to attend other official engagements on 15 November 2004 which the Minister either declined or delegated.

Senator Ian Campbell—The former Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

I was in Canberra in preparation for the opening of the 41st Parliament. Details of my diary arrangements will not be provided.

Defence: Consultants
(Question No. 589)

Senator Chris Evans asked the Minister for Defence, upon notice, on 4 May 2005:

With reference to the department and/or its agencies:

1. For each financial year from 2000-01 to 2004-05 to date: (a) how many, and what was the cost of consultants engaged by the department and/or its agencies to conduct surveys of community attitudes to departmental programs; and (b) for each consultancy: (i) what was the cost, and (ii) who was the consultant, and (iii) was this consultant selected by tender; if so, was the tender select or open; if not, why not.
2. Were any of the surveys released publicly; if so, in each case, when was the material released; if not, in each case, what was the basis for not releasing the material publicly.

Senator Ian Campbell—The Minister for Defence has provided the following answer to the honourable senator’s question:

1. The answers to part (1) for the financial years 2000-01 to 2004-05 can be found in the ‘Advertising and Market Research’ and ‘External Consultants’ sections of the Defence Annual Reports for the relevant years.
2. Survey results were not released publicly because they were internal departmental working documents.
QUESTIONS ON NOTICE

Immigration and Multicultural and Indigenous Affairs: Consultants
(Question Nos 595 and 606)

Senator Chris Evans asked the Minister for Immigration and Multicultural and Indigenous Affairs and the Minister representing the Minister for Citizenship and Multicultural Affairs, upon notice, on 4 May 2005:

(1) For each of the financial years from 2000-01 to 2004-05 to date: (a) how many consultants were engaged by the department and/or its agencies to conduct surveys of community attitudes to departmental programs and what was the total cost; and (b) for each consultancy: (i) what was the cost, (ii) who was the consultant, and (iii) was this consultant selected by tender; if so, was the tender select or open; if not, why not.

(2) Were any of the surveys released publicly; if so, in each case, when was the material released; if not, in each case, what was the basis for not releasing the material publicly.

Senator Vanstone—The answer to the honourable senator’s questions is as follows:

(1) and (2) The attached tables contain information on all consultancies let in each of the financial years identified.

Attachment A relates to financial year 2001-02
Attachment B relates to financial year 2002-03
Attachment C relates to financial year 2003-04

There were no consultancies that fell into the requested categories in the 2000-01 or 2004-05 financial years.
<table>
<thead>
<tr>
<th>Name of Contractor</th>
<th>Nature of Contract (Purpose)</th>
<th>Contract Value (GST inclusive)</th>
<th>Start Date</th>
<th>Finish Date</th>
<th>Selection Process</th>
<th>If Direct Engagement, Why?</th>
<th>Was this consultant engaged to conduct a survey of community attitudes to Departmental programs</th>
<th>Were the surveys released publically, if yes when was material released, if no why not?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urbis Keys Young</td>
<td>Research on DIMIA Funded Community Services - Client Survey</td>
<td>$69,234</td>
<td>30-May-02</td>
<td>28-Aug-02</td>
<td>Select Tender</td>
<td>N/A</td>
<td>Conducted to gauge effectiveness of services provided by MRCS/MSAS and CSSS funded organisations to clients.</td>
<td>Yes - on DIMIA website in January 2003</td>
</tr>
<tr>
<td>Curtin University</td>
<td>Client Survey</td>
<td>$44,971</td>
<td>26-Jun-02</td>
<td>29-Sep-02</td>
<td>Select Tender</td>
<td>Price discussion</td>
<td>Yes</td>
<td>Only released to the parties involved - material released July 2003</td>
</tr>
<tr>
<td>The Research Forum</td>
<td>Design and implement Research for the Australian Citizenship Promotion Campaign</td>
<td>$133,906</td>
<td>08-Aug-01</td>
<td>29-Oct-01</td>
<td>Select Tender</td>
<td>N/A</td>
<td>Yes</td>
<td>No, for internal use only</td>
</tr>
</tbody>
</table>

QUESTIONS ON NOTICE
## QUESTIONS ON NOTICE

### Attachment B

<table>
<thead>
<tr>
<th>Name of Contractor</th>
<th>Nature of Contract (Purpose)</th>
<th>Contract Value (Gst Inclusive)</th>
<th>Start Date</th>
<th>Finish Date</th>
<th>Selection Process</th>
<th>If Direct Engagement, Why?</th>
<th>Was this consultant engaged to conduct a surveys of community attitudes to Departmental programs?</th>
<th>Were the surveys released publicly, if yes when was material released, if no why not?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crossways Consulting</td>
<td>Integrated Humanitarian Settlement Strategy Client Satisfaction Survey</td>
<td>$54,992</td>
<td>30-Jun-03</td>
<td>24-Oct-03</td>
<td>Select Tender</td>
<td>N/A</td>
<td>Yes</td>
<td>No. The majority of the survey related to feedback on the performance of a contract provider engaged by DIMIA, and not DIMIA’s program specifically, therefore, the majority of the information sourced was commercial-in-confidence and not appropriate for public release.</td>
</tr>
<tr>
<td>Queensland University of Technology (QUT)</td>
<td>Integrated Humanitarian Settlement Strategy Client Satisfaction Survey in Queensland. Prepare a Submission on Size and Composition of 2003-04 Humanitarian Program Representing the View of the Members of RCOA</td>
<td>$41,454</td>
<td>14-Apr-03</td>
<td>07-Jul-03</td>
<td>Direct Engagement</td>
<td>Acknowledged Expertise in this Specialist Area</td>
<td>Yes</td>
<td>Was not released publicly. Results were released to IHSS contractors in contract management meetings 03/04.</td>
</tr>
<tr>
<td>Refugee Council of Australia (RCOA)</td>
<td>Prepare a Submission on Size and Composition of 2003-04 Humanitarian Program Representing the View of the Members of RCOA</td>
<td>$22,000</td>
<td>22-Jan-03</td>
<td>28-Feb-03</td>
<td>Direct Engagement</td>
<td>Best value for money - No other organisation could perform the role - RCOA has specialised knowledge of this area.</td>
<td>Yes</td>
<td>Yes, RCOA published on their website February 2003.</td>
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<tr>
<td>Name of Contractor</td>
<td>Nature of Contract (Purpose)</td>
<td>Contract Value (GST Inclusive)</td>
<td>Start Date</td>
<td>Finish Date</td>
<td>Selection Process</td>
<td>If Direct Engagement, Why?</td>
<td>Was this consultant engaged to conduct a survey of community attitudes to Departmental programs</td>
<td>Were the surveys released publicly, if yes when was material released, if no why not?</td>
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<tr>
<td>Urbis Keys Young</td>
<td>Evaluation of IHSS and Commonwealth Funded Torture and Trauma Support Services</td>
<td>$172,040</td>
<td>05-Sep-02</td>
<td>31-Mar-03</td>
<td>Open Tender</td>
<td>N/A</td>
<td>Yes</td>
<td>Public release May 2003</td>
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<tr>
<td>Refugee Council of Australia (ROCA)</td>
<td>For a submission seeking views on the 2004-05 Humanitarian Program</td>
<td>$27,500</td>
<td>15-Jan-04</td>
<td>27-Feb-04</td>
<td>Direct Engagement</td>
<td>Best value for money - no other organisation could perform the role - RCOA has specialised knowledge of this area</td>
<td>Yes</td>
<td>Yes, RCOA publish on their website February 2004</td>
</tr>
<tr>
<td>Name of Contractor</td>
<td>Nature of Contract (Purpose)</td>
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<td>Were the surveys released publicly, if yes when was material released, if NO why NOT?</td>
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<tr>
<td>Refugee Council of Australia (ROCA)</td>
<td>Contract between Commonwealth of Australia and Refugee Council of Australia in relation to services to evaluate the impact on clients of the Special Humanitarian Program Repatriation pilot.</td>
<td>$48,070</td>
<td>28-Apr-04</td>
<td>21-Jun-04</td>
<td>Direct Engagement</td>
<td>Best value for money - no other organisation could perform the role - RCOA has specialised knowledge of this area.</td>
<td>Yes</td>
<td>Yes - was released under FOI 23/03/05</td>
</tr>
</tbody>
</table>
Transport and Regional Services: Staffing
(Question No. 648)

Senator Chris Evans asked the Minister for Transport and Regional Services, upon notice, on 4 May 2005:

For each of the financial years 2000-01 to 2004-05 to date, can the following information be provided for the department and/or its agencies:

(1) What were the base and top level salaries of Australian Public Service (APS) level 1 to 6 officers and equivalent staff employed.

(2) What were the base and top level salaries of APS Executive level and Senior Executive Service officers and equivalent staff employed.

(3) Are APS officers eligible for performance or other bonuses; if so: (a) to what levels are these bonuses applied; (b) are these applied on an annual basis; (c) what conditions are placed on the qualification for these bonuses; and (d) how many bonuses were paid at each level, and what was their dollar value for the periods specified above.

(4) (a) How many senior officers have been supplied with motor vehicles; and (b) what has been the cost to date.

(5) (a) How many senior officers have been supplied with mobile phones; and (b) what has been the cost to date.

(6) How many management retreats or training programs have staff attended.

(7) How many management retreats or training programs have been held off-site.

(8) In the case of each off-site management retreat or training program: (a) where was the event held; and (b) what was the cost of: (i) accommodation, (ii) food, (iii) alcohol, (iv) transport, and (v) other costs incurred.

(9) How many official domestic trips have been undertaken by staff and what was the cost of this domestic travel, and in each case: (a) what was the destination; (b) what was the purpose of the travel; and (c) what was the cost of the travel, including a breakdown of: (i) accommodation, (ii) food, (iii) alcohol, (iv) transport, and (v) other costs incurred.

(10) How many official overseas trips have been undertaken by staff and what was the cost of this travel, and in each case: (a) what was the destination; (b) what was the purpose of the travel; and (c) what was the cost of the travel, including a breakdown of: (i) accommodation, (ii) food, (iii) alcohol, (iv) transport, and (v) other costs incurred.

(11) (a) What was the total cost of air charters used; and (b) on how many occasions was aircraft chartered, and in each case, what was the name of the charter company that provided the service and the respective costs.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) (2) and (3) Senator Abetz, the Special Minister of State will provide an answer.

(4) The following table is provided:

<table>
<thead>
<tr>
<th>Department or Portfolio Agency</th>
<th>Year</th>
<th>Executive Leases for Senior Officers</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Transport and Regional Services</td>
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<td>41</td>
<td>Note A</td>
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<td></td>
<td>2001-02</td>
<td>34</td>
<td>Note A</td>
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<td></td>
<td>2002-03</td>
<td>38</td>
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</tr>
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### QUESTIONS ON NOTICE

#### Department or Portfolio Agency Year Executive Leases for Senior Officers Total Cost

<table>
<thead>
<tr>
<th>Department or Portfolio Agency</th>
<th>Year</th>
<th>Executive Leases</th>
<th>Total Cost</th>
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<tbody>
<tr>
<td>Civil Aviation Safety Authority</td>
<td>2003-04</td>
<td>35</td>
<td>Note B</td>
</tr>
<tr>
<td></td>
<td>2004-05</td>
<td>43</td>
<td>Note B</td>
</tr>
<tr>
<td></td>
<td>2000-01</td>
<td>30</td>
<td>Note C</td>
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<tr>
<td></td>
<td>2001-02</td>
<td>34</td>
<td>Note C</td>
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<td></td>
<td>2002-03</td>
<td>35</td>
<td>Note C</td>
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<tr>
<td></td>
<td>2003-04</td>
<td>35</td>
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<tr>
<td></td>
<td>2004-05</td>
<td>29</td>
<td>Note C</td>
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<td>National Capital Authority</td>
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<tr>
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<td>2001-02</td>
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<tr>
<td>Australian Maritime Safety Authority</td>
<td></td>
<td></td>
<td>Note D</td>
</tr>
</tbody>
</table>

Note A. Details are not now readily available and would require significant diversion of resources which the Department is not able to commit.

Note B. The Department’s arrangement for SES vehicles is that officers have a factor of $21,750 built into their total remuneration package. Officers then pay all actual lease and operating costs from their fortnightly salary. The cost to the Department is therefore $21,750 per SES officer. This scheme was first implemented in September 2002.

Note C. To extract a complete list of the cost to date would require a significant diversion of resources which CASA is not able to commit. However, the total cost for supplying senior managers with vehicles for the financial year 2004/05 was $301,643 (excluding GST)-(Average cost per car $10,401).

Note D. Airservices Australia does not issue motor vehicles to its senior officers. Managers can elect to have access to a motor vehicle, the costs of which are charged against their remuneration package under a user pays agreement.

Note E. Since 2001, Australian Maritime Safety Authority’s policy is for each executive manager’s remuneration to be based on a total benefits package and it is a matter for each executive manager to decide whether to salary sacrifice in relation to a motor vehicle. In 2000, six executive managers were each provided with a car by AMSA. The cost information for these six cars would require a significant diversion of resources that AMSA is not able to commit.

### (5)

#### Department or Portfolio Agency Year Number of Mobile Phones Issued Total Cost

<table>
<thead>
<tr>
<th>Department or Portfolio Agency</th>
<th>Year</th>
<th>Number of Mobile Phones Issued</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Transport and Regional Services *</td>
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<td>240</td>
<td>Approx $101,000</td>
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<tr>
<td></td>
<td>2002-03</td>
<td>244</td>
<td>Approx. $122,000</td>
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<tr>
<td></td>
<td>2003-04</td>
<td>269</td>
<td>Approx. $98,000</td>
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<tr>
<td></td>
<td>2004-05</td>
<td>402</td>
<td>Approx. $118,000</td>
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<td>Airservices Australia</td>
<td>2001-02</td>
<td>Note A</td>
<td>$96,000</td>
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<tr>
<td></td>
<td>2002-03</td>
<td>Note A</td>
<td>$190,000</td>
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<td>2003-04</td>
<td>Note A</td>
<td>$194,000</td>
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<td>2004-05</td>
<td>Note A</td>
<td>$373,000</td>
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</table>
### QUESTIONS ON NOTICE

<table>
<thead>
<tr>
<th>Department or Portfolio Agency</th>
<th>Year</th>
<th>Number of Mobile Phones Issued</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil Aviation Safety Authority #</td>
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<td>295</td>
<td>$153,557</td>
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<td>2002-03</td>
<td>302</td>
<td>$129,451</td>
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<td></td>
<td>2003-04</td>
<td>296</td>
<td>$99,415</td>
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<tr>
<td></td>
<td>2004-05</td>
<td>299</td>
<td>$105,599</td>
</tr>
<tr>
<td>National Capital Authority</td>
<td>Note B</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Australian Maritime Safety Authority</td>
<td>Note C</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* Mobile phones were not managed centrally within the Department until 2001-2002 and costs specific to mobile services were not disaggregated from non-mobile call costs. Therefore, information on the number of mobile phones issued and the total mobile phone bill for 2000-2001 is not available.

Information relating specifically to the issue of mobile phones to senior officers is not readily available and it would require significant resources to extract the information which the Department is unable to commit. The information provided is therefore an approximate of the total number of phones issued in the given year.

Note A. Mobile telephone issue is approved by Airservices Australia’s senior managers according to business needs. The number of mobile phones is not readily accessible and would require a significant diversion of resources to compile. Please note that an amount for 2000-01 is also not readily available.

# The Civil Aviation Safety Authority is unable to advise of how many senior staff have been issued with mobile phones as most of the Authority’s regional and airline office mobile phones are shared resources and not always allocated to an individual. Therefore, the figures represent the number of active accounts in the given year.

Note B. The National Capital Authority currently has 36 officers who have a mobile phone at a total cost of $5,364. This figure is for the supply of the mobile phones and does not include the ongoing costs.

Note C. Each of Australian Maritime Safety Authority’s current four executive managers are supplied with a mobile telephone. For AMSA to provide the details of cost of these particular mobile telephones from 2000 until 2005 would require significant diversion of resources that the agency is unable to commit.

(6) (7), (8), (9) and (10) – Senator Abetz, the Special Minister of State, will respond.

(11)

<table>
<thead>
<tr>
<th>Department or Portfolio Agency</th>
<th>Year</th>
<th>Charter Company</th>
<th>Number of Occasions</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Transport &amp; Regional Services*</td>
<td>2000-01</td>
<td>Cairns air charter for VH-TMR accident investigation #</td>
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<td>$920</td>
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<td>Brindabella Airlines #</td>
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<td>Airmorth #</td>
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<td>Savannah Aviation #</td>
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<td>Central Air Pty Ltd #</td>
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### QUESTIONS ON NOTICE

<table>
<thead>
<tr>
<th>Department or Portfolio Agency</th>
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<th>Charter Company</th>
<th>Number of Occasions</th>
<th>Total Cost</th>
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<tr>
<td><strong>Department of Transport &amp; Regional Services</strong></td>
<td>2002-03</td>
<td>Archerfield Airport #</td>
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<td>Brindabella Airlines</td>
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<td>Australian Air Express (Perth to Cocos (Keeling) Islands to deliver runway testing equipment to the island and to return it after testing completed).</td>
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<td>Mackay Helicopters #</td>
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<td>Corporate Air</td>
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**SENA TE 191**

Wednesday, 8 February 2006
National Capital Authority

<table>
<thead>
<tr>
<th>Year</th>
<th>Charter Company</th>
<th>Number of Occasions</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003-04</td>
<td>Air Central West Pty Ltd</td>
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<tr>
<td>2004-05</td>
<td>Corporate Air</td>
<td>1</td>
<td>$2,930</td>
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Airservices Australia

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<tr>
<th>Year</th>
<th>Charter Company</th>
<th>Number of Occasions</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004-05</td>
<td>Marjet</td>
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<td>$4,451</td>
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Civil Aviation Safety Authority

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<th>Charter Company</th>
<th>Number of Occasions</th>
<th>Total Cost</th>
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</thead>
<tbody>
<tr>
<td>2004-05</td>
<td>Corporate Air</td>
<td>1</td>
<td>$2,930</td>
</tr>
</tbody>
</table>

* Information for 2000-01 and 2001-02 for the Territories and Local Government division is not available as we understand the files have been destroyed.

# Charters relate to Australian Transport Security Bureau accident investigations.

Note A. Australian Maritime Safety Authority uses air charters infrequently. The information about air charters from 2000-2005 would require significant diversion of resources that the Department is not prepared to authorise.

Transport and Regional Services: Staffing

(Question No. 674)

Senator Chris Evans asked the Minister representing the Minister for Local Government, Territories and Roads, upon notice, on 4 May 2005:

For each of the financial years 2000-01 to 2004-05 to date, can the following information be provided for the department and/or its agencies:

1. What were the base and top level salaries of Australian Public Service (APS) level 1 to 6 officers and equivalent staff employed.

2. What were the base and top level salaries of APS Executive level and Senior Executive Service officers and equivalent staff employed.

3. Are APS officers eligible for performance or other bonuses; if so: (a) to what levels are these bonuses applied; (b) are these applied on an annual basis; (c) what conditions are placed on the qualification for these bonuses; and (d) how many bonuses were paid at each level, and what was their dollar value for the periods specified above.

4. (a) How many senior officers have been supplied with motor vehicles; and (b) what has been the cost to date.

5. (a) How many senior officers have been supplied with mobile phones; and (b) what has been the cost to date.

6. How many management retreats or training programs have staff attended.

7. How many management retreats or training programs have been held off-site.

8. In the case of each off-site management retreat or training program: (a) where was the event held; and (b) what was the cost of: (i) accommodation, (ii) food, (iii) alcohol, (iv) transport, and (v) other costs incurred.

9. How many official domestic trips have been undertaken by staff and what was the cost of this domestic travel, and in each case: (a) what was the destination; (b) what was the purpose of the travel; and (c) what was the cost of the travel, including a breakdown of: (i) accommodation, (ii) food, (iii) alcohol, (iv) transport, and (v) other costs incurred.

10. How many official overseas trips have been undertaken by staff and what was the cost of this travel, and in each case: (a) what was the destination; (b) what was the purpose of the travel; and
(c) what was the cost of the travel, including a breakdown of: (i) accommodation, (ii) food, (iii) alcohol, (iv) transport, and (v) other costs incurred.

(11) (a) What was the total cost of air charters used; and (b) on how many occasions was aircraft chartered, and in each case, what was the name of the charter company that provided the service and the respective costs.

Senator Ian Campbell—The Minister for Local Government, Territories and Roads has provided the following answer to the honourable senator’s question:

The Minister for Transport and Regional Service is responding on behalf of the portfolio. Please refer to the response to Question on Notice number 648.

**Minister for Revenue and Assistant Treasurer: Overseas Travel**

**Question No. 700**

Senator Chris Evans asked the Minister representing the Minister for Revenue and Assistant Treasurer, upon notice, on 4 May 2005:

(1) In relation to all overseas travel where expenses were met by the Minister’s portfolios, for each of the financial years 2000-01 to 2004-05 to date what was the total cost of travel and related expenses in relation to: (a) the Minister; (b) the Minister’s family; and (c) the Minister’s staff.

(2) In relation to all air charters engaged and paid for by the Minister and/or the Minister’s office and/or the department and its agencies, for each of the financial years 2000-01 to 2004-05 to date: (a) on how many occasions did the Minister or his/her office or department and/or agency charter aircraft, and in each case, what was the name of the charter company that provided the service and the related respective costs; and (b) what was the total cost.

Senator Coonan—The answer to the honourable senator’s question is as follows:

**Australian Bureau of Statistics**

(1) and (2) Nil.

**Australian Competition & Consumer Commission**

(1) Nil.

(2) Details of aircraft charters have been provided in the response to part 11 of Question Number 649.

**Australian Office of Financial Management**

(1) and (2) Nil.

**Australian Prudential Regulation Authority**

(1) and (2) Nil.

**Australian Securities and Investments Commission**

(1) Nil.

(2) (a) In the time frame mentioned only one aeroplane was chartered. This was on 23 June 2002 from Canberra to Sydney with Brindabella Airlines. Total cost was $1,254.00.

(b) $1,254.00

**Australian Taxation Office**

(1) and (2) Nil.

**Corporations and Markets Advisory Committee**

(1) and (2) Nil.
Inspector-General of Taxation
(1) and (2) Nil.
National Competition Council
(1) and (2) Nil.
Productivity Commission
(1) and (2) Nil.
Treasury
(1) All overseas travel expenses for the (a) the Minister, (b) the Minister’s family and (c) the Minister’s staff are met by the Department of Finance, not by individual Ministers’ portfolios.
(2) The Treasury has not arranged or paid for any air charters on behalf of Ministers over the period in question.

Justice and Customs: Customer Service
(Question No. 850)

Senator Chris Evans asked the Minister for Justice and Customs, upon notice, on 4 May 2005:
(1) For each of the financial years 2000-01 to 2004-05 to date, can a list be provided of customer service telephone lines, including: (a) the telephone number of each customer service line; (b) whether the number is toll free and open 24 hours; (c) which output area is responsible for the customer service line; and (d) where this call centre is located.
(2) For each of the financial years 2000-01 to 2004-05 to date, what was the cost of maintaining the customer service lines.
(3) For each of the financial years 2000-01 to 2004-05 to date, can a breakdown be provided of all direct and indirect costs, including: (a) staff costs; (b) infrastructure costs (including maintenance); (c) telephone costs; (d) departmental costs; and (e) any other costs.
(4) How many calls have been received, by year, in each year of the customer service line’s operation.

Senator Ellison—The answer to the honourable senator’s question is as follows:
The Attorney-General has provided a response on behalf of the portfolio in his reply to Question in Writing No. 840.

Minister for Fisheries, Forestry and Conservation: Sponsored Travel
(Question No. 886)

Senator Chris Evans asked the Minister for Fisheries, Forestry and Conservation, upon notice, on 6 May 2005:
For each of the financial years 2000-01, 2001-02, 2002-03, 2003-04 and 2004-05 to date, can details be provided of all privately or commercially sponsored travel, including cost and sponsor for: (a) the Minister; (b) the Minister’s family; (c) the Minister’s personal staff; and (d) officers of the Minister’s department.

Senator Abetz—The answer to the honourable senator’s question is as follows:
(a) and (b) Apart from those referred to in the Register of Private Interests, none.
(c) As far as I am aware none of my staff has received sponsored travel.
(d) The Minister for Agriculture, Fisheries and Forestry will respond to this part of the question.
Minister for Revenue and Assistant Treasurer: Sponsored Travel
(Question No. 890 supplementary)

Senator Chris Evans asked the Minister representing the Minister for Revenue and Assistant Treasurer, upon notice, on 6 May 2005:

For each of the financial years 2000-01, 2001-02, 2002-03, 2003-04 and 2004-05 to date, can details be provided of all privately or commercially sponsored travel, including cost and sponsor for: (a) the Minister; (b) the Minister’s family; (c) the Ministers personal staff; and (d) officers of the Minister’s department.

Senator Coonan—The answer to the honourable senator’s question is as follows:

(a) and (b) Response to be provided by the Special Minister of State on behalf of all Ministers.

(c) Specific details are not readily available in relation to sponsored travel by departmental officials.

The Chief Executive Instructions (CEI’s) provide departmental officials with detailed guidance on sponsored or externally funded travel with particular attention to the propriety of accepting such sponsorship.

VIP Flights
(Question No. 1088)

Senator Mark Bishop asked the Minister for Defence, upon notice, on 16 August 2005.

(1) (a) What was the purpose of the VIP flights requisitioned by the Hon. I Macfarlane on: (i) 4 July 2004 from Canberra to Oakey and Oakey to Canberra, (ii) 1 July 2004 from Canberra to Oakey, and (iii) 12 July 2004 from Oakey to Canberra; (b) did the VIP CL604 aircraft remain at Oakey overnight on 11 July 2004; and (c) what was the cost of these flights.

(2) (a) What was the purpose of the VIP flight requisitioned by the Hon. Dr D Kemp which commenced at Canberra 5 July 2004 and terminated at Canberra 8 July 2004; and (b) what was the cost differential between the VIP CL604 flight and a commercial flight from Melbourne to Canberra for what appears to be a lone staff member.

(3) (a) What was the purpose of a VIP flight requisitioned by the Hon. J Hockey on 6 July 2004 from Canberra to Kununurra; and (b) what was the cost differential between the VIP CL604 flight and a commercial flight for what appear to be two staff members.

(4) (a) What was the purpose of the VIP flight requisitioned by the Hon. J Lloyd on 25 July 2004 from Norfolk Island to Darwin to Bali; (b) why did the VIP CL604 aircraft remain in Bali for 6 days; (c) what was the cost of the flight, including travel allowance paid to flight and cabin crew for this period; and (d) why did the aircraft return to Canberra on 31 July 2004 without passengers.

(5) (a) What was the purpose of a VIP flight requisitioned by Senator Abetz on 31 July 2004 from Canberra to Hobart to Williamtown to Hobart to Canberra; and (b) what was the cost differential between the VIP 737 flight and a commercial flight for the two people listed on the manifest.

(6) (a) What was the purpose of a VIP flight requisitioned by Senator Vanstone on 5 August 2004 from Canberra to Melbourne; and (b) what was the cost differential between the VIP CL604 flight and a commercial flight for the senator and Mr Vanstone and one other person listed on the manifest.

(7) (a) What was the purpose of a VIP flight requisitioned by the Hon. M Vaile on 13 August 2004 from Canberra to Sydney to Canberra; and (b) what was the cost differential between the VIP CL604 flight and a commercial flight for three persons from Sydney to Canberra as listed on the manifest.

(8) (a) What was the purpose of a VIP flight requisitioned by Senator Vanstone on 25 August 2004 from Canberra to Adelaide to Sydney to Canberra; and (b) what was the cost differential between
the VIP CL604 flight and a commercial flight for the senator and one other person from Adelaide to Sydney.

(9) (a) What was the purpose of a VIP flight requisitioned by Senator Vanstone on 27 October 2004 from Canberra to Adelaide to Canberra; and (b) what was the cost differential between the VIP CL604 flight and a commercial flight for the senator and one other person from Canberra to Adelaide.

(10) What was the purpose of the VIP flight requisitioned by Senator Hill on 30 October 2004 from Canberra to Melbourne to Alice Springs to Adelaide to Canberra; (b) as the Minister joined the flight on the Melbourne to Alice Springs leg and was joined by his wife on the Alice Springs to Adelaide leg, was the purpose to take Mrs Hill home; (c) how was the Adelaide to Alice Springs travel for Mrs Hill funded; and (d) what was the cost differential between the VIP CL604 flight and a commercial flight for the senator and Mrs Hill from Alice Springs to Adelaide.

(11) (a) What was the purpose of the VIP flight requisitioned by Senator Vanstone on 17 November 2004 from Canberra to Sydney to Canberra; and (b) what was the cost differential between the VIP CL604 flight and a commercial flight for the senator and one other person for this flight.

(12) (a) What was the purpose of the VIP flight requisitioned by the Hon. I Macfarlane on 3 December 2004 from Canberra to Oakey; (b) what was the cost of that flight; and (c) what was the cost differential between the VIP CL604 flight and the other travel options.

(13) (a) Why was it necessary for a VIP flight to be dispatched from Canberra to Adelaide at the request of Senator Minchin on 5 December 2004 for travel from Adelaide to Canberra with four other people; and (b) what was the cost differential between the VIP CL604 flight and a commercial flight.

(14) (a) What was the purpose of the VIP flight requisitioned by the Hon. M Vaile on 9 December 2004 from Canberra to Coolangatta; and (b) what was the cost differential between the VIP CL604 flight and a commercial flight.

(15) (a) What was the purpose of the VIP flight requisitioned by the Hon. A Downer on 14 December 2004 from Canberra to Adelaide to Sydney with one passenger on the Canberra to Adelaide leg and the Minister and his wife travelling from Adelaide to Sydney; and (b) what was the cost differential between the VIP CL604 flight and a commercial flight.

Senator Hill—The answer to the honourable senator’s question is as follows:

(1) (a) (i), (ii) and (iii) For Ministerial purposes.

(b) Yes.

(c) $6,164.

(2) (a) See my response to (1) (a).

(b) A commercial flight is $319 and the Special Purpose Aircraft (SPA) positioning flight was required irrespective of passengers. Placing the staff member on that leg saved the taxpayer $319.

(3) (a) See my response to (1) (a).

(b) Commercial flight is $1,723.50 and the SPA positioning leg was required irrespective of passengers. Placing the two staff members on that leg saved the taxpayer $3,447.

(4) (a) See my response to (1) (a).

(b) On arrival in Bali, the VIP CL604 aircraft was found to have a major hydraulic leak in the main landing gear actuator, requiring replacement before further flight. The delay was caused by the need to source and transport the replacement actuator from Canada, and bring technicians and specialist ground support equipment. The lack of hangar facilities in the repair location also contributed to the delay.
(c) $37,214.
(d) The aircraft was originally scheduled to return to Canberra without VIP passengers on 26 July 2004 after completing its task. The aircraft returned as planned but, due to the repairs, was delayed by five days.

(5) (a) See my response to (1) (a).
(b) Commercial flight cost $3,348; SPA additional cost $13,242; differential is $9,894.

(6) (a) See my response to (1) (a).
(b) Commercial flight cost $1,498; SPA additional cost $3,424; differential is $1,926.

(7) (a) See my response to (1) (a).
(b) Commercial flight cost $1,114; SPA additional cost $2,968; differential is $1,854.

(8) (a) See my response to (1) (a).
(b) Commercial flight cost $1,506; SPA additional cost $7,992; differential is $6,486.

(9) (a) See my response to (1) (a).
(b) Commercial flight cost $1,494; SPA additional cost $6,393; differential is $4,899.

(10) (a) See my response to (1) (a).
(b) No.
(c) This travel was not funded by the Defence portfolio.
(d) Commercial flight cost $1,597; SPA additional cost $3,881; differential is $2,284.

(11) (a) See my response to (1) (a).
(b) Commercial flight cost $1,483; SPA additional cost $2,740; differential is $1,257.

(12) (a) See my response to (1) (a).
(b) $6,393.
(c) Commercial flight cost $3,778; SPA additional cost $6,393; differential is $2,615.

(13) (a) See my response to (1) (a).
(b) Commercial flight cost $3,729; SPA additional cost $6,393; differential is $2,664.

(14) (a) See my response to (1) (a).
(b) Commercial flight cost $3,843; SPA additional cost $6,164; differential is $2,321.

(15) (a) See my response to (1) (a).
(b) Commercial flight cost $2,756; SPA additional cost $6,850.00; differential is $4,094. Placement of a staff member on positioning leg represented a saving of $497, therefore, the total differential is $3,597.

**Bridging Visas**

(Question No. 1139)

**Senator Stott Despoja** asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 6 September 2005:

(1) Can the Minister confirm that the department has not paid at least four bridging visa recipients $100 per week as promised; if so, why have the payments not been made.

(2) Can the Minister confirm that a mother and her son, who were released from Baxter Detention Centre on a bridging visa E one month ago, have not received Medicare or Centrelink benefits.

(3) Why have the remaining two Sri Lankan detainees in Baxter Detention Centre, who were invited to apply for the Removal Pending Bridging Visa, not been released despite signing more than 2
months ago on 28 June 2005, given the fact that the first Sri Lankans were released on 14 July 2005.

Senator Vanstone—The answer to the honourable senator’s question is as follows:

(1) When considering releasing a person from immigration detention on a Bridging E Visa (Subclass 051), the delegate has to be satisfied that adequate arrangements have been made for the person’s entry into and ongoing support while in the community. Adequate care arrangements are usually coordinated and developed by a reputable Non Government Organisation (NGO) and detailed in a ‘Care Plan.’

My Department recognises that the cost of care arrangements may be significant and community organisations may find it difficult to meet all of the associated costs. As such, my Department contributes towards these costs by providing the NGO with a weekly living allowance and the reimbursement of medical and health costs that are in line with Australian community standards. Requests to meet these costs are considered by my Department on a case-by-case basis in partnership with the NGO.

My Department recognises that there was an administrative oversight with payments for four Bridging E Visa (Subclass 051) holders. Three of these payments were two months overdue and one payment was four months overdue. This situation was identified in consultation with the relevant NGO and my Department has advised that the payments in question were then made to the relevant NGO promptly and where required continue to be paid on a regular basis. This has been confirmed by the NGO.

(2) My Department can confirm that the individuals in question have not received any Medicare or Centrelink benefits as holders of a Bridging E Visa (Subclass 051) are not eligible for such benefits. However, my Department contributes to the associated ongoing living costs and pay reasonable and necessary medical and health costs that are in line with Australian community standards for this family.

My Department has not refused any request to pay for medical expenses associated with the individuals in question.

(3) I can confirm the two Sri Lankan individuals concerned both accepted my invitation to apply for a Removal Pending Bridging Visa on 24 June 2005.

Their cases were referred to an external security agency for the completion of the necessary mandatory security and character clearances. The external security agency raised concerns and required further in-depth investigation and interviews of these persons. As a result, the completion of their security checks took extended periods of time to finalise.

On 12 October 2005, the two Sri Lankan individuals concerned were granted Removal Pending Bridging Visas.

**Adverse Medical Events**

(Question No. 1151)

Senator Allison asked the Minister representing the Minister for Health and Ageing, upon notice, on 7 September 2005:

(1) Is the Minister aware of the “Quality in Australian Health Care Study” published by Wilson et al in 1995 in the Medical Journal of Australia which estimates that 470 000 admissions to hospitals occur annually in Australia because of medical mistakes.

(2) Is the Minister aware that this study also estimated that these admissions were associated with 18 000 deaths and 50 000 patients being permanently disabled to a greater or lesser extent.
(3) (a) What data is available on the number and/or proportion of patients in Australia that suffer from serious adverse events or die from medical mistakes each year; and (b) how does this compare with other comparable countries.

(4) Has the Minister raised this matter with state and territory health ministers; if not, will the Minister do so.

(5) What other action is the Government taking to reduce the number of adverse events associated with medical interventions.

Senator Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) Yes.

(2) Yes.

(3) (a) There are state based data available on serious adverse events (sentinel events) in Victoria, New South Wales and Queensland. There are also data on adverse events in a number of jurisdictions but these are not systematically collected across Australia. The only Australian data comes from the Quality in Australian Health Care Study (QAHCS), 1995, referred to in the question. Findings from the QAHCS when adjusted to international benchmarking methodology, indicated that approximately 10% of hospital admissions were associated with an adverse event and that approximately half of these were preventable.

(b) Comparisons with other countries using the same modified methodology show that this is comparable to findings in the United Kingdom, Canada and New Zealand.

(4) Yes. In January 2000, in response to the QAHCS, and growing concerns about the safety and quality in health care, the Australian Government Health Minister, with the support of all Australian Health Ministers, established the Australian Council for Safety and Quality in Health Care (ACSQHC).

The ACSQHC reports annually to Health Ministers at the Australian Health Ministers’ Conference on the development and implementation of agreed national actions to reduce preventable patient harm. The Australian Government leads this agenda item.

(5) This Government, through the ACSQHC, has developed a number of tools and strategies to measure the safety and quality of the health care system and assist in reducing the number of adverse events. These include for example:

(a) the development of a protocol to reduce procedures being carried out on the wrong body part or patient;

(b) encouraging the development of ‘incident management’ systems to be introduced in all public hospitals; and

(c) the development of a booklet that is to be handed to all public hospital patients on or before admission, ‘10 tips for safer health care: what everyone needs to know’, to encourage consumer involvement in their health care.

Ultrasounds

(Question No. 1172)

Senator Allison asked the Minister representing the Minister for Health and Ageing, upon notice, on 12 September 2005:

With reference to the answer to question on notice no. 2018 (Senate Hansard, 10 February 2004, p. 19747), indicating that the Commonwealth Scientific and Industrial Research Organisation (CSIRO) no longer undertakes research in the area of diagnostic ultrasound, and that the National Measurement
Laboratory was deferring ‘further investigation of the needs of this field pending the establishment of the National Measurement Institute in July 2004’:

(1) Has this institute been established; if not, why not; if so, what work has been done in the area of ultrasound measurement by this institute.

(2) What, if any, safety standards or any other regulatory regime have been developed to monitor the application of ultrasound in obstetrics in Australia.

(3) Given that work done by the CSIRO in collaboration with centres in Australia and overseas found that, tissue heating to 5 degrees can easily be produced near foetal bone, and such increases can, after only 5 minutes, cause severe brain abnormalities in the developing foetus, embryonic growth is stopped and heat shock (stress) proteins are produced in laboratory exposures to pulsed Doppler ultrasound, and the use of echo-contrast agents can amplify biological effects and cause bleeding at power levels of orders that are orders of the magnitude less than that required in the absence of contrast agents, does the Minister consider that the ultrasound regulatory regime is adequate.

(4) Is the Minister aware that in 2004, Professor Nagel from the University of Stuttgart said, ‘… it has not been verified whether the current regulations for the safe use of ultrasound equipment are valid at these frequencies. The biological effects of low frequency ultrasound have only recently been explored. According to our current knowledge they represent serious health hazards … possible negative effects of high-intensity ultrasound are hearing loss, impairment of the vestibular system, damage to peripheral sensory receptors, destruction of cells and fragmentation of DNA, and uncontrolled sonoporation’.

(5) Are there businesses in Australia that provide non-medical ultrasound procedures without a doctor’s referral; if so: (a) are they regulated; and (b) what qualifications are required of these practitioners.

(6) Does the Minister consider that the Australian medical profession should adopt the advice provided by the American Institute of Ultrasound in Medicine that it, ‘strongly discourage the non-medical use of ultrasound for psychological or entertainment purposes. The use of either 2D or 3D ultrasound to only view the foetus, obtain a picture of the foetus, or determine the gender without a medical intervention is inappropriate and contrary to responsible medical practice’; if not, why not.

(7) Given that the American Food and Drug Administration has banned the non-medical use of ultrasound, will the Government also consider such a ban.

(8) Given the epidemiological and laboratory evidence from around the world that indicates treatment can result in learning difficulties, a significant rise in left-handedness in boys, auditory problems, autism, growth retardation, dyslexia, and delayed speech development, will the medical profession in Australia be advised to warn women of the possible negative bio-effects before ultrasound treatment.

Senator Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) The National Measurement Institute (NMI) was formed on 1 July 2004. Questions concerning the NMI’s research program should be addressed to the Minister for Industry, Tourism and Resources.

(2) The quality, safety and performance of medical ultrasound devices are regulated by the Therapeutic Goods Administration (TGA) under the Therapeutic Goods Act 1989 (the Act). The monitoring, setting of standards and/or regulation of end users of these devices is not regulated under the Act. Manufacturers of ultrasound equipment are required to demonstrate that the device complies with the criteria for safety and performance under the Act. This includes holding clinical evidence and demonstrating that they have applied appropriate international standards applicable for the particular device during its design and manufacture.
Before a medical device can be supplied in Australia, the manufacturer must make a declaration that they have the clinical and technical evidence to demonstrate that the device meets the required standards for safety and performance. This evidence is reviewed by the TGA (for Australian manufacturers) or a recognised assessment body (for overseas manufacturers).

The TGA regulatory regime governing the quality, safety and performance of medical devices is based on internationally accepted principles of regulatory best practice. Access to the Australian market is supported by documented clinical, technical and scientific evidence and the ongoing performance of the device is monitored through post market vigilance and an incident reporting program.

Revised advertising requirements for medical devices under the Therapeutic Goods Act 1989, which are due to be implemented in 2006, restrict the types of medical devices that can be advertised to consumers. Under these requirements, medical devices that are used or administered by health care professionals (such as ultrasound devices) cannot be advertised to consumers unless specific exemption is granted by the Regulator. This will prevent non-medical commercial businesses from advertising or offering 4D “keepsake” video services to consumers.

The use of ultrasound for medical purposes is monitored and guided by the medical ultrasound profession. The profession’s position is set out in a range of guidelines and policy statements, including:

- The Australian Society for Ultrasound in Medicine’s (ASUM’s) various guidelines on ultrasound safety and the provision of diagnostic imaging services:
  - A2. Statement on Doppler Ultrasound
  - A3. Safety Statement on Continuous Wave Doppler Foetal Monitoring
  - A4. Safety Statement on Thermal Biological Effects
  - A5. Safety Statement on Acoustic Output and Equipment Output Display
  - A7. Safety Statement on Ultrasound Contrast Agents, and
  - B1. Policy on Diagnostic Ultrasound Services
- ASUM’s Statement on the Appropriate Use of Diagnostic Ultrasound Equipment for Non-Medical Entertainment Ultrasound;
- The Royal Australian and New Zealand College of Radiologists’ (RANZCR) Medical Practitioners Performing and Interpreting Diagnostic Ultrasound Intercollegiate Consensus Statement and Diagnostic Ultrasound Services guidelines;
- The Australian Sonographers Association (ASA) guideline for Determining the Sex of the Foetus; and
- The Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG) policy on Prenatal Diagnosis.

The profession considers that diagnostic ultrasound when used in accordance with guidelines promoted by such bodies as ASUM has not been demonstrated to be associated with any deleterious effects in human tissue. The profession considers that at present there are no independently verified studies that have demonstrated any adverse biological effects from diagnostic ultrasound, in vivo in humans.

In terms of exposure to diagnostic ultrasound, all learned bodies emphasise the ALARA principle (as low as reasonably achievable). This principle emphasises that diagnostic medical ultrasound
equipment be used by trained individuals to seek relevant diagnostic information with the minimum of exposure, therefore minimising the potential for bio-effects and tissue damage.

(3) The current arrangements which guide the use of medical ultrasound are appropriate, being based on assessments by the medical ultrasound profession of the best available national and international evidence.

(4) The Minister was not previously aware of this statement.

(5) There is anecdotal evidence that a small number of businesses provide non-medical imaging ultrasound procedures without a doctor’s referral.

(a) As indicated in the response to Question (2) above, revised advertising requirements for medical devices under the Therapeutic Goods Act 1989, which are due to be implemented in 2006, will prevent non-medical commercial businesses from advertising or offering 4D “keepsake” video services to consumers.

(b) Unless they are providing a medical service for which a patient is entitled to receive a benefit under the Health Insurance Act, 1973, the Commonwealth does not have the capacity to require such practitioners to have any particular qualification.

(6) The Australian medical ultrasound profession has regard for standards that apply in other countries, but ultimately develops and refines its own standards based on the best available evidence.

(7) The American Food and Drug Administration (FDA) has advised that: ‘Persons who promote, sell or lease ultrasound equipment for making “keepsake” foetal videos should know that FDA views this as an unapproved use of a medical device. In addition, those who subject individuals to ultrasound exposure using a diagnostic ultrasound device (a prescription device) without a physician’s order may be in violation of state or local laws or regulations regarding use of a prescription medical device.’

Likewise, in Australia, if businesses were to offer goods or services that could be shown to be detrimental to public health, then they may be violating local, territory and/or state laws. The Australian Government’s position in terms of its regulation of therapeutic devices is set out in response to Question (2) above.

(8) The Department of Health and Ageing consults regularly with the profession on matters of quality and safety, and has supported RANZCR in the development of an accreditation program for radiology.

As mentioned in response to Question (2) above, in terms of exposure to diagnostic ultrasound, all learned bodies emphasise the ALARA principle (as low as reasonably achievable). This principle emphasises that diagnostic medical ultrasound equipment be used by trained individuals to seek relevant diagnostic information with the minimum of exposure, therefore minimising the potential for bio-effects and tissue damage.

Sea Bottom Trawling
(Question No. 1181)

Senator Siewert asked the Minister for Fisheries, Forestry and Conservation, upon notice, on 13 September 2005:

With reference to the practice of bottom trawling within Australia’s Exclusive Economic Zone (EEZ):

(1) Can the Minister outline the extent to which the Government is aware of illegal, unregulated and unreported (IUU) bottom trawling occurring within the Australian EEZ, specifically: (a) the number of vessels apprehended annually; (b) the estimated annual IUU catch; and (c) the estimated number of vessels employing this technique within the Australian EEZ.
(2) What measures is the Government employing to deter IUU bottom trawling within the Australian EEZ.

**Senator Ian Macdonald**—The answer to the honourable senator’s question is as follows:

(1) (a) From 1993 to 2005, 27 illegal foreign bottom trawlers were apprehended within the Australian EEZ.

(b) The Australian Fisheries Management Authority (AFMA) does not hold information on estimated annual IUU catch on bottom trawling.

(c) AFMA does not hold records on the total number of vessels employing bottom trawling techniques within the Australian EEZ.

(2) The Australian Government has a comprehensive strategy of on-the-water and diplomatic action to deter all methods of IUU fishing, both within the Australian EEZ and also on the high seas. This strategy includes a five year, $217.2 million Southern Ocean armed patrol program, Coastwatch surveillance patrols, co-operation with like-minded countries on enforcement and surveillance, applying diplomatic pressure on countries aiding illegal activity and seeking the strengthening and full implementation of key international fisheries conventions to improve high seas governance and eliminate IUU fishing.

**Offshore Constitutional Settlement Agreements**

(Question No. 1237)

**Senator Siewert** asked the Minister for Fisheries, Forestry and Conservation, upon notice, on 22 September 2005:

(1) For which species of sharks, rays and other marine species has the Minister given principal responsibility to the states, under respective Offshore Constitutional Settlement (OCS) agreements.

(2) Are the states required to meet any sustainability standards or management guidelines for these species as part of the OCS agreements; if so, what are these standards or guidelines.

(3) Can any such standards, guidelines or management plans be provided; if not, why not.

**Senator Ian Macdonald**—The answer to the honourable senator’s question is as follows:

(1) Approximately 70 Offshore Constitutional Settlements (OCS) fisheries arrangements setting jurisdictional responsibility for hundreds of marine species have been negotiated with the states and Northern Territory. All were negotiated prior to my appointment as Minister for Fisheries, Forestry and Conservation.

In broad terms, the Australian Government has jurisdictional responsibility for highly migratory and straddling fish stocks and species subject to regional or international agreements, such as tuna (with the exception of the area adjacent to NSW within 3 nautical miles), and tuna-like species. Whereas, the states and Northern Territory have been given principal responsibility for managing coastal, slow moving or inshore species.

Regarding OCS fisheries arrangements for shark and ray species, there is no general rule for jurisdictional arrangements. Where it is practicable, the Commonwealth has entered into agreements with the states regarding sharks and rays.

(2) Under OCS arrangements, the states and Northern Territory are expected to comply with Commonwealth and relevant state/Northern Territory environment and fisheries legislation. Common to these are the principles of conservation, ecologically sustainable use, the protection of marine ecosystems, equitable resource use and an integrated management approach which involves the preparation of management plans in consultation with major users and interest groups.
In addition to complying with such legislation, fishery specific Memorandums of Understanding (MoUs) are agreed under each OCS. These MoUs also provide a mechanism for cooperation and collaboration in the management of fisheries resources.

(3) Details of OCS agreements can be found in the Commonwealth of Australia Gazette. Individual OCS MoUs are available on request from the Australian Government Department of Agriculture, Fisheries and Forestry.

Refer to relevant State fisheries and environmental protection legislation for details on state management arrangements.

Vietnam Veterans

(Question Nos 1261 and 1262)

Senator Allison asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 28 September 2005:

(1) With reference to the feasibility study into whether or not a health study of the sons and daughters of Vietnam veterans can be conducted; when will the study be completed.

(2) Why has the feasibility study taken so long.

(3) If the study concludes that a full health study of the sons and daughters of Vietnam veterans is feasible, when will the study commence and when will it be completed.

(4) Did the feasibility study include a cost estimate of a full health study; if so: (a) what was that figure; and (b) how will the study be funded.

Senator Hill—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question.

(1) The study’s independent Scientific Advisory Committee is expected to report to the Minister on the feasibility of conducting a health study on sons and daughters of Vietnam veterans before the end of this calendar year.

(2) During the course of the Feasibility Study every effort has been made to ensure proper consultation with stakeholders and to allow the thorough consideration of all the complex technical issues involved. While this has added to the time taken in completing the study, it is essential in assuring a consultative and an independent scientifically-considered response to the study question.

(3) The Australian Government will decide how best to respond to the Scientific Advisory Committee’s advice once it has received the report and considered the many complex issues that need to be addressed.

(4) The feasibility study will include a cost estimate of a full health study. However: (a) a figure is not yet available; and (b) the need for and funding of a further study will be a matter for the Government to consider.

Aged Care Facilities

(Question No. 1287)

Senator Allison asked the Minister representing the Minister for Ageing, upon notice, on 5 October 2005:

(1) (a) How many complaints have been made against the Blue Cross Nursing Homes & Hostels Group; and (b) can this information be provided by calendar year and individual facility; if not, why not.

(2) (a) Overall, what is the average number of complaints per aged care facility; and (b) how does this figure compare with the average number for facilities within the Blue Cross Nursing Homes & Hostels Group.
(3) Have any facilities within the Blue Cross Nursing Homes & Hostels Group been visited by the Accreditation and Standards Agency; if so, when and why.

(4) What additional services or lifestyle extras do facilities within the Blue Cross Nursing Homes & Hostels Group offer in order to gain approval to provide extra service places.

(5) (a) Overall, what is the average additional fee for an extra service place; and (b) how does this figure compare with the additional fee charged by the Blue Cross Nursing Homes & Hostels Group.

**Senator Patterson**—The answer to the honourable senator’s question is as follows:

(1) (a) and (b) This is protected information under the Aged Care Act 1997.

(2) (a) As at 30 June 2005, a total of 2,935 aged care homes were accredited by the Aged Care Standards and Accreditation Agency. In 2004-05 the Aged Care Complaints Resolution Scheme recorded a total of 1,004 complaints.

(b) This is protected information under the Aged Care Act 1997.

(3) The Aged Care Standards and Accreditation Agency has conducted a total of 63 visits to the 10 homes in this group since 2000 of which 18 were site audit visits, 44 were support contact visits and one was a review audit visit. The specific details in relation to these visits is protected information under the Aged Care Act 1997.

(4) The additional services or lifestyle extras include:

- Provision of single ensuite rooms;
- A wider choice of meals, snacks and beverages;
- Accommodation in surroundings with high quality décor, furniture, fixtures and fittings;
- Availability of aromatherapy, massage, free local telephone calls;
- Availability of a wide choice of outings and entertainment; and
- Provision of beautician services and a full range of hairdressing services in a salon on site.

(5) (a) The most commonly approved extra service fee is in the range of $20.00 - $25.00 per day.

(b) Blue Cross Nursing Homes and Hostels Group charge extra service fees ranging from $16.00 per day to $52.00 per day.

**Australian Network of Industry Careers Advisers**

(Question No. 1293)

**Senator Allison** asked the Minister representing the Minister for Education, Science and Training, upon notice, on 6 October 2005:

With reference to the Australian Network of Industry Careers Advisors (sic) initiative, which includes Regional Industry Career Advisors (sic) (RICA), Local Community Partnerships (LCP) and Youth Pathways (YP):

(1) Is it the case that there is only one RICA for the whole of the Gippsland area; if so, why.

(2) Is it the case that YP has sufficient funds to assist only 107 young people each year.

(3) Will YP replace the Latrobe Valley Jobs Pathway Programme which services more than 750 young people; if so, will YP service a larger area with more service recipients than the previous program.

(4) (a) What is the level of funding for LCP for Latrobe Valley; and (b) does it differ from the funding received by the remainder of the Gippsland area; if so, why.

**Senator Vanstone**—The Minister for Education, Science and Training has provided the following answer to the honourable senator’s question:

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**QUESTIONS ON NOTICE**
(1) For the first time from 2006, Gippsland will have one of 57 Regional Industry Career Advisers (RICAs). RICA Service Regions align with LCP regions, as LCPs are a key stakeholder for the RICA Network and the number of LCPs, schools, financial viability and size of areas have been considered in determining the RICA Service Regions.

(2) No. Funding for Youth Pathways will provide assistance to a minimum of 107 eligible young people in the Latrobe Valley SSD, 79 young people in the East Gippsland–Wellington SSD, and 57 young people in the South West Gippsland SSD each year. Nationally, Youth Pathways aims to service approximately 17,000 eligible young people per annum.

(3) A: Youth Pathways will be replacing the Jobs Pathway Programme (JPP). Youth Pathways will provide national coverage, which JPP was not able to provide, thus extending access to these important support services right around the country. Those young people currently serviced by JPP but who require career and transition support services will be assisted by LCPs and Youth Pathways, which will offer a much more intense level of support to the most at risk of not successfully making a transition. The allocation of Youth Pathways places is based on a fair, transparent, national indicator of need: that is, the proportion of unemployed early school leavers by SSD, a clear and effective indicator that ensures our resources go to the service regions based on need. Further, we have weighted the funding provided to deliver the support services to recognise the regional and remote area costs of delivery.

(4) (a) Level of funding for Latrobe Valley LCP is $117,222 per annum.

(b) A: Yes. The level of funding for the Latrobe Valley LCP differs from funding received by the remainder of Gippsland area. Latrobe Valley is defined as a provincial City and other areas in Gippsland are defined as Other Provincial areas. The classification of LCP Service Regions is based on the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA) Schools Geographical Location Classification which in turn is based on a combination of factors, including population size and geographic distance from population centres. The model has been developed on the basis that the primary focus for LCPs facilitating services in regions will be the number of schools with students in Years 8-12. In this instance Latrobe Valley has been correctly classified as Provincial City under the MCEETYA Schools Geographical Location Classification system, as it has a population between 25,000-99,999 and the remainder of Gippsland is classified Other Provincial; resulting in different levels of funding.

Cootamundra Aboriginal Girls Training Centre Memorial
(Question No. 1295)

Senator O’Brien asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 6 October 2005:

(1) Is the Minister aware of a proposal to build a memorial to the Cootamundra Aboriginal Girls’ Training Centre on land at Hovell Street, Cootamundra, controlled by the Australian Rail Track Corporation; if so:

(a) when and how did the Minister become aware of the proposal;

(b) when and from whom has the Minister or the department received representations in relation to the proposal;

(c) what representations relating to the proposal has the Minister made to:

(i) the Minister for Finance and Administration, and

(ii) the Minister for Transport and Regional Services;

(d) what was the nature and the outcome of each representation;
(e) if a representation was made in writing, can a copy of the representation be provided; if not, why not; and
(f) if records of a representation were made, can a copy of such records be provided; if not, why not.

Senator Vanstone—The answer to the honourable senator’s question is as follows:

(1) Yes. I have been informed that the site is owned by RailCorp, not the Australian Rail Track Corporation, and that RailCorp has agreed to the site being used for a memorial.

(a) Miss Betti Punnett, Secretary of the Cootamundra Reconciliation Group, initially wrote to me about the matter on 26 September 2005.

(b) After her initial letter informing me of the Group’s plans to erect a memorial, Miss Punnett wrote to me again on 15 November 2005, informing me that the proposed site for the memorial is owned by RailCorp, and that RailCorp has granted the Group permission to use the site.

(c) (i) and (ii) None.

(d) Refer to answer in (c).

(e) Not applicable.

(f) Not applicable.

Calcium Tablets
(Question No. 1301)

Senator Allison asked the Minister representing the Minister for Health and Ageing, upon notice, on 11 October 2005:

(1) Why did the Pharmaceutical Benefits Advisory Committee decide to remove calcium tablets from the Pharmaceutical Benefits Scheme.

(2) What are the implications of this action for patients with kidney failure and osteoporosis.

Senator Patterson—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) The Pharmaceutical Benefit Advisory Committee (PBAC) did not decide to remove calcium tablets from the Pharmaceutical Benefits Scheme (PBS). The removal of calcium tablets from the PBS was announced in the Australian Government’s 2005 -2006 Budget.

The Minister for Health and Ageing sought advice from the PBAC on this issue. This advice was tabled in Parliament on 31 October 2005. At that time, the Minister announced that calcium tablets would remain on the PBS for patients with chronic renal failure.

(2) Renal Patients

Renal patients use calcium carbonate tablets to reduce blood phosphate levels. Dosages vary from one or two tablets per day to 12 or more to control their phosphate levels. These patients would experience high out-of-pocket costs if they were unable to access calcium on a subsidised basis. The government has decided to retain calcium tablets on the PBS for patients with chronic renal failure effective from 1 December 2005.

Osteoporosis

Calcium is one of a number of treatments that may have a role in the management of calcium deficiencies and osteoporosis. Some patients could reduce risks associated with osteoporosis by regulating diet and exercise.

Calcium tablets remain relatively inexpensive at normal doses required for osteoporosis and are widely available as over-the-counter medicine.
Drugs such as alendronate (Fosamax®), risedronate (Actonel®), raloxifene (Evista®) remain listed on the PBS for the treatment of patients with osteoporosis who have had minimal trauma fractures.

**Child-care Benefit**

(Question No. 1304)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 12 October 2005:

For each of the past 5 financial years, can an updated table of Child Care Benefit reconciliation outcomes be provided: (a) by state and territory; and (b) by federal electorate.

Senator Patterson—The answer to the honourable senator’s question is as follows:

(a) Please see Attachment A for the total amount outstanding Child Care Benefit (CCB) debt by state/territory.

(b) In respect to the information by federal electorate, the information is not readily available and its compilation would involve an unreasonable diversion of resources which the Minister is not prepared to authorise.

Attachment A

DATA AS AT 30-SEP-2005

NUMBER OF CUSTOMERS WITH AN OUTSTANDING DEBT BY STATE

<table>
<thead>
<tr>
<th>STATE</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
</tr>
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<tbody>
<tr>
<td>AUSTRALIAN CAPITAL TERRITORY</td>
<td>15</td>
<td>98</td>
<td>245</td>
<td>504</td>
<td>402</td>
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<tr>
<td>NEW SOUTH WALES</td>
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<td>1,812</td>
<td>4,689</td>
<td>9,312</td>
<td>7,421</td>
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<tr>
<td>NORTHERN TERRITORY</td>
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<td>67</td>
<td>154</td>
<td>317</td>
<td>311</td>
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<tr>
<td>QUEENSLAND</td>
<td>131</td>
<td>1,078</td>
<td>3,166</td>
<td>7,081</td>
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<tr>
<td>SOUTH AUSTRALIA</td>
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<td>210</td>
<td>642</td>
<td>1,550</td>
<td>1,896</td>
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<tr>
<td>TASMANIA</td>
<td>3</td>
<td>62</td>
<td>165</td>
<td>435</td>
<td>433</td>
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<tr>
<td>VICTORIA</td>
<td>143</td>
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<td>5,648</td>
<td>5,180</td>
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<tr>
<td>WESTERN AUSTRALIA</td>
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<td>388</td>
<td>933</td>
<td>2,224</td>
<td>2,339</td>
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<tr>
<td>UNKNOWN *</td>
<td>56</td>
<td>237</td>
<td>273</td>
<td>291</td>
<td>94</td>
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<td><strong>TOTAL</strong></td>
<td>627</td>
<td>5,073</td>
<td>13,015</td>
<td>27,362</td>
<td>25,210</td>
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* The “unknown” category covers customers with overseas addresses, addresses that are post office boxes (rather than street addresses), and invalid addresses (eg for people who are no longer customers).

DATA AS AT 30-SEP-2005

TOTAL AMOUNT OF OUTSTANDING DEBT BY STATE

<table>
<thead>
<tr>
<th>STATE</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
</tr>
</thead>
<tbody>
<tr>
<td>AUSTRALIAN CAPITAL TERRITORY</td>
<td>$19,712</td>
<td>$82,528</td>
<td>$171,036</td>
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<td>$960,955</td>
<td>$2,161,961</td>
<td>$3,847,304</td>
<td>$2,334,601</td>
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QUESTIONS ON NOTICE
### TOTAL AMOUNT OUTSTANDING

<table>
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<th>Financial Year</th>
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<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
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<td>$314,850</td>
<td>$679,941</td>
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<td>$1,093,451</td>
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<td>$147,512</td>
<td>$160,518</td>
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<td>$18,340,578</td>
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*The “unknown” category covers customers with overseas addresses, addresses that are post office boxes (rather than street addresses), and invalid addresses (eg for people who are no longer customers).

### DATA AS AT 30-SEP-2005

#### AVERAGE AMOUNT OUTSTANDING DEBT BY STATE

<table>
<thead>
<tr>
<th>State</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
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</thead>
<tbody>
<tr>
<td>Australian Capital Territory</td>
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<td>$698</td>
<td>$644</td>
<td>$513</td>
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<tr>
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<td>$644</td>
<td>$478</td>
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<td>$870</td>
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<td>$590</td>
<td>$620</td>
<td>$560</td>
<td>$321</td>
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<tr>
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<td>$588</td>
<td>$622</td>
<td>$445</td>
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<td>$812</td>
<td>$745</td>
<td>$670</td>
<td>$469</td>
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*The “unknown” category covers customers with overseas addresses, addresses that are post office boxes (rather than street addresses), and invalid addresses (eg for people who are no longer customers).

### AVERAGE INCOME OF CCB DEBTOR BY STATE

<table>
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<tr>
<th>State</th>
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<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
</tr>
</thead>
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<td>Australian Capital Territory</td>
<td>$65,330</td>
<td>$70,453</td>
<td>$71,535</td>
<td>$69,911</td>
<td>$66,502</td>
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<td>$67,864</td>
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<td>$64,587</td>
<td>$66,442</td>
<td>$63,203</td>
<td>$54,877</td>
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*The “unknown” category covers customers with overseas addresses, addresses that are post office boxes (rather than street addresses), and invalid addresses (eg for people who are no longer customers).
Family Tax Benefit
(Question No. 1305)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 12 October 2005:

With reference to Family Tax Benefit overpayments in each of the financial years 2000-01 to 2004-05, can details be provided, in tabular form, of the number of families who were overpaid: (a) by more than $10 000; (b) between $9 000 and $10 000; (c) between $8 000 and $9 000; (d) between $7 000 and $8 000; (e) between $6 000 and $7 000; (f) between $5 000 and $6 000; (g) between $4 500 and $5 000; (h) between $3 500 and $4 000; (i) between $2 500 and $3 000; (j) between $2 000 and $2 500; (k) between $1 500 and $2 000; (l) between $1 000 and $1 500; (m) between $900 and $1 000; (n) between $800 and $900; (o) between $700 and $800; (p) between $600 and $700; (q) between $500 and $600; (r) between $400 and $500; (s) between $300 and $400; (t) between $200 and $300; (u) between $100 and $200; and (v) by less than $100.

Senator Patterson—The answer to the honourable senator’s question is as follows:

Details of overpayments in the financial years 2000-01 to 2004-05 in the ranges requested are given in tabular form below:

No of Customers by Ranged Overpayment for 2000-01 – 2004-05 as at 30-09-05

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>More than 0 to 100</td>
<td>149,713</td>
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<td>67,197</td>
<td>18,215</td>
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<td>More than 200 to 300</td>
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<td>56,213</td>
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<tr>
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<td>4,088</td>
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<td>More than 8,000 to 9,000</td>
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<td>More than 9,000 to 10,000</td>
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<td>706,923</td>
<td>622,556</td>
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Commonwealth Departments: Programs
(Question Nos 1310 to 1328)

Senator Chris Evans asked all the ministers, upon notice, on 14 October 2005:
In relation to each department and agency in the Minister’s portfolio:
(1) Can a list be provided of all programs that make up each output in the 2005-06 Portfolio Budget Statement.
(2) (a) For which of the programs identified in (1) above are estimates advised to the Department of Finance; and (b) when were those estimates last prepared.
(3) For each of the financial years 2005-06 to 2008-09, what are the most recent estimates of program spending or revenue for each of the programs identified in (1) above.
(4) For each of the financial years 2002-03 to 2004-05, what were the outcomes for each of the programs identified in (1) above.
(5) For each of the financial years 2005-06 to 2008-09, what are the dollar amounts that are obligated or forward committed, contractually or otherwise, for each of the programs identified in (1) above.

Senator Minchin—I provide the following answer on behalf of all ministers to the honourable senator’s question:
Internal programme information relating to the Australian Government General Government Sector is not publicly released.

Temporary Residents
(Question No. 1337)

Senator Sherry asked the Minister Representing the Minister for Revenue and Assistant Treasurer, upon notice, on 25 October 2005:
For each of the financial years 2002-03 to 2004-05: (a) how many departing temporary residents completed the Outgoing Passenger Card with respect to the Departing Australia Superannuation Payment; and (b) how many temporary residents departed Australia

Senator Coonan—The Minister for Revenue and Assistant Treasurer has provided the following answer to the honourable senator’s question. As this question deals with matters of taxation administration, I asked the Commissioner of Taxation for advice:
(a) 2002-03: Prior to 1 July 2003, the Outgoing Passenger Card with respect to the Departing Australia Superannuation Payment was not available.
   2003-04: 98,403
   2004-05: 153,805
(b) 2002-2003: 235,906
   2003-2004: 251,707
   2004-2005: 271,691

New Apprenticeships
(Question No. 1339)

Senator Webber asked the Minister representing the Minister for Vocational and Technical Education, upon notice, on 2 November 2005:
With reference to the New Apprenticeship Centre trading as AMA New Apprenticeships Centre: for the year 2004: (a) how many commencements were facilitated; (b) how many completions were recorded;
(c) how many completions were recorded as a proportion of all commencements; (d) what were the top 20 qualifications obtained; (e) of that top 20, how many commencements of qualifications were recorded; and (f) what is the proportion of the top 20 to commencements.

Senator Vanstone—The Minister for Vocational and Technical Education has provided the following answer to the honourable senator’s question:

(a) In the 2004 calendar year, AMA Services (WA) Pty Ltd trading as AMA New Apprenticeships Centre facilitated 5,253 New Apprenticeships commencements.

(b) In the 2004 calendar year, AMA New Apprenticeships Centre facilitated 2,576 New Apprenticeships completions.

(c) This represents 49.04% of the number of commencements facilitated in 2004.

(d) The following table lists the 20 largest qualifications, by numbers of commencements, facilitated by AMA New Apprenticeships Centre in 2004. Numbers of commencements and share of total commencements are also provided.

All data is drawn from DEST’s Training and Youth Internet Management System (TYIMS) database as at 23 September 2005. TYIMS is DEST’s management information system for making payments through the New Apprenticeships Incentives Programme and the New Apprenticeships Support Services contracts.

<table>
<thead>
<tr>
<th>Rank</th>
<th>National Training Information Service code</th>
<th>Qualification description</th>
<th>Commencements</th>
<th>Share of total commencements</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>HLT30802</td>
<td>Certificate III in Health Support Services (Client/Patient Support Services)</td>
<td>908</td>
<td>17.29%</td>
</tr>
<tr>
<td>2</td>
<td>THH21802</td>
<td>Certificate II in Hospitality (Operations)</td>
<td>277</td>
<td>5.27%</td>
</tr>
<tr>
<td>3</td>
<td>50960</td>
<td>Certificate III in Policing</td>
<td>272</td>
<td>5.18%</td>
</tr>
<tr>
<td>4</td>
<td>WRR20102</td>
<td>Certificate II in Retail Operations</td>
<td>259</td>
<td>4.93%</td>
</tr>
<tr>
<td>5</td>
<td>WRH30100</td>
<td>Certificate III in Hairdressing</td>
<td>244</td>
<td>4.64%</td>
</tr>
<tr>
<td>6</td>
<td>BSB30101</td>
<td>Certificate III in Business</td>
<td>208</td>
<td>3.96%</td>
</tr>
<tr>
<td>7</td>
<td>UTE31199</td>
<td>Certificate III in Electrotechnology Systems Electrician</td>
<td>200</td>
<td>3.81%</td>
</tr>
<tr>
<td>8</td>
<td>51190</td>
<td>Certificate I in Workplace Readiness</td>
<td>176</td>
<td>3.35%</td>
</tr>
<tr>
<td>9</td>
<td>BSB20101</td>
<td>Certificate II in Business</td>
<td>175</td>
<td>3.33%</td>
</tr>
<tr>
<td>10</td>
<td>ICT40102</td>
<td>Certificate IV in Customer Contact</td>
<td>161</td>
<td>3.06%</td>
</tr>
<tr>
<td>11</td>
<td>AUR31099</td>
<td>Certificate III in Automotive Mechanical (Light Vehicle)</td>
<td>147</td>
<td>2.80%</td>
</tr>
<tr>
<td>12</td>
<td>CSC30201</td>
<td>Certificate III in Correctional Practice (Custodial)</td>
<td>134</td>
<td>2.55%</td>
</tr>
<tr>
<td>13</td>
<td>THH31502</td>
<td>Certificate III in Hospitality (Commercial Cookery)</td>
<td>118</td>
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</tr>
<tr>
<td>14</td>
<td>WRR30202</td>
<td>Certificate III in Retail Operations</td>
<td>117</td>
<td>2.23%</td>
</tr>
<tr>
<td>15</td>
<td>50718</td>
<td>Certificate III in Carpentry &amp; Joinery</td>
<td>114</td>
<td>2.17%</td>
</tr>
<tr>
<td>16</td>
<td>CHC30102</td>
<td>Certificate III in Aged Care Work</td>
<td>100</td>
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<tr>
<td>17</td>
<td>BCG30698</td>
<td>Certificate III in General Construction (Bricklaying/Blocklaying)</td>
<td>63</td>
<td>1.20%</td>
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<tr>
<td>18</td>
<td>51059</td>
<td>Certificate III in General Plumbing and Gasfitting</td>
<td>63</td>
<td>1.20%</td>
</tr>
<tr>
<td>19</td>
<td>LMF30402</td>
<td>Certificate III in Furniture Making (Cabinet Making)</td>
<td>61</td>
<td>1.16%</td>
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<td>20</td>
<td>PRM20198</td>
<td>Certificate II in Asset Maintenance (Cleaning Operations)</td>
<td>58</td>
<td>1.10%</td>
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</table>
New Apprenticeships
(Question No. 1340)

Senator Webber asked the Minister representing the Minister for Vocational and Technical Education, upon notice, on 2 November 2005:

(1) What is the duration and value of the contract between the New Apprenticeship Centre and AMA Services (WA) Pty Ltd.

(2) What is the contracted unit price paid to AMA Services (WA) Pty Ltd for each New Apprenticeship that it facilitates.

(3) For each year that AMA Services (WA) Pty Ltd has been contracted as a New Apprenticeship Centre, what remuneration was paid to AMA Services (WA) Pty Ltd for: (a) commencement and registration Payments; (b) 6 month post-commencement payments; and (c) completion payments.

Senator Vanstone—The Minister for Vocational and Technical Education has provided the following answer to the honourable senator’s question:

(1) AMA Services (WA) Pty Ltd’s contract to provide New Apprenticeships Support Services runs from 1 July 2003 to 30 June 2006. The total value of this contract is $4,488,000.

(2) The unit price for AMA Services (WA) Pty Ltd’s contract to provide New Apprenticeships Support Services is commercial-in-confidence.

(3) The following table provides (a) commencement / recommencement, (b) six month post-commencement and (c) completion Fee-for-Service payments, exclusive of GST, made to AMA New Apprenticeships Centre for each year that it has been contracted to provide New Apprenticeships Support Services. All data is drawn from TYIMS as at 23 September 2005. Note that the six-month post-commencement payment did not come into effect until 1 July 2003.

<table>
<thead>
<tr>
<th>Payment type</th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) commencement/</td>
<td>$79,050</td>
<td>$278,595</td>
<td>$431,490</td>
<td>$395,715</td>
<td>$442,556</td>
<td>$692,900</td>
<td>$1,313,060</td>
<td>$932,675</td>
</tr>
<tr>
<td>recommencement</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) six month post-</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>commencement</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) completion</td>
<td>$2,425</td>
<td>$17,640</td>
<td>$41,796</td>
<td>$49,672</td>
<td>$44,888</td>
<td>$104,179</td>
<td>$272,830</td>
<td>$240,720</td>
</tr>
</tbody>
</table>

Detention Services
(Question No. 1342)

Senator Bob Brown asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 3 November 2005:

(1) What proportion of the departmental case officers who deal with asylum seekers are (a) permanent public servants; and (b) employed on contracts.

(2) With respect to the performance measures in the contract between the department and the Correctional Services Australia (CSA) for provision of detention services, how many instances of critical or substantial breaches of the standards have there been, as defined in the contract.

(3) Under what circumstances can the department terminate the contract on the grounds that CSA have not adequately met their contractual obligations.

(4) (a) Was the performance record of the parent company of CSA, the Wackenhut Corporation, taken into account when selecting it to manage detention facilities in Australia; and (b) was the quality of care that would be provided to detainees provided for within the selection criteria.
Senator Vanstone—The answer to the honourable senator’s question is as follows:

(1) As at 30 September 2005, all case managers dealing with asylum seekers were permanent public servants. No case managers were employed on contracts (non-ongoing staff members).

(2) I believe that the Senator is referring to the Detention Agreement that the Department of Immigration and Multicultural Affairs entered into with Australasian Correctional Services Pty Ltd (ACM) on 27 February 1998. That Detention Agreement was replaced on 27 August 2003 with the signing of a Detention Services Contract entered into between the Department of Immigration and Multicultural and Indigenous Affairs and Group 4 Falck Global Solutions Pty Ltd (Group 4).

The signing of that Contract marked the end of a tender process which entailed a major review of the Immigration Detention Standards, incorporating recommendations of various bodies such as the Immigration Detention Advisory Group and reports such as the Flood and Ombudsman’s reports.

A copy of that contract is available on the department’s website at:

(3) This question is not applicable as the agreement between the department and Australian Correctional Services has been replaced. A copy of that agreement is available on the department’s website at: http://www.immi.gov.au/illegals/acs.htm

(4) (a) This question is not applicable as the agreement between the department and Australian Correctional Services has been replaced.

(b) The key to the contractual arrangements entered into with Australasian Correctional Services was the immigration detention standards. The detention standards identified what the service provider was contracted to deliver and against which the service provider’s performance would be measured including the care that would be provided to detainees.

That agreement contained a mix of incentives and sanctions to ensure quality performance by the service provider.

Refugee Determination Process
(Question No. 1344)

Senator Bob Brown asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 3 November 2005:

(1) Does the Government perform any checks on people who claim refugee status, but are sent back to their country of origin or elsewhere, and have been able to safely resettle in the country to which they have been sent.

(2) What percentage of people whose Temporary Protection Visas have expired: (a) have had their visas renewed; and (b) have been granted permanent residency.

Senator Vanstone—The answer to the honourable senator’s question is as follows:

(1) No. The refugee determination process in Australia includes a comprehensive assessment of a person’s protection claims by a delegate of the Minister, as well as access to merits review by the Refugee Review Tribunal and judicial review by the courts. People who are returning to their country of origin have had access to that process and have been found not to be owed protection.

Where it is assessed as part of Australia’s refugee status determination process that there is no real chance of persecution of a person on return, Australia is not responsible for all aspects of the future well-being of that person in their homeland merely because at some stage they spent time in Australia.

Monitoring of returned persons, by its very nature, would be intrusive and could draw unwelcome attention to the individuals concerned and to those with whom they associate. Australia is a party to
the Vienna Conventions on diplomatic and consular relations which impose a duty on consular officers not to interfere in the internal affairs of a state, and monitoring could be seen as infringing the sovereignty of that state.

(2) In most cases, where a further protection visa application is lodged by a Temporary Protection Visa (TPV) or Temporary Humanitarian Visa (THV) grantee, the TPV or THV status continues until the further protection visa application is finally determined.

(a) Of some 9860 TPV or THV grantees who have applied for a further protection visa as at 25 November 2005, some 6460 (66 percent) have already been granted a permanent protection visa in the first instance by the Department. Some 2490 were refused by the Department, 165 others withdrew their applications, some 270 are at various stages of primary processing and the remainder have not yet reached the point where the application is available for processing. Of the applications refused by the department, some 1450 have been granted a further protection visa following remittal by the Refugee Review Tribunal. Overall, some 80% of further protection visa applicants have been approved for visa grant. A number of others are awaiting consideration by the Refugee Review Tribunal.

(b) Of those granted a further protection visa, 99 percent were permanent protection visas.

Family Support Funding Program
(Question No. 1358)

Senator Mark Bishop asked the Minister for Defence, upon notice, on 10 November 2005:

(1) (a) When did the department’s Family Support Funding Program (FSFP) commence; and (b) what is the annual budget of the program for each of the financial years 2000-01 to date.

(2) (a) What guidelines exist for the distribution of funds to defence groups; and (b) can a copy of the guidelines be provided; if not, why not.

(3) What groups are eligible for funding under FSFP.

(4) When are details of funding arrangements for the next financial year provided to the groups concerned.

(5) (a) For each of the financial years 2002-03 to 2004-05, what was the distribution of funds under this program, by defence bases; and (b) what programs were supported by the funding.

(6) What other funding programs can be accessed by defence personnel to ensure that community services, such as child care, are available at defence bases.

Senator Hill—The answer to the honourable senator’s question is as follows:

(1) (a) 1989-90.

(b) The annual budget of the program for 2000-01 to 2004-05 is reflected in Defence’s annual report for those years. The annual budget for 2005-06 is $1.146m.

(2) (a) and (b) The distribution of funds is guided by FSFP Guidelines, which can be found on the Defence Community Organisation (DCO) website at: http://www.defence.gov.au/dco

(3) Any incorporated non-profit group, such as a group of Australian Defence Force (ADF) families, community group, family support committee or voluntary association with an appropriate committee structure representing the interests of a significant number of ADF families, can apply for an FSFP grant provided they meet the objectives and guidelines of the program.

(4) General information on funding arrangements for the next financial year is available from the FSFP guidelines. More specific information is advised to Defence community groups during FSFP in-
formation sessions, which are held in each DCO location in February to March each year. Advice on grants allocated is usually made to recipient groups by July to August each year.

(5) (a) The distribution of funds is not recorded by base, but a breakdown of funding by state/group is reported in the Defence annual reports for the corresponding periods.

(b) The types of programs supported include:
- operation of a neighbourhood house, family or community centres;
- operating expenses for local ADF family welcoming groups;
- assistance with establishment/operational costs of Defence family newsletters;
- assistance with the costs of running craft groups, skills courses, self esteem and personal enhancement programs; and
- the payment of salary for Coordinators of Defence Neighbourhood Houses/Community Centres.

(6) Like other community members, Defence personnel can apply for other Commonwealth or State community grants. Other funding available within Defence for services, such as child care, is available through the extended child care program. This program has funding that supports out-of-hours school hours care, family day care and occasional care. Community groups must be incorporated to be eligible to receive Commonwealth Government funding and employ child care workers that meet the necessary state and territory regulations.

Native Title Representative Bodies
(Question No. 1360)

Senator Chris Evans asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 17 November 2005:

With reference to Native Title Representative Body (NTRB) funding arrangements:

(1) For each of the financial years 2001-02 to 2005-06, what is the funding allocated to each NTRB.

(2) Is the funding for NTRBs indexed; if so, on what basis (eg, Consumer Price Index).

(3) For the financial years 2004-05 and 2005-06, how many funding modules for assistance for specific native title claims or Independent Land Use Agreements (ILUA) were submitted by NTRBs throughout Australia.

(4) (a) What methodology and criteria were used by the Office of Indigenous Policy Coordination (OIPC) to assess, approve or reject these submissions; and (b) who formally approves the submissions.

(5) For the financial years 2004-05 and 2005-06, how many funding modules for assistance for specific native title claims or ILUAs: (a) were approved by OIPC; and (b) were rejected by OIPC.

(6) Can a list be provided of the native title claims that did not receive funding in the financial years 2004-05 and 2005-06.

(7) How many native title claims have not received representation due to a lack of funding in the financial years 2004-05 and 2005-06.

(8) Were NTRBs given notice regarding the denial of funding for specific claims.

(9) How and when were NTRBs consulted in the process of determining which claims would receive funding.

(10) Does the Government intend to commit funding to the claims that presently lack funding; if so, when, and can details be provided for each claim.
Senator Vanstone—The answer to the honourable senator’s question is as follows:

(1) Funding for the financial years 2001-02 to 2005-2006 for each NTRB is provided at Attachment A.

(2) The program that funds NTRBs to deliver services to Native Title claimants is indexed in accordance with Wage Cost Index 1 (WCI 1). WCI 1 is a mixed parameter based on movements in wages (75%) and CPI (25%) calculated by the Department of Finance and Administration.

The indexation element of the NTRB funding program is passed on to NTRBs. The base level of funding provided to NTRBs in 2004-05 was determined having regard to 2003-04 funding plus an additional 2% as indexation.

For the current financial year (2005-06) funding for NTRBs was not determined with reference to the previous year’s funding. Funding was determined on the basis of Operational Plans developed by each NTRB. The Operation Plans include the estimated cost of implementing prioritised Native Title activities during 2005-06. The funding provided takes into account any cost increases that have arisen since the previous year’s funding.

(3) This information cannot be presented for 2004-05 as the Operational Plans for that year were based on the performance of Native Title statutory functions. Consequently, Native Title activities are reported against more than one function.

For 2005-06, 401 funding modules (activities) for assistance for Native Title claims were submitted by NTRBs. The funding activities submitted included 118 activities involving agreement making, including Indigenous Land Use Agreements (ILUAs).

(4) (a) Submissions for 2004-05 funding were considered against the following criteria:

- 2003-2004 base allocations;
- level of risk;
- the general level and nature of activity, by output, identified in Operational Plans;
- the strategies and priorities identified in Strategic Plans;
- activity data;
- the priority attached to each activity by the NTRB;
- NTRB capacity to perform its functions and achieve its objectives;
- compliance with reporting requirements and funding terms and conditions; and
- past performance.

Submissions for funding for 2005-06 were assessed on the basis of the Native Title activities contained in Operational Plans developed by NTRBs. The criteria for determining the level of funding provided for activities were:

- eligibility under the Native Title Act 1993;
- organisational compliance with relevant Commonwealth legislation;
- workload and associated priorities;
- transparent and sound processes for developing priorities and subsequent proposed activities;
- achievable outputs and outcomes and clear priorities identified within defined timeframes;
- sound and transparent decision-making processes;
- past performance (of service delivery and the achievement of agreed outputs and outcomes);
- capacity to deliver services and achieve intended outputs and outcomes;
- compliance with accountability and reporting requirements under the Native Title Act 1993 and the Program Funding Agreement; and

QUESTIONS ON NOTICE
• issues relevant to the protection of Commonwealth funds.

(b) The Delegate for decisions on NTRB funding for 2004-05 was the Manager, Native Title and Land Rights Branch of the (then) Aboriginal and Torres Strait Islander Services. For 2005-06, the Delegate was the Assistant Secretary of the Land Rights Services Branch of the Office of Indigenous Policy Coordination (OIPC).

(5) This information is not available for 2004-05 as decisions on funding for NTRBs were primarily made on the basis of the previous year’s funding plus a supplementary amount to cover inflation. Further information on the 2004-05 funding process is provided in response to part (2) (above). For 2005-06 OIPC offered funding for 395 of the 401 Native Title modules (activities) contained in Operational Plans submitted by NTRBs. OIPC funded all of the 118 proposed activities involving agreement making, including ILUAs.

(6) No. The disclosure of the information requested could place the relevant NTRB at a disadvantage in negotiations with respondents.

(7) The number of Native Title claims that NTRBs decline to represent is not known as NTRBs only seek funding for those claims that it agrees to represent.

(8) Yes. NTRBs were provided with advice on all decisions that affected the funding of the Operational Plans submitted by NTRBs for 2005-06.

(9) A workshop was held in Alice Springs in April 2005 for representatives from NTRBs. The focus of the workshop was the development of the Operational Planning concept and its role in determining funding to NTRBs in 2005-06. Most NTRBs were represented at the workshop and were active participants in the development of model Operational Plans. NTRBs were notified of decisions to fund and not fund particular claims and invited to submit a revised budget as necessary. Several NTRBs took the opportunity to provide further information in support of their claim for funding, and in some instances the initial decision, following consideration of the material provided, was varied or reversed.

(10) NTRBs are responsible for prioritising Native Title claims. Prioritised claims are included in the Operational Plans submitted by NTRBs for funding. The funded Operational Plan for 2005-06 can be varied on request from NTRBs to respond to emerging or changed priorities where sufficient justification exists.

ATTACHMENT A

<table>
<thead>
<tr>
<th>Native Title funding 2001-02</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal Legal Rights Movement Inc</td>
<td>$3,700,000</td>
</tr>
<tr>
<td>Cape York Land Council Aboriginal Corporation</td>
<td>$3,934,374</td>
</tr>
<tr>
<td>Carpentaria Land Council Aboriginal Corporation</td>
<td>$3,054,990</td>
</tr>
<tr>
<td>Central Land Council</td>
<td>$2,446,667</td>
</tr>
<tr>
<td>Central Queensland Land Council Aboriginal Corporation</td>
<td>$3,161,384</td>
</tr>
<tr>
<td>Goldfields Land and Sea Council Aboriginal Corporation</td>
<td>$3,170,501</td>
</tr>
<tr>
<td>Gurang Land Council (Aboriginal Corporation)</td>
<td>$2,022,000</td>
</tr>
<tr>
<td>Kimberley Land Council Aboriginal Corporation</td>
<td>$4,703,829</td>
</tr>
<tr>
<td>Mirrimbiak Nations Aboriginal Corporation</td>
<td>$1,900,000</td>
</tr>
<tr>
<td>New South Wales Native Title Service</td>
<td>$2,192,017</td>
</tr>
<tr>
<td>Ngaanyatjarra Council Aboriginal Corporation</td>
<td>$2,322,891</td>
</tr>
<tr>
<td>Noongar Land Council Aboriginal Corporation</td>
<td>$1,089,985</td>
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<tr>
<td>North Queensland Land Council Native Title Representative Body Aboriginal Corporation</td>
<td>$1,927,686</td>
</tr>
<tr>
<td>North West Nations Clans Aboriginal Nations</td>
<td>$11,500</td>
</tr>
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<td>Northern Land Council</td>
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QUESTIONS ON NOTICE
### Native Title funding 2002-03

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<th>Organisation</th>
<th>Amount</th>
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<tbody>
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<td>NSW Aboriginal Land Council</td>
<td>$1,636,085</td>
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<tr>
<td>Queensland South Representative Body Aboriginal Corporation</td>
<td>$3,571,000</td>
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<tr>
<td>South West Aboriginal Land and Sea Council Aboriginal Corporation</td>
<td>$810,015</td>
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<tr>
<td>Yamatji Marlpa Barna Baba Maaja Aboriginal Corporation</td>
<td>$5,237,826</td>
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### Native Title funding 2003-04

<table>
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<th>Organisation</th>
<th>Amount</th>
</tr>
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<tbody>
<tr>
<td>Aboriginal Legal Rights Movement Inc</td>
<td>$2,552,000</td>
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<tr>
<td>Cape York Land Council Aboriginal Corporation</td>
<td>$3,348,220</td>
</tr>
<tr>
<td>Carpentaria Land Council Aboriginal Corporation</td>
<td>$2,900,000</td>
</tr>
<tr>
<td>Central Land Council</td>
<td>$2,481,293</td>
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<tr>
<td>Central Queensland Land Council Aboriginal Corporation</td>
<td>$2,850,000</td>
</tr>
<tr>
<td>Goldfields Land and Sea Council Aboriginal Corporation</td>
<td>$3,513,257</td>
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<td>Gurang Land Council (Aboriginal Corporation)</td>
<td>$2,000,000</td>
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<tr>
<td>Kimberley Land Council Aboriginal Corporation</td>
<td>$4,834,900</td>
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<tr>
<td>Marshall, Chris Mr</td>
<td>$700,000</td>
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<td>$1,542,288</td>
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<td>New South Wales Native Title Service</td>
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### Native Title funding 2004-05

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<td>Native Title Services Victoria Ltd</td>
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<td>New South Wales Native Title Service</td>
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### Native Title funding 2005-06

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<td>Carpentaria Land Council Aboriginal Corporation</td>
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<td>Central Land Council</td>
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<td>Central Queensland Land Council Aboriginal Corporation</td>
<td>$2,630,500</td>
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<tr>
<td>Goldfields Land and Sea Council Aboriginal Corporation</td>
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<tr>
<td>Gurang Land Council (Aboriginal Corporation)</td>
<td>$1,958,000</td>
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Kimberley Land Council Aboriginal Corporation $3,680,391
Native Title Services Victoria Ltd $2,537,930
New South Wales Native Title Service $3,368,493
Ngaanyatjarra Council Aboriginal Corporation $2,582,750
North Queensland Land Council Native Title Representative Body Aboriginal Corporation $2,274,200
Northern Land Council $2,683,540
Queensland South Representative Body Aboriginal Corporation $1,612,190
South West Aboriginal Land and Sea Council Aboriginal Corporation $3,358,900
Yamatji Marlpa Barna Baba Maaja Aboriginal Corporation $5,729,470

Native Title funding 2005-06
Aboriginal Legal Rights Movement Inc $2,753,647
Cape York Land Council Aboriginal Corporation $3,320,000
Carpentaria Land Council Aboriginal Corporation $3,141,200
Central Land Council $2,565,177
Central Queensland Land Council Aboriginal Corporation $2,524,583
Goldfields Land and Sea Council Aboriginal Corporation $2,430,865
Northern Land Council $2,926,560
Queensland South Representative Body Aboriginal Corporation $2,483,200
South West Aboriginal Land and Sea Council Aboriginal Corporation $2,926,560
Yamatji Marlpa Barna Baba Maaja Aboriginal Corporation $6,051,980

Aboriginal Hostels Ltd
(Question No. 1362)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 17 November 2005:

With reference to Aboriginal Hostels Limited (AHL):

(1) Why has the number of community-operated hostels, which in the 2000-01 financial year numbered 86 according to the AHL annual report for 2004-05, declined from 82 to 72 since the 2002-03 financial year.

(2) (a) Has the demand for Aboriginal hostels increased or decreased between the years 2000 to date; and (b) what data is used to measure demand.

(3) Have any assessments of need for Aboriginal hostels been made by AHL or the department; if so, when and: (a) can a list be provided of these assessments or surveys; and (b) can copies of any associated assessments and/or statistical reports be provided.

(4) With reference to the five community-operated hostels which had their funding removed due to their inability to comply with their service level agreements, as recorded on page 23 of the AHL annual report for 2004-05: (a) can a copy be provided of the ‘service level agreements’ that apply to hostels; (b) when were these service level agreements introduced; (c) what requirements do they impose on the hostels; (d) how many hostels had their funding withdrawn in the financial years 2002-03 and 2003-04; (e) can a list be provided of the hostels which lost their funding in the 2004-
05 financial year; (f) for each of the hostels, how long were they receiving government funds; (g) what level of funding was previously allocated to each of the hostels; (h) on what dates was funding for each of the hostels cut; (i) with which term or terms of the service level agreement did these hostels fail to comply; (j) what act or omission constituted the failure to comply; (k) were the hostels given notice of intention to cut funding, due to non-compliance; if so, when; (l) were any steps taken to assist the hostels in complying with the agreement; if so, what were they; (m) how much time was given to the hostels to comply; (n) did the hostels provide the agency with an explanation of their non-compliance; if so, what was the explanation; and (o) what has happened to the funds that were taken back from the hostels.

(5) Can the department confirm that in the 2004-05 financial year, community-based hostels were allocated $8 300 000 and company-operated hostels were allocated $33 224 000, and that the community-based hostels provided more available beds over the period.

(6) Why do community-based hostels provide more available beds than company-operated hostels while receiving less funding.

(7) For the financial years 2002-03 to 2004-05, what was the average annual cost per bed to the Commonwealth for: (a) community-based hostels; and (b) company-operated hostels.

(8) Do community-based hostels receive funding from other sources; if so, from where and how much.

(9) Are Community Development Employment Project workers employed in community-based hostels; if so, what percentage of the workforce do they represent.

(10) (a) What percentage of staff in company-operated hostels are Indigenous; and (b) what percentage of staff in community-operated hostels are Indigenous.

(11) (a) What was the target of guest capacity in the 2003-04 financial year for community-operated hostels; (b) what is the target for the 2005-06 financial year; (c) can an explanation be given for any increases or decreases; and (d) has this been reflected in the amount of funding provided to community-operated hostels.

Senator Patterson—The answer to the honourable senator’s question is as follows:

(1) In AHL’s 2004-05 annual report, the way in which hostel numbers are reported was changed from previous years to exclude those hostels which had only received one-off capital grants. The total 2002-03 figure of 82 hostels included seven that received one-off grants. In 2002-03, there were 75 hostels receiving recurrent grants compared with 72 hostels in 2004-05, and this reflects that AHL ceased funding three hostels.

(2) (a) The actual beds available through AHL has declined slightly between 2000 to date, but this does not necessarily reflect a change in demand for short-term or special purpose accommodation for Indigenous people. Rather, bed reductions have resulted from various causes, such as some hostels no longer needing AHL gap funding.

AHL acts as a ‘gap’ provider of temporary accommodation for Indigenous Australians. AHL aims to identify and meet the most needy market gaps, where Indigenous people are unable, for one reason or another, to access the temporary accommodation they need. The full demand for short-term or special purpose accommodation among Indigenous people is beyond the capacity of AHL to meet and AHL withdraws from markets/locations where needs decline or where other providers are able to meet the needs.

AHL research seeks to identify market gaps, i.e. places where there is a need, but no accommodation options, or where existing options are unaffordable to a significant part of the Indigenous population of the area.

(b) AHL builds a picture of unmet and emerging need using: available demographic data; information on existing accommodation options and patterns of use by Indigenous people; and
qualitative and quantitative information from its own regional offices, communities, community organisations, and service providers and referral agencies.

(3) Attachment A (available from the Senate Table Office) provides a list of assessments.
Copies of the five most recent assessments are included as attachments.

(4) (a) A copy of a Service Level Agreement (SLA) template (Attachment B), is available from the Senate Table Office. Conditions and targets vary and are agreed with each provider.

(b) AHL introduced SLAs in 2002-03 between the purchaser and provider functional areas.

(c) Each hostel was signed up as a provider of hostel accommodation with their performance assessed against an agreed set of indicators and compliance with the Community Hostel Grants guidelines (attached).

(d) Five community operated hostels had their recurrent funding withdrawn in 2002-03 and 2003-04.

(e) (f) (g) (h)

<table>
<thead>
<tr>
<th>Hostel</th>
<th>(f) length of funding</th>
<th>(g) previous level of AHL funding</th>
<th>(h) cease funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ingada Village, WA</td>
<td>Since 1984-85</td>
<td>$94,996 in 2003-04</td>
<td>1 July 2004</td>
</tr>
<tr>
<td>Warringu Women Shelter, Qld</td>
<td>Since 1/7/1984</td>
<td>$100,532 in 2003-04</td>
<td>1 July 2004</td>
</tr>
<tr>
<td>Port Lincoln Hostel, SA</td>
<td>2002-03 to 31/10/04</td>
<td>$139,681 total (budgeted approx $82,000 in 2003-04)</td>
<td>1 Nov 2004</td>
</tr>
<tr>
<td>Annie Koolmatrie House SA (formerly Allan Bell House)</td>
<td>Since 1981</td>
<td>$57,129 in 2003-04</td>
<td>1 Jan 2005</td>
</tr>
<tr>
<td>Gepps Crossing, SA</td>
<td>2004-05</td>
<td>($76,986 budgeted 2004-05)</td>
<td>On hold</td>
</tr>
</tbody>
</table>

(i) Ingada Village, WA failed to meet its objective of providing residential aged care beds by relinquishing its aged care bed licences to establish a new flexible model of care for the aged.

Warringu Women Shelter, Qld failed to meet its occupancy target, with occupancy levels consistently below 60%. Although occupancy fluctuates for crisis accommodation, the consistently low patronage over long periods indicated a lack of support for this hostel.

Port Lincoln Hostel, SA failed to meet its occupancy target, averaging one student for most of this period, due to parents removing their children from the hostel and/or lack of community support for this hostel from the Ceduna and west coast regions.

The Annie Koolmatrie House (AKH), SA failed to meet its occupancy target and objectives in substance misuse program delivery.

Gepps Crossing Hostel, SA failed to meet its objective of providing accommodation for homeless mothers with children returning to studies because the property under consideration was not regarded by the SA Department of Social Inclusion as providing sufficient security for residents.

(k) (l) (m) (n) Ingada Village notified AHL in September and November 2004 to cease funding effective 1 July 2004 due to the change in management of the aged care facility and changes to its services. AHL wrote a letter confirming the cessation of 2004-05 funds on 30 November 2004.

Warringu Women Shelter was sent a notice of intention to defund its hostel services in August 2003 with funding to cease 30 June 2004. The organisation did not appeal to the verbal or formal notification of intention to defund.

Since July 2004, AHL’s Regional Manager in South Australia liaised with the Port Lincoln Aboriginal Community Council (PLACC) on several occasions and supported the establishment of a PLACC Hostel Management Committee to assist the organisation and the hostel
manager improve its operations, but the PLACC’s Board did not proceed with this option. A show cause letter was forwarded to PLACC in August 2004 requesting a response within one month. PLACC responded requesting continued AHL funding to 31 December 2004 for a caretaker/liaison officer pending possible students with the commencement of the 2005 school year. AHL notified PLACC in September 2004 of its intention to cease funding the hostel on 31 October 2004 and that PLACC could reapply for funding if the hostel was successful in attracting ABSTUDY approved students in 2005.

In 2003, AHL conducted a review of the Annie Koolmatrie House (AKH) due to ongoing low occupancy levels and questions about effectiveness of program delivery. The organisation, Aboriginal Sobriety Group (ASG), was advised in June 2003 of AHL’s intention to cease funding to AKH. Following ASG’s response, funding was extended to 31 December 2003 to allow the hostel more time to improve its occupancy. In July 2004, ASG was advised that grant funding for 2004-05 was for six months only to 31 December 2004. Due to ongoing low occupancy levels, AHL further advised the organisation in November 2004 to confirm that funding to AKH would cease on 31 December 2004 and the lease on the property owned by AHL would expire on 31 January 2005. AHL wrote again in December 2004 to ASG confirming the cessation of funds and requested they vacate the premises by 31 January 2005. AHL offered to assist the organisation to accommodate residents at AHL company operated hostels, including access to case management and related support services for residents of AKH. ASG did not take up AHL’s offer.

Gepps Cross High school notified AHL that it would not need AHL grant funding until a suitable property was located. AHL’s Regional Manager in South Australia has offered to assist the organisation locate a more suitable property.

(o) Unexpended funds are returned to the funding pool for re-allocation, not specifically re-directed to any particular service.

(5) The two amounts were projected expenditure for 2004-05. Both amounts are funded by an allocation and revenue from other sources.

Company-operated hostels provided more available beds than community-operated hostels in 2004-05.

(6) Community-operated hostels provided fewer beds than company-operated hostels in 2004-05. However, the difference in funding between community-operated hostels and company-operated hostels reflects the different circumstances in which AHL funds accommodation for the two.

AHL operates hostels where there is a market gap; that is, where there is no appropriate accommodation (no accommodation at all, or no affordable accommodation options); no other provider is willing or able to make accommodation available; and those who require accommodation are unable to afford other accommodation.

AHL funds community-operated hostels to meet the shortfall between any other income and necessary expenditure. Community operated hostels usually have other funding bodies besides AHL contributing to their operations. As well, many community-operated hostels are the accommodation component of broader programs (such as alcohol and drug rehabilitation programs, for which they receive additional funding from other sources).

Company-operated hostels are almost all ‘stand-alone’ accommodations that must bear their own overheads with little or no income from other funding sources. The Output price for company-operated hostels includes the operating costs for the hostels as well as all company overheads such as wages and salaries and other expenditure for hostel, regional and central office.

QUESTIONS ON NOTICE
(7) (a) $13.44 (2002-03); $14.59 (2003-04); $16.26 (2004-05)
(b) $41.49 (2002-03); $44.65 (2003-04); $47.13 (2004-05).

(8) AHL only receives information about other income sources that are not related to the accommodation component in the original application for funding. These sources of income relate to the hostel’s overall program (e.g. rehabilitation) and come primarily from other Australian government agencies and states/territories. In relation to the accommodation component, one hostel, Tange-tyere House, Alice Springs, is recorded as receiving a grant of $92,000 from the NT Department of Health and Community Services. Certain community-operated hostels (e.g. education, aged care) receive funding from other agencies such as Centrelink, Department of Education and Science and Training, and Department of Health and Ageing, but these are entitlements and not grants.

(9) One community-operated hostel has reported they employ CDEP workers. Of the six (full and part time) employees recorded for this hostel, five were CDEP participants.

(10) (a) At the end of 2004-05, 80% of staff in company-operated hostels were Indigenous.
(b) At the end of 2004-05, the percentage of Indigenous staff at community-operated hostels was unable to be determined as this information was not received.

(11) (a) The target guest capacity for community-operated hostels was 1700 beds per night in 2003-04.
(b) The target guest capacity for community-operated hostels is 1500 beds per night in 2005-06.
(c) The 2005-06 reflects a more realistic target based on actuals in previous years (actual beds in 2003-04 was 1569) and excludes community operated hostels that only receive one-off capital grants (similar to 2004-05 reporting).
(d) The projected expenditure for community operated hostels in 2005-06 is $8.4 million compared to $8.3 million in 2003-04.

Fetal Alcohol Syndrome
(Question No. 1363)

Senator Chris Evans asked the Minister representing the Minister for Health and Ageing, upon notice, on 17 November 2005:

With reference to Fetal Alcohol Syndrome (FAS):

(1) Can details be provided of any specific measures (including funding) to target FAS: (a) in the National Alcohol Strategy from 2001 to 2003-2004; and (b) under other components of the health budget.

(2) With reference to the occasional paper, ‘Fetal Alcohol Syndrome: A Literature Review’ published by the department in August 2002, commissioned by the National Expert Advisory Committee on Alcohol and written by Colleen O’Leary: (a) what was the Government’s response to this paper; (b) has this response been fully implemented; if not, what in the response is outstanding; and (c) what action has the Government taken since the release of this paper.

(3) Given that the Australian Paediatric Surveillance Unit commenced active surveillance of FAS in January 2001, with monthly reporting by more than one thousand paediatricians in Australia; and given that the occasional paper states that the study was to continue for 3 years and aims to document the incidence of FAS: (a) has this study been completed; if so, when; if not, when will it be completed; (b) was a report prepared by the unit at the completion of the study; if so, can a copy be provided; (c) what were the conclusions of the study; (d) can any statistics that were identified in relation to FAS be provided; (e) did the report contain any recommendations; if so, what were they; (f) what has been the response of the Government to the conclusions of this study; and (g) what steps has the Government taken to respond to the study.
(4) What specific measures to target FAS does the National Alcohol Strategy 2005-09 contain, particularly in relation to Indigenous communities.

(5) (a) How much funding is allocated to these specific measures and can a breakdown be provided by: (i) departmental costs, and (ii) administered funds; and (b) where are these funds set out in the budget papers.

(6) Can a list be provided of administered funds, per activity, and departmental costs under the National Alcohol Strategy 2005-09.

(7) Can the department confirm plans to establish a national working group on FAS; if so: (a) when will this group be established; (b) what will be the objectives of this group; (c) what will be the time frame for achieving these objectives; (d) who will be represented in this working group; (e) how long will this group exist; (f) how many times a year will the group meet; (g) how much funding will be allocated to the establishment and operation of this group; (h) where will this funding come from; and (i) where is the funding located in the budget papers.

Senator Patterson—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) (a) The National Alcohol Strategy 2001-2004 (NAS) did not have any specific measures to target Fetal Alcohol Syndrome (FAS). The NAS was a policy document agreed to by all governments through the Ministerial Council on Drug Strategy (MCDS).

(b) In 2003 the Australian Government in conjunction with the Western Australian, New South Wales and Queensland governments and Rio Tinto Foundation established the Rio Tinto Aboriginal Child Health Initiative. The initiative includes a project to develop a National Fetal Alcohol Syndrome Prevention Strategy. The Australian Government is contributing $1.35 million over a five year period to the initiative.

The Public Health Outcome Funding Agreements (PHOFAs) provide state and territory governments with $812 million (adjusted annually for indexation) over five years from 2004-05 to 2008-09 for a range of public health areas, including alcohol. PHOFA funding is pooled and linked to nationally agreed public health outcomes. Each state and territory government decide how much of their pool of funds provided by the Australian Government will go to particular services within their own jurisdiction, so as to achieve the nationally agreed outcomes.

(2) (a) and (b) The Australian Government commissioned the paper to inform policy development by all governments. A formal government response was not prepared. (c) The paper has since been used to inform policy development including the decision to support the Rio Tinto Aboriginal Child Health Initiative.

(3) The Australian Paediatric Surveillance Unit was established in 1993 as a unit of the then Australian College of Paediatrics (now the Division of Paediatrics of the Royal Australasian College of Physicians). Information about its research on Fetal Alcohol Syndrome is available on its website at www.apsu.niopsu.com. According to information on the website Healthway WA provided a health promotion research grant to contribute towards the surveillance of Fetal Alcohol Syndrome.

(4) to (6) The NAS 2005-09 is yet to be endorsed by the MCDS, therefore no funding has been allocated against the strategy for any specific activity. The MCDS comprises Australian Government and jurisdictional ministers for health and justice. The NAS 2005-2009 is expected to be considered by the MCDS in the near future.

(7) (a) to (i) At its September 2005 meeting the Intergovernmental Committee on Drugs (IGCD) agreed to the establishment of the Working Group on Fetal Spectrum Disorder. The IGCD agreed that the working group would:

- be comprised of nominated jurisdictional clinicians;
• advise MCDS on the developments in Australia and overseas to tackle the problem of FAS; and
• identify best practice approaches to reduce the incidence of FAS particularly in Indigenous Communities.

South Australia Health will take the lead role on behalf of the IGCD and has sought nominations for this working group and is currently in the process of developing terms of reference and determining logistics such as frequency of meeting.

Indigenous Employment
(Question No. 1365)

Senator Chris Evans asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 21 November 2005:

With reference to the Indigenous Land Corporation (ILC) and Indigenous employment:

(1) With reference to the Top End Aboriginal Land Management and Employment Strategy 2004-06: (a) what are the key objectives of the strategy; (b) does the strategy contain any targets in relation to Indigenous employment; (c) which agency is responsible for the strategy; (d) which agencies are involved in the strategy and can the financial contribution of each agency from 2004-06 be provided; (e) how much funding (both administered and departmental) has the ILC spent to date on the strategy and where do the funds appear in the budget papers; (f) how much has been spent in total by all agencies on the strategy to date; (g) how many ongoing, full-time positions have been created as a result of this strategy; (h) how many of these full-time positions have been filled by Indigenous people; (i) how many ongoing, part-time positions have been created as a result of this strategy; and (j) how many of these full-time positions have been filled by Indigenous people.

(2) With reference to the ILC’s submission to the inquiry of the House of Representatives’ Standing Committee on Aboriginal and Torres Strait Islander Affairs into Indigenous employment, which stated that in the 2003-04 financial year more than 50 Indigenous people were employed by ILC-operated businesses: (a) what is an ‘ILC-operated business’; (b) how many ILC-operated businesses were there in the financial years 2003-04 to 2005-06 to date; (b) how many people (both Indigenous and non-Indigenous) were employed in ILC-operated businesses in the financial years 2003-04 to 2005-06 to date; and (c) what number and percentage did Indigenous people represent out of the total number of employees in ILC-operated businesses for the financial years 2004-05 to 2005-06 to date.

(3) With reference to the ILC’s submission referred to in (2) above, which stated that the ILC currently employs 22 Indigenous people, representing 23 per cent of the ILC’s total staffing: (a) how many of these 22 staff were in ongoing positions; (b) how many were in non-ongoing positions; (c) how many were cadets and trainees; (d) what was the number of Indigenous staff employed by the ILC in the financial years 2004-05 to 2005-06 to date; and (e) can both actual numbers and percentages of total persons employed by the ILC be provided.

(4) With reference to a table of Indigenous staff members in the ILC submission mentioned in (2) above, indicating that Indigenous staffing levels remained around 28 to 29 per cent between mid-1996 to mid-2002 and at May 2005, the percentage of Indigenous staff was 23 per cent: (a) why has there been a decline in Indigenous staffing levels since 2002; (b) what is the length of service of each Indigenous person currently employed at the ILC; (c) how many new employees have been employed by the ILC since 1996 and how many of these employees have been Indigenous; (d) has the ILC taken any steps to increase recruitment of Indigenous people; if so, what steps and when did they begin; (e) has the ILC set any targets or goals in relation to Indigenous employment; (f) does the ILC give preference to Indigenous candidates in any way in the selection process; if so, how; (g) how many of the three Indigenous cadets and four Indigenous traineeships have resulted in ongoing employment at the ILC.
Senator Vanstone—The answer to the honourable senator’s question is as follows:

(1) (a) The stated aim of the Top End Aboriginal Land Management and Employment Strategy 2004-06 (TEALMES) agreement is “to enhance the capacity of community members to address a range of land management threats and issues over the long term and to decrease the involvement of external service providers”.

(b) Approximately fifty Indigenous people are directly engaged through community organisations (and CDEP) in land management activities through the TEALMES agreement. The agreement does not set any Indigenous employment targets. The project seeks to engage people and communities in activities that will produce some economic benefit and reduce reliance on external funding.

(c) TEALMES is an agreement between the ILC, the Northern Territory Government and the Northern Land Council (NLC). The NLC takes the lead role in executing the agreement as directed by a Steering Committee. This committee is comprised of two representatives of each of the seven communities party to the TEALMES, an ILC representative, two officers of the NLC and two officers of the Northern Territory Government Weeds Management Branch. The Steering Committee may also invite representatives from other key support agencies and observers as necessary.

(d) Other agencies and groups involved in TEALMES and their financial commitments 2004-06 are:

<table>
<thead>
<tr>
<th>Group or Agency</th>
<th>Financial Commitments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community groups and organisations (mostly in-kind support)</td>
<td>$2,418,556</td>
</tr>
<tr>
<td>Northern Land Council</td>
<td>$193,180</td>
</tr>
<tr>
<td>Northern Territory Department of Natural Resources, Environment and The Arts</td>
<td>$337,560</td>
</tr>
<tr>
<td>Department of Employment and Workplace Relations</td>
<td>$140,240</td>
</tr>
<tr>
<td>Northern Territory Department of Employment, Education and Training</td>
<td>$466,132</td>
</tr>
<tr>
<td>Other (Natural Heritage Trust, Aboriginals Benefit Account, Northern Territory Fisheries, etc)</td>
<td>$496,327</td>
</tr>
</tbody>
</table>

(e) The ILC receives only Departmental funding which is allocated against the output “assistance in acquisition and management of land” in the Budget papers (see Immigration and Multicultural and Indigenous Affairs Portfolio Budget Statements 2005-06 at pages 119-143). The actual ILC expenditure on TEALMES will appear in the ILC Annual Report 2004-05. The total actual ILC expenditure on the TEALMES 2004-06 to date is $428,232.

(f) The Minister does not have access to the actual expenditure to date of the other agencies contributing to TEALMES.

(g) There have been no on-going full time positions created from this project. Note response to part (1)(b).

(h) Not applicable.

(i) There have been no on-going part time positions created from this project. Note response to part (1)(b).

(j) Not applicable.

(2) (a) An “ILC-operated business” is a land-based business activity, where the ILC owns and operates the business. All ILC-operated businesses occur on ILC-owned land, ILC purchased and divested land, or other Indigenous-held land.
(b) and (c) ILC-operated businesses and Indigenous employees:

<table>
<thead>
<tr>
<th></th>
<th>2003-04</th>
<th>2004-05</th>
<th>2005-06 (to date)</th>
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<tbody>
<tr>
<td>Number of ILC Businesses</td>
<td>7</td>
<td>8</td>
<td>9</td>
</tr>
<tr>
<td>Total Employees</td>
<td>99</td>
<td>168</td>
<td>149</td>
</tr>
<tr>
<td>Total Indigenous Employees</td>
<td>57</td>
<td>105</td>
<td>87</td>
</tr>
<tr>
<td>Percentage of Indigenous Employees</td>
<td>58%</td>
<td>63%</td>
<td>58%</td>
</tr>
</tbody>
</table>

(3) (a) There were 17 staff in ongoing positions including one officer on leave without pay (LWOP).
(b) There were seven staff in non-ongoing positions.
(c) There were three trainees and one cadet.
(d) and (e) Number and percentage of Indigenous staff employed by the ILC in the financial years 2004-05 and 2005-06 (to date):

<table>
<thead>
<tr>
<th></th>
<th>Indigenous</th>
<th>Non-Indigenous</th>
<th>Total</th>
<th>Percentage Indigenous</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004-05</td>
<td>20</td>
<td>74</td>
<td>94</td>
<td>21%</td>
</tr>
<tr>
<td>2005-06 to date</td>
<td>26</td>
<td>77</td>
<td>103</td>
<td>25%</td>
</tr>
</tbody>
</table>

These figures include Indigenous cadets and trainees, and one Indigenous officer on LWOP. Figures do not include Board Members and the Chairperson.

(4) (a) The decline in the percentage of Indigenous employees was due to the following:
- Indigenous employees resigning from the ILC to undertake further study;
- Indigenous employees finding other employment at a higher level or more in line with their career aspirations; and
- Indigenous employees leaving the ILC for other personal reasons.
(b) Length of service of each Indigenous person currently employed by the ILC:

<table>
<thead>
<tr>
<th>Commenced at ILC</th>
<th>Length of Service to date</th>
</tr>
</thead>
<tbody>
<tr>
<td>18/7/97</td>
<td>8 yr 4 mth</td>
</tr>
<tr>
<td>9/2/98</td>
<td>7 yr 9 mth</td>
</tr>
<tr>
<td>17/6/99</td>
<td>6 yr 5 mth</td>
</tr>
<tr>
<td>19/7/99</td>
<td>6 yr 4 mth</td>
</tr>
<tr>
<td>5/1/00</td>
<td>5 yr 10 mth</td>
</tr>
<tr>
<td>5/1/00</td>
<td>5 yr 10 mth</td>
</tr>
<tr>
<td>31/1/00</td>
<td>5 yr 10 mth</td>
</tr>
<tr>
<td>8/5/01</td>
<td>4 yr 6 mth</td>
</tr>
<tr>
<td>15/10/01</td>
<td>4 yr 1 mth</td>
</tr>
<tr>
<td>22/11/01</td>
<td>4 yr</td>
</tr>
<tr>
<td>18/2/02</td>
<td>3 yr 9 mth (Currently on leave without pay)</td>
</tr>
<tr>
<td>29/5/02</td>
<td>3 yr 6 mth</td>
</tr>
<tr>
<td>1/10/03</td>
<td>2 yr 1 mth</td>
</tr>
<tr>
<td>24/11/03</td>
<td>2 yr</td>
</tr>
<tr>
<td>8/3/04</td>
<td>1 yr 8 mth</td>
</tr>
<tr>
<td>20/5/04</td>
<td>1 yr 6 mth</td>
</tr>
<tr>
<td>21/6/04</td>
<td>1 yr 5 mth</td>
</tr>
<tr>
<td>22/11/04</td>
<td>1 yr</td>
</tr>
<tr>
<td>29/11/04</td>
<td>1 yr</td>
</tr>
<tr>
<td>13/12/04</td>
<td>11 mth</td>
</tr>
<tr>
<td>24/1/05</td>
<td>10 mth</td>
</tr>
<tr>
<td>29/3/05</td>
<td>8 mth</td>
</tr>
<tr>
<td>6/4/05</td>
<td>7 mth</td>
</tr>
</tbody>
</table>
Commenced at ILC | Length of Service to date
---|---
11/7/05 | 4 mth
14/10/05 | 1 mth
17/10/05 | 1 mth

(c) The ILC has employed 229 new employees since 1996. Fifty have been Indigenous people. These figures do not include Board Members or Chairpersons.

There have been 14 Indigenous Board Members and Chairpersons since 1996.

(d) The ILC has had recruitment practices designed to attract Indigenous candidates, for over five years. In 2002 the ILC agreed, under its Certified Agreement, to formalise these practices by establishing an Indigenous Employment and Career Development Strategy. The strategy includes a requirement to monitor and enhance the means of attracting Indigenous candidates, and to promote the ILC as an employer of choice. Actions under the strategy include:

- ensuring that all ILC vacancy advertisements contain a suitable form of words to encourage applications from Indigenous Australians;
- advertising all ongoing ILC vacancies in the Koori Mail, the National Indigenous Times or other suitable Indigenous media;
- ensuring that all ILC selection documentation contains the two essential Indigenous criteria;
- recruiting three Indigenous cadets; and
- recruiting four Indigenous trainees.

Prior to the ILC establishing a formal cadetship program, the ILC engaged two Indigenous graduates in non-ongoing roles. Both employees subsequently obtained permanent employment with the ILC and later won promotions within the organisation. One employee remains with the ILC and the other has since resigned to take up a position at a higher level outside the ILC.

In July 2005 the ILC had a staffed display as part of NAIDOC week in Adelaide, and in October 2005 the ILC participated in the Indigenous Jobs Market in Brisbane, both to provide information about employment opportunities within the ILC.

(e) The objectives of the ILC’s Indigenous Employment and Career Development Strategy include:

- the engagement of four Indigenous trainees and three Indigenous cadets; and
- the provision of learning and development for existing Indigenous employees to enhance their skills and knowledge for both their current and future employment.

(f) The ILC bases staff selections on the principle of merit including the applicant’s ability to address the following two essential criteria:

A demonstrated knowledge and understanding of Aboriginal and Torres Strait Islander societies and cultures and an understanding of the issues affecting Aboriginal people and Torres Strait Islanders in contemporary Australian Society and the diversity of circumstances of Aboriginal people and Torres Strait Islanders.

A demonstrated ability to communicate sensitively and effectively, including the requirement for proper negotiation and consultation with Aboriginal people and Torres Strait Islanders on matters relevant to the implementation of the Government’s and ILC’s Aboriginal and Torres Strait Islander Policies.
(g) Nil. All Trainees apart from one are still involved in their Traineeship Program. The person who has completed their Traineeship has been offered a medium to long term, non-ongoing role in the ILC due to other staff movements. All Cadetships are still underway.

**Indigenous Land Corporation**

(Question No. 1367)

Senator Chris Evans asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 21 November 2005:

With reference to the Indigenous Land Corporation (ILC):

1. Is the divestment of land acquisitions to Aboriginal ownership (e.g. an Aboriginal Land Council) discretionary; if so: (a) when was this change introduced; (b) what was the rationale for the change; and (c) did the ILC make a public announcement in relation to the change.

2. To date, how many acquisitions have: (a) been settled; and (b) been divested.

3. Of the acquisitions that have been divested to date, can a list be provided indicating: (a) how many acquisitions have been divested to non-Aboriginal ownership; (b) the name of the non-Aboriginal recipient; (c) when the divestment occurred; and (d) the value of the acquisition at the time of the divestment.

4. Under what circumstances are acquisitions divested to non-Aboriginal corporates.

5. What is the general procedure for divestment of ILC’s legal interests, including: (a) when does it take place; (b) what is the typical time frame; (c) what are the criteria for determining the appropriate body to whom ownership is being divested; (d) are these criteria specified and can any documented criteria be provided; (e) what is the procedure for selecting the appropriate body to whom ownership is being divested; and (f) will the ILC consider a request by a corporate body that it be the recipient of a particular divestment.

Senator Vanstone—The answer to the honourable senator’s question is as follows:

1. No. Under section 191D of the Aboriginal and Torres Strait Islander Act 2005 (‘the Act’), the ILC may only acquire interests in land for the purpose of making grants to Aboriginal and Torres Strait Islander Corporations. Subsection 191D(3) requires the ILC to give priority to granting interests in land it has acquired within a reasonable time after acquisition. Under section 191J of the Act, the ILC may dispose of an interest in land if it considers that it no longer needs to hold the interest for the purpose of granting it to an Aboriginal or Torres Strait Islander Corporation within a reasonable time after acquisition. There has been no change in the ILC powers in relation to divestment other than the insertion of subsection 191D(1A) of the Act in 2005 to clarify that the ILC may impose terms and conditions upon the grant of an interest in land.

2. (a) 195 acquisitions had been settled as at 29 November 2005 including 15 acquisitions which were transferred from the Aboriginal and Torres Strait Islander Commission (ATSIC).

(b) As at 29 November 2005, 117 acquisitions had been divested.

3. (a) Of the land acquisitions divested by the ILC pursuant to section 191D(1)(a) of the Act, none have been divested to non-Indigenous ownership.

(b) Not applicable.

(c) Not applicable.

(d) Not applicable.

4. Land is never divested to a non-Indigenous body corporate as section 191D(1)(a) of the Act provides that land is to be divested to Aboriginal and Torres Strait Islander Corporations.
(5) (a) The ILC is required to divest land within a reasonable time after acquisition (see section 191D(3)(b) of the Act).

(b) The Federal Court has endorsed the principle that a reasonable time is determined on a case by case basis and it is appropriate in considering what is reasonable to have regard to ILC policies. The present ILC policy does not set a fixed term for developing and assessing the capacity of the group to hold the land. However, the ILC considers that it will usually be reasonable to grant land within three years of buying it.

(c) (d), (e) and (f) The ILC’s policies in relation to the divestment of properties are set out in the National Indigenous Land Strategy 2001-2006, the Land Acquisition Program Guide 2004-06 and the land acquisition program guidelines, all of which are publicly available. Where the ILC acquires land for its cultural significance, the ILC aims to ensure that traditional owners (or people with traditional links to the land) make up the membership of the title holding corporation. In most cases, the ILC initially grants a lease of the property, to the group it proposes to divest to, as part of its capacity development process. Such leases are for a term of up to three years. Usually the property will be divested to the same group who made the application that the ILC acquire the property. With ATSIC inherited properties where there may have been no application, the ILC will undertake consultations to ascertain an appropriate body who can demonstrate capacity to derive benefits from the property.

Indigenous Affairs: Alcohol Strategies

(Question No. 1368)

Senator Chris Evans asked the Minister representing the Minister for Health and Ageing, upon notice, on 22 November 2005:

With reference to The Grog Book: Strengthening Indigenous Community Action on Alcohol published by the department in 1998 and reprinted in 2005:

(1) (a) When was the idea of the book first conceived in the department; (b) how did the idea originate; (c) what are the objectives of the book; and (d) when did the department begin funding the preparation of the book.

(2) (a) What was the cost of preparing the first edition of the book, including departmental costs and author fees; (b) from which program did the funding come; and (c) where does the funding for these costs and fees appear in the budget papers.

(3) (a) To date, what has been the total funding allocated and spent on the book and promotional material; (b) what is the breakdown of funds for: (i) preparation, (ii) printing, (iii) distribution, and (iv) other related departmental costs; and (c) from which program or programs has this funding been sourced.

(4) (a) What was the date (month and year) of each print run; (b) how many copies were printed in each run; (c) what was the cost of printing for each run; and (d) where in the budget papers is the relevant program and funding.

(5) (a) When was it decided to revise the first edition of the book; and (b) what was the principal reason for revising the book.

(6) What were the departmental costs of revising the book and any other authoring or revision fees.

(7) (a) For each year since 1998, how many copies of the book have been distributed; and (b) how many copies of the book does the department currently have in storage or stock.

(8) What promotional material relating to the book was produced.

(9) (a) When were promotional posters produced for the original print and reprint runs; (b) how many posters were produced at each print run; and (c) what was the cost of each poster print run.
(10) (a) How has the book been distributed; (b) have copies been sent to every community; and (c) do communities have to request copies.

(11) Has feedback been requested by the department on the success of the book in Indigenous communities; if so: (a) how has this feedback been sought; (b) which communities were consulted; and (c) what was the result.

(12) Has the department facilitated or supported the use of the book in communities, for example, by sending officers to work with communities, looking at the issues raised by the book and identifying possible solutions that might be implemented in communities.

(13) (a) For the years 1998 to 2004, what has been the total expenditure on Indigenous-specific alcohol strategies; and (b) how much funding will be allocated for the 2005-08 period.

Senator Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) (a) The idea for The Grog Book was conceived in 1998. The Grog Book was previously known as the Manual for Managing Alcohol, and was originally produced in 1996.

(b) The idea for The Grog Book was conceived by Marcia Langton, the then Chair of the Australian Institute of Aboriginal and Torres Strait Islander Studies Council, and Maggie Brady in response to many requests from grassroots organisations and service providers for practical, accessible resources about strategies for managing alcohol problems.

(c) The objective of The Grog Book was to provide a practical and comprehensive guide to community strategies for dealing with alcohol misuse for Indigenous communities, organisations and advisors.

(d) 1998.

(2) (a) The preparation of the first edition of The Grog Book was funded by the National Reconciliation Council. In 1998, the department paid for the printing of 2,500 copies of The Grog Book at a cost of $50,000. In 1999, the department paid for a reprint of 1,500 copies at a cost of $23,992.50.

(b) The distribution cost of the first edition of The Grog Book was funded from the then Commonwealth Department of Health and Family Services, Office for Aboriginal and Torres Strait Islander Health Substance Use Program.

(c) The Office for Aboriginal and Torres Strait Islander Health (OATSIH) received a one line appropriation in the Portfolio Budget Statement and funds for The Grog Book were allocated from within this.

(3) (a) To date the total funding spent on the original and the revised book and promotional material is $464,528.50.

(b) Breakdown of funding for The Grog Book:

   (i) Revised edition – preparation $90,500 (GST incl.)

   (ii) Original edition – print $50,000
       Original edition – reprint $23,992.50
       Revised edition – printing $163,525 (GST incl.)

   (iii) Revised edition – distribution $63,757 (GST incl.)

   (iv) Revised edition – other related costs $72,754 (GST incl.)

(c) The original edition of The Grog Book was funded from the Office for Aboriginal and Torres Strait Islander Health Substance Use Program.
The revised edition of The Grog Book was funded from:

- the Office for Aboriginal and Torres Strait Islander Health Substance Use Program, which provided funding for the research, development and project coordination, and
- the Drug Strategy Branch, Tough on Drugs – Indigenous Communities Initiative, which provided funding for the printing, promotion and distribution of the book.

<table>
<thead>
<tr>
<th>(a)</th>
<th>(b)</th>
<th>(c)</th>
<th>(d)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original Edition</td>
<td>June 1998</td>
<td>2,500</td>
<td>$50,000</td>
</tr>
<tr>
<td>November 1999</td>
<td>3,000*</td>
<td>$23,992.50</td>
<td>1999/00 OATSIH Substance Misuse Program</td>
</tr>
<tr>
<td>Revised Edition</td>
<td>June 2005</td>
<td>15,000</td>
<td>$163,525 (GST Incl.)</td>
</tr>
</tbody>
</table>

(* OATSIH paid for the printing of 1,500 copies. The remaining 1,500 copies were paid for by AusInfo).

(5) (a) In 2004 a number of resources funded by the Substance Use Program were identified for printing and distribution, or updating and distribution.

(b) An evaluation of The Grog Book was conducted in June 2002 for the Office for Aboriginal and Torres Strait Islander Health. The evaluation found that there was a high level of perceived usefulness of the publication and that it should remain in print, and be revised as needed.

(6) The cost for the revision, including the research, development and project coordination, for the second edition of The Grog Book was $90,500 (GST inclusive).

(7) (a) The original edition (5,500 copies of the book) was fully distributed by 2004. However, there is no breakdown of figures by annual distribution.

The department had distributed 13,312 copies of the revised edition of the book as at Friday 18 November 2005.

(b) The department had 1,688 copies of the book in stock as at Friday 18 November 2005.

(8) The following promotional materials were produced for the revised edition of the book:

- 30,000 postcards
- 15,000 fact sheets
- (2x) 10,000 A4 posters - two designs
- (2x) 5,000 A3 posters - two designs

(9) (a) No promotional material was produced by the department for the first edition of The Grog Book. Posters were produced in July 2005 for the revised edition of the book.

(b) See Question 8 - revised edition – printed once only.

(c) There was $12,500 budgeted for printing of promotional materials (including postcards, fact sheets and posters) for the revised book.

(10) (a) A targeted distribution of the revised book was undertaken to get the book to key organisations/groups within the community. As a result the revised edition of the book and the promotional materials have been sent to a wide range of organisations involved in Indigenous health, including: Aboriginal health services, mental health units, Indigenous land councils, Indigenous housing corporations, Indigenous women’s groups, Indigenous men’s groups, night pa-
trols, academic, educational and research organisations, alcohol rehabilitation and treatment organisations, local government/councils, hospitals, liquor licensing offices and Indigenous Co-ordination Centres (ICC’s).

In addition, over 9,500 post cards were sent giving information about the revised book and how to order free copies. The groups that these were sent to included: women’s legal and resource centres, centrelink offices, other land councils, Indigenous legal services, justice and correctional centres, youth and children’s services, primary schools, high schools, local libraries, Indigenous cultural centres and Indigenous sports programs.

(b) See Question 10a.

(c) If communities have not received a copy of the revised book or wish to receive additional copies they should forward a request by telephone 1800 020 103 (Ask for extension 8654), email: phd.publications@health.gov.au or website: www.alcohol.gov.au.

(11) Yes, an evaluation of The Grog Book was conducted in 2002.

(a) and (b) Sixty-five people who stated they had used the book were interviewed, thirty-two of whom identified themselves as Aboriginal. These people represented fifty-one organisations in six States and Territories (Attachment A).

(c) ‘There was a very high level of perceived usefulness by readers of The Grog Book. The content appears to have value and relevance for readers in a remarkably wide range of situations. There was a collective sigh of relief from readers at having at last found an alcohol resource that covered a range of topics, from individual interventions to community strategies, in a user-friendly, non-academic format.

All interviewees stated that they believed very strongly that The Grog Book needed to be kept in publication, with further revisions as necessary. Comments ranged from the general – that it was important to have accessible material for use in training and with clients, for development of programs – to the specific’.


(12) The department currently funds a range of programs that facilitate and support work in Indigenous communities on the issues raised in the book. Examples include the OATSIH Substance Use Program, Shared Responsibility Agreements and the Tough on Drugs – Indigenous Communities Initiative.

(13) (a) and (b) The Ministerial Council on Drug Strategy, a committee including Australian, state and territory government justice and health ministers, has identified a number of priority areas of activity.

Funding in support of all of these activities is shared by the Australian Government and all states and territories. However, there is no specific budget item identified for Indigenous activities. Funding is implemented across a range of programs at the commonwealth and state levels. Some examples of budget measures that fund Indigenous strategies as part of their program activities, are the National Illicit Drug Strategy – Non – Government Organisation’s Treatment Grants Program, the Preventative Health – National Alcohol Harm Reduction Strategy and Addressing Indigenous Needs - National Illicit Drug Strategy – Capacity Building in Indigenous Communities. Therefore, determination of a figure directed towards Indigenous-specific alcohol strategies is not possible.

Attachment A

List of Organisations by State/Territory

Western Australia
Kimberley Aboriginal Medical Service, Broome
Broome Aboriginal Medical Service
Derby Aboriginal Medical Service
Nindilingarri Cultural Health Service, Fitzroy Crossing
Yurra Yungi Aboriginal Medical Service, Halls Creek
Milliya Rumurra Rehabilitation Service, Broome
Sobering Up Shelter, Broome
Sobering Up Shelter, Derby
Womens Shelter, Fitzroy Crossing
Wilyarti Art Centre, Wirrimanu
Jungarni – Jutiya Alcohol Action Centre and Night Patrol, Halls Creek
Anthropologist, Perth (no organisation, works in Kimberley region)
North West Mental Health Service, HDWA, Broome
North West Mental Health Service, HDWA, Derby
Kimberley Regional Health Service, HDWA, Broome
Kimberley Regional Health Service, HDWA Derby
Community Health Centre, HDWA, Derby
Community Health Centre, HDWA, Fitzroy Crossing
Community Health Centre, HDWA, Halls Creek
Community Health Centre, HDWA, Wirrimanu
Correctional Services, Broome (Broome Gaol)
Broome Police Station, Broome
Broome Shire Council, Broome
Derby Police Station, Derby
Fitzroy Crossing Police Station, Fitzroy Crossing
Halls Creek Police Station, Halls Creek
Commonwealth Dept of Health and Aged Care, Derby
Commonwealth Dept of Family and Childrens Services, Fitzroy Crossing

South Australia
Aboriginal Drug and Alcohol Council, Adelaide
Elura Clinic, Adelaide
Drug and Alcohol Services Council, Adelaide
 Salvation Army Sobering Up Shelter, Adelaide
School of Nursing, Flinders University, Adelaide

Victoria
Port Phillip Prison, Port Phillip
Melbourne Assessment Prison, Melbourne

Tasmania
Nil

New South Wales
Macquarie Drug and Alcohol Service, Dubbo
Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 24 November 2005:

With reference to the department’s annual report for 2004-05:

(1) What is a ‘new allocation’, referred to in Table 2.21 on page 141.

(2) With reference to Table 2.21, in which it is indicated that 17 per cent of new allocations in the Northern Territory went to those in the greatest need and that this figure is less than half of the Australian average of 36.3 per cent: (a) why has such a small percentage gone to those in the greatest need; and (b) can the relevant statistics from the 2002-03 financial year be provided.

(3) Table 2.21 indicates that only 12.2 per cent of new allocations in Queensland went to those in the greatest need and that this is about a third of the Australian average: (a) why has such a small percentage gone to those in the greatest need; and (b) can the relevant statistics from the financial years 2002-03 and 2003-04 be provided.

(4) Table 2.21 indicates that Victoria, Tasmania and the Australian Capital Territory had much higher concentrations of allocations targeting those in the greatest need; why was the targeting of those in need higher in these states and this territory, compared with the Northern Territory and Queensland.

(5) Table 2.25 on page 142 indicates that the number of days taken to occupy vacant stock in Western Australia is 48 and 68 in the Northern Territory, compared to the national average of 37 days: (a) why; and (b) are disaggregated results specific to Indigenous communities available; if so, can the results be provided.
(6) Table 2.27 found on page 142 indicates the number of dwellings in each state and territory; is dis-aggregated data on the number of dwellings occupied by Indigenous people in each state and territory available; if so, can the data be provided.

(7) For each of the financial years 2002-03 to 2004-05, can the number of new dwellings in each state and territory be provided.

(8) Have any assessments of the level of Indigenous housing needs in each state and territory been undertaken, including the number of dwellings needed and the number of major repairs and replacements needed; if so, can the results be provided.

(9) Can details be provided of the number of dwellings needed by Indigenous communities in urban, rural and remote areas?

(10) For the financial years 2003-04 and 2004-05, can details be provided, on a state and territory basis, of the number of major repairs and replacements needed by Indigenous communities in urban, rural and remote areas.

**Senator Patterson**—The answer to the honourable senator’s question is as follows:

(1) A ‘new allocation’ refers to a household that is housed from the waiting list including those in the greatest need during the relevant financial year.

(2) The percentage of new allocations to those in greatest need is influenced by a variety of factors, such as the number of households in greatest need relative to the total number of households on the waiting list, the suitability of available housing stock to an applicant’s needs and the procedures and eligibility criteria used by each jurisdiction to manage allocations between priority and general waiting streams. Only a small number of households in greatest need were on the waiting list in the N.T at 30 June 2004. In 2002–03, 20 per cent of the Northern Territory’s allocations were to those in greatest need. Those assessed to be “in the greatest need” at the time of allocation must be in one or more of the following circumstances: they are homeless; their life or safety is at risk in their accommodation; their health condition is adversely impacted by their housing circumstances; their housing is inappropriate to their needs or they have extremely high rental costs. It is up to each State and Territory to interpret and administer these criteria, and there are some differences in the approaches adopted.

Further details of public housing performance information are included in the Housing Assistance Act 1996 Annual Report 2003-04, which was tabled in the Parliament on 11 October 2005.

(3) As indicated in the footnote to Table 2.21, Queensland data represent applicants who satisfied stringent priority housing criteria, but do not include households in similar circumstances to those who satisfy the criteria who were housed through Queensland’s standard ‘wait turn’ criteria. The result is therefore an underestimate. Queensland’s proportion of allocations to those in greatest need was 9.1 per cent in 2002–03 and 12.2 per cent in 2003–04.

(4) The percentage of new allocations to those in greatest need is influenced by a variety of factors, such as the number of households in greatest need relative to the total number of households on the waiting list, the suitability of available housing stock to an applicant’s needs and the procedures and eligibility criteria used by each jurisdiction to manage allocations between priority and general waiting streams. Both Queensland and the Northern Territory had very small numbers of households in greatest need on the waiting list at 30 June of both the 2002–03 and 2003–04 financial years compared to Victoria, Tasmania and the Australian Capital Territory.

(5) As indicated in the footnote to Table 2.25, the data are affected by changes in maintenance programmes, and some jurisdictions may have difficulty excluding stock upgrades. Western Australia reported that their data included all periods of major redevelopment work. The Northern Territory has advised that their data includes vacancies due to upgrades or major redevelopment that were
incorrectly recorded as minor maintenance. Results specific to Indigenous communities are not available.

(6) The number of Indigenous households occupying public housing dwellings at 30 June 2004 was:

<table>
<thead>
<tr>
<th>NSW</th>
<th>VIC</th>
<th>QLD</th>
<th>WA</th>
<th>SA</th>
<th>TAS</th>
<th>ACT</th>
<th>NT</th>
<th>AUST</th>
</tr>
</thead>
<tbody>
<tr>
<td>8700</td>
<td>1078</td>
<td>2633</td>
<td>4041</td>
<td>1171</td>
<td>494</td>
<td>172</td>
<td>1498</td>
<td>19787</td>
</tr>
</tbody>
</table>

The NSW figure is an estimate based on the 2001 Census.

(7) The number of new public housing dwellings was:

<table>
<thead>
<tr>
<th>NSW</th>
<th>VIC</th>
<th>QLD</th>
<th>WA</th>
<th>SA</th>
<th>TAS</th>
<th>ACT</th>
<th>NT</th>
<th>AUST</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002-03</td>
<td>786</td>
<td>796</td>
<td>350</td>
<td>778</td>
<td>270</td>
<td>47</td>
<td>138</td>
<td>56</td>
</tr>
<tr>
<td>2003-04</td>
<td>429</td>
<td>569</td>
<td>364</td>
<td>783</td>
<td>369</td>
<td>79</td>
<td>264</td>
<td>65</td>
</tr>
</tbody>
</table>

The ACT’s figure for 2003-04 may include a small number of properties that were transferred to community housing at a later date.

Figures will not be available for 2004-05 until after 31 December.

(8) The Australian Institute of Health and Welfare (AIHW) have identified five dimensions of need which have been endorsed by the Housing Ministers’ Advisory Committee (HMAC) and the Housing Ministers’ Conference. These dimensions are homelessness, overcrowding, affordability, repairs and maintenance, and connection to essential services. Key data for each of these dimensions is outlined in the AIHW report, Indigenous Housing Needs 2005: A multi-measure needs model and can be accessed via their website at http://www.aihw.gov.au/publications/index.cfm/title/10166. The report is comprehensive and includes information on rural and remote communities.

(9) Assessing need is one of the most difficult challenges facing researchers of Indigenous housing. A general lack of comparable data makes this even more difficult. FaCS is working with other jurisdictions and the AIHW to improve the measures of Indigenous housing need. Much of the data contained in the AIHW multi-measure report is based on the ABS 2001 Community Housing and Infrastructure Needs Survey (CHINS), and therefore may not reflect current housing need. The next CHINS survey will be conducted in 2006, with the results to be made available in March 2007.

(10) Information on repair and maintenance needs, by state and territory, for rural and remote communities for 2003-04 and 2004-05, is not available. The most current data available is the 2001 Community Housing and Infrastructure Needs Survey (CHINS) which identifies the percentage of dwellings, managed by Indigenous Community Housing Organisations, requiring major repair or replacement by remoteness. It also indicates the number of dwellings requiring major repairs and maintenance by state and territory however these are not cross-referenced by remoteness.

**Fixing Houses for Better Health Initiative**

(Question No. 1372)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 24 November 2005:

With reference to the initiative, Fixing Houses for Better Health:

(1) For each of the 19 projects that were funded across Australia for a total of $3 million, can the following information be provided: (a) the location; (b) the start and completion dates; (c) the amount of money administered; (d) how the money was spent; and (e) the number of Indigenous people who received training as a result of each project.

(2) (a) Was the $3 million fully administered; and (b) what was the amount of departmental or administrative costs included in that sum.
(3) Has this program had any connection with Community Development Employment Projects; if so, how are the two programs related.

(4) For the 2005-06 financial year, how much funding has been allocated for this program; if no funding has been allocated, why.

(5) If this program is funded for the 2005-06 financial year: (a) what is the anticipated number of projects that will be funded; (b) which communities have been selected as sites for this program; and (c) what activities are planned for these communities.

(6) Has there been any connection between this program and shared responsibility agreements in any of those sites; if so, what is the connection.

(7) What are the amounts allocated to each state and territory under the current agreement.

(8) What are the amounts allocated to each state and territory for Indigenous-specific programs.

(9) How are allocations to states and territories made under the agreement (e.g. is it on a population or needs basis).

Senator Patterson—The answer to the honourable senator’s question is as follows:

(1) (a) The Department has undertaken to maintain the confidentiality of Fixing Houses for Better Health (FHBH) project locations in its agreements with Indigenous communities. This is because very detailed information is collected about houses that could identify individual householders. Detailed information can, however, be provided on a regional basis. Nineteen projects were planned but 17 projects were conducted in 1 Territory and 3 states. In the Coffs Harbour region of New South Wales there were 3 projects (Community A - 55 houses, Community B - 17 houses and Community C - 47 houses). There were 3 projects in the Port Augusta region of South Australia (Community D - 45 houses, Community E - 34 houses and Community F - 41 houses). There was 1 project in the Warburton region (Community G - 59 houses) and 3 projects in the Kalgoorlie region of Western Australia (Community H - 17 houses, Community I - 9 houses and Community J - 28 houses). There were 7 projects in the Katherine region of the Northern Territory (Community K - 50 houses, Community L - 53 houses, Community M - 15 houses, Community N - 32 houses, Community O - 25 houses, Community P - 6 houses and Community Q - 12 houses).

(b) In New South Wales, project B started in August 2004 and projects A and C started in October 2004 and all projects are currently in progress. In South Australia, project D started in February 2005 and was completed in August 2005; project E started in October 2004 and was completed in April 2005; and project F started in December 2004 and was completed in August 2005. All the Northern Territory projects commenced in November 2004 and were completed in July 2005. In Western Australian, projects commenced between March and May 2005 and are currently in progress.

(c) The Department administered a total of $3 million for Fixing Houses for Better Health projects in 2004-05.

(d) Funds were spent on fees for project managers to oversee the surveying of housing stock, licensed tradespersons to assess and fix problems and fees for trainers to provide the local people with skills to fix emergency problems themselves.

(e) A total of 173 Indigenous people received training as a result of the FHBH projects.

(2) (a) Yes; and (b) $2,546.62 was spent on administrative costs.

(3) Fixing Houses for Better Health projects included funding for Indigenous community staff to be employed on survey/fix teams at a rate of $25 per hour. Survey/fix team members were registered for CDEP wages and received “top-up” for the hours that they worked on these projects.

(4) $3 million has been allocated for Fixing Houses for Better Health projects in 2005-06.
QUESTIONS ON NOTICE

(5) (a) and (b) the selection of project locations is contingent on the procurement of a National Supplier to conduct Fixing Houses for Better Health projects over four years (2005-06 to 2008-09 inclusive) and the negotiation of multi-year funding agreements with the States and the Northern Territory. The Department is currently negotiating a contract with the preferred tenderer and consulting with State and Territory agencies about the strategic alignment of these projects with initiatives to improve environmental health in rural and remote Indigenous communities.

(c) Fixing Houses for Better Health projects survey and fix critical health hardware in all houses in the community and establish cyclical maintenance systems run by a local team.

(6) No.

(7) There are no current agreements under which funds are allocated to states and territories for Fixing Houses for Better Health.

(8) Fixing Houses for Better Health is an Indigenous-specific program.

(9) Fixing Houses for Better Health funds are allocated to specific projects that meet the pre-conditions set by the Department; there is no specific state or territory allocation.

Aboriginal and Remote Communities Power Supply Project

(Question No. 1375)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 24 November 2005:

With reference to the Aboriginal and Remote Communities Power Supply Project announced on 22 April 2005, and to be implemented in five remote Indigenous communities in the Kimberley region (Bidyadanga, Ardyaloon, Beagle Bay, Djarindjin/Lombadina and Warmun):

(1) What are the power tariffs being paid by these five communities.

(2) Have these communities always paid for their electricity; if not, when did they begin paying for their electricity and why was this changed.

(3) Was any consultation undertaken before the change; if so: (a) in what form were consultations; and (b) can a list be provided of the dates, places and parties to the meetings.

(4) Are any subsidies provided to these communities to reduce the cost of power tariffs; if so, can the figures for the tariffs without the subsidies be provided.

(5) (a) When was the idea of the project first conceived; and (b) what are the objectives of the project.

(6) (a) Is the Minister aware of concerns about the impact of power tariff costs on the viability of local organisations, particularly those which deliver essential services; and (b) was the project developed in response to these concerns.

(7) Has any assessment been undertaken of the average cost of power tariffs to the household and or local organisations in remote communities without normalised power supply; if so: (a) when was that assessment done; and (b) what region or communities did the assessment cover.

(8) Has any assessment been undertaken of the ongoing financial viability of local organisations, particularly those providing essential services, given the costs of power tariffs; if so, what did it reveal and when was it done; if not, why not.

(9) Can a time line be provided of events with corresponding dates to mark the progress of the project to date.

(10) (a) Will construction begin in June 2006; and (b) why has it taken 14 months to begin construction.

(11) Will normalised power supply to these five communities be provided by April 2007.

(12) Will these communities be paying uniform power tariff rates once this project is completed.
(13) (a) What communities in the Kimberley region currently have power supply but not normalised power supply; (b) will the project be implemented in these communities; (c) what is the time line for implementing this project in those communities; and (d) when will those communities have normalised power supply.

(14) (a) Has the power supply situation been discussed with the Department of Transport and Regional Services (DOTARS), the leading agency for the Council of Australian Governments’ trial in the East Kimberley region; (b) what was the purpose and outcome of discussions; and (c) when did discussions take place.

(15) Has normalising the power supply in the East Kimberley region been discussed with DOTARS; (a) if so: (i) what were the outcomes, (ii) when did discussions take place, and (iii) where and when were the meetings; and (b) if not, why not.

Senator Patterson—The answer to the honourable senator’s question is as follows:

(1) A copy of the current power tariffs charged in these five communities is at Attachment A.

(2) The Community Housing and Infrastructure Program (CHIP) has a long-standing user pays requirement. Although standard Electricity Charging Guidelines had been developed prior to the transfer of CHIP to the Department of Family and Community Services (FaCS), they were not consistently applied in all communities across Western Australia (WA). This resulted in different rates being charged from community to community and in certain cases some consumers were either not being charged or not consistently paying for their electricity costs. In other communities, residential members were paying very high rates as they were subsidising commercial and non-residential users. FaCS has updated the standard Electricity Charging Guidelines based on the cost of production and is encouraging the consistent application of the Electricity Charging Guidelines so that community members pay equitable charges for power.

(3) (a) The forms of consultation have included:

- Regular telephone contact with Community Chief Executive Officers (CEOs) and Chairpersons by a Senior Aboriginal Remote Communities Power Supply Project (ARCPSP) Project Officer, to keep them informed and up to date on the project, as well as to discuss any concerns that may arise;
- Regular letters to Community CEOs advising them of the status of the project;
- Regular visits to communities to meet with Community Councils, CEOs and Traditional Owners;
- ARCPSP newsletter distributed to Community CEOs;
- Regular meetings with relevant agencies;
- Status and briefing reports provided to Community Councils; and
- Creation of an ARCPSP to discuss key strategic issues relating to the project.

(b) A table outlining dates, places and parties to the meetings is Attachment B.

(4) Currently, the Australian Government provides supplementary funding for diesel fuel for the communities’ power generators. The Australian Government also provides capital funding to the Western Australian Government to meet the costs of community power supplies and capital costs such as generators and power reticulation. Additionally, each community organisation is able to claim part of their diesel fuel costs back from the Australian Taxation Office (ATO) under the Energy Grants Credit Scheme (EGCS). Under the FaCS Electricity Charging Guidelines, Centrelink customers and CDEP participants receive power at a discount rate as outlined in Attachment A.

Currently the communities are responsible for their own power supply. When the communities transfer to ARCPSP, the responsibility for electricity transfers to the Western Power Corporation.
The Corporation will supply electricity to consumers at the uniform tariff (the same price paid for electricity as other Western Power customers), in addition to having access to the State Energy Rebate Scheme and the Seniors Air Conditioning Subsidy.

(5) (a) The project was conceived around late 1998.

(b) The objective of the Project is to provide power services to large, permanent, remote Indigenous communities with a population of 200 or more at a performance standard and tariff regimes to users comparable to mainstream towns of a similar size and geographic location.

Under the Agreement, the Western Australian Government will arrange for the electricity provider to:

- Source and provide on an ongoing basis a regularised electricity supply to consumers within the boundaries of communities, at the same retail rates and performance standards as mainstream users;
- Prior to the commencement of supply of electricity, repair, extend and upgrade all electricity distribution infrastructure to enable supply at the required performance standards;
- Endeavour to ensure that there is sufficient generation capacity available in each community; and
- Arrange to obtain ownership of all such electricity infrastructure and appropriate tenure of all relevant land.

(6) (a) No.

(b) The ARCPSP was developed as part of the commitment made by the Australian and Western Australian Governments to achieve more efficient and effective power supplies to discrete Indigenous communities in Western Australia.

(7) No.

(8) No. The ongoing viability of local organisations is a matter to be considered with their respective funding agencies. The Western Australian Government has expressed support for the Electricity Charging Guidelines and their departments and agencies that have facilities in the communities are paying for their electricity to their respective communities as the power suppliers in accordance with the Electricity Charging Guidelines.

(9) A timeline of events with corresponding dates to show the progress of the project is below:

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>October 2000</td>
<td>Joint communique and Agreement for the Provision of Essential Services to Indigenous Communities in Western Australia between the Australian Government and the Western Australian Government.</td>
</tr>
<tr>
<td>May 2003</td>
<td>Memorandum of Understanding between ATSIS and the WA Government (Office of Energy) to undertake the ARCPSP.</td>
</tr>
<tr>
<td>November 2003</td>
<td>First Request for Proposals issued for power procurement process.</td>
</tr>
<tr>
<td>February 2004</td>
<td>Close of submission for power procurement process.</td>
</tr>
<tr>
<td>April/ May 2004</td>
<td>Infrastructure audits completed and network upgrade plans developed.</td>
</tr>
<tr>
<td>September 2004</td>
<td>Evaluation of submissions completed and preferred bidder for power procurement announced.</td>
</tr>
<tr>
<td>May 2005</td>
<td>Funding Agreement between the Australian and Western Australian Governments.</td>
</tr>
<tr>
<td>August 2005</td>
<td>Second power procurement tender process commences, with invitations sent to four bidders (identified by previous process).</td>
</tr>
<tr>
<td>October 2005</td>
<td>Close of submission for second power procurement process.</td>
</tr>
</tbody>
</table>
Throughout this period, consultation occurred with the communities, the then ATSIC Regional Councils, traditional landowners and other stakeholders, including relevant Government organisations.

(10) (a) It is anticipated that the appropriate Native Title and Heritage clearances will be obtained for the five power station sites by March 2006. Once appropriate tenure has been obtained for these sites, they will be sub-leased to the Independent Power Producer, who is expected to commence construction in June 2006 or earlier.

(b) The Funding Agreement between the Australian and Western Australian Governments was finalised on 23 May 2005. The process of obtaining appropriate clearances and tenure for power station sites commenced in June 2005 and is expected to be completed by end March 2006. Western Power Corporation has commenced its planning and scheduling of network upgrade works in the communities.

Prior to commencing construction by June 2006, the successful tenderer will negotiate with Western Power Corporation to clarify the finer details of the project, to be incorporated into a power procurement agreement with the Corporation.

Infrastructure upgrade work and power station construction cannot take place during the wet season.

(11) Yes.

(12) Yes.

(13) (a) According to the 2004 Environmental Health Needs Survey (EHNS) of Indigenous Communities in Western Australia there are 206 communities in the Kimberley region and all are currently responsible for their own power supply. The five communities of Warmun, Bidyadanga, Ardyaloon, Beagle Bay and Djarindjin/Lombadina will transfer the responsibility for the supply of electricity to Western Power under the ARCPSP.

(b) Only remote communities with a population of 200 or more will be considered for inclusion in the second stage of the ARCPSP.

(c) and (d) The second stage and the timeframe for this stage is still under negotiation between my Department and the Western Australian Government, with the expectation that the second stage would commence in 2008.

(14) (a) Yes.

(b) The purpose of discussions has been to provide information on the ARCPSP.

(c) In November 2005.

(15) Negotiations were well underway prior to the COAG trial site being decided. The issue has only arisen recently in terms of DOTARS lead agency role within the East Kimberley Indigenous COAG trial, and will be considered within the broader context of arrangements for the delivery of a wide range of essential and municipal services.
ATTACHMENT A

FaCS WA electricity charging guidelines: minimum rates from 1 July 2005

<table>
<thead>
<tr>
<th>Facility</th>
<th>Tariff (2005) @ fuel cost $1.15 per litre</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accommodation of community members on Centrelink benefits and CDEP participants: Household with 2 or more occupants, with refrigerated air-conditioning.</td>
<td>Metered: $0.1705/unit. Non-metered: $24.00 per week. The non-metered rate of $24.00pw is for the whole house, not per person. It is based upon an estimate of 140 units per week @ $0.1705/unit.</td>
</tr>
<tr>
<td>Accommodation of community members on Centrelink benefits and CDEP participants: Household with 2 or more occupants, without refrigerated air-conditioning.</td>
<td>Metered: $0.1705/unit. Non-metered house $18.00 per week. The non-metered rate of $18.00pw is for the whole house, not per person. It is based upon an estimate of 105 units per week @ $0.1705/unit.</td>
</tr>
<tr>
<td>Accommodation of community members on Centrelink benefits and CDEP participants: Single person accommodation, with refrigerated air-conditioning.</td>
<td>Metered: $0.1705/unit. Non-metered: $12.00 per week. The non-metered rate of $12.00pw is based upon an estimate of 70 units per week @ $0.1705/unit.</td>
</tr>
<tr>
<td>Accommodation of community members on Centrelink benefits and CDEP participants: Single person accommodation, without refrigerated air-conditioning.</td>
<td>Metered: $0.1705/unit. Non-metered: $9.00 per week. The non-metered rate of $9.00pw is based upon an estimate of 53 units per week @ $0.1705/unit. $0.3410/unit.</td>
</tr>
<tr>
<td>Accommodation of community staff, non-community staff, and community members in full time paid employment. For example advisers, storekeepers, bookkeepers, CDEP project officers, church administrators, teachers, nurses, police, tradespersons.</td>
<td>Service facilities: eg schools, health clinics, police stations, TAFE centres, CDEP workshops. $0.510/unit.</td>
</tr>
<tr>
<td>Accommodation of community staff, non-community staff, and community members in full time paid employment. For example advisers, storekeepers, bookkeepers, CDEP project officers, church administrators, teachers, nurses, police, tradespersons.</td>
<td>Commercial enterprises: community stores, motel units, tourist facilities, commercial mechanical workshops, commercial arts centres. $0.3410/unit.</td>
</tr>
<tr>
<td>Accommodation of community staff, non-community staff, and community members in full time paid employment. For example advisers, storekeepers, bookkeepers, CDEP project officers, church administrators, teachers, nurses, police, tradespersons.</td>
<td>Community facilities: community swimming pools, other community sporting facilities, not for profit community facilities such as workshops, community art centres, cultural centres, churches. $0.3410/unit.</td>
</tr>
</tbody>
</table>

ATTACHMENT B

A table outlining the dates, places and parties to the Aboriginal Remote Communities Power Supply Project (ARCPSP) consultations:

<table>
<thead>
<tr>
<th>Date</th>
<th>Form of Consultation</th>
<th>Parties Consulted With</th>
</tr>
</thead>
<tbody>
<tr>
<td>13-14 February</td>
<td>Kullari Regional Council's Inter-agency Forum</td>
<td>Kullari Regional Council, Office of Energy</td>
</tr>
<tr>
<td>14 February</td>
<td>Letter to Kullari Regional Council requesting ARCPSP endorsement</td>
<td>Rosetta Sahanna, Chairperson of Kullari Regional Council</td>
</tr>
<tr>
<td>14 February</td>
<td>Letter to Wunan Regional Council</td>
<td>Ian Trust, Chairperson</td>
</tr>
<tr>
<td>Date</td>
<td>Form of Consultation</td>
<td>Parties Consulted With</td>
</tr>
<tr>
<td>--------------</td>
<td>--------------------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>8 April</td>
<td>requesting ARCPSP endorsement Community visit to Ardyaloon – provide update on project status and seek community views</td>
<td>Gail Cook, Community CEO, Community Council, Office of Energy Senior Policy Officer, Office of Energy Community Branch Manager, ATSIC Project Officer.</td>
</tr>
<tr>
<td>8 April</td>
<td>Community visit to Djarindjin/Lombadina – provide update on project status and seek community views</td>
<td>Kees Pley, Community CEO, Community Council, Office of Energy Senior Policy Officer, Office of Energy Community Branch Manager, ATSIC Project Officer.</td>
</tr>
<tr>
<td>8 April</td>
<td>Community visit to Beagle Bay – provide update on project status and seek community views</td>
<td>Chris Bin Kali, Community CEO, Community Council, Office of Energy Senior Policy Officer, Office of Energy Community Branch Manager, ATSIC Project Officer.</td>
</tr>
<tr>
<td>21 June</td>
<td>Letter to Community Chairpersons – nominate an Indigenous Liaison Officer from the Community for the purpose of ARCPSP</td>
<td>Paul Maberley, Community CEO, Greg Billycan, Chairperson, Chairperson ARCPSP Reference Group, Office of Energy Senior Policy Officer, Office of Energy Technical Officer, ATSIC Project Officer, Connell Wagner Project Manager</td>
</tr>
<tr>
<td>26 June</td>
<td>Community visit to Bidyandanga for ARCPSP update and discussion of consultation plan</td>
<td>Bidyandanga Community Council, Chair ARCPSP Reference Group, Office of Energy Senior Policy Officer, Office of Energy Technical Officer, ATSIC Project Officer, Connell Wagner Project Manager</td>
</tr>
<tr>
<td>26 June</td>
<td>Project Briefing Meeting with Bidyandanga Community Council/Traditional Owners</td>
<td></td>
</tr>
<tr>
<td>Date</td>
<td>Form of Consultation</td>
<td>Parties Consulted With</td>
</tr>
<tr>
<td>-------------</td>
<td>--------------------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>27 November</td>
<td>Presentation and consultation of proposed ARCPSP model to Bidyandanga Community Council</td>
<td>Bidyandanga Community Council, Office of Energy Senior Policy Officer, Office of Energy Community Branch Manager, ATSIC Broome representatives, Kimberley Land Council representative.</td>
</tr>
<tr>
<td>16 December</td>
<td>Community visit to Warmun to obtain Community Council endorsement on proposed power supply arrangement model</td>
<td>Ray Blackwood, Community CEO, Max Thomas, Chair Community Council, Officer, Office of Energy Senior Policy Officer, Office of Energy Community Branch Manager, ATSIC Kununurra Field Officer</td>
</tr>
<tr>
<td>18 December</td>
<td>ARCPSP Presentation to the Kullari Regional Council</td>
<td>Kullari Regional Council, Office of Energy Senior Policy Officer, Office of Energy Community Branch Manager</td>
</tr>
<tr>
<td>2003</td>
<td></td>
<td></td>
</tr>
<tr>
<td>22 January</td>
<td>Letter to Community CEO’s – Project Update and endorsement of power supply model</td>
<td>George Hamilton, Chairman, Wunan Community Council, Charile Wright, Chairman Kullari Regional Council</td>
</tr>
<tr>
<td>March</td>
<td>Wunan and Kullari Regional Council representatives appointed to the ARCPSP Reference Group</td>
<td>George Hamilton, Chairman, Wunan Community Council, Charile Wright, Chairman Kullari Regional Council</td>
</tr>
<tr>
<td>8 April</td>
<td>Community visit to Ardyloon – to brief community on ARCPSP status and seek community views</td>
<td>Ardyloon Community Council, Gail Cook, Community CEO, Andrew Carter, Chairperson Ardyloon Community Council, Office of Energy Senior Policy Officer, Office of Energy Community Branch Senior Manager, ATSIC Broome Office representatives, NAHS Program Managers, Parsons Brinckerhoff, Project Manager Connell Wagner</td>
</tr>
<tr>
<td>8 April</td>
<td>Community visit to Djarindjin/Lombadina to brief community on ARCPSP status and seek community views</td>
<td>Community Chairpersons and Council representatives for both communities, Kees Pley, Community CEO Djarindjin, Lombadina Community Administrator, Office of Energy Senior Policy Officer, Office of Energy Senior Manager Community Branch, ATSIC Broome representative.</td>
</tr>
<tr>
<td>8 April</td>
<td>Community visit to Beagle Bay to brief community on ARCPSP status and seek community views</td>
<td>Beagle Bay Community Council, Keith Kitchner, Chairperson, Lenny O’Meara, Council Representative, Pat Channing, Council Representative, Willy Sarah, Council Representative, Aloysius Drummond, Council Representative, Chris Bin Kali, Acting Community CEO, Office of Energy Senior Policy Officer, Office of Energy Senior Manager Community Branch</td>
</tr>
</tbody>
</table>
### QUESTIONS ON NOTICE

<table>
<thead>
<tr>
<th>Date</th>
<th>Form of Consultation</th>
<th>Parties Consulted With</th>
</tr>
</thead>
<tbody>
<tr>
<td>9 April</td>
<td>Meeting with Wunan Regional Council to discuss funding arrangements for the pilot project communities</td>
<td>Wunan Regional Council, Office of Energy Senior Policy Officer, Office of Energy Senior Manager Community Branch</td>
</tr>
<tr>
<td>June</td>
<td>ARCPSP Newsletter 3</td>
<td>Distributed to Community CEOs</td>
</tr>
<tr>
<td>24-26 June</td>
<td>Community visit to Bidyandanga</td>
<td>Glenda Teede, Community CEO, James Yanawana, Council Chairperson, ARCPSP Steering Committee Chair</td>
</tr>
<tr>
<td>24-26 June</td>
<td>Meetings with ATSIC and Kullari Regional Council</td>
<td>Kullari Regional Council, ARCPSP Steering Committee Chair</td>
</tr>
<tr>
<td>September</td>
<td>ARCPSP Newsletter 4</td>
<td>Distributed to Community CEOs</td>
</tr>
<tr>
<td>27 October</td>
<td>Community visit to Bidyandanga</td>
<td>Glenda Teede, Community CEO, James Yanawana, Chairperson, Housing Officer, ATSIC Broome Senior Field Officer, ATSIC Broome Field Officer, Western Power Networks Investment representative, Western Power Broome Power Station Supervisor</td>
</tr>
<tr>
<td>28 October</td>
<td>Community visit to Ardyaloon</td>
<td>Andrew Carter, Acting Chairperson, ATSIC Broome Senior Field Officer, ATSIC Broome Field Officer, Western Power Networks Investment representative, Western Power Broome Distribution Supervisor</td>
</tr>
<tr>
<td>29 October</td>
<td>Community visit to Djarindjin/Lombadina</td>
<td>Kees Pley, Community CEO Djarindjin, Peter Sibosado, Trainee CEO, Djarindjin, Caroline Sibosado, CEO Lombadina, Jillian Hunter, Community Member, Lombadina, DIA Broome representative, ATSIC Broome Senior Field Officer, ATSIC Broome Field Officer Western Power Networks Investment representative, Western Power, Broome Distribution Supervisor</td>
</tr>
<tr>
<td>November</td>
<td>Community Flyer inviting community members to attend the Western Power/Office of Energy Public Meeting on new power supply arrangements</td>
<td>Community Flyer distributed throughout Phase 1 communities</td>
</tr>
<tr>
<td>17 November</td>
<td>Bidyandanga Public Meeting</td>
<td>Community members, CEO, Council and Traditional Land Owners, Office of Energy Senior Policy Officer, ATSIC Project Officer, ATSIC Broome Senior Field Officer</td>
</tr>
<tr>
<td>18 November</td>
<td>ARCPSP presentation to the Aboriginal Housing and Infrastructure Council</td>
<td>Aboriginal Housing and Infrastructure Council, ARCPSP Steering Committee Chair</td>
</tr>
<tr>
<td>19 November</td>
<td>Ardyaloon Public Meeting</td>
<td>Community members, CEO, Council and Traditional Landowners, Office of Energy</td>
</tr>
<tr>
<td>Date</td>
<td>Form of Consultation</td>
<td>Parties Consulted With</td>
</tr>
<tr>
<td>------------------</td>
<td>-----------------------------------------------</td>
<td>----------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>20 November</td>
<td>Beagle Bay Public Meeting</td>
<td>Senior Policy Officer, ATSIC Broome representatives, Community members, CEO, Council and Traditional Landowners, Office of Energy Project Officer, ATSIC, Broome representatives.</td>
</tr>
<tr>
<td>2 December</td>
<td>Warmun Public Meeting</td>
<td>Community members, CEO, Council and Traditional Landowners, Office of Energy Senior Policy Officer, ATSIC, Broome representatives.</td>
</tr>
<tr>
<td>2004</td>
<td></td>
<td></td>
</tr>
<tr>
<td>13 January</td>
<td>Community visit to Beagle Bay to discuss power station sites</td>
<td>Kevin Dann, Community CEO, Willy Smith, Vice Chairperson, Western Power Networks Investment representative</td>
</tr>
<tr>
<td>14 January</td>
<td>Community visit to Ardyaloon to discuss power station sites</td>
<td>Sherena Bin Hitam, Acting Community CEO, Andrew Carter, Chairperson, Valerie Wiggins, Community Council Member, Adrian Issac, Community Council Member, Rosanna Ingus, Community Council Member, Western Power Networks Investment representative</td>
</tr>
<tr>
<td>14 January</td>
<td>Community visit to Djarindjin/Lombadina to discuss power station sites</td>
<td>Basil Sibosado, Trainee Community CEO Lombadina, Peter Sibosado, Acting Community CEO Djarindjin, Brian Lee, Community Council Djarindjin, Eddy Dodd, Djarindjin Community Council, Western Power Networks Investment representative</td>
</tr>
<tr>
<td>18 February</td>
<td>Community visit to Bidyandanga to provide update on ARCPSP and discuss network upgrade issues</td>
<td>Glenda Teede, Community CEO, Jim Yanawana, Chairperson, Housing Officer, ATSIC Broome Senior Field Officer, Office of Energy Policy Officer, Office of Energy Research Officer</td>
</tr>
<tr>
<td>19 February</td>
<td>Community visit to Beagle Bay to provide ARCPSP update and discuss network upgrade issues</td>
<td>Kevin Dann, Community CEO, ATSIC Broome Senior Field Officer, Office of Energy Policy Officer, Office of Energy Research Officer</td>
</tr>
<tr>
<td>19 February</td>
<td>Community visit to Ardyaloon to provide ARCPSP update and discuss network upgrade issues</td>
<td>Sherena Bin Hitam, Acting Community CEO, Andrew Carter, Chairperson, ATSIC Broome Senior Field Officer, Office of Energy Policy Officer, Office of Energy Research Officer</td>
</tr>
<tr>
<td>20 February</td>
<td>Community visit to Djarindjin/Lombadina to discuss ARCPSP and network upgrade issues</td>
<td>Caroline Sibosado Lombadina Community CEO, Peter Sibosado Djarindjin Community CEO, ATSIC Broome Field Officer, Office of Energy Policy Officer, Office of Energy Research Officer.</td>
</tr>
<tr>
<td>Date</td>
<td>Form of Consultation</td>
<td>Parties Consulted With</td>
</tr>
<tr>
<td>------------</td>
<td>----------------------------------------------</td>
<td>----------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>3 March</td>
<td>Community visit to Warmum</td>
<td>Helen Dowdell, Acting Community CEO, Office of Energy Policy Officer, Office of Energy Research Officer</td>
</tr>
<tr>
<td>31 May</td>
<td>Community visit to Bidyadanga</td>
<td>Glenda Teede, Community CEO, Community Administrator, Western Power Land Consultant, Western Power Network Investment representative</td>
</tr>
<tr>
<td>1 June</td>
<td>Community visit Lombadina/Djarindjin</td>
<td>Peter Sibosado, Djarindjin Community CEO, Cheri Sibosado, Djarindjin Housing Officer, Trevor Sibosado, Lombadina Vice Chairperson, Western Power Land Consultant, Western Power Network Investment representative</td>
</tr>
<tr>
<td>2 June</td>
<td>Community visit to Beagle Bay</td>
<td>Jane Lawford, Chairperson, Administration Support Officer, Western Power Land Consultant, Western Power Network Investment representative</td>
</tr>
<tr>
<td>3 June</td>
<td>Community visit to Warmum</td>
<td>Peter Bridge, Acting Community CEO, Max Thomas, Chairperson, Western Power Land Consultant, Western Power Network Investment representative</td>
</tr>
<tr>
<td>5 July</td>
<td>Letter to Community CEOs from Steering Committee Chairperson – Project Update Implementation Delays</td>
<td></td>
</tr>
<tr>
<td>2005 March</td>
<td>Letter to Community CEO’s from Steering Committee Chairperson – Project Update</td>
<td></td>
</tr>
<tr>
<td>7 June</td>
<td>Letter to Community CEO’s from Steering Committee Chairperson – Advice on Funding Agreement</td>
<td></td>
</tr>
<tr>
<td>7 July</td>
<td>Community visit to Wamun</td>
<td>Andrew McGaw, Community CEO, Office of Energy Senior Policy Officer, Western Power Metering Consultant</td>
</tr>
<tr>
<td>6 September</td>
<td>Community visit to Bidyadanga</td>
<td>James Yanawana, Chairperson, Gus Tampellini, Community Administrator, Office of Energy Senior Policy Officer, Western Power, Broome Power Station Supervisor</td>
</tr>
<tr>
<td>7 September</td>
<td>Community visit to Ardyaloon</td>
<td>Andrew Carter, Community CEO, Office of Energy Senior Policy Officer</td>
</tr>
<tr>
<td>9 September</td>
<td>Community visit to Warmun</td>
<td>Andrew McGaw, Community CEO, Office of Energy Senior Policy Officer</td>
</tr>
<tr>
<td>25-28 October</td>
<td>Community visit to Ardyaloon, Beagle Bay, Djarindjin/Lombadina to perform distribution network audit</td>
<td>Western Power District Network Officer, Western Power Field Services Coordinator</td>
</tr>
<tr>
<td>28 October</td>
<td>ARCPSP Stakeholder Newsletter</td>
<td>Electronic version of newsletter distributed to Community CEO’s</td>
</tr>
</tbody>
</table>
DATE FORM OF CONSULTATION

PARTIES CONSULTED WITH

**Date** | **Form of Consultation** | **Parties Consulted With**
--- | --- | ---
31 October | Community visit to Bidyadanga to perform distribution network audit | Western Power District Network Officer, Western Power Field Services Coordinator, Western Power Kimberley Regional Manager
10 November | Community Visit to Warmun to perform distribution network audit | Western Power District Network Officer, Western Power Field Services Coordinator
25 November | Community visit to Warmun to demonstrate prepayment electricity meter and discuss proposed power station site | Andrew McGaw, Community CEO, Western Power Project Officer, Regional Branch, Western Power Regional Branch representative

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### Power Tariffs

(Question No. 1377)

**Senator Chris Evans** asked the Minister for Family and Community Services, upon notice, on 24 November 2005:

With reference to the power supply of Balgo, Western Australia:

1. What is the average power tariff rate in Balgo.
2. Does the Government provide any subsidy to Balgo to reduce the costs of power supply; if so, what is the tariff after subtracting this subsidy.
3. Has any assessment been undertaken of the average cost of power tariffs to households and/or organisations such as schools and medical services in Balgo; if so, when.
4. Has any assessment been undertaken of the ongoing financial viability of local organisations (particularly those providing essential services) given the financial impact of power tariff costs; if so: (a) what did the assessment find; (b) when was it undertaken; and (c) if it was not undertaken, why not.
5. Will the continued operation of organisations providing essential services in Balgo be viable, given the increased costs of power tariffs; if so: (a) is there evidence to support this conclusion; (b) what is that evidence; and (c) if there is no evidence, why has it not been collected.
6. Has consideration been given to making Balgo the beneficiary of a normalised power supply; if so: (a) what steps have or will be taken to normalise the power supply; and (b) has a time frame been established; if so, what is it.
7. Have discussions been held on the power tariffs situation with the Balgo community; if so: (a) when and where were the discussions held; (b) who attended; and (c) how did the department respond to these consultations.

**Senator Patterson**—The answer to the honourable senator’s question is as follows:

1. There is no average tariff for power charges at Balgo as different categories of tariff apply to individual community members and service providers.
2. The Australian Government provides supplementary funding for diesel fuel for Balgo’s power generators. The Australian Government also provides capital funding to the Western Australian Government to meet the costs of community power supplies, capital costs such as generators and power reticulation. Additionally Balgo community is able to claim part of their diesel fuel costs back from the Australian Taxation Office under the Energy Grants Credit Scheme (EGCS).
3. No.
(4) No.

(5) The viability of local organisations is a matter to be considered with their respective funding agencies. The Western Australian Government has expressed its support for the Electricity Charging Guidelines and their departments and agencies that have facilities in the communities are paying for their electricity to their respective communities as the power suppliers in accordance with my Department’s Electricity Charging Guidelines.

(6) (a) Balgo will be considered, along with a number of communities with a population of 200 or more, for inclusion in the second stage of the joint Australian and Western Australian Governments Aboriginal Remote Communities Power Supply Project.

(b) The second stage and the timeframe for this stage is still under negotiation between FaCS and the Western Australian Government. The second stage is expected to provide normalised power supply in 2008.

(7) There have been a number of discussions and communication with community representatives concerning the FaCS Electricity Charging Guidelines. They have included telephone conferences, emails, face to face meetings and a formal correspondence.

(a) and (b)

<table>
<thead>
<tr>
<th>Date</th>
<th>Type of Contact</th>
<th>Parties</th>
</tr>
</thead>
<tbody>
<tr>
<td>15 June 2005</td>
<td>Telephone Conference</td>
<td>FaCS Regional Manager Kununurra, FaCS Project Officer Kununurra, Wirrimanu Aboriginal Corporation Administrator (appointed by the Office of Registrar of Aboriginal Corporations), Noel Mason, Wirrimanu Aboriginal Corporation Chief Executive Officer.</td>
</tr>
<tr>
<td>1 Nov 2005</td>
<td>Telephone Conference</td>
<td>Wirrimanu Aboriginal Corporation Administrator and the Kununurra Indigenous Coordination Centre.</td>
</tr>
<tr>
<td>14 November 2005</td>
<td>Face to Face Meeting with a telephone link</td>
<td>Director of the Regulations Office of the Registrar of Aboriginal Corporations, FaCS Regional Manager Kununurra, FaCS Project Officer Kununurra, with a phone link to the Indigenous Coordination Centre Manager Kununurra.</td>
</tr>
</tbody>
</table>

(c) My Department advised that:

- The primary purpose of municipal services funding is to enable the provision of essential municipal services, by supplementing the efforts of State/Territory and local governments. This includes assisting in shortfalls in operational costs of energy supply where communities are making significant efforts to collect revenue from users and collect the Energy Grants Credit Scheme (EGCS) rebate from the Australian Taxation Office (ATO);

- FaCS Community Housing and Infrastructure Program guidelines require organisations to demonstrate that realistic charges are set and collected before being eligible for supplementary funding. In setting appropriate levels, organisations need to consider the levels of subsidy available from the relevant state government, as well as appropriate rates for different electricity consumers;

- The introduction of standard Electricity Charging Guidelines will ensure that all community members pay equitable charges for power whilst acknowledging the complexity in setting and collecting service charges. The recommended tariffs have been developed in accordance with
the principle of user pays and have been based on the cost of production of electricity taking
the fuel component only;

- The principle of standard rates is similar to the mainstream application of service charges and
will assist those communities when they transfer to the Aboriginal Remote Communities
Power Supply Project (ARCPSP);

- Balgo may want to consider a variation to their funding agreement, as an opportunity to im-
plement the Electricity Charging Guidelines. This could include the increased contributions
from service facilities and commercial enterprises as part of their budgeted income and to en-
sure community members will not be required to supplement the power costs for government
services and business enterprises;

- The Western Australian Government has expressed its support for the Electricity Charging
Guidelines and departments and agencies that have facilities in the communities are paying for
their electricity to their respective communities as the power suppliers in accordance with the
FaCS Electricity Charging Guidelines;

- The Department is currently monitoring the implementation of the Electricity Charging Guide-
lines;

- Balgo will be considered, along with a number of communities with a population of 200 or
more, for inclusion in the second stage of the Aboriginal Remote Communities Power Supply
Project (ARCPSP). Communities currently are responsible for their own power supply. Those
communities going into the ARCPSP will transfer the responsibility of the power supply to
Western Power and standard electricity rates will apply; and

- Provided an update regarding the introduction of swipe meters in the Kimberley.

**Indigenous Affairs: Memorandum of Understanding**

(Question No. 1379)

**Senator Chris Evans** asked the Minister for Immigration and Multicultural and Indige-
nous Affairs, upon notice, on 24 November 2005:

With reference to the Memorandum of Understanding (MOU) signed between the Government and the
Minerals Council of Australia (MCA) in Indigenous Relations in June 2005:

1. Can a copy of the MOU be provided.
2. What was the object of the MOU.
3. Which government agency signed the MOU on behalf of the Government.
4. Did the Government approach the MCA, or vice-versa, in relation to the strategy.
5. Were there any Indigenous parties to the MOU; if so, who.
6. Were any Indigenous people or bodies consulted in the lead-up to the signing of the MOU; if so,
can a list be provided.
7. Was the MOU made publicly available; if not, why not.
8. (a) What specific measures does the MOU include; and (b) what does the agreement provide.
9. Does the MOU include targets for Indigenous employment within specific time frames; if so, what
are they.
10. How has this MOU been implemented.
11. Has the effectiveness of the MOU been monitored; if so, how and when was this done; if not, when
will it be done.
Senator Vanstone—The answer to the honourable senator’s question is as follows:

1. Yes. The Memorandum is attached.

2. To formalise a partnership between the Australian Government and the Minerals Council of Australia (MCA) to work together with Indigenous Australians to build sustainable, prosperous communities in which individuals can create and take up social, employment and business opportunities in mining regions. MOU deliverables include increased employability, jobs and business enterprises for Indigenous Australians.

3. It was signed for and on behalf of the Commonwealth by the Hon. Kevin Andrews MP, the Minister for Employment and Workplace Relations, the Hon. Ian Macfarlane MP, Minister for Industry, Tourism and Resources and myself as Minister for Immigration and Multicultural and Indigenous Affairs.

4. The MCA approached the Government.

5. No. The MOU is between the Government and the MCA. Both the MCA and the Government have recognised the limitations of previous approaches that have focused narrowly on employment issues and have taken the opportunity of the new whole of government approach co-ordinated through Indigenous Co-ordination Centres to improve results from joint efforts with communities.

6. There were no formal consultations with Indigenous people or bodies in the development of the agreement with the Government and the MCA. However, it was agreed by the parties that consultation with Indigenous people in the MOU regions would be the first step to implementation.

7. The MOU was signed by Ministers and the MCA on 3 June 2005, and reference was made to the signing in a speech by Mr Macfarlane that day. Previously the MOU was available to the public via requests to any of the Government parties or the MCA. The MOU is now available from www.indigenous.gov.au.

8. The MOU establishes broad principles, deliverables, regions and a timetable. See the attached MOU for more detail.

9. No. However, targets such as these are being discussed in local consultations, regarding implementation.

10. A national implementation steering committee has been established. Local implementation groups are also being established including the ICC, mining companies and community representatives. Activity is progressed under Regional Partnership Agreements.


Attachment

Australian Government

The Commonwealth of Australia and The Minerals Council of Australia

Purpose

The purpose of the MOU is to formalise a partnership between the Commonwealth of Australia (the Commonwealth) and the Minerals Council of Australia to work together with Indigenous people to build sustainable, prosperous communities in which individuals can create and take up social, employment and business opportunities in mining regions.

Parties

The MOU is between the Commonwealth and the Minerals Council of Australia. The Commonwealth will coordinate its participation across all agencies, and draw on other levels of government consistent with the National Framework of Principles for Delivering Services to Indigenous Australians.

QUESTIONS ON NOTICE
The Minerals Council of Australia will coordinate participation of its member companies.

**Scope**
Actions under the MOU will focus on Indigenous communities in mining regions where MCA member companies operate. They will be applied on a local and regional basis, within agreed regional frameworks. Each party to this agreement will contribute within the scope of its responsibilities and operations.

**Principles**
The MOU establishes broad principles to guide activity at the regional level. These principles are:
1. Collaboration and partnership between the parties based on mutual respect.
2. Collaboration and partnership between the parties and Indigenous communities based on shared responsibilities and respect for culture, customs and values.
3. The integration of sustainable development considerations within the MOU partnership decision-making process.
4. Joint commitment to social, economic and institutional development of the communities with which the parties engage.

**Deliverables**
- Increased employability and jobs for Indigenous people.
- Increased business enterprises for Indigenous people.
- Prosperous Indigenous individuals, families and communities that endure beyond the life of mining in the region.
- A strong partnership between industry and government that works with Indigenous people locally to generate solutions to complex issues on a local or regional basis.
- A working group to progress implementation.
- A methodology for working together that includes regional frameworks and the promotion of best practice.

**Regions**
Activities under this MOU will focus on specific regions as agreed by the parties.

**Timetable**
The partnership will operate for five years.
Launch - June 2005
Working group established and methodology finalised - by end June 2005
Regional frameworks finalised - by end September 2005
First regional activity underway - October 2005

**Execution clause for the Memorandum of Understanding between the Commonwealth of Australia and the Minerals Council of Australia**
Signed, or and on behalf of the Commonwealth of Australia by the Minister of immigration and Multicultural and Indigenous Affairs
Senator the Hon Amanda Vanstone

..................................................
Canberra, June 2005
and the Minister for Industry, Tourism and Resources,
the Hon Ian Macfarlane MP

Canberra, June 2005
and the Minister for Employment and Workplace Relations,
the Hon Kevin Andrews MP

Canberra, June 2005
Signed, for and on behalf of the Minerals Council of Australia by the Vice-Chairman.
Peter Coates

Indigenous Economic Development Strategy
(Question No. 1380)

Senator Chris Evans asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 24 November 2005:

With reference to the Local Jobs for Local People initiative listed under the Indigenous Economic Development Strategy:

(1) When did, or when will, this initiative begin.
(2) What specific activities and measures are included in the initiative.
(3) Does the initiative involve any new funding.
(4) How much funding will be allocated to the initiative.
(5) Where in the budget papers is the relevant source of funding for these activities associated with this initiative.
(6) Have any communities been identified as potential sites for this initiative; if so, which communities.
(7) How many communities will be covered by this initiative.
(8) What is the process and what criteria are applied for determining which communities should participate in this initiative.
(9) (a) Which communities are participating in this initiative; and (b) what steps have been taken under the initiative.
(10) Is this initiative connected with Shared Responsibility Agreements or Regional Partnership Agreements; if so, how, and can examples of connections be provided.

Senator Abetz—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator’s question:

(1) While the strategy was launched on 9 November 2005, local jobs for local people initiatives have been occurring for some time. The aim of the Local Jobs for Local People initiative under the Indigenous Economic Development Strategy was to place a greater focus on this area of activity in relation to communities with a significant number of Indigenous residents.
(2) While measures will need to meet the needs of communities and employers, local jobs for local people initiatives will typically involve ensuring stakeholders are informed of job opportunities and that strategies are then developed to link employers and job seekers.

(3) No.

(4) Funding will be met from within current resources as it is needed at this point rather than having a specific allocation.

(5) Funding will come from Outcome 1 and Outcome 3 of the Department of Employment and Workplace Relations (DEWR) appropriations. In addition, some projects will involve partnered funding with State or Territory governments, other Australian Government agencies or with employers.

(6) The 17 communities of Cape York will be involved in the Cape York Employment Strategy. Fifty five communities are being assessed in the Northern Territory under a contract between DEWR and the Local Government Association of the Northern Territory. In the Murdi Paaki Region in New South Wales, where the trial involves 16 communities, a regional approach is under development. In Western Australia, DEWR is currently working with others to develop appropriate employment strategies to support local jobs for local people in the East Kimberley and the Pilbara regions.

(7) Over 90 communities.

(8) The main criteria are communities with significant numbers of Indigenous people without jobs. The initial focus will be on remote, rural and some regional areas.

(9) (a) Refer to response provided at question 6.

(b) The projects are at different stages of implementation. However, jobs audits have been completed in many communities. Employment workshops involving community, government and employer stakeholders have also been held in some locations. DEWR is working closely with other Australian Government and State Government agencies on implementation and local initiatives.

(10) Shared Responsibility Agreements and Regional Partnership Agreements are not a mandatory element of the local jobs for local people initiative. However, it is possible that some communities will wish to facilitate the arrangement under an SRA. One example of this could be the provision of training resources in return for a commitment by the community to ensure a number of community members attend this training.

**Indigenous Economic Development Strategy**

*Question No. 1381*

Senator Chris Evans asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 24 November 2005:

With reference to the Indigenous Economic Development Strategy, which includes ‘targeted industry strategies’ that ‘aim to link Indigenous communities that have high unemployment with industries which operate within their region’:

(1) (a) Are any strategies currently being developed; (b) with which industries is the department currently developing strategies; (c) at what stage are these negotiations; and (d) when will these strategies be announced and implemented.

(2) Which bodies have been approached to develop such a strategy, and when was the approach made.

(3) What measures will these ‘targeted industry strategies’ include.

(4) Will these strategies include targets for Indigenous employment within specific time frames.

(5) Are there specific communities which will be targeted with these strategies; if so, which communities.
(6) Is data available on those Indigenous communities that have high unemployment and which also have industries operating within their region; if so, which communities or regions; if not, when will this data be collected.

(7) Will any consultation with Indigenous people be part of the approach in developing these strategies; if so, can details be provided, including: (a) which members of the community; (b) which Indigenous representative bodies; (c) which Indigenous leaders; and (d) Indigenous Business Australia.

(8) Does the National Skills Shortage Strategy contain Indigenous-specific strategies; if so, what are they.

(9) (a) For each of the past 5 financial years, how much has been spent on: (i) subsidising Indigenous employment in industry sectors, and (ii) on subsidising training; and (b) what forms does the subsidy take.

Senator Abetz—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator’s question:

(1) In reference to the Indigenous Economic Development Strategy, strategies are being developed in the following industries:

Mining
As part of Minerals Week, a Memorandum of Understanding (MOU) was signed in June 2005 with the Minerals Council of Australia, representing its member companies. Joint projects under the MOU between the Australian Government and the industry are currently in early stages of implementation.

Forestry
Discussions are ongoing between representatives of the Australian Government and the forestry industry regarding Indigenous employment and potential projects. Forestry industry representatives are the National Association of Forestry Industries (NAFI) and the Australian Plantation Products and Paper Industry Council (A3P). An announcement will be made if there is a decision to formalise the partnership.

Fishing and Aquaculture
The Australian Government is exploring options for the employment of Indigenous Australians in aquaculture and fisheries industries. Initial discussions have been held between Government and representatives from the National Aquaculture Council (NAC) and the Fisheries Research Development Corporation (FRDC). An announcement will be made if there is a decision to formalise a partnership.

Child care
A strategy is being implemented to place Indigenous Australians into employment in the child care industry. Negotiations have been completed. It is expected the strategy will be announced shortly.

Petroleum
A strategy is currently being developed with the AGL Petronas Consortium (APC) to support opportunities for the creation of Indigenous employment in the construction and maintenance of the PNG-Queensland Gas Pipeline. An announcement will be made when the arrangement is formalised.

(2) Approaches to bodies:
- The Minerals Council of Australia first approached DEWR in early 2005
- NAFI was approached in June 2005
A3P was approached in August 2005
NAC was approached in September 2005
The Replay Group (Victoria) was approached in mid 2005
APC approached Australian Government agencies in 2005

(3) Targeted industry strategies will include measures to:
- increase work-readiness of local people in regions in which these industries operate;
- help address social conditions in the communities in which the industries operate;
- support pre-employment and on-the-job training for Indigenous job seekers;
- ensure employees are supported and mentored; and
- ensure employers have an understanding of the cultural needs of Indigenous employees.

(4) The strategies generally do not include Indigenous employment targets. Individual employers will be supported to increase their own Indigenous employment levels and may set themselves employment targets to help achieve their goals. The child care industry strategy has agreed employment targets for the employer demonstration project component of the strategy.

(5) Industry strategies are generally targeted at a regional or State level rather than individual community levels.

(6) The Department uses a number of sources of information available to help select regions to target. This includes unemployment levels, CDEP participation and number of income support recipients, proximity to the industry and necessary infrastructure and support, community willingness to become involved and potential for success. All decisions are made in consultation with the relevant industry bodies.

(7) Consultations to date have included State and Australian Government agencies, industry representative bodies and industry employers. Australian Government representatives have specifically included the Office of Indigenous Policy Coordination and Indigenous Business Australia. Local Aboriginal elders and other local Indigenous Australians have been consulted.

(8) The National Skills Shortage Strategy is an initiative of the Department of Education, Science and Training (DEST). Questions on this strategy should be directed to the Hon. Brendan Nelson MP.

(9) (a) Under the Indigenous Employment Programme funding is provided to support employment, training and business development opportunities for Indigenous Australians. The funds are primarily used to support employment but some funding supports training and business development. Overall expenditure on the IEP is:

<table>
<thead>
<tr>
<th>Year</th>
<th>IEP Expenditure</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000-2001</td>
<td>$43.91M</td>
</tr>
<tr>
<td>2001-2002</td>
<td>$43.49M</td>
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<tr>
<td>2002-2003</td>
<td>$58.43M</td>
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<tr>
<td>2003-2004</td>
<td>$83.17M</td>
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<tr>
<td>2004-2005</td>
<td>$69.00M</td>
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<tr>
<td>2005-2006*</td>
<td>$25.33M</td>
</tr>
<tr>
<td>Total</td>
<td>$323.33M</td>
</tr>
</tbody>
</table>

* to end November 2005

IEP expenditure occurs under individual contractual arrangements which can be a mix of training and/or employment. Departmental records show a split by industry sector for IEP commencements and this can be used as a notional allocation of funds by sector (see Table 2 below). However this will not be a precise allocation as contract unit costs can vary. Further, De-
partmental records do not distinguish between funding for training and employment aspects of each contract. Provision of exact information would require examination of individual IEP contracts and this information is not readily available and would involve an unreasonable diversion of the Department’s resources to ascertain such information.

Table 2: Proportion of IEP commencements by Industry Sector (1999-2005)

<table>
<thead>
<tr>
<th>Industry Sector</th>
<th>Proportion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accommodation, Cafes and Restaurants</td>
<td>3.82%</td>
</tr>
<tr>
<td>Agriculture, Forestry and Fishing</td>
<td>1.94%</td>
</tr>
<tr>
<td>Communication Services</td>
<td>0.21%</td>
</tr>
<tr>
<td>Construction</td>
<td>3.51%</td>
</tr>
<tr>
<td>Cultural and Recreational Services</td>
<td>2.60%</td>
</tr>
<tr>
<td>Education</td>
<td>9.70%</td>
</tr>
<tr>
<td>Electricity, Gas and Water Supply</td>
<td>0.24%</td>
</tr>
<tr>
<td>Finance and Insurance</td>
<td>0.59%</td>
</tr>
<tr>
<td>Government Administration and Defence</td>
<td>15.92%</td>
</tr>
<tr>
<td>Health and Community Services</td>
<td>4.87%</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>4.32%</td>
</tr>
<tr>
<td>Mining</td>
<td>10.23%</td>
</tr>
<tr>
<td>Non-Classifiable Economic Unit Division</td>
<td>1.26%</td>
</tr>
<tr>
<td>Personal and Other Services</td>
<td>12.29%</td>
</tr>
<tr>
<td>Property and Business Services</td>
<td>25.44%</td>
</tr>
<tr>
<td>Retail Trade</td>
<td>1.36%</td>
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<tr>
<td>Transport and Storage</td>
<td>0.66%</td>
</tr>
<tr>
<td>Wholesale Trade</td>
<td>0.23%</td>
</tr>
</tbody>
</table>

(b) Funding under the Indigenous Employment Programme supports the following activities:

- Structured Training and Employment Projects (STEP) - flexible financial assistance for projects that offer structured training leading to lasting employment for Indigenous job seekers, including funding for apprenticeships and traineeships;

- The Corporate Leaders for Indigenous Employment Project (CLIEP) – funding for projects similar to STEP between individual companies and the Australian Government to generate more jobs for Indigenous Australians;

- Wage Assistance - a wage subsidy over 26 weeks for employers that offer ongoing full time work. Assistance is also available for part time jobs of over 15 hours per week;

- The National Indigenous Cadetship Project (NICP) – funding of $14,000 per year plus additional support for travel, if required, for Indigenous students undertaking diploma, advanced diploma and undergraduate degree courses and employers in an arrangement that involves full time study and work placements;

- The Community Development Employment Projects Placement Incentive – an incentive payment of $2,200 to Community Development Employment Projects (CDEP) organisations for each participant who is placed in open employment and off CDEP payments;

- Indigenous Community Volunteers (ICV) – funding for the Indigenous Community Volunteers organisation that links skilled volunteers with communities that have asked for expert assistance in areas such as business, financial management and the trades;

- The Indigenous Small Business Fund (ISBF) - funding for individuals and Indigenous organisations for activities including feasibility studies, business planning, marketing and other facilitative projects;

- The Indigenous Capital Assistance Scheme (ICAS) - flexible assistance packages including professional support and mentoring and business development loans from $50,000 - $500,000;
- Indigenous Employment Centres (IECs) – funding for IECs that complement Job Network and are operated by CDEP organisations to provide employment services to participants; and
- Indigenous Youth Employment Consultants (IYECs) – funding for Indigenous Youth Employment Consultants based with Job Network providers who work with young Indigenous people and provide linkages to work opportunities or further education and training.

**Indigenous Land Corporation**

(Question No. 1382)

Senator Chris Evans asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 24 November 2005:

With reference to the Indigenous Land Corporation (ILC) activities in Tasmania:

1. Can a list of the acquisitions made by the ILC in Tasmania be provided, indicating: (a) their exact location; (b) when they were required; (c) the nature and duration of the interest held by the ILC; (d) the proprietors of the leasehold and freehold interest in respect of each acquisition; (e) when the leasehold interest was granted (where applicable); and (f) the purpose of the acquisition (e.g. cultural, economic).

2. (a) When was the last occasion that ILC funds were spent on any properties within Tasmania and what were the amounts involved; and (b) what were the total amounts spent on each individual property since the purchase of, or interest was obtained in those individual properties.

3. The 2003-04 annual report of the ILC states that none of the four acquisitions in Tasmania have been divested to Aboriginal ownership; has that changed; if not, why not.

4. Can details be provided of the ILC’s interest in Clarke Island, Tasmania, including the nature and history of that interest.

5. Does the ILC intend to divest its interest in Clarke Island to: (a) the Aboriginal Land Council of Tasmania; if so, when; if not, why not; or (b) another body; if so, which one and why.

6. Have there been any meetings between ILC and internal or external parties in relation to the divestment of ownership of Clarke Island; if so: (a) when and where were these meetings; (b) who attended; and (c) can any related documentation or minutes be provided.

7. Has correspondence from the Aboriginal Land Council of Tasmania in relation to the divestment of ownership of Clarke Island been received by the ILC; if so, how has the ILC responded.

8. Has the ILC changed its divestment policy from one of centralising ownership to organisational ownership; if so, why.

9. Was there consultation with any Indigenous communities on making this change; if so, can a list be provided indicating which Indigenous communities or bodies were consulted and the period of consultation.

10. What body is currently responsible, legally and financially, for the land management and maintenance of facilities on Clarke Island; if it is the ILC, what steps has it taken to fulfil that responsibility.

11. Are there safety issues on Clarke Island that arise because of a lack of maintenance of the wharf and/or wharf access.

12. What is the usable level of Clarke Island’s infrastructure and the Occupational Health Standards of the living quarters (i.e. electrical wiring and vermin proofing of cupboards etc).

13. Can details be provided of the ILC’s interest in Trefoil Island, Tasmania, including information on when that interest began and what it entails.
Senator Vanstone—The answer to the honourable senator’s question is as follows:

(1) ILC acquisitions in Tasmania:

<table>
<thead>
<tr>
<th>Property and Location (south of Hobart)</th>
<th>Date acquired</th>
<th>Nature and Duration of Interest</th>
<th>Proprietor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Murrayfield, Bruny Island</td>
<td>Purchased, October 2001</td>
<td>Mixed parcels but principally freehold</td>
<td>ILC</td>
</tr>
<tr>
<td>Modder River, Cape Barren Island, Furneaux group, Bass Strait</td>
<td>Purchased, April 1997</td>
<td>Various parcels but principally freehold</td>
<td>3 year lease in favour of Cape Barron Island Aboriginal Association Inc.</td>
</tr>
<tr>
<td>Thule, Flinders Island, Furneaux group, Bass Strait</td>
<td>Purchased, March 1999</td>
<td>Freehold</td>
<td>Flinders Island Aboriginal Association Inc (transfer not yet registered)</td>
</tr>
<tr>
<td>Clarke Island, Furneaux group, Bass Strait</td>
<td>Purchased, October 1997</td>
<td>Leasehold (Lease commenced 1 April 1996 for 21 years)</td>
<td>ILC – Leasehold ALCT - Freehold</td>
</tr>
<tr>
<td>Trefoil Island</td>
<td>Acquired upon ATSIC abolition, May 2005</td>
<td>Freehold</td>
<td>ILC – Freehold Yearly licence in favour of V. Stenhouse</td>
</tr>
</tbody>
</table>

(f) The properties in Tasmania were purchased before the introduction of the National Indigenous Land Strategy 2001 – 2006 that requires applicants to identify a program stream (i.e. Cultural, Economic, Environmental or Social). Properties acquired during this time were purchased due to their traditional, historical or contemporary cultural significance.

(2) (a) July 2005, Modder River $13,888.

The ILC currently operates a sheep enterprise on Murrayfield, thus spending on that property is on-going.

(b) Murrayfield, Net Spending $542,286

Modder River, Net spending $132,730

Thule, Net spending $241,735

Clarke Island, Net spending $233,659

(3) As of 30 November 2005, no A Deed of Grant has been signed and a transfer form lodged at the Land Titles Office to effect divestment of Thule. The transfer is awaiting registration. The ILC Board has resolved to surrender its leasehold interest over Clarke Island since the recent decision by the Tasmanian Government to grant the freehold interest of the property to the Aboriginal Land Council of Tasmania (ALCT). The other two ILC purchased properties, Murrayfield and Modder River, are in the capacity building and assessment stage. In relation to the Aboriginal and Torres Strait Islander Commission (ATSIC) inherited property, Trefoil Island, the ILC will undertake consultations to determine an appropriate title-holding body that can demonstrate capacity to derive benefits from the property.

(4) The ILC acquired a leasehold interest in October 1997. The lease was a grant from the Crown made on 1 April, 1996 for 21 years. State legislative impediments prevented the ILC from divesting the land to the ALCT (see answer to part (7)). Pending resolution of this issue, the ILC consistently attempted to enter into an agreement in relation to the property, such as a sub-lease or licence agreement, with the ALCT. The ALCT has avoided entering such an agreement with the ILC, but has occupied the property without the ILC’s authority. Recently, the freehold estate in this property has been vested in the ALCT by the Tasmanian Government, in effect providing the outcome always intended by the ILC.
(5) (a) No. The ILC intends to surrender its leasehold interest now that the freehold title has passed to the ALCT.
(b) Not applicable.

(6) (a) No meetings have been held in the last two years, although there have been exchanges of correspondence between the ILC and the ALCT about the property. Previously, numerous meetings had occurred in relation to regularising the ALCT’s tenure and the promised legislative amendments (see answer to part (7)).
(b) Not applicable.
(c) Not applicable.

(7) The ILC has had continuous dealings with the ALCT, from approximately 1996, about a broad range of land-related matters in Tasmania, not particularly the divestment of Clarke Island. The ILC received legal advice that until the Aboriginal Lands Act 1995 (Tas) was amended the ILC could not effect divestment of land to the ALCT, an opinion disputed by the ALCT. For many years, the ILC was assured by representatives of the Tasmanian Government that the required amendments were ‘imminent’. However, they were not passed until 2005. Given that the ALCT is now also the freehold owner of Clarke Island, the ILC Board has approved the surrender of the lease to the ALCT.

(8) No. The ILC has never had a policy of “centralising ownership.” Under section 191D of the Aboriginal and Torres Strait Islander Act 2005 (“the Act”), the ILC may only acquire interests in land for the purpose of making grants to Aboriginal and Torres Strait Islander corporations. The ILC undertook a range of consultations with the Tasmanian Aboriginal community in relation to land needs in 1996-97, and came to the view that the majority, though not all, of the community supported the ILC divesting any land it acquired to the ALCT. After finding that this was not possible, the ILC Board made a decision in June 1998 that the ILC would:
- seek amendments to Aboriginal Lands Act 1995 (Tasmania) in order to provide the ALCT with an express power to acquire and hold lands other than ‘Aboriginal lands’ as defined in that Act;
- request the Tasmanian Government to schedule land known as Modder River and Clarke Island to the Act; and
- if this was achieved to the satisfaction of the ILC, land acquired by the ILC in Tasmania would be granted to the ALCT.

This decision was made in the context of the ILC’s first National Indigenous Land Strategy which stated that, where possible, the ILC would aim to ensure that traditional owners (or people with traditional links to the land) became the titleholders of ILC purchased properties. The National Indigenous Land Strategy 2001-2006, which was introduced in October 2002, states that where the ILC acquires land for its cultural significance, the ILC aims to ensure that traditional owners (or people with traditional links to the land) make up the membership of the title holding corporation. In most other cases, properties are divested to the same group who made the application that the ILC acquire the property. In accordance with the new National Indigenous Land Strategy, the ILC Board rescinded its decision of June 1998 in May 2003, indicating that the ILC would divest land to any appropriate Aboriginal corporation in Tasmania, including the ALCT.

(9) Not applicable. The ILC did not change from a divestment policy of “of centralising ownership to organisational ownership”. See answer to part (8).

(10) The ALCT occupies the property. The ILC has consistently offered to formalise the ALCT’s occupation through the grant of a licence or a sub-lease. The ALCT has rejected this offer. In these circumstances, responsibility for land management and maintenance of facilities is unclear. It is likely that the physical occupation of the land by the ALCT is pursuant to a permissive tenancy. Accord-
ingly, the ILC considers land management and maintenance are the primary responsibility of the ALCT as the permissive tenant.

(11) The ILC is aware of some infrastructure issues to be addressed and has offered to address them when the permissive tenancy of the ALCT is regularised and a land management application is submitted.

(12) See answer to part (11).

(13) The ILC’s freehold interest in Trefoil Island was acquired on March 2005 by the relevant vesting provisions of the Aboriginal and Torres Strait Islander Commission Amendment Act 2005, and the associated Ministerial Direction. The ILC has regularised the present occupation of the land through the grant of a licence to conduct an existing mutton bird business.

Australian Customs Service: Internal Report
(Question No. 1383)

Senator Ludwig asked the Minister for Justice and Customs, upon notice, on 24 November 2005:

With reference to the internal Australian Customs Service report, which was the impetus for the Wheeler Review of Airport Security:

(1) (a) When did work on the report commence and conclude; and (b) who (or what committee) wrote the report.

(2) Can a list be provided (in chronological order as in (b) below), of (a) the name and rank of each person to whom a copy of the report was provided; (b) the data it was provided to that person; (c) who provided it; (d) any action taken by that person in relation to the report; (e) when that action was taken; (f) if that person passed a copy of the report onto any other person or committee and to which committee or person it was passed; (g) when that action was taken; (h) if that person passed a copy of the report to any other government agency; and (i) why the person was provided with a copy of the report.

(3) Was a decision made not to release the report to the public; if so: (a) when was that decision made; (b) who made the decision; and (c) what were the reasons for the decision.

Senator Ellison—The answer to the honourable senator’s question is as follows:

(1) (a) The report was commenced in about October 2003 and concluded by January 2004

(b) The report was produced by two officers (Customs Level 1 and Customs Level 2) in the Air Border Security (ABS) team at Sydney Airport.

(2) Prior to its unauthorised release in May 2005 the report was only available to the Director Passengers (NSW), Manager Passenger Enforcement (NSW), the ABS Supervisor and the airport intelligence unit. The contents were discussed with local counterparts of other government agencies, but the report was not provided outside the airport environment. The report was subsequently used to brief future ABS staff and to inform further risk assessment activity in the ABS environment at Sydney Airport.

(3) The report is a classified document and intended for internal use only.

Mr Michael Cahill
(Question No. 1384)

Senator Ludwig ask the Minister for Justice and Customs, upon notice, on 24 November 2005:

With reference to the case of Mr Michael Cahill, who went missing in Thailand in 1995 and is currently the subject of an investigation by the Queensland coroner:
(1) What information was provided by the Australian Federal Police (AFP) to the Queensland coroner investigating Mr Cahill’s death?

(2) (a) What information was requested by the coroner but not provided; (b) why was it not provided; (c) what reason was given to the coroner as to why it was not provided; and (d) will it be provided.

(3) Was there a formal report completed on the disappearance of Mr Cahill; if not, why not.

(4) Is it standard practice to do a formal report in these situations; if it is standard practice, but one was not done in this case, why not?

(5) If a final report was done in this case, was it provided to the coroner; if not, why not.

(6) With reference to general police investigations of this nature overseas: (a) what is the general procedure in an investigation such as this; (b) what is the role of the AFP in such an investigation; and (c) what information is the AFP responsible for gathering in such an investigation.

Senator Ellison—The answer to the honourable senator’s question is as follows:

(1) The AFP hosts and provides staff for Interpol’s National Central Bureau (NCB) in Canberra. All documents in relation to the Cahill matter held on the Interpol National Central Bureau (NCB) file in Canberra, with the exception of Department of Foreign Affairs and Trade (DFAT) cables, were provided to the Queensland State Coroner.

(2) (a) The Coroner requested a “copy of the AFP investigation file in relation to the disappearance of Michael Desmond Cahill”. The AFP does not hold a file in relation to this matter. All information/documents contained on the Interpol NCB file were provided to the Coroner with the exception of the DFAT cables.

(b) DFAT documents were not provided as the AFP has no authority to release these documents.

(c) The Coroner’s Office was advised that the AFP did not have the authority to release the DFAT documents. The Coroners Office was advised to contact DFAT Consular Operations Branch for release of the documents.

(d) The release of the cables is a matter for DFAT.

(3) No formal report was completed by Interpol NCB in Canberra or the AFP. On 19 August 1998 the AFP 24 hour response number was contacted by Mrs Cahill. Mrs Cahill advised that she was referred to the AFP by DFAT and wished to report her husband missing in Kuala Lumpur. Mr Cahill’s details were obtained and then passed to NCB Canberra. NCB Canberra forwarded Mr Cahill's details to NCB Kuala Lumpur for action in accordance with Interpol protocols. Mr Cahill’s details were also passed to the Australian Bureau of Criminal Intelligence (ABCI) National Missing Persons Unit. An Interpol International Yellow Notice was issued in relation to Mr Cahill in 2000.

(4) The investigation into missing persons is the responsibility of State and Territory police services. No formal report was prepared by the AFP or Interpol.

(5) Refer to answer 4.

(6) (a) Where the AFP and/or Interpol NCB Canberra receive a request for assistance in relation to Australians Missing Overseas the reporting person is advised to lodge a missing person’s report with their local State/Territory police. Where an Australian is reported missing overseas to State and Territory police the missing persons report is forwarded to Interpol NCB Canberra by the relevant jurisdiction to facilitate conducting enquiries in relevant overseas jurisdiction.

(b) The AFP is not responsible and does not investigate Australians missing overseas, however on occasions assists other agencies where necessary. Interpol NCB Canberra facilitates the exchange of information and requests for information between State/Territory Police Missing Persons Units and Interpol NCBs in foreign jurisdictions.

(c) Refer to answer 6 (b).
Armoured Vehicles  
(Question No. 1385)

Senator Ludwig asked the Minister representing the Attorney-General, upon notice, on 24 November 2005:

With reference to the purchase of a new fleet of armoured vehicles to protect dignitaries:

(1) (a) Was there a tender for the contract; if so, was the tender open, select, or direct sourcing; if not, why not; and (b) to whom was the contract awarded.

(2) If the tender was select: (a) why; (b) who was invited to tender and how were these organisations chosen; (c) how many tenders were received; and (d) which organisations submitted a tender.

(3) If the tender was open: (a) was it advertised; if so, where; if not, why not; (b) what was the cost of the advertisement of the tender; (c) how many tenders were received; and (d) which organisations submitted a tender.

(4) If the tender was direct-sourced: (a) why; (b) who was offered the tender, and how were they chosen; and (c) were other options of tendering considered; if so, which ones and why were they rejected; if not, why not.

(5) What is the cost of the tender contract.

(6) Has the organisation that was awarded the contract been awarded any contracts by the Australian Federal Police previously; if so, what contracts and when.

(7) What is the cost per vehicle.

(8) How many vehicles have been ordered.

(9) How many vehicles have been delivered.

(10) What is the time frame for the delivery of the remaining vehicles.

(11) How many vehicles in total will be purchased under this program.

(12) Of the vehicles that have been delivered: (a) when were they delivered; (b) how many are currently operational; and (c) how many are currently undergoing repairs, and what is the total cost of the repairs on the vehicles to date.

(13) Of the vehicles that have undergone repairs: (a) how long has each car been non-operational due to the repairs; and (b) what is the nature of the repairs and the cause of the fault requiring repair.

(14) (a) How many accidents have involved the armoured vehicles; (b) can details be provided of all accidents in which the vehicles have been involved; (c) how many accidents have rendered the vehicle non-operational; and (d) how many accidents have been the fault of the person in operation of the armoured vehicle.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) (a) The tender was via a select process and consistent with the then extant Commonwealth Procurement Guidelines. (b) The contract was awarded to Tenix Defence Pty Ltd.

(2) (a) The security requirements of elements of the Request For Tender and Draft Contract meant that the most appropriate way to canvas the select security marketplace was via a select tender. (b) Tenix Defence Pty Ltd, XTEK Pty Ltd, ADI Ltd and Neil McLean Automotives were asked to tender as the result of a consultation process with various individuals, agencies, national and international industries and foreign governments. (c) Two. (d) Tenix Defence Pty Ltd and XTEK Pty Ltd.

(3) (a) to (d) The tender was not open.

(4) (a) to (d) The tender was not direct-sourced.
(5) Contract value was $3,875,864.
(6) The AFP does not have any formal contracts with Tenix Defence Pty Ltd. However, payments totalling $308,803 (for the period 1999-2005) have been made by the AFP to Tenix Defence Pty Ltd for the maintenance of speakeasy phones. This is in line with DSD requirements (Chapter 10 of DSD’s ASC159(D)) that Tenix Defence Pty Ltd is the only company permitted to provide maintenance for this type of equipment.
(7) Details of contract pricing are classified.
(8) Ten vehicles were ordered
(9) Ten vehicles have been delivered.
(10) Not applicable.
(11) Ten vehicles were purchased under this program.
(12) (a) Vehicles were delivered over the period March to October 2005. (b) Operational fleet numbers are classified. (c) One vehicle is currently undergoing repairs which are covered by warranty.
(13) (a) Cars subject to repair have been non-operational from one to 21 days. (b) The nature of the repairs and cause of the repairs have included a faulty suspension bearing (warranty repair by Holden) and minor body panel damage (warranty repair by contractor).
(14) (a) to (d) None.

Cargo Management Re-engineering Project
(Question No. 1386)

Senator Ludwig asked the Minister for Justice and Customs, upon notice, on 24 November 2005:
What was the total cost of Cargo Management Reengineering as at 30 June 2004 and as at 12 October 2005.

Senator Ellison—The answer to the honourable senator’s question is as follows:
As at 30 June 2004, total cost of CMR was $149.5m. As at 12 October 20051, total cost associated with the development and implementation of CMR was $196.5m.

1 Costs represent the period ending 31 October 2005.

Air and Sea Cargo
(Question No. 1388)

Senator Ludwig asked the Minister for Justice and Customs, upon notice, on 24 November 2005:
With reference to the Australian Customs Service (ACS):
(1) What are the key performance indicators (relating to time taken to clear cargo) for air and sea cargo clearance.
(2) How many air cargo units are cleared within: (a) 2 hours; and (b) 24 hours.
(3) Does ACS have the capacity to measure the time it takes to clear air and sea cargo; if not, why not.

Senator Ellison—The answer to the honourable senator’s question is as follows:
(1) Customs’ Portfolio Budget Statements and Annual Reports indicate that the performance indicator for achievement of cargo facilitation is that 97% of electronically lodged import declarations are granted an authority to deal and that authority is transmitted within 15 minutes of the finalisation of details and receipt of payment.

QUESTIONS ON NOTICE
‘Finalisation of details’ includes:
- the impending arrival report being lodged with Customs for the aircraft or vessel on which the cargo is carried;
- all imported cargo being reported to Customs;
- the details of that cargo being submitted on either an import declaration or self-assessed clearance declaration by the importer or agent; and
- border and revenue protection risk assessment and/or examination being completed by Customs and other regulatory agencies (such as the Australian Quarantine and Inspection Service).

Whether under the Integrated Cargo System or under Customs’ legacy information technology systems (Air Cargo Automation, Sea Cargo Automation), Customs’ cargo report screening period is 2 hours for air cargo and 24 hours for sea cargo.

‘Receipt of payment’ means, usually after the cargo reports have been screened and cleared by Customs and/or the cargo has been moved to a place of deconsolidation and then cleared, payment by the importer or agent of any Customs duty, Goods and Services Tax (paid or deferred), Luxury Car Tax, Wine Equalisation Tax, and cost recovery charges.

(2) Because cargo clearance is dependent on several parts of industry and the community (for example – shipping and airlines, freight forwarders and other cargo reporters, stevedores and cargo terminal operators, depot and warehouse operators, importers and/or their agents such as Customs brokers), as well as Customs and other regulatory agencies, such statistics are not maintained by Customs.

(3) See the answer to question (1) above.

**Australian Customs Service: Mainframe Capacity Review**

*(Question No. 1389)*

Senator Ludwig ask the Minister for Justice and Customs upon notice, on 24 November 2005:

(1) For the years 2003 to 2005: (a) how many mainframe capacity review (MCR) reports have been completed; and (b) can a copy be provided of each completed MCR.

(2) With reference to the Integrated Cargo System (ICS) Import System, can ACS indicate what performance specifications and performance statistics were produced (by ACS or a third party working on behalf of ACS) for the month prior to 12 October 2005 relating to: (a) the capacity of the mainframe computer; and (b) the capacity of other computer systems.

(3) Did ACS (or a third party working on behalf of ACS) produce any graphs or statistics relating to the aforementioned capacity; if so, can copies be provided.

(4) Can ACS indicate whether any reports were produced (by ACS or a third party working on behalf of ACS) in the month prior to 12 October 2005 on the ICS regarding: (a) the capacity of the mainframe computer; (b) the capacity of other computer systems; and (c) if reports were produced, can copies be provided.

(5) Subsequent to 12 October 2005: (a) what upgrades had been performed on the imports side mainframe; (b) on what date were these upgrades performed; (c) was the mainframe offline for any of these upgrades; if so, which ones and for how long; (d) what were the exact components that were upgraded, and what were they upgraded to; (e) were any additional components added; if so, what additional components were added; (f) what was the cost of these upgrades, broken down by each individual upgrade; (g) were these upgrades planned; if so, when were they originally planned and scheduled; and (h) why were these upgrades necessary.
**Senator Ellison**—The answer to the honourable senator’s question is as follows:

1. (a) There have been various reports produced, over the years, related to the capacity of the mainframe, some produced by Customs, and others by organisations contracted to Customs. Although the activity of reviewing the capacity of the mainframe has been conducted on a regular basis, there is no completed report entitled Mainframe Capacity Review, as referred to in the media.

   (b) These reports necessarily contain Customs information technology system configuration details that are security in confidence, and therefore cannot be provided.

2. (a) There were no additional performance specifications produced in the month prior to 12 October 2005. An ICS Mainframe capacity projections sensitivity analysis was provided in September 2005. The analysis provided statistical measurement of the mainframe capacity required to operate the Imports workload, based on Customs testing results.

   (b) There were no additional performance specifications produced in the month prior to 12 October 2005. For other computer systems in Customs many of which are related to the ICS, information related to their performance is routinely collected and monitored.

3. Some hundreds of capacity graphs and statistics have been produced and are included in the reports mentioned in (1) (a). These reports detail Customs information technology system configurations that are security in confidence, and therefore these reports cannot be provided.

4. (a) and (b) and (c) see answers to (1) and (2).

5. (a) In line with the capacity management of the mainframe (including contingency planning), four additional processors that were previously installed but not enabled were activated on 15 October.

   (b) see (5) (a)

   (c) The mainframe was not offline at any time while the processors were enabled.

   (d) Software was updated to allow it to access the four additional processors.

   (e) No additional components were added to the mainframe.

   (f) The cost of enabling the additional processors on 15 October 2005 was $865,266.

   (g) Preparation for enabling of the additional processors was planned in September 2005. The activation of these processors occurred in October 2005.

   (h) The system experienced a higher level of demand than was predicted.