INTERNET
The Journals for the Senate are available at

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

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

SITTING DAYS—2006

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>7, 8, 9, 27, 28</td>
</tr>
<tr>
<td>March</td>
<td>1, 2, 27, 28, 29, 30</td>
</tr>
<tr>
<td>May</td>
<td>9, 10, 11</td>
</tr>
<tr>
<td>June</td>
<td>13, 14, 15, 19, 20, 21, 22</td>
</tr>
<tr>
<td>August</td>
<td>8, 9, 10, 14, 15, 16, 17</td>
</tr>
<tr>
<td>September</td>
<td>4, 5, 6, 7, 11, 12, 13, 14</td>
</tr>
<tr>
<td>October</td>
<td>9, 10, 11, 12, 16, 17, 18, 19</td>
</tr>
<tr>
<td>November</td>
<td>6, 7, 8, 9, 27, 28, 29, 30</td>
</tr>
<tr>
<td>December</td>
<td>4, 5, 6, 7</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Location</th>
<th>Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>CANBERRA</td>
<td>103.9 FM</td>
</tr>
<tr>
<td>SYDNEY</td>
<td>630 AM</td>
</tr>
<tr>
<td>NEWCASTLE</td>
<td>1458 AM</td>
</tr>
<tr>
<td>GOSFORD</td>
<td>98.1 FM</td>
</tr>
<tr>
<td>BRISBANE</td>
<td>936 AM</td>
</tr>
<tr>
<td>GOLD COAST</td>
<td>95.7 FM</td>
</tr>
<tr>
<td>MELBOURNE</td>
<td>1026 AM</td>
</tr>
<tr>
<td>ADELAIDE</td>
<td>972 AM</td>
</tr>
<tr>
<td>PERTH</td>
<td>585 AM</td>
</tr>
<tr>
<td>HOBART</td>
<td>747 AM</td>
</tr>
<tr>
<td>NORTHERN TASMANIA</td>
<td>92.5 FM</td>
</tr>
<tr>
<td>DARWIN</td>
<td>102.5 FM</td>
</tr>
</tbody>
</table>
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
National 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

Printed by authority of the Senate
<table>
<thead>
<tr>
<th>Senator</th>
<th>State or Territory</th>
<th>Term expires</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abetz, Hon. Eric</td>
<td>TAS</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Adams, Judith</td>
<td>WA</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Allison, Lynette Fay</td>
<td>VIC</td>
<td>30.6.2008</td>
<td>AD</td>
</tr>
<tr>
<td>Barnett, Guy</td>
<td>TAS</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Bartlett, Andrew John Julian</td>
<td>QLD</td>
<td>30.6.2008</td>
<td>AD</td>
</tr>
<tr>
<td>Bishop, Thomas Mark</td>
<td>WA</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Boswell, Hon. Ronald Leslie Doyle</td>
<td>QLD</td>
<td>30.6.2008</td>
<td>NATS</td>
</tr>
<tr>
<td>Brandis, George Henry</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Brown, Carol Louise</td>
<td>TAS</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Brown, Robert James</td>
<td>TAS</td>
<td>30.6.2008</td>
<td>AG</td>
</tr>
<tr>
<td>Calvert, Hon. Paul Henry</td>
<td>TAS</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Campbell, George</td>
<td>NSW</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Campbell, Hon. Ian Gordon</td>
<td>WA</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Carr, Kim John</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Chapman, Hedley Grant Pearson</td>
<td>SA</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Colbeck, Hon. Richard Mansell</td>
<td>TAS</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Conroy, Stephen Michael</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Coonan, Hon. Helen Lloyd</td>
<td>NSW</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Crossin, Patricia Margaret (3)</td>
<td>NT</td>
<td></td>
<td>ALP</td>
</tr>
<tr>
<td>Eggleston, Alan</td>
<td>WA</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Ellison, Hon. Christopher Martin</td>
<td>WA</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Evans, Christopher Vaughan</td>
<td>WA</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Faulkner, Hon. John Philip</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Ferguson, Alan Baird</td>
<td>SA</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Ferris, Jeannie Margaret</td>
<td>SA</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Fielding, Steve</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>FF</td>
</tr>
<tr>
<td>Fierravanti-Wells, Concetta Anna</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Fifield, Mitchell Peter (2)</td>
<td>VIC</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Forshaw, Michael George</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Hefferman, Hon. William Daniel</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Hill, Hon. Robert Murray</td>
<td>SA</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Hogg, John Joseph</td>
<td>QLD</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Humphries, Gary John Joseph (3)</td>
<td>ACT</td>
<td></td>
<td>LP</td>
</tr>
<tr>
<td>Hurley, Annette</td>
<td>SA</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Hutchins, Stephen Patrick</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Johnston, David Albert Lloyd</td>
<td>WA</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Joyce, Barnaby</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>NATS</td>
</tr>
<tr>
<td>Kemp, Hon. Charles Roderick</td>
<td>VIC</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Kirk, Linda Jean</td>
<td>SA</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Lightfoot, Philip Ross</td>
<td>WA</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Ludwig, Joseph William</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Lundy, Kate Alexandra (3)</td>
<td>ACT</td>
<td></td>
<td>ALP</td>
</tr>
<tr>
<td>Macdonald, Hon. Ian Douglas</td>
<td>QLD</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Macdonald, John Alexander Lindsay (Sandy)</td>
<td>NSW</td>
<td>30.6.2008</td>
<td>NATS</td>
</tr>
<tr>
<td>McEwen, Anne</td>
<td>SA</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>McGauran, Julian John James</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>McLucas, Jan Elizabeth</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Marshall, Gavin Mark</td>
<td>VIC</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Senator</td>
<td>State or Territory</td>
<td>Term expires</td>
<td>Party</td>
</tr>
<tr>
<td>------------------------------</td>
<td>-------------------</td>
<td>-------------</td>
<td>-------</td>
</tr>
<tr>
<td>Mason, Brett John</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Milne, Christine</td>
<td>TAS</td>
<td>30.6.2011</td>
<td>AG</td>
</tr>
<tr>
<td>Minchin, Hon. Nicholas Hugh</td>
<td>SA</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Moore, Claire Mary</td>
<td>QLD</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Murray, Andrew James Marshall</td>
<td>WA</td>
<td>30.6.2008</td>
<td>AD</td>
</tr>
<tr>
<td>Nash, Fiona</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>NATS</td>
</tr>
<tr>
<td>Nettle, Kerry Michelle</td>
<td>NSW</td>
<td>30.6.2008</td>
<td>AG</td>
</tr>
<tr>
<td>O’Brien, Kerry Williams Kelso</td>
<td>TAS</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Parry, Stephen</td>
<td>TAS</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Patterson, Hon. Kay Christine</td>
<td>VIC</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Payne, Marise Ann</td>
<td>NSW</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Polley, Helen</td>
<td>TAS</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Ray, Hon. Robert Francis</td>
<td>VIC</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Ronaldson, Hon. Michael</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Santoro, Hon. Santo (1)</td>
<td>QLD</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Scullion, Nigel Gregory (3)</td>
<td>NT</td>
<td></td>
<td>CLP</td>
</tr>
<tr>
<td>Sherry, Hon. Nicholas John</td>
<td>TAS</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Siewert, Rachel</td>
<td>WA</td>
<td>30.6.2011</td>
<td>AG</td>
</tr>
<tr>
<td>Stephens, Ursula Mary</td>
<td>NSW</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Sterle, Glenn</td>
<td>WA</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Stott Despoja, Natasha Jessica</td>
<td>SA</td>
<td>30.6.2008</td>
<td>AD</td>
</tr>
<tr>
<td>Troeth, Hon. Judith Mary</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Trood, Russell</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Vanstone, Hon. Amanda Eloise</td>
<td>SA</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Watson, John Odin Wentworth</td>
<td>TAS</td>
<td>30.6.2008</td>
<td>LP</td>
</tr>
<tr>
<td>Webber, Ruth Stephanie</td>
<td>WA</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Wong, Penelope Ying Yen</td>
<td>SA</td>
<td>30.6.2008</td>
<td>ALP</td>
</tr>
<tr>
<td>Wortley, Dana</td>
<td>SA</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
</tbody>
</table>

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

**PARTY ABBREVIATIONS**

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

**Heads of Parliamentary Departments**

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

Prime Minister
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)
**HOWARD MINISTRY—continued**

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

<table>
<thead>
<tr>
<th>Position</th>
<th>Minister</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leader of the Opposition</td>
<td>The Hon. Kim Christian Beazley MP</td>
</tr>
<tr>
<td>Deputy Leader of the Opposition and Shadow</td>
<td>Jennifer Louise Macklin MP</td>
</tr>
<tr>
<td>Minister for Education, Training, Science and Research</td>
<td></td>
</tr>
<tr>
<td>Leader of the Opposition in the Senate, Shadow</td>
<td>Senator Christopher Vaughan Evans</td>
</tr>
<tr>
<td>Minister for Indigenous Affairs and Shadow</td>
<td></td>
</tr>
<tr>
<td>Minister for Family and Community Services</td>
<td></td>
</tr>
<tr>
<td>Deputy Leader of the Opposition in the Senate and Shadow Minister</td>
<td>Senator Stephen Michael Conroy</td>
</tr>
<tr>
<td>for Communications and Information Technology</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Health and Manager of Opposition Business in the House</td>
<td>Julia Eileen Gillard MP</td>
</tr>
<tr>
<td>Shadow Treasurer</td>
<td>Wayne Maxwell Swan MP</td>
</tr>
<tr>
<td>Shadow Attorney-General</td>
<td>Nicola Louise Roxon MP</td>
</tr>
<tr>
<td>Shadow Minister for Industry, Infrastructure and Industrial Relations</td>
<td>Stephen Francis Smith MP</td>
</tr>
<tr>
<td>Shadow Minister for Foreign Affairs and Trade and Shadow Minister</td>
<td>Kevin Michael Rudd MP</td>
</tr>
<tr>
<td>for International Security</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Defence</td>
<td>Robert Bruce McClelland MP</td>
</tr>
<tr>
<td>Shadow Minister for Regional Development</td>
<td>The Hon. Simon Findlay Crean MP</td>
</tr>
<tr>
<td>Shadow Minister for Primary Industries, Resources, Forestry and Tourism</td>
<td>Martin John Ferguson MP</td>
</tr>
<tr>
<td>Shadow Minister for Environment and Heritage, Shadow Minister for Water</td>
<td>Anthony Norman Albanese MP</td>
</tr>
<tr>
<td>and Deputy Manager of Opposition Business in the House</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Housing, Shadow Minister for Urban Development</td>
<td>Senator Kim John Carr</td>
</tr>
<tr>
<td>and Shadow Minister for Local Government and Territories</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Public Accountability and Shadow Minister for Human</td>
<td>Kelvin John Thomson MP</td>
</tr>
<tr>
<td>Services</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Finance</td>
<td>Lindsay James Tanner MP</td>
</tr>
<tr>
<td>Shadow Minister for Superannuation and Intergenerational Finance and</td>
<td>Senator the Hon. Nicholas John Sherry</td>
</tr>
<tr>
<td>Shadow Minister for Banking and Financial Services</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Child Care, Shadow Minister for Youth and Shadow</td>
<td>Tanya Joan Plibersek MP</td>
</tr>
<tr>
<td>Minister for Women</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Employment and Workforce Participation and Shadow</td>
<td>Senator Penelope Ying Yen Wong</td>
</tr>
<tr>
<td>Minister for Corporate Governance and Responsibility</td>
<td></td>
</tr>
</tbody>
</table>

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

**WEDNESDAY, 1 MARCH**

### Chamber

- **Australian Winter Olympic Games Team** ....................................................................... 1
- **Broadcasting Services Amendment (Subscription Television Drama and Community Broadcasting Licences) Bill 2006** —
  - First Reading .................................................................................................................. 1
  - Second Reading ............................................................................................................. 1
- **Offshore Petroleum Bill 2005,**
  - **Offshore Petroleum (Annual Fees) Bill 2005,**
  - **Offshore Petroleum (Registration Fees) Bill 2005,**
  - **Offshore Petroleum (Repeals and Consequential Amendments) Bill 2005,**
  - **Offshore Petroleum (Royalty) Bill 2005,** and
  - **Offshore Petroleum (Safety Levies) Amendment Bill 2005** —
  - In Committee ................................................................................................................... 3
  - Third Reading ................................................................................................................ 16
- **Jurisdiction of the Federal Magistrates Court Legislation Amendment Bill 2005 [2006]** —
  - Second Reading ............................................................................................................. 20
  - In Committee .................................................................................................................. 22
  - Third Reading ................................................................................................................ 26
- **Tax Laws Amendment (2005 Measures No. 6) Bill 2005** —
  - Second Reading ............................................................................................................. 26

### Matters of Public Interest

- **Public Sector Accounting Standards** ........................................................................ 41
- **Sports Betting** ........................................................................................................... 43
- **Melbourne Commonwealth Games** ........................................................................... 43
- **Australian Wheat Board** ........................................................................................... 46
- **Education: History** .................................................................................................... 48
- **Norfolk Island** ........................................................................................................... 50
- **Australian Citizenship** ............................................................................................... 53

### Ministerial Arrangements

- ............................................................................................................................................ 57

### Questions Without Notice

- **Aged Care** ................................................................................................................... 57
- **Economy** ....................................................................................................................... 58
- **Distinguished Visitors** ............................................................................................... 59

### Questions Without Notice

- **Aged Care** ................................................................................................................... 59
- **Family Law** .................................................................................................................. 60
- **Household Savings** .................................................................................................... 61
- **Immigration** ................................................................................................................ 62
- **Oil for Food Program** ................................................................................................. 64
- **Telework** ...................................................................................................................... 64
- **Superannuation Guarantee** ........................................................................................ 65
- **Wheat Exports** ............................................................................................................ 67
- **Australia Post** .............................................................................................................. 68
- **Environment: Conservation of Australian Birds** ....................................................... 69
- **Firearms** ....................................................................................................................... 70
- **Illicit Drugs** ................................................................................................................ 71
<table>
<thead>
<tr>
<th>CONTENTS—continued</th>
</tr>
</thead>
<tbody>
<tr>
<td>Questions Without Notice: Additional Answers—</td>
</tr>
<tr>
<td>Aged Care .......................................................... 72</td>
</tr>
<tr>
<td>Questions Without Notice: Take Note of Answers—</td>
</tr>
<tr>
<td>Household Savings ................................................. 73</td>
</tr>
<tr>
<td>Oil for Food Program ............................................. 78</td>
</tr>
<tr>
<td>Petitions—</td>
</tr>
<tr>
<td>Information Technology: Internet Content ..................... 79</td>
</tr>
<tr>
<td>Health .............................. 79</td>
</tr>
<tr>
<td>Notices—</td>
</tr>
<tr>
<td>Presentation .................................................................. 80</td>
</tr>
<tr>
<td>Committees—</td>
</tr>
<tr>
<td>Selection of Bills Committee—Report .................................. 81</td>
</tr>
<tr>
<td>Leave of Absence ........................................................ 83</td>
</tr>
<tr>
<td>Notices—</td>
</tr>
<tr>
<td>Postponement .................................................................. 83</td>
</tr>
<tr>
<td>Withdrawal ...................................................................... 83</td>
</tr>
<tr>
<td>Committees—</td>
</tr>
<tr>
<td>Mental Health Committee—Extension of Time .......................... 83</td>
</tr>
<tr>
<td>Aged Care .......................................................... 84</td>
</tr>
<tr>
<td>Nuclear Nonproliferation .............................................. 84</td>
</tr>
<tr>
<td>Separation of Church and State ..................................... 85</td>
</tr>
<tr>
<td>Proposed Expansion of the McArthur River Mine .................... 86</td>
</tr>
<tr>
<td>Young People and Tobacco ............................................ 86</td>
</tr>
<tr>
<td>Matters of Public Importance—</td>
</tr>
<tr>
<td>Aged Care .......................................................... 87</td>
</tr>
<tr>
<td>Committees—</td>
</tr>
<tr>
<td>Scrutiny of Bills Committee—Report .................................. 102</td>
</tr>
<tr>
<td>Budget—</td>
</tr>
<tr>
<td>Consideration by Legislation Committee—Additional Information ................................................. 102</td>
</tr>
<tr>
<td>Committees—</td>
</tr>
<tr>
<td>Finance and Public Administration References Committee—Additional Information .............................. 102</td>
</tr>
<tr>
<td>Auditor-General’s Reports—</td>
</tr>
<tr>
<td>Report No. 31 of 2005-06 .............................................. 103</td>
</tr>
<tr>
<td>Environment Groups: Deductible Status—</td>
</tr>
<tr>
<td>Return to Order .......................................................... 105</td>
</tr>
<tr>
<td>Committees—</td>
</tr>
<tr>
<td>Community Affairs Legislation Committee—Membership ................. 110</td>
</tr>
<tr>
<td>Ministers of State Amendment Bill 2005, and</td>
</tr>
<tr>
<td>Telecommunications (Interception) Amendment Bill 2006—</td>
</tr>
<tr>
<td>First Reading .......................................................... 110</td>
</tr>
<tr>
<td>Second Reading .......................................................... 110</td>
</tr>
<tr>
<td>Committees—</td>
</tr>
<tr>
<td>Membership ............................................................... 113</td>
</tr>
<tr>
<td>Tax Laws Amendment (2005 Measures No. 6) Bill 2005—</td>
</tr>
<tr>
<td>Third Reading .......................................................... 113</td>
</tr>
<tr>
<td>Financial Framework Legislation Amendment Bill (No. 2) 2005—</td>
</tr>
<tr>
<td>Second Reading .......................................................... 113</td>
</tr>
<tr>
<td>In Committee .............................................................. 123</td>
</tr>
</tbody>
</table>
## CONTENTS—continued

### Documents—
- Commonwealth Grants Commission ................................................................. 127
- Australian Political Exchange Council ................................................................. 128
- Department of Immigration and Multicultural Affairs .......................................... 128
- Consideration ....................................................................................................... 129

### Adjournment—
- Petrol Sniffing .................................................................................................... 130
- Migrant Workers ................................................................................................. 132
- Howard Government ............................................................................................ 134
- Cultural and Religious Tolerance in Australia ...................................................... 136
- Ash Wednesday .................................................................................................... 138

### Documents—
- Tabling ................................................................................................................ 139
- Departmental and Agency Contracts ................................................................. 139

### Questions on Notice
- Prime Minister and Cabinet: Consultants—(Question No. 585) ......................... 140
- Prime Minister: Sponsored Travel—(Question No. 868) .................................. 141
- Prime Minister and Cabinet: Grants—(Question No. 982) .............................. 141
- Superannuation Advertising Campaign—(Question No. 1101) ....................... 142
- Superannuation—(Question No. 1265) .............................................................. 143
- Self Managed Superannuation Funds—(Question No. 1266) ......................... 144
Wednesday, 1 March 2006

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

AUSTRALIAN WINTER OLYMPIC GAMES TEAM

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.31 am)—At the request of Senator Kemp and Senator Lundy, I move:
That the Senate—
(a) congratulates the Australian Olympic Team for achieving an outstanding result at the Winter Olympics in Torino;
(b) particularly congratulates medal winners Dale Begg-Smith and Alisa Camplin in helping the Australian team achieve its second best result at the Winter Olympics;
(c) congratulates the Olympic Winter Institute and the Australian Institute of Sport on their key contributions to the preparation of the Australian Winter Olympic team; and
(d) acknowledges the important contribution of the Australian Sports Commission to the preparation of the team.

Question agreed to.

BROADCASTING SERVICES AMENDMENT (SUBSCRIPTION TELEVISION DRAMA AND COMMUNITY BROADCASTING LICENCES) BILL 2006

First Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.31 am)—I move:
That the following bill be introduced: a Bill for an Act to amend the Broadcasting Services Act 1992, and for other purposes.

Question agreed to.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.31 am)—I move:
That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.32 am)—I table the explanatory memorandum relating to the bill and move:
That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

The Broadcasting Services Amendment (Subscription Television Drama and Community Broadcasting Licences) Bill 2006 amends the Broadcasting Services Act 1992 (the BSA) to increase flexibility in the operation of the 10 per cent requirement for new spending on drama on subscription television.

The bill also amends the BSA to give the Australian Communications and Media Authority (ACMA) a discretion to allow the transfer of a community broadcasting licence to another person which represents the same community interest. This is intended to deal with changes of corporate arrangements by licensees.

Subscription Television Drama

On 29 December 2005 the Government announced changes to the 10 per cent requirement for new spending on drama on subscription television. With these changes the Government has reaffirmed its commitment to the new eligible drama expenditure requirement.

Currently, subscription television broadcasting licensees who broadcast channels predominantly devoted to drama programs, and their program providers, are required to spend at least 10 per cent of their drama program expenditure each year on new Australian drama.
The requirement continues to ensure that the subscription television industry contributes to the production of high quality local drama. It also ensures the promotion of high quality and innovative programs by providers of broadcasting services.

This remains an important policy objective for the Government. It reflects the role of drama in shaping a sense of ‘Australian identity, character and cultural diversity’, which is one of the objectives of the BSA.

The new eligible drama expenditure requirement commenced on 1 July 1999. It has annually delivered $15-$20 million in funding support to a variety of Australian productions, ranging from multi-award winning feature films such as Somersault to television series such as Love My Way.

A review of Australian and New Zealand content on subscription television broadcasting services has been conducted, as required by the BSA. The report of the Review, which was tabled in Parliament on 16 March 2005, found that the 10 per cent new eligible drama expenditure requirement remains an appropriate measure.

The Review also found that the requirement is highly valued by the production industry and underpins a wide range of drama projects for theatrical, subscription and free-to-air television release.

Whilst the requirement is considered successful in meeting its objectives, the Review recommended some changes to ensure its continued effectiveness. The Government has therefore drafted this bill to reflect these recommendations and ensure the ongoing success of the requirement.

Currently there is a disincentive for licensees to spend more than the 10 per cent requirement for new drama production in one financial year. The then Australian Broadcasting Authority (ABA) found that the inability to carry forward expenditure from one year to the next has previously resulted in decisions not to finance new programs that would have otherwise met the new eligible drama requirement.

The Government has therefore introduced this bill to amend the BSA to allow spending in excess of the 10 per cent requirement to be carried over into the following financial year. This will provide the subscription broadcasting industry with increased flexibility in its investment decisions, and will encourage a higher level of investment in quality local drama productions.

The bill provides for more flexible arrangements for the treatment of pre-production expenditure on script development. This will encourage greater investment in script development, and encourage licensees to become more involved in the earlier stages of drama production in Australia.

In addition, the bill seeks to amend the definition of ‘drama program’ for the purposes of subscription broadcasting expenditure scheme, to make it consistent with the definition of ‘Australian drama program’ within the Australian Content Standard that applies to free-to-air television broadcasters.

Expenditure consistent with the proposed changes incurred after 1 January 2006 will be able to be treated as new eligible expenditure. This will provide the industry with some certainty in relation to proposed investment in Australian drama, allowing investment decisions to be implemented ahead of the legislative process.

A further review of the new eligible drama expenditure requirement will take place in 2008 to take account of the changes occurring in the subscription television sector.

**Transfer of Community Broadcasting Licences**

Part 6 of the BSA provides for the allocation of community broadcasting licences by ACMA. Part 6 currently contains no provision for the transfer of a community broadcasting licence. This can lead to difficulties when a licensee changes its corporate identity, or ceases to exist, leaving ACMA with little alternative but to seek the surrender of the licence and conduct a new allocation process. Such situations have arisen in relation to changes in the corporate arrangements of governing councils of remote Indigenous communities, and arrangements for Radio for the Print Handicapped services.

The bill amends the BSA to allow ACMA to approve the transfer of community broadcasting licences where there is a change of corporate identity. Provided that the new licensee continues to represent the community of interest that the
licensee represented either at allocation or most recent renewal (whichever is the later).

Any decision to refuse to approve a transfer will be reviewable by the Administrative Appeals Tribunal.

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

OFFSHORE PETROLEUM BILL 2005
OFFSHORE PETROLEUM (ANNUAL FEES) BILL 2005
OFFSHORE PETROLEUM (REGISTRATION FEES) BILL 2005
OFFSHORE PETROLEUM (REPEALS AND CONSEQUENTIAL AMENDMENTS) BILL 2005
OFFSHORE PETROLEUM (ROYALTY) BILL 2005
OFFSHORE PETROLEUM (SAFETY LEVIES) AMENDMENT BILL 2005

In Committee

Consideration resumed from 28 February.

Senator MILNE (Tasmania) (9.32 am)—

Last night I was speaking about the Greens’ series of amendments, amendments (1) to (7), to the Offshore Petroleum Bill 2005. These amendments essentially incorporate an object of the bill—that object being to ensure that offshore activities relating to petroleum exploration, recovery, storage and transport are carried out in a way that is consistent with the principles of ecologically sustainable development. The amendments then go on to incorporate those principles of ecologically sustainable development into the act. The amendments also require that activities comply with the environmental plan, with penalty units for failing to do so.

Finally, the amendments also require that an operation must not continue when a new environmental risk is identified. In other words, a person carrying out a petroleum activity for which there is an approved environmental plan must not carry out the activity after the identification of any significant new environmental effect or risk, or a significant increase in an existing environmental effect or risk arising from the activity, unless a new or increased effect or risk is provided for in the environmental plan.

As I was indicating last night, the reasons for these amendments include, firstly, that there is no object to this act. Ecologically sustainable development is incorporated into the regulations which underpin the act, but there is no actual object for the act. I think it is entirely reasonable that we incorporate ecologically sustainable development as an object of the act. I would like Senator Colbeck to respond as to why a 600-page act has no object and what the government’s response is to incorporating ESD into the act.

Secondly, this legislation refers only to the resources of the sea and the seabed. I would like to ask Senator Colbeck whether, for example, whales are covered in a definition of ‘resources of the sea and the seabed’ and I would specifically like to know why there is not a broader reference to the marine environment.

Finally, the issue that is incorporated in the final amendment—that is, operations not being able to continue where a new environmental risk is identified—is a way of incorporating the precautionary principle into this act. The reason we need the precautionary principle in this act is that this act is being brought in as a single-user use. It is not in the context of regional marine planning and it is not in the context of broader use activities. Therefore, we have to have a mechanism to be able to stop these activities if later science reveals that a disaster is being caused.
We also need the precautionary principle because of the presumption of the act that all ocean and sea areas are available for offshore petroleum activities—seismic surveys, drilling, construction of installations, pipelines and so on. The presumption under this act is that everywhere offshore is available to the petroleum industry and associated industries and, as I said yesterday, that they even be given tax exemptions for going into frontier areas. So the presumption is that the whole ocean is available to the offshore petroleum industry. By having these reports every year, industry will be virtually invited to go out and explore and to get tax breaks for exploring. As I said yesterday, I would like Senator Colbeck to indicate whether companies can get 26 years worth of virtual sovereignty over a particular area and, if it is not 26, exactly how many years a company can put down its claim over a particular area of ocean. Further, we need this amendment to the act to prevent those companies seeking compensation if they are not able to proceed.

We have already had this in Tasmania, where resource security legislation was brought in to transfer a public good—the Tasmanian forests—to private corporations. Now, if the community want to save their own forests, they have to compensate the companies for not logging them. It is the most outrageous presumption in that legislation, and it is precisely the same presumption in this legislation: that the global commons—the oceans and seas—are a free good over which oil companies can be given licences or permits and tax breaks to assist them. The assumption is then that there is no way to get those back—for example, if they have an environmental plan when there is no requirement by the designated authority when assessing environmental plans to consider ecologically sustainable development.

So we have to have some way to claw this back on the basis of the future. You might say that that is not necessary, but the fact that it is necessary is demonstrated by you coming in here with legislation which is underpinned by principles 40 years old and no attempt whatsoever has been made to update the principles or assumptions of the act to take into account its context in regional marine planning. I would like some specific responses to those issues.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (9.39 am)—The first point that Senator Milne raised last night related to a requirement for an object clause. There is no legal responsibility or necessity for an object clause, but where there is one it does have an influence on the interpretation of the act and the exercise of discretionary powers under the act. For that reason, it is not possible to include an object clause that represents only one aspect of the purposes for which the act was enacted. Ecological sustainability is not the only purpose for which the Offshore Petroleum Bill 2005 is being enacted. If the proposed object were included, it would be necessary to include a number of other equally important objects that would provide a balanced representation of the purposes for which the Offshore Petroleum Bill is being enacted. It is because of that these matters are being dealt with by way of regulations.

In relation to the times available to the industry for offshore petroleum titles, there are a range of classifications. I will go through those for you. The exploration permit provides title to an area for the purposes of exploring for petroleum. The initial term is six years, and it can be renewed for a further two terms, each of five years, for a total of 16 years. A retention lease provides title to an area covering a petroleum discovery that is considered by the government to be not currently commercial but likely to become so within the next 15 years. The initial term is
five years, and that can be renewed for further terms of five years. There is no limit on the number of renewals, but at the time each renewal application is being considered the commerciality test is applied—that is, the field is not currently commercial but is likely to become commercial over the next 15 years. Then we have the production licence, which provides for the commercial extraction of petroleum. Once granted, production must commence within five years, and then the licence continues in effect indefinitely so long as the field is in production, plus a period of five years.

Prior to the release of an area, and at the time of each renewal application, there are consultations with Commonwealth and state agencies representing stakeholder interests to ascertain other rights and interests in the area. In addition, any work activities planned in a permit or a lease require specific approval, and this process also takes into account the rights and interests of others. An approved environmental plan is a prerequisite for obtaining approval to conduct any work activity. Furthermore, under the EPBC Act there is an obligation on titleholders to refer matters that are likely to affect a matter of national environmental significance.

Senator MILNE (Tasmania) (9.42 am)—There were a number of other issues, which I will get back to in a minute, but what Senator Colbeck has just said confirms what I said last night. The exploration permit lasts six years, renewable for another five years and then with the option for another five after that, for a total of 16 years. There is an option for a retention lease after that, which it seems can go on with no limit to the renewals. And then there is a production licence that goes for five years and then on ad infinitum into the future. So I was probably being conservative by saying that companies can have a commercial interest in an area for up to 26 years before production occurs. If there is no limit to the number of times they can have their retention leases renewed, it will be in excess of that, and those companies will then argue property rights. So I ask Senator Colbeck: if an oil or gas company exercises these rights over a frontier resource area identified by the Department of Industry, Tourism and Resources, goes out, gets a tax break and gets a permit for that area for 26 years or longer and, in the course of those 26 years, community attitudes change or a significant new environmental effect or risk is identified that is not currently provided for in the environment plan—one or other, but let us assume the latter—what can the community do about getting that permit or lease back from the oil company?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (9.44 am)—Senator Milne missed one key point that I put on the record as part of my presentation previously, and that is that, after each five years, there has to be a process where justification for continuing occurs. Through that process, there is the capacity for dealing with new issues that have arisen during the previous five years.

Senator MILNE (Tasmania) (9.44 am)—Senator Colbeck needs to explain specifically what that process is in terms of new environmental risks or concerns. My understanding is that the issue that is looked at is whether it is economically viable in the current circumstances. I want to know specifically how my scenario plays out. Let us assume that an oil company gets a lease over one of these frontier areas and, in the course of that five, 10 or 16 years, a new environmental risk is identified that is not covered in the environmental plan, and that retention lease comes up for reassessment. Can the community then terminate the permit on the basis of that environmental risk without paying compensation to the oil company, which
at this point has done nothing because it has not been commercially viable to do so?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (9.45 am)—As I said before, any work activities planned in a permit or lease require specific approval. At the commencement of each process there is a requirement for justification of continuation of the lease. So any work activities, as I have said a couple of times, planned in a permit or lease area require specific approval. This process also takes into account the rights and interests of others. An approved environmental plan is a prerequisite for obtaining approval to conduct any work activity.

Senator MILNE (Tasmania) (9.46 am)—I understand that, Senator Colbeck. What I am asking is: what is that process? You say it takes it into account. From my reading of the legislation, there is only one person involved—that is, the joint authority. There is no collaborative decision making or involvement with anyone with expertise in ecology. In fact, the designated authority alone makes a decision on a permit or licence. I want to know whether the environment department can come in and veto a further expansion of the retention licence and, if they can, what the situation is as far as compensation goes. I want a specific answer to that question.

I also want to return to the issue of the object of the bill. Senator Colbeck’s excuse for there being no object is that the object of a bill allows for the specific interpretation of the act and that, if a specific interpretation of the act is that it complies with ecologically sustainable development, you would need other objects of the act—the senator said a ‘balanced’ interpretation—other things that are equally important. There is no balance as it currently stands because the environment is not mentioned at all. So the assumptions in this bill are that oil companies are free to put in their pipelines, to drill, to mine and to put in their seismic testing and so on. There is no balanced interpretation at the moment; there is a bias towards a recognition of the commons as being freely available to the oil companies.

I would prefer that you spell out the objects of this bill and incorporate whatever other objects you have, along with the incorporation of a definition of ecologically sustainable development as being one of the objects of the bill. It is an object of the EPBC Act; it is an object of several other acts. I cannot see why it should not be an object of the Offshore Petroleum Bill.

The other matters I would like you to address are the issue of the precautionary principle and the issue, which I have already raised, of compensation. Additionally, there is the issue of whether the resources of the sea and the seabed incorporate whales, for example, and why that has not been changed to what would be a much more appropriate reference—that is, marine environment.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (9.48 am)—In relation to compensation, I think I addressed that issue yesterday, but I will repeat it now: it is a matter that is dealt with by the courts. An example would be a permit that was removed on the Great Barrier Reef and the courts deciding that there was no compensation in that case. Senator Milne, I again reject your proposition that, in relation to the sea, this is open slather. There are designated areas that are looked at, allotted and offered. It is not a matter of an oil company deciding that they want to go to a particular area. It is a matter of an offer process that the government puts up. In relation to the pre-release of acreage for consultation, there is consultation
with the Department of the Environment and Heritage prior to that pre-release.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.49 am)—Seeing that Senator Colbeck has introduced the term this morning, I would like him to tell the chamber what he or the government understands by the term ‘ecologically sustainable’. I go back to the night before last, when I asked about the second reading speech, as I read it, referring to a change in boundaries—and I quote:

A small northward displacement of the scheduled area outer boundary north-west of Western Australia is also proposed, in line with Australia’s continental shelf claim beyond 200 nautical miles from the baseline that has been submitted to the Commission on the Limits of the Continental Shelf under the United Nations Convention on the Law of the Sea.

I asked at that time where that was and why it was being changed.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (9.51 am)—The principles of ecologically sustainable development were agreed by COAG in 1992. These principles are:

- decision making processes should effectively integrate both long and short-term economic, environmental, social and equity considerations;
- where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;
- the global dimensions of environmental impacts of actions and policies should be recognised and considered;
- the need to develop a strong, growing and diversified economy, which can enhance the capacity for environmental protection should be recognised;
- the need to maintain and enhance internationally competitiveness in an environmentally sound manner should be recognised;
- cost effective and flexible policy instruments should be adopted, such as improved valuation, pricing and incentive mechanisms;
- decisions and actions should provide for broad community involvement on issues that affect them.

That was the definition that was accepted by COAG in 1992 and has, I understand, since been reviewed to include protection of inter-generational equity. In relation to the modifications of the boundaries in the north-west, Australia’s continental shelf submission was lodged with the UN Commission on the Limits of the Continental Shelf on 15 November 2004 under article 76 of the United Nations Convention on the Law of the Sea. This includes a claim over an area of seabed off Western Australia, near Joey Rise, as far north as the point of latitude 12 degrees, 45 minutes and 55 seconds south and longitude 113 degrees, 31 minutes and 42 seconds east. A fraction of this area falls further north than the northern boundary of Western Australia described in schedule 2 of the Petroleum (Submerged Lands) Act. Accordingly, in the equivalent area—the description in schedule 1 of the OPB—an adjustment is proposed to the trajectory of the boundary line in the vicinity of the above mentioned point to expand the scheduled area to encompass the whole seabed area claimed by Australia. I have two maps here that I am happy to provide that show the before and after boundaries referred to. I will table those for distribution.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.54 am)—I would like a copy of those maps. The minister has spoken about the lack of scientific certainty not being used to enable a
process to proceed. This is, in fact, the heart of the precautionary principle. It then follows the argument that Senator Milne has been making, which is that there is no scientific certainty about matters such as sonar testing. In fact, there is great conjecture that sonar testing interferes with the migratory pattern of whales. It can and does damage their ability to navigate and upsets their hearing and balance system. There is emerging scientific evidence that sonar testing damages the immediate ecosystem on the sea floor, with the death of some small organisms. The closer you get to the sonar testing, the greater the damage. I ask the minister: will sonar testing be prohibited from marine protected areas under this legislation until it is shown to be safe?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (9.55 am)—Those issues would quite rightly be dealt with as part of the environmental process in the development of the environmental plans. Sonar sound dissipation varies with the type of sonar and oceanographic features and conditions. In the case of an issue that you mentioned the other night in relation to the Marion Bay stranding, the sonar used was determined by Curtin university experts to have dropped below background noise by about eight to nine kilometres from its source. Obviously, stronger sonar sources can travel further, especially in deeper ocean areas. Again, I think quite rightly, those issues are properly taken up as part of the development of the management plan that is required in each of the zones, and those issues are required to be addressed.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.57 am)—The problem here is that the Senate is being asked to tick off on a process of which it has no further control. We as legislators have to be very clear about this. If you are going to have ecologically sustainable processes, then you should direct that. But it is not in the legislation. Senator Milne proposed amendments that say, ‘We will put it into the object of the legislation so it is stated,’ and the government says no, and the opposition backs that. It is just a farce—and we all know it. You know it; we know it.

Sonar is meant to send soundwaves deep into the crust of the earth, both horizontally and vertically, to see whether there is oil, gas or other minerals. We are not talking about banging paper bags; we are talking about massive sound that penetrates the earth’s surface and spreads rapidly through water as well. The chances of some multinational oil company forgoing sonar testing until the scientific evidence is in about the damage we know it occasions is zero. I know that because I appealed a number of times in this chamber to a past Minister for the Environment and Heritage, Senator Hill, to stop this process where it impacts on marine national parks in Australia. I appealed to the minister to stop it until there was a study of the seabed which comes to an understanding of the impact of such massive explosions on the ecosystem. That never happened.

Here we are being asked to tick off on this happening in marine protected areas. Well, they are not marine protected areas, because they are not protected. You are asking us, the Greens, to say: ‘Oh, that’s okay. We’ll go along with this semantic deceit and have marine protected areas in Australia invaded by the corporate need for oil and gas from wherever they might be, and for other minerals coming down the line, not for ecological purposes but in the search of profitability.’ You are asking us to believe that some unknown processes with some unknown people under some guidelines which are not written into this legislation are going to protect us from corporations breaching your definition of ecologically sustainable processes. It has
not happened in the past; it is not happening now; it is not going to happen in the future. The very fact that you know that—I am speaking through you, Chair—and that the Labor Party knows it as well comes from the fact that the Labor Party is going to join the Liberal and National parties in voting down this very sensible set of amendments from Senator Milne. The amendments say, ‘Let’s get the objects straight; let’s be clear about what this legislation should do, and let’s include implementing ecological sustainability in that.’

‘Oh no,’ says the government, ‘we won’t do that.’ ‘Oh no,’ says the opposition, ‘we won’t support it either.’ And the minister says, ‘We won’t do it because there are several objects to this bill.’ Well, let us have them. Let us put the several objects in; it is not the first time in history that has happened. In fact, that is usual. It is very rare to get a bill in this place that deals with only one object. But the government says, ‘No, we don’t want to say upfront that there is any environmental consideration here.’ And do you know why? Because the oil companies do not want it. This is their legislation. This is 600 pages of open go for the oil companies, and this process is riddled with deceit. You will not find any coverage of this in tomorrow’s press, because this is the state of environmental deceit under the Howard government. Ten years on, it is at its acme. As the world gets into greater and greater environmental trouble, we get greater and greater ignorance from the government. It is studied ignorance, and it is exemplified here by the government and the opposition, for goodness sake, arguing—as best they can; there is very little argument from the opposition, which just wants to vote against it and get it over and done with—against a commonsense attempt through these Greens amendments to get some ecological probity into what the oil companies will be doing. If you are going to have a marine protected area, then protect it. But this is an absolute farce from the big parties here this morning.

Senator MILNE (Tasmania) (10.03 am)—I want to follow up on what Senator Brown said and respond to Senator Colbeck. Senator Colbeck actually confirmed exactly what I was saying about this legislation being resource security for the oil and gas companies. That is what it was intended to be 40 years ago and remains intended to be now, except we should know better. What he said in terms of the offer is that, when it comes to new acreage releases, there is an offer process to the oil and gas companies, which then come back and put down their claim over certain areas. That means a process has been gone through before that at government level, to identify certain areas of ocean that they want to open up as new acreage releases, including frontier areas of the sea for which they give tax breaks. The companies then come and put their stamp on it.

The point I was making is that there is no public process involved in this identification of areas that are then to be offered to the oil companies. There is no public process. Senator Colbeck said that the Department of the Environment and Heritage is consulted. My point is: does it have a veto? Does the National Oceans Office, the national ocean policy or the Department of the Environment and Heritage have a veto on opening up new areas of sea as prospective areas to be offered to the oil companies? I see nowhere in this legislation where the national ocean policy, the department or the Minister for the Environment and Heritage has any veto rights over the Department of Industry, Tourism and Resources offering areas of ocean. This is the commons. This is the global commons we are talking about, and we have got a department of industry going out and assessing that area on the basis of prospectivity, not on the basis of a marine-
planning process and all of the values that might be considered.

I want to know if there is a veto capacity in this legislation for the department or the minister of the environment in consultation with the National Oceans Office, in the event that an area is too sensitive to sustain petroleum exploration or production, or if the environmental values are not known in the area. This is especially for the deeper areas where they are going to now. You should be able to veto that ever being offered. I want to know if the minister for the environment has that veto power. I hear the glib phrase ‘consultation with the department of the environment’. Well, the other night I heard about consultation and all the groups that had supposedly been consulted. When I spoke to some of the groups, I discovered that they were invited to a workshop 12 months ago or more, and that is about the only consultation they have had—and that was on the regulations, not on the act. So I would like the minister, if he would be so kind, to document exactly how and when he consulted with all of the groups that he proudly read out the other night as having been effectively consulted in this process.

Senator Colbeck went on to say something when I asked about compensation if we hand over areas of sea to the oil companies for, as I said, up to 26 years—which can occur in that process. If they are offered that, they get resource security over the global commons for a long time. Then, if we identify environmental risk that is not covered in their environment plan and we want our ocean back—the same way the people of Tasmania want back their forests, which were handed over to the forestry companies—for a marine-planning process or for protection, do we have to compensate the companies? And Senator Colbeck said, ‘Oh, well, it is a court process.’

Why should the Australian community have to go to court to argue compensation matters with oil companies to get our own ocean back? That is what I want to know, and I want to know who pays the court costs. Presumably the Commonwealth, or the Great Barrier Reef Marine Park Authority through the Commonwealth, had to go to court because the oil companies were seeking compensation for not being able to drill on the Great Barrier Reef. That is my point precisely here: this legislation is entrenching the very process that got us into such a mess on the Great Barrier Reef. When cultural and community attitudes moved to the point where they wanted to protect the reef from oil exploration and drilling, the company said: ‘No. We’ve got a permit. We’ve got a right to it. We want compensation. Take us to court.’ You have gone to court. Who paid the court costs? Were they awarded against the companies in the Great Barrier Reef court case? Why should we be entrenching a process that sets up the community having to go to court to get compensation? I would like an answer to that question.

I would also like an answer to the question that I asked before—and I am not going to stop until I get an answer—and that is: are whales regarded as a resource of the sea and seabed in the absence of a definition or the inclusion of the broader concept of marine environment? Why does this legislation persist with a definition of ‘resources of the sea and seabed’ and why have you not incorporated the broader definition of ‘marine environment’ in this legislation?

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (10.09 am)—DEH can effectively veto a proposed area, and this has happened in the past. I did not claim that the environment movements were consulted on the bill. I laid down that they were consulted on the regulations. The rea-
son they were consulted on the regulations is that that is where issues relating to the environment are raised. In relation to whales, as we have discussed before, protocols are in place to deal with cetaceans. Guidelines have been developed and are being reviewed in relation to dealing with that. I understand, from the comments that you made the other night, that you are not satisfied with where they are at at the moment, but a process is going on and, as I said the other evening, there will be a meeting again in the next couple of weeks. I think that essentially deals with those three particular issues.

The TEMPORARY CHAIRMAN (Senator Watson)—Senator Colbeck, for the purpose of the people listening to this debate, when you refer to DEH could you refer to the department as such, as that would enable those listening to this broadcast to more fully comprehend what is going on.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.10 am)—Could Senator Colbeck explain beyond the distances he was giving what his understanding of the impact of massive sound explosions on the auditory system of whales is and how that impact affects their ability to navigate in the oceans.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (10.12 am)—As I said, my understanding of the situation is that the jury is still out on that. I do not claim to put anything on the record. I have seen several papers that indicate a range of things. I know in one circumstance the United States navy claimed responsibility for a particular incident, and in other circumstances the evidence is that the whales simply avoid the areas where the noise is being made. My understanding is that research is still being conducted on that and the jury is still out.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.12 am)—And then there is the circumstance of the Spanish navy, which had whales with blood coming from their ears wash up in the Canary Islands immediately after impact. The point here that I want to demonstrate is that the minister said earlier that ecological sustainability depends on, amongst other things, a lack of scientific certainty not being used to allow a process to go ahead. The point that the minister has amply demonstrated is that there is a lack of scientific certainty here. Scientists simply do not know at this stage, so we should not proceed. But this legislation, as Senator Milne said, does not even mention cetaceans. It does not even mention oceans. It is certainly not about protecting the creatures that move through the oceans. When it comes to marine protected areas, it is all about allowing the invasion of the seabed, upon which the rest of the food chain in the oceans depend. So this is just a
farce. The term ‘ecological sustainability’—and the minister read out the principles of it—which was defined at the Earth Summit in Rio in 1992, and since then the added principle of intergenerational equity are simply being steamrolled here. They are simply being put into the mud, as if they do not matter.

There is no point in continuing the debate here. The Labor Party is going to support the government on this. But it is a very sad indictment. There is a studied ignorance and a determination to turn the back on the fragile living ecosystems on this planet—and two-thirds of them are in the oceans—to the loss of coming generations. This is a studied insult to the concept of intergenerational equity by this government, backed by this opposition. It is the job of the Greens to continue to point that out until we get sanity, probity and decency back into debates like this so that the term ‘ecological sustainability’ is treated with integrity and honour instead of simply being used as a window-dressing opportunity and dropped from legislation. Senator Milne’s motion simply says: let us put it into the object of the legislation. Seeing that that is what this nation has agreed to internationally, let us put it into the object of this legislation. The government is saying, ‘No, we won’t,’ and the opposition is saying, ‘Ditto, we won’t either,’ because they know that they dishonour any such concept.

Senator MILNE (Tasmania) (10.16 am)—Just to follow up on what Senator Colbeck and Senator Brown have just said, the issue of whales is critically important. The definitions in this bill say that the reference to the ‘conservation’ only refers to the ‘resources of the sea and seabed’. It was written 40 years ago in the context of the oil mining and exploration industry. I want to know if ‘resources of the sea and seabed’ include cetaceans and other creatures that move through the environment. I asked why you have ‘resources of the sea and seabed’ and not the broader definition of ‘marine environment’. This would encapsulate everything in the marine environment, not just the sea and seabed, which are very specific terms relating to the interests of the oil and gas industry.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (10.17 am)—As I have said repeatedly in this debate, the issues relating to the environment and how they are managed are dealt with through the regulations and the EPBC Act. That is where those issues are managed and dealt with, quite rightly, as per the design of the legislation.

Senator MILNE (Tasmania) (10.17 am)—As I have indicated to Senator Colbeck several times in this debate, the EPBC Act is not worth the paper it is written on, because it relies entirely on the discretion of the minister. Senator Colbeck would know as well as I do that it requires that the oil companies refer a matter to the minister under the EPBC Act. The minister then decides whether it is a controlled action that he or she needs to consider. Then, if it is a controlled action, the minister decides the action that needs to be taken. On every single occasion the position of the developer has been upheld, with the one exception where the developers have won out. So please do not cite the EPBC Act as some sort of guarantee for the marine environment, because it has not been to date and it certainly will not be under this legislation.

Also, I understood you to say a moment ago—and I want clarity on this—that the Department of the Environment and Heritage virtually has a veto. I want to know whether, in this legislation, it is specifically stated
anywhere that the Minister for the Environment and Heritage, the Department of the Environment and Heritage, the National Oceans Office or the minister responsible for the National Oceans Office has a veto. Is it specifically stated anywhere that they have a veto over the release of new acreage?

The TEMPORARY CHAIRMAN (Senator Watson)—Senator Milne, I did refer earlier to avoiding speaking in acronyms for the benefit of the listening audience. Would you mind taking note of those guidelines. Thank you.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (10.19 am)—As we have discussed quite often during this debate, it is not specifically dealt with in this legislation because it is not part of the design of this legislation. The issues relating to the management of the environment are dealt with under other legislative processes which the industry is required to comply with—particularly the regulations. Also, there is a capacity within the legislation for conditions to be applied to designated lease areas. So there are a number of mechanisms under which those issues can be dealt with. I think it is probably quite pertinent to put on the record the excellent record of the oil and gas exploration and mining industries in this country in relation to their practices. I think that needs to be taken into account as part of this debate, because they do have an excellent record.

Senator MILNE (Tasmania) (10.20 am)—I think that gives us quite a clear indication of what the object of the bill is. I think Senator Colbeck summed that up fairly well just a moment ago in his statement about the performance of the oil and gas industry. I note just for the record that some Australian companies do not perform brilliantly either here in Australia or around the world. I would cite particularly Woodside off Mauritania. I intend to bring that up on several more occasions. It may interest the Australian public to know that, whilst Woodside is prepared to have double-hulled tankers on the Enfield site off Western Australia, for Mauritania they went and got one of the ships that is on Greenpeace’s list of ships of shame—a single-hulled ship—because Mauritania is a poor country and they can negotiate with it in a manner that is unacceptable. There is a current scandal in Mauritania regarding the minister for energy and its dealings with Woodside. I think there is going to be much more about that as we come down the line while you talk up the performance of Australian oil and gas explorers.

Let us get back to this particular legislation. What we have now established is that the Department of the Environment and Heritage and the Minister for the Environment and Heritage do not have a veto over new acreage. It is as simple as that. It is as I stated. What we are effectively doing with this legislation is giving resource security to the oil and gas companies when they apply for areas offered by the government without the department of the environment or the minister having the capacity to veto. That is why my amendment to incorporate the precautionary principle is important. Unless we have the precautionary principle, it is highly likely that in the next few years, with desperation about global oil supplies and trying to find new ones, we will see oil companies and governments moving rapidly to give companies with tax breaks permits over huge new frontier areas of ocean. If that occurs, we might later discover that those areas are critical marine environments. As I said before, we do not know very much about the marine environment. At this point, we simply do not know, and the Department of the Environment and Heritage would not have assessed or know enough about, the
deep sea ocean in particular. We are learning more about it all the time as they discover new deep sea creatures and so on.

What is being set up here is no capacity to veto those areas by the minister and, once the areas are given, no capacity to get them back without compensating the oil companies for, as I said, the global commons. Those companies do not own the oceans. The government are setting up a scenario which allows companies to hold a permit for in excess of a quarter of a century. Look at how science and technology moves in a quarter of a century. The government are giving them, this year, the rights over large areas of sea and, if we want them back, we are going to have to go to the courts. In the case of the Great Barrier Reef there is, fortunately, a precedent where the courts found that compensation was not payable. But do not underestimate the oil companies’ capacity to tie up the Commonwealth in knots over a long period of time if we want to get those areas back. Why not put into the legislation now an amendment which says very clearly that a person carrying out a petroleum activity for which there is an approved environment plan must not carry out the activity after the identification of any significant new environmental effect or risk, or a significant increase in an existing environmental effect or risk, arising from the activity?

It is very likely, as my colleague Senator Brown pointed out a moment ago, that, as we have increased research on the impact of sonar and seismic testing on cetaceans, we will get to the point where we know full well that it is impossible to conduct those operations without impacting on a marine species. We will then be at the point of having to make a decision about which, the oil industry or cetaceans, will take precedence. That is the kind of conundrum that we are setting up in this legislation, and it is being set up because the legislation has been brought in as a single-use piece of legislation in the absence of a context of regional marine planning.

I am glad that a moment ago Senator Colbeck acknowledged that the Department of the Environment and Heritage seismic steering committee, which is dealing with the EPBC seismic cetacean guidelines, is continuing to work on those guidelines. They are hopelessly out of date and they have been for a long time. Every time there is a whale stranding we are told that they are working on new guidelines that will be implemented soon. Today we have yet again been told that the new guidelines are being worked on and drafted and so on. I would like to know from the minister when we are going to have those new guidelines from the seismic steering committee of the Department of the Environment and Heritage. As every year goes by and more whale strandings occur we are told that the guidelines are coming, so I would like to know exactly when we are going to get them.

But that does not alter the point that, if we get evidence that demonstrates that the increasing noise in the oceans is impacting adversely on cetaceans to the point where it should not occur, we are not going to be in a position to be able to get back those areas of ocean that we have handed over to the oil companies. Those companies can now go in to those areas speculatively, because they are to be given tax breaks to do so. Once the new frontier areas are identified the offer process happens and the oil companies come in and stake their claims. It is a no-loss situation to them, because they do not have to do anything until it is commercially viable. The companies determine when it is commercially viable and they can hold lease areas for long periods of time, keeping them retained. In the meantime, the community will always be on the back foot trying to get them back.
This would have all been avoided if we had increased the momentum in government on the marine regional planning process. We could have brought in legislation to cover the activities of the petroleum industry in the context of regional marine planning over fisheries, tourism and ecological considerations in terms of protected areas and issues pertaining to the petroleum industry. It could have all been dealt with in that context. Instead, we are putting down a marker for the petroleum industry. We are reinforcing the notion of resource security for the petroleum industry, which they, of course, applaud and want. We are reinforcing that at the expense of the environment.

I concur with Senator Brown: if the government would like to have other objects of this legislation, apart from that which I am proposing, then please bring them forward. It is quite clear from the government’s comments that facilitating the oil industry is part of the object of this legislation. That is fine. But, while they are doing that, I want the object of this legislation to require them to adhere to the principles of ecologically sustainable development, as set out in the regulations. That would require the joint authority, when making decisions about issuing permits and assessing the environmental plans, to have to consider ecologically sustainable development, which they do not have to do now. I think it is eminently sensible to put that in as an object of the act and to bring in the precautionary principle, so that the community does not have to take oil companies to court to get back the global commons. The science demonstrates what those of us who read about the marine environment now understand, which is that the marine environment is seriously under threat. With climate change we have high levels of acidification in the Southern Ocean and we are watching the collapse of fish stocks and so on. We have serious issues with the marine environment but, unfortunately, whereas the world can see the terrestrial environment, they do not see what is happening under the sea. They do not understand just what a threat the global oceans are currently under.

The CHAIRMAN—The question now is that Greens amendments (1) to (7) on sheet 4708, as moved by Senator Milne, be agreed to.

The committee divided. [10.33 am]
(The Chairman—Senator JJ Hogg)

Ayes.......... 7
Noes.......... 46
Majority....... 39

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

NOES
Adams, J. Barnett, G.
Brandis, G.H. Brown, C.L.
Campbell, G. Carr, K.J.
Chapman, H.G.P. Colbeck, R.
Crossin, P.M. Eggleston, A.*
Ferguson, A.B. Fielding, S.
Fierravanti-Wells, C. Fifield, M.P.
Forshaw, M.G. Hill, R.M.
Hogg, J.J. Humphries, G.
Johnston, D. Kirk, L.
Lightfoot, P.R. Ludwig, J.W.
Macdonald, I. Marshall, G.
Mason, B.J. McGauran, J.J.
McLucas, J.E. Moore, C.
Nash, F. O’Brien, K.W.K.
Parry, S. Payne, M.A.
Polley, H. Ray, R.F.
Ronaldson, M. Santoro, S.
Scullion, N.G. Sherry, N.J.
Stephens, U. Sterle, G.
Troeth, J.M. Trood, R.
Watson, J.O.W. Webber, R.
Wong, P. Wortley, D.

PAIRS
Stott Despoja, N. Joyce, B.
Question negatived.

The CHAIRMAN—The question is that the bills stand as printed.

Question agreed to.

Bills agreed to.

Bills reported without amendment; report adopted.

Third Reading

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.38 am)—I am not going to go back over the argument, but, from an environmental perspective, the Offshore Petroleum Bill 2005 is not just a farce, it is a tragedy. It is a tragedy that this wonderful nation of ours in the year 2006 has a government which belives the environment counts for so little, that it has a government which uses the words ‘intergenerational equity’ but does not care at all about the environmental inheritance of the next generation, the generation after that or the numberless Australians without the vote whose interests we are dealing with here and now. What is on the table here is a go-ahead to corporations—and they will usually be multinational corporations—to extract what they can from the seabed. That includes invading marine protected areas. This is a go-ahead for that process in Australia, where we should be protecting more, not less, of the marine ecosystems.

There is no doubt that the marine commons, as Senator Christine Milne has described them this morning, are now up for grabs. But a little further down the line it will be adjacent planets and space territory that the rush will be on for. We do not have the technology for that yet. Written into this bill is the potential for revoking the protection that is there for Antarctica at the moment. They will do it ecologically sustainably, but, if we accede to this legislation as it is written, we are acceding to the government and opposition who see nothing getting in the way—no probity, no environmental care and sensitivity and no equality for environmental considerations when it comes to Australia’s natural heritage.

We are the country amongst the rich nations with the greatest number of species that have been made extinct in the last two centuries and the largest number of creatures, so far as we know, on the edge of extinction. We are rapidly, almost day by day, discovering new and amazing creatures in our marine territories. Science simply does not know how those ecosystems work, and we are giving the go-ahead to the oil industry to get in there—into marine protected areas, for goodness sake; that small percentage that is protected—to do as it will in the interests of extracting profits. There is no boundary for this government—there is no limit. Nothing is sacrosanct. We believe a line should be drawn. We believe that probity is in the ultimate long-term interest of stability, both social and economic as well as environmental. This is not good sense, it is not good planning, it is disastrous policy and we cannot support it.

Senator MILNE (Tasmania) (10.42 am)—I also rise to say how disappointed I am with the government’s response to the amendments I have put forward in relation to the Offshore Petroleum Bill 2005. I think Australians will be shocked to know that the oceans and the marine environment hardly get a mention at all in this bill. In fact, I think people would be horrified to learn that the words ‘marine’ and ‘ocean’ do not appear in the bill at all.

This legislation should have been framed in the context of Australia’s oceans policy. It should have been framed in the context of ecosystem based management, ecologically sustainable development, multiple user man-
agement and regional marine planning, and it is not. We have a situation where all of those things are left simply to policy or to regulations. That is why oceans policy implementation is problematic—it has no legislative backing. The government should have taken this opportunity to better integrate one of the major marine resource statutes and it has not. There is a need for formal recognition of oceans policy principles in the bill and a major oceans policy structure—for example, regional marine planning—so that it becomes more consistent with supposedly major government policy governing our oceans.

It is with deep regret that I note what we are seeing here is only an editorial rewrite of legislation that is more than 40 years old. As a result, we are seeing just a naked statement of an Australian government giving resource security to the oil and gas companies in 2006 when the imperative of looking after the ocean is so great and so much before us. It is also tragic that we now have a situation where the Australian community will have to go to the courts to get back its own marine commons. That is an appalling situation—understandable 40 years ago, understandable even a decade ago, but certainly not understandable now.

I find it appalling that, throughout this debate, the government refused to say whether whales or cetaceans are included in the only reference to conservation in this document—which is when they talk about the ‘resources of the sea and seabed’. There is no reference to the marine environment. I asked repeatedly throughout the debate whether ‘resources of the sea and seabed’ include whales and cetaceans, and there was no answer. So I am assuming that ‘sea and seabed’ are simply jurisdictional matters referring to the territorial sea and the bed of that sea, and that is why the reference to the marine environment does not appear—this act does not cover the complexity of the marine ecosystem and the marine environment. What we have got is an offshore petroleum bill which is giving the mining, petroleum, oil and gas industries access to the territorial sea, which that act says includes everything there, including the seabed. There is no veto for the Department of Environment and Heritage. There is no reference to oceans policy. It is an absolute disgrace that we are in this situation with a 600-page rewrite of 1960s legislation and the government seems to think that it is adequate, and the Labor Party is supporting it.

People around the world will be horrified at just how far behind Australia is getting. The one thing Australia could hold its head up about in recent years was oceans. Australia is a disgrace on refugees, it is a disgrace on climate change and it has undermined the UN processes in relation to the war in Iraq. Whenever it has turned up at environment conferences the only thing it could be proud of was the marine environment, because of the Great Barrier Reef, the planning that has gone into that and the fantastic work that has been done up there to get the zoning sorted out and so on. That is something to be proud of. But, instead of learning from what has gone on with the Great Barrier Reef, we are now just entrenching all of the bad processes that led to that horrendous, long, drawn-out conflictive situation that finally got to a good outcome. We could be pre-empting that by setting up appropriate regional marine planning, and we are not. I think the Howard government has now undermined itself in relation to yet another global focus, and that is the marine environment.

As I said, in Durban in 2003 at the World Parks Congress, Australia, like everybody else, stood up and signed on to the prospect of 10 per cent of the world’s marine area being in protected areas within the next decade to catch up with the terrestrial environment. And here we have legislation which
just does not even consider that context. It is not only a lost opportunity in terms of making a step forward, it is an insult to the National Oceans Office, it is an insult to those in the Department of the Environment and Heritage and it is an insult to all of the people in the non-government organisations and communities that have been working for years to get recognition of conservation of marine ecosystems and of the marine environment. All they have ended up with is a reference to conservation of the sea and the seabed in a territorial jurisdictional sense and not the marine environment. That is why I will be voting against this bill.

I find it utterly shameful that the government has refused to incorporate a definition of ‘ecologically sustainable development’ as an object of the act and that it has refused to incorporate the precautionary principle in terms of the environment plans that have already been approved for the oil industry. Those plans will not be able to be revoked if new and significant information comes forward in terms of the environment.

Senator O’BRIEN (Tasmania) (10.48 am)—I rise only to correct a couple of matters that have been dealt with in the debate so far. I am not trying to prolong the debate, but it is important to note that, at a time when the world faces an uncertain energy outlook and the vast majority of its oil is located in unstable areas of the world, it is more important than ever that Australia has a clear picture of its oil prospectivity, and that as much as possible is done to find and map prospective reserves. But, having said that, we also believe that there should be a proper environmental assessment process, and we are assured that the regulations will provide for a continuation of that.

We are also satisfied that the Environment Protection and Biodiversity Conservation Act continues to apply to proceedings under this legislation. I am reminded that, in terms of the regional forest agreements legislation, the Greens repeatedly called for that act to apply to the regional forest agreement areas. In this case, they are now saying that we should have it in this act and not in the EPBC Act and that the EPBC Act is a farce. I understand that is what Senator Milne said. You cannot have it both ways. If you are going to suggest to the parliament that there should be a pre-eminent environmental protection act—and, whatever criticisms the Greens may have of the EPBC, they have suggested that in relation to other legislation—to criticise the opposition because we hold that view in relation to this is just pure inconsistency.

We did not support the amendments because, as we stated early in the debate, we believe that it is not appropriate to deal with the environmental assessment provisions in this legislation as such. We believe that the proof of the pudding will be in the eating. But we are also aware that under the current arrangements applications for exploration have been rejected on environmental grounds. That was not mentioned by the Greens during the debate, but those are the current arrangements. Everything can be improved upon. We are not uncritical of this government in terms of its environmental credentials. This legislation is a rewrite of existing legislation, but we do accept that the environmental protections can be upgraded continuously through the process—and not merely by amending the act but also by the promulgation of regulations—and we would like to see that happen.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (10.51 am)—I want to clarify a couple of things, as Senator O’Brien has done, in relation to some comments that were made by the Greens on the Offshore Petroleum Bill 2005 and related
bills. In relation to the veto, I quite clearly put on the record the fact that the Department of the Environment and Heritage does have the capacity to veto. That was denied by Senator Milne in her final statement, and it is just not true. It was quite clearly put on the record during the committee stage. Not only can it happen; it has happened. So let us not go down the track of pretending not to hear something that has been quite clearly put on the record.

As Senator O’Brien has just said, the environmental considerations that apply as part of this act are dealt with under the regulations that are attached to the act. As for the processes and all of those things being 40 years old or more, in relation to the regulations that is simply not true. The regulations were updated in December of 2005, in consultation with the environment movement. They sat around the table as part of that process. The Greens continue to deny the involvement of the environment movement as part of this process, and yet they are involved. The government does see the protection of the environment as being important, so there is a process of continuous improvement. Senator O’Brien mentioned it in relation to the regulations, and that is appropriate.

Senator Bob Brown said several times during the debate that fishermen have been kicked out of marine parks. Again, that is not true. I am surprised that the party that purports to be supportive of the environment does not have an understanding of the marine protected area process that is being conducted in Australia at the moment. It really does surprise me. It concerns me even more, given that Senator Brown and Senator Milne are from Tasmania, where there has been significant debate over the last three or four months about marine protected areas in their own home state—the state that they represent—and they do not understand the process. It is just staggering that they come into this place without understanding that process.

Senator Bob Brown—You don’t understand it. That’s the problem.

Senator COLBECK—I am really staggered, Senator Brown, that you come in here continually making statements about what can and cannot happen in a marine protected area. You obviously do not understand it. It is very concerning. Obviously you do not support the fishing industry either; otherwise you would have taken a real interest in it.

Finally, in relation to the capacity of companies to hang on to areas that they have, a company cannot just sit on an area without doing what is required of it under the conditions that the permit was granted for—including looking after the environment. It cannot just sit there and not do the exploration that was agreed to as part of the application. So there were a number of things that I felt needed to be corrected in the final part of this debate that were continually repeated by the Greens and that simply are not true.

Question put:
That these bills be now read a third time.

The Senate divided. [11.00 am]

(The Acting Deputy President—Senator PM Crossin)

Ayes…………… 46
Noes…………… 6
Majority……… 40

AYES

Adams, J. Brandis, G.H. Barnett, G.
Carr, K.J. Chapman, H.G.P. Brown, C.L.
Colbeck, R. Crossin, P.M. Eggleston, A. * Ellison, C.M.
Faulkner, J.P. Fergusson, A.B. Fielding, S.
Fifield, M.P. Fierravanti-Wells, C. Hogg, J.J.

CHAMBER
Senator LUDWIG (Queensland) (11.05 am)—The Jurisdiction of the Federal Magistrates Court Legislation Amendment Bill 2005 [2006] will amend several acts, with the effect of extending the jurisdiction of the Federal Magistrates Court. The jurisdiction of the Federal Magistrates Court would be extended for certain trade practices matters, any federal matters remitted from the family courts, several admiralty law matters and certain child support matters. These are sensible changes which will improve the flexibility and efficiency of the federal judiciary.

Labor are pleased today to be supporting this bill. However, we do have one serious criticism of this bill, and that is that it has taken too limited an approach to extending the Federal Magistrates Court’s jurisdiction over matters arising under the Trade Practices Act. The provisions in schedule 1 extending the Federal Magistrates Court’s jurisdiction over the Trade Practices Act matters will be a boon to small business and consumers, as the Federal Magistrates Court has lower costs than the Federal Court. This follows a recommendation of the Senate Economics References Committee report on the effectiveness of the Trade Practices Act 1974 in protecting small business, as the Minister for Justice and Customs noted in his second reading speech.

However, the minister did not mention that the government has chosen to accept only part of that recommendation. It has refused to accept the recommendation that the Federal Magistrates Court have jurisdiction over sections 46 and 46A of the Trade Practices Act—those relating to the misuse of market power. Instead, the government has limited the extended Federal Magistrates Court jurisdiction to matters involving unconscionable conduct, industry codes, pyramid selling and actions against the manufacturers and importers of goods and defective goods. While that is good, the gap that has been left is a serious gap. Small businesses clearly do need protection from the misuse of market power. But it is exactly those businesses that are deterred by the higher costs involved in Federal Court litigation compared to the costs involved in the Federal Magistrates Court. Labor will be moving amendments during the committee stage to address this gap. Labor does, however, support the remainder of the bill.

Schedule 2 will give the federal and family courts the option to remit any matters within their jurisdiction to the Federal Mag-
istrates Court. This will give those courts more flexibility as to how they manage their workloads. Schedule 3 would amend the Admiralty Act to give the Federal Magistrates Court jurisdiction over in personam maritime claims or in rem claims where they have been remitted by the Federal Court or a state Supreme Court. This will effectively give the Federal Magistrates Court an equivalent jurisdiction to that held by the state and territory lower courts. Schedule 4 will give the Federal Magistrates Court jurisdiction to hear appeals against departure prohibition orders made by the Child Support Agency. It is appropriate that appellants against these orders have access to cheaper and quicker forums such as the Federal Magistrates Court.

Although Labor support these changes, we do note that the government has not included in this bill some other opportunities to extend the jurisdiction of the Federal Magistrates Court. Early last year we were told that the government was planning to extend the jurisdiction of the FMC to include certain consumer protection and insolvency matters arising under the ASIC Act and the Corporations Act respectively. This is what has been proposed in the exposure draft circulated back in 2004. One might ask: where have those amendments gone? Why have consumers and creditors had to wait for so long? It will be interesting to hear the contribution from the government as to the reasons that those matters were not progressed in the exposure draft.

Similarly, we see nothing here coming out of the Advisory Council on Intellectual Property’s report on extending the Federal Magistrates Court’s jurisdiction to cover patent, trademark and design matters. The report came out in late 2003. It is now 2006, and you have to ask: has the issue been put in the too-hard basket? The government have had the opportunity to bring legislation forward since 2003. They could have taken the opportunity to include it with this bill. As I indicated earlier, they could also have used the ASIC Act and the Corporations Act, but that fell off the table. Labor will continue to monitor these issues, and we look forward to seeing some government action on these matters soon. Perhaps the government in their contribution today might be able to indicate when that is likely to be.

Lastly, it might be noted that the workload of the Federal Magistrates Court will increase as a result of this bill. We hope that the government is actively monitoring the Federal Magistrates Court’s performance to ensure that it is able to meet not only this increase in its current resources but also its current workload and future predicted workload. The Federal Magistrates Court did receive an increase in resources in the last budget to help pay for increased family law work, but this bill adds jurisdiction well beyond family law. Labor will be closely watching this area and monitoring the ability of the government to respond positively to the workload of the Federal Magistrates Court. Of course, if these reforms are to be meaningful and the Federal Magistrates Court is to fulfil its promise of being a cheaper, more accessible forum, then it needs, and will continue to need, to be properly resourced. That was the promise given by the Attorney-General—that it would continue to be a cheaper and more accessible forum. It is up to the Attorney-General to live up to that promise.

It is clear that the funding of the federal judiciary needs urgent government attention. The Productivity Commission recently found that the Federal Court’s expenditure per case finalised had increased by $5,197 to $16,767 between 2003-04 and 2004-05. We were a bit surprised to find at additional estimates that the Attorney-General’s Department seemed quite unconcerned about this, simply saying
that it may talk to the court about this issue. It is disappointing to see such a response from government over such critical issues. Labor appreciates that the court must be responsible for the administration of its finances, but the government always has responsibility for assessing and meeting the overall costs of providing justice—and this includes making sure it is allocating resources appropriately across all federal courts.

This bill will lighten the load of the Federal Court in terms of sheer numbers of cases and increase the load of the Federal Magistrates Court. This necessarily does have resource implications, and we expect more concern and government action over this issue. That was evident at additional estimates. The Federal Magistrates Court should be and continue to be a quicker, cheaper forum for less complex matters, but we cannot let it develop into simply an overworked poor cousin of the Federal Court. This is not in the interests of small business, consumers, families or the others whom the Federal Magistrates Court serves. With those comments, I commend the bill.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.12 am)—in reply—At the outset, can I say that the Jurisdiction of the Federal Magistrates Court Legislation Amendment Bill 2005 [2006] will confer new jurisdiction on the Federal Magistrates Court in a number of important areas which the government believes are suitable for that court. A useful outline could be expressed as follows in relation to these areas. The purpose of the bill is to extend the jurisdiction of the Federal Magistrates Court under the Trade Practices Act 1974 and to confer jurisdiction on the Federal Magistrates Court in matters transferred to it by the Federal Court or Family Court, in personam matters under the Admiralty Act 1988 and appeals against departure prohibition orders under the Child Support (Registration and Collection) Act 1988.

That outlines the increased jurisdiction. But in a more relevant sense can I say that the Federal Magistrates Court provides a quicker, cheaper and simpler option for litigants and enables both the Federal Court and the Family Court to concentrate on more complex and longer matters. This bill will further alleviate the workload of the Federal Court and provide an alternative accessible option for people and businesses attempting to resolve disputes—and there lies the benefit to the community.

The bill implements recommendations of the review of the Federal Magistrates Service and the Senate Economic References Committee’s report, The effectiveness of the Trade Practices Act 1974 in protecting small business. Senator Ludwig has mentioned the committee which looked at this and the amendment that he proposes. I will reserve my remarks about that for the committee stage, when we deal with that amendment. However, I stress that this bill will help bring about a more accessible and flexible civil justice system. It will improve the efficiency of the Australian civil justice system by ensuring less complex matters are dealt with in the most appropriate forum and at the lowest possible level. It will improve access to the civil justice system by giving litigants, including self-represented litigants and small businesses, the option of bringing actions in a simpler, cheaper and less formal court. This bill brings many benefits to a system which is already in place providing those benefits. I will deal with the issues that Senator Ludwig mentioned during the committee stage. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.
Senator LUDWIG (Queensland) (11.15 am)—I move the opposition amendment on sheet 4820:

(1) Schedule 1, item 1, page 3 (line 7), before “Part IVA”, insert “section 46 or 46A of Division 8, Part IV,”.

This amendment seeks to extend the jurisdiction of the Federal Magistrates Court to include matters arising under sections 46 and 46A of the Trade Practices Act. This would fully implement the recommendations of the Senate Economics References Committee, and it would help small business to access remedies for the misuse of market power by providing a cheaper and less complex forum. In its response to the economics committee’s report, the government said it disagreed with this recommendation on the ground that these matters were too complex for the Federal Magistrates Court. I am not sure who it was insulting in that respect.

We can see where the government is coming from on this matter. Misuse of market power cases certainly can be complex and time consuming; there is no argument about that. But we are confident that the law is sufficiently flexible to ensure that complex cases can be dealt with in the Federal Court and simpler cases can be dealt with in the Federal Magistrates Court.

Section 39 of the Federal Magistrates Act provides a mechanism for the Federal Magistrates Court to transfer any matter to the Federal Court, including where the resources of the Federal Magistrates Court are not sufficient to hear and determine the proceedings. Any complex matters beyond the capacity of the Federal Magistrates Court could easily be transferred to the Federal Court, either on application of the respondent or on the initiative of the magistrate. This would be, and is, a sufficient safeguard.

In fact, my recollection is that this matter was raised right back when the Federal Magistrates Court was first established, in order to ensure the ability on the part of the Federal Magistrates Court to deal with simpler matters and the Federal Court to deal with more complex and time-consuming matters. That was a reasonable split between the particular courts. That was an issue that we ventilated at the time the Federal Magistrates Act was introduced—that we wanted to ensure that there was that flexibility and the ability to transfer those matters.

It should also be recognised that it is possible to have relatively simple misuse of market power litigation. It would be wrong for the government to suggest that all misuse of market power litigation is complex and time consuming. There are, and would be, such circumstances, especially under section 83 of the Trade Practices Act. That provision allows for findings of contravention in one case to be used as prima facie evidence in a later case. In the context of misuse of market power cases, this might mean that complainants in later cases can rely on the findings made in earlier cases on the forensic economics and forensic accounting that tend to make these cases so long and complex. This is a rarely used provision, but opening up the option of utilising follow-up litigation in the Federal Magistrates Court might give it new life.

Of course, it was not put there for no purpose. As the Senate Economics References Committee found, small business would benefit from giving the Federal Magistrates Court jurisdiction to deal with misuse of market power cases. Given the ability of the federal judiciary to transfer complex and simple cases to their more suitable forum, we are not convinced that the complexity of much of this litigation is sufficient reason to deny small business this opportunity for improved access to justice.
It is disappointing that National Party senators are not here to contribute to this debate. I know they have an interest in small business and I know they have an interest in sections 46 and 46A. It makes me wonder why they are not arguing for this change. I know they would have taken a deep interest in the Senate Economics References Committee report. I know that many Liberal backbenchers have had an interest in this area. I am sure they would want to be able to support this amendment, which would ensure that, under sections 46 and 46A, the less complex cases can be dealt with in the Federal Magistrates Court. It would be a boon to small business. Small business would have the ability to take matters involving misuse of market power to the Federal Magistrates Court and, if they are advised that they are less complex and less time-consuming matters, may therefore be given access to a cheaper forum than the Federal Court. However, it is disappointing to note that those backbenchers have not made a contribution and that they are not concerned about the matter. They do not take the interests of small business seriously, as small business should be able to access less expensive and less time-consuming forums so that they can be assisted in dealing with these types of cases. I commend the amendment to the committee.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.21 am)—I place on record these remarks as a basis for the government’s opposition to the amendment proposed by Senator Ludwig. Before I do so, I think it is important that I reject any notion suggested by Senator Ludwig that the government has in any way insulted federal magistrates by implying that these areas are too complex for federal magistrates to handle. The federal magistrates have done, and are doing, a fantastic job in the administration of justice in this country. I want to place on record the government’s appreciation and recognition of the work the federal magistrates are doing. This was, of course, recognised when former Chief Federal Magistrate Diana Bryant was elevated to Chief Justice of the Family Court of this country. I think that the work she did in relation to federal magistrates in this country was outstanding, and that good work has been continued by Chief Federal Magistrate Pascoe and other federal magistrates. Indeed, the Remuneration Tribunal has recognised the great work they do and the heavy workload they have by providing a loading of remuneration. So at the outset I want to make it abundantly clear that the Australian government acknowledges the very good work that is done in the Federal Magistrates Court in this country.

I turn to the amendment at hand—that is, that the Federal Magistrates Court should have jurisdiction in relation to cases relating to sections 46 and 46A of the Trade Practices Act. In the March 2004 report, The effectiveness of the Trade Practices Act 1974 in protecting small business, of the Senate Economics References Committee the opposition members of that committee recommended that the jurisdiction of the Federal Magistrates Court be extended to enable it to deal with cases involving sections 46 or 46A where section 83 of the Trade Practices Act is relied upon. Section 83 provides that a finding of fact by a court made in certain proceedings under the Trade Practices Act may be relied upon as prima facie evidence of that fact in other proceedings under the Trade Practices Act. The thinking there is that, by virtue of relying on facts previously found, it would make the matter simpler and less lengthy. But I stress that the committee report was by a majority of non-government members, because the coalition members did not support that.
In its response to the committee’s report, the government did not support the more limited proposals of giving jurisdiction in section 46 cases where section 83 is relied upon. The government considered then, as it does now, that section 46 and 46A cases, even those relying on section 83 of the Trade Practices Act, are likely to raise issues that are complex and more appropriately considered by the Federal Court. The Federal Magistrates Court was established to deal with less complex issues, as I stated earlier. That is perhaps conveniently described as cases that will take two days or less of hearings. That is, of course, designed to free up the resources of superior courts.

To give you some idea of the complexity of section 46 cases, first instance hearings in the major case of the Australian Competition and Consumer Commission and Boral Ltd ran for 23 days. In the NT Power Generation Pty Ltd and Power and Water Authority case, the hearings ran for 55 days. In the Australian Competition and Consumer Commission and Rural Press case, the hearings ran for 17 days. There are other examples. So what I would stress to the committee is that this amendment would confer jurisdiction on the Federal Magistrates Court for cases that are manifestly unsuitable for that court when you look at the rationale of why it was set up.

The government’s view is in no way in relation to the competency of the federal magistrates—far from it. I have already stressed that the government appreciates their great work and recognises the great contribution the Federal Magistrates Court makes to the administration of justice in this country. What I am saying is that we would have a system that would then be tied up with lengthy cases—a system that was designed to deal with those cases that can be dealt with more quickly. Of course, efficiency is an aim in the administration of justice in these times, when we find people are more litigious and matters are more complex—and a very important aim, at that. That is the reason for the government’s rejection of this amendment.

As for allowing small business access to a cheaper, simpler process in relation to section 46 of the Trade Practices Act, can I say that certainly small business would not welcome a system that became bogged down with lengthy cases. We have to put in place a system that is efficient and can provide those benefits and ensure that it remains. Small business would not benefit from a system which was hijacked, if you like, by cases with the sort of duration of those I mentioned, which is indeed lengthy. That is quite the opposite of what we are intending for the Federal Magistrates Court. For those reasons the government opposes the amendment, and I commend the bill as it stands to the committee.

Senator LUDWIG (Queensland) (11.28 am)—I welcome the comments by the minister. Like the minister, the opposition also has a high regard for the Federal Magistrates Court and their work. However, I maintain my opposition to his arguments against the amendment. It is an appropriate amendment and it will ensure that small business and others will have access to the Federal Magistrates Court in less complex matters, which was the reasoning behind the establishment of the Federal Magistrates Court in the first place.

It is disappointing to find that the government is still hiding behind the belief that all these matters will be complex and time consuming. That seems to be the main argument: that every matter under sections 46 or 46A will be complex and time consuming and will bog down the court. I reject that and Labor rejects that. I am sure that the Federal Magistrates Court would be able to discern
whether cases should be and are simple and can be dealt with in their jurisdiction, or whether they are more complex and can be referred.

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

The committee divided. [11.33 am]

(The Temporary Chairman—Senator PM Crossin)

Ayes………………… 30
Noes………………… 33
Majority…………… 3

AYES
Bartlett, A.J.J. Brown, A.J.P. Campbell, G. *
Brown, C.L. Carr, K.J. Crossin, P.M.
Faulkner, J.P. Hogg, J.J. Hurley, A.
Hutchins, S.P. Ludwig, J.W. Lundy, K.A.
Marshall, G. McLucas, J.E. Milne, C.
McLachlan, J.E. Moore, C. Murray, A.J.M.
Moore, C. Nettle, K. O’Brien, K.W.K.
Polley, H. Siewert, R. Webber, R.
Sterle, G. Watson, P. Wortley, D.

NOES
Adams, J. Barnett, G. Brandis, G.H.
Boswell, R.L.D. Calvert, I.G. Campbell, I.G.
Chapman, H.G.P. Colbeck, R. Colbeck, R.
Eggleston, A. Ellison, C.M. Ferri, J.M.
Ferguson, A.B. Fifield, M.P. Fifield, M.P.
Fierravanti-Wells, C. Hill, R.M. Humphries, G.
Johnston, D. Kemp, C.R. Macdonald, I.
Lightfoot, P.R. Mason, B.J. McGauran, J.J.J.
Minchin, N.H. Nash, F. Patterson, K.C.
Partly, S. Payne, A. Payne, M.A. Ronaldson, M.
Santoro, S. Scullion, N.G. *
Trott, J.M. Watson, J.O.W. Trood, R.

PAIRS
Bishop, T.M. Abetz, E.
Conroy, S.M. Macdonald, J.A.L.
Evans, C.V. Joyce, B.
Sherry, N.J. Vanstone, A.E.

* denotes teller

Question negatived.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.37 am)—I move:
That this bill be now read a third time.

Question agreed to.

Bill read a third time.

TAX LAWS AMENDMENT (2005 MEASURES NO. 6) BILL 2005

Second Reading

Debate resumed from 28 February, on motion by Senator Sandy Macdonald:
That this bill be now read a second time.

(Quorum formed)

Senator WONG (South Australia) (11.38 am)—I rise to speak on the Tax Laws Amendment (2005 Measures No. 6) Bill 2005. I want to commence my remarks by commenting on the state of tax reform in this country. Over the last number of months we have seen various people in the community, from the opposition to the business community to Mr Turnbull in the other place, putting it on the Treasurer to actually engage in some tax reform. We have seen the Treasurer resisting it, saying, ‘We don’t want tax reform; what people want is tax cuts.’ Now, magically, we have a committee appointed by the Treasurer—with Mr Hendy and Mr Warburton—that is going to report on tax reform hopefully prior to the budget.
What is interesting about this is that it is quite clear that, if a committee is engaged currently in any reviews of tax, the likelihood of the committee actually impacting upon the budget is marginal. I am sure those opposite will tell us quite clearly that budget processes take far longer than this. Yet what we have is a committee that is supposed to report in time for the Treasurer to take account of this issue before the budget. Clearly what is happening is that the Treasurer is simply, by virtue of this committee, trying to take control of the tax debate—a tax debate that has been run largely out of his control via pressure from the opposition, his own backbench and the National Party. This committee is really nothing more than a chimera for the Treasurer to try to regain control of the tax debate prior to the budget.

Senator Sherry (Tasmania) (11.40 am)—I endorse those comments from my colleague Senator Wong in talking here about the Tax Laws Amendment (2005 Measures No. 6) Bill 2005. In the context of the raging tax debate of the last few months, we have seen a largely sidelined and irrelevant Treasurer, Mr Costello. All around him we have had the advocates—

Senator Kemp—In your dreams!

Senator Sherry—Except for Senator Kemp, I will give Senator Kemp credit via criticism. He is one of the few from the government side who have not had a new tax idea. We had Mr Turnbull, whose recent promotion was in fact based on getting him out of the tax debate, making a contribution on tax reform. We had the recent foray of Senator Minchin, the Minister for Finance and Administration, advocating the complete abolition in one hit of the 15 per cent superannuation contributions tax.

Senator Kemp—You were a great supporter of roll-back.

Senator Sherry—Let me remind Senator Kemp, as a former Assistant Treasurer, of the comments of Mr Brough, who was recently promoted to cabinet. His comments about the suggestion of his own colleague Senator Minchin, the finance minister, to abolish the 15 per cent contributions tax on super in one hit was to label such an idea as a tax cut for the rich and unaffordable. So we had the then Assistant Treasurer, Mr Brough, bagging his own finance minister, Senator Minchin, about his idea to do away with the 15 per cent contributions tax on superannuation in one hit.

Of course, on this tax debate, we have had the input of the National Party. We had Mr Vaile—and this was at the time when Senator McGauran defected from the National Party to the Liberal Party—coming out publicly saying, ‘The National Party is going to have a very clear and different tax policy from the Liberal Party.’ We have not seen it yet. In fact, I do not think we have ever seen one. It has been 10 long years in opposition for us, but it is has been 20 or 30 long years since we have seen a tax policy from the National Party. But even the National Party has attempted to buy into this tax debate.

With this tax debate raging all around the Treasurer, what could the Treasurer do? He needed to short-circuit the public debate until the budget. The way he has chosen to short-circuit the public debate is by announcing this review into international tax comparisons. That is what the Treasurer has announced. What I find interesting about this is that you do not need to have a new review or inquiry into international tax comparisons. All you have to do is to go to the website of the OECD—the Organisation for Economic Cooperation and Development—and pull off a number of their reports. All the data, all the information and all the study material that you need with respect to international tax comparison is currently on the OECD web-
site. So what we have is the Treasurer, Mr Costello, buying time through to the next budget by announcing a comparison which will come up with tables of international tax levels. It is all there on the OECD website. We do not need a special study in order to access that information. It is there.

As I said, it is just cover for the Treasurer, Mr Costello, to short-circuit the current debate. He knows he has looked a bit tardy and tatty and largely irrelevant in the context of the current tax debate. He has even been outflanked by Senator Minchin with that very grand call by Senator Minchin to abolish the 15 per cent super contributions tax in one hit. I referred earlier to the comments by then Assistant Treasurer Mr Brough.

Senator Kemp—Madam Acting Deputy President, I rise on a point of order. I think I may have missed something in this speech. I was just wondering whether Senator Sherry could clarify what his and the Labor Party’s position on the super tax is.

The ACTING DEPUTY PRESIDENT (Senator Troeth)—That is not a point of order. However, Senator Sherry, I will ask you to confine your remarks to the matter under discussion.

Senator SHERRY—Thank you. We are discussing tax laws amendment, so I think a contribution from me about tax policy is very relevant in the context of the bill we are discussing here today.

Senator Kemp—I’m still waiting, Nick!

Senator SHERRY—Actually, I will take up Senator Kemp’s challenge, although it is disorderly and via interjection, in a moment. I also want to point out that, when we had this grand declaration from Senator Minchin about getting rid of the 15 per cent contributions tax in one hit, not only was he subject to abuse and criticism from his own then Assistant Treasurer, Mr Brough, which I found incredible—but it highlights the degree of disunity in the government on this issue—but also the following Wednesday the Treasurer himself, Mr Costello, did not think much of this idea, and went on talkback radio on a number of programs and comprehensively bagged his own Minister for Finance and Administration by attempting to argue that Senator Minchin had not in fact argued that the 15 per cent superannuation contributions tax was to be abolished. I think Mr Costello said words to the effect of, ‘I don’t think he said that,’ in reference to Senator Minchin’s tax proposals. But, if you look at the transcript of Senator Minchin’s speech and, indeed, his press release of Sunday, 22 January, you will see that the finance minister made it very clear that he wants the 15 per cent superannuation tax abolished in one hit.

The Prime Minister did not think much of that either. He was out there in the media, in the week following that speech, rapidly trying to water down the position of Senator Minchin, the finance minister. I must say I was disappointed because the day after giving that speech on the 22nd—and it was not just a speech but also a press release arguing for the abolition of the 15 per cent tax on contributions to superannuation—the finance minister himself, Senator Minchin, in what must have been one of his most embarrassing backdowns since he has been in the ministry, put out a clarifying press release explaining that it was only aspirational, only a goal and could only occur over the long term. There was no mention of aspiration or goal or getting rid of the super tax over the long term in the speech he had given the day before. The reality is that he had been stomped on by the Treasurer, Mr Costello; the Prime Minister, Mr Howard; and, indeed, then Assistant Treasurer Mr Brough.

I actually thought that the comments by Senator Watson, a Liberal senator from Tasmania, were spot-on. The esteemed Senator
Watson—I do not know why the government does not take more notice of him as a political opponent—was spot-on when he said in the Financial Review on I think the Wednesday that Senator Minchin had effectively been stomped on, although they were not his words, or countermanded and overruled by Mr Costello. That is the truth of the matter. We had a week of utter chaos in the government on the issue of the 15 per cent contributions tax on superannuation.

Senator Kemp—What’s the Labor Party position?

Senator SHERRY—Senator Kemp, I shall take up the challenge. What I found interesting about Senator Minchin’s speech on the Sunday was that it followed some comments that I made to the media on the previous Monday about exactly the same issue. I had publicly advocated a phased and fiscally responsible reduction in the 15 per cent contributions tax, targeted at middle Australia.

Senator Kemp—Is that Labor Party policy?

Senator SHERRY—Those comments are on the public record, Senator Kemp. I was very pleased to see Senator Minchin, the finance minister, on the following Sunday not only pick up my ideas and suggestions but also expand on them and advocate the total abolition of the 15 per cent contributions tax on super. We will see what is delivered in the budget in May. We will see whether in fact the Treasurer, Mr Costello, and the Prime Minister are interested in delivering a tax cut to low- and middle-income Australians in respect of their superannuation. They have not had one cent of a tax cut on their superannuation to date from this government. Higher income earners have had a tax reduction on their superannuation. Those earning more than approximately $100,000 a year have had a tax cut on their superannuation. However, low- and middle-income Australians have had not one cent of a tax cut on their superannuation. I agree with the point that Senator Minchin made. He may have been agreeing with me, actually, because we were making very similar observations.

Senator Kemp interjecting—

The ACTING DEPUTY PRESIDENT—Senator Kemp, I must ask you to stop interjecting. This is not a free-for-all. Senator Sherry is making a speech.

Senator SHERRY—It is a very rowdy contribution via interjection from the former failed Assistant Treasurer, Senator Kemp.

Senator Murray—And in defiance of the chair!

Senator SHERRY—Yes, exactly—ongoing defiance of the chair. We are used to these heavy-handed attempts by the government. They have the numbers in the Senate. They are in full arrogance mode. It has been 10 years; they have been partying and celebrating all of this week. We are used to this sort of creeping arrogance that we have had over the last nine or 10 months since they have had control in the Senate. We are used to that.

Arrogance in terms of public policy is not a good approach, Senator Kemp. Your record as Assistant Treasurer is hardly one that would inspire the Australian public. Senator Murray, from the Democrats, who is in the chamber, is, although I do not always agree with him, a well-informed observer of the tax debate. He would well remember Senator Kemp’s last appearance in public, on The 7.30 Report, as Assistant Treasurer, when he had to defend the introduction of the GST and the exemption being given to high-rollers in casinos. That appearance on The 7.30 Report was infamous.

Senator Kemp interjecting—
Senator SHERRY—Senator Kemp is groaning because he well remembers that star appearance. The next day the word went out from the Treasurer and the Prime Minister, and Senator Kemp was never to appear on *The 7.30 Report* again. I digress, but only as a consequence of the unruly interjections from Senator Kemp. He is now the minister for sport and culture and, I am sure, thoroughly enjoying it.

The Tax Laws Amendment (2005 Measures No. 6) Bill 2005, which the Senate is considering today, contains five schedules for consideration. The first section of amendments relate to a very important issue, and one that is rightly preoccupying public debate at the present time. It relates to the convention that obliges Australia to make bribery an offence and to eliminate the tax deduction for bribery. You could not have a more important tax amendment before the Senate, given the current public debate about the activities of the Australian Wheat Board. You could not have a more appropriate context in which to be considering this particular amendment.

These legislative changes were undertaken with the Labor opposition’s support in 2000. However, in the process of the changes being made a major anomaly occurred. The OECD convention does allow for facilitation payments to occur. Such a payment is effectively a minor bribe to expedite routine and minor government decisions. The OECD convention describes these payments as a corrosive phenomenon and has called on governments world wide to seek to reduce them by developing much tougher corporate responsibility and governance environs. The convention requires that they be minor in value. Those restrictions found their way into the changes to the Criminal Code in 2000 but are not fully in the current tax act. The tax act does not require that facilitation payments be minor in value, although they should pertain to minor decisions. Also, the tax act does not require record keeping in the same way as the Criminal Code. This disparity has led the OECD to suggest that it is possible that facilitation payments may be abused. In the current context of the wheat scandal, we have not seen minor abuse; we have seen absolutely massive and major abuses, which would have to constitute bribes.

In addition to tougher record keeping, the OECD report seeks to encourage Australia to reduce the disparity between the Criminal Code and the tax act. The government should now accept this finding of the OECD report and be doing much more about this particular issue. Labor believes that the loophole that exists at the present time, the absence of the words ‘minor in value’ from the tax act, is a problem. That was explored extensively with the Taxation Office at the recent estimates. Theoretically, it would permit AWB type payments, which are essentially bribes, to be facilitation payments and thus tax deductible. As I have said, we have the enormous scandal of the Australian Wheat Board at the present time. Although we cannot get the details from the tax office because there are secrecy provisions, I do not have any doubt that AWB was claiming the transport costs, which were effectively bribes, as tax deductions as facilitation payments. They were claiming kickbacks as tax deductions. I have no doubt that that is what the Wheat Board was doing. As a consequence, it will be necessary, I believe, for the tax office to go back over the Wheat Board’s tax statements, over the years since those payments started occurring, and make corrective assessments. Indeed, it was useful to note that the tax office had sent an officer down to the royal commission hearings, at least for the first few days, to keep an eye on the evidence. As I have said, it is covered by secrecy provisions, but I have no doubt the tax office will carry out a reassessment of the Wheat
Board’s financial statements. With penalties, I suspect that it will be a very substantial sum of money indeed that the AWB will be required to pay in back tax. But that will come publicly to light in the fullness of time.

Schedule 1 of the bill recognises the losses for merging companies based on the proportion of the company’s market value. When companies merge the issue of the carrying forward of losses is vital. If the new company is less than half a per cent of the total group value then the losses cannot be recouped. This is the 12th amendment to the consolidation rules in two years. It has been a very messy process. It has been complex. The government has created uncertainty by failing to deal with the consolidation measures in a single and comprehensive bill.

The second schedule is vital for the survival of the clubs industry. It retrospectively restores the tax-free status of clubs and other not-for-profit groups, which was taken away by a recent court decision. Up until that Federal Court decision, which is spelt—

Senator Stephens—Coleambally.

Senator SHERRY—Thank you very much. Not being from New South Wales, I was not familiar with the pronunciation. Whereas previously a proportion of club income from poker machines, bar takings and dining which related to members was tax free, the Coleambally decision ruled that that should only apply where members’ funds are distributed to members when an entity is being wound up. This bill clarifies that decision by establishing that the tax-free status of clubs is not determined by that restriction on winding up. So that particular legitimate concern of the club industry is being dealt with.

The third schedule ensures the new activity test for the child-care benefit. It does not restrict eligibility for the new child-care tax offset. The government has made changes to the activity test, requiring a work test or study-training test of 15 hours a week. As Labor pointed out at the time, this would restrict eligibility for the new child-care tax offset, which the government has accepted. The bill also amends the medical expenses offset so that purely cosmetic dental expenses are ineligible medical expenses and cannot be claimed under the MEO. Therefore, expenses which are cosmetic in nature and do not attract a Medicare benefit are considered ineligible medical expenses. Schedule 5 of the bill proposes that new organisations be added to the list of deductible gift recipients. Could I just inquire as to whether a second reading amendment has been circulated in the chamber?

The ACTING DEPUTY PRESIDENT (Senator Troeth)—Yes, it has been.

Senator SHERRY—The opposition second reading amendment goes to the issues and concerns I have outlined in my contribution. I move:

At the end of the motion, add “but the Senate:

(a) calls on the Government to bring forward a separate bill on consolidation measures for greater certainty for business;
(b) condemns the Government for unnecessary delays in bringing forward key changes to defend the mutuality principle, leading to great uncertainty for the clubs industry;
(c) recognises problems of coverage, delays and other major policy flaws such as the child care tax offset;
(d) rejects the Government’s mismanagement of health policy which has seen 1 million Australians miss out under cuts by the Minister for Health and Ageing (Mr Abbott) to the extended Medicare safety net notwithstanding ‘ironclad’ guarantees from the Minister and the failure to deliver a Commonwealth dental program;
(e) condemns the Government for refusing to agree to align the definition of facilitation payments in the criminal and tax codes, providing scope for Australian Wheat Board-type kickback payments to be tax deductible; and

(f) condemns the Government for failing to advance meaningful tax reform.”

Senator MURRAY (Western Australia) (12.00 pm)—The Tax Laws Amendment (2005 Measures No. 6) Bill 2005 is a conglomeration of amendments that pertain to the 1936 and 1997 income tax assessment acts. The Democrats support this bill. Arranged into five schedules, the bill deals with amendments to loss utilisation, the mutuality principle for not-for-profit entities, changes to child-care tax offset provisions, an update to the medical expense offset and changes to the status of deductible gift recipients.

Schedule 1 amends the legislation governing loss utilisation. Specifically, the amendment seeks to clarify the rounding method to be used for the available fraction method of loss utilisation for amalgamating and consolidating corporate entities. I must admit to being surprised to note that the seemingly innocuous clarification of assigning a three decimal place rule and standard rounding provisions can lead to a cost to revenue of $7 million over three years. Indeed, this figure is a reminder of the scale of potential losses that companies seek to utilise for taxation purposes. For, if a simple amendment to the third and fourth decimal places of the rate at which the head company of a consolidated group can recoup adjoining entities’ losses can lead to a $7 million cost to revenue over three years, one can only speculate on the dollar value of significant changes to this rate.

Schedule 2 clarifies the application of the mutuality principle for not-for-profit entities. The mutuality principle provides that, where a number of persons contribute to a common fund that is created and managed as a common interest, any excess earnings that are generated from the use of the fund are not to be considered income for the purposes of taxation. The mutuality principle recognises that amounts are not derived for income tax purposes unless they are received from an external source—that is, amounts contributed by associate members of a not-for-profit entity should be tax exempt.

The legislative amendments in schedule 2 stem from the outcome of the Coleambally Irrigation Mutual Cooperative Ltd v Commissioner of Taxation case—otherwise known as the ‘collywobbles’ case; no, it’s not! In this case, it was ruled that Coleambally could not rely on the mutuality principle to reduce their assessable income derived from sinking fund contributions. According to the findings of the Federal Court:

... where there was a lack of identity between the contributors and participants in the co-operative the mutuality principle did not apply, and the sinking fund levy contributions were assessable income ...

This lack of identity between contributors and participants resulted from the use of an intermediary NFP—not-for-profit—organisation between the members and the Coleambally cooperative. According to the government, this is in direct conflict with the intent behind the mutuality principle to provide tax relief for mutual type transactions made by not-for-profit organisations. In this particular case, while that may be so—and I have an open mind on whether it is so—the concern that I and the Democrats wish to raise is the increased potential for rorting that the loosening of the definition for distributing surplus funds may create. What the court was saying, in fact, is that the mutuality principles are too loose—and I agree. According to the explanatory memorandum to the bill:

These amendments ensure that not-for-profit entities are not subject to income tax on ordinary
income from their members solely because they are prohibited from distributing surplus funds to members. Ordinary income of a not-for-profit entity from members that, but for clauses prohibiting distribution of funds to members, would have been mutual receipts is non-assessable non-exempt income.

It is extremely dangerous territory when you start to see mutuality principles allowing for surplus funds to go to members, because that is a means of providing tax exempt income. I think this is a very dangerous concept.

A core feature of the efficient and virtuous functioning of mutuality is the prevention of distributing surplus funds to members. Those funds should in fact remain within the entity unless the entity is closed down. By creating a loophole in the law to allow for an exemption to this core feature of mutuality, the government is unnecessarily risking further abuse of the system. Despite its problems, the Democrats and I do consider the provisions of the mutuality principle to be a necessary and beneficial tax concession for thousands of community based organisations, and we do support that tax concession continuing, but to my mind it is these small community based organisations for which the application of the mutuality principle was originally intended. However, we also believe that it is a very costly tax abuse in the hands of otherwise very large commercial business enterprises.

For over eight years, I and the Democrats have been campaigning for tax reform in this area. I draw the attention of the chamber to previous adjournment and other speeches I have made on this matter and the prospect of a recovery of probably between $200 million and $350 million to revenue if the mutuality principle were tightened up. And if the Super League and other enterprises operating effectively as businesses were taxed as the private sector is taxed, as they should be taxed, then we would have a saving and a tighter regime.

The Democrats have got nowhere with this campaign because this government does not have the courage to address a system which is being rorted. I consider it to be an inequitable abuse of a necessary tax concession which should apply to ordinary not-for-profit entities.

The mutuality principle needs to be defined and administered much more tightly, not relaxed and opened up to yet more abuse and misapplication. The net effect is that, because this government supports a continuation of a tax concession abuse, even though it is legal—an abuse of the spirit and intention of the mutuality principle—the rest of Australia ends up paying more tax than they should or not having the revenue available to spend on more services.

I encourage the Labor Party to have a much deeper and closer look at how the mutuality principle operates in effect. There is no reason in my mind why clubs and others that have multistorey hotels, shops, businesses and offices all over the world and that generate huge incomes should be benefiting from the mutuality principle, which in my mind is available to help junior soccer clubs and that sort of activity.

Schedule 3 proposes a concession to the recently introduced child-care tax offset. Eligibility for the child-care tax offset is dependent on contemporaneously meeting the eligibility test for child-care benefit as updated by the Family and Community Services Legislation Amendment (Welfare to Work) Bill 2005. Before I give a brief analysis of the schedule, I must digress to highlight the fact that we are here today reviewing two pieces of legislation that were passed by the coalition government through this place no less than four months ago. ‘As you sow, so shall you reap’ is an apt phrase for ‘if you push through legislation without proper review’, because we are again in the process
of fixing up legislation which in some respects was poorly constructed. It did not benefit from a strong Senate review process, and it is a piece of legislation that does require amending because the government has disdain for due process in this place and is determined to have its way without regard to the very effective and beneficial mechanisms of a full Senate review. That is a waste of resources, it is an inefficient mechanism and it does cause angst among affected members of the business community and ordinary communities who unnecessarily suffer when confusion and corrections result from what I would describe as a policy of unilateralism. It is not a credit to the Howard government that that is occurring.

As I have already stated, the amendment proposed by this bill seeks to introduce a concession to the eligibility requirements for the child-care tax offset by way of exempting families who would have been eligible for the offset but for the introduction of the more onerous eligibility test introduced by the Welfare to Work bill. Otherwise stated, the government now acknowledge the harshness of the new eligibility regime that they themselves introduced, and they are seeking to dilute its effect. At least they have had the good grace to recognise the problem and address it.

Senator Sherry—They have not said so publicly.

Senator MURRAY—No, they have not said so publicly. Schedule 4 of this bill is an outstanding amendment to the medical expenses tax offset which excludes purely cosmetic procedures, both medical and dental, from the tax offset for medical expenses incurred over $1,500 in an income year. This is a just exclusion from a beneficial tax provision that operates under the premise of providing tax relief for health rather than image related medical procedures. It is shameful to think that some Australians have been able to claim beneficial tax treatment for expensive cosmetic surgery while at the same time there is an alarming number of Australians unable to access necessary medical treatment due to issues of affordability or waiting lists. This is yet another instance of a divide in this country between the rich and the poor.

No single issue so much defines the advantages that the haves have over the have-nots than the access to dental care that many of us take for granted. The government provides millions of dollars and subsidies to those on higher incomes to help with dental care costs, but Australians on lower incomes receive nothing. An immediate injection of leadership and money is needed for disastrously long waiting lists for basic dental services, for the relief of pain and the repair and replacement of defective teeth. Tooth decay is the most common health condition in Australia, and tooth loss and gum disease are amongst the top problems. Diet, particularly of poor people, is very material to the development of tooth decay.

It is true that Australian children are relatively lucky in their access to affordable dental care, primarily through state provided services, and this is reflected in figures of good rates of oral health in those states. But it is a very different story for adults. Australia now has the second worst adult oral health of all the OECD nations, which I think number 30 now. Yet the government continues to do nothing about it. Ninety per cent of dental services are provided through the private sector with the patient paying a fee—and often a considerable fee in my experience—for each visit. Dental services are expensive. Many people on lower incomes do not have private health insurance and cannot afford private dentist fees. Those people miss out.
The government is spending more than $320 million a year subsidising dental care for people with private health insurance, but all it has done for those who cannot afford private cover is to cut the Commonwealth dental health program established by Labor. I do hope restoring that is in Labor’s program when they campaign to be the next government. When the Howard government abolished the program in 1996 there were 380,000 Australians waiting for public dental care, according to the statistics. According to those statistics there are now more than 600,000. The longer people wait, the more damage is done to their oral and general health. Poor dental health impacts on other medical conditions, including heart disease, diabetes, arthritis, respiratory ailments and cancer.

Of course, the government is continuing to ignore the lack of a workforce program to provide oral health care. There are too few dentists to meet the potential demand. Estimates have suggested that increases in population and in demand will mean Australia will face a shortfall of 1,500 dentists. I have no way of knowing whether that is accurate but there is general consensus that there are too few dentists for the need. I assume that if there were more dentists available fees would fall, because there would be more competition. That is another thing to think about.

The lack of federal funding for public dental health services is creating an ever-increasing gap between those who can afford dental health care and those who cannot. There are no funds for emergency dental treatment, let alone the preventative dental treatment that saves money in the long run. There is not even a means test basis on which you can enter into the dental queue. The changes to Medicare that the government has put in place, while a small step in the right direction in this bill, only apply to patients with chronic health problems that are made worse by poor oral health, and they only cover limited procedures. Treatment relies on a doctor’s referral, if you can get in to see one, and only refunds up to $220—although that is not in this bill; it is already established as a government program. This is unlikely to cover the normal fees charged by dentists. It is time that we had a long-term national oral health strategy and the funding that went with it. We do need leadership as well as money to bring about real reform of the dental care system. Redirecting any savings that result from the removal of the tax offset for cosmetic procedures to public dental services will not solve the problem, but it will at least direct some money to where it is most needed. My second reading amendment seeks to draw attention to this issue, and I will formally move it before concluding my remarks.

The ACTING DEPUTY PRESIDENT (Senator Troeth)—You can only foreshadow your amendment at present. After Senator Sherry’s amendment has been moved and put, you will then be able to formally move your amendment.

Senator MURRAY—Thank you for your guidance, and I will so do. I am aware that there are members of the National and Liberal parties who are as concerned as we are about the dental health problems, and I urge them in the new vigour and new strength of debate in those backbench committees and in their party room to raise this issue. It is affordable. It is possible for us to make a good start to attend to the most serious needs in this area.

The final schedule contained in this bill, schedule 5, updates the list of deductible gift recipients. This is in line with the policy and legislation as it exists, and there is nothing contentious or worthy of debate in any of those proposed changes other than to say that
they have our support, as do the rest of the amendments.

The last area I would like to attend to before I sit down is with respect to the second reading amendment put by Labor. I have difficulty with it, I must say, because of the way in which it is expressed. Item (a) says that the Senate calls on the government to bring forward a separate bill on consolidation measures for greater certainty for business. I do not know what that means. I would have preferred the government to be asked to review the consolidation measures that are being applied to see if there is any final wrapping-up needed here. I have been a consistent and strong supporter of the consolidation measures regime, as indeed has the Labor opposition. I am mindful of the fact that it has contributed to greater flexibility, greater market responsiveness and opportunities for the corporate sector. But it is also at considerable cost. I recognise the point made by the shadow minister that it is an extremely complex area which is still causing angst. I am not sure what they mean, but I do recognise that we need to pay some attention to this area.

The second item in the second reading amendment condemns the government for unnecessary delays in bringing forward key changes to defend the mutuality principle, leading to great uncertainty for the clubs industry. To some of the clubs, I say that they can go hang, because they are operating private businesses under the shield of a tax concession which they should not be entitled to, and they really should be clamped down on. I would defend the mutuality principle in a different way by tightening it up and making sure that it applies only to those who really deserve it.

The third Labor amendment recognises that there are problems with the child-care tax offset. I outlined those problems in my own speeches on those bills earlier. There are difficulties, and I probably agree with item (c). Item (d) says that the Senate:

... rejects the Government’s mismanagement of health policy which has seen 1 million Australians miss out under cuts by the Minister for Health and Ageing (Mr Abbott) to the extended Medicare safety net notwithstanding ‘ironclad’ guarantees from the Minister and the failure to deliver a Commonwealth dental program.

I definitely agree with the failure to deliver a Commonwealth dental program and I probably agree with most of the other remarks, although I do think that Minister Abbott suffered grievously as a politician from making an ironclad guarantee and from it then being exposed. So he has probably been punished quite vigorously in the public arena.

Item (e) says that the Senate:

... condemns the Government for refusing to agree to align the definition of facilitation payments in the criminal and tax codes, providing scope for Australian Wheat Board-type kickback payments to be tax deductible.

I would have preferred that to be a request to government to review whether there was a need to align them. The reason I respond in this way is because I listened very carefully to the answers at the table from the tax office during Senate estimates and they indicated that there was absolutely no problem with those two definitions disagreeing in what they thought was not a meaningful manner. So I am not sure that they need to be aligned. I would like some expert advice from independent views as to what the differences mean. Item (f) condemns the government for failing to advance meaningful tax reform. I do not know what that means, unless it is meaningful ‘income’ tax reform, in which case I would agree. So, as you can see, I have a lot of sympathy with what you are presenting in terms of ideas in that second reading amendment, Senator Sherry, but I
Senator STEPHENS (New South Wales) (12.20 pm)—I want to speak briefly to the Tax Laws Amendment (2005 Measures No. 6) Bill 2005. I begin by endorsing wholeheartedly the comments that Senator Murray has made about the state of dental health care in Australia and the need for us all to focus clearly on delivering some outcomes in that area for people with needs. This tax laws amendment bill has a number of purposes. We know that it is designed to modify and update the Income Tax Act 1936 and the Income Tax Assessment Act 1997. We have heard already from several speakers about the issues that are being addressed in the bill. Basically, they are consolidation, available action for lost utilisation purposes, extension of the mutuality principle, the child-care tax offset, the medical expenses offset and the exclusion of solely cosmetic procedures, and an expansion of the deductible gifts register.

Schedule 1, as we have heard, recognises the losses from merging companies based on the proportion of the company’s market value. When companies merge, carrying forward that loss is a very critical issue and one that many businesses have raised with me as this bill has been considered. If the new company is worth less than half a per cent of the total group value then the losses cannot be recouped. Senator Murray described how important it is to take this to the third decimal point. I will not try to explain the issue any further, but it does have quite a significant impact on those companies operating, merging and trying to carry forward a loss. Senator Sherry made the important point that this is actually the 12th amendment to consolidation rules in two years. I think that the amendment moved by Senator Sherry tries to emphasise the importance of that fact and the need to have the consolida-

tion measures in a single, comprehensive bill.

Schedule 2, which we have also heard quite a lot about but which I want to speak extensively about today, is vital to the survival of not just registered clubs but, just as importantly, not-for-profit organisations affected so recently by the court decision that has been mentioned. Up until the Federal Court decision that was known as the Coleambally case, the proportion of a club’s income which related to members was considered to be tax free. But the decision in the Coleambally case ruled that this should apply only where the members’ funds are distributed to members when the entity is being wound up and where the articles of association, or the charter of the club, indicate that that is the case.

This bill clarifies that, since the decision on 1 July 2000, the tax-free status is not determined by the restriction on winding up. The schedule is important in ways that many people in this chamber might not be aware of. The Coleambally Irrigation Mutual Cooperative Ltd was established and registered as a non-trading cooperative in 2002 under the Co-operatives Act 1992 of New South Wales. Its charter is to construct, own and maintain all new irrigation infrastructure assets in the Coleambally district for the benefit of their community. It is financed by a sinking fund levy which is made up of contributions from irrigator members. When Coleambally Irrigation applied to the Australian Taxation Office for a private binding ruling in 2002 to have their sinking fund contributions recognised as non-assessable income, the application was rejected on the basis that the mutuality principle did not apply to their circumstances.

This interpretation has since been applied to other organisations, but the implications for Coleambally Irrigation were substantial,
not only in terms of their annual financial liability but also because of the retrospectivity implications. The ruling created a major hurdle for thousands of clubs and not-for-profit organisations with similar non-profit winding-up clauses but without an exemption under section 23 of the Income Tax Assessment Act. These clubs include, as we have heard, registered clubs, but also workers’ clubs, a range of cooperatives, rural financial counselling services, motoring organisations, business associations, environmental groups, some child-care centres, housing cooperatives, some community libraries and other local services, and many incorporated associations, non-trading cooperatives and companies.

Under the mutuality principle, membership subscriptions and receipts from other mutual dealings with members are not usually included in taxable income. The number of not-for-profit entities that benefit from the mutuality principle is huge. Schedule 2 ensures, therefore, that not-for-profit entities are not subject to income tax on their ordinary income from their members solely because they are prohibited from distributing surplus funds to members.

The third schedule ensures that the new activity test for the child-care benefit does not restrict eligibility for the new child-care tax offset. The government has made changes to the activity test requiring a work test or study-training test of 15 hours a week. At the time that that occurred, Labor pointed out that that would actually restrict eligibility for the new child-care tax offset, which the government has now accepted. So the bill maintains the work, training and study requirements for eligibility for the child-care tax offset at the same level as they were before the introduction last year of the Welfare to Work legislation. That makes a lot of sense for us, so we will be supporting this schedule of the bill.

The fourth schedule, which Senator Murray spoke quite extensively about, amends the medical expenses offset so that purely cosmetic and dental expenses are ineligible medical expenses and cannot be claimed under the medical expenses offset. The idea that this could continue to be the case when we have escalating health care costs and huge waiting lists around the country seems to me to show that this is an amendment that makes a lot of sense. Labor supports the clarification of that schedule.

Schedule 5 proposes that new organisations be added to the list of deductible gift recipients and also extends the time for which deductions are allowed for gifts to a fund that has time limited DGR status. Organisations that will benefit from this amendment include the CEW Bean Foundation, which wants to build a memorial and develop an honour roll in tribute to war correspondents killed in conflicts since 1885. The Australian Red Cross and the Salvation Army, which set up the Hurricane Katrina appeal to help in the disaster relief effort in the aftermath of Katrina, are also included. The amendment will see the Xanana Vocational Education Trust added to the deductible gifts register. This trust develops vocational education and training in East Timor by subsidising education and awarding scholarships to young people.

I will briefly speak to the amendment moved by Senator Sherry. I consider the important aspect of the amendment to be the proposal to close the loophole that currently allows deductions for fuzzy payments being used to facilitate deals. We have heard much in the media in the last few weeks about what is going on with the AWB. But, currently, facilitation payments are loosely defined and exempt from the normal bribery provisions of the Income Tax Assessment Act. In light of the burden currently being shouldered by Australian wheat farmers, due
to the many payments made by the AWB to Saddam Hussein’s regime to facilitate trade, it is a shame that that loophole was not closed years ago. Had it been closed, the AWB would not have been able to describe up to $300 million as ‘facilitation payments’ and thus be entitled to multimillion-dollar rebates, courtesy of the Australian taxpayer.

Just as the government has received many international warnings about the kickbacks made to Saddam Hussein, so has the government received international warnings about this particular loophole in our tax law. As recently as January this year, the OECD report on the application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions found that Australia’s defence of facilitation payments was also identified for further monitoring because of concerns such as the practical effectiveness of the record-keeping requirements.

Labor’s proposed amendment would prohibit AWB style deductions. The evidence before the Cole inquiry suggests that that is a loophole that we should be fixing very quickly. We are not alone in thinking that facilitation payments should cease to enjoy tax deductibility. It is not rocket science to know that as soon as you support facilitation payments you are entering into the culture of bribery and kickbacks which has done this nation’s trading reputation extraordinary harm.

I note Senator Murray’s comments about the fact that we are amending two pieces of legislation that we passed only a short time ago and his point that we rue the day when we have to amend such poorly drafted legislation which has been drafted in such haste. I have spoken at other times in this chamber about considering both the effects and the consequences of legislation. I think what we are seeing here is some consideration of those two issues.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (12.31 pm)—I thank all senators who have taken part in the debate on the Tax Laws Amendment (2005 Measures No. 6) Bill 2005. I do not propose to go through all of the schedules, but I do want to say something about the principle of mutuality. By way of background to the second schedule, mutuality is a legal principle based on the proposition that a taxpayer cannot derive income from itself. Under the principle, if members contribute to a common fund created and controlled by them for a common purpose and those contributing members are essentially the same as those who participate in the fund, the member contributions and receipts for member dealings are not subject to tax. Under the principle, essentially all the contributions to a common fund must be entitled to participate in any surplus of the common fund.

The Australian Taxation Office’s longstanding practice has been to treat the mutuality principle as applying to not-for-profit community organisations, despite the inclusion of clauses in an entity’s constituent documents that prohibit the distribution of surplus funds to members. The decision of the Federal Court in Coleambally called this into question. As we know, the government announced on 30 May 2005 that it would amend the income tax law to ensure certain not-for-profit organisations would not be subject to tax on mutual receipts as a result of the Coleambally Federal Court decision. The court’s decision potentially affected between 200,000 and 300,000 not-for-profit entities, including clubs, professional organisations and some friendly societies. The government’s amendment today restores the longstanding benefits of the mutuality prin-
principle that applied prior to the court’s decision.

Senator Sherry has foreshadowed a couple of amendments that I will address, including item (b) of his foreshadowed amendment, which relates to unnecessary delays in bringing forward key changes to defend the mutuality principle. The government rejects the claim that there have been unnecessary delays in the government restoring the mutuality principle that led to unnecessary uncertainty for the clubs. The government recognises that many clubs and community associations make an important contribution to local communities. To that end, the government gave the clubs industry a clear commitment during the election that it would preserve mutuality benefits for clubs.

I also want to address Senator Murray’s foreshadowed amendment but, before I do so, I will mention item (e) of Senator Sherry’s second reading amendment—that being the proposal to align the definitions of facilitation payments in the tax act with the definitions in the Criminal Code. Senator Sherry had asked at Senate estimates whether, from the ATO’s perspective, slightly different definitions contained in the code and the Income Tax Assessment Act present any practical problems. Mr Monaghan, the Deputy Commissioner of the serious non-compliance area in the ATO, responded:

We do not believe so. Our view is that the policy intent is reflected in the wording. In terms of our legislation, it is about a tax deduction and whether or not that is allowable. The Crimes Act is about a criminal matter. You might expect there to be more precision in that wording. So we do not believe there is any particular issue in that.

The government, having thought about this, considers that the income tax law is sufficiently robust to ensure consistency with the Criminal Code and therefore denies deductions for bribes paid to foreign public officials. I will now briefly deal with Senator Murray’s foreshadowed second reading amendment.

Senator Sherry—Mr Acting Deputy President, I rise on a point of order. Is the minister going to guarantee that on the public record with respect to AWB?

The ACTING DEPUTY PRESIDENT (Senator Marshall)—I do not think that is a point of order, Senator Sherry.

Senator COONAN—Before Senator Sherry’s attempted point of order, I was dealing with the second reading amendment foreshadowed to be moved by Senator Murray on behalf of the Australian Democrats. Senator Murray, with regard to your second reading amendment, governments have different and complementary roles in assisting Australians with dental health. Senator Murray made a number of important points in his contribution, but the Australian government and the states and territories have to assume a fair share for the system to work properly. States and territories are responsible for public dental services. As part of the Australian Health Care Agreement, states and territories are required to report on the number of dental services provided.

The government’s commitment to public dental health includes the Strengthening Medicare package, which provides new Medicare items for dental care for people with chronic and complex care needs. Medicare will reimburse $76.35 for each of these services, to a maximum of three services annually. In keeping with its responsibilities in the health care system, the Australian government also provides Medicare funding for a number of dental procedures for private patients receiving services in private and public hospitals, subsidised drugs that may be prescribed for oral health under the Pharmaceutical Benefits Scheme, funding for the university training of dentists and other dental service providers and funding for the den-
tal care of war veterans and full-time and part-time members of the Australian Defence Force.

For the reasons outlined above, I commend the bill.

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

The Senate divided. [12.41 pm]
(The Acting Deputy President—Senator GM Marshall)

Ayes........... 28
Noes........... 32
Majority........ 4

AYES
Brown, B.J. Brown, C.L.
Campbell, G. Carr, K.J.
Crossin, P.M. Faulkner, J.P.
Forshaw, M.G. Hogg, J.J.
Hurley, A. Hutchins, S.P.
Kirk, L. 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.
Siewert, R. Webber, R. *
Sterle, G. Wortley, D.
Wong, P.

NOES
Adams, J. Barnett, G.
Boswell, R.L.D. Brandis, G.H.
Campbell, I.G. Chapman, H.G.P.
Colbeck, R. Coonan, H.I.
Eggleston, A. * Ellison, C.M.
Ferguson, A.B. Ferris, J.M.
Fielding, S. Fierravanti-Wells, C.
Heffernan, W. Hill, R.M.
Humphries, G. Joyce, B.
Kemp, C.R. Lightfoot, P.R.
Mason, B.J. McGauran, J.J.
Minchin, N.H. Nash, F.
Patterson, K.C. Payne, M.A.
Ronaldson, M. Santoro, S.
Scullion, N.G. Troeth, J.M.
Vanstone, A.E. Watson, J.O.W.

PAIRS
Allison, L.F. Macdonald, I.
Bishop, T.M. Abetz, E.
Conroy, S.M. Calvert, P.H.
Evans, C.V. Parry, S.
Ludwig, J.W. Fifield, M.P.
Stott Despoja, N. Johnston, D.

* denotes teller

Question negatived.

Senator MURRAY (Western Australia) (12.44 pm)—I move the second reading amendment standing in my name on the Tax Laws Amendment (2005 Measures No. 6) Bill 2005:
At the end of the motion add:
“but the Senate:
(a) expresses its concern at the continuing impact of the removal of the Commonwealth dental health program; and
(b) recommends that any tax revenue that results from the removal of the tax offset for solely cosmetic dental procedures is directed towards meeting public dental health needs”.

Question negatived.

Original question agreed to.

Bill read a second time.

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

Public Sector Accounting Standards
Senator WATSON (Tasmania) (12.45 pm)—This afternoon I wish to speak about a matter of public importance—that is, public sector specific accounting standards. Last year, the Australian Accounting Standards Board proposed to abolish public sector specific standards—namely, AAS27, financial reporting by local governments; AAS29, financial reporting by government departments; and AAS31, financial reporting by governments. The Financial Reporting
Council has commissioned a review of the proposed public sector standards in relation to accounting standards in Australia. I believe that review is very important.

I do not support the removal of those standards, having worked behind the scenes for their establishment. While the move towards sector-neutral standards is a good one, I believe the public sector has significant differences from the private sector and does need to be treated as such. Over the next few minutes, I intend to outline the benefits of what I call sector-neutral accounting standards, the areas in which the public sector differs from the for-profit sector and, finally, the problems that would arise if the Australian accounting standards relating to the public sector were removed.

My first point is that the move towards sector-neutral standards is, on the whole, a good one; I do not deny it. Sector-neutral standards reduce compliance costs, are required to bring Australia into line with international financial reporting standards and increase investor confidence. The international accounting standards are produced by the International Accounting Standards Board and are used by many countries all over the world, including the European Union, Japan and the United States. Having sector-neutral standards increases interoperability between different government and private entities and allows clearer and more transparent financial reporting. There is very little argument that, in an ideal world—which we do not have—sector-neutral standards would be universal. As we will see, though, the reality of the situation is not quite so simple.

My second point is that the public sector is fundamentally different from the for-profit sector. But the question is: do we need in Australia two different accounting standards—one for the public sector and one for the private sector? Therefore, the accountancy profession in the public area is very much at the crossroads. The public sector does not generate revenue and does not have as its primary objective the generation of a return on shareholders’ funds. Professor Allan Barton of the Australian National University has written:

The environment of government and the nature of its operations are fundamentally different to those of the business sector, and accounting information systems must be designed to suit these characteristics if they are to provide useful information to the government and its managers ... Parliament and citizens.

CPA Australia, the largest accounting body in this country, has outlined several key areas where the public sector differs from the for-profit sector, and they are as follows. Revenue: the government sector does not generate revenue in the commercial sense. Fair value: the nature of public sector assets means that it is not possible to obtain a fair value without a significant investment of resources and with a marginal outcome. As funding is not determined by the value of the asset, on what basis should fair value apply to public sector assets? That is a fair criticism. With respect to heritage and cultural assets, the public sector is the major custodian of the community’s heritage and cultural assets. There is a need for specific standards to address this unique government issue.

Just taking these few areas alone, we can see that significant problems arise when we hold the public sector to the same standards as the private sector. How exactly does one value a national park? How does one value the land under our roads? Is it worth billions of dollars or is it worth nothing? How can we determine a market value for an asset that cannot be sold, such as the Great Barrier Reef?

Also, consider the costs of making such evaluations. How exactly would spending
millions of dollars and man-hours estimating the worth of cultural and natural assets improve the provision of services to the public? In short, it would not. We would simply be forcing government departments to waste scarce resources to meet an unnecessary standard.

I will take a moment to acknowledge that I am a fellow of CPA Australia, which has over 14,000 members in both the public and not-for-profit sectors. I note that CPA Australia does not support the Australian Accounting Standards Board proposal to abolish public sector specific accounting standards, unless significant issues are addressed, and I endorse that. CPA Australia recently held a series of think-tanks in Sydney, Canberra, Melbourne and Brisbane to canvass the views of over 300 top public sector finance and accounting professionals on this fundamental public sector accounting issue. As CPA Australia Public Sector Director Justin Naylor said:

The overwhelming response from our membership is that the public and private sectors are significantly different and therefore public sector specific accounting issues must be addressed before the specific standards are removed.

He went on to say:

CPA Australia is concerned that the withdrawal of public sector-specific standards will undermine the many advances made in government financial reporting achieved since the introduction of accrual accounting.

Furthermore, the Australian Auditor-General, Mr Ian McPhee, who is an FCPA—a fellow of the accounting body—said recently:

It is appropriate, in my view, to have a presumption in favour of sector-neutral standards, but where a case can be made, departures from this approach should be allowed. On this basis, in light of the marked differences between the for-profit and public sectors, and the scale of public sector activities, I am strongly in favour of the AASB continuing to develop public sector standards.

I believe this matter is so fundamentally important that this issue really should be examined by an appropriate parliamentary committee. We in Australia have made such great advances, particularly since the introduction of accrual accounting, in terms of developing our own public sector standards. In conclusion, I see that the sector-neutral standards may be beneficial on the whole, but the public sector is so significant and fundamentally different, as I have outlined, that it does need to be treated as such. I thank the Senate for the opportunity to express these concerns.

Sports Betting

Melbourne Commonwealth Games

Senator MARSHALL (Victoria) (12.53 pm)—I also rise to join this discussion on matters of public interest. Recently there has been a great deal of media attention paid to an emerging issue in Victoria: the rights of sports to control their own product when it comes to sports betting. I believe that now is the time for a national approach, and the federal government should take a leadership role in this important area. Now is timely to be discussing our love of sport and the ways in which we can bolster our sports performance, with the Commonwealth Games only a matter of days away. I expect Australia to excel again in my home town of Melbourne, the greatest city in the world and the capital of sporting events.

It should be no secret at all that Australians love their sport—Melburnians most of all—and that we as a nation are proud of our achievements, which are worthy of a nation much larger than ours. That pride is partly because of the faith we have in our sportspeople and their reputation for fairness, honesty and endeavour. The integrity of the sports product is key to transparency and credibility.
However, there have been occasions, particularly internationally, when the integrity of certain sports has been tarnished by events where it has been alleged that sportspeople have taken cash for their performances or for information to the advantage of persons involved in sports betting. Sports betting in Australia is a growing industry. Sports wagering is increasing at nearly 30 per cent per annum. Some $1.6 billion is generated in Australia through sports betting. Sports have no control over how or what bets are taken on their sport and receive no share of the revenues from betting operators, except where commercial deals have been entered into, such as the deal that the AFL has recently entered into with Tabcorp and Betfair.

In my view, it is important that sports have control over the types of bets and information on what bets are taken on their sports, so as to enhance their efforts to police integrity. The effort to police integrity should be coupled with a fair return to sports from the betting taking place on their product, as they are the institutions that bear the costs for such policing. There are simple principles involved: sports currently protect and police the integrity of their sports without compensation; they currently receive no return for those efforts; and the betting on these sports depends on the faith of the punters in the integrity of the product.

Many countries in the world already support this model. Recently the Victorian government has committed to such a model being put in place for sports. The Minister for Racing and Gaming in Victoria has committed to introducing legislation which gives sports protections and a fair share by July of this year. I commend the minister for taking this action. The National Rugby League spokesperson, David Gallop, has stated publicly:

I think it is those bets that are peculiar that you would be concerned about ... A greater control over the types of bets would be prudent from our point of view.

I agree with Mr Gallop on that. James Sutherland, the CEO of Cricket Australia, has stated:

Perception is important because people are paying hard-earned money to come and watch international cricket matches. People want to know the sport they are watching is genuine and free from corrupt activity.

He also went on to say:

If you are going to bet on whether a player walks out onto the field with a cap or a sun hat or makes 20 or 21 ... then there are higher levels of risk around that and we would want to get some control.

I also agree with Mr Sutherland. You can see the nature of the concerns that these sports have, and I believe they are warranted. Most major competitive sports have now come together under the banner of the Coalition of Major Professional Sports, COMPS, to lobby for a fair return from sports betting. Senators would be aware that similar arrangements are in place for wagering on racing. Racing currently receives a 25 per cent return from Tabcorp wagering in Victoria. This enables racing to maintain its integrity, whilst also providing a real return to the sport that is providing the entertainment—and thereby the profit—to the betting provider.

As well as this precedent, there are also international precedents which are worthy of note. The New Zealand government has legislated for a mandated return of profit from sports betting to sports. Sweden and Norway have similar models in place, although their betting provider is state owned. In fact, Estonia, the Czech Republic, Denmark, Finland, Japan, Italy, New Zealand, Greece, Sweden, Norway, the UK and Israel all make distributions to sports in some manner.

I believe it is worth while for me to now outline in some detail my thoughts on an appropriate proposal around sports wagering.
in Australia. In my view, there are two aims: firstly, to ensure that sports receive a fair share of sports wagering; secondly, to create enhanced oversight mechanisms to ensure the integrity of sports wagering. Sports should have the ability to determine the terms upon which wagering services are offered to the marketplace, to increase both sports revenue and the ability to implement integrity measures. Sports, like racing, already have in place advanced stewardship arrangements which see them police the integrity of their sports. This has proven vital in recent years in efforts to ensure that events and participants operate with fair oversight, and that punters and the public can have faith in the quality of events. Sports must have the right to control their own data. The compilation of data is expensive and resource intensive. Sports have a right to be compensated by those who use sports for commercial purposes.

Lastly, the distribution of revenue from wagering should be based on turnover rather than profit in order not to penalise sports in cases where the wagering service is operated poorly. After all, sports carry all the financial risk associated with the conduct of their events and there is no reason why wagering service providers should not do the same.

While there are many sports, including cricket, soccer, Rugby League, Rugby Union, tennis, golf, basketball and Australian Rules football, that are represented by recognisable national sporting organisations, the structure of other sports can be fragmented. Legislation would therefore be required that allows the relevant minister to recognise national sporting organisations. Most obviously, these would be organisations responsible for the conduct, promotion and development of their sport.

COMPS’ proposals are worthy of strong consideration, and the federal government must certainly play its role. Australia does not want to become a haven for unregulated sports betting in a global environment which, by and large, is trying to act to ensure integrity and provide a fair return to sports for doing so. We must act now to ensure that the integrity of sports is protected into the future.

A collective approach such as this is also to be commended. It is an approach that I would like to see mirrored in the way that state governments deal with their response. We need a national framework for sports betting, and I encourage the federal government to take a role in ensuring that this happens. It is unreasonable for sports to be put in the position of having to deal with eight different jurisdictions in different ways. They deserve more respect than that. The minister may consider following the lead of the Victorian government by asking—or requiring, if possible—protections to be offered to all sports, and a fair return for their product.

Mr Acting Deputy President, as I have a few moments left of my time, I want to commend the Victorian government for the way that they have handled the lead-up and the organisation of the Melbourne 2006 Commonwealth Games, which is going to be a great state event as well as one of national importance. Of course, to Victoria it is much more than a sporting event. It has involved the whole state in community activities, and all 79 Victorian councils will host events at over 200 locations celebrating the spirit and the impact of the Commonwealth Games.

The games have of course brought great economic benefit to the state of Victoria. They will result in expenditure within Victoria associated with the games of more than $3 billion. It is estimated that the event will result in an increase in gross state product of $1.5 billion and create 13,000 full-time jobs, including casual positions and new permanent positions, and increases in the amount
of overtime worked. Of course, the event will bring together 4,500 athletes from 71 different Commonwealth nations. It is expected that there will be television audiences of 1.5 billion worldwide. It will involve up to 15,000 volunteers who will contribute to the organisation and running of the Games and other associated events. Tourism expenditure is forecast to be in excess of $250 million. All of that paints a great picture.

I had the privilege of visiting the Games village a number of weeks ago. Contrary to some media speculation, the village is ready. All is in order for the beginning of the Games. Clearly, the minister for sport in Victoria, Mr Justin Madden, along with his fellow ministers, must be commended for the organisation leading up to the Games. It will be an incredibly successful event, an important event for Melbourne, an important event for Victoria and an important event for Australia.

Australian Wheat Board

Senator SIEWERT (Western Australia)

(1.04 pm)—Today I would like to talk about the real cost of the Australian Wheat Board scandal. So far we have been focusing on the dollars, on how the Australian system could have failed, on who should have known what and on who knew what. The three-monkey routine is still going on: see no evil, hear no evil, speak no evil. It is no good saying, ‘It’s okay; there were others in it.’ We were the biggest culprits. We were the leader of the pack. However, what seems to have been missing from this debate is what this in fact means. What has been missing is any real discussion of the impact on the ground in Iraq of AWB doing over an aid program—an aid program whose aim was to stem a humanitarian crisis. What we need to talk about, using economic parlance—as much as it pains me—are the ‘opportunity costs’: what funnelling a slice of aid money to Saddam Hussein meant in terms of missed opportunities to help out Iraqi families in a time of crisis.

There has been much discussion of the impact of AWB’s involvement in corruptly funnelling money to Saddam on the falling share prices and the potential loss of foreign markets, as well as the impact it may have had on Australian wheat farmers. While we are rightly concerned about the livelihood of our farmers, I believe it is a dirty and sneaky trick to try and lay the blame for these impacts on those of us who have been trying to expose this scandal. The blame lies clearly with those who have broken the rules and misled their shareholders. We cannot align ourselves with the attitude of ‘export dollars at any cost’. We cannot be so parochial as that when the ‘opportunity costs’, the real costs of our actions, can be counted very clearly in Iraqi lives lost.

We know from the media that about $US225 million was diverted by AWB from the UN oil for food program. This money was diverted from spending on medical resources essential to the Iraqi people, whom we know were then in desperate need. This came on the back of a system of sanctions and then a bombing campaign which between them had destroyed the fundamental health infrastructure of Iraq. People did not have power, clean water or access to medicines. This is a well-known fact and it was well documented. That is why these aid programs were there in the first place.

If you divide the amount of money diverted—which is, as I said, $US225 million—by the number of Iraqi people at the time, 26.9 million, the money that was diverted was $US8.40 per head. Using publicly accessible World Health Organisation data, Dr Gideon Polya has plotted infant mortality rates versus annual per capita medical expenditure for Iraq and its neighbours. He has
estimated that in 2003 an extra $US8.40 of medical expenditure in Iraq would have saved an extra 22 under-five-year-old infant lives per 1,000 births. There were 972,000 births in Iraq in 2004. Hence the number of infant lives saved would have been about 22 times 972—that is, 21,384 lives. Let us round that off to 21,000 lives. That is what this money means: 21,000 lives.

Now let us look at the $100 million that was given by AusAID for wheat shipments caught when the war was declared. We know that $45 million of that was used for bogus transport payments. That has also been in the media. That equates to $US26 million. By my calculations, that means that 2,471 Iraqi children’s lives were lost that could have been saved if we had done the checking. If we had bothered to check out this problem, that $A45 million would have saved 2,471 Iraqi children.

Then let us look at the one-million dollar man much hyped by the media. The $1 million paid to Mr Flugge, if you translate it to US dollars, would have saved the lives of 55 Iraqi children. A total of $US1.8 billion was diverted illicitly from the $35 billion UN oil for food program as estimated by the Volker Report, this yielding an upper estimate of 180,000 avoidable Iraqi under-five infant deaths due to foreign corporate scams in the period from 1997 to 2003. Australia’s incompetence, lying and failure to review this program directly contributed to the lives that have been lost in Iraq. That is what it means. That is why we care so much about this: it is what it has meant in the human tragedy that Australia has actively participated in.

The Australian government has made large capital out of the war on terror. The Australian government was very big on how we needed to deal with this terror and how it was having untold impact on the Iraqi people. What was having an impact in 2003 and 2004 on the people of Iraq was the scandal that was unfolding, which was funnelling money from an aid program into the pockets of Saddam Hussein to buy guns and bombs instead of buying medicines and food for over 21,000 children who could have survived.

We do not know yet about the level of involvement of people from DFAT, WEA and AusAID. We do know that this is being investigated by the Cole inquiry, and it has stymied our getting access to a lot of this information. What we keep failing to do is to equate what this scandal has meant on the ground. The Cole inquiry will hopefully get to the bottom of who knew what and when, but in all the rush to point the finger it may be forgotten what it equated to on the ground. What it meant on the ground was that 21,000 lives that could have been saved were in fact lost. The aid program was helping to buy the guns and bombs that were being used to terrorise people instead of saving lives, which is what the program was designed for. It may very well be that those guns and bombs actually contributed to more deaths and more maiming of people in Iraq.

So, in fact, probably far more lives that were lost could have been saved if we had bothered to check when flags were being raised about this scandal. We know of many instances where these flags were being raised. The scandal is that our system in Australia failed to find these and that people turned blind eyes, did not bother to listen when the warning was raised, believed lies that were being told by the AWB and believed the hail-fellow-well-met approach that is being taken to business in this country, when supposedly when you look somebody in the eye and they say, ‘We didn’t do it,’ that is okay. That is okay; that is the way we run the aid program in this country, when we forget that it actually cost over 21,000 lives.
Australian incompetence has resulted in the deaths of at least 21,000 people. Australia should hang its head in shame that we failed to pick up this ongoing problem. Now we have ministers, the AWB and the WEA running for cover, saying: ‘It wasn’t us! It wasn’t us!’ That is an absolute scandal. How can we ever look people in the eye again and say that our aid program is carried out properly unless we actually get to the bottom of what happened in this instance and never allow it to happen again?

Education: History

Senator MASON (Queensland) (1.13 pm)—One of the really great joys of my life has been a love of history. I often think that, no matter the horrors of politics or the disagreeable days that we all live through, we can all find solace in or indeed learn lessons from history. Even in really dark times, one can draw upon Sir Winston Churchill, crouching in his study as the Nazis bombed London in 1940. We can read of the gossip about and the sexual antics of the rich and famous in Gore Vidal’s memoirs. I like that as well. We can draw courage from reading about Sir Edmund Hillary scaling Mount Everest and from reading the story of the Anzacs.

I was just speaking to Senator Hill before. He is a man who understands history. He said, ‘Brett, in politics, too, we learn from history. History gives us a sense of proportion and a sense of perspective.’ I think many of us think that no-one has ever experienced the woes and sometimes difficult days we have in politics, but the Greeks and the Romans showed that indeed they did, and we share their experiences.

When I was a kid, I was much more interested, I have to admit, in sport and in adventurers. I used to read about Sir Ernest Shackleton and his great memoir South, about Sir Edmund Hillary and about the cricketers. In more recent times, I have been more inspired perhaps by thinkers and scientists, humanitarians, and, I admit, sometimes politicians and statesmen. Perhaps we call statesmen politicians who have got over politics. One thing that never changes is that when we look back at history we see ourselves. We look at the distant mirror, and what comes back is the human condition. Whatever changes, that never does.

To be honest, one of the disappointments I have is that when I talk to schoolkids in Queensland—I am sure it is the same throughout the country—most children at primary school but particularly at high school do not share my love of history. They think history is boring. They think that it has nothing to do with their lives, that history is about dead white men and that it is not really relevant. If I am to test them on the history of the 20th century—the bloodiest century in the history of mankind—and ask them about World War I, the Second World War and the Cold War, many will say, ‘Brett, I’m not interested in that. That didn’t happen in my lifetime’—as if to say, ‘It doesn’t apply to me.’ No-one who is cool and ‘with it’ would know about things like that, would they? No-one who is truly modern would spare a thought about Mao Tse-tung.

The other day I did take interest and, indeed, some delight in the Prime Minister’s remarks about the teaching of history in his speech to the National Press Club on 25 January. The Prime Minister reminded us that fewer than one in four Australian secondary students takes a history subject, and even that history, he argued, ‘has succumbed to a postmodern culture of relativism where any objective record of achievement is questioned or repudiated’. As senators know—as you know, Mr Acting Deputy President Marshall, as my colleagues opposite know, as my friends on this side know—I have spoken so often in this chamber about my view that the
greatest failing of the left in the 20th century was to largely fall for the great lie of moral equivalence; in other words, that all political systems are somehow equal and that they are all legitimate reflections of different cultures and different political cultures. That is why I always, when I go to a school and I see Ho Chi Minh, freedom fighter, and George Washington, freedom fighter, equated, I cringe. That worries me.

Secondly, the Prime Minister argued:
In the end, young people are at risk of being dis-inherited from their community if that community lacks the courage and confidence to teach its history.

That assessment, of course, is quite right. What is important is to attach our children to the community, to their country, to their culture and, indeed, to this civilisation. The great Anglo-American historian Professor Simon Schama—many of you will know of Professor Schama—wrote:

History is written not to revere the dead but to inspire the living. It is part of our cultural bloodstream of who we are. And it tells us to let go of the past even as we honour it, to lament what ought to be lamented and to celebrate what should be celebrated.

In a way, history, if it is taught well, is exciting and is made relevant, can far better attach children to their communities. With many of the problems that face Australian life today throughout the country, all Australians of whatever background would be better served by better history.

I want to briefly touch upon what I see as a concern—that is, while I agree with the Prime Minister that we should revamp and revitalise history teaching in high schools and, indeed, in primary schools, I am worried about who teaches the history teachers. Of course, that happens at universities. The Senate is aware of my concern with often left-wing bias at universities. I had a friend the other day who sent me an email that accurately describes the depth of the problem that we face in trying to obtain a history in this country of our failures, sure, but also of our achievements—the great landmark achievements that this country has made over the last 200 years, which is now, of course, one of the most successful democracies on earth.

A conference entitled ‘Relaxed and Comfortable? Challenging John Howard’s Australia’ is held, the email says, to mark the 10th anniversary of the election of the Howard government to office in 1996. Conference panels will seek to address the following themes: ‘Re-thinking history? How have Howard’s and his government’s uses and misuses of history strengthened their politics? How can Left/radical histories inform our present impasse? Should we rethink historical symbols and languages in order to combat Howard’s victories? If so, how?’ Other conference sessions include: ‘What is the place of the contemporary Labor Party in the struggle against Howard?’ And, finally: ‘Is there life after Howard(ism)?’ That is being held under the auspices, I understand, of the University of Melbourne.

My concern is that while we talk about all sorts of diversity in universities—cultural diversity, religious diversity, gender diversity and so on—we do not talk about political or ideological diversity. You can be whatever you like, as long as you are left wing. There is little pluralist debate in universities; certainly the orthodoxy is Left. As that affects our history teaching, particularly in departments of humanities and social sciences, what do we do about it? How can we be assured that those departments will teach well the history teachers that teach our children history?

I think we have to do several things. We have to ensure that left-wing bias is not entrenched in the hiring and firing of staff, in
the grading of students, in the reading lists and curricula, and in the selection of speakers on campus. We also have to ensure that the university administration remains neutral on substantive disagreements that divide researchers. This is a terribly difficult topic.

In the United States, 21 state legislatures have before them legislation which they describe as an ‘academic bill of rights’. It has already been passed in several states. That academic bill of rights seeks to ensure several things. It seeks to ensure that academics are hired, fired, promoted and granted tenure on the basis of their competence. No-one should be hired, fired, promoted or granted tenure on the basis of their political or religious beliefs. It seeks to ensure that students should be graded solely on the basis of their reasoned answers and appropriate knowledge of the subjects and disciplines that they study—not on the basis of their political or religious beliefs. It seeks to ensure that curricula and reading lists in the humanities and social sciences should reflect the broad spectrum of significant scholarly viewpoints.

I do not think that this is necessarily about imposing legislative schemes on universities. I am hoping, however, that universities can be persuaded to adopt diversity in politics, as they have in other areas. In other words, I am hoping that they can be encouraged to do the right thing and to follow their charter of free intellectual inquiry. That will involve encouraging universities to review their student rights and campus grievance procedures to ensure that intellectual and political diversity is explicitly recognised, protected and adequately publicised to students. I know that some universities do that already, and they do it well. Others do not do it quite so well.

I do not want physics professors to be able to denounce the Howard government in a course on quantum mechanics. I think that an academic bill of rights for Australia is long overdue and it would better our education system, particularly history education. If we are serious about revitalising and revamping history, we should start at the top: the universities that teach the history teachers.

Norfolk Island

Senator CARR (Victoria) (1.26 pm)—On 20 February 2006, the Minister for Local Government, Territories and Roads issued a press release entitled ‘New governance arrangements for Norfolk Island’, in which he outlined new policy directions with regard to the governance of Norfolk Island and indicated that the government would be pursuing a number of options in consultation with the Norfolk Island Assembly. The first option is a modified self-government model with greater powers of involvement by the Australian government than exist currently, and the second option is a local government model in which the Australian government might assume responsibility for so-called state type functions.

The press release was issued after the minister had attended a meeting on Norfolk Island to announce the changes and following a cabinet decision late last year. That decision had been leaked to people on Norfolk Island, including the editor of the Norfolk Island newspaper, who had raised the matters with the government and, I understand, had been told that if they were to be published there would be a prosecution launched under the Crimes Act against the editor of the newspaper. The obvious questions arise: who leaked the cabinet deliberations? Has a Federal Police inquiry been launched into who leaked the matter? Are prosecutions planned for this unauthorised disclosure? If it were not for the leak, there would have been no discussion of these questions prior to the minister visiting the island on 20 February.

The minister made the announcements despite the fact that there have been no sub-
stantive responses to a number of unanimous Senate committee reports detailing extraordinarily serious difficulties faced by the people of Norfolk Island concerning the governance arrangements of that territory. There have been repeated financial reports prepared for the Commonwealth government which highlight the parlous state of the economic conditions on Norfolk Island, in particular the finances of the government of Norfolk Island. The Acumen report, which indicated that the territory government would be insolvent in 18 months to two years, was received by the government last November. Despite this series of very strong evidence, the government has chosen to make this announcement with a proposal that no action be taken until 2007.

It strikes me that the parliament has been sitting for three days, and the minister could have taken the opportunity to come into the parliament and put a view on behalf of the government as to what its intentions were and to explain its policy position. I say that in the context of the proposals being considered that go to the issue of the Commonwealth taking back powers over immigration, customs, health, education and social services and addressing the question of the taxation issues on Norfolk Island. These are matters that I have gleaned from various press reports, but I cannot be absolutely certain about them because there has been no clear statement by the government as to its policy position. There has been no clear statement.

This is a program which may well involve hundreds of millions of dollars in taxpayers' money to assist the people of Norfolk Island. This policy position is broadly in line with a number of unanimous Senate committee reports. So the government should not fear coming into the parliament to discuss these questions and, of course, should be able to provide the people of this country with a clear insight into what it is proposing, given that there may well be considerable sums of money involved and given the urgency of the questions that are now being addressed.

As I say, there is a territory of this Commonwealth which is potentially facing insolvency, yet the government seeks to go through a series of so-called consultations on matters about which it has privately already made its position clear and about which it has clearly made its mind up, but it is now of course seeking to defer a legislative response, which is what is required, until next year. I find it absolutely extraordinary in that context that there has been no ministerial statement and that there has been no discussion with the parliament about such critical questions, especially in the light of the fact that there is bipartisan support in the parliament for substantial reform. You have to ask: why has the government chosen to adopt this course of action?

It troubles me dearly that we have the situation now where the Norfolk Island experiment has failed. The regime introduced back in 1979 was always on the condition that the Commonwealth had clear and ongoing responsibilities with regard to meeting the citizenship obligations of the people who were actually living on Norfolk Island—citizenship of this country, as Australians. It is of course critically important that there be ongoing and genuine responsibility for the financial obligations that that would involve and that there be considerable direct consultation with the Commonwealth government about the way in which services were actually provided.

Over the last decade, we have heard concerns increasingly being expressed about the adequacy of services that are being provided to Australian citizens on Norfolk Island. There have been considerable concerns expressed about the social welfare programs provided to Australian citizens on Norfolk
Island. The official riposte has been: ‘These are matters for the Norfolk Island government because it is a self-governing entity. We wash our hands of responsibility.’ That is just simply not good enough and, clearly, what the minister now has to acknowledge is that that position is not good enough.

The Commonwealth of Australia cannot allow a territory of the Commonwealth to become insolvent. It simply cannot allow that situation. It is intolerable. It simply cannot allow two levels of citizenship in this country whereby some citizens are entitled to a level of services whereas others are not. We simply cannot allow that to occur and I think any reasonable person would actually acknowledge that. And, frankly, we cannot allow a position to continue where the government has a totally inconsistent approach to the way in which territories are governed in this country. Compare, for instance, the attitude that is taken towards Norfolk Island and the attitude that is taken to the Indian Ocean territories. They are just chalk and cheese.

We have a situation in which the Commonwealth is currently expending some $80 million per annum in the Indian Ocean, yet the people of Norfolk Island do not get anywhere near that level of support. We have a situation in which the government is only too happy to pursue service agreements for the Indian Ocean, but with regard to Norfolk Island it is a case of the government turning a blind eye to so many of abuses. We have a situation in which there has been a series of international embarrassments on Norfolk Island. Take the case of Greenwich University. What action was taken? Why did the government drag its chain for so long? Why did the government seek to protect interests for so long on that island and not take the necessary action to defend Australia’s international reputation?

Compare the government’s attitude, for instance, to Christmas Island and the attitude towards the casino there. In that instance, the government unilaterally announced, in a most paternalistic way, that it was not in its best interests to have a casino so the opportunities for a licence were removed. There was no consultation and no discussion with anyone about that matter—unless it was with the tenderers for various other casinos in Australia—and there was certainly no regard for the people of Christmas Island on those questions.

We have a series of problems on Norfolk Island that desperately need attention. A fundamental problem of course is the fact that the wealth of the Norfolk Island community is very unevenly distributed. It has been estimated that there may be 80 millionaires on that island not paying tax, yet the average income for the vast majority of the people there is substantially less than for the rest of the country. There are huge inequalities on the island. There are huge inequalities in terms of economic opportunities. And there are of course disturbing problems with the way in which the government arrangements have been made. These bipartisan reports of the Joint Standing Committee on the National Capital and External Territories to which I have referred—and to which the government has yet to substantially respond—highlight a series of abuses of power and authority and shortcomings in auditing processes. They say there is:

… a popular perception … that … some Members of the Legislative Assembly … are influenced by their private commercial interests …

They make criticisms about conflicts of interest in the awarding of contracts on Norfolk Island and talk about the absence of any adequate body of law to enforce acceptable standards of ethical conduct and disclosure. This committee’s seminal report in 2003 concluded:
… evidence available to the Committee points to the fact that elements within the community are able to exploit the current governance system, with its lack of effective checks and balances, for their own ends. It has become increasingly clear that beneath the surface, informal mechanisms can and do operate with relative impunity.

There is the shadowy imposition of a group on Norfolk Island, a self-appointed oligarchy who, according to evidence put to the Senate committee and unanimously accepted by members of that committee, resort to using fear and intimidation to protect personal interests. We had a number of witnesses before the committee who were not able to present evidence in public for fear of retribution.

In both political and administrative terms, it is an experiment that has clearly gone wrong. It is not good enough for the government to simply say, ‘We’ll do something next year.’ There needs to be proper consultation, but the government has to come clean about its position. It ought to take the people of this country into its confidence about the matter. As one Norfolk Islander recently told me:

I strongly believe that the present style of government has run its course ... The Assembly has just about lost the confidence of the community ...

If Norfolk Island were a company, it would be in the hands of administrators and its directors would probably be facing court action. But Norfolk Island is no company; it is part of Australia and the interests of its citizens should be paramount. We should be here to protect the interests of Australian citizens no matter where they live. We should be seeking to review the announcements that have been made, to ensure that there is adequate response from the government and that urgent action is taken to prevent the island from slipping into bankruptcy.

The government have known for considerable time of the urgency of these questions, and I am left thinking that perhaps there are other issues that need to be considered and ought to be explained to us. If the suspicion is justified that they are protecting a self-appointed elite, we should get to the bottom of that. If there are questions concerning the capacity to meet the financial obligations, we should be made aware of that. There ought to be a discussion about the administration of basic citizenship rights on the island. There ought to be a discussion about the taxation arrangements on the island. We ought to be able to ensure that the gross financial inequalities that exist are not allowed to continue with the special needs of a tiny minority being protected. The flawed governance arrangements on that island need to be attended to immediately, particularly in relation to the codes of conduct for public officials. There needs to be proper protection of— (Time expired)

Australian Citizenship

Senator BARTLETT (Queensland) (1.41 pm)—I would like to speak today on the very important matter of multiculturalism and Australian citizenship. This is a topic that has been spoken about by a number of senior members of the coalition government of late. I think it is good we are having a public debate on some of these matters. I wish that there were a clearer message coming from the government about what their view is on multiculturalism, Australian values and the obligations of all people that take up citizenship.

Whilst all members of the government and senior ministers are as entitled to their views as anybody else, when people in public life—such those of us here, as political leaders, and particularly those in positions of government—express their views on these important matters that go to the heart of our nation, they should at least make the effort to understand what it is they are talking about.
The level of ignorance in some of these comments is quite profound and astonishing. There is no reason why any of us in parliament or government should know 100 per cent about every topic, but, if you are talking about something significant and particularly if you are singling out groups within the community like Muslim Australians, you should at least have some idea of what you are talking about.

There are mixed messages coming from this government, a quite bizarre contrast. There is the tourism message that is going out to large parts of the world, at great public expense, saying, ‘Where the bloody hell are you? Why don’t you come here? It’s a great place,’ while at the same time senior media figures and senior people in the government are pointing vague fingers at people who are already here, saying, ‘What the bloody hell are you doing here? Go away!’ I think it is a very mixed message coming from the government, and one that is not helpful for building our nation into the future. If you want to be purely mercenary about it, it is also not helpful for those tourism campaigns or for increasing investment in Australia from other countries.

The Treasurer was criticising people—Muslims, obviously, because they are the key target of the year from the government’s point of view—who might want to believe in sharia law and saying: ‘You can only have one law. You can’t have sharia law and Australian law. If you want sharia law, go to Saudi Arabia or somewhere like that.’ I do not profess to be an expert on all details of Islam—indeed, I do not want to suggest I am an expert on any sort of religion, because I do not believe in any of them—but if you are singling out people and criticising them about issues like sharia law, you should at least have some idea of what it is about.

I draw the Treasurer’s attention—indeed, the public’s and the Senate’s attention—to an article in today’s Sydney Morning Herald by Irfan Yusef that details in fairly simple terms about sharia law. Sharia law does not mean everybody getting their hands cut off if they steal a loaf of bread or women who commit adultery being stoned to death. It is basically a set of legal principles based on certain values. And as probably should not be that surprising, it is a set of values that are not particularly different from a lot of the values contained in the Christian liturgies of the Old and New Testaments. I spoke the other night in this place about live exports and the fact that halal slaughtered meat is produced in Australia and able to be exported from Australia. Halal slaughtered meat, as I understand it, is just one part of sharia law, a legal principle with regard to the way Muslims should slaughter animals.

Of course, there are plenty of religions that have these sorts of rituals: the Jewish religion also has its beliefs and rituals about certain animals being suitable or not suitable for consumption—again, it is not something that I attest to. We are certainly not talking about putting that into the laws of the land for everybody to have to follow here. I think we need to pull these things back down to a proportionate level and recognise the reality of the words that are used and how they appear to Muslims and the people who know what sharia law means in essence. The vast majority of Australians from a white, Anglo-Celtic or Christian background do not have that innate understanding, but Muslims do. When they hear the words used by people like the Treasurer they perceive it according to the correct meaning, even if the rest of us do not. We must wonder why it is that the Treasurer is being so hostile about something that is so fundamental to their religious beliefs.
I would also like to emphasise that this suggestion that it is only Muslims who believe that God’s law should prevail and be supreme above all other laws, including the laws of the parliament, is a view held by only a very small number of people. But this view is not only held by a small group of Muslims. Indeed, in amongst the many emails I got during the RU486 debate from people claiming to be Christian, a percentage—only a small percentage, but a percentage—of those specifically said that we should not pass this law because it is against God’s law and God’s law must have supremacy over the laws of parliament. I got an email just the other day saying that parliamentary law could not take precedence over God’s law as outlined in the Bible. I am not criticising people for holding that view but, according to the Treasurer, people like that should be denied citizenship and should be pushed out of the country. Clearly there is a small group of people who hold the Christian faith who have a similar view that God’s law reigns supreme.

In this parliament we do not take that view. People can have their own religious beliefs, and we have a strong tradition of freedom of religion. Indeed, we have laws to back people’s rights to their own religious beliefs. But to single out Muslims as the only ones we need to worry about in this regard is clearly just targeting people for political purposes and displaying, I might say, a great degree of ignorance. It is particularly ironic given that this Treasurer, amongst others in the coalition, has made enormous efforts to build a support base amongst some of the fundamentalist Christians. Again, I do not complain about supporting freedom of religion but, when you are actively courting the votes of some people with extreme religious views, it is a bit rich to then suggest that another group with what might seem to be fundamentalist religious views is somehow un-Australian and not worthy or appropriate to be part of our nation.

The Treasurer has commented at length about his belief that certain people should be denied citizenship, that citizenship should be a very serious and important thing and that people should not just be taking it on with barely a thought or with the thought that it will just get them another passport. I broadly agree with his comments there. But the simple fact is that his own government has been rewriting the citizenship legislation for the last year or two. The citizenship bill has been in the parliament since the end of last year. It has been to a Senate committee and results from a long process. Nowhere along the whole process did anybody, let alone the Treasurer, put forward the suggestion that we need to insert these things into the citizenship legislation to make sure that these principles apply or that citizenship has this special value that he is going on about. That suggests to me that either the Treasurer does not have a clue what is happening in key legislative areas of his own government or that he is just a lot of hot air. He is sending out signals to people so they can all agree with how terrible things are, that we are giving citizenship to all these people that do not really care about it, but he is doing absolutely nothing at precisely the time the citizenship laws are being completely rewritten to ensure that those views are reflected in the laws put forward by his government for this parliament to pass.

I might say that I do not believe that we should have exceedingly strict prohibitions in citizenship laws—and I will debate that matter when the legislation comes before the parliament. I have not checked, but I would be very surprised if the Treasurer bothered to contribute in the debate on the citizenship bill when it was before the House of Representatives. He would rather just mouth off a few cheap-shot headlines for media grabs
that single out and demonise a small group of the community. But he obviously did not want to make any constructive contributions to how we could put more value and meaning into Australian citizenship.

Let us not forget that over recent years the citizenship laws have been changed a number of times to open them up and make it easier to access Australian citizenship and to enable people to adopt Australian citizenship without losing another citizenship—to enable Australians to be dual citizens. Before people get the wrong idea, I will say that this is a process I support. I strongly support our opening up our sense of citizenship, enabling Australians to connect with other nations around the world. It presents a bit of a paradox and juxtaposition, potentially, but I think the benefits of enabling that to happen far outweigh any negatives. But the fact is you cannot, as a member of government, make these big, hairy chested, patriotic, nationalistic statements about having that unique commitment to Australia when you take up citizenship—a strong, passionate belief in Australia first and foremost and all that stuff.

We would generally like to think that is so, but the fact is that if you are a dual citizen then you are a dual citizen, or a triple citizen in some cases. Unless the Treasurer is suggesting that what I believe to be the very positive reform of the last decade or so be reversed, then it is simply a fact that people will share their commitment across more than one nation. I think that is good from a global perspective, but it obviously means that you are not going to have all people, on becoming Australian citizens, immediately adopting an entire, total, passionate, 100 per cent, flag-waving commitment to the Australian nation above all others. That is a fact of the modern world.

Contributions such as that from the Treasurer devalue the meaning of citizenship, because they make Australians believe that it is already being devalued in the way that it operates, and I do not think it is. We can always improve things, and I certainly believe we should be doing more to educate children—and, indeed, adult society—about Australian history. That is another recent statement of the Prime Minister that I very strongly support. We should learn more about our history. We should learn more about citizenship—what it means and what its rights, obligations and responsibilities are. But I do not believe that the Australian people should be given the impression by the Treasurer or anybody else that there is a whole range of people taking out Australian citizenship at the moment and thinking of it as just another piece of paper of no great significance to toss in the bottom draw. That is devaluing the importance of citizenship for the many people who take it up. It is not compulsory. People choose to take it up, and almost always they do so for strong reasons.

I was interested in the comments by the Prime Minister the other day about how he and many Australians find it confronting when Muslim women wear the burka. I can understand that. On the face of it, that is a reasonable statement. Many people do find that a little bit confronting. They certainly find it alien. But you have to wonder why we are always singling out Muslims at the moment. A lot of Australians also find it very confronting when they are continually subjected to the reverse, which is women in advertising and magazines wearing virtually nothing at all being displayed as some sort of sexual objects for men to ogle over. I am not saying that that should not happen or should be banned or censored. In noting that, it is perhaps not surprising that some women may want to take the reverse approach and de-emphasise physical appearance. To some extent, that is one of the reasons behind
women who choose to wear the veil or cover
themselves up more significantly.

We need to recognise that all of us in this
country come from very diverse back-
grounds. It is appropriate to talk openly
about what things we find unusual or con-
fronting, but do not do that alone. Do not
single out the same group in the community
all of the time, particularly when they are
already very clearly under attack and being
singled out in a negative way. If you are go-
ing to mention a negative aspect, I think we
should apply it across the board. We should
recognise that it manifests itself in many
parts of the community in people from all
sorts of backgrounds. We should also always
acknowledge the positive contribution. Mu-
ticulturism, as Mr Abbott said in his con-
tribution, is the only pathway forward for a
safe and secure future for Australia. I just
wish this government would get its act to-
gether to present a clear vision about how
that can best be enacted.

Sitting suspended from 1.56 pm to
2.00 pm

MINISTERIAL ARRANGEMENTS

Senator MINCHIN (South Australia—
Leader of the Government in the Senate)
(2.00 pm)—by leave—I wish to inform the
Senate that Senator Eric Abetz, Minister for
Fisheries, Forestry and Conservation, will be
absent from question time today and tomor-
row, 2 March. Senator Abetz is representing
the Australian government at a meeting in
Paris of the ministerial High Seas Task Force
on illegal, unregulated and unreported fish-
ing and will also attend bilateral meetings in
relation to forestry in the United Kingdom.
During Senator Abetz’s absence, Senator Ian
Campbell will answer questions on behalf of
the portfolios of Agriculture, Fisheries and
Forestry; Employment and Workplace Rela-
tions; Workforce Participation; Special Min-
ister of State; and Fisheries, Forestry and
Conservation.

I also take this opportunity to advise the
Senate that from today Senator Helen
Coonan, the Minister for Communications,
Information Technology and the Arts and the
most senior woman in the government, will
take questions on behalf of the Minister As-
sisting the Prime Minister for Women’s Is-

QUESTIONS WITHOUT NOTICE

Aged Care

Senator McLucas (2.01 pm)—My
question is to Senator Santoro, the Minister
for Ageing. Can the minister confirm that an
inspection of the John Cani Estate hostel in
Queensland in November 2005 found resi-
dents were at serious risk because of sub-
standard care? Didn’t the agency’s report
note: that a registered nurse was only em-
ployed for five days a fortnight, despite hav-
ing 17 high-care residents; that two carers
were employed to look after residents in
three separate buildings; that, due to lack of
staff, residents with dementia regularly ab-
sconded; and that acute episodes were not
properly followed up, including an incidence
of fluid faecal vomiting? Despite these find-
ings, can the minister confirm that it took
two months before sanctions were imposed
and actions taken to improve care in this fa-
cility? Is the minister satisfied with the speed
with which the government acted to protect
the residents of this facility?

Senator Santoro—I am not aware of
the situation that has been described by
Senator McLucas. I will certainly seek to
acquaint myself as quickly as possible and
get a reply to Senator McLucas.

Senator McLucas—Mr President, I ask
a supplementary question. Can the minister
confirm that under 67-1(2) of the Aged Care
Act a sanction may be imposed immediately
if there is a risk to the safety of residents?
Why wasn’t this power used in the case of the John Cani Estate to immediately protect elderly residents from substandard care?  

Senator Santoro—I am aware of the application of that provision. As I said to the senator, I am unaware of the specific circumstances relating to this case. I will seek further information and I will get back directly to the senator.

Economy

Senator Ferguson (2.03 pm)—My question is to the Minister for Finance and Administration and Minister representing the Treasurer, Senator Minchin. Will the minister inform the Senate of the result of today’s national accounts and update the Senate on the growth of capital expenditure, including investment in the manufacturing and mining sectors? What does this latest data indicate about the strength and underlying health of the economy?

Senator Minchin—I thank Senator Ferguson for that very good question. Today’s national accounts from the ABS show that the economy grew by 0.5 per cent in the December quarter and 2.7 per cent through the 2005 calendar year, which is broadly in keeping with the budget forecast of three per cent growth for the 2005-06 financial year. It is particularly pleasing that the growth figure is driven by very strong private business investment, up a spectacular 14½ per cent during the 2005 calendar year. That is a very important ingredient in our ongoing economic success. We are now in our 14th year of continuous economic expansion, and that means high levels of capacity utilisation. The investment boom that is currently under way across Australia is adding to our productive capacity for the future.

As with recent quarters, household consumption has grown more slowly than in the previous two calendar years. The ABS’s measured household savings ratio improved further in the December quarter, but household consumption continues to make a positive contribution to GDP. In keeping with the slowdown in the housing market, which we have welcomed, dwelling investment fell by 2.7 per cent through the year. Today’s figures also confirm that inflation is in check: the final consumption deflator rose by 2½ per cent throughout the year. The ABS also supplies a measure of real net disposable income, which captures the impact on incomes of Australia’s high terms of trade. On that measure the Australian economy grew by five per cent through the year, which you would normally consider a very strong growth rate. I think that illustrates the extent to which real incomes are rising, even at a time when real GDP growth has moderated.

There are some specific state-by-state variations in today’s growth figures. Western Australia, with its resources boom, continues to lead the pack with a 2.8 per cent trend growth just in the quarter. There are two states lagging behind the rest of the country: New South Wales and my own state of South Australia. I made the point to the Senate earlier this week that South Australia was heading down this regrettable New South Wales path. Indeed, while investment across the national economy is booming, private capital formation in New South Wales fell by 0.3 per cent and by 0.5 per cent in South Australia in the quarter.

The sustained economic growth that we are experiencing across this nation is the result of sound but often very difficult policy choices. They have been consistently opposed by those opposite, who have made no contribution to better policy outcomes for this country. But they are reforms that we have introduced despite that opposition that are generating this current strong economic growth. It remains quite a big challenge for Australia to sustain this growth and properly manage the impact of the resources boom.
which we are enjoying. A Treasury paper
today discusses the fact that the last re-
sources boom, in the seventies, ended very 
badly for Australia because of economic ri-
gidities like a fixed exchange rate and cen-
tralised wage fixation. So the real message 
out of that is the flexibility of the economy is 
critical.

Senator Robert Ray—Who floated the 
exchange rate? Not you!

Senator MINCHIN—And I give credit to 
the Labor Party for floating the exchange 
rate. That is one thing they did in their 13 
years in government which we have praised 
on many occasions. But there can no longer 
be any reason for complacency. The Aus-
tralian economy is well placed to continue its 
run of low inflation growth, but we cannot 
afford to drop the ball on vital economic 
growth. We continue to look to those oppo-
site to work with us to continue to reform 
this great economy.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the at-
tention of honourable senators to the pres-
ence in the President’s gallery of a distin-
guished former minister and senator from the 
state of Victoria, the Hon. Dame Margaret 
Guilfoyle, and her husband, Stan. On behalf 
of all senators, I warmly welcome you back 
to Parliament House and, particularly, to the 
Senate chamber.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Aged Care

Senator HOGG (2.07 pm)—My question 
is to Senator Santoro, the Minister for Age-
ing. Can the minister confirm that the Im-
manuel Gardens Nursing Home has failed to 
meet care standards for last three years? Can 
the minister also confirm that inspections of 
this facility on 26 July 2005, 11 and 12 Au-
gust 2005, and 6 and 7 December 2005 all 
found serious breaches of care standards, yet 
no sanctions were imposed? Didn’t the De-
cember 2005 inspection find that residents 
were at risk because of unsafe medication 
management, inappropriate behaviour and 
poor pain management? Is the minister also 
aware of comments by a carer at the facility 
that she only attends to resident incontinence 
when she can smell them? Given this evi-
dence, why did residents have to wait until 
February this year before a nursing adviser 
was appointed? Is the minister satisfied with 
decisions to continually give this provider 
more time while residents endured substan-
dard conditions?

Senator SANTORO—Senator Hogg will 
remember that yesterday I answered a ques-
tion from Senator Moore in relation to this 
particular nursing home. I refer Senator 
Hogg to the comprehensive reply that I pro-
vided in relation to that particular nursing 
home. However, I did say that I would come 
back to the Senate if there was further infor-
mation I could supply to it, particularly fol-
lowing Senator Moore’s question. I am able 
to advise the Senate as follows. In accredit-
ing the home for a further period of only 10 
months—and senators should note that the 
normal period is three years—the agency 
took account of the fact that 
the home complied with 37 of the 44 out-
comes. The home had demonstrated a com-
mitment to rectify the noncompliance. The 
home had satisfactorily remedied previous 
noncompliance. The home had engaged con-
sultants to assist in implementing improve-
ments. The home had instigated a program of 
internal auditing to measure compliance with
accreditation standards. As a result of all this, the agency was satisfied that the home would undertake continuous improvement.

We will continue—and I can assure Senator Hogg and the Senate of this—to monitor that particular nursing home’s very well thought out attempts at continuous improvement. Should there be any further developments in relation to that, I will be very happy to come back here and inform the Senate.

**Senator HOGG**—Mr President, I ask a supplementary question. In respect of the 10-month accreditation extension, what signal does this send to the community and the industry where a provider is accredited despite continually failing to meet care standards?

**Senator SANTORO**—The signal that this particular situation sends out to the community is that the accreditation agency and the department, and through those agencies the government, continue to take very seriously their duty of care responsibilities in relation to nursing homes. I have clearly explained that the extension was for only 10 months, when the normal period is in fact three years. I have assured the senator that continuous monitoring will occur in relation to that nursing home. I again assure Senator Hogg and all senators that, if there are any further developments in relation to this matter, I am more than happy to come back and inform the Senate on those developments.

**Family Law**

**Senator MASON** (2.11 pm)—My question is to the Minister for the Arts and Sport, Senator Kemp, representing the Minister for Families, Community Services and Indigenous Affairs. Will the minister inform the Senate of the Howard government’s recent initiatives in relation to the Child Support Agency? Is the minister aware of any alternative policies in this area of critical importance to Australian families?

**Senator KEMP**—I thank Senator Mason for what is indeed a very important question. I think any member or senator in this parliament knows the importance of this issue to the wider community. The government is very pleased to announce an $850 million major overhaul of the Child Support Scheme to deliver a system that acts in the best interests of children. The government has accepted the vast majority of recommendations made by the ministerial task force on child support headed by Professor Patrick Parkinson. As many senators will know, the scheme aims to reduce conflict between separated parents and encourage shared parenting by introducing a system that is fairer and puts the needs of children first. A new formula will be introduced which reflects the true costs of children, shares the costs between parents based on their respective incomes and better balances the needs of first and second families. There will be a greater focus on ensuring non-resident parents support their children and on improved administration and accountability of the Child Support Agency.

These reforms will potentially effect around 1.4 million parents and, more importantly, 1.1 million children. The reforms require a rewriting of the legislation, rebuilding the IT systems, significant information gathering from parents and an alignment of the formula with the start of the financial year. Therefore, the government will be introducing the measures in a three-phase approach. From 1 July 2006 the Australian government will, among other things, increase the minimum payment to ensure child support payments keep pace with inflation, strengthen the Child Support Agency’s capacity to ensure nonresident parents pay their child support payments in full and on time, and recognise nonresident parents on Newstart and related payments who have contact
with their children by paying them a higher rate.

In the second stage, from January 2007, the Australian government will, among other things, introduce independent review of all Child Support Agency decisions by the Social Security Appeals Tribunal to improve accountability and transparency, broaden the powers of the courts to ensure that child support obligations are met and strengthen the relationship between the courts and the child support scheme, making the process easier and more responsive to parents’ needs. In the third stage, from July 2008, the Australian government will introduce a new child support formula that will change the way child support payments are calculated to ensure fairer assessments, reflect the cost of children, encourage shared parenting and recognise the cost of contact. It will also ensure that a minimum payment is made for each child support family.

There is a range of other very important initiatives. I encourage those interested to go to the relevant website and read what has been put down by the government. This is a very important initiative. This is an area where the ALP noticeably over the years failed when in government to take any real action. It had its own reports and most of those were shelved when Labor was in government. Labor has never had a policy in this area and this government is now moving.

Household Savings

Senator SHERRY (2.16 pm)—My question is to Senator Minchin, the Minister representing the Treasurer. I refer to today’s national accounts figures, which show household savings was at negative 3.5 per cent for the 2004-05 calendar year. Isn’t this the third year in a row in which household savings have been negative—in other words, Australians are spending more than they are saving? Is the minister aware that household savings were positive, at 6.4 per cent, in 1996 and 1997? When does the Liberal government intend to do anything to reverse the drastic decline in household savings under its watch or will it just shrug its shoulders and be lazy and complacent like it has done in response to our ballooning foreign debt?

Senator MINCHIN—This is a question which the ALP has raised on numerous occasions. We have responded to it on numerous occasions and we will respond yet again. The facts in relation to household savings are as Senator Sherry describes, but one must look behind the veil to determine what is really going on here. What the Labor Party is ignoring is that the extent to which households feel in a position to borrow against their assets is nothing more than a reflection of the extraordinary confidence which Australians feel in the state of the Australian economy and in their own financial positions. This is a sign of the extent to which Australians understand that they are experiencing one of the most extraordinary periods of growth that Australia has ever had and that, with the extraordinary combination of strong growth, low inflation and low interest rates, they are in a position to be more heavily geared. That is all that is going on here. We actually live in a free society and a free economy where Australians are free to borrow depending on their assessment of the extent to which they are in a position and have the capacity to do so.

In relation to the signs that have emerged in the national accounts, there are, I must say, early signs that households are beginning to rebuild those savings. Household savings rose modestly to negative two per cent in the December quarter after being at negative 2½ per cent in the September quarter. But I would continue to make the point, as we have, that household balance sheets remain particularly strong. The household balance sheets show that, for every dollar of...
debt, households have almost $2 in financial assets and close to $6 in total assets. So the balance sheet position on households remains strong. That is why they have the confidence to make the borrowings that they have. The household sector as a whole is not having difficulty servicing its debt, with indicators of financial stress such as loans in arrears and personal bankruptcy remaining at relatively low levels. The RBA noted in its February statement on monetary policy that ‘Although there is still little sign of household financial distress in the loan arrears data, the rising interest burden may be one reason for the moderation in the consumption growth.’ That is the position of the RBA.

We as a government have always said that, while we do not have a command economy and Australians do, blessedly, live in a very free country, people should be conscious of ensuring that they do not get themselves into difficulty and they should not exceed their capacity to repay their debts. But the fact is that households are acting rationally in a situation where there is strong growth, low unemployment, low inflation and low interest rates. With the extraordinary confidence they have after 14 years of continuous growth, they continue to invest in their futures, as I said, against a net tangible asset backing. We remain confident about the position of households. It is, however, one reason why it is vital that governments around this country continue to contribute to savings. That is why we put a great emphasis on continuing to run reasonably good surpluses at a time like this. We implore the states to continue to contribute to savings and not run a risk, as states like South Australia and New South Wales are, by running down their budgets.

Senator SHERRY—Mr President, I ask a supplementary question. We can only assume from that extraordinarily complacent response that the minister does believe that ongoing negative household savings is actually a good thing for the Australian economy. Given that household savings have collapsed and the negative household savings rate is increasing year by year, doesn’t this mean that Australia becomes more and more dependent on importing greater and greater levels of foreign capital to underwrite its trading debt and its national debt, which now stands at a record high of $473 billion? In turn, doesn’t this leave Australia more vulnerable to economic shocks? When is the government going to end its complacent and lazy attitude in respect of the collapse of private household savings in this country?

Senator MINCHIN—I do not think that the Labor Party have any understanding of how a private sector capitalist economy actually works. These are the decisions made by millions of ordinary Australians operating on their own without direction from a command government. What is Senator Sherry going to do? Is he going to issue a law saying that you cannot borrow? Is he going to whack up interest rates, like his predecessors did in the last government, to stop Australians from borrowing, drive thousands of people out of business and put unemployment through the roof? That is the Labor Party answer—to destroy the economy like they did in the early 1990s.

Immigration

Senator SCULLION (2.22 pm)—My question is to the Minister for Immigration and Multicultural Affairs, Senator Vanstone. Will the minister update the Senate on the considerable progress being made to implement the recommendations of the Palmer Report?

Senator VANSTONE—I thank Senator Scullion for the question. It is not news to anybody that the Department of Immigration and Multicultural Affairs has been under criticism over the last 18 months or so and
that that criticism has focused particularly on two cases. Today I would like to inform the Senate of what the government has done in response to inquiries that focused on those two cases to tell us what had gone wrong, and where we could make changes for the better, to try to make sure that nothing like that ever happens again.

Today I took the opportunity to release publicly several reports that we commissioned as a consequence of both the Palmer and Comrie-Ombudsman inquiries. Those inquiries indicated that we certainly had some information problems and therefore needed to look at our information technology systems to make sure that staff who were doing the job had the best systems available to them to do that job or, to put it the other way, did not have systems that would prevent them from properly doing their job. We were also advised to get a review of the detention services contract, and we commissioned Mick Roche, a former deputy head of Australian Customs, to do that. We were also advised that our record keeping was not as good as it should be, so we went to what all must agree would be the best place possible to get some advice on that, and that is the Australian Archives.

Those reports were released this morning because we want to be a very open and transparent organisation and so that people can see what advice we have been given in terms of fixing these problems and see that we have in fact been on the move to improve and have been doing the work. But big reform of a big department is not the sort of thing that happens overnight. You can allocate nearly a quarter of a million dollars of government money and you can put out a press release, but then you actually have to do the work and make the changes.

In terms of training, we are establishing a college of immigration and border security compliance. That will be up and running in a couple of months. It is a case not of building bricks and mortar and buying land but of putting more people through better training. Since the inquiries, we have put nearly 340 people through specialist training that relates to identity investigations, search warrant training and maintenance of a reasonable suspicion that someone is an unlawful entrant. Better training means better equipped staff and that, inevitably, will mean better outcomes.

In terms of information technology, we have advice that we have, basically, a series of stovepipes of systems within the department and that, even when someone has searched all the systems they believe it is reasonable to, they then have to go to paper records. We have been advised by the Archives that even the paper records are not as good as they should be. This certainly indicates that we need to work on that and look at how we can reform our IT systems, which we would expect to do, obviously, in a budgetary context. That is not something we would expect to do outside of the budget.

We also got advice that the detention services contract could be done in a better way. So I have decided that, instead of renewing the contract towards the end of 2007, we will in fact re-tender that contract. We will take the advice and break the contract up into at least two contracts: one specifically for detention services and one focusing on the separate health services that are provided.

We are also doing some excellent work focused on the culture change that is required in DIMA, which is to become much more client focused. But I hope by what I have indicated to the Senate today, and by what I have released this morning—some of the material will be sent to senators and members during the day and the rest will be accessible by all of them on the websites—
people can see that we do take these problems seriously. We are on the move to improve. We have already done a lot of work and we have more to go.

Oil for Food Program

Senator SIEWERT (2.26 pm)—My question is to Senator Coonan, representing the Minister for Foreign Affairs, and relates to the announcement by Mr Downer on 28 March 2003 of a $100 million AusAID package for Iraq, which was to cover two shipments of wheat and included $45 million for handling and distribution costs. Did the Minister for Foreign Affairs sign off on the aid budget as the delegate under the Financial Management and Accountability Act? If not, who did and when? Was the usual AusAID package development framework, including risk and probity assessment, followed?

Senator COONAN—Thank you to Senator Siewert for the question. I would certainly assume that Minister Downer signed off on the aid package in accordance with the act—

Senator Faulkner—What do you mean by you ‘assume that’?

Senator COONAN—Because that is what happens. However, if there is something that I can add to Senator Siewert’s knowledge of this matter, I will certainly ask Mr Downer.

As to the expenditure of the aid budget and the contract that Senator Siewert refers to, as has now been said ad nauseam in this place and, indeed, in the other place, the important thing is that the way in which these contracts were administered, and the way in which that interacted with the aid budget, is very much the subject of an inquiry that has been set up, with the former Mr Justice Cole as commissioner, to get to the bottom of exactly what happened with these contracts. There is absolutely no point in speculating about how, what, when or why, when there is in train a properly constituted commission that has possession of all the documents and all the information that has been sought, in circumstances where the former Mr Justice Cole has made it abundantly clear that, if he needs any further information or evidence from anyone in the Commonwealth, he feels free to ask for it and it will be forthcoming. And he has said that, so far as he has regard to the terms of reference, he thinks that he is not constrained in being able to answer all of those questions. So, rather than pre-empt that information, I think we should wait until the inquiry has concluded.

Senator SIEWERT—Mr President, I ask a supplementary question. Under what OECD development assistance code was the $937,000 payment by AusAID to Trevor Flugge made?

Senator COONAN—As I have said, all of these matters will be the subject of further information in relation to the Cole inquiry. I am not going to be pre-empting who signed what under what circumstances. It is entirely appropriate that these matters be properly investigated in the Cole inquiry. That is what it is set up to achieve, and that is what it will do.

Telework

Senator RONALDSON (2.29 pm)—My question, in conjunction with Senator Hill, is to the Minister for Communications, Information Technology and the Arts, Senator Coonan. Increasingly, the Australian workplace is under pressure from workers to be more flexible and to provide innovative options to the traditional nine-to-five workplace. Will the minister advise the Senate how the Howard government is using technology to improve flexibility for Australian workers and their families? Is the minister aware of any alternative policies?

Senator COONAN—I thank Senator Ronaldson and indeed Senator Hill, in con-
junction, for that question. As many senators would be aware, in response to our election commitment, the government convened the Telework Advisory Committee to examine the ways that technology could be used to deliver more flexible working arrangements to Australian workers and employers. With the increase in internet connectivity in homes and the spread of personal computers, it is now possible for employees to perform a range of tasks from their own homes or other convenient locations rather than being required to attend a centralised office. This ability to perform work from home is proving increasingly popular with both employers and employees.

The Australian Telework Advisory Committee reported on Monday and concluded that the broader take-up of telework could expand the labour market during a period of high employment and fill skills shortages. People whose family commitments or health may prevent them from attending an office workplace full time may well be able to have a job using teleworking. In this way, telework can increase participation in line with the government’s Welfare to Work policies and can especially help people with disabilities, mature age workers and carers into meaningful employment. Flexible working arrangements can help the long-term unemployed, parents with young families, people on disability support and workers to find a better work-life balance.

The committee made a number of recommendations, including continued funding for initiatives that Labor dismisses as pork-barrelling, such as the Broadband Connect and the Clever Networks programs, to support the roll-out of high-speed broadband that will better enable people to work from home. While this capacity to work from home can be very attractive for many Australians, good for the economy and good for families, not everyone will be pleased, as I am sure Senator Ronaldson would be aware. It is obviously not very attractive for those who long for the days of a big unionised shop floor.

Labor and their trade union warlords are not interested in real flexibility and choice for employees. The factional war in the Victorian ALP is not about renewal; it is about entrenching union mates. We do not need to look any further for proof than Senator Conroy’s attempt. By the way, where is Senator Conroy? He must be out branch-stacking; probably doing his Clark Kent impersonation, in and out of a phone box. Anyway, Senator Conroy’s attempt to tackle half-a-dozen sitting MPs to make way for more of his union cronies is more what the Labor Party is interested in.

In the Australian today, Senator Conroy’s Victorian colleague Mr Martin Ferguson, the member for Batman, has attacked the takeover of the Victorian ALP, which he says will bring nothing to caucus other than to choke the development of policy. So, while Senator Conroy and those opposite branch-stack, this government is getting on with reforming workplace relations, getting on with support in the uptake of high-tech options for teleworking and continuing to work hard for Australian families.

Opposition senators interjecting—
Senator Faulkner interjecting—

The PRESIDENT—When those on my left come to order we will continue with question time—thank you, Senator Faulkner!

**Superannuation Guarantee**

Senator GEORGE CAMPBELL (2.34 pm)—My question is to Senator Minchin, representing the Treasurer. I refer the minister to the Treasurer’s announcement of an inquiry into international tax benchmarks and to public comments by Mr Dick Warburton, the co-head of that inquiry. Is the minis-
ter aware that Mr Warburton has claimed that the nine per cent superannuation guarantee would be reviewed as part of the inquiry? Can the minister now rule out any reduction in the nine per cent superannuation guarantee, something that underpins contributions to the retirement income savings of more than nine million working Australians?

Senator MINCHIN—Yes, I can categorically rule out any suggestion that there would be any question about the nine per cent employer guarantee in respect of superannuation. I did note Mr Warburton’s comments. They were rather surprising, I would have to say. In fairness to Mr Warburton, they do reflect the fact that employers who pay this regard it as a quasi-tax.

Senator Chris Evans—You opposed it for years.

Senator MINCHIN—I have been honest in saying, as Senator Evans says, that when we were in opposition we did argue against this particular levy on employers. That is a matter of public record.

Opposition senators interjecting—

Senator MINCHIN—if those opposite would listen to this, they may be interested to hear me place on the record the fact that our government has conceded that it is one of the few good things that the Labor Party did in government—there are very few. On reflection, it must be said, quite openly and honestly, that the introduction of the superannuation guarantee has been a net plus for Australia. The nine per cent levy has been a net plus for Australia. It reflects the fact that Australians are reluctant to voluntarily provide for their own superannuation without massive incentives or, indeed, by employer provision. But we do not regard it as a tax or within the framework of the very significant and important review of international taxation which the Treasurer has announced. That is not part of the terms of reference of that review. The review is to benchmark Australian taxation structures and levels against our international competitors to see how we compare, to see where we do better than others, and indeed to see where there may be room for improvement in the structure, operation and levels of Australian taxation. But I can assure Senator George Campbell that the nine per cent guarantee is not part of this review.

Senator GEORGE CAMPBELL—Mr President, I ask a supplementary question. I thank the minister for that response to the question. I hope he sends a copy of the transcript to Mr Warburton. Does the minister still stand by his public comments of 22 January, when he said, ‘I want to say to you that there is a very good case for abolishing the current 15 per cent tax on superannuation contributions,’ which would lift private savings for retirement in Australia? Or has he been convinced by the commentary of his own colleague the then Assistant Treasurer, Mr Brough, who has attacked calls for a reduction in the 15 per cent contributions tax as ‘a tax cut for the rich’ and ‘unaffordable’?

Senator MINCHIN—I am always interested in abolishing Labor taxes whenever we can. It is a fact that the Keating Labor government introduced this 15 per cent contributions tax. But my comments were in the frame of the current budget considerations, our concern to ensure that any proposed reductions in income tax do not contribute to heating up the economy and putting pressure on interest rates, and the need to run rela-
tively large surpluses at this time. It is my view that, in the longer term agenda for this country, we need to consider the question of national savings. Our government is contributing to national savings in a way that was never contemplated or possible under the Labor Party and, therefore, the general question of how we tax superannuation is important. I note for the sake of Senator George Campbell that that is within the terms of reference of the Warburton inquiry.

Wheat Exports
Senator MURRAY (2.38 pm)—My question is to Senator Coonan, the Minister representing the Minister for Trade. Minister, did you see a press release yesterday from the Australian Grain Exporters Association stating that the Wheat Export Authority and AWB International are stonewalling on wheat export permits to Iraq? Did the minister note that members of that association sent bulk wheat export permit applications to WEA two weeks ago but claimed they are yet to receive a constructive response despite numerous follow-ups? What is the government doing to ensure that the WEA and AWB International respond promptly to export permit applications, giving full reasons for their decisions?

Senator COONAN—I thank Senator Murray for the question. The matter that Senator Murray raises is a very important issue for the grain growers of Australia. It certainly is the case that this government has been concerned to ensure that the grain growers of Australia are able to take advantage of being able to sell their wheat in appropriate markets. It has been the basis for the visit to Iraq of the Deputy Prime Minister and Minister for Trade, Mr Vaile, and others. Through this visit, the efforts of the Deputy Prime Minister and, I might say, Senator Ferris, who accompanied him, we have ensured that Iraq will continue to deal with Australia on an appropriate basis.

The matter of the exports and being able to now put in place appropriate contracts is a matter that is obviously under very close consideration. It is not appropriate for me to pre-empt every nuance of what is going on in these negotiations, except to say that this government is committed to the wheat growers of Australia, and we will ensure that we stand up for them and look after them so they are able to take advantage of appropriate contracts with Iraq.

Senator MURRAY—Mr President, I ask a supplementary question. Minister, I regret that was not a satisfactory response, so let us try again. Unless this mess is resolved in the short to medium term, is it not necessary to change the enabling legislation urgently, firstly, to require a response with reasons in writing in a designated and reasonably short time and, secondly, shouldn’t the act—

Senator Robert Ray interjecting—

The PRESIDENT—Order! Senator Ray!

Opposition senators interjecting—

Senator MURRAY—Secondly, shouldn’t the law be urgently changed to ensure that the AWB board is obliged not to exercise their veto where they cannot or may not be able to make the export sale on similar terms themselves?

Senator COONAN—I am not sure that I heard all of Senator Murray’s supplementary question—

Opposition senators interjecting—

The PRESIDENT—Order! I think the minister made a strong point there when she said she could not hear the supplementary question. It was because of interjections on my left. I ask you to come to order.
Senator Murray—Mr President, I am more than happy to repeat my supplementary question if the minister did not hear it.

The PRESIDENT—I think the minister has indicated that she heard enough of the supplementary question.

Senator COONAN—It is just that if there was some particularly nuanced part of your question that I did not hear, Senator Murray, we can obviously deal with it later, but I think I have got the gist of it. The important point of it is that the Wheat Export Authority is obligated to refer any application to AWB and AWBI must consider those applications. That is part of their legislative requirement, and that is what they are doing.

Senator Murray—Mr President, I raise a point of order. The nature of the response clearly indicates that the minister did not hear or understand the question. I ask you therefore whether I should repeat it. Plainly, the minister was answering a question that was not put.

The PRESIDENT—I think the minister has answered the question. You might like to take the matter up with her after question time.

Australia Post

Senator HUTCHINS (2.43 pm)—My question is to Senator Coonan, the Minister for Communications, Information Technology and the Arts. Is the minister aware of plans by Australia Post to introduce new fees for pensioners and veterans for the use of the mail redirection service? Can the minister confirm that around 400,000 concession card holders currently use this service free of charge and that the introduction of these new fees is expected to raise nearly $6 million for Australia Post? Was the minister consulted by Australia Post about its plans to introduce these new fees? Does the minister support Australia Post’s decision to slug pensioners and veterans?

Senator COONAN—Australia Post operates as an independent corporation and so the answer to that question is—
Opposition senators interjecting—

The PRESIDENT—Order! I cannot hear what the minister is saying. Can we have a bit of quiet on my left?

Senator COONAN—Thank you, Mr President. Australia Post is an independent corporation and they certainly have the opportunity, and do, in accordance with their own corporate plan, decide on matters such as—

Senator Sherry—Who owns Australia Post?

The PRESIDENT—Order! Senator Sherry!

Senator COONAN—in accordance with their corporate plan and with their own ability to control their operations, they are in a position where they can review these matters as they see fit. It is not the case, and never has been the case, that this government does not care about any of the matters that affect pensioners and ordinary Australians. In fact, exactly how we operate in terms of both our overhang ownership in Telstra and with the regulatory—

Senator Sherry—Why don’t you know? You are the minister.

The PRESIDENT—Order! Senator Sherry, come to order!

Opposition senators interjecting—

Senator COONAN—Mr President, I am unable to continue.

Senator HUTCHINS—Mr President, I ask a supplementary question. I will ask the last bit again. Does the minister support Australia Post’s decision? Can the minister confirm that late last year Australia Post made a record profit of $374 million and paid the government a record dividend of $286 mil-
lion? In light of these results, how can the minister justify Australia Post’s move to gouge extra fee revenue out of pensioners and veterans? Will the government offer to reduce its dividend payments so that pensioners and veterans are not hit by these new fees?

Senator COONAN—As I said, it is clear that Australia Post, as a government business enterprise, is entitled as a business enterprise and is responsible for its own commercial and management decisions. Historically, Australia Post has absorbed the cost of providing mail redirection and mail-holding services to pensioners. The services were intended to provide a temporary solution for customers who may be moving from one address to another or who are indeed absent from their home for a short period. Australia Post reports over time that the usage of these services has grown significantly and, in turn, the costs incurred by Australia Post in providing what were temporary services, services that they could offer free, have increased to approximately $5.7 million. Had I been able to finish my earlier answer, the other side would have had all of this information. (Time expired)

Environment: Conservation of Australian Birds

Senator FERRIS (2.48 pm)—My question is to the Minister for the Environment and Heritage, Senator Ian Campbell. Will the minister inform the Senate how the Howard government is protecting Australia’s rich and varied birdlife for future generations of Australians to enjoy?

Senator IAN CAMPBELL—I thank Senator Ferris for a question that I know is dear to her heart. Over the last 10 years the Australian government has spent over $12 million protecting our unique Australian birds. Only a couple of weeks ago I announced a further $1 million package known as the Wildlife Conservation Plan for Migratory Shorebirds.

As I do with most of my ministerial briefs, I read carefully through the list of birds that we are seeking to protect—some 36 new species of birds. Some of their names would be familiar to the opposition, like the little curlew, which I noticed on the list. There is the ruddy turnstone and the broad-billed sandpiper. But, when I got to the next one, the name stood out and leapt off the page at me. It was nothing other than Latham’s snipe!

I asked my staff to research this unique Australian shorebird and found that Latham’s snipe has a very long bill—and I think it is getting longer with the addition of the Nikon digital camera to it. It has large eyes and it is known to dash wildly around and to fly in a zigzagging motion. Its other attributes, we found, were that it establishes its territory in open spaces like meadows and grassy flood-plains by repeating nosediving displays. In spite of its showy display during the mating season, the parent birds accompanying the baby birds tend to stay in clustered grass and can thus hardly be observed. More than half of them—all senators would be upset to know—never fully mature because of various accidents. Latham’s snipe is in fact designated as a rare species. It is also prone to suffer accidents because of the places where it lives. Not only do cows often trample over its nests located in the pasture but, sadly, motor mowers hurt parent Latham’s snipes earnestly sitting on their eggs in grass-harvesting lands.

Recently we have seen references to Latham’s lemmings also, as Senator Ferris knows. We know that for many members of the Australian Labor Party there is that iconic Australian sound of the two-stroke Victa coming across those grassy plains and attacking the lemmings, or the Latham’s
snipes. These are people similar to Gavan O’Connor, who is under threat from the lawnmower being driven by Senator Stephen Conroy. Gavan O’Connor talked about the sound of the mower coming into his ears—just as the Latham’s snipe would cringe at that sound—when he said, ‘The talent in the Labor Party is subject to sleazy deals.’

Another Latham lemming or Latham’s snipe, someone who dares to challenge the Beazley orthodoxy, is Warren Snowdon, who said today, as he heard the mower approaching:

I think what it demonstrates is a small number of people—standover merchants, thugs and other sleazebags—undermining the good name of the Labor Party.

Mr Sercombe, another Latham’s snipe attacked by the lawnmowers of the Labor Party—

The PRESIDENT—Minister, I remind you of relevance.

Senator IAN CAMPBELL—Thank you, Mr President. I appreciate the reminder. Bob Sercombe, regarding himself—as a Latham’s snipe, the bird that was the subject of the question, would—said that there were ‘sleazy internal deals’. You can see that the behaviour of the Australian Labor Party is no better and no worse than someone driving a lawnmower over the habitat of a Latham’s snipe.

The PRESIDENT—Minister, resume your seat.

Firearms

Senator CROSSIN (2.52 pm)—My question is to Senator Ellison, the Minister for Justice and Customs. Is the minister aware of instances where gun collectors and enthusiasts in Australia have purchased gun parts from overseas to have them delivered from door to door without Customs intercepting them? Can the minister confirm that the correct procedure in these cases is for Customs to impound the gun parts at the border? Why are gun enthusiasts who notify Customs with a declaration still having the gun parts delivered to their door? If Customs cannot stop the gun parts, even when they are given advance notice of them by legitimate importers, how easy is it for criminals and potential terrorists to import small arms weaponry unchecked?

Senator ELLISON—There is a comprehensive regulatory regime in relation to the importation of guns and gun parts. In relation to the transmission of those by post, we have not only stringent regulations but also X-ray facilities. It is in relation to this very issue that gun collectors and gun enthusiasts, legitimate sporting shooters, have approached me about the transmission of gun parts via Australia Post. Indeed, they have complained to me about the fact that Australia Post will not convey these items. I can say that, in relation to any gun parts and guns which are listed, an import permit is required. You can appreciate that in some aspects it is hard to detect if you have merely a spring or one minor part of a gun which is sent in quite separately.

We have introduced controls in relation to the importation and ownership of firearms, which no other federal government has introduced hitherto. Indeed, we have worked closely with the states in bringing about as best we can uniform firearms laws, bearing in mind that we have nine different jurisdictions, including the Commonwealth. Recently, at the Australian Police Ministers Council, I put forward again a proposal to have a national firearms management system, which, I am happy to say, was supported by Victoria—but not by many others—to keep a list of all firearms legitimately owned in this country. That would go a long way to assisting law enforcement in controlling the trade in illicit firearms. Customs has in place a rigid regime in relation to the im-
portation of firearms. If Senator Crossin is aware of any particular instance where someone has illegally imported an item or a firearm then I would urge her to bring it to my attention and I will refer it to Customs without delay.

Senator CROSSIN—Mr President, I ask a supplementary question. Isn’t it the case that some 2.4 million parcels enter this country unscreened, through couriers like DHL and FedEx? What is the point of having strong gun laws at the state level if the Howard government’s weak border protection lets firearms into the country unchecked, through those couriers?

Senator ELLISON—We have 100 per cent screening of Australia Post. In relation to air cargo, it is about 70 per cent. I might say that the source of illicit firearms is more domestic. I urge Senator Crossin to look at the recent case in South Australia where a gun dealer was dealt with by law enforcement authorities for the diversion of a very large number of firearms. In my home state of Western Australia, a gun dealer was convicted in relation to hundreds of firearms which were illegally diverted. That is where you should look for the source of illicit firearms in this country. We are doing everything possible at the border to keep out illicit weapons and we will continue to do so.

Illicit Drugs

Senator FIERRAVANTI-WELLS (2.57 pm)—My question is also to the Minister for Justice and Customs, Senator Ellison. Will the minister update the Senate on the Australian government’s commitment to the fight against illicit drugs? Is the minister aware of any alternative policies?

Senator ELLISON—As I have said many times before in this chamber, the fight against drugs is on three fronts. The first is education. We need to educate Australians, particularly young Australians, as to the dangers of illicit drugs and thereby reduce demand. As well as that, on the health front we need to rehabilitate those people who have a drug addiction, a problem with drugs, and to put them back into the community as useful members of our society. The third front is law enforcement to reduce supply. We have seen great examples of where law enforcement interdiction has achieved a reduction in the supply of heroin. We have seen that evidenced by the reduction in purity levels.

We are also working with the states and territories, through the Australian National Council on Drugs, in relation to formulating a national strategy to deal with drugs across the board, from alcohol right through cannabis, amphetamines, heroin—the whole gamut of illicit substances—and how we approach that as a nation. The Australian National Council on Drugs, I am pleased to say, had a meeting recently with health officials and law enforcement officials and put out a statement dealing with the areas where we need to work on the fight against illicit drugs in this country.

Importantly, we announced the new chairman of that body last week. I was very pleased to hear that John Herron, who is well known to many senators in this chamber, has been appointed as chairman of the ANCD. He will bring to that position wide-ranging experience as a medical practitioner, a person who has been involved extensively not only in areas of health but in areas such as this. He has had a distinguished career in public life, serving Australia overseas and in this chamber. He follows the very good work carried out by Major Brian Watters, formerly of the Salvation Army, who did excellent work in leading the ANCD, as the premier body, in the fight against illicit drugs.

I stress again that this is a fight that all governments have to join in. It is not a fight that the Australian government can fight suc-
cessfully on its own, nor is it one that any state or territory government can fight successfully on its own. We need to band together to continue this fight against illicit drugs. In this regard, we urge all other political parties to join us in this approach.

I was asked what other policies there are. We have seen that the Greens have changed their policy recently. We would certainly like to see a greater commitment from the Greens in fighting illicit drugs in those three areas that I have mentioned. I would also call upon the Leader of the Opposition to make his position very clear on where he stands on heroin injection rooms. That is not a policy of this government. We believe it has not worked in New South Wales. We believe that if the New South Wales government could find a way out of that program it would. It has been costly and it has not delivered the results.

The three-pronged approach that we have engaged in—which has involved around $1 billion worth of expenditure—is the way to go in fighting illicit drugs on the fronts of health, education and law enforcement. On the law enforcement front, we continue to intercept drugs—large amounts and small. I was happy to see that, at Perth Airport, we arrested a woman—who is appearing in the Perth court today—allegedly carrying 2.6 kilograms of heroin. Thousands of hits of that drug could have reached the streets of Australia.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Aged Care

Senator Santoro (Queensland—Minister for Ageing) (3.01 pm)—Senator McLucas, in her first question today, asked me a question in relation to the John Cani Estate Aged Hostel in Queensland, and I undertook to seek some information in relation to the senator’s question. I am able to inform the Senate of the following. On 11 January 2006 the department imposed sanctions on the Roman Catholic Trust Corporation for the Diocese of Rockhampton—the approved provider of John Cani Estate Aged Hostel. It is disappointing that the provider had allowed care to be compromised to the extent that the department found it necessary to impose sanctions. Under the sanctions, the approved provider has appointed an adviser with nursing experience who is implementing an improvement plan to address the areas of noncompliance. Also, for a period of three months, the approved provider will not be able to admit new high-care residents.

In this case, the Aged Care Standards and Accreditation Agency identified serious issues in relation to management and resident care. The agency has advised the department that the serious risk has been mitigated and that the approved provider is continuing to address the remaining areas of noncompliance. The sanctions will assist and encourage the approved provider to improve the delivery of care and services to existing residents at the home. The department has written to residents and relatives informing them of the situation. The approved provider has held a meeting of residents and relatives to discuss the issues at the home and the action being taken to address the issues.

As I have previously advised the Senate, the Australian government has in place a quality framework to identify and quickly deal with issues that may affect the health, safety and wellbeing of residents. The framework includes the complaints resolutions scheme and accreditation and compliance action under the Aged Care Act 1997. The system ensures that any information received by the department is reviewed, assessed and then referred for appropriate ac-
The department and the agency, I can assure the Senate, will continue to monitor the home—in fact they are doing that as we speak. The care and safety of residents of all aged care homes remain the highest priorities.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS
Household Savings

Senator SHERRY (Tasmania) (3.03 pm)—I move:

That the Senate take note of the answers given by the Minister for Finance and Administration (Senator Minchin) to questions without notice asked by Senators Sherry and George Campbell today relating to the economy.

The Labor Party posed two questions—as it did yesterday—about disturbing and worrying aspects of economic trends and development in this country, and again we saw from the Minister for Finance and Administration, representing the Treasurer, an arrogant, lazy and very complacent attitude towards what are significant economic issues and dark clouds on the economic horizon for this country.

In terms of today’s national accounts, while the minister was keen to trumpet and draw attention to issues such as economic growth and other matters, what he did not want to deal with until it was drawn to his attention by the Labor Party in question time were the three years of negative household savings by Australians. At the present time, as disclosed by the figures, in the calendar year 2004-05, Australian household savings were negative 3.5 per cent. In other words, Australian households are spending and consuming more than they are saving. That does have significant long-term implications both for households and the Australian economy.

What is very worrying is that is not the first year that household savings have been negative. In fact, for the last three years household savings have been negative—and the level has grown. The level of dissaving in 2003-04 was minus 3.2 per cent and in 2002-03 it was minus 2.2 per cent. So the level of dissaving by households is getting worse and worse each year. Compare that to the record in 1995-96—10 years ago—when the Liberal government was elected. At that time, household savings were positive in Australia—by 6.4 per cent.

The minister apparently does not believe that this is a significant problem long term for the Australian economy. But one should relate the negative household savings to a number of issues that we referred to yesterday, particularly Australia’s quarterly current account deficit—that is, the deficit on imports and exports. Imports over exports for the last quarter of last year had grown to almost $14½ billion. In the last three months of last year, we were importing almost $14½ billion of good and services more than we exported. Put that together with the increase in national debt. Australia’s national debt has now reached the truly staggering figure of $473 billion. That is up $22 billion on the last calendar year. That $473 billion is now more than half the total value of the Australian economy. Of all the goods and services we produce, over half the value is represented by that $473 billion in national debt.

These economic statistics do matter. They have very important implications for the long-term development of the Australian economy because, given that Australian households are dissaving, we have to pay for the exploding national debt in some way. Clearly, if Australian households are not saving, we have to import capital in order to cover the ballooning national debt. There is nothing wrong with importing capital. I do not have any particular philosophical disagreement with that, but the consequence is that the more capital you import to cover that ballooning national debt, the more exposed
Australia is to changes in the international economy. If there is a downturn in China or the United States or adverse happenings overseas, because we are importing increasing amounts of capital because Australian households are not saving, it will hurt Australia much more. \(\text{Time expired}\)

**Senator BRANDIS** (Queensland) (3.08 pm)—The government welcomes this debate which invites a comparison between the economic position of Australian households today and the economic position of Australian households 10 years ago today, on the last day of the last Labor government. How remarkable it is that Senator Sherry, one of the—if I may say so—more economically articulate Labor senators, could give a five-minute speech about household debt without once mentioning interest rates. How extraordinary.

As all Australians know from their hip pocket, there is more prosperity in Australia today than there was 10 years ago, largely because interest rates are so low. Today, the average standard variable lending rate is 7.3 per cent. In historical comparative terms, that is a low figure, which has been a low and stable figure for several years now. But on this day 10 years ago the equivalent indicator was 10.5 per cent—and that was the best performance the former Labor government recorded. We all remember that, at their zenith during the former Labor government, housing loan interest rates rose to 17 per cent, while interest rates on business loans and loans to farmers were as high as 22 and 23 per cent. It would be interesting for Senator Sherry to tell us what the net household debt position was under the last Labor government, with interest rates on housing loans at 17 per cent, on business loans at 22 per cent and on farm loans at 23 per cent. But he did not tell us about that. That is the first point to be made—that the debt service ratio of Australian households today is much lower than it was 10 years ago today because interest rates are so low.

As well, Senator Minchin, in answer to questions from Senator Sherry, informed the Senate of the national accounts figures. The most significant of the results in the national accounts published today was the fact that over the last 10 years the growth in real wages has been 16.8 per cent. Over the 13 years of the previous Labor government, growth in real wages was negligible. I heard the Prime Minister say in House of Representatives question time earlier that it was 0.2 per cent over that 13 years. Over the 10 years of coalition government there has been a 17 per cent growth in real wages.

Australia is better off today than it was 10 years ago. You take any indicium of economic prosperity you care to name—whether it be interest rates, home mortgage rates, growth in real wages or the unemployment rate, which 10 years ago on this day was 8.2 per cent but today is 5.3 per cent. Ten years ago on this day the aggregate net household wealth of Australian households was $1.7 trillion, but today it is $4.5 trillion. Net household wealth has almost trebled in the last 10 years, while the stock exchange index has more than doubled from what it was on this day 10 years ago. So I say to my Australian Labor Party colleagues: any time you want to take us on in a debate about economic management, you feel very free. Please bring it on. Because on any indicium of economic prosperity you care to name Australia is a wealthier, better employed, more prosperous, more secure nation today than it was on this day 10 years ago, when your period of economic stewardship came to a very timely end.

**Senator GEORGE CAMPBELL** (New South Wales) (3.13 pm)—I also want to take note of the answers by the Leader of the Government in the Senate, Senator Minchin,
to questions asked in question time today. And I will take up, in part, the challenge issued by Senator Brandis, because people on the other side of the chamber are very fond, when we talk about economic figures, of going back 10 years and quoting what happened under the last Labor government.

Senator Joyce—Why wouldn’t you?

Senator GEORGE CAMPBELL—Let me enlighten you, Senator Joyce, as to what the Hawke government took over from the current Prime Minister when he was Treasurer of this country in 1983.

Senator Joyce—I was about three.

Senator GEORGE CAMPBELL—Well, you’re happy to go back to 1991 and talk about interest rates; what were interest rates when John Howard was Treasurer of this country? In 1983 interest rates were 12.5 per cent. What was the unemployment rate when the current Prime Minister was Treasurer of this country? On 5 March 1983 unemployment was 10.7 per cent. What was the inflation rate when John Howard was the Treasurer of this country? On 5 March 1983 inflation was 11 per cent. What was GDP growth when John Howard was the Treasurer of this country? It was minus 2.6 per cent. That is the legacy that he left the Labor government in 1983. So we set about correcting the economic mess that was left to us by the current Prime Minister.

Of course, there were ups and downs over that period. In 1985 we had to confront—as you should well know, Senator Joyce—a collapse in our terms of trade. There was far too much of an imbalance in our economy. What did the Hawke-Keating government set about doing? It set about broadening the base of the Australian economy by promoting and encouraging the growth of our manufacturing sector and, in particular, growth in the trade of elaborately transformed manufactures. And it did that—between 1986 and 1996 it doubled the growth in the trade of elaborately transformed manufactures, which went from about eight per cent to 18 per cent. That growth has declined under this government.

It is true that currently, in terms of exports, we are going through a boom period. But if you look at the figures you will see that they are primarily in primary products and minerals. That is what is holding up our export performance. Despite that, we still have a trade imbalance of $14.5 billion. As Senator Sherry said, foreign debt has grown to $473 billion—over half of our GDP.

It is interesting to note the response of those on the other side when the question of foreign debt is raised. In 1996 we saw the current Prime Minister and Treasurer driving around the country in a debt truck, telling people how bad foreign debt was for the economy and the country—the fact that it was equal to $10,000 for every individual. Well, it is now equal to $22,000 for every individual. That is how much foreign debt has grown under those opposite during their 10 years in office.

We have been wondering where they have hidden the debt truck. We have been looking in some of the garages around Canberra. But we have suddenly realised, having seen the figures published today, that they would need to hire the MCG to hide it—that is how much foreign debt has grown over the period of their stewardship. These chickens will come home to roost because this economy is like a meringue—it looks solid on the outside, but put your finger in it and it will collapse. (Time expired)

Senator McGAURAN (Victoria) (3.18 pm)—I wish to contribute to this debate relating to household debt. The previous speakers, Senator George Campbell and Senator Sherry, could not have been more shrill in their presentations. Both of them
have been here for the full 10 years that this government has been in office. Both of them have seen the creation of a most stable and solid economy—an economy that has been backed by the public at every single election during that time. That is why, as the years go by, each time they stand up and talk about the economy they become more shrill.

We welcome the fact that, for once, the Labor Party—it is quite a momentous occasion—have raised the matter of the economy during question time. They have spent year after year, term after term of this government, avoiding a discussion on the economy. So, unlike my colleague Senator Brandis, I welcome a discussion on the economy.

With respect to this idea that dark clouds are forming over the economy, that it is very feeble and fragile and that it is about to fall over, nothing could be further from the truth. Quite frankly, it can be put down to this: the environment that Australian households are operating in gives them the economic confidence to invest and to go into debt. You only do that if you have confidence in the economy, and Australian households have that confidence.

*Opposition senators interjecting—*

**Senator McGauran**—Senator Minchin explained it to you but you refused to listen. It is not to your advantage to listen. The fact that Australian households have gone into debt by borrowing is because their ability to pay back those borrowings has increased. They can meet those debts because those borrowings are backed up by their net tangible assets—there is greater value in their households. And how has this come about? Through a growth economy. How has a growth economy come about? How has their confidence in the economy come about—a confidence that has allowed them to invest and borrow? It has come about by this government’s determination 10 years ago to lay the foundation stone for a reliable, steady economy, taking the boom-bust cycle out of the economy. And we did that from our very first budget.

Tomorrow we celebrate and commemorate this government’s 10 years in office. I would like to point out one landmark. Many will discuss the highlights of that period and some of the difficult decisions we had to make—some of the very hard and unpopular decisions. But one of the first things we did for the sake of the Australian economy was that we decided to make the hard decisions, not to blink, and to see them through, and that set the pattern for the party room and the government. In the 1996 budget we were faced with a $10 billion budget deficit and a $96 billion debt left by the previous government. From our first day in government, we had to turn that around. That was the foundation stone—we had to turn it around into a surplus budget, leading to the zero debt that we have today.

That was the foundation stone we built this economy on. By the way, we have gone to each election with that foundation stone and have gained the confidence of the people. More than anything else, that has been the hallmark of this government. And it all began in 1996, when we had the determination, after 13 years in opposition, to put down one of the toughest budgets known from any government.

We spent 13 years in opposition and we had an idea of exactly what we had to do and what we were going to do when we came to government. We did not just sit over there. Now you are into your 10th year without a plan, without a policy and without a determination. We knew exactly what we had to do when we came into government. The first thing we had to do was tackle the economy—the mess that we had been left with. Today we see, after 10 years in government,
that Australian households have the confidence to borrow and take out debt because they know that their employment is in great demand, their wages have gone up, they are capable of meeting that debt and the economy will remain strong.

Senator HUTCHINS (New South Wales) (3.23 pm)—I rise this afternoon to take note of answers that Senator Minchin gave earlier today in question time. You probably would agree with me, Mr Deputy President—I know some of my colleagues over here do—that one of the things Senator Minchin is noted for is that he will actually answer a question. The direct question asked of Senator Minchin this afternoon by Senator George Campbell was about a statement made by Dick Warburton in relation to the superannuation guarantee levy. In that question, Senator Campbell specifically asked Senator Minchin what his views were on the comments made by Dick Warburton. Senator Minchin answered that he thought the statement made by Mr Warburton was ‘rather surprising’. I do not see why the government thinks that that is rather surprising.

Mr Warburton is the Chairman of Caltex. He works for a company that is probably one of the wealthiest in this country. He works in an industry that is one of the wealthiest in the world and is probably making some of the most significant money in modern capitalism. So why would we be at all surprised that someone like Mr Warburton would have no clue about what ordinary men and women in this country are feeling in relation to tax? It is the same with Mr Hendy, who was one of Peter Reith’s henchmen when he worked here. Now he is on the teat of the Chamber of Commerce and Industry. He is probably someone who has never worked outside a protected environment in his life. He has always been on some organisational or parliamentary payroll. He, equally, is going to give the Treasurer some advice about taxation. Why, again, would we be at all surprised that they come out with some stupid or nonsensical comments in relation to the taxation system?

I want to get back to the questions that Senator Campbell and Senator Sherry asked of Senator Minchin. As I said, in my opinion and in the opinion of a number of my colleagues, Senator Minchin does attempt to answer a question. He does not obfuscate or dance around corners or get advice from Senator Ferris or Senator Heffernan, like Senator Coonan does when she does not know the answer. He will give it to us. You should have seen his face when we asked him about the level of household debt and foreign debt in this country. Senator Minchin looked worried—and why wouldn’t he look worried? The level of household debt in this country is increasing. Where I come from in Western Sydney, people are spending $126 a week but they are only earning $100. That is what is happening now. The level of household debt is in the negative, as Senator Sherry said. I will go back and quote you figures on that. People saved 11 per cent of their income in the 1960s. In the mid-seventies they saved 18½ per cent of their income. In the 1980s they saved 13 per cent of their income. In the 1990s it was three per cent. We have been told this afternoon by Senator Sherry that the level of household debt is now minus 3½ per cent. How long can this go on?

You would not have seen it, Senator McGauran, but Senator Minchin looked worried because he is someone who will give us the answers. He is someone who will at least try to be honest in his approach to the opposition in saying what is going on. I tell you what: we know what is going on. We know that there is a crisis looming. No matter what Senator Brandis or Senator McGauran say, we on this side know that the crisis is looming and is going to occur at some point in the
near future because we cannot maintain this level of household debt or the foreign debt that we have in this country and still try to maintain our standard of living. It will break at some point. We are asking the government to do something about it and to give us some indication of what their policies are, rather than let the households of this country continue in this false nirvana that will inevitably stop. When that occurs, there will be a lot of dislocation and heartache in this country. I ask you, Mr Deputy President, to make sure that that is rammed home in this country. (Time expired)

Question agreed to.

Oil for Food Program

Senator SIEWERT (Western Australia) (3.29 pm)—I move:

That the Senate take note of the answer given by the Minister for Communications, Information Technology and the Arts (Senator Coonan) to a question without notice asked by Senator Siewert today relating to AusAID.

The minister representing the Minister for Foreign Affairs said that she assumes that the minister, Mr Downer, signed off on the AusAID grant of $100 million for the two wheat shipments. AusAID has very stringent approval processes which point very clearly to the fact that the foreign minister, Alexander Downer, would have to have known about this proposal and signed off on a project plan and risk analysis. That means that he signed off on $45 million going to Alia: $45 million that, as I outlined in the Senate earlier today, would have saved 2,471 lives. Either Mr Downer knew about the $45 million for bogus trucking payments or he was not doing his job properly.

As I said, AusAID have very stringent guidelines that they have to follow when looking at funding using AusAID money. AusAID’s job is to provide important aid to people in need. They recognise that this often happens in risky environments, in war zones and in places where there is endemic corruption. So they have in place very clear guidelines and rules that allow them to identify and manage risk. They have very strict procedures for monitoring and accounting for where the dollars go. In Senate estimates last month, despite the fact that cabinet had blocked government officials from answering questions about Iraq, I did manage to ask questions about the actual process. We heard evidence from AusAID experts at the hearings that a very rigorous risk assessment and financial accountability process is in place for all AusAID projects. We heard that AusAID has very clear guidelines under the Financial Management and Accountability Act, which they adhere to ‘to the letter’. For projects of the magnitude of $100 million and of that importance—we were at war with Iraq, do not forget—the minister and possibly also the parliamentary secretary have to approve the projects.

Ms O’Keeffe, a witness from AusAID at the hearings, indicated in estimates that approval of projects larger than $10 million or projects in areas of greater significance—such as those that we are at war with—would automatically go to the minister. We are now talking about a project where $45 million was siphoned off for bogus transport payments. He must act as the financial delegate, under the terms of the Financial Management and Accountability Act 1997. He is bound by the terms of that act, which specify that he has a serious responsibility to take all reasonable steps to ensure the proper expenditure of public money and to provide assurance of risk management and probity. Ms O’Keeffe assured us:

We have very clear guidelines in terms of the FMA, and we certainly follow those to the letter. AusAID is used to working in areas of high security risk, and has developed very clear
protocols to deal with war zones and areas of endemic corruption.

We have heard in the Cole inquiry that the minister and the department had been notified by cables in March 2000 of allegations and kickbacks. They knew how the system worked in Iraq, and where to look, three years before the AusAID bailout of AWB. They had heard these rumours before and they were approving AusAID projects in 2003, but they still managed to approve money to pay for bombs and guns and to rort the system. Forty-five million dollars of AusAID money that should have gone through a very strict probity assessment somehow ended up in the pockets of Saddam Hussein. I cannot understand how the minister did not know this. I cannot understand how, with such an important aid budget, he would not have signed this off or gone into the detail of this process. As I have outlined, there are very strict guidelines in the FMA Act. If the minister did not sign off on this project, who did? Who signed off on a project worth $100 million, where usually a project of $1 million or $10 million would go to the minister? If a project of $100 million did not go to the minister, why not? (Time expired)

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 Senator Heffernan (from 2,101 citizens).

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

This petition of certain citizens of Australia draws to the attention of the Senate, the crisis in the medical workforce due to the neglect of the Howard Government.

Your petitioners therefore ask the Senate to:

• Increase the number of undergraduate university places for medical students,
• Increase the number of medical training places, and
• Ensure Australia trains enough professionals to maintain the quality care provided by our
hospitals and other health services in the future.

by Senator Hogg (from 299 citizens).

Petitions received.

NOTICES

Presentation

Senator O’Brien to move on the next day of sitting:

That the Senate notes that:

(a) over a decade in office the Howard Government has established a new low for government integrity and accountability; and

(b) the Howard Government’s record is littered with scandals involving rorts, waste and incompetence.

Senator Allison to move on the next day of sitting:

That the following matter be referred to the Employment, Workplace Relations and Education References Committee for inquiry and report by 7 November 2006:

Sexual and reproductive health education in Australia, with particular reference to:

(a) the current state of school based sex education, with reference to the effectiveness of current arrangements in ensuring that all students have access to developmentally appropriate, comprehensive, inclusive, evidence based and medically accurate information which encompasses:

(i) sexual development,

(ii) non-exploitive sexual relationships, and

(iii) reproductive health including the full range of contraceptive choices, safe sex practices and sexually transmitted infections (STIs);

(b) the importance of sex education in reducing unplanned pregnancies and abortions in Australia;

(c) the appropriate role and adequacy of training and support for teachers and school nurses providing sex education;

(d) the need for appropriate accountability mechanisms to ensure that sex education is consistent with good practice;

(e) the analysis of overseas sexuality and reproductive health education models and their potential application to the Australian context;

(f) the opportunities for current funding arrangements and agreements between the Commonwealth and state governments to better ensure access to comprehensive evidence based sexuality and reproductive health information;

(g) the need for a national strategy for lifelong sexuality and health education, with adequate funding for general public information and education campaigns on existing services and new and emerging issues such as new forms of contraception and outbreaks of STIs;

(h) the role of school based sex education, within a national coordinated approach to the sexual and reproductive health of the Australian population;

(i) the development of national guidelines for preventative sexual and reproductive health care for young people by general practitioners and other primary care providers; and

(j) the examination of the potential of school based or school linked health centres for providing sexuality and reproductive health education and health care for young people.

Senator Colbeck to move on the next day of sitting:

That on Monday, 27 March 2006:

(a) the hours of meeting shall be 2.30 pm to 6.30 pm and 7.30 pm to 10.30 pm; and

(b) the routine of business shall be:

(i) question time, and

(ii) the items specified in standing order 57(1)(a)(iii) to (xi).

Senator Boswell to move on the next day of sitting:

That the Senate—
(a) congratulates the Howard/Vaile Government on measures to increase the number of doctors in Australia by lifting the cap on full fee paying places for medicine from 10 per cent to 25 per cent; and
(b) notes that all Labor premiers at the Council of Australian Governments’ meeting embraced this initiative that will effectively offer up to an additional 400 students the opportunity to study medicine each year.

Senator Bob Brown to move on the next day of sitting:
That the Senate—
(a) notes that:
(i) 20 March 2006 is the third anniversary of the invasion of Iraq by coalition forces,
(ii) the suffering of the Iraqi people continues and there is no end in sight, and
(iii) global opinion is that the Iraq war is a mistake; and
(b) calls on the Government to withdraw Australian troops from Iraq immediately and implement a comprehensive aid program instead.

Senator Nettle to move on the next day of sitting:
That the Senate—
(a) notes that:
(i) Ms Cornelia Rau was discovered detained in Baxter Detention Centre on 3 February 2005, almost 13 months ago, with an untreated mental illness,
(ii) Ms Rau has not been compensated for her 10 months of detention, and
(iii) Ms Rau is currently receiving sickness benefits; and
(b) calls on the Government to ensure that Ms Rau is properly compensated for her ordeal as a matter of urgency.

Senator Milne to move on the next day of sitting:
That the Senate—
(a) notes:
(i) that this week is the annual ‘Science Meets Parliament’ event,
(ii) the critical role of science in the protection of the environment and the development of new technologies and industries,
(iii) the recent appointment to the board of the Commonwealth Scientific and Industrial Research Organisation (CSIRO) of people with ties to the fossil fuel industry, and
(iv) the increasing level of political interference in scientific publications and commentary; and
(b) calls on the Government to develop procedures for merit-based selection of independent CSIRO board members and to improve the public visibility of the activities of that board.

COMMITTEES
Selection of Bills Committee
Report
Senator FERRIS (South Australia) (3.35 pm)—On behalf of Senator Eggleston, I present the second report for 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. 2 OF 2006
(1) The committee met in private session on Tuesday, 28 February 2006 at 4.26 pm.
(2) The committee resolved to recommend—
That—
(a) the provisions of the Family Assistance, Social Security and Veterans’ Affairs Legislation Amendment (2005 Budget and Other Measures) Bill 2006 be referred immediately to the Community
Affairs Legislation Committee for inquiry and report by 24 March 2006;
(b) the provisions of the OHS and SRC Legislation Amendment Bill 2005 be referred immediately to the Employment, Workplace Relations and Education Legislation Committee for inquiry and report by 9 May 2006; and
(c) the provisions of the Telecommunications (Interception) Amendment Bill 2006 be referred immediately to the Legal and Constitutional Legislation Committee for inquiry and report by 27 March 2006.

(3) The committee resolved to recommend—
That the following bills not be referred to committees:
• Bankruptcy Legislation Amendment (Fees and Charges) Bill 2006
• Cancer Australia Bill 2006
• Health Legislation Amendment (Pharmacy Location Arrangements) Bill 2006
• Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill 2006
• Tax Laws Amendment (2006 Measures No. 1) Bill 2006.
The committee recommends accordingly.

(4) The committee considered a request to reconsider the Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005 and agreed to consider the bill at its next meeting.

(Jeanie Ferris)
Chair
1 March 2006
Appendix 1
Proposal to refer a bill to a committee
Name of bill(s):
Family Assistance, Social Security and Veterans’ Affairs Legislation Amendment (2005 Budget and Other Measures) Bill 2006

Reasons for referral/principal issues for consideration
To examine the viability and operation of the provisions of the bill and its impact on relevant groups
Possible submissions or evidence from:
The National Welfare Rights Network
Australian Council of Social Service (ACOSS)
Carers Australia
National Council of Single Mothers and their Children Inc
Disability advocacy groups
Committee to which bill is referred:
Community Affairs Legislation Committee
Possible hearing date:
Possible reporting date(s): May 2006

Appendix 2
Proposal to refer a bill to a committee
Name of bill(s):
OHS and SRC Legislation Amendment Bill 2005

Reasons for referral/principal issues for consideration
Examination of the legislation and interaction with existing legislation
Possible submissions or evidence from:
Employees associations, unions, business groups, national businesses
Committee to which bill is referred:
Employment, Workplace Relations, and Education Legislation Committee
Possible hearing date: 3-7 April 2006
Possible reporting date(s): 10 May 2006

Appendix 3
Proposal to refer a bill to a committee
Name of bill(s):
Telecommunications (Interception) Amendment Bill 2006
Reasons for referral/principal issues for consideration
Examine the bill.
Possible submissions or evidence from:
Committee to which bill is referred:
Legal and Constitutional Legislation Committee
Possible hearing date: As required
Possible reporting date(s): 27 March 2006

Appendix 4
Proposal to refer a bill to a committee
Name of bill(s):
Telecommunications (Interception) Amendment Bill 2006
Reasons for referral/principal issues for consideration
(1) Investigate adequacy of regime for stored communications
(2) Investigate controls on B-party intercepts
(3) Ensure reporting functions are maintained or improved following abolition of AFP TIRAC Function
(4) Ensure equipment based intercepts proposed are both adequate for law enforcement and privacy protection purposes.
Possible submissions or evidence from:
Civil liberties organisations, law councils, Telstra and other business, AFP, AGD, ASIO, state police agencies, ACC etc
Committee to which bill is referred:
Legal and Constitutional Legislation Committee
Possible hearing date:
Possible reporting date(s): 9 May 2006

LEAVE OF ABSENCE
Senator FERRIS (South Australia) (3.38 pm)—by leave—I move:
That leave of absence be granted to Senator Abetz for 1 March and 2 March 2006, on account of parliamentary business overseas.
Question agreed to.

NOTICES
Postponement
The following items of business were postponed:
Business of the Senate notice of motion no. 1 standing in the name of Senator McLucas for today, proposing the reference of a matter to the Community Affairs References Committee, postponed till 2 March 2006.
General business notice of motion no. 386 standing in the name of the Chair of the Community Affairs References Committee (Senator Moore) for today, relating to an extension of time for the committee to report, postponed till 2 March 2006.
Withdrawal
Senator SIEWERT (Western Australia) (3.39 pm)—I withdraw business of the Senate notice of motion No. 376 standing in my name for today, relating to the extension of time for the presentation of a report on water policy initiatives.

COMMITTEES
Mental Health Committee
Extension of Time
Senator ALLISON (Victoria—Leader of the Australian Democrats) (3.40 pm)—I move:
That the time for the presentation of the report of the Select Committee on Mental Health be extended to 28 April 2006.
Question agreed to.
AGED CARE

Senator ALLISON (Victoria—Leader of the Australian Democrats) (3.40 pm)—by leave—I move the motion as amended:

That the Senate—

(a) notes the recent reports of abuse on residents of aged care nursing homes; and

(b) calls on the Government and all state and territory governments to protect older Australians by:

(i) exploring the introduction of a form mandatory reporting of suspected abuse,

(ii) exploring the potential benefits of pre-employment police checks for aged care workers, and

(iii) supporting the protection of whistleblowers.

Question agreed to.

NUCLEAR NONPROLIFERATION

Senator ALLISON (Victoria—Leader of the Australian Democrats) (3.41 pm)—I move:

That the Senate—

(a) notes:

(i) the current speculation about Iran’s capabilities and intentions with regard to its possible development of nuclear weapons,

(ii) with deep concern, the threat of military action being considered against Iran, including the possible use of tactical nuclear weapons, and

(iii) successive resolutions in the United Nations General Assembly on negative security assurances and guarantees from the nuclear weapon states that nuclear weapons will never be used against non-nuclear armed states, and the importance of that principle in ensuring that non-nuclear weapon states have no motive to acquire nuclear weapons;

(b) urges the Government to pursue a resolution of the Iranian crisis based on the following principles:

(i) no use of any military intervention whatsoever by any party, for any reason,

(ii) a clear commitment by all nuclear-armed parties not to use nuclear weapons in this situation, and to recommit to the doctrine of no ‘first use’ of nuclear weapons,

(iii) a clear commitment by all parties to the global elimination of nuclear weapons, including reaffirmation of the Final Declaration of the 2000 Non-Proliferation Treaty Review conference, and relevant UN General Assembly resolutions, including the L28 resolution sponsored by Japan and Australia,

(iv) the implementation of the 1995 Non-Proliferation Treaty Resolution on a nuclear-weapon-free zone in the Middle East, implementation of the annual consensus-adopted UN General Assembly resolutions on the ‘Establishment of a nuclear-weapon-free zone in the region of the Middle East’,

(v) a diplomatic path to the removal of tensions between the United States of America, Israel and Iran, involving compromise on all sides (except where the development or threat of nuclear weapons is concerned), recognising the legitimate security concerns of all parties including Israel and Iran, and refraining absolutely from inflammatory statements, and

(vi) encouragement of all states parties to the Nuclear Non-Proliferation Treaty to remain within that framework and all non-states parties to join that regime; and

(c) conveys the text of this resolution to all UN Security Council missions and their foreign ministers or secretaries of state, and the Governments of Iran and Israel.

Question put.
The Senate divided. [3.46 pm]
(The Deputy President—Senator JJ Hogg)
Ayes............ 7
Noes............ 49
Majority........ 42

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

NOES
Adams, J. Barnett, G.
Boswell, R.L.D. Brandis, G.H.
Brown, C.L. Campbell, G.
Carr, K.J. Chapman, H.G.P.
Colbeck, R. Crossin, P.M.
Eggleston, A. Ferguson, A.B.
Ferris, J.M. * Fielding, S.
Fierravanti-Wells, C. Fifield, M.P.
Forshaw, M.G. Heffernan, W.
Hogg, J.J. Humphries, G.
Hunting, A. Hutchins, S.P.
Johnston, D. Joyce, B.
Kirk, L. Lightfoot, P.R.
Ludwig, J.W. Lundy, K.A.
Macdonald, I. Marshall, G.
Mason, B.J. McEwen, A.
McGauran, J.J.J. McLucas, J.E.
Moore, C. Nash, F.
Parry, S. Patterson, K.C.
Payne, M.A. Polley, H.
Ray, R.F. Ronaldson, M.
Scullion, N.G. Sterle, G.
Troeth, J.M. Trood, R.
Vanstone, A.E. Wong, P.
Wortley, D.

* denotes teller

Question negatived.

**SEPARATION OF CHURCH AND STATE**

Senator ALLISON (Victoria—Leader of the Australian Democrats) (3.54 pm)—I move:
That the Senate—
(a) notes that:

(i) on the Australian Broadcasting Corporation’s *Insiders* program on Sunday, 26 February 2006, the Treasurer (Mr Costello) said that he thinks ‘we can offer a tolerant Australia which respects the rights and liberties of all as long as we’ve got agreement on a few key points. One is a secular state’, and

(ii) on Monday, 27 February 2006 during question time, the Minister for Finance and Administration (Senator Minchin) said ‘It is a fact that in Australia, as a long part of the Western tradition, there is a separation of church and state’; and

(b) calls on the Government, if it is serious about a secular state, to take steps to:

(i) remove religious references from statutory oaths and pledges,

(ii) abolish official parliamentary prayers,

(iii) remove tax advantages that solely apply for religious purposes, and

(iv) consider other ways of achieving a true separation of church and state.

Question put.
The Senate divided. [3.56 pm]
(The Deputy President—Senator JJ Hogg)
Ayes............ 7
Noes............ 50
Majority........ 43

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

NOES
Adams, J. Barnett, G.
Boswell, R.L.D. Brandis, G.H.
Brown, C.L. Campbell, G.
Carr, K.J. Chapman, H.G.P.
Colbeck, R. Crossin, P.M.
Eggleston, A. Ferguson, A.B.
Ferris, J.M. * Fielding, S.
Fierravanti-Wells, C. Fifield, M.P.
Forshaw, M.G. Heffernan, W.
Hogg, J.J. Humphries, G.
Hurley, A. Hutcheson, S.P.
Johnston, D. Joyce, B.
Kirk, L. Ludwig, J.W.
Lundy, K.A. Macdonald, I.
Marshall, G. Mason, B.J.
McEwen, A. McGauran, J.J.J.
McLucas, J.E. Moore, C.
Nash, F. Parry, S.
Patterson, K.C. Payne, M.A.
Polley, H. Ray, R.F.
Ronaldson, M. Scullion, N.G.
Sterle, G. Troeth, J.M.
Trood, R. Vanstone, A.E.
Watson, J.O.W. Webber, R.
Wong, P. Wortley, D.

* denotes teller

Question negatived.

PROPOSED EXPANSION OF THE MCArTHuR RIVER MINE

Senator SIEWERT (Western Australia)

(4.00 pm)—I move:

That the Senate—

(a) notes:

(i) that on 23 February 2006 the Northern Territory Minister for Natural Resources, the Environment and Heritage, Ms Marian Scrymgour, recommended against the proposed expansion of the McArthur River mine proposed by Xstrata Plc.,

(ii) the potential impact on the environment, tourism and fisheries industries dependent on local ecosystems, should the mine be approved,

(iii) the strong opposition of local Indigenous communities to the contamination of traditional fishing grounds and living areas,

(iv) the impossibility of conducting open cut mining in a waterway without serious environmental consequences, and

(v) that Ms Scrymgour recommended against this proposal on the grounds that it failed to meet the tests of science or sustainability; and

(b) commends Ms Scrymgour on this decision.

The Senate divided. [4.02 pm]

(The Deputy President—Senator JJ Hogg)

Ayes……………… 7
Noes……………… 50
Majority……… 43

AYES

Allison, L.F. Bartlett, A.J.J.
Brown, B.J. Milne, C.
Murray, A.J.M. Nettle, K.
Siewert, R. *

NOES

Adams, J. Barnett, G.
Boswell, R.L.D. Brandis, G.H.
Brown, C.L. Chapman, H.G.P.
Colbeck, R. Coonan, H.L.
Eggleston, A. Ferguson, A.B.
Ferris, J.M. Fielding, S.
Fierravanti-Wells, C. Fifield, M.P.
Forshaw, M.G. Heffernan, W.
Hogg, J.J. Humphries, G.
Hurley, A. Hutchins, S.P.
Johnston, D. Joyce, B.
Kirk, L. Ludwig, J.W.
Lundy, K.A. Macdonald, I.
Marshall, G. Mason, B.J.
McEwen, A. McGauran, J.J.J.
McLucas, J.E. Moore, C.
Nash, F. Parry, S.
Patterson, K.C. Payne, M.A.
Polley, H. Ray, R.F.
Ronaldson, M. Scullion, N.G.
Sterle, G. Troeth, J.M.
Trood, R. Vanstone, A.E.
Watson, J.O.W. Webber, R.
Wong, P. Wortley, D.

* denotes teller

Question negatived.

YOUNG PEOPLE AND TOBACCO

Senator ALLISON (Victoria—Leader of the Australian Democrats) (4.05 pm)—I move:

That the Senate—

(a) recognises that:
(i) smoking continues to be a major cause of death and disability in Australia,
(ii) more than 25 per cent of adolescents aged 12 to 17 in Australia in 2004 smoked cigarettes at least weekly; and
(iii) research estimates that an adolescent who starts smoking today will smoke for a minimum of 16 years if male and 20 years if female;
(b) notes that the tobacco industry depends on its ability to attract young people to use its products in order to encourage them to become addicted;
(c) concurs with the Action on Smoking and Health Australia campaign that is calling on supermarkets to follow the lead of Coles in Tasmania by reducing its tobacco display to small rows of plain brand names and prices; and
(d) calls on the Federal Government and state and territory governments to protect the health of Australian children and young people by requiring that:
(i) smoking-tobacco products are kept out of sight in all retail outlets,
(ii) quit smoking messages are placed at all points of retail for tobacco products, and
(iii) tobacco sales through vending machines are banned.

Question negatived.

MATTERS OF PUBLIC IMPORTANCE

Aged Care

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

The need for the Government to:

(a) treat the allegations of sexual abuse in residential aged care facilities as a matter of national priority, and

(b) restore public confidence in residential aged care in Australia by investigating these allegations and reporting openly on the findings.

I call upon those senators who approve of the proposed discussion to rise in their places.

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

The ACTING DEPUTY PRESIDENT—

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

Senator McLucas (Queensland) (4.08 pm)—The issues that have been raised over the last eight or nine days are certainly matters of public importance. The stories we have heard—and unfortunately they keep coming on—have rocked this nation. Not since 2000, when we heard the stories of the kerosene baths, has aged care been brought into question in the way that these allegations of sexual and elder abuse have done so.

First of all you will recall that allegations were made that four women, all suffering from dementia, were allegedly sexually assaulted at the George Vowell centre in Melbourne in a six-month period between June and November of last year. What I think appeals most people about this is that these events happened over such a long period of time. The family of one of the alleged victims—who was given the name ‘Anna’—was informed in December of 2005 by the police of three alleged rapes over what could have been a six-month period. The alleged assailant had also assaulted three other women.

The concerning issue in this particular case is that apparently—and this has not been confirmed by the Minister for Ageing although we have asked him—one of the assaults was witnessed by a staff member
and that staff member did not report what had been seen. That is the issue that I think concerns most people. What happens in a facility that allows a situation to occur where the normal human behaviour that anyone would have after witnessing such an event was not followed? Why is it that the person who witnessed this event was so threatened or so cajoled—whatever it was—into not reporting what any person should know was a police matter right at that very minute? We do know that the alleged assailant has been sacked. We cannot confirm—because the minister will not confirm it—that the person who allegedly saw the event but did not report it has been sacked. But the other concerning part of this story is that another staff member who apparently witnessed the event was also sacked. That person did report it, apparently, on the day that she witnessed it but this woman has also been sacked. The minister needs to confirm whether or not that is, in fact, the case.

Then we heard of the events at Immanuel Gardens where an aged care worker was sacked after allegations of abuse in October 2005. He had allegedly inappropriately touched several residents of the facility and had used vulgar language. I can say that the home did respond promptly to these allegations—the staff member was immediately stood down and then dismissed, and the home is assisting police with their investigations. The facility did the right thing and immediately contacted the families of all of the female residents involved and provided the Department of Health and Ageing with a full briefing. But that was in October 2005. We only find out this information when people bring it to the public eye, and that is not appropriate.

Then this week we have heard further allegations. We know that a woman has raised issues that affected her mother in a facility called Millward in Victoria. Her mother made claims of sexual abuse two years ago at this Millward aged care facility. However, rather than contacting the police or her family, the director of nursing forced the person who was alleging she had been assaulted to confront her attacker. I have never heard of a more appalling situation and a more inappropriate way of dealing with the reporting of sexual abuse. Anyone who has done any work in sexual abuse knows that you do not force someone, especially an elderly woman with a brain injury, to sit in front of her alleged attacker and confront the issue. Naturally, the alleged perpetrator denied it. I do not know how many senators actually saw the report on Lateline, but to watch an elderly woman say, ‘I am not a liar’ I think has affected us all.

We have also heard now—and this is the fourth incident—that allegations of rape of a 73-year-old woman, also with dementia, were made to the staff of an unnamed aged care facility in March of 2005, and nine months later the police were alerted. Late last year another female resident of the same unnamed facility also made sexual assault claims and they were investigated by the police, but the first allegation was only investigated when there was a second set of allegations. These are appalling allegations. It is very concerning to the community. The reason I have proposed this matter of public importance today is to say that yes, we do need to recognise that these allegations of sexual abuse in residential aged care facilities do need to be treated as a matter of national priority. But I am also urging the Minister for Ageing, Senator Santoro, to restore the public confidence in residential aged care in Australia by first of all investigating the claims and reporting openly on the findings.

Confidence in aged care has to be restored. We cannot sit around and wait for three weeks for an urgent meeting. It started out being an urgent summit but has turned
over the last eight days into a meeting that is going to happen three weeks after the first allegations were made. It is not a special summit of people who have been collected together because of their particular expertise in this matter; it is the ministerial advisory committee on aged care. That is a reasonable committee, but none of the members of that committee have specific responsibility for advocating on behalf of residents in residential aged care. All of the people who are members of that committee are very talented and do have a lot of experience to add to this issue, but none of them are specifically advocates of residents in aged care. None of them have had a lot of experience in the issue of elder abuse, although many of them have had a lot of experience in aged care itself.

It is my view that that response from the minister—and that has been the only response from the minister, except to say, ‘We’ll have departmental investigations’—is not enough to restore public confidence in residential aged care. People will not be comforted by the fact that we will have a meeting to talk about the events that have unfolded. The management of crises in confidence requires three actions. Firstly, it requires immediate action. Secondly, it requires openness and transparency. Thirdly, it requires a confirmation of confidence in the systems that are in place now to ensure quality and safety of care of residents in residential aged care.

None of those three conditions have been met. There has not been immediate action. We are going to have a meeting three weeks from the first allegation. There is no openness and transparency. We have directed a series of questions to the minister this week, and he has said that he is disturbed, worried and troubled by it. Minister, we all are. Every Australian is, but you are the Minister for Ageing in Australia and you have a responsibility to ensure that the systems are in place and that you can be open and clear in response to what has happened. We as a community need to understand what has happened and how the minister is going to deal with it. We also need confirmation of confidence in the systems that are in place. On two occasions we have asked the minister to confirm that he is confident that the aged care accreditation system, the complaints resolution scheme and his department are up to the job of delivering what he is expecting, and he has declined to annunciate that confidence. I am afraid that the minister is failing on all three counts.

Let us go to the complaints resolution scheme. The complaints resolution scheme is a system established so that people who have concerns about what is happening in aged care have a method of dealing with it. When the Senate Community Affairs References Committee looked at the question of aged care in late 2004 and 2005, the issue of the bureaucratic nature of the complaints system was raised by many people. People were uncomfortable with the process. They found it difficult to navigate. They became disheartened and disillusioned about their ability to get a proper resolution out of the system. Our committee made a very good recommendation: that the complaints resolution scheme should be reviewed with a view to making it more user-friendly, to paraphrase the recommendation.

The other evidence we received during that inquiry was about the reason people do not go to the complaints resolution scheme—that is, not only the fear of retribution but also actual retribution. The Commissioner for Complaints raised this issue himself in his annual report of 2002-03. He said:

Many discussions with relatives and friends of care recipients reveal an obvious and pervasive attitude—one where there is an expressed anxiety not to make a fuss, not to complain, not to inquire
too often and not to be noticed for fear that it would reflect badly on their relative and lead to some kind of retribution.

We know that there were 6,000 complaints received last year. How many would there be if there was a system in place that ensured that people who want to complain did not fear, or did not experience, retribution? That is an issue that has to be dealt with. Our committee recommended that the Commissioner for Complaints conduct an investigation into the nature and extent of retribution and intimidation of residents in aged care facilities and their families, including the need for a national strategy to address this issue. As we all know, this report came down in June last year, and we are still waiting for a response. There were 51 recommendations in this report. It was a unanimous report. That means that coalition senators supported the recommendations that the committee made. We are still waiting for a response.

The issues that we covered in that report, if they had been addressed at the time, would have allowed the minister to restore the confidence in aged care that our system is desperately crying out for. What we have is a system where every single aged care provider’s service has been brought into question. A number of people who provide aged care have rung me and said: ‘This is a problem. We have to restore the confidence in the system.’ The number of phone calls that they are receiving from family members concerned about their relatives has increased. That is predictable. The minister needs to intervene now to make sure that confidence in the system can be restored.

Let us get the CRS, the complaints resolution scheme, working. Let us make sure that people feel that, if they have a complaint, they can take it to the resolution scheme and get some action from that system without fear of retribution. The other system that is in place that the minister has not felt it in him-
nursing home residents were living in rooms of three or more beds.

I defy anyone on the other side who stands up and says they are absolutely certain that allegations similar to those that have been made of abhorrent behaviour towards older people did not occur when they were in government. All of us would say that it is totally unacceptable to see older people, probably the most vulnerable people in our community other than very young children, subjected to sexual abuse or inappropriate handling or touching. Nobody on the other side can stand up with a clear conscience and say that they are absolutely certain that that sort of thing did not happen. What we all ought to do is work towards ensuring that the likelihood of that happening is reduced.

When we came into office we found aged care in absolute disarray. I have to give credit where credit is due to the then minister Bronwyn Bishop, who in the early part of our time here closed 200 nursing homes that failed to reach standards. I hate to think what was going on in some of those nursing homes. I have visited them, mostly those in Victoria, as a Victorian senator, and they were disgraceful. I have said here a number of times that I would not have put my dog in some of those nursing homes.

I think I am right in saying that no nursing homes were closed in Labor’s period of 13 years because of failing to meet standards. Mrs Bishop closed 200 of them. It was a difficult task to relocate those people and make sure that they were appropriately accommodated. Over the time we have been in government we have focused on accreditation and quality, equity, sustainability and accessibility. Another thing that came to light when we came into government was that, as reported by the Auditor-General, we had 10,000 too few nursing home beds. Labor had a paltry 4½ thousand community aged care places. In terms of Labor’s record in aged care, whether it is in standards, accessibility, quality or sustainability, they do not have a leg to stand on.

Senator McLucas mentioned a number of processes of quality and accreditation. There was no national quality assurance program when we came into government. We established the Aged Care Standards and Accreditation Agency to monitor homes to ensure they complied with the standards and to take action against the homes that did not comply. Accreditation provided the first ever audit of the quality of care in aged care homes. Senator McLucas, when she mentioned the accreditation process, did not give credit where credit was due and that is to the coalition government for introducing the monitoring and accreditation processes.

The agency can reduce a home’s accreditation period while the relevant department can require the home to implement an improvement plan and to impose sanctions. The Aged Care Standards and Accreditation Agency visits aged care homes around Australia and if necessary changes the accreditation period. In addition, hundreds of spot checks are carried out annually, something that was not done under Labor. It is interesting that Senator McLucas has left the chamber. It is usually courteous to at least stay for the next speaker. But Senator McLucas is so uninterested in this topic that she has left the chamber.

**Senator Wong**—Where’s the minister? The minister doesn’t have the guts to come down.

**The ACTING DEPUTY PRESIDENT (Senator Forshaw)**—Order, senators!

**Senator Patterson**—She does not want to hear Labor’s record in aged care. They want to put their fingers in their ears and their heads in the sand like ostriches because they have no policy in aged care and
they had no policy in aged care when they were pretending to run aged care.

Senator Wong—Where’s Senator Santoro? Get the minister down here and then you’ll have something to say.

Senator Patterson—Senator Wong will have a chance in due course, I presume.

Senator Wong—I am not speaking, actually.

Senator Patterson—She is not speaking on it—that is how interested she is in it.

Senator Wong interjecting—

The Acting Deputy President—Order! There is far too much discussion, interjection and comment across the chamber. I ask, firstly, that interjections cease. Senator McLucas was heard in silence all through her speech. I think the same courtesy should be shown to other senators. Also, Senator Patterson, direct your remarks through the chair.

Senator Patterson—I am directing—

The Acting Deputy President—Senator Patterson, do not challenge what I said. You were having a conversation across the chamber. You know that is disorderly. Please resume your remarks.

Senator Patterson—By 2004, 94 per cent of aged care facilities had reached the maximum accreditation period of three years, a process that Labor—and Senator McLucas does not want to hear about it; she is not here—failed to do anything about. We have introduced certification standards to ensure the physical environment is appropriate, and the industry has responded to the requirement that by 2008 every aged care resident lives in a home that is appropriate and suitable to their needs.

As well as introducing a quality assurance program and a process of certification to ensure aged care homes reach specific building standards, the coalition also introduced a complaints resolution scheme. Again, Senator McLucas referred to the complaints resolution scheme but did not give credit where credit was due by saying that this was introduced by the Howard government, not by Labor. Labor did nothing; they sat on their hands.

A Freecall number is available so that if any resident or family member or staff member has a concern or complaint it can be raised, anonymously if they wish. We introduced the position of Commissioner for Complaints. Senator McLucas quoted the Commissioner for Complaints but failed to mention that it was the Howard government that introduced that position. The role of the commissioner is to mediate and negotiate outcomes in response to complaints.

So our record is in sharp contrast to Labor’s neglect. We have a range of measures in place to reduce the likelihood of abuse and poor standards of caring. As I say, I challenge the assertion by people on the other side that they had a system that would have even identified that there were problems, because they had no accreditation, they had no monitoring, they had no complaints commissioner and they had no hotline for people to make complaints.

The assumption in the statement by the opposition spokesperson, Senator McLucas, is that the government is not treating the allegations of sexual abuse as a national priority, and that is an outrageous suggestion. I will just list what the Minister for Ageing has done. As soon as the allegations came to light, he was swift and decisive. He met personally with the grand-daughters of the alleged victim at the centre of the George Vowell case to hear their concerns about the treatment of their grandmother’s case. The department is undertaking an inquiry into the way those complaints were handled, and the
minister gave the grandchildren an undertaking that he would improve the system.

The minister has made contact with the family of the alleged victim of the Millward nursing home. As has been pointed out, he has called a meeting of his aged care advisory committee, to take place on 14 March. That committee represents key national stakeholders in the industry, and he will be asking its members to consider proposals in the area of mandatory reporting, police checks, improvements to the complaints resolution scheme and the accreditation system, and protection for whistleblowers. He has written to his state and territory ministerial colleagues asking them to a meeting to discuss a collaborative approach to improving the system. That is also an indication that this is seen as a national priority.

You would think from what Senator McLucas said that the minister had done nothing. He has been in the ministry for a matter of a week or two, and he has achieved all this, taking action as soon as he saw that there was an issue.

The minister has established within the department a high-level task force to receive and respond to input from the public about all of these issues, and that feedback will be provided to the advisory committee. This set of actions suggests that he is treating this issue as a national priority. As I said, he has taken all these actions quickly and decisively, with a view to restoring the confidence of the public in what is a world-class aged care system.

I think the most important thing we should say here is that these isolated cases—and, if the allegations are confirmed, this totally unacceptable behaviour—are a very small part of the aged care sector and should not besmirch the armies of staff working diligently in aged care facilities—and they do, many of them above and beyond the call of duty, over and above what they are paid to do—and the army of directors of nursing who run what are very difficult places to run. They are not easy to run, with people with dementia and people who are very frail. I would hate to see a few bad apples spoil the whole situation.

We have a very strong and proud record on aged care. As I said, Labor did not close one aged care facility in 13 years. We closed 200. We set up processes to identify the sorts of things that have now been alleged. I know that the minister is determined to get to the bottom of them as quickly as he possibly can.

Senator Wong—Mr Acting Deputy President, I raise a point of order which, in deference to my colleague Senator Patterson, I deferred till the end of her speech. In the course of Senator Patterson's speech, she suggested that I and perhaps other senators who were participating in this debate were not interested. As the chamber knows, arrangements are made as to party debate on this issue, and senators are allocated time. But what we note is that Senator Santoro, the minister, is not here.

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—Senator Wong! Senator Wong, there is no point of order.

Senator MARSHALL (Victoria) (4.34 pm)—I can certainly assure the chamber that everybody on the Labor side is very aware of the importance of this issue and is very concerned about it, as I assume most people in this chamber would be. We are appalled by the revelations of abuse, as I am sure all senators are. I do not think it is appropriate, really, for Senator Patterson to suggest, about those who are unable to contribute to this debate directly because of time constraints, that that in any way means that they are not appalled by the abuse.
Before I get onto the substance of what I want to contribute to this particular matter before the Senate today, I did want to just note a common theme. It is not one that is exclusive to Senator Patterson, but it is a common theme for the government that, whenever they get into a crisis situation or difficulties, they always hark back to what other governments before them might or might not have done, more than 10 years ago. I find it interesting that they are unable to accept that they are in fact the government. They have been the government for 10 years, and the test of this government is what they do, not what previous governments might have done or might not have done. It is about what they do now and how they respond to a situation. I must say it is hard for those on this side of the chamber to accept that this government is taking this issue as seriously as they should and treating it as the priority that it should be.

It is interesting that Senator Patterson went through a list of things that the Minister for Ageing is now putting in place. Every one of those things Senator Patterson mentioned is identified in the Senate committee report into aged care that was tabled in June last year. Every single one of them actually goes to a recommendation in the report. I was listening very carefully to what Senator Patterson said, and I was able to tick off all of those recommendations. It is a bit rich, I think, to come in here and accuse previous governments of not doing enough, try to avoid any of the responsibility of having been in government for the last 10 years and then say, ‘Now that it has been brought to our attention,’ as if it is the first time it has been brought to their attention, ‘we will do these things.’

All of these things in aged care have been the subject of a very substantial Senate inquiry, which produced a unanimous report. Government senators and opposition senators together carefully worded a report that reflected what all senators found during our inquiries into aged care. We were very careful in writing that report not to use words like ‘aged care is in a crisis situation’. We did not want to panic people who are in aged care, or their families.

I do agree with Senator Patterson that there are, on the whole, a lot of very good people in the aged care sector and there are a lot of very good nursing homes—our criticisms do not go across the board. But there is a fundamental flaw in the procedures. Senator Patterson wanted to remind us that this government put in place measures for accrediting nursing homes and for a complaints resolution process. But Senator Patterson failed to recognise that none of those things that were put in place actually identified this abuse. This abuse was identified because one of the staff members eventually made a complaint and Victoria Police handled it. The accreditation process did not identify it and the complaints resolution process did not identify it. It just happens to be that those areas are addressed by two very important recommendations in the Senate report which was tabled last June.

Last October I got up in this place and asked why the government had not responded to that very important unanimous report. It had 51 recommendations that went to things that this government has responsibility for and which, if followed, would have improved the quality of care, the process for complaints, the process for mediation and the process for accreditation—all essential things.

We have heard the minister talk about reviewing reviews, yet there is a Senate report that he only had to pick up and read. You would have thought that the Department of Health and Ageing would have given the Senate report some consideration and looked
at the 51 recommendations, and that the department would have been in a position to say whether they were workable recommendations and whether they would go some way to fixing the problems. Other senators saying, ‘The minister has been in the job only a short period of time; give him a go,’ really belittles the process of departmental responsibility and the minister being responsible for the department. Surely the department was not just sitting back and saying, ‘We didn’t know there were any problems with aged care.’ Of course they did, because over the last eight years there have been 34 reviews. Most of them have gone to the nursing process in aged care, but for the minister to suggest that the first action that he is going to take as the new minister, when this abuse has been identified, is to review the reviews is a fairly poor ministerial response to a crisis situation in managing these issues.

In 2002 the Senate Community Affairs References Committee tabled a report into nursing, and in that report the committee noted the acute shortage of nurses in the aged care sector. The committee pointed to evidence which indicated that delivery of quality care was under threat from the retreat of qualified nurses, both registered and enrolled nurses, from the aged care sector. The committee made a range of recommendations directed at improving recruitment and retention of nurses in the aged care sector, including changes to workplace practices and improving the image and training of nurses in the aged care sector.

Unfortunately, when we conducted our inquiry into the aged care sector specifically, in the first half of last year, it suggested that there had been very little improvement at all since 2002. Concerns were raised about shortages of not only aged care nurses but also general practitioners and other people with expertise in older persons’ health—geriatricians, psychogeriatricians and allied health professionals. All of that is detailed and substantiated in the report. There were huge staffing problems identified, and there has been no real turnaround and very little evidence of improvement in the situation since those reports were done.

What does the minister do, apart from reviewing the reviews? He talks about setting up a summit: getting all the players in the industry together to talk about what can be done to fix this problem. The summit very quickly became just a continuation of a normal committee meeting which is an existing process to do that. What happens if we go back and look at the Senate committee report? That is one of the recommendations: to get all the people involved in the process together to look at the accreditation process and the complaints and try to develop a process that will satisfy the industry and ensure an improvement in the quality of care in the aged care sector. It is all there; it has been there.

Senator Patterson challenged us to say that this could not have happened under a previous government. I will not suggest that. It probably could have happened, and in fact it may have. I do not actually know. But don’t we expect some continuous improvement? Isn’t that what policy development is supposed to be about—some efforts by the minister and the department to continually improve things? Things do not remain static; things are meant to improve, and we have an absolute expectation that they should. Part of the Senate committee process is to assist the government in that sort of policy development.

A key recommendation of the Senate committee report goes a long way to addressing some of the complaints we are now hearing very publicly. The committee has heard them all before, surely the department has heard them all before, and I suggest previous
ministers have heard them all before. The 
complaints resolution scheme is addressed in 
recommendation 16 of the committee report. 
It recommends: 
That the Commonwealth review the operations of 
the Aged Care Complaints Resolution Scheme to 
ensure that the Scheme: 
• is accessible and responsive to complainants; 
• provides for a relaxation of the strict eligibil-
ity criteria for accepting complaints; 
• registers all complaints as a complaint, with 
the complaints being categorised by their de-
gree of severity, such as moderate level of 
complaint, complaints where mediation is 
required or where more significant levels of 
treatment are required; and 
• provides that the mediation process is re-
sponsive and open and that sufficient support 
for complainants is provided in this process. 
The committee heard evidence, and not just 
single— (Time expired)

Senator HUMPHRIES (Australian Capital 
Territory) (4.44 pm)—I am very happy to 
contribute to this debate, although I must 
confess that as I have heard Senator McLu-
cas and Senator Marshall in this debate I 
have had some difficulty in coming to grips 
with exactly what it is that the Australian 
Labor Party is trying to put forward here and 
what exactly it is that they are alleging about 
the system of aged care in Australia that 
needs to be fixed or for which the govern-
ment stands condemned. They have raised 
the four incidents of alleged serious abuse of 
residents of aged care facilities in Australia. 
As I think has been made clear very elo-
quently on this side of the Senate by the 
Minister for Ageing and others, we regard 
that with grave concern and as a matter of 
great seriousness that can be and will be 
fully and properly investigated.

It is worth pointing out, however, that in 
probably all of these instances—certainly in 
at least three of them—the allegations are of 
conduct which would have to constitute 
criminal conduct. Senators may have over-
looked the fact that criminal conduct is a 
matter for state and territory police forces to 
investigate in the first instance. Indeed, in at 
least two of those cases to my knowledge, 
and perhaps in all four, there have been in-
vestigations by the police, or at least the po-
lice are being asked to consider whether in-
vestigations should be conducted. In at least 
one of those cases, a person has been 
charged and, I think, convicted. So the pri-
mary response to these sorts of allegations is 
appropriately with another level of govern-
ment.

The case that the Labor Party appears to 
be making about the shortcomings of the 
government is that there are systemic issues 
to do with the accreditation and regulation of 
nursing homes and the overview of the op-
eration of nursing homes, which, in some 
way, the government has not dealt with ap-
propriately and needs to lift its game on. 
Senator McLucas’s motion talks about the 
minister needing to act to restore confidence 
in the aged care sector of Australia. That im-
plies, of course, that there is a want of confi-
dence in Australia’s aged care system.

Senator Marshall and, I think, Senator 
McLucas were at pains to refer to the report 
of the Senate Community Affairs References 
Committee that was delivered last June, enti-
tled Quality and equity in aged care. I would 
also like to refer them to that report, because 
on the first page it says that ‘the standards of 
care in aged care facilities are generally ade-
quate’. Senator Marshall, in fairness, did 
comment about the quality across most of 
Australia. To say that the standard of care is 
adequate, as the report said—I would say 
‘good’ is a fairer description—across most of 
the system stands at odds with a statement 
that there is a crisis in confidence in Austra-
lia’s aged care system.
Look at some of the phrases that are being used in the media at the moment. They are about crisis, about the system failing and about there being a failure in the system to deliver quality aged care, and that is just not true. We need to put these issues into perspective, because—and this point cannot be overemphasised—we are not dealing with just any sector of the Australian community when these sorts of allegations are made. We are not dealing with the quality of sliced bread or motor cars or something of that kind; we are dealing with a sector which deals with people who are intrinsically frailer and more vulnerable than the average Australian. Each time we get up in here and talk about how the system has collapsed, about how there is a crisis in the system, about how we need to worry about the standard of fire protection in Australia’s aged care facilities and about the question of people being subject to abuse in their residential facilities, we generate a level of concern in the sector which we ought to avoid if at all possible, particularly given that in this situation the four sets of allegations that have been made cannot be described under any circumstances as an impugning of the entire aged care system. Even after a couple of weeks of very adverse publicity, we still have only four allegations of sexual abuse on the table across the whole of the Australian aged care system. We have 100,000 people in residential facilities in Australia and four allegations. In those circumstances, investigations are being conducted, or have been completed, into those allegations.

As the minister made clear—and he has pretty comprehensively responded to each of these issues—there are processes in place to deal with either the individual allegations and perpetrators or the systemic issues about the way in which the homes concerned dealt with those sorts of complaints. In each of those cases, those things have been put on the table and are being prosecuted appropriately, and yet we still have this allegation of an atmosphere of crisis. I think that that does very little to give people a balanced picture of what is going on, and it certainly does no credit to the Australian Labor Party.

This motion calls for the treatment of allegations of sexual assault to be ‘a matter of national priority’. To the extent that such cases are alleged in aged care facilities in Australia, they are, of course, treated as a matter of priority. What ‘national priority’ means is a matter of how urgent the political exigencies around such cases might be. As Senator Patterson pointed out in her contribution to this debate, let nobody imagine that these are the first cases of sexual abuse of residents of aged care facilities in Australia. They certainly are not. In my recollection, there have been such allegations made from time to time for many years. No one government can accept that they have a particular burden on their shoulders for this phenomenon in Australian aged care facilities. No one government can prevent such incidents occurring in Australian aged care facilities. But governments do have a responsibility to address the systemic issues, and there is not one skerrick of evidence that this is not happening at the moment. (Time expired)

Senator NETTLE (New South Wales) (4.52 pm)—The Greens support this motion to reprioritise the neglected aged care sector in light of these shocking allegations of sexual abuse in residential aged care facilities. We agree that these allegations must be fully investigated and that any findings should be openly reported. We are also supportive of a complete re-evaluation of the neglected aged care sector.

These latest revelations have created considerable community concern. This is totally understandable, as people have said. There is
also widespread acknowledgement that the aged care sector has experienced a number of difficulties over many years. The current sexual abuse allegations are the latest in a long line of criticisms of this particular sector in the community. Back in February 2000, we had the allegations relating to kerosene baths and as a result there was the closure of the Riverside Nursing Home. A year later, in November 2001, a Victorian woman spent her entire inheritance taking out a harrowing full-page advertisement in the Melbourne Age following the death of her neglected mother after an injury she sustained in an accredited aged care institution. In a passionate call for immediate bipartisan action, the woman stated in her advertisement that ‘Australia’s politicians have for too long viewed age care as a political football, preferring to score points rather than legislate and fund to protect and properly care for all Australia’s wise elders’.

In 2004 ongoing problems in the industry led to a departmental review that culminated in the report A new strategy for community care: the way forward. Then last year, as others have mentioned, there was the Senate Community Affairs References Committee report Quality and equity in aged care. Yet, despite this work, the latest allegations indicate that the policies of the government continue to fail to provide older Australians with the quality care that they deserve. Since the shocking revelations aired on Lateline last week, still more cases of abuse in Victoria and Queensland are being revealed in the media and also through reports to organisations that are focused on standing up for the rights of the elderly.

The Greens strongly support community calls for mandatory reporting of abuse of elderly people in aged care facilities and other facilities, as this is the only way to get these cases out in the open to ensure that they can be efficiently and effectively dealt with. Mandatory reporting could, we believe, easily be made a requirement for registration of aged care facilities through the Aged Care Standards and Accreditation Agency. Such reporting is standard in relation to child abuse, and we do not see why elderly Australians should be treated differently and their protection seen as less of a priority.

The Greens are also concerned that there is no national data collection on instances of abuse of the elderly. With over 160,000 Australians in nursing homes and hostels, it is very difficult to evaluate the circumstances of abuse of the elderly and how frequently this is occurring in order to have the appropriate information to ensure that these sorts of incidents do not occur again. The Greens also support calls from the community and the Health Services Union for pre-employment police checks for aged care workers. Older Australians deserve the highest standards in this regard, as many of them are particularly vulnerable. This is required to be matched with legislation that protects whistleblowers so that people can speak out and be protected.

One of the other issues which have impacted on the likelihood of these instances occurring has been the privatisation that we have seen in the aged care sector. Other sectors, such as airlines or the Wheat Board, for example, have bypassed the vagaries and the harshness of the market driven system, but then we have systems like child care and aged care being open to the vagaries and callousness of the marketplace. The Greens consider this to be a hypocritical situation. A direct result of these policies of privatisation in the aged care sector has been concerns about quality as well as issues with respect to low wages, staff shortages and a lack of appropriate professional development training for people working in the sector. Privatisation without adequate regulation and oversight will always be a recipe for disaster.
These cases of abuse of the elderly in nursing homes are the latest clear example of such. As advocates for the rights of the elderly said on the *Lateline* program just last night, if we can get terrorism laws in over-night, we should just as easily be able to pass laws that protect older Australians. *(Time expired)*

**Senator SCULLION** (Northern Territory) *(4.57 pm)*—The signature on the bottom of the letter proposing this discussion of a matter of public importance is that of someone well known to me. I genuinely have a great deal of faith in and respect for her, so I know this has not been done with mischief. But, when you read it and it talks about ’the need for the government to treat the allegations of sexual abuse in residential aged care facilities as a matter of national priority’, clearly the assertion is that this government does not see allegations of sexual abuse in aged care as important. At best, I would have to say that that is misleading and it does not really represent truthfully or accurately the actions of the minister in any way in this matter. The letter goes on to talk about restoring public confidence in residential aged care and a crisis in confidence.

I would like to deal with the first part initially. I would like to put the record straight. The implication behind this matter of public importance is that the minister has not acted or that he did not act quickly enough. I think this minister—a minister new to this portfolio, I might say—has acted decisively with quick action in this matter. He met personally with the grand-daughters of the alleged victim at the centre of the George Vowell case. His department has undertaken inquiries not only into the content of the issue—and much of that is a police matter, of course—but also into the way that the complaints system works, and he has given the two grand-daughters a personal undertaking about exactly what he will do to improve that system. That is an immediate action.

He has also made contact with the family of the alleged victim at the Millward nursing home. This minister is obviously a personal individual. He is happy to display a personal touch at a very grave time for everybody involved—not only the victims but the families of the victims. They have a very reasonable right to assume that their grandfathers and grandmums or fathers and mothers are looked after in the very best way.

He also called a meeting of the Aged Care Advisory Committee, which will take place on 14 March. Senator McLucas indicated that this committee would not have any particular expertise in dealing with victims of sexual assault. I am not in a position to advise whether that would be the case, but I do know that they are the key national stakeholders in the industry who represent aged care and I would have thought that that advisory body would be able to deal with every single aspect of aged care in Australia. I think the criticism of those sorts of people does the senator no service.

The minister immediately wrote to his state and territory ministerial colleagues and he asked them to provide assistance in a collaborative approach to improving the system. Not only have we dealt with this personally but we have dealt with the process, and the department is undertaking an investigation of the complaints system process. The minister decided that there should be a collaborative and partnership type approach, yet we are seeing cheap political shots in this place. He wants a collaborative approach with his ministerial colleagues around Australia to ensure that this is a national priority.

He has also established within the department a high-level task force to ensure that the feedback through this Aged Care Advisory Committee gets dealt with immediately.
He wants fast, decisive action—and that is certainly not the implication behind this matter of public importance. To suggest that this particular set of actions is doing anything less than treating the issue as a national priority has to be put down to cheap political point scoring. These actions by the minister have been quick and decisive and have shown good leadership, and I am very proud to be part of a government that would provide a minister of this quality.

The second part of this MPI states the need for the government:

To restore public confidence in residential aged care in Australia by investigating these allegations and reporting openly on the findings.

Of course, the implication is that we are either (a) not investigating these allegations or (b) somehow going to hide the findings. I spoke personally to the minister about this when I realised I was supporting him on this matter. I understand that of course the process would be a publicly reportable process but obviously within the confines of the Privacy Act and the notion of privacy that should be afforded to all people in these very difficult circumstances. Clearly that is going to be the case.

I want to talk about the contribution from the other side. There is talk about a crisis in confidence, particularly from Senator McLucas. It is okay to make these rhetorical noises about the accreditation system, the certification system and the complaints system, but let me remind those in this place and the Australian public that the only reason we have an accreditation system, a certification system and a complaints system is because this government put them in place. This government is not about sitting on its laurels. This government and this minister are committed to making a good system better. From today’s contribution, the opposition is only interested in running the government down for political purposes. If you are all about avoiding a crisis in confidence, one of the things you do not do in this place is stand up and attempt to mislead people by indicating that this government has not put this up as an absolute national priority. The opposition is scaremongering by not indicating that this is about four people out of 100,000. I have to put on the record that there should be nobody in aged care who suffers like this. I am appalled that there would be a human being who would want to perpetrate any harm on the elderly. It is beyond my belief.

These things happen and it would be just scaremongering to say that this is somehow commonplace and this government is not taking this as a national initiative. The continuous criticism of the aged care sector and of the vast majority of the providers and carers that has happened in this place over the last week I think is absolutely outrageous. Those are the sorts of outrageous comments that mislead, are scaremongering and actually undermine the confidence of the wider community. They do so unnecessarily. I am pleased to see that we have a minister who is happy to act decisively and who is happy to act in exactly the right way and in the interests of those people in his care.

Senator Allison (Victoria—Leader of the Australian Democrats) (5.04 pm)—I concur with much of what Senator Scullion said on this MPI. I do not think that there is a crisis in aged care in this country—far from it—and I do think the government has done a good job on accreditation, on a complaints mechanism and so forth. But we cannot be complacent. I think there is a case to answer, given that complaints were made that appear not to have been followed up. So we do need to investigate; we do need to get to the bottom of it. And we do need to consider some form of mandatory reporting of abuse. It is also the case that I think it would not do too much harm to have a shake-up of the com-
plaints monitoring and accreditation system. They could be more transparent and they could be more independent of government. I think we should also explore police checks for those employed in residential care. And we most certainly need to look at whistleblower legislation, not just for aged care but across the board, that makes sure that those who report abuse are not targeted in any way.

I thought I would take the opportunity today of talking more broadly. We have given a lot of attention in this place to the abuse of children, and there are 40,000 or so reports of abuse or neglect of children in this country every year—that is in the community and within our institutions. Not a lot has been said about an equally appalling issue—that of abuse of a similarly vulnerable group within our community, the frail aged. The vast majority of older people in residential care have either severe or, more often, profound disability. Even within the group of people with profound disability, those in residential care are likely to be the oldest and frailest and more often likely to be women. This puts them at very high risk of exploitation and sexual, physical and emotional abuse, not to mention medical and physical neglect. I think it is an indictment of the currently poorly maintained data sources that there is no reliable data on the prevalence of abuse or neglect in nursing homes or residential long-term care facilities or, for that matter, out in the community.

The piecemeal evidence we do have suggests the problem is serious, if not widespread, and it is a very complicated problem. Although the focus tends to be on the abuse of residents by aged care workers, this is not the only issue that we need to deal with. Violence directed at staff by residents and families is a real problem in aged care facilities, as are other incidents which are in many cases problems of institutional care per se. Estimates have suggested that 80 per cent of staff experience frequent verbal and physical aggression from residents. The most common occurrence of aggression results from residents within the high-care areas and within dementia specific units, and often lack of training in those dementia areas is part of the cause. Violence and aggression in the context of dementia is common. Estimates have suggested that around 20 per cent of aged care residents with dementia are physically aggressive to staff and other residents.

Abuse of older Australians is not limited to residential aged care. There is a growing awareness that many elder persons suffer the pain of psychological, physical and sexual abuse, neglect and exploitation at the hands of their own family members. Estimates vary as to the extent of the problem, but it is generally accepted that between three per cent and five per cent of people aged 65 and above experience some form of abuse within a domestic setting. Given the population projections for Australia, using the conservative estimate of three per cent would mean that by 2011 some 97,000 Australians would be subject to elder abuse in domestic settings, and the vast majority of those will not come to the attention of the authorities.

No-one, whatever their age, should be subjected to violent, abusive, humiliating or neglectful behaviour. We have had some success in increasing awareness of child abuse by putting efforts into education and prevention. We have encouraged people to report any signs of this abuse and made it compulsory in some fields. Now we should be exercising the same diligence to protect older and infirm people. We have a growing ageing population, which means that more and more Australians will be at risk of being abused, whether in the community, in residential care or even in a hospital setting.
The ACTING DEPUTY PRESIDENT (Senator Moore)—Order! The time for this debate has expired.

COMMITTEES
Scrutiny of Bills Committee
Report
Senator WEBBER (Western Australia) (5.10 pm)—On behalf of the chair, I present the first report of 2006 of the Standing Committee for the Scrutiny of Bills. I also present Scrutiny of Bills Alert Digest No. 2 of 2006, dated 1 March 2006.

Ordered that the report be printed.

BUDGET
Consideration by Legislation Committee
Additional Information
Senator PATTERSON (Victoria) (5.10 pm)—On behalf of the chair of the Environment, Communications, Information Technology and the Arts Legislation Committee, I present additional information received by the committee relating to supplementary hearings on the 2005-06 budget estimates.

COMMITTEES
Finance and Public Administration References Committee
Additional Information
Senator FORSHAW (New South Wales) (5.10 pm)—I present additional information received by the Finance and Public Administration References Committee on its inquiry into the Gallipoli peninsula and its inquiry into government advertising and accountability.

That the Senate take note of the documents.
I want to make a few comments at this stage. The information that has been provided that I have presented today from the relevant departments is information that was not, of course, provided prior to the tabling of the reports. In October 2005, the committee presented its report into matters relating to the Gallipoli peninsula. At the time of the tabling of that report, there were quite a number of questions that had been taken on notice where answers were still outstanding, particularly from the Department of Veterans' Affairs. Whilst we had this additional information provided in December, subsequent to the tabling of that report, there are still answers to questions outstanding.

In the case of the inquiry into government advertising and accountability, that report was tabled in December 2005, just prior to the parliament rising. At the time of the tabling of that report, there were approximately 180 questions on notice where there were answers outstanding. The Department of Employment and Workplace Relations had 80 questions unanswered and the Department of the Prime Minister and Cabinet had 99 questions unanswered.

We have since received the additional information—the answers to questions. Whilst that is welcome, it is absolutely disgraceful, in my view, that we are getting this information after the committee has tabled its report. The departments had ample time in the case of each of these inquiries to assemble the information and provide it to the committee so that it could examine that material and those answers and, if necessary, deal with them in its report.

I have had a chance to have a look at some of this information in the brief time since it has been tabled or provided today, and some of it is information that was extremely relevant to the committee’s inquiry in both those cases. This has become almost a ritual now for this government that, where inquiries have been held, departments have consistently failed to provide answers to questions taken on notice. We see it time and time again in estimates, as we know, where we get the answers often on the morning that the next round of estimates is held.
In the case of inquiries into important issues, and these are inquiries into important issues, we get the information well after the date for tabling of the inquiry’s report has passed. I venture to say it has become a deliberate tactic to frustrate the operation of Senate committees. I have spoken about this before, and I will no doubt get to speak about it again if we ever get the opportunity for Senate references committees to conduct important inquiries in the future. That is a big if, given that the government now has the numbers in the Senate to effectively frustrate the operation of those committees. But that is something for the future.

I wanted to put on the record again that, at the end of the day, Senate references committees exist to enable senators to conduct inquiries into important matters. Just a few moments ago we were debating the issue of aged care. In what I thought was an excellent speech—one of the best speeches I have heard in this chamber on the issue of aged care—Senator Marshall pointed to the unanimous report of the Senate Community Affairs References Committee’s inquiry into aged care. It is a committee inquiry that I participated in, as did you, Madam Acting Deputy President Moore, as well as Senator Webber. That was a unanimous report. It made 51 recommendations. As Senator Marshall pointed out, many of those recommendations are extremely relevant to the issues that are now being aired in the media and in this parliament about abuses in the aged care sector.

We are still waiting for a reply from the government on that report. I believe that is further evidence of the government’s attitude, treating Senate committee inquiries effectively with contempt, and departments—which may be under instruction, I do not know—failing to provide information and answers to questions that they have taken on notice. We saw it in the inquiry into regional rorts. We know there were situations in that inquiry and other inquiries where answers or information had been prepared by the department and sent through to the minister’s office for clearance and had sat there for weeks and weeks. So it is not always the department’s fault; I will concede that. But whether it is the department’s fault or whether it is the minister’s fault does not really matter. The point is that there is an obligation, when questions are taken on notice or when departmental officials and ministers say that they will provide answers or additional information, that they do it in a timely manner so that Senate committees can properly carry out their responsibilities. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

AUDITOR-GENERAL’S REPORTS

Report No. 31 of 2005-06

The ACTING DEPUTY PRESIDENT (Senator Moore)—In accordance with the provisions of the Auditor-General Act 1997, I present the following report of the Auditor-General: Report No. 31 of 2005-06—Performance Audit—Roads to Recovery: Department of Transport and Regional Services.

Senator O’BRIEN (Tasmania) (5.18 pm)—by leave—I move:

That the Senate take note of the report.

I have had a brief opportunity to peruse the report and it is one that presents some matters of concern. I can see from the report that the totality of the Roads to Recovery program is $1.45 billion, so it is not an inconsiderable amount of public funding that has been the subject of what I think the Auditor demonstrates was quite a lackadaisical approach to administration. The audit reveals that, under instruction from the government, the department placed very meagre resources to the task of administering this proposal, the
distribution of funds and the acquittal of the responsibilities of local government following the receipt of those funds.

I think at one stage there were four people in the department responsible for acquitting the responsibility of local government in relation to these funds. Indeed, the Auditor’s report seems to indicate that, despite local governments being required not to reduce their ordinary expenditure on roads and certainly not to offset the work they would have carried out with their own funds with Roads to Recovery moneys, that is in fact what happened in a number of cases and that the acquittal process of the department was quite lackadaisical in following that up. Indeed, they were probably constrained in their actions because, according to the Auditor, no additional funding was provided to the department to administer the initial Roads to Recovery program. The government clearly had no intention of seeing its stated aims for the program being observed in the expenditure of the funds. That clearly is an implication of the Auditor’s report—as I said, I have had a brief opportunity to look at that report.

What the report does not do is deal with the distribution of those funds; it simply notes what the government said was the means of distribution. I think that that is a matter that the Auditor ought to have had more regard for. I am looking forward to the ANAO’s examination of the so-called strategic projects element of the Roads to Recovery program, which I do not believe is covered in this particular audit report. As senators will no doubt recall, this is the bucket of money announced before the last election of which the coalition allocated almost all before polling day exclusively in targeted coalition electorates. No application form, no process—just the cold, hard reality of corrupted policy to achieve a political end.

I do want to draw the Senate’s attention to a research paper by the ANU’s Dr Andrew Leigh that was released last weekend, which is aptly titled ‘Bringing home the bacon’. Dr Leigh’s paper examines four government funding programs over the period 2001 to 2004. Dr Leigh says:

... I observe a strong partisan component to the expenditure decisions, with more generous funding and more program grants allocated to electorates held by the party in power.

One of the programs he examines is the Roads to Recovery program. He says:

Estimating the effect of this expenditure on voting, I find targeted funding—particularly roads funding—had a positive and statistically significant impact on the swing received by the governing Coalition in the 2004 election.

Lest the government trots out the defence that coalition and non-coalition seats do not share the same characteristics, the argument put by Mr Lloyd’s spokesman on the weekend, I want to remind you of this: Dr Leigh controlled for the demographic characteristics of coalition electorates or, in his words:

This result is robust to controlling for demographic characteristics of the electorate that might have affected the allocation of funding.

So he has taken into account factors that Mr Lloyd’s spokesman seemed to suggest would account for differences in funding. If, unfortunately, Mr Lloyd is confused by the meaning of ‘controlling for demographic characteristics’, let me refer his adviser to page 16 of ‘Bringing home the bacon’. Putting the government’s defence to one side, Dr Leigh has found that the Howard government has treated road funding as an extension of the coalition’s campaign budget. His findings are as follows:

Compared with non-government seats, and controlling for relevant demographic characteristics, seats held by the National Party received on average $6.8 million more under the Roads to Recovery program and ... Liberal Party seats received
$2.7 million more under the Roads to Recovery program ...

For the period 2001 to 2004, every additional $1 million in Roads to Recovery funding helped the coalition increase its share of the share of the vote by up to 0.37 per cent. When the Prime Minister announced the Roads to Recovery program in November 2000, he said:

Any suggestion ... that the funding unfairly favours Coalition electorates is totally false.

Dr Leigh’s analysis give the lie to that statement. The government must explain now why coalition seats received more average Roads to Recovery funding than non-government seats.

With the qualifications I expressed earlier, lest our position be misrepresented, I have to advise the Senate that Labor does support the Roads to Recovery program but we do not support the skewing of road funding to achieve base political ends. I present this challenge to government: demonstrate why it is not guilty of the charge levelled by Dr Leigh. It has the opportunity because, at the moment, on the face of it, the government is guilty as charged. In relation to the Auditor’s report, given further opportunity I intend to make further comment. Unless there is another person seeking to speak, I will seek leave to continue my remarks.

Leave granted; debate adjourned.

ENVIRONMENT GROUPS: DEDUCTIBLE STATUS

Senator SANDY MACDONALD (New South Wales—Parliamentary Secretary to the Minister for Defence) (5.26 pm)—by leave—This statement is read on behalf of the Minister for the Environment and Heritage. The order arises from a motion moved by Senator Brown as agreed by the Senate on 21 June 2005. It relates to correspondence concerning deductible gift recipient status for environment groups. The minister wishes to inform the Senate that he considers this request to be an unwarranted diversion of resources away from the government’s key role of protecting the environment. The minister would like to inform the Senate that the routine process for assessing an application from an environment group for deductible gift recipient status requires input from the proponent and relevant ministers. Once a decision has been made, this is duly conveyed to the applicant in question.

Senator WEBBER (Western Australia) (5.28 pm)—by leave—As I understand it, the usual custom and practice in this place when we are going to debate matters like this is that the opposition is actually informed. I am having a great deal of difficulty discovering anyone in the opposition who was informed that this matter was going to be raised. Therefore, it is a little unusual to be presented with the information in this way and just have to accept on face value what is being said when I cannot even actually recall exactly what the parliamentary secretary said. Perhaps the government could take on board that, if we are going to throw all the niceties, custom and practice and stuff out of the window, life can get difficult. Although the government has the numbers and can make its presence felt, life can get very difficult indeed. It has already been a bit bumpy here today, not due to those of us in this part of the chamber, I would have to say. I would hope that this is not going to be the way that we are going to treat all returns to order from hereon in.

Senator PATTERSON (Victoria) (5.29 pm)—by leave—I have obviously been relieving Senator Ferris. I am not sure whether she believes it has been discussed. I have asked her if she can just come in and comment. The reason may be that Senator Ferris has just returned from Baghdad and I have been trying to fill in for her. I am probably
not the most experienced whip that has been in the chamber. We usually cooperate and advise people, as you know. I think this might have been an oversight rather than some attempt to railroad what was going on in the Senate.

Senator CARR (Victoria) (5.30 pm)—by leave—The customary practice in this chamber, until recently, has been that the opposition would be given notice of a ministerial statement. It has been the customary practice to at least advise us that there would be a response to a return to order. This is a circumstance in which one has had to glance up at the screen and discover that the government is making a statement on matters which we have had no advice on whatsoever.

I think there is gross discourtesy in that approach. One can only presume that the government has something terrible to hide when it has to sneak in here in this manner to drop these sorts of statements on the table, particularly in circumstances in which the government is refusing a return to order on the grounds of an unwarranted diversion of resources away from the government’s key role of protecting the environment. If ever there was a catch-all expression, it is that one. It is a proposition that essentially says that the government does not want to answer this question, does not want to deal with this issue, because its key role is to protect the environment.

What does that mean? One can only presume that the matter that has been raised before the chamber is difficult for the government. There is correspondence concerning deductible gift recipient status for environmental groups in which the government made a statement that the Friends of the Earth and the Australian Conservation Foundation should only get deductible gifts if they were to agree that they would not campaign against the government. Those are the circumstances of this particular matter—that their taxation deductibility would be conditional upon their political acquiescence to the wishes of the government. What an extraordinary proposition.

I think it would have been reasonable for the matter to have been dealt with in the manner in which the senator who originally moved this return to order had sought. We have a circumstance now in which the government simply refuses to advise the Senate as to the reasons why the government does not wish to comply with this return to order. Frankly, this explanation of an unwarranted diversion of resources away from the government’s key role of protecting the environment is totally unacceptable. It smacks of arrogance; it smacks of contempt. You have a circumstance in which the government seeks to sneak in with this sort of statement without even bothering to advise the opposition that it intends to make it. I think it is totally inappropriate for the government to act in this way.

I would have thought that, even if the minister does not have the decency to tell us what is going on, the government whips’ office could have made a simple courtesy call to our whips to advise us that this was coming through. It is totally unacceptable, and it is a measure of the way in which the standards in this chamber have fallen. It is the manner in which the government, with its complete control of this parliament, is now seeking to essentially abuse the power it has. It has an all-powerful position in this parliament and does not even bother to make a phone call to say it is bringing on such a matter.

Senator Ferris—Madam Acting Deputy President, on a point of order: I seek leave to make some comments on Senator Carr’s statement.
The ACTING DEPUTY PRESIDENT (Senator Moore)—Senator Carr, had you concluded your comments?

Senator Carr—I had not.

The ACTING DEPUTY PRESIDENT—Did you have a point of order, Senator Ferris?

Senator Ferris—I did have a point of order, but it related to Senator Carr’s comments. Since he completed making the comments as I stood up, I withdraw that point of order. However, I seek leave to make some remarks in relation to the comments that Senator Carr made.

The ACTING DEPUTY PRESIDENT—Senator Ferris, I believe Senator Carr had not concluded his comments.

Senator Ferris—In that case, Madam Acting Deputy President, on a point of order: we gave leave to Senator Carr to make some comments in relation to this matter. While he was making the comments, I clarified the matter with the acting opposition whip. It is now clear that the comments that she made initially were based on a misunderstanding. That was that she was unsure whose return to order statement was being made.

Senator Webber interjecting—

Senator Ferris—If I could finish clarifying the matter, this return to order is a return lodged by Senator Brown, and therefore the response to the return to order was to be given to Senator Brown, not to the opposition. I thought the clarification that I made to Senator Webber had settled the matter. This diatribe from Senator Carr is based on a total misunderstanding of the facts of the matter.

The ACTING DEPUTY PRESIDENT—Senator Ferris, I take it you are clarifying the original issue and your point of order is that that would clarify the process?

Senator Ferris—Correct.

Senator Bob Brown—Madam Acting Deputy President, on a point of order: as Senator Ferris has just explained, the statement was meant to come to me. I think it would help if everybody who wanted a copy of the statement was informed. I see one coming and thank the person involved very much.

The ACTING DEPUTY PRESIDENT—I believe that has been circulated now.

Senator Kemp—That wasn’t a point of order, Bob.

The ACTING DEPUTY PRESIDENT—It was an assistance to the process, Minister. Senator Carr, have you concluded your comments?

Senator Carr—No, I have not.

The ACTING DEPUTY PRESIDENT—Senator Carr, I remind you that you were given leave for a short statement.

Senator Carr—I was giving a short statement, which was rudely interrupted by those people over there who do not have the decency to make a phone call.

Senator Ferris—Madam Acting Deputy President, on a point of order: we gave leave for a short statement even though the leave for the statement was based on a misunderstanding of the whole process. If Senator Carr wants to abuse this privilege now then we will have a debate about that.

The ACTING DEPUTY PRESIDENT—Senator Carr, in terms of your short statement, is it relevant to the existing process?

Senator Carr—This is a simple proposition. I would have thought it would be appropriate for the Government Whip to advise our whip that the minister is going to make a statement, whether or not it was originally in response to a return to order moved by Senator Brown or any other senator. Frankly, if the minister is going to make a ministerial statement the opposition is entitled to know
that it is coming on. You basically tried to ambush us and that is what I say to you: this is a matter of deceit.

Senator Bob Brown (Tasmania—Leader of the Australian Greens) (5.37 pm)—by leave—Yesterday I asked the Minister for the Environment and Heritage, Senator Campbell, to explain the failure to produce the documents relating to the proposed pulp mill in Tasmania which were sought on 12 May last year, and then in a separate order from the Senate on 14 June last year. Then there was a third motion, which is not mentioned in this statement, to do with deductible gift recipient status for environment groups on 21 June. These are eight or nine months old and the government has not responded to the Senate order for the production of those documents—and it should. By the way, the minister told me before question time that he expected that he would be making a statement at the end of question time. He did not and that is why I was not here. I waited for it but he did not make it and here we are at half past five in the afternoon with the statement landing without further warning to me.

The documents that the Senate required from the minister were all the correspondence from January 2002 to the present between the minister, his staff and department, and Gunns Pty Ltd relating to the proposed mill in Tasmania. That was repeated on 14 June. What we have here is a very simple operation, that is, a presentation to the Senate of the documents between the minister, his staff and department, and Gunns Pty Ltd and then, in the second matter, between the Prime Minister and Gunns Pty Ltd. Amongst other things, the Prime Minister has committed $5 million to Gunns Pty Ltd regarding the pulp mill. The original statement was that Gunns would get this after the go-ahead for the pulp mill for various matters to assist Gunns. However, there has been no go-ahead for the pulp mill—the matter is still under assessment and will be at least until next year. But in the run-up to the election the Prime Minister repeated the offer of $5 million and he has now paid half of it with no conditions attached, so far as I know, and none to be forthcoming.

What is more, when we look at the gift register that was published at the start of this month we see that some tens of thousands of dollars—I think it was $40,000 but I stand to be corrected on that—went to the Liberal Party at about the same time. We have got a ‘no strings attached’ gift from the government of $5 million of taxpayers money to Gunns, the biggest company in Tasmania with a billion-dollar turnover and last year more than $100 million profit, and $40,000—if that is the correct figure—going from Gunns to the Liberal Party. I ask you, do we not need a public explanation to avoid the clear implication that this is a corrupt process that has been entered into here? When the government says: ‘We won’t show you the documents,’—the correspondence between the Prime Minister and the CEO of Gunns and principal private shareholder that is, John Gay, or the board—you have to wonder what it is the government does not want open to public scrutiny. The minister says it is a fishing expedition. That completely besmirches the Senate process whereby we have this ability to seek documents from the government on matters of important public interest, and this is one of them.

The documents should be brought into the open air. There is a stench about this process and it needs to be cleared up. Today’s cover-up by the minister on behalf of the Prime Minister will not do. It simply adds to the appearance that there is something fishy, something that stinks, about this process and it is public money that is involved. It is not as if there is some process here where ac-
countability is needed from a parliamentary outcome. No, this is not a parliamentary outcome. Nobody in this place has voted for this largesse to Gunns. The Prime Minister made that decision personally in the run-up to the election, and Gunns made a decision at board level to give the Liberal Party quite a handsome gift at about the same time. Now they say that they will not show us the documents. We do not even know when the Prime Minister met Mr Gay or other board members or representative of Gunns. They are not planning to show us that let alone what the past Minister for the Environment and Heritage did, because it was Senator Hill who was in that portfolio at the time this request was made.

Yet there is this arrogant dismissal from the minister of this proper request for information by the Senate. It is not just about the money that has changed hands here; it is about due process. It is very important, because the government has given support to a pulp mill before public consultation and the proper process involving the Resource Planning and Development Commission in Tasmania have anywhere near run their course. The public has a right to see how the government has come to the decision that it will support this massive pulp mill, which is going to destroy old growth high-conservation value forest in Tasmania. That is what is on the agenda here: the destruction of the very forests that the Prime Minister indicated to the public of Australia at the last election he was going to protect. He is not protecting forests in the Great Western Tiers, the Blue Tier, the magnificent Upper Florentine Valley and the Styx Valley, which the Premier of Tasmania says he saved. Today they have entered into a new part of that national heirloom with their bulldozers and chainsaws under the aegis of this Prime Minister, who told the public that he was not going to do that.

The ACTING DEPUTY PRESIDENT (Senator Moore)—Senator Brown, you sought leave to make a short statement. Will you be much longer?

Senator BOB BROWN—No, I will not be much longer, but let me say that this matter—

Senator Kemp—I think you are abusing the privilege yourself!

Senator BOB BROWN—The senator opposite said that I was abusing privilege. At least he is admitting to this abuse of privilege by the government. That is coming from the minister on the front bench at the moment. It is an admission to what is going on here—that is, abuse of privilege and the snubbing of this Senate.

The fact is that it is not the minister who came in with this statement today; Prime Minister John Howard is covering up and saying, ‘I won’t level with the public.’ Here we go again. It is a disgraceful message to the Senate from the Prime Minister of this country on the eve of his—and my—10th anniversary, which will be tomorrow—

Senator Webber—Congratulations on your anniversary tomorrow!

Senator BOB BROWN—Thank you very much.

Senator Webber—Are you doing something?

Senator BOB BROWN—I am having a chocolate cake, and you are welcome to come around. The matter before us is extremely serious. I am referring to the arrogance and hubris of this Prime Minister to allow a statement to be sent to the Senate today saying: ‘Get lost. If you want information about why I have given $5 million of taxpayers’ money with no strings attached to Gunns Pty Ltd, get lost. I will do what I like,
and you will have no scrutiny.’ That is a disgraceful way to treat the Senate.

COMMITTEES
Community Affairs Legislation Committee
Membership

The ACTING DEPUTY PRESIDENT (Senator Moore)—The President has received a letter from a party leader seeking to vary the membership of a committee.

Senator KEMP (Victoria—Minister for the Arts and Sport) (5.48 pm)—by leave—I move:

That Senator Carol Brown be appointed as a participating member of the Community Affairs Legislation Committee.

Question agreed to.

MINISTERS OF STATE AMENDMENT BILL 2005

TELECOMMUNICATIONS (INTERCEPTION) AMENDMENT BILL 2006

First Reading

Bills received from the House of Representatives.

Senator KEMP (Victoria—Minister for the Arts and Sport) (5.49 pm)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator KEMP (Victoria—Minister for the Arts and Sport) (5.50 pm)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

MINISTERS OF STATE AMENDMENT BILL 2005

Section 66 of the Constitution prescribes the maximum annual pool of funds from which salaries of ministers can be paid, unless the parliament provides otherwise.

The Ministers of State Act 1952 is the mechanism by which parliament adjusts the pool of funds available for this purpose. Amendments to the Ministers of State Act are therefore required from time to time to cover changes in the level of ministerial salaries.

Senators’ and members’ base salaries are determined by the reference point of the Principal Executive Officer Band A, in Remuneration Tribunal Determination 15 of 1999, as amended from time to time.

In 1999 this government adopted the recommendation of the Remuneration Tribunal that the additional salary of ministers be tied to the principal executive officer band as a percentage of base salary.

On 9 May 2005 the Remuneration Tribunal determined new rates for the principal executive officer band, with effect from 1 July 2005. These new rates have flowed to senators and members and to ministers.

The act currently limits the sum appropriated to $2.8 million dollars. This sum needs to be increased to $3.2 million dollars to meet increases in ministers’ salaries in this financial year and to cover any possible increases in the future following Remuneration Tribunal reviews.

TELECOMMUNICATIONS (INTERCEPTION) AMENDMENT BILL 2006

This Bill amends the Telecommunications (Interception) Act 1979 to implement recommendations of the Report of the Review of the Regulation of Access to Communications which was presented to the Parliament on 14 September last year.
The review examined the issue of how best to regulate access to communications in the ever-changing world of telecommunications technology.

The Blunn Report concluded that the interception regime is an extremely effective and necessary investigative tool and has proven remarkably robust. However, Mr Blunn also concluded that the regime requires amendment to maintain an appropriate balance between privacy protections and meeting the needs of security and law enforcement agencies.

The Bill is the first step in implementing Mr Blunn’s recommendation that comprehensive legislation dealing with access to telecommunications be established. Mr Blunn recommended that the overarching legislative framework address access to communications for law enforcement and security purposes, while preserving the privacy principles underpinning the current interception regime.

This overarching legislation, to be called the Telecommunications (Interception and Access) Act, will continue to govern the interception of telecommunications in Australia, but will also establish a warrant regime for enforcement agencies to access stored communications held by a telecommunications carrier.

The stored communications amendments create a general prohibition on access to stored communications held by a telecommunications carrier, subject to limited exceptions.

The primary exception is for access by enforcement agencies subject to a stored communications warrant. A stored communications warrant will be available to an enforcement agency that is investigating an offence punishable by a maximum period of imprisonment of at least three years, or a pecuniary penalty of at least 180 penalty units.

The stored communications amendments will strictly regulate the use, communication and recording of information obtained by accessing stored communications consistent with the way the use and communication of intercepted communications are currently regulated.

Information obtained by accessing stored communications may only be used or communicated for a purpose in connection with the investigation of an offence that is punishable by a maximum period of imprisonment of one year, or a pecuniary penalty of at least 60 penalty units.

The stored communications warrant regime will only apply to access to stored communications through a telecommunications carrier.

Access to communications through end user equipment will continue to be possible through other means of lawful access to property, such as search warrants and notices to produce.

The Bill also implements a number of other recommendations proposed by Mr Blunn which are necessary to meet the needs of security and law enforcement agencies to combat the increasing use of emerging technologies by persons involved in the commission of serious criminal activity.

The Bill contains amendments to enable interception agencies to obtain an interception warrant in respect of the communications of an associate of a person of interest.

This amendment will assist interception agencies to counter measures adopted by persons of interest to evade telecommunications interception, such as by adopting multiple telecommunications services. The ability, as a last resort, to intercept the communications of an associate of a person of interest, will ensure that the utility of interception is not undermined by evasive techniques adopted by suspects.

Interception warrants are only available for investigations of serious offences punishable by a maximum period of at least seven years, and will only be available where the issuing authority is satisfied that:

- there are reasonable grounds for suspecting that a particular person is using, or is likely to use, the telecommunications service and
- information that would be obtained by interception would be likely to assist in connection with the investigation by the agency of the seven year offence, in which the suspect is involved, and

The Bill will insert an additional requirement that a warrant authorising the interception of the communications of an associate of the person of interest may only be given where the issuing authority is satisfied that the agency has exhausted
all other practicable methods of identifying the telecommunications services used, or likely to be used, by the suspect.

The issuing authority must also have regard to the following additional factors:

- how much the privacy of any person would be likely to be interfered with by the interception
- the gravity or seriousness of the offences being investigated
- how much the intercepted information would be likely to assist with the investigation by the agency of the offence
- to what extent alternative methods of investigating the offence have been used by, or are available to, the agency
- how much the use of such methods would be likely to assist in the investigation by the agency of the offence and
- how much the use of such methods would be likely to prejudice the investigation by the agency of the offence.

The Bill also amends the interception regime to permit equipment based interception. This measure will likewise assist in countering evasive techniques employed by the targets of telecommunications interception.

Equipment based interception will enable the interception of communications through a single piece of hardware, such as a mobile telephone handset.

Interception on this basis will be subject to the same high threshold I listed earlier, including only being available in connection with the investigation of the most serious offences.

In addition, the use of interception powers by security and law enforcement agencies continues to be subject to strict reporting, disclosure and destruction provisions of the Act.

Agency compliance with these accountability mechanisms is monitored by the Inspector-General of Intelligence and Security in the case of the Australian Security Intelligence Organisation, and the Ombudsman in relation to law enforcement agencies.

I note that critics of Australia’s interception regime have again advanced old arguments that Australian agencies intercept communications at many times the rate of United States agencies and others.

As I have pointed out on a number of previous occasions, it is simply not true to complain that Australians are intercepted more than Americans. Direct comparisons between Australian and US statistics are misleading because legislative controls on interception differ widely between jurisdictions.

Statistics published in the United States do not include interceptions considered by the investigators to be too sensitive to report. Investigators in Australian law enforcement agencies do not have this discretion and therefore all interceptions must be reported.

United States law allows one warrant to authorise the interception of services used by many people, for instance where it becomes possible to identify criminal associates of the original suspect.

This results in fewer statistical returns than under Australian law, which allows a warrant to authorise the interception of a single telecommunications service or the services of one named person only.

Comparisons of the type made both recently and in the past are therefore misleading, and unfairly impugn our law enforcement agencies. The use of interception is subject to strict controls and it is a tool employed only in the investigation of the most serious offences.

The Bill also implements recommendations of the Blunn report which propose the removal of the distinction between class 1 and class 2 offences and the removal of the Telecommunications Interception Remote Authority Connection (TIRAC) function from the Act. These amendments are designed to simplify complex areas of the interception regime and enhance the privacy underpinnings and real time accountability mechanisms of the Interception Act.

The Bill removes the current distinction between class 1 and class 2 offences, and redefines the group of offences for which an interception warrant may be sought as ‘serious offences’.
The amendments will also require the issuing of all interception warrants to have regard to privacy considerations. Currently the issuing judge or AAT Member need only consider the privacy implications of issuing a warrant in respect of applications for the investigation of class 2 offences.

In his report Mr Blunn also recommended the removal of the Telecommunications Interception Remote Authority Connection (TIRAC) function from the Australian Federal Police (AFP). TIRAC is a historical electronic accountability mechanism which requires the AFP to authorise the warrants obtained by other interception agencies before they take effect.

TIRAC’s utility has been exhausted by technological developments, and the Bill replaces the current requirements for AFP to facilitate warrants by a requirement for my Department to scrutinise warrants immediately upon issue, and maintain of warrant registers.

The Act will continue to require all agencies to maintain comprehensive records as part of the interception regime which are subject to regular compliance inspections by the Commonwealth Ombudsman or equivalent State oversight body.

I note that Mr Blunn made a number of other recommendations in relation to the interception regime. All the remaining recommendations remain the subject of consideration, and indeed are the subject of current consultations with affected agencies and Departments.

The Bill also amends other aspects of the Act to ensure the ongoing effective operation of the interception regime. These amendments include a clarification to the Act to ensure that employees of a carrier exercise authority under a telecommunications interception warrant when assisting law enforcement agencies in the execution of interception in response to judicial comment.

Further, the Bill reinforces the existing privacy protections in the Interception Act by removing an outdated exception to the definition of interception.

The Government is continuing to consider the remaining recommendations outlined in the Blunn Report.

This Bill demonstrates the Government’s commitment to ensuring appropriate access to communications for the purposes of combating serious crimes and threats to national security while preserving comprehensive safeguards on this important tool.

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

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

COMMITTEES

Membership

Messages received from the House of Representatives notifying the Senate of the appointment of Mr Cadman to the Joint Committee on the Broadcasting of Parliamentary Proceedings in place of Mr Baldwin; and Mr Broadbent, Mr Georgiou, Mr Wakelin and Mr Anderson to the Joint Standing Committee on the Parliamentary Library.

TAX LAWS AMENDMENT (2005 MEASURES No. 6) BILL 2005

Consideration resumed.

Third Reading

Bill passed through its remaining stages without amendment or debate.

FINANCIAL FRAMEWORK LEGISLATION AMENDMENT BILL (NO. 2) 2005

Second Reading

Debate resumed from 27 February, on motion by Senator Kemp:

That this bill be now read a second time.

Senator SHERRY (Tasmania) (5.52 pm)—The bill we are considering in the Senate this afternoon, the Financial Framework Legislation Amendment Bill (No. 2) 2005, is similar to the Financial Framework Legislation Amendment Act 2005, the FFLA Act, which commenced in February 2005.
The bill we are considering is an omnibus bill which seeks to amend 16 acts and repeal two acts. The amendments are mostly of a housekeeping nature. They relate to six main areas of policy. Firstly, through various acts, there is special account streamlining of the Aboriginal and Torres Strait Islander land account, the Aboriginal advancement account, the ARC research endowment account, the child support account, the gene technology account, the industrial chemicals account, the national blood account, the medical research endowment account and the natural resources management account. That is covered in schedule 1.

Secondly, a category known as compensation to eligible employees aligns the Safety, Rehabilitation and Compensation Act 1988 with the existing administrative practice of compensation due to eligible employees being paid either through Commonwealth employers or direct to employees. That is in schedule 2. The third area is act of grace payments. Schedule 3 of the bill clarifies the appropriation acts and provides the appropriation authority for an act of grace payment approved under the Financial Management and Accountability Act 1997, the FMA Act, or a payment in special circumstances to a person employed by the Commonwealth authorised under the Public Service Act 1999.

The fourth area is intelligence and security agencies. The bill extends the existing authority for the modified application of the FMA Act to cover sensitive activities of law enforcement agencies specified in regulations. The fifth area is modernising language. Schedule 3 of the bill more clearly expresses provisions in the Public Accounts and Audit Committee Act 1951. I have to ask whether it is possible to modernise language in this area of the financial framework—especially for the layperson, who I am sure is listening with great interest to this debate; I notice we are on broadcast—given the highly complex and technical financial terminology used. An attempt is being made to modernise language. Finally, there are a number of miscellaneous amendments and updates of other financial management provisions in acts in schedule 3 and the repeal of two superseded acts in schedule 4.

The Labor Party will not be opposing the passage of this legislation. However, I think Senator Murray has circulated a second reading amendment.

**Senator Murray**—No, it’s for the committee stage.

**Senator SHERRY**—That will be in the committee stage—good. I should note that in the committee stage an amendment will be moved which is endorsed by both Senator Murray on behalf of the Australian Democrats and me on behalf of the Labor Party opposition. That is unusual, but once again the Democrats and the Labor Party are in agreement on an approach, which we will deal with in some detail in the committee stage.

Before I conclude my remarks, I want to touch on an area for the public record, given this is financial framework legislation. As I mentioned, relatively minor areas in respect of financial management are being updated across a range of different sectors. It is certainly not apparent to Labor why some of these would be included in an omnibus piece of legislation of this nature. Nevertheless, they are included, and that does not preclude us from supporting the legislation.

I suppose this piece of financial framework legislation concludes what has been a very sorry episode in terms of financial management and accountability for this government. I refer to the initial changes, made by this government on being elected, in 1997 with the passage of the Financial Management and Accountability Act 1997, the FMA Act. This act and the changes were touted as...
a major new initiative in the financial management of Commonwealth departments and agencies by the newly elected Liberal government. It was almost 10 years ago that we had the passage of this new act—how time flies. The basic purpose of the new act was to devolve large areas of financial management and accountability from the Department of Finance and Administration back to government departments and agencies. Much of the work being carried out by the department of finance at that time was devolved back to the individual departments and the offices within those departments.

This sounded like a good idea, at least in theory. But in practice what occurred as a consequence was an absolute shambles of the first order. I rarely pick on and name individual public servants, but in this case I am going to. It was presided over by the now infamous Dr Boxall. It was a political appointment, so I have absolutely no qualms at all in naming Dr Boxall as the person responsible for overseeing what became an absolute shambles in the department of finance.

As I said, theoretically at least, this sounded like a good approach—devolving everything back to departments. They take responsibility for special accounts and management oversight of expenditure in a devolved way. Of course, what happened was that the department of finance slashed hundreds of jobs. Hundreds of staff were either made redundant or moved into other government departments. Unfortunately, a number of the government departments were not well enough equipped to actually do the financial decision making that was being devolved back to them.

In retrospect, what should have occurred as part of this process was much closer management of government departments as they took up these additional responsibilities, by the department of finance. But basically it was a slash-and-burn approach by the department of finance. I have to say that many good officers either lost their jobs or were moved to other entities—hundreds of people were involved in this slash-and-burn approach. What should have occurred was much greater training, supervision and coordination of government departments to ensure that they were properly equipped to take up these devolved responsibilities.

There have been a number of critical Auditor-General reports of this process over a number of years, one of which I was reading only earlier this week in response to another issue. That was the Management of net appropriation agreements, Audit report No. 28 by the Australian National Audit Office on the authorisation arrangements for some areas of revenue and expenditure across government departments and agencies.

Firstly, I place on record my congratulations to the National Audit Office. It is one of the last bastions, if you like, of true, rigorous, independent oversight of this government—one of the last bastions. Thank goodness for it. We have seen an increasingly arrogant government, now it has control of the Senate, shutting down wherever it can areas of scrutiny and oversight. The Audit Office remains one of the last, fearless bastions of independent oversight.

This Audit Office Audit report No. 28 identified very serious breaches of financial management requirements by a number of departments and agencies. As I have indicated, the government’s Financial Management and Accountability Act 1997 devolved back to departments and their heads of finance, chief executives in some cases, responsibility for authorisation of a range of expenditure and a range of receipts. What this Audit Office report revealed was that there were widespread shortcomings in the
administration of appropriation arrangements. In particular, it noted:

… there has been inadequate attention by a number of agencies to their responsibility to have in place … effective—

what are known as—

Section 31 arrangements that support additions made to annual appropriations and the subsequent expenditure of those amounts.

The Audit Office acknowledged:

While many of the issues raised by this audit—but certainly not in all of the areas audited—are quite technical (in a legal sense), there are important considerations of appropriate accountability, including transparency, to the Parliament.

I do realise that most people do not pick up these reports and read them, but they are very useful because of the shortcomings that they identify. What we have in this particular case, I think, is one of the most critical reports of this government’s financial management and the new system that was implemented. This report identifies truly massive failures by a range of government agencies and departments in the execution of their legal requirements under section 31 of the Financial Management and Accountability Act.

The Audit Office found that, of the agreements examined—bearing in mind they did not examine them all—157, or 68 per cent, were assessed as having been ‘effectively executed’; in other words, they met legal requirements. However, 42 agreements, or 18 per cent, were assessed as ‘ineffective’ and a further 32 agreements, or 14 per cent, on the basis of legal advice from the Australian Government Solicitor, the AGS, were assessed as ‘in doubt’. So, of the spot-checking that the Audit Office carried out, some 32 per cent of agreements were defective. That is a massive proportion of defects identified. And, to the extent that the amounts were identified as having been spent without an appropriation, section 83 of the Constitution was contravened.

We are not talking here about small change. If we look at the table on page 113 of this Audit Office report, we see there was defective authorisation—in other words, illegal expenditure or receipt of moneys—to varying degrees, in the hundreds of millions of dollars over a number of years. That is over a number of years, not just one year. Let me just give you a couple of examples. Under the heading “Ineffective Section 31 agreements”, the table shows that the Australian Bureau of Statistics, from 1 July 1999 to 6 March 2005, took illegal receipt of some $135 million, while ‘receipts spent’ totalled $128 million. The Australian Federal Police had some $623 million in ‘receipts affected’ and under ‘receipts spent’ some $443 million.

This is a whole table totalling ‘receipts affected’ of some $1.7 billion and ‘receipts spent’ of some $1.162 billion under ineffective section 31 agreements—in other words, illegal expenditure of receipts. That is not small change by anyone’s definition. This came about as a result of this devolved responsibility back to agencies and government departments with, unfortunately, a failure to equip those agencies and government departments with the appropriately skilled officers—with the appropriate training and oversight so they would be equipped to do that.

When this Audit Office report was released, I note that Senator Minchin was quoted in the Financial Review as saying, “These are technical breaches. They have been identified and action has been taken to address them.” He described them as mere technical breaches. That is not the description that the Audit Office gave of these identified breaches. Some of them were acknowledged as technical breaches; however,
many of them were serious in nature. As I referred to earlier in my contribution, the Auditor-General, Mr McPhee, noted a handful of annual reports tabled so far and that departments and agencies had contravened section 83 of the Constitution, which relates to appropriations. That is a serious issue. It is no mere technical breach; it is a serious issue in relation to many of the expenditures that occurred.

I am pleased to note that there was a reference in the Financial Review to this Audit Office report and I am pleased to note that the Clerk of the Senate, Mr Evans, was referred to as criticising the lack of spending transparency of government. It quoted him as saying:

… section 31 agreements reduced the parliamentary scrutiny of funding decisions. “The bigger issue is you’ve got government departments generating all this loot, which they don’t get parliamentary approval to spend.”

I believe that the Clerk of the Senate, Mr Evans, is spot-on in his criticism. It was not mere technical breaches, as the Minister for Finance and Administration would like to portray it. This was another example, and the legislation we are dealing with today is really the final nail in the coffin, if I could describe it as that, of this devolved financial accountability and management back to government departments and agencies.

The government has totally reversed that policy. It has never said it publicly. It does not want to admit just what level of problem did occur with this devolved approach, but effectively the government has totally reversed its policy as announced and implemented back in 1997, and it has taken most of what had been devolved to government departments and agencies back under the umbrella of the department of finance quite directly. It is interesting to note that, as a consequence, the department of finance has employed some extra hundreds of staff to do so. Hence my earlier critique of Dr Boxall, who sacked hundreds of staff when implementing this policy. It has now been almost fully reversed, and the department of finance has re-employed hundreds of staff to fix up the mess.

I did want to put those remarks on the record with respect to this financial framework legislation, because I think there should be appropriate scrutiny. We will deal with the specific amendment in the committee stage.

Senator MURRAY (Western Australia) (6.12 pm)—The Financial Framework Legislation Amendment Bill (No. 2) 2005, with the endearing acronym of FFLAB, seeks to amend 17 acts and is arranged into four schedules. A key feature of this bill is the underlying intention to extend provisions introduced by the Financial Framework Legislation Amendment Act 2005 to a number of other acts. I will say at the outset that the Democrats support this bill. The minister’s second reading speech accurately reflects the government’s intention, which was ‘to update, clarify and align or integrate several financial management provisions in legislation’.

Among other things, this bill reflects a response to the need identified by DOFA, the JCPAA and the ANAO for better risk management practices and protections. It is legitimate to add ‘and to lessen or diminish the mismanagement and sloppy administration that has been a past characteristic of special accounts’.

While the bill is an attempt to improve matters and while we are told that the bill is purely technical—perhaps even noncontroversial—and that it makes no substantive changes, it further entrenches special accounts and the decentralised management of them, which has its own dangers, and weakens the provisions applying to law enforcement agencies.
When I support the devolution of authority and responsibility to CEOs and CFOs for agency financial affairs, why then do I say that entrenching special accounts and the decentralised management of them has its own dangers? I might say I have particular regard for the expertise of the CEO of DOFA and his supporting executives, and I might say that I have particular regard for the Minister for Finance and Administration. I say what I have just said because DOFA and its minister have no regulatory power, and various Auditor-General reports have exposed how recalcitrant, wilful or plain sloppy ministers or agency executives have been able to ignore Finance directives.

We have an effective watchdog in the ANAO, but we have no Public Service regulator to match the private sector equivalent of ASIC. We have no effective regime of enforcement or punishment of transgressions of DOFA requirements of the scale outlined by the shadow minister in the remarks he was making earlier. Therefore, a special account system that could be satisfactory in a properly safeguarded, regulated and monitored system still carries instead the dangers of unsupervised discretion and improper management. Turning to the amendments of the Public Accounts and Audit Committee Act: they do nevertheless appear to be purely for clarification.

Schedule 1 of the bill amends provisions in nine acts pertaining to special accounts and is arranged into nine parts dealing with each of the nine acts to be amended. I will not read out the acts, but they concern matters ranging from Aboriginal affairs through to natural resources management. A special account is a mechanism used to record amounts in the consolidated revenue fund that are appropriated for specified purposes and represent a notional division within the consolidated revenue fund, which, as you know, Mr Acting Deputy President, has a constitutional basis. When Audit report No. 24 2003-04 reported, the Auditor-General advised us that there were 241 special accounts in existence. In the year of audit, $10.33 billion was credited to special accounts and $10.06 billion debited to special accounts, with $3.4 billion being held.

From the Democrats’ perspective, there are two crucial matters that require further attention when we discuss schedule 1. A number of the amendments to the aforementioned acts pertain to the use and application of special accounts, which in turn are funded with special or standing appropriations, as governed by section 20(4) of the Financial Management and Accountability Act 1997, which states:

The CRF is hereby appropriated for expenditure for the purposes of a Special Account established under subsection (1), up to the balance for the time being of the Special Account.

The finance minister alone can establish a special account as well as the quantum of money to be appropriated. Since standing appropriations effectively circumvent a large degree of the parliamentary scrutiny faced by other means of appropriating public funds, including budget estimates hearings with their corresponding parliamentary approval process, my inclination has been to seek to curtail their use and application to essential matters.

There are no administrative or other merits in seeking to exempt the use of public funds from regular parliamentary scrutiny and approval, yet standing appropriations can have this very consequence and do continue to grow unchecked. The numbers of special accounts and standing appropriations and the amounts of expenditure involved have steadily grown over the life of the Commonwealth. Today and yesterday there was a fairly lengthy debate on the offshore petroleum bills, but as far as I am aware no-
one raised within that debate the issue of those bills carrying standing appropriations, and yet once that is through that is the end of it. Parliament will not have to come back to them.

Standing appropriations now amount to over 80 per cent of all Commonwealth government expenditure. Comparable jurisdictions have not allowed standing appropriations to expand to this degree. Research shows that in the United Kingdom, for example, they amount to about 25 per cent of total government expenditure. More concerning still is that, in the report on the financial management of special standing appropriations of November 2004, the Australian National Audit Office found widespread illegality and a lack of accountability and control in the management of these appropriations. More than half of the appropriations were not properly reported by departments and agencies in their annual financial statements.

By way of an example, consider the first act listed for amendment within this bill, the Aboriginal and Torres Strait Islander Act 2005. On the surface, there may appear to be little difference in converting a land fund to a land account but for the designation of this account as a special account. On closer inspection of the act, it is apparent that funds derived for the purposes of carrying out the act are derived my means of standing appropriations, as stated in section 144TA of the act in question:

**Money payable to TSRA**

(1) There is payable to the TSRA such money as the Parliament appropriates from time to time for the TSRA.

(2) The Finance Minister may give directions as to the amounts in which, and the times at which, money so appropriated is to be paid to the TSRA.

Also of concern is the fact that this bill directs surplus funds appropriated for the act to be invested and for earnings from the investment to be credited to the special account. That may make sense for a time, but, once the funds accumulate to a level where they are not retained earnings husbanded for later expenditure, what then? I am of the mind that, regardless of the government agency in question, if substantial surplus funds exist then such money should be returned to the consolidated revenue fund for use in other areas. I am not at all convinced that the department of finance has systems in place to monitor these issues and to police these matters effectively. Once again, I do not reflect on the quality and ability of DOFA staff; I reflect on the means by which they can do the job that is required.

There will always be a government agency or department in need of funds or that is underfunded. The automatic question therefore is: why should some agencies invest surplus funds for their own purposes when other agencies suffer a funding shortage? That is always a question that needs to be asked and answered. If there exist funds surplus to the needs of carrying out the intention of the underlying act by which a government agency or department is governed, then that agency has fulfilled its purpose with adequate funds and the surplus should be returned to general revenue.

Part 4 of schedule 1 proposes a number of amendments to the Child Support (Registration and Collection) Act 1988. Specifically, the government proposes broadening the types of accounts that can be credited to the Child Support Agency as well as broadening the types of payments that can be made from the Child Support Agency. Is the flexibility that might be achieved from broadening the types of payments and receipts made from or to the CSA either desirable or necessary? Does broadening the forms of transactions that can occur pose an unnecessary risk to the underlying system or does it improve the
administration of the underlying system? These are questions that are difficult to ask, and perhaps difficult to answer, since the CSA already struggles under the pressure of many individuals and their financial difficulties and problems. Many Australians who currently maintain a responsible relationship with the CSA are acutely aware of the pressure that comes with meeting the financial obligations with which they are encumbered. I do not know the answers to my questions; I just pose them as commonsense questions.

In addition to the application of special accounts, the second key area of concern I wish to raise about this bill is the delegating of authority away from ministers to senior public servants. Once again I confirm my belief that the principle of sheeting responsibility home to the CEO and the CFO is a good one, but only if it is accompanied by full and frank accountability to DOFA and to the parliament and under a regime where regulation, enforcement and punishment for transgression operate—which they do not. That is the weakness in our system. For example, the proposed amendments to the National Health and Medical Research Council Act 1992 transfer responsibility for dealing with money held in trust from the minister for finance to the minister responsible for administering the NHMRC Act and from that minister to the chief executive officer of the NHMRC or to an APS employee.

When ministerial responsibility has deteriorated to the worrying situation of, ‘I didn’t know; I wasn’t told,’ or ‘It was the actions of a bureaucrat that caused the problem’—and fortunately we do not have anyone claiming deafness yet, as they do in the AWB farce—then the chief executive officer must be fully accountable instead. The question I would ask is: if you are going to devolve responsibility, if they are going to acquire that responsibility, are they fully accountable, especially in circumstances where the government of the day has already shown on particular issues that it is willing to muzzle them, to censor them and to require them not to answer questions in specific areas?

Schedule 2 amends the Safety, Rehabilitation and Compensation Act 1988. A number of anomalies are removed from the act, including the inability of employers to provide paid leave or sick leave to injured employees prior to the determination by Comcare and the inability of Comcare to pay employees via employers or to reimburse employers. This is achieved by the establishment of a predetermination period which allows the employee to be paid and, following a favourable determination, for Comcare to offset the compensation against the pay received whilst off work. Amendments are proposed which will also allow Comcare to pay employees via employers. This is currently prohibited under the Safety, Rehabilitation and Compensation Act but is said to be administratively superior and favourable for employees, who receive a seamless income stream whilst injured. I support these amendments, and I encourage the government to continue reform in this area.

Schedule 3 groups together a number of other amendments to disparate bills and is titled ‘Other amendments’. These amendments are so grouped as they all pertain to delegating decision-making power away from the Treasurer to the finance minister and in some cases further down the seniority list to senior public servants. The bills in question include the Australian Institute of Marine Science Act 1972, the Financial Management and Accountability Act 1997, the Native Title Act 1993 and the Public Service Act 1999.

As I have already highlighted with reference to the proposed amendment to the Child Support (Registration and Collection) Act 1988, I do have concerns about a number of
provisions contained in this bill that appear to act to broaden the scope for payments to or from special accounts because they do not appear to be accompanied by sufficient regulatory safeguards. I am not talking about the determinations or the directions that are issued from Finance, which generally speaking are very good; I am talking about the ability to police them, to enforce them and, if there are transgressions, to punish those who transgress them. This includes extremely general references to special circumstances payments as proposed for the Public Service Act 1999 and acts of grace payments for the Financial Management and Accountability Act 1997, all of which are ultimately derived from special appropriations.

With regard to delegating authority, the Australian Institute of Marine Science Act 1972 gives the finance minister power to delegate authority to an official. My question to the minister would be: would you still assume responsibility for those decisions made under your delegated authority? Would the minister be responsible for the actions they have directly or indirectly authorised? Or is the new culture in the Public Service that the only person fully, absolutely and completely accountable is in fact the official and not the minister? This has become very grey in all our minds as we have watched the unfolding of the Howard government culture.

The final issue that I wish to discuss in relation to schedule 3 is the amendment to the Financial Management and Accountability Act 1997 which proposes extending access to modified applications allowed under this act to law enforcement agencies. These provisions currently only apply to intelligence and security agencies. The purpose of this amendment is to protect employees that are involved in sensitive or undercover operations. Once again, this is an amendment that reduces the level of accountability for government agencies—but for an apparently good purpose. While I agree that the safety and security of the employees concerned is of paramount importance, the government must still be held to account for the financial management of its security operations. I concur with views of the member for Melbourne, who attested in the other place that ‘these changes will take place without the benefit of the Australian Commission for Law Enforcement Integrity, promised prior to the last election but which has still not been delivered’.

Schedule 4 is the final schedule in this bill. It proposes repealing two redundant acts: the Employment Services Act 1994 and the Loan Act 1977. The Employment Services Act 1994 was passed to establish Employment Assistance Australia and the Employment Services Regulatory Authority, both of which are now non-operational organisations, making the act redundant. The Loan Act 1977 authorised the Treasurer to borrow money for the year ending 30 June 1978 and is also being repealed due to redundancy. I should say that these moments when we get rid of legislation and regulation should be greeted by a round of applause. I would remind the Senate of the calculation that, in the last 10 years, we have produced more legislation and regulation than in the previous 90 years. There must come a stage when we should be asking ourselves when enough is enough. Our real problem is in fact enforcing and regulating and ensuring that existing law operates fully and effectively and that existing law is pursued to its fullest extent. My congratulations go to the government for wiping some regulation and legislation off the books because they are redundant.

In the committee stage, with the shadow minister from Labor, I will be moving amendments to address our concern with regard to the reporting and the proper listing and aggregation of special accounts and mat-
ters like that. It has been very difficult to get a tag on what exists and in what form it is. I happen to know that DOFA has had similar concerns and has been improving its own aggregatability, if you like, to put this sort of information together. With Labor, I will be seeking to give this some legislative bite.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (6.30 pm)—The Financial Framework Legislation Amendment Bill (No. 2) 2005 aims to maintain the currency of the financial and governance framework of the Commonwealth public sector and it continues the work achieved in the Financial Framework Legislation Amendment Act 2005. As we have heard, the bill is divided into four schedules. Schedule 1 proposes amendments to nine acts that establish individual special accounts. These amendments cover special accounts including the Aboriginal and Torres Strait Islander Land Account, the Aboriginal Advancement Account, the ARC Research Endowment Account, the Child Support Account, the Industrial Chemicals Account, the National Blood Account, the Medical Research Endowment Account and the Natural Resources Management Account. Most of the amendments covering special accounts are of the same type as the amendments in schedule 1 of the Financial Framework Legislation Amendment Act.

Schedule 2 of the bill proposes amendments to the Safety, Rehabilitation and Compensation Act 1988 to authorise Comcare to pay workers compensation benefits to employees either through Commonwealth employers or direct to employees. The SRC Act currently authorises compensation benefits only to be paid directly to employees. The proposed amendments reflect current and best practice to ensure there is seamless transition for the employee between payment of a salary et cetera and payment of compensa-

tion. The amendments also give effect to the conclusion of the Joint Committee of Public Accounts and Audit in its report 395, Inquiry into the draft Financial Framework Legislation Amendment Bill, supporting amendments to align the act with current good practice whereby Comcare makes compensation payments to agencies.

Schedule 3 of the bill proposes amendments to seven acts that are not included in schedules 1 or 2, and I will highlight the main amendments proposed in schedule 3. The bill proposes amendments to the FMA Act to extend to law enforcement agencies access to the modifications to the FMA Act that currently apply to intelligence or security agencies. These modifications are set out in the Financial Management and Accountability Regulations 1997—the FMA regulations. Some law enforcement agencies need to undertake sensitive activities that are similar in nature to those of intelligence and security agencies. It is therefore appropriate that they be able to access the same modified application of the FMA Act for those sensitive activities subject to ministerial agreement and consideration by parliament through amendment to the FMA regulations that would prescribe a law enforcement agency for this purpose.

Amendments to the Public Accounts and Audit Committee Act 1951 are proposed to correct, update and express in clearer language previous provisions. The amendments cover such matters as the inclusion of non-gender specific language, sectional committees, evidence taken in public or in private and payment of allowances. The amendments do not alter the intent of the existing provisions. Amendments to the Native Title Act 1993 are proposed to transfer from the Treasurer to the finance minister the power to approve the investments of surplus money by an Aboriginal and Torres Strait Islander body and to provide the finance minister
with a delegation power in relation to that approval power. The amendment proposed to the Australian Institute of Marine Science Act 1972 provides the finance minister with a delegation power in relation to his existing powers to approve borrowing by and guarantees relating to the Australian Institute of Marine Science. The amendments proposed to the Native Title Act and the Australian Institute of Marine Science Act align these acts with amendments made to 25 acts by the FFLA Act.

Schedule 3 also proposes amendments to the Superannuation Act 1976 and the Public Service Act 1999 to clarify that the appropriation authority for an act of grace payment or payment to a person because of special circumstances arising out of employment by the Commonwealth is not provided in these acts. The appropriation authority would generally be an agency’s annual appropriation providing the payment relates to some matter that has arisen in the course of the agency’s administration.

Schedule 4 of the bill proposes the repeal of two acts: the Employment Services Act 1994 and the Loan Act 1977. With the commencement of the employment services market in 1998, the case management system set up by the Employment Services Act is no longer required and the Employment Services Regulatory Authority, which is established in that act, has become non-operational. Therefore, the Employment Services Act is now redundant. The Loan Act is also redundant. It authorises the Treasurer to borrow a specified amount of money during the financial year ended 30 June 1978. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

**In Committee**

Bill—by leave—taken as a whole.
relating to the delegation and exercise of ... power.

Both the shadow minister and I have already referred to the work of the ANAO on these matters. In their report No. 15 of 2005, *Performance audit: Financial management of special appropriations*, they say at paragraph 10:

Given the fundamental importance of appropriations to Parliamentary control over expenditure, changes need to be made to secure proper appropriation management in the Commonwealth.

It is true that Finance and the government are trying to improve things, and this is the second of the acts which are dedicated to that end. The major problem that we have—the opposition in its very important function as an opposition in holding the government to account and crossbench parties like my own which have a similar interest—is being able to keep a tag on matters. Essentially, that is what these two amendments are about. They are amendments which require there to be a consolidated register of special appropriations and a consolidated register of special accounts.

You would have heard that at the end of my speech on the second reading I was struggling to find the right word to express what I was about, and it was a ‘register’—that is the word I was looking for and could not find. This lays an administrative and record-keeping onus on the department but has a very useful effect from the point of view of accountability and the ability to marshal information.

I am aware that steps have been taken in this direction by DOFA, and they have been making progress in the area. What we are seeking to do here is to require it through legislation not just of this government and of this department of finance management but for all time or for as long as the legislation stands. I think the amendments are readily understandable on their face. I move:

(1) Schedule 3, page 24 (after line 3), before item 3, insert:

**2A After section 19**

Insert:

**19A Consolidated register of special appropriations**

(1) The Minister must cause to be tabled in each House of Parliament not later than 31 August each year a list:

(a) identifying all special appropriations and citing the statutory provision which establishes each one; and

(b) specifying the date of establishment of each special appropriation and the expected duration of the special appropriation; and

(c) specifying the purpose for which each special appropriation is established; and

(d) specifying the amount expended under each special appropriation during the previous financial year.

(2) For the purposes of this section, *special appropriation* means a provision which appropriates money and which does not specify the amount of money so appropriated and includes a standing appropriation.

(2) Schedule 3, page 24 (after line 3), before item 3, insert:

**2B After section 20**

Insert:

**20A Consolidated Register of Special Accounts**

The Minister must cause to be tabled in each House of Parliament not later than 31 August each year a list:

(a) identifying all Special Accounts established in accordance with section 20 or 21 of this Act; and

(b) specifying the date of establishment of each Special Account and the expected duration of the Account; and
(c) specifying the purpose for which each Special Account is established; and

(d) specifying the amount credited to each Special Account at the close of the previous financial year and the amount expended from the Account during that year.

Senator SHERRY (Tasmania) (6.41 pm)—I will comment briefly because Senator Murray has canvassed the arguments well for the register of special appropriations. I am glad Senator Murray referred to the Scrutiny of Bills Committee. I do not, through you, Chair, recall who is the current chair of that committee. Senator Murray may know.

Senator Murray—Presently, it is Senator Robert Ray. I should indicate that at the time this report came out, he was away and the deputy chair, who was a government member, was chairing the committee.

Senator SHERRY—My assumption—I think it is a correct assumption—is that it was a unanimous observation of the Scrutiny of Bills Committee. I was a member of the Scrutiny of Bills Committee for my first three years in this place and I know that, by and large, the public generally do not understand many of the processes and procedures we go through. The Scrutiny of Bills Committee is very effective at picking up, if you like, issues relating to inappropriate drafting of legislation and at the general scrutiny of legislation. It is a very effective committee. Frankly, I would have to say I do not think we took enough account of it when we were in government, from my observations, and I do not think the current government takes enough account of its observations.

A unanimous recommendation that Senator Murray has referred to is correct: the rapid growth of special appropriations, which has gone on, I think, under a number of governments over a number of years, has got to the stage where it does require a consolidated recognition and registering of the growth of these appropriations in order that parliament—and particularly the Senate—can appropriately scrutinise in a consolidated form what is occurring in this area.

It is very difficult to scrutinise special appropriations in, I think, the detail that is required not just from an opposition point of view but in terms of the public interest and from the point of view of the minor parties. I know that in my time at estimates committees and other committees, for example, where I have worked with him Senator Murray does a great job with very limited resources—as Senator Murray and I were discussing earlier in the week—in holding the government accountable in this particular area. I think a register of special appropriations is necessary in order to improve that accountability. I do not think there is any reason, given the growth of special appropriations, why the government cannot agree to what, by any reasonable judgment, is a reasonable approach to ensuring an increased accountability in this area.

Senator Murray and I have co-sponsored amendments (1) and (2), which we have dealt with together. I will be moving amendment (3), which sets a time limit for special appropriations, and, again, Senator Murray is co-sponsoring that amendment. I will make a few short observations when we get to amendment (3).

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (6.45 pm)—The government understands the spirit of amendments (1) and (2) brought forward by Senator Murray and co-sponsored by the Labor Party, although it is worth noting that information on special accounts and special appropriations is already enclosed in agencies’ annual reports. Further, in relation to amendment (2), an audited list of all special...
accounts is detailed in the consolidated financial statements each year. This list specifies the purpose for which the special accounts were established, the balance of the special accounts, the total amount credited to each special account in the previous financial year and the total amount expended from each special account during that year.

The government will consider whether any additional transparency beyond audited agency financial statements is warranted and the best mechanism for delivering it. This would involve consultation with a range of parties, but it is worth noting that the financial reporting requirements for Commonwealth agencies and authorities are contained in finance minister’s orders made under section 63 of the Financial Management and Accountability Act 1997 and section 48 of the Commonwealth Authorities and Companies Act 1997.

Senator SHERRY (Tasmania) (6.47 pm)—I will respond briefly as I do not want to unduly hold the time of the Senate. What the minister says is correct: the special appropriations are published in the annual reports. Does anyone have a stack of annual reports in their office? I have one. I have kept them behind my door. Every annual report comes into my office—every one of them. Do you know where that stack reaches now? It is up to my chest. It is well over a metre high.

Senator Murray—And you are tall. You’re taller than me.

Senator SHERRY—I am a few centimetres taller than you, Senator Murray. I have this stack of annual reports in my office—hundreds of them are produced each year. That is fair enough. I do not have a complaint about that. Departments and agencies are required to publish annual reports, and they are on the record. The problem is you have to search through hundreds of different annual reports. I suggest, Senator Colbeck, that you go back and ask for a copy of every annual report to be delivered to your office, if you do not do it already, and just see how high the stack grows. One of the great difficulties with this is that, if you want information that is common to all agencies and departments, you actually have to go through every damn annual report to consolidate all the information across agencies and departments.

Labor and the Democrats are arguing on this occasion—which we think is a special case, given the nature of special appropriations, the importance of it and its growth—that there should be a consolidated register which we can readily go to. That is what we are requesting, and we think that is reasonable in the context of what has occurred and the difficulty in going through all these reports to identify a comprehensive list.

Question negatived.

Senator SHERRY (Tasmania) (6.49 pm)—I move amendment (3):

(3) Schedule 3, page 24 (after line 3), before item 3, insert:

2C Before section 28
27A Time limits for special appropriations
(1) If a provision of an Act:
   (a) has effect immediately before the commencement of this Act; and
   (b) appropriates money; and
   (c) does not specify the amount of money so appropriated;
       the appropriation of money by that provision, unless otherwise provided by the Parliament, ceases to have effect at the expiration of the fourth year after the day the Financial Framework Legislation Amendment Act (No. 1) 2006 receives the Royal Assent.
(2) Amounts otherwise payable under a special appropriation which ceases to have effect under subsection (1) are to be paid from money appropriated by the Parliament for that purpose.

(3) An appropriation under subsection (2) must not have effect for more than four financial years.

I am very disappointed that the government could not accept those two previous amendments. I think they were very reasonable in terms of improving, by a centimetre or two, the level of government accountability in this area. I will not have time to conclude my remarks on amendment (3). Amendment (3) is, again, co-sponsored by the Australian Democrats and the Labor Party. It goes to setting a time limit for the special appropriations that have been under discussion in this debate.

Progress reported.

**DOCUMENTS**

**Commonwealth Grants Commission**

**Senator WATSON** (Tasmania) (6.50 pm)—I move:

That the Senate take note of the report by the Commonwealth Grants Commission State revenue sharing relativities—2006 update.

Over recent weeks we have heard much through the media that the Premier of New South Wales, Mr Iemma, is dissatisfied with the amount of the share his state is receiving through the Grants Commission. While there may be many reasons for Mr Iemma choosing to raise the issue at this time, and I suspect that many of the reasons are to do with domestic fires he hopes to dampen, he is likely to find little opposition in his state to the proposal that they should get a bigger share. The considerations which led to the establishment of the relativities between states for the return of Commonwealth funds are complex and not an easy topic for the layman to approach without a sound understanding of the history and reasoning behind the grants.

However, my own state of Tasmania is fairly well served by the current situation, receiving approximately $1.55 compared with New South Wales’s 87c for each dollar distributed. As a Tasmanian, I have no particular argument with the present relativities, nor does my colleague in the chamber Senator Colbeck. As I understand it, one of the important reasons for the differences relates to the costs of providing state government services within different size population bases.

The amount that Tasmania receives is based on determinations of what it costs my small state to provide services of a similar standard to those provided in the larger states. For example, with a smaller and more decentralised population, it is necessary to operate a large number of relatively small schools in Tasmania. A similar infrastructure is needed for a high school of 600 students as it is for a school of 2,000 students, so the cost per student is much lower in a larger school. Consequently, many Tasmanian services create few advantages of scale compared with services in states on the mainland, and Tasmania certainly cannot hope to compete in this area with large cities of more than three million residents.

While the additional money is well deserved, it is unfortunate that the Lennon Labor government in Tasmania has seen fit to spice much of this additional funding away rather than spend it on the services where it is vitally needed, especially in the areas of public health, roads and education. In addition to this enhanced situation with regard to relativities, Tasmania, along with the other states, has shared in the windfall additional funding which has flowed from our buoyant national economy and the goods and services tax. For example, GST payments to Tasma-
nia have grown from $988 million in 2000-01 to nearly $1,500 million this year, providing an enormous and much welcomed opportunity for the state government to improve services in Tasmania. But we have seen little from the additional income flowing into state government coffers. We continue to struggle in Tasmania with substandard funding for hospitals, schools, roads and a range of community services because funds are not expended where they are needed and priorities are perversely set to benefit state Labor’s big business mates.

Even though Tasmania receives $1.55 for every 87c going to New South Wales, my state suffers from fewer public hospital beds per 1,000 people than most other states and fewer nurses per 1,000 people than any other state or territory. We also suffer the lowest expenditure per full-time student in government primary schools and the lowest expenditure in government high schools. Tasmania also has the lowest expenditure on vocational education and training—almost seven points below the national average. The problem with this situation is that it does not need to exist.

The report tabled today confirms that we are provided with the money to ensure that Tasmania can afford the same services as other states, but unfortunately the Lennon Labor government mismanages the resources so badly that people cannot rely on getting an ambulance when they need it, cannot rely on getting government dental services before they suffer ill health from dental problems, cannot expect to obtain elective surgery in government hospitals without unacceptable waiting periods, cannot get children into classes of suitable sizes and cannot expect services for mental health facilities to reach modern standards. While I believe that the system of grants noted in this report provides appropriate funding to Tasmania, it is a crying shame to see those resources so pathetically wasted by the Lennon Labor government in Hobart. I thank the Senate.

Senator BARTLETT (Queensland) (6.55 pm)—This is an important topic covered by this report. It deals with matters that, as Senator Watson has said, are fairly complex but that are also of great importance to each of us here in representing our states. Certainly as a Queenslander I am continually aware of the comments from south of the border from various premiers seeking to get a greater proportion of the share of money through the Commonwealth Grants Commission, sometimes singling out Queensland as a state from which they would like to take some of that money. I think it is appropriate to ensure that it is properly examined. I seek leave to continue my remarks.

Leave granted; debate adjourned.

Australian Political Exchange Council
Senator BARTLETT (Queensland) (6.56 pm)—I move:

That the Senate take note of the report.

This report is about the Australian Political Exchange Council, which is a valuable organisation whose work needs to be recognised. I will recognise it further at a later date. I seek leave to continue my remarks.

Leave granted; debate adjourned.

Department of Immigration and Multicultural Affairs
Senator BARTLETT (Queensland) (6.56 pm)—I move:

That the Senate take note of the document.

There are three documents that are related. The first is a statement by the Minister for Immigration and Multicultural Affairs, Minister Vanstone, in response to two statements made by the Ombudsman, which are the next two documents. This follows the tabling yesterday of about 12 cases from the Ombudsman, which I have not had an opportunity to
speak to yet. You can look forward to that tomorrow afternoon, perhaps.

The two cases tabled today relate to people whose identity was not able to be established. The minister’s response—and indeed the position and media statements that she released earlier today—indicates that the government has recognised the criticisms made by the Ombudsman about the poor investigations undertaken by the department and has taken some actions in an administrative sense to try to remedy those failings. That is, of course, a good thing, and any improvement should be acknowledged.

It is also important to note that, however good your administrative processes are, the simple fact is that the law remains that the department and government officials within that department have the power to lock somebody up indefinitely without charge or trial or, necessarily, independent review by an outside body. That is completely unacceptable. It seems to me, even from the minister’s statement, that it is still not recognised just how serious it is to deprive somebody of their liberty. To do that and to be able to do that for an indefinite period of time without charge or trial or any independent review being automatically triggered inevitably creates the prospect of significant injustices and wrongful detentions occurring again in the future and inevitably creates a culture and a mindset where those sorts of things can happen.

If you are given a power under law, and are appointed to have that power, to just lock somebody up on suspicion and then keep them there indefinitely then it is not surprising that you might think it is appropriate to use that power in that way. The culture that then develops around having that quite extraordinary power is one that is almost inevitably going to mean that at times it is applied unwisely or inappropriately.

I use the example, which is outlined further in the later statements, of a man in his thirties who was found wandering the streets of Sydney in November 2001 and was believed to be homeless. He was in detention from around that time, late 2001, and he was not released until quite recently. The issue was that his identity was not clear. He appeared to possibly be from a South-East Asian country. What transpired was basically a lack of interest from DIMIA. After initial attempts to find out who he was, very little was done, according to the Ombudsman, between mid-2002 and April 2005. Basically, they had somebody, were not sure who he was, locked him up and thought: ‘Oh well, we don’t know who that guy is. One day we might find out. Until then he can stay here.’ I have to say that, according to the Ombudsman’s report, this person, for whatever reason, did not seem to hugely mind that. He seemed to be quite comfortable with being locked up. But I do not think that should be sufficient to allow that to continue to happen.

It is simply time, once again, to recognise that whatever administrative improvements made by the minister are contained in this statement, you cannot properly fully change a culture—a culture that has been shown to be problematic—if you retain the law as it stands, allowing somebody to be locked up indefinitely. We have to change the act and change government policy before we can truly change the culture and prevent future injustices. That is the simple fact. One of those things has to involve removing the very offensive concept of automatic mandatory detention for as long as it takes, for anybody who is suspected of being an unlawful noncitizen.

Question agreed to.

Consideration

The following government documents were considered:


ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Watson)—Order! There being no further consideration of government documents, I propose the question:

That the Senate do now adjourn.

Petrol Sniffing

Senator JOYCE (Queensland) (7.02 pm)—I have the pleasure of landing myself an adjournment speech tonight because of a function involving the vast majority of people in the coalition, as they take into account the privilege they have been given of representing this nation for the last 10 years. It gives me a chance to touch on the Senate Community Affairs References Committee and the work they have been doing with petrol sniffing. It is a very serious issue. Because of other commitments, I did not have the opportunity to travel around the country with the committee and I want to show tonight my support for this issue. It is good to see Senator Scullion, a Northern Territory senator, here because this is something that really touches the remote communities of Queensland and the remote communities of the Northern Territory.

Last night at around 12 o’clock, I was watching a Russian film on SBS about the effects of kids sniffing glue in Moscow. We followed the life of a girl, who was 14 years old when first shown, until she was put in a coffin. She had rigor mortis and you could see this girl, who you had followed through the whole process of the film, as they tried to move her body, which was frozen because she was dead. It really brought home to me the final affliction done and where it actually leads. The film was in Russian with English subtitles. It showed these children who were completely disassociated from their parents. They went to bed at night saying, ‘I love you, Mummy,’ even though their mothers were not there. That film showed the complete scourge of glue sniffing—they called it moonshine—which destroyed their lives and ultimately led to death.

The big problem about that is that it is happening right here in Australia. It is happening in our country, in what we call an advanced Western nation. There will be children tonight in a number of communities who will be sniffing petrol, which will kill them. If we are civilised people and if this is an honourable chamber, we have to put our weight behind doing something about this. There are at least 600 people sniffing petrol in Central Australia and 200 more in the Pitjantjatjara lands. This is causing enormous complications, from mental illness and foetal abnormalities to social breakdown and social violence, as people lose control of their faculties and become basically uncontrollable. They need to be locked up for the terms of their lives in what would otherwise be called a mental asylum because they no longer have any control over their mental faculties.

What are we going to do about it? We have to move ahead. The government has been making some good moves with regard to the roll-out of Opal. But I think we need to do more. It is, in areas, being got around. It
is a scourge. We have to ask ourselves: why are there these areas, and what drives a child to acquire petrol, put it in a cut-off milk bottle, soft drink or ice cream container and stick their face over it and disappear from a connection to Australia? What is Australia doing and why does this event occur?

It is a hard and multifaceted question. We cannot just jump on the bandwagon that says it is a sense of social isolation or disassociation from the land. That might be a factor but it is not the only factor. There are a range of things that we have to look at. It is the same as what was happening in Moscow. I do not think those kids felt that they were disassociated from the land of Russia, but they were doing the same thing. The problem there was the effect of vodka on the adult population—alcoholism, basically. Alcoholism was driving children from home because they felt that home was no longer home. The scourge of petrol sniffing is the child of the scourge of alcoholism. I would suggest that in Australia that is also the case—the scourge of petrol sniffing is the child of the scourge of alcoholism and we have to address it as such. We have to address the fact that in a family breakdown within a regional community, when there is no sense of ‘I am going home to go to bed to be with my mother and father and to have a meal,’ then these things start to become endemic.

I remember, as a young bloke growing up in a strong Aboriginal community, going home after school and—I will not mention the house—going to an Aboriginal friend of mine’s house and seeing him not even blink as he walked in the door and the whole family were drunk around the walls—because there was no furniture in the house—and passed out. We walked in and he did not blink at it. That is a sense of what some of these kids have to go through to try and bring themselves up, because there is no family at home and there is no place to go. I see it even in towns were I live at the moment. I still live out west. Basically, children do not live at home. They live on the street in western towns and I see all the bits and pieces and problems that go with that. Of course you are open to complete sexual exploitation on the street, and you see it. You see it right front of your eyes, and no doubt anybody else who has lived out west in the communities will have seen it as well. Hand in hand with sexual exploitation goes venereal disease—the serious venereal diseases: we are talking AIDS and we are talking things that are probably going to kill them. This also is connected, if you keep following the path round, to abuse of alcohol leading to abuse of further drugs. The consequence of this, if we do not do something about it, is that we have to sit here and know that, while we were not responsible for it, we stood by while children as young as seven and eight were killed by this drug.

I will describe some of the other effects of this petrol sniffing. In some Aboriginal communities, young Aboriginal boys go up to white people—and I have seen it myself being a white man—and basically prostitute themselves for petrol. That poses the idea that they must have seen other people doing the same thing as a means of getting their hands on petrol. This is something that we have to take seriously. The fingers of this are insidious and it attracts a criminal element from all sections of the community and opens these kids up to complete exploitation.

We have to treat the whole social infrastructure, and we have to stop making excuses that the answer is just some social program; we have to become a lot harder. If you want to talk about social programs, talk about the economic development of the area. If you want to jump on a bandwagon and push a barrow, talk about the economic development of an area and how we could inspire in our government a sense of a greater
broadening of the economic base in these areas. Whether that can be achieved by capital infrastructure payments or by manipulation of tax rates, whatever you can think of as a means of broadening the economic base should be considered. Petrol sniffing is not a big issue in Tamworth and there is an Indigenous community there. It is not a big issue in Armidale and there is an Indigenous community there. It is a big issue once you get into a depressed remote regional zones because you do not have access to a further path out from there.

We live with these issues in the National Party. It is not some place we visit—we stay there after everybody goes home. It is an issue that you have to connect, not just to some new social security department, but to a real concrete statement that you are going to develop the economic base of these areas. This was very much an off-the-cuff speech tonight but I just want to offer my sincere thanks to those in the Senate Community Affairs References Committee for the wonderful work they are doing. *(Time expired)*

**Migrant Workers**

Senator LUNDY (Australian Capital Territory) *(7.13 pm)*—On Wednesday, 8 March I rose in this place to raise a matter of public interest relating to the employment of skilled migrant workers who had been forced to work under quite appalling circumstances for well below Australian federal award rates in some of Canberra’s restaurants and cafes. This evening I would like to provide a report on the progress of the Liquor, Hospitality and Miscellaneous Union’s work on behalf of their members.

It has been extremely heartening to see the support from responsible employers in Canberra who have been similarly dismayed at the treatment of these workers and the support from the community. In particular I would like to mention the support of Fiona Wright and the Restaurant and Catering Industry Association in Canberra who have played a major role in assisting the LHMU to find those affected workers new employment and sponsors. I am also happy to report the full-time employment of four of the Filipino workers with new sponsors in the Canberra region to date, and I received advice from the union just a few hours ago that a further two workers have been employed in a local hotel. This happily brings the total to six employees who have found new employment.

In Senate estimates DIMA confirmed that as many as 20 workers have lodged complaints about their employment conditions under the 457 subclass visa involving no less than six Canberra restaurants. I have received assurances from the office of the Minister for Immigration and Multicultural Affairs and from the department that no actions to change the terms of the immigration status of the individuals concerned will be taken, and that the department will be flexible in regard to ensuring that the visa holders will be given enough time to find alternative employment should they wish. I take these assurances very seriously as DIMA’s role in resolving this dispute is a critically important one.

In relation to underpayment of the award, I have today been informed by the LHMU that both Mr Arrieta and Ms Cruz have received notification from the Department of Employment and Workplace Relations that their wage claims have been sustained, with DEWR confirming that each are owed $510.92 for every week worked. DEWR, or the Department of Employment and Workplace Relations, advised the union that the employer—in this case, Zeffirelli’s—will receive formal notification and have 14 days to pay the outstanding moneys. Mr Deguzman, who was originally employed by the Holy Grail, should also receive notification about his wage claim this week from
CHAMBER

DEWR, with the union awaiting further advice on its other members.

In relation to the very serious and disturbing complaints made to the ACT Human Rights Office, it is my understanding that all of the respondents to the complaints lodged by the union and the workers in the ACT Human Rights Office have replied to the Human Rights and Discrimination Commissioner, who is due to make a ruling on the matters by 31 March 2006. I am also happy to acknowledge that I have received correspondence from the proprietors of Milk and Honey, as did the union, outlining their side of the story. Obviously, they have a point of view that did not match mine. I appreciate their effort and urge them to keep negotiating a resolution with the union.

Perhaps the most concerning response—or should I say lack thereof—has stemmed from the ACT Chamber of Commerce and their representations on behalf of their member Zeffirelli Pizza Restaurant. The chamber’s first response to the allegations was to simply try to spin their way out of trouble via the media, proceeding to respond to the speech I made. They labelled the claims made by the union as frivolous. The LHMU urged the chamber to stop and look at the facts but, rather than sitting down with the union, the workers and the Filipino community generally, the chamber focused on a blanket denial strategy in the media. I could not understand this and found it very disappointing, because there was obviously a serious problem and it is in everyone’s interest to get to the bottom of it and get it fixed. In contrast, the Restaurant and Caterers Association showed leadership by requesting a meeting with the union in an attempt to understand the extent and depth of the problem.

I am critical of the chamber’s head in the sand approach as it implies that the politics of protecting a federal coalition government program has priority over their members’ interests. It also leaves employers in the restaurant sector in Canberra who are doing the right thing and abiding by the law in a competitively disadvantageous position. I would have expected the chamber to ensure that there is a healthy flow of communication between the union, authorities and employers to ensure fair wages and decent work in the hospitality sector in Canberra. This is commonsense.

Meanwhile, I am advised by the union that the conduct of the owners of Zeffirelli Pizza Restaurant has made it extremely difficult for the Filipino workers employed there. To add insult to injury, last Friday, on 24 February 2006, two of the Belconnen Zeffirelli former employees were given three days notice of eviction from their accommodation. The LHMU drew the employer’s attention to the Residential Tenancies Act 1997, which gives the workers a minimum entitlement of 14 days notice in these circumstances. Despite this, the employer’s representatives arrived at the house at 7.15 am on Monday, 27 February 2006—just two days later—and loudly banged on the door and ordered the workers to vacate the house. Obviously, the LHMU is currently trying to find alternative accommodation for the workers.

This action has come just a few days after the LHMU revealed that many workers have been living in cramped quarters, with the ACT secretary of the LHMU stating on 20 February 2006 that, ‘At one point there were seven people living in a two-bedroom flat in Narrabundah.’ With these matters continuing to be investigated, it is also important to take a step back and consider the broader implications that these issues have raised regarding the granting of 457 temporary skilled migrant worker visas.

Since I first raised the concerns of the Canberra migrant workers, the Australian
Council of Trade Unions, the ACTU, have called on the Howard government to clean up their act in relation to the sponsorship of skilled migrants to Australia. On Tuesday, 14 February, the ACTU called on the Prime Minister to intervene in Australia’s immigration program to guarantee that temporary work visas are not being abused resulting in the importation of low-paid foreign workers being used to fill job vacancies. The ACTU stated:

These migrant worker abuses highlight the ugly side of the Howard Government’s deregulated job market. The Prime Minister needs to intervene immediately to first make sure that employers look to fill these jobs with Australians. He then needs to make sure any foreign worker is paid decent wages and conditions. Minister Vanstone has admitted that her department is also currently investigating allegations of Indonesian workers working for Halliburton doing 12-hour shifts for 80 days without a break and getting paid little more than they would earn in Indonesia. Allegations also include that the workers were being housed in very poor conditions at a Halliburton work camp in the Cooper Basin late last year. These claims come after many other recent examples of abuses of the government’s migration program. Locally, more hospitality workers have come forward in the ACT and have approached the LHMU with claims that they too are being exploited and not paid in accordance with their legal entitlements.

All workers in Australia, be they local or from overseas, are entitled by law to be treated with respect and dignity. These workers are entitled to be paid according to the Australian federal award. I encourage workers to be strong and courageous and keep coming forward and sticking up for themselves as the LHMU has showed how effective its advocacy can be on behalf of members and their rights. Once again, in relation to the hospitality industry here in the ACT, there is a great deal of goodwill from the vast majority of employers, workers and unions to stamp out bad practice so that we too can hold our heads high and resolve the skills shortages that prompted this skilled migration program in the first place. I urge all parties to continue their negotiations and resolve these matters as soon as possible. Then everyone can get on with their jobs.

Howard Government

Senator ALLISON (Victoria—Leader of the Australian Democrats) (7.22 pm)—I rise this evening to make some remarks marking Mr Howard’s 10 years as Prime Minister. Holding the office of Prime Minister for a decade is definitely a noteworthy personal and political achievement, but being in power for a long time does not in itself mean that that reign has been for the good of all Australians and the future of Australia. Over the past 10 years Australia’s values and culture have both changed, and I and many others think for the worse. That change has largely been delivered without putting at risk the coalition’s hold on office, because of the success, I would argue, of propaganda. I agree that Mr Howard is a very skilled politician. He has used imagery and language to implement his conservative agenda. If you need convincing, look at the definition of propaganda in the Wikipedia encyclopaedia on the internet, which lists the techniques of propaganda as appeal to fear, oversimplification and scapegoating and using terms like ‘the common man’ and ‘virtue’. All are used in Australia successfully by the Howard government.

Or read George Lakoff’s book Don’t think of an Elephant!, which details how conservatives have employed progressive language to change the way the media report and public see the world so that they accept the conservative agenda. Think of the antithetical titles...
of bills and policies—‘work choices’, ‘clean coal technology’, ‘fair dismissal’ and the cleverly accusatory ‘politically correct’. There is also the appropriation of fundamental Australian values and virtues such as mateship, freedom, choice and decency. These have been given conservative definitions. Advocates, ministers and media commentators use this language so that public discourse takes place within the conservative framework and the underlying agenda goes unquestioned.

That Australians appeared satisfied that the Howard government has protected them against terrorism and interest rate rises is a measure of the success of that discourse. In both cases, the Howard government successfully used a campaign of fear. It has convinced Australians that terrorism is the biggest threat facing us in this country, despite the fact that death from smoking, driving and even climate change is a good deal likelier than being killed by terrorists. As a result, many Australians have willingly relinquished substantial rights and freedoms, something Australians would not have contemplated 10 years ago.

On the economy, while some credit can be given to the Howard government for economic growth and lower rates of unemployment, it was not done unaided. The government capitalised on the Hawke-Keating microeconomic reforms and only succeeded in early tax and IR reforms after the Democrats brought back balance and fairness to these radical agendas. But it is not all rosy. In the 10 years to September last year, average household debt rose from $43,000 to $117,000. Median city house prices blew out from an average of $159,000 in 1996 to $388,000 in September last year. Yesterday Australia’s net foreign debt exploded to a record high of $473 billion. Foreign debt is now growing at its fastest rate in Australia’s history, and the interest bill has jumped by almost 40 per cent.

For all of the Howard government’s virtuous values, a recent Saulwick poll found that we have become a meaner society. In just 10 years Australia has become less compassionate, democratic and tolerant of others and instead more divided, fearful, controlling and materialistic. Mr Howard has mastered the art of dog whistling. He has given ministers and backbenchers permission to indulge their biases and prejudices without ever quite saying or revealing his position on those views. Loose-lipped backbenchers were not chastised for insensitive attacks on Muslim Australians. Nor were Pauline Hanson’s redneck values found wanting or reparations made for Senator Heffernan’s false and malicious accusations against Justice Kirby, for example. On the shameful detention of Cornelia Rau, who is still, as we heard this week, to be compensated, ‘children overboard’ and an unwarranted attack on Iraq, Mr Howard has scapegoated public servants and protected ministers from taking responsibility for these disasters.

In some cases the government has trained the bureaucracy so well that they do not properly advise ministers or, if they do, they do not tell all the truth. This, in my view, is a corruption of process that goes to the heart of the AWB scandal. The Howard government’s fingerprints may not be all over the AWB’s feather nesting of Saddam Hussein, but its failure to investigate makes it culpable nonetheless. The failure to investigate makes it culpable nonetheless. The failure to ask about Abu Ghraib torture, weapons of mass destruction, depleted uranium or Iraqi civilian deaths all point to selective intelligence gathering and hypocrisy on the part of the government. The government has been able to get away with the lines ‘to the best of my knowledge’ or ‘I didn’t know because nobody informed me’ without facing proper open and transparent scrutiny. Taxpayers’ money has been used to
fund government advertising that blatantly promotes coalition party policy. That may not be illegal, but it is certainly immoral.

In the early years Mr Howard provided leadership on gun control, pumped Telstra sale funds into repairing the land and intervened in East Timor. With the assistance of the Democrats, the government brought in strong federal environment laws, transport emission controls, greenhouse abatement spending and fair, moderate IR and tax reform. But there is no new vision emerging that looks anything like these reforms. Instead, Mr Howard’s focus is on conservative morals, the economy and terror. I do not think there is much on the horizon to build on for all Australians. The recent copycatting of reactionary American social and foreign policy has left little room for compassionate, inclusive leadership or for protecting endangered species, conserving resources or tackling climate change. Climate change has now been accepted as a reality by the world’s leading politicians and scientists, yet this government has failed to urgently act in the face of overwhelming evidence and upon the presentation of achievable solutions.

Mr Howard has also failed to address Australia’s skill shortage or build the infrastructure necessary for a sound economic future. He has presided over unprecedented levels of underfunding for our universities and TAFE’s. Recent talk of providing loans of up to $160,000 to students to pay for their university education is bad for people’s financial capacity to have children or buy a house. Much-needed medical places will be full fee paying. These doctors will feel no social obligation to work in rural settings, with Indigenous communities or with patients who need to be bulk-billed.

He also failed on the barbecue stopper: women still do not have government funded paid maternity leave or access to affordable child care and secure, flexible, suitable work. The government’s industrial relations and Welfare to Work reforms will have a detrimental impact on women and their ability to balance work and family. Mr Howard’s new IR system will lower wages and conditions. It will further widen the gap between the haves and the have-nots, and make it difficult for many people to balance work and family.

These last 10 years have seen the destruction of reconciliation and the decay of multiculturalism to a shadow of its former self. Mr Howard has taken away small gains made by Indigenous Australians on land rights, abolished their representative body and done little to improve their economic status or prospects for a longer, healthier life. He has failed families on the care for those with disabilities, public education, mental health and dental services, deterring drug use and educating the young about responsible sex. The list goes on.

Australians need to reject this economic rationalist, strict ‘father knows best’ style government and, I think, start questioning the underlying values of the conservative agenda that has been put forward. Australians need to look beyond the words and the marketing machine. It is important that we are not conned for another 10 years.

Cultural and Religious Tolerance in Australia

Senator FAULKNER (New South Wales) (7.32 pm)—Australia is a young and immigrant nation. From our first settlement, through our Federation, to today, we have grappled with the distinctive challenges that has brought—grappled with the challenges and reaped the rewards. One of the great contributions that the labour movement has made to Australia is our understanding that unity is strength and diversity is wealth. We strive to gain the first without losing the second. We know it is possible to stand together
without having to be the same, for our history shows that, when Australians stand side by side, proving their unity without denying their differences, they can do great things, things that live on in our history—at Eureka, in the campaign for the 1967 referendum to recognise the right of Australia’s Indigenous people to full and equal citizenship, at the barricades during the great maritime strike, in the factories during the herculean effort to arm and supply our World War II troops, at Gallipoli and on the Kokoda Track.

Unlike many older nations, our national identity has grown to include all the cultures within our national borders. We all share a fierce loyalty to Australia and a common pride in Australian values: values of a fair go, of not judging a book by its cover, of lending a hand and standing together. Those values are at the core of our national identity. They have been so, unceasingly, despite the tremendous changes our nation has seen.

Negotiating those changes without losing our way has never been easy. Nations, at the best of times, are fragile ideas that depend on the daily goodwill and mutual respect of their citizens. Our ongoing journey is a difficult one. At times when life seems uncertain, the difficulty seems insurmountable. At such times, we can lose sight of our values and our identity. A sense of national crisis can lead to intense suspicion of those whose culture and lifestyle seem alien to the majority.

For example, a part of our community might be regarded as suspect because many were recent immigrants. They put the strictures of their faith above Australian law and recognised a foreigner as their highest authority. Their loyalty and patriotism were suspect, particularly when newspapers published stories of secret training camps in the Blue Mountains for young men planning to fight against Commonwealth forces. Unemployed young men roamed the streets in gangs, and a series of harrowing and brutal gang rapes left many convinced that these immigrants had changed the country forever for the worse. Rather than admit that their culture and religion were at fault, their community leaders blamed discrimination in the legal system. They established separate schools where their religious values were taught and sought to change Australian laws and political institutions. And their families had large numbers of children while more and more Australian women were practising birth control. The name of this threat to Australia? Irish Catholics.

In 19th century Australia, religion and race became synonymous in the language of prejudice and discrimination. Religion provided an alibi. It hid racism under an acceptable antipathy to a religion and culture considered to be fundamentally alien to our Australian values and way of life. And religion provided a shelter and a solace for those who felt excluded or persecuted. Racism, prejudice and resentment grew into a mutual antipathy that scarred Australia for generations.

These days, the idea that Irish Catholics are inimical to Australia’s values is laughable. Indeed, these days the idea of Anglo-Celtic Australia is held up as our foundational national identity. Sectarianism is dead, and I have long regarded that as one of the most positive developments in Australian society in my lifetime. So I am dismayed to see a new sectarianism beginning to emerge.

Once again, the religion and culture of some Australians are being described as fundamentally inimical to Australian values. Once again, the religion and culture of some Australians are being used as an alibi for racism. And what is worse, instead of having a Prime Minister and a government able to show leadership and bolster our great heritage of tolerance, mutual respect and national unity, we have John Howard and Peter...
Costello. We have Danna Vale and Brendan Nelson. We have opportunistic politicians striking blow after blow at our traditions and values. This assault on Australian values by Mr Howard and his ministers is all about turning Australians of Muslim faith into this generation’s bogeymen, for cheap political gain.

To say that Muslim immigrants are unlike every other wave of immigrants who have enriched Australian political and cultural life, that there is something in Muslim culture that is utterly antagonistic to our society is to ignore that Australian Muslims have ethnic roots in 60 different countries—including England. Muslim countries around the world include Bangladesh, a democratic nation with a female prime minister and a female opposition leader.

That is not to say that Australia has never seen views and values utterly antagonistic to democracy and tolerance. One person—here as a visitor to our nation—called for the replacement of democracy with religious government: at the Parliamentary Prayer Network conference in the Great Hall of this building last year. Another, a pastor of the Catch the Fire ministries—a church addressed by Peter Costello in 2004—incited members of his congregation to pull down mosques and temples.

I do not hold all Australian Christians responsible for the statements of a few lunatics who want Australia run by the laws of Leviticus. I do not think that these extremist statements are an expression of general Christian values, nor do they indicate that there is anything in Christianity inimical to Australian values. Nor do I think that Muslim extremists who think the only good law is their personal interpretation of strict sharia law are expressing general Muslim culture or Islamic values. To elevate disturbed fringe dwellers of any faith or community to ‘representatives’ is a deliberate attempt to tar the whole of that community with the one brush.

John Howard, Peter Costello and the other dog-whistling members of this government are trying to create a new sectarianism in Australia: a division within our community on the basis of religion and race. They talk loudly of Australian values, but let me tell you: there is nothing less Australian than the attempt to split our society for political gain.

Ash Wednesday

Senator HOGG (Queensland) (7.41 pm)—I rise in the brief time left to me this evening to express my grave concern about the bash that the government are holding this evening in this place. We start each morning in this place with a prayer, and we often hear preached the need for tolerance and respect for different faiths and different religions. But today happens to be a very important day in Christianity. Today happens to be Ash Wednesday. Ash Wednesday marks, for Christians, the beginning of 40 days of Lent.

Lent is a period of fasting, prayer, almsgiving, reflection and humility. It is a very important period for members of the Christian faith. Importantly, today is recognised in some of those Christian faiths—in particular the Catholic Church, of which I am a member—as being a day of fast and abstinence. It is a very solemn day indeed. So I find it unfathomable that here tonight—in this very building where we have celebrated prayer this morning, asked for God’s guidance over what we do in this parliament—we have the government celebrating with hubris, rump, chardonnay and champagne, something which people who hold their faith very seriously may well find offensive. One would have thought that if the government can celebrate the hubris and share the rump and the champagne that they need to, they could do so at their bash in Sydney this coming weekend, or in Melbourne or some other place. Or
they could have picked some other time. One
would have thought they would have shown
greater sensitivity in the selection of their
day, and one hopes that they might do so in
the future, looking at other faiths too.

**Senate adjourned at 7.44 pm**

**DOCUMENTS**

**Tabling**

The following government documents
were tabled:

- **Australian Political Exchange Council**—
  Report for 2004-05.
- **Commonwealth Grants Commission**—
  Report—State revenue sharing relativi-
  ties—2006 update.
- **Migration Act 1958**—Section 486O—
  Assessment of appropriateness of detention
  arrangements—
  Government response to the Common-
  wealth Ombudsman’s reports 014/05
  and 016/05, 28 February 2006.
  Reports by the Commonwealth Omb-
 udsman—
  Personal identifier 014/05, 1 Decem-
  ber 2005.
  Personal identifier 016/05, 1 Decem-
  ber 2005.
- **Treaties**—List of multilateral treaty actions
  under negotiation, consideration or review
  by the Australian Government as at Febru-
  ary 2006.

**Tabling**

The following documents were tabled by
the Clerk:

<table>
<thead>
<tr>
<th>[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Defence Act—Determinations under section 58B—Defence Determinations—</td>
</tr>
<tr>
<td>2006/6—Post indexes and hardship grades.</td>
</tr>
<tr>
<td>2006/7—Overseas conditions of service—deployment allowance.</td>
</tr>
<tr>
<td>2006/8—Remote location leave travel—amendment.</td>
</tr>
<tr>
<td>Disability Services Act—Disability Services (Rehabilitation Services) Guidelines 2006 [F2006L00643]*.</td>
</tr>
<tr>
<td>National Health Act—Determination HIB 05/2006 [F2006L00608]*.</td>
</tr>
</tbody>
</table>
* Explanatory statement tabled with legislative instrument.

**Departmental and Agency Contracts**

The following documents were tabled pursuant to the order of the Senate of 20 June 2001, as amended:

- Departmental and agency contracts for 2005—Letters of advice—
  Education, Science and Training portfolio agencies.
  Environment and Heritage portfolio agencies.
  Treasury portfolio agencies.
QUESTIONS ON NOTICE
The following answers to questions were circulated:

Prime Minister and Cabinet: Consultants
(Question No. 585)

Senator Chris Evans asked the Minister representing the Prime Minister, 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 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 Minchin—The Prime Minister has provided the following answer to the honourable senator’s question:

National Security Campaign

(1) (a) One consultant was engaged in the period 2000-01 to 2004-05 by the National Security Campaign Taskforce.

(b) (i) $446,697

(ii) Worthington di Marzio

(iii) Select tender.

(2) Five surveys were conducted and reported to PM&C by the consultants from mid-December 2002 to April 2003 (the Attorney-General’s Department took responsibility for the national security campaign from July 2003).

Three survey reports were released to an applicant under the Freedom of Information Act on 23 March 2005. Those reports related to the first phase of the national security public information campaign. The remaining research reports have been used to inform the second phase of the campaign, which is ongoing. As is usually the case, decisions about the release of research reports will be made at the conclusion of the campaign.

Commonwealth Ombudsman

(1) (a) One consultant was engaged twice separately in the period 2000-01 to 2004-05 to conduct a client satisfaction survey to:

- measure the current level of satisfaction of two types of complainants, those whose complaint was investigated and those who were advised to pursue their complaint with the relevant agency, across a range of service attributes as reflected in the Commonwealth Ombudsman’s Service Charter;
- assist in identifying ways to improve service levels; and
- identify and analyse any changes that have occurred in client satisfaction.

(b) 2000-01 survey contract value: $51,700 inclusive of GST. Invoices to the value of $42,193 were paid under this contract. Total cost of survey in 2003-04: $60,830 inclusive of GST.

(c) AC Nielsen was engaged on both occasions.
In both engagements the consultant was selected from the market by select tender.

The Office did not publicly release the findings of the client satisfaction surveys, but reported the surveys had been undertaken, in the 2001-02 and the 2003-04 Ombudsman Annual Reports. The client satisfaction surveys were not released publicly because they were conducted for the purpose of internal monitoring of Ombudsman processes and service improvement.

Prime Minister: Sponsored Travel

(Question No. 868)

Senator Chris Evans asked the Minister representing the Prime Minister, 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 Minchin—the Prime Minister has provided the following answer to the honourable senator’s question:

(a) and (b) The Special Minister of State has responded on behalf of all Ministers.

(c) The Special Minister of State has responded on behalf of all Ministers in relation to sponsored travel associated with the Australian Political Exchange Council undertaken by Ministers’ personal staff. During the financial years 2000-01 to 2004-05 inclusive, one member of my personal staff undertook sponsored travel. The staff member travelled to the United States from 15 October 2004 to 14 November 2004 as a participant in the United States Department of State International Visitor Programme. All costs, including airfares, accommodation and incidental expenditure, were met by the United States’ Department of State.

(d) I am advised that requests for sponsored travel by officers of my department are dealt with on a case by case basis. Officers are required to declare in writing any instance where sponsored travel has been accepted. No such declarations were located for the financial years 2000-01 to 2004-05 inclusive.

Prime Minister and Cabinet: Grants

(Question No. 982)

Senator O’Brien asked the Minister representing the Prime Minister, upon notice, on 24 June 2005:

For each of the financial years 2001-02, 2002-03, 2003-04 and 2004-05, has the Minister, the department or any agency or statutory authority for which the Minister is responsible, made grants or other payments to business organisations and/or associations, including but not necessarily limited to peak employer groups; if so, can information be provided for each grant or other payment including: (a) the name and address of the recipient organisation; (b) the quantum and purpose of the payment; (c) the name of the program under which the grant or other payment was funded; (d) who approved the grant or other payment; and (e) whether the grant or payment was successfully acquitted; if so, when; if not, can details be provided, including action taken to recover the grant or other payment.

Senator Minchin—the Prime Minister has provided the following answer to the honourable senator’s question:

I am advised that no department, agency or statutory authority within my portfolio responsibilities has made grants or other payments to business organisations and/or associations, including but not necessarily limited to peak employers groups.
Superannuation Advertising Campaign
(Question No. 1101)

Senator Faulkner asked the Minister representing the Minister for Revenue and Assistant Treasurer, upon notice, on 18 August 2005:

With reference to the relaunched Superannuation Co Contribution advertising campaign:

(1) For each of the financial years, 2004-05 and 2005-06: (a) what is the cost of this advertising campaign; and (b) what is the breakdown of these advertising costs for: (i) television (TV) placements, (ii) radio placements, (iii) newspaper placements, (iv) printing and mail outs, and (v) research.

(2) When did the campaign begin, and when is it planned to end.

(3) Over what period will the TV advertisements run.

(4) What: (a) creative agency or agencies; and (b) research agency or agencies, have been engaged in the campaign.

(5) Is a mail out planned; if so: (a) to whom will the mail out be targeted; and (b) what database will be used to select addresses - the Australian Taxation Office database, the electoral database or other.

(6) (a) What appropriations will the department use to authorise any of the payments either committed to be made or proposed to be made as part of this advertising campaign; (b) will those appropriations be made in the 2004-05 or 2005-06 financial year; (c) will the appropriations relate to a departmental or administered item or the Advance to the Minister for Finance and Administration; and (d) if an appropriation relates to a departmental or administered item, what is the relevant line item in the relevant Portfolio Budget Statement for that item.

(7) Has a request been made of the Minister for Finance and Administration to issue a drawing right to pay out moneys for any part of the advertising campaign; if so: (a) what are the details of that request; and (b) against which particular appropriation is it requested that the money be paid.

(8) Has the Minister for Finance and Administration issued a drawing right as referred to in (7) above; if so, what are the details of that drawing right.

(9) Has an official or minister made a payment of public money or debited an amount against an appropriation in accordance with a drawing right issued by the Minister for Finance and Administration for any part of the advertising campaign.

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:

(1) (a) 2004/05:
    $5,559 million
2005/06:
    No advertising campaign planned
(b) 2004/05:
    (i) $2,207,325
    (ii) $21,010
    (iii) $1,038,795
    (iv) $1,200,000
    (v) $241,080

(3) The TV advertisements commenced 28 March 2005 for three weeks, and a second advertising component commenced 22 May 2005 for three weeks.

(4) (a) The creative agency engaged was The Campaign Palace
    (b) The research agency engaged was Worthington Di Marzio

(5) (a) Yes. In April 2004 mail out went to approximately 1.5 million eligible Australians.
    (b) The Australian Tax Office (ATO) income tax return database.

(6) (a) The ATO will use the appropriations made to it under the 2004-05 appropriation bills. Appropriation Bill (No. 1) 2004-05 included an amount of $8.2 million and Appropriation Bill (No. 2) 2004-05 included an amount of $9.6 million for the super co-contributions communication and marketing campaign.
    (b) The appropriations for the super co-contributions campaign were made in the 2004-05 year.
    (c) Appropriations made under Appropriation Bill (No. 1) 2004-05 and Appropriation Bill (No. 2) 2004-05 for the super co-contributions communication and marketing campaign are departmental in nature.
    (d) The appropriation made under Appropriation Bill (No. 1) 2004-05 of $8.2 million is recognised in the Tax Office’s Budgeted Statement of Financial Performance. Specifically, the $8.2 million appropriation forms part of the “revenues from government” line item shown in Table 3.1 on page 215 of the 2004-05 Treasury Portfolio Budget Statements (PBS). This amount is also recognised in table 1.2 on page 190 as a separate line item, “Superannuation co-contribution implementation campaign.”
    The appropriation made under Appropriation Bill (No. 2) 2004-05 of $9.6 million relates to a previous years outputs appropriation and is recognised in the 2004-05 Treasury PBS in table 1.1 on page 187 as “Agency capital (equity injections and loans)”. This amount is also recognised in the Tax Office’s capital budget statement in table 3.4 on page 218 as ‘previous years’ outputs’ capital appropriation.

(7) No.

(8) No.

(9) No.

Superannuation
(Question No. 1265)

Senator Sherry asked the Minister representing the Minister for Revenue and Assistant Treasurer, upon notice, on 29 September 2005:

What are the total funds in self managed superannuation funds with a balance of: (a) less than $50 000; (b) between $50 001 and $100 000; (c) between $100 001 and $200 000; (d) between $200 001 and $300 000; and (e) more than $300 000.

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:

<table>
<thead>
<tr>
<th>Assets Range</th>
<th>Total Assets</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. $0 - $50,000</td>
<td>$618,994,070</td>
</tr>
<tr>
<td>b. $50,001-$100,000</td>
<td>$1,792,072,233</td>
</tr>
<tr>
<td>c. $100,001-$200,000</td>
<td>$5,747,320,728</td>
</tr>
</tbody>
</table>
Based on the 2003-04 income year processed as at 30 September 2005.

Self Managed Superannuation Funds
(Question No. 1266)

Senator Sherry asked the Minister representing the Minister for Revenue and Assistant Treasurer, upon notice, on 29 September 2005:

What are the average total yearly fees and charges for self managed superannuation funds with a balance of: (a) less than $50 000; (b) between $50 000 and $100 000; (c) between $100 000 and $200 000; (d) between $200 000 and $300 000; and (e) more than $300 000.

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:

<table>
<thead>
<tr>
<th>Assets Range</th>
<th>Average Admin &amp; Investment Expenses</th>
<th>Average Other Expenses</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. $0 - $50,000</td>
<td>$972</td>
<td>$575</td>
</tr>
<tr>
<td>b. $50,001-$100,000</td>
<td>$1,112</td>
<td>$1,155</td>
</tr>
<tr>
<td>c. $100,001- $200,000</td>
<td>$1,643</td>
<td>$1,894</td>
</tr>
<tr>
<td>d. $200,001 - $300,000</td>
<td>$3,079</td>
<td>$2,765</td>
</tr>
<tr>
<td>e. &gt;$300,000</td>
<td>$5,119</td>
<td>$6,706</td>
</tr>
</tbody>
</table>

Based on the 2003-04 income year processed as at 15 October 2005.