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

- **Canberra**: 103.9 FM
- **Sydney**: 630 AM
- **Newcastle**: 1458 AM
- **Gosford**: 98.1 FM
- **Brisbane**: 936 AM
- **Gold Coast**: 95.7 FM
- **Melbourne**: 1026 AM
- **Adelaide**: 972 AM
- **Perth**: 585 AM
- **Hobart**: 747 AM
- **Northern Tasmania**: 92.5 FM
- **Darwin**: 102.5 FM
FORTY-FIRST PARLIAMENT
FIRST SESSION—FIFTH PERIOD

Governor-General

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

Senate Officeholders

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

Senate Party Leaders and Whips

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

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

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

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

Heads of Parliamentary Departments

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

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

The Hon. John Winston Howard MP
The Hon. Mark Anthony James Vaile MP
The Hon. Peter Howard Costello MP
The Hon. Warren Errol Truss MP
The Hon. Dr Brendan John Nelson MP
The Hon. Alexander John Gosse Downer MP
The Hon. Anthony John Abbott MP
The Hon. Philip Maxwell Ruddock MP
Senator the Hon. Nicholas Hugh Minchin
The Hon. Peter John McGauran MP
Senator the Hon. Amanda Eloise Vanstone
The Hon. Julie Isabel Bishop MP
The Hon. Malcolm Thomas Brough MP
Senator the Hon. Ian Elgin Macfarlane MP
The Hon. Kevin James Andrews MP
Senator the Hon. Helen Lloyd Coonan
Senator the Hon. Ian Gordon Campbell

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<td>Senator the Hon. Eric Abetz</td>
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<td>The Hon. John Kenneth Cobb MP</td>
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<tr>
<td>Minister for Revenue and Assistant Treasurer</td>
<td>The Hon. Peter Craig Dutton MP</td>
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<tr>
<td>Special Minister of State</td>
<td>The Hon. Gary Roy Nairn MP</td>
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<tr>
<td>Minister for Vocational and Technical Education and Minister Assisting the Prime Minister</td>
<td>The Hon. Gary Douglas Hardgrave MP</td>
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<td>Minister for Ageing</td>
<td>Senator the Hon. Santo Santoro</td>
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<tr>
<td>Minister for Small Business and Tourism</td>
<td>The Hon. Frances Esther Bailey MP</td>
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<tr>
<td>Minister for Local Government, Territories and Roads</td>
<td>The Hon. James Eric Lloyd MP</td>
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<tr>
<td>Minister for Veterans' Affairs and Minister Assisting the Minister for Defence</td>
<td>The Hon. Bruce Frederick Billson MP</td>
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<tr>
<td>Minister for Workforce Participation</td>
<td>The Hon. Dr Sharman Nancy Stone MP</td>
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<tr>
<td>Parliamentary Secretary to the Minister for Finance and Administration</td>
<td>Senator the Hon. Richard Mansell Colbeck</td>
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<td>The Hon. De-Anne Margaret Kelly MP</td>
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<tr>
<td>Parliamentary Secretary (Foreign Affairs)</td>
<td>The Hon. Teresa Gambaro MP</td>
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SHADOW MINISTRY

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

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

Shadow Minister for Consumer Affairs and 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
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The President (Senator the Hon. Paul Calvert) took the chair at 9.30 am and read prayers.

AUSTRALIAN BROADCASTING CORPORATION AMENDMENT BILL 2006

MIGRATION AMENDMENT (EMPLOYER SANCTIONS) BILL 2006

NATIONAL HEALTH AND MEDICAL RESEARCH COUNCIL AMENDMENT BILL 2006

SUPERANNUATION LEGISLATION AMENDMENT (TRUSTEE BOARD AND OTHER MEASURES) BILL 2006

First Reading

Senator MINCHIN (South Australia—Minister for Finance and Administration) (9.31 am)—I, and also at the request of the Minister for Communications, Information Technology and the Arts (Senator Coonan), the Minister for Immigration and Multicultural Affairs (Senator Vanstone) and the Minister for Ageing (Senator Santoro), move:

That the following bills be introduced: A Bill for an Act to amend the Australian Broadcasting Corporation Act 1983, and for related purposes; A Bill for an Act to impose sanctions on persons who are connected with work by unlawful non-citizens or work in breach of visa conditions, and for related purposes; A Bill for an Act to amend the National Health and Medical Research Council Act 1992, and for related purposes; and A Bill for an Act to amend the law relating to superannuation, and for related purposes.

Question agreed to.

Bills read a first time.

Second Reading

Senator MINCHIN (South Australia—Minister for Finance and Administration) (9.31 am)—I table the explanatory memoranda relating to the bills and move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

AUSTRALIAN BROADCASTING CORPORATION AMENDMENT BILL 2006

This bill amends the Australian Broadcasting Corporation Act 1983 (the ABC Act) to abolish the staff-elected director and deputy staff-elected director positions.

The position of a staff-elected Director is uncommon amongst Australian Government agency boards. The position at the ABC was introduced in 1975. It was abolished in 1978, reintroduced in 1983 and given legislative backing in 1985.

The position of a staff-elected Director is not consistent with modern principles of corporate governance and a tension relating to the position on the ABC Board has existed for many years.

This tension is manifested in the potential conflict that exists between the duties of the staff-elected Director under the Commonwealth Authorities and Companies Act 1997 to act in good faith in the best interests of the ABC, and the appointment of that Director as a representative of ABC staff and elected by them. The election method creates a risk that a staff-elected Director will be expected by the constituents who elect him or her to place the interests of staff ahead of the interests of the ABC where they are in conflict.

This matter was recognised in the June 2003 ‘Review of the Corporate Governance of Statutory Authorities and Office Holders’, otherwise known as the Uhrig Review, at pages 98 and 99. That Review concluded, “the Review does not support representational appointments to governing boards as representational appointments can fail...”
to produce independent and objective views. There is the potential for these appointments to be primarily concerned with the interests of those they represent, rather than the success of the entity they are responsible for governing.”

There is a clear legal requirement on the staff-elected Director that means he or she has the same rights and duties as the other Directors, which includes acting in the interests of the ABC as a whole. The Government is of the view that there should be no question about the constituency to which ABC Directors are accountable.

The bill resolves these tensions by abolishing the staff-elected Director position. This change will contribute to the efficient functioning of the ABC Board, is in line with modern corporate governance principles and will provide greater consistency in governance arrangements for Australian Government agencies.

The bill is intended to give effect to the abolition of the staff-elected Director position as close as possible to the expiry of the term of the current staff-elected Director.

Despite the abolition of the staff-elected Director position on the ABC Board, the Government expects the ABC Board and management to continue to take the interests of staff into account in its deliberations.

I commend this bill to the Senate.

———

MIGRATION AMENDMENT (EMPLOYER SANCTIONS) BILL 2006

The Migration Amendment (Employer Sanctions) Bill 2006 sets out a scheme of sanctions on employers and labour suppliers who knowingly or recklessly engage illegal workers.

The Government has long had concerns about those who seek to work illegally in Australia.

Our current estimate is that there are around 46,000 visa overstayers in Australia.

We believe that a substantial proportion of these people are working illegally to support their stay here.

In addition, a small proportion of the millions of other temporary entrants to Australia each year may work illegally during their stay.

The traditional approach to dealing with the problem of illegal workers in Australia continues to be quite successful.

This approach includes highly effective visa processing arrangements for overseas visitors, students and other temporary residents.

These arrangements prevent the majority of potential illegal workers from entering Australia in the first place.

In other words, unlike many other countries, we deal with most of the problem before it actually becomes a problem.

However no matter how good Australia’s visa arrangements are, there will still be some people who seek to take advantage of our desire to attract genuine visitors, students and other temporary residents.

This requires the Government to allocate significant resources towards locating and removing illegal workers and overstayers.

In the 2004 to 2005 program year there were over 18,000 non-citizens located either in breach of visa conditions or unlawfully in Australia.

Many of these people were also working illegally in Australia.

The Government believes that illegal work causes a number of problems for the Australian community.

First, it takes job opportunities away from Australian citizens and lawful migrants.

Second, the cost of detecting illegal workers is an unwelcome burden on the taxpayer.

Finally, in some cases illegal work is linked to organised crime, particularly in the sex industry.

The Government is particularly concerned about circumstances in which women may be trafficked into Australia to work illegally in conditions of servitude, forced labour or slavery.

Despite the recent success of our immigration compliance activities, the Government believes that the further statutory reforms contained in this bill are required.

The Government’s immigration compliance strategy has been designed on the basis of voluntary compliance.
The Government believes that there needs to be provision for imposing sanctions on the small number of employers and labour suppliers who deliberately engage or refer non-citizens without the right to work in Australia.

This bill introduces the required fault-based criminal offences.

The proposed offences will only apply where the employer or labour supplier knew the person was an illegal worker, or was reckless to that fact.

Framing the offences in this way ensures that they can be focused on the employers and labour suppliers of concern to the Government, without imposing any additional burden on business generally.

For example an employer will only be “reckless” if there was a “substantial risk” that the employee was an illegal worker.

Recklessness might be proved in a prosecution where a number of basic conditions are satisfied.

It would be easier to prove where the employer operates in an industry where there are relatively high proportions of illegal workers.

These include the construction, hospitality, cleaning, taxi and sex industries.

Another element that might go to proving recklessness is where the employer in question has previously been warned about employing illegal workers and has been given guidance on how to check work rights.

A further element could be that the job applicant says something that indicates they may not be entitled to work – for example that they are only visiting Australia.

The bill also deals with the various employment-like relationships that feature in illegal work in Australia.

The concept of “allowing” an illegal worker to work is broadly defined to capture work relationships that are commonly used in industries where illegal workers are found.

The Government is very concerned that those involved in illegal work in the sex industry should not be able to hide behind devices designed solely to distance themselves from their employees.

That is why this bill includes specific provisions for situations where “landlords” rent premises, intending those premises to be used to provide sexual services.

A feature of the bill is the much higher penalties for offences where aggravating circumstances are present, such as where the illegal worker is in a condition of sexual servitude, forced labour or slavery.

The trafficking of people, particularly women and children, to work under these conditions is a despicable crime.

The Government is determined to deal with anyone who knowingly participates in this kind of criminal activity.

This includes employers who may be willing to take advantage of the victims of sexual servitude, forced labour or slavery.

In summary, this bill deals with some very serious issues in Australian society, but does so with an eye to ensuring that only those employers and labour suppliers who are of genuine concern will be affected by the offences.

The bill is the product of a long period of consultation and development and deserves the support of all members of this Parliament.

I commend the bill to the chamber.

NATIONAL HEALTH AND MEDICAL RESEARCH COUNCIL AMENDMENT BILL 2006

Australia has a proud heritage in health and medical research. Australian health professionals, scientists and academics have helped to improve the quality of life of millions of people in Australia and throughout the world.

Since September 1936, the National Health and Medical Research Council (otherwise know as the NHMRC) has played a pivotal role in funding and supporting health and medical research in Australia. The NHMRC’s role, responsibilities and functions were eventually enacted through legislation in 1992.

In 1999, the Government undertook to increase annual funding for health and medical research through the NHMRC from $165 million in 1998-99 to more than $350 million in 2004-05. Further,
the Minister for Health and Ageing announced on 21 March 2006 that the Australian Government will provide a further $9.8 million for health research into chronic diseases, Indigenous Health and the recovery process of older Australians who have been hospitalised. This brings the Federal Government’s investment in health and medical research through the NHMRC to more that $490 million this year, more than double the 1999 figure.

The Council has provided high quality advice on medical research, health ethics and health. A number of recent reviews have, however, identified governance concerns. These are:

- the Governance of the National Health and Medical Research Council report published by the Australian National Audit Office in February 2004; and

In response, this bill improves the NHMRC’s corporate governance, including reporting and accountability frameworks, congruent with the principles of good governance as adopted by the Australian Government in 2003 following the Review of Corporate Governance of Statutory Authorities and Office Holders by Mr John Uhrig, AC.

It is proposed that, from 1 July 2006, the NHMRC be established as a statutory agency for the purposes of the Public Service Act 1999 and as a prescribed agency under the Financial Management and Accountability Act 1997.

The new agency will remain within the Health and Ageing Portfolio, with reporting and accountability frameworks that clearly separate the NHMRC roles and functions from those of the Department of Health and Ageing. The bill’s provisions strengthen the NHMRC’s independence, promote clear lines of responsibility for governance and financial accountability and allow the Council to focus on issues relating to medical and biological research and advice.

Previously, the NHMRC’s Chief Executive Officer has had a cumbersome accountability framework with three concurrent lines of reporting, including:

- the Minister for Health and Ageing
- the Secretary of the Department of Health and Ageing and
- the Council itself.

Under this bill, the Chief Executive Officer will report directly to the Minister for Health and Ageing, while keeping the Secretary of the Department of Health and Ageing informed on a ‘no surprises’ basis. These changes will provide the NHMRC with clearer delineation of responsibility and accountability in management, advice and strategic development. The NHMRC will retain its name and will include the CEO, staff, Council, Principal Committees and working committees.

Whilst the accountability and reporting structure has been streamlined, the roles and functions of the Council, the Principal Committees and working committees have not been altered. The Council will continue to provide independent expert advice and inquire into medical research and health related issues, including issuing guidelines and advising the Government and community on matters relating to:

- the improvement of health;
- the prevention, diagnosis and treatment of disease;
- the provision of health care;
- public health research and medical research; and
- ethical issues relating to health.

The proposed legislation prescribes that membership of the Council consist of 19 members, with provision for additional expert members as required from time to time. Whilst this represents a reduction from the current 29 Council members, requirements for appointments, including qualifications and experience, remain largely unaltered. This will enable the Council to be more effective whilst retaining its high level of expertise.

The administrative requirements for appointment processes have also been streamlined. Whereas, previously it has taken up to 8 months to com-
plete some appointments, more effective consultation and administrative processes will help to ensure appointments can be made in an efficient and timely manner. The term for Council membership will continue to be 3 years.

The new agency will be financially autonomous, with direct appropriations, and the CEO will be responsible and accountable for the financial and day-to-day operations of the agency. As the biotechnology, health and medical industries in Australia continue to strengthen and grow, the provisions included in this bill will enable the NHMRC to:

- be more responsive to emerging health priorities and issues;
- explore innovative collaborations and industry joint ventures; and
- provide greater transparency and accountability in its operations.

The Research Committee will continue to recommend funding for research proposals and monitor the use of research funding. The Research Committee, as with all Principal Committees of the agency will report to the CEO on operational and financial matters, but will report to Council on technical matters concerning health and medical research.

The bill will not affect the level of funding the Government has allocated for health and medical research, but provides for a more effective, efficient, accountable and responsive agency. These changes will see the NHMRC better placed to operate as a leader in Australia’s internationally recognised health and medical research sector.

SUPERANNUATION LEGISLATION AMENDMENT (TRUSTEE BOARD AND OTHER MEASURES) BILL 2006

The Superannuation Legislation Amendment (Trustee Board and Other Measures) Bill 2006 will consolidate and revise the governance arrangements for the Commonwealth Superannuation Scheme (the CSS), the Public Sector Superannuation Scheme (the PSS) and the Public Sector Superannuation Accumulation Plan (the PSSAP) with effect from 1 July 2006. To make these changes the bill will amend the Superannuation Act 1976, the Superannuation Act 1990, the Superannuation Act 2005 and the Superannuation Legislation Amendment (Superannuation Safety and Other Measures) Act 2006.

The consolidation of the governance arrangements for the Australian Government’s civilian employees’ superannuation schemes under a single Board is being undertaken consistent with the governance principles of the Review of the Corporate Governance of Statutory Authorities and Office Holders, which is known as the Uhrig Report.

Following the release of the Uhrig Report, an assessment in relation to the CSS Board, which is the trustee of the CSS Fund and responsible for the administration of the CSS, and the PSS Board, which is the trustee for the PSS and the PSSAP and the administration of those schemes, recommended changes to those governance arrangements.

The assessment recommended that the membership of the PSS Board be increased from 5 to 7, which is consistent with the Uhrig Report’s best practice principles that boards have from 6 to 9 members. The assessment also recommended that consideration be given to the establishment of a single Board for the CSS, the PSS and the PSSAP.

The bill therefore transfers the powers and functions of the CSS Board to the PSS Board, which is renamed as the Australian Reward Investment Alliance, and abolishes the CSS Board. The Australian Reward Investment Alliance is to comprise 7 members, giving it the same membership as the CSS Board and two more than the current PSS Board. This reflects the recommendations of the Uhrig assessment and the Board’s broadened role as the trustee of three superannuation schemes.

As a transitional measure, the 2 members of the CSS Board who are not members of the PSS Board will fill the 2 additional positions on the Australian Reward Investment Alliance. The bill includes consequential and transitional provisions to ensure that any references to the CSS Board and the PSS Board in any Act, delegated legislation or relevant documents, for example insurance contracts, can be read as referring to the Australian Reward Investment Alliance. The seamless
transfer of the assets and liabilities of the CSS Board to the Australian Reward Investment Alliance is also provided for in the bill.

The consolidation of the governance arrangements for the CSS, the PSS and the PSSAP under one Board will provide significant opportunities for efficiencies in the management of the CSS, the PSS and the PSSAP.

It will also offer an opportunity for the Board to adopt one investment mechanism for the ongoing management and investment of the three funds, which would assist in its management of the CSS. This is particularly significant for the CSS because it is a closed scheme with a decreasing contribution base where net benefit payments exceed contributions received.

The bill will modify the application of the Income Tax Assessment Act 1997 to provide for the effective deferral of any capital gains tax liability that would otherwise result from the pooling of assets of the CSS Fund with those of the PSS and the PSSAP Funds already pooled in the PSS Investments Trust. The provision of the capital gains tax rollover reflects the essentially involuntary nature of the transaction.

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.

SNOWY HYDRO LIMITED

Senator MINCHIN (South Australia—Minister for Finance and Administration) (9.33 am)—I move:

That, for the purposes of subsection 7(3) of the Snowy Hydro Corporatisation Act 1997, the Senate approves the transfer or disposal of the Commonwealth shares in the Snowy Hydro Company (incorporated under the name Snowy Hydro Limited) that will occur as a result of the Commonwealth participating in the Initial Public Offer process announced by the New South Wales Government on 16 December 2005.

As senators are aware, Snowy Hydro Ltd is the company that owns and operates the Snowy Mountains Scheme. The New South Wales government owns the majority of the company with a 58 per cent stake, the Victorian government owns 29 per cent, and the Australian government has the residual 13 per cent stake in that company.

On 16 December last year, the New South Wales Premier announced that the New South Wales government would sell its majority stake in Snowy Hydro and that the public would be given the chance to invest in the Snowy Mountains Scheme through an initial public offer on the Australian Stock Exchange. On 7 February this year, following careful consideration by our government of the implications of the New South Wales decision, the Minister for Industry, Tourism and Resources and I, as the ministerial shareholders for the Commonwealth stake, announced the Australian government’s intention to join the New South Wales government in offering its minority stake in Snowy Hydro to the market. The Victorian government has since announced that it too will participate and sell all its shares in the company.

Section 7 of the Snowy Hydro Corporatisation Act 1997 provides for the Commonwealth to dispose of or deal with its shares in Snowy Hydro. Where this reduces the Commonwealth’s shareholding in the company below the 13 per cent initially issued to the Commonwealth at corporatisation in 2002, the section requires the approval of the parliament to be obtained. The IPO process announced and led by the New South Wales government is expected to be completed by the end of June 2006. Accordingly, motions seeking resolutions in favour of the transfer or disposal of the entire Commonwealth holding have been tabled in each house at the earliest practical opportunity.

The sale of the Commonwealth’s minority shareholding is, in our view, in the interests
of Australian taxpayers and consistent with our government’s strong support for the privatisation of government owned electricity generators and increased competition in the national electricity market. Under our government, electricity generation capacity has increased by 10 per cent, and all the eastern states are now interconnected. In addition, average retail electricity prices fell by 14.6 per cent in real terms between 1994-95 and 2003-04 and continue to be the second lowest in the developed world.

Energy reforms, including the sale of government owned electricity companies, have contributed to maintaining and improving the competitiveness of Australian industry as a whole. Independent analysis has found that the reforms have contributed $1.5 billion per annum to the Australian economy. So the floating of Snowy Hydro as an electricity company will give this company the opportunity to grow its energy business and raise capital in the future unconstrained by government ownership. Among other things, this completes the reform of Snowy Hydro governance started by the corporatisation of the company in 2002, in which all governments participated, and provides the best opportunity for Snowy Hydro to optimise the operational benefits of the Snowy scheme’s unique assets and maintain its competitive edge in the electricity market in the decades ahead. The sale also reinforces the separation of regulation and ownership and removes the potential conflict of interest from the New South Wales government currently owning energy companies that compete with and are customers of Snowy Hydro.

Importantly, the sale of the company will not change in any way the strict and rigorous rules underpinned by intergovernmental agreements which secure the water of the Snowy catchment for downstream use by irrigators and also for the environment. The strict regulatory framework was entered into by governments as part of the corporatisation of the scheme in 2002 on the basis that it would continue to apply in full irrespective of who owned the shares in the Snowy Hydro Ltd company. While Snowy Hydro owns the physical assets such as power stations and dams that comprise the scheme, it does not own the water it collects and releases from the scheme. The Snowy water licence administered by the New South Wales government in accordance with its contractual obligations with other governments gives the company the right to collect, divert, store and release water. In return for those rights the Snowy water licence imposes on Snowy Hydro the obligation to release specified volumes of water into each of the Murray and Murrumbidgee rivers every year for the next 72 years. The licence also requires Snowy Hydro to make the environmental releases for the Snowy, Murray and other rivers agreed to by the Australian, New South Wales and Victorian governments in relation to the corporatisation of the scheme in 2002.

I do want to emphasise that except for the releases designated under the regulatory regime for the Snowy River below Jindabyne, and subject to evaporation and similar unavoidable losses, all the water collected by the Snowy scheme is ultimately released into the Murray and Murrumbidgee systems after most of it has been employed to generate clean and renewable energy. The Australian government has explicitly acknowledged the importance of clarity with respect to arrangements for the timing of water releases made from the Snowy scheme into the Murray-Darling Basin Commission storages used to regulate river flows for irrigation and for the environment. In this respect I understand that Snowy Hydro and the commission are developing a data exchange agreement and are actively working towards improving other mechanisms related to the sharing of
information that will assist in the efficient operation of the storages.

The government anticipates that buyers of Snowy Hydro shares will include Australian superannuation investment funds, individual Australian mum and dad investors and, I think very importantly, Snowy Hydro’s current and many past employees who can now have a stake in this company. The floating and subsequent trading of Snowy Hydro shares will, as is the case with any other Australian companies, be subject to regulatory oversight by the Australian Securities and Investments Commission, the Australian Competition and Consumer Commission and the Foreign Investment Review Board. With the exception of superannuation, the sale of Snowy Hydro is not expected to change the employment arrangements for staff. The company will of course remain focused on the Snowy Mountains and Cooma and it is required to keep its head office in Cooma and that is where its core business assets and employee base are located.

In relation to superannuation arrangements, staff would cease to be eligible to contribute to the Commonwealth superannuation schemes consistent with the longstanding government policy that predates our government, that when a government body is privatised contributory membership of these schemes will cease. Members of the schemes are entitled to the benefits provided by the schemes in this situation and I understand that the company is well advanced in making available suitable replacement arrangements for employee superannuation.

As I said, the New South Wales government is leading the joint sale process as the majority shareholder. As the minister responsible for the sale for the Commonwealth I am pleased to report a very high level of cooperation among the Australian, Victorian and New South Wales governments in this process. I should also mention the very strong interest by the member for Eden-Monaro, Mr Gary Nairn, in ensuring access to the lakes that comprise the scheme for both boating and fishing, and we have been working with the member for Eden-Monaro to ensure that that remains the case. We have sought legal advice on that matter to ensure that the public can continue to have access to these significant water bodies and at this stage we are confident that that access is assured.

In conclusion, selling Snowy Hydro through this initial public offering, a process instigated by the New South Wales government but which the Victorian and Commonwealth governments have joined, will allow the company to reach its full potential as a responsible provider of clean energy and water flows for both irrigation and the environment. I commend this motion to the Senate.

Senator SHERRY (Tasmania) (9.42 am)—As the minister has indicated, we are discussing the sale of the majority shareholding in Snowy Hydro Ltd. The New South Wales government announced on 16 December 2005 its decision to sell its majority shareholding in Snowy Hydro Ltd through an initial public offering known as an IPO. Following that decision Victoria has also announced that it will participate in the IPO and on 7 February this year the Australian government announced its intention to divest its minority share in the company. New South Wales is the majority shareholder with a 58 per cent stake, Victoria has a 29 per cent shareholding, and the Commonwealth owns some 13 per cent. It does require parliamentary approval. The Snowy Hydro Corporatisation Act 1997 requires the approval of parliament for the divestment of the Commonwealth’s shareholding, hence the motion we are dealing with today. Motions are being moved—and I am not sure where the process is at in the House of Representatives—
Senator Minchin—Tomorrow.

Senator SHERRY—Thanks, Minister. Motions are required to that effect in both the Senate and the House of Representatives. The share allocation among New South Wales, Victoria and the Commonwealth was agreed to in 1997 prior to the corporatisation of the Snowy in 2002. In the corporatisation principles agreed by the three governments the allocation was based on the entitlement of each government to electricity generated by the Snowy Mountains Scheme—and the electricity entitlements were set by the three governments back in 1957.

The government has viewed the sale of its minority shareholding as being in the interests of Australian taxpayers and consistent with its theme of privatisation of government owned electricity generators and increased competition in the national electricity market. There are some significant issues about future capital raising and investment and it will give the company some greater opportunities to do that in some vital areas of maintenance and an upgrade program required in respect of equipment and infrastructure over the next decades. The Snowy scheme is capital and technology intensive and some of the plant and equipment is very old—up to 40 years old—and in order to continue to provide a reliable source of water for electricity and environmental concerns in the decades ahead it is necessary for that upgrading to occur.

As a consequence of the upgrading program, there will be an increase in employment directly and indirectly through the use of local specialist contractors. Snowy Hydro will have access to funds it needs, over and above debt and internal cash flow, to pay for that maintenance and upgrading as well as continuing to expand its activities.

Electricity generation capacity has increased by some 10 per cent in eastern states and is now interconnected. Average retail electricity prices fell in real terms between 1994-95 and 2003-04 by some 14.6 per cent.

The issue of water is an important aspect to this. The proposed privatisation of Snowy Hydro will not affect water releases or water rights of downstream users in New South Wales, Victoria or South Australia. At the time of corporatisation of Snowy Hydro in 2002, a number of agreements were implemented which regulate and secure water flows. The agreements are legally binding and very detailed and were developed after significant consultation with stakeholders, state water authorities and the Murray-Darling Basin Commission. The regulatory framework that was entered into by governments as part of the corporatisation will continue irrespective of the shareholdings of Snowy Hydro Ltd.

While Snowy Hydro owns the physical assets, such as the power stations and the dams, it does not own the water it collects and releases from the scheme. There is a Snowy water licence administered by the New South Wales government, in accordance with contractual obligations, which gives the company a right to collect, divert, store and release waters. In return for these rights, the Snowy water licence imposes on Snowy Hydro the obligation to release specific volumes of water into each of the Murray and Murrumbidgee rivers every year for the next 72 years. The licence also requires Snowy Hydro to make the environmental releases for the Snowy, Murray and other rivers agreed to by the New South Wales and Victorian governments in the Snowy Water Inquiry outcomes implementation deed for the corporatisation of the scheme in 2002.

It has been explicitly acknowledged that clarification is important to irrigators in respect of arrangements for the timing of water releases made from the Snowy scheme into
the Murray-Darling Basin Commission storages and in respect of appropriate mechanisms for irrigators and the Murray-Darling Basin Commission. Snowy Hydro and the commission are currently in discussions regarding release and timing issues.

The matters that I have been referring to are being pursued by the government with other shareholders, governments and Snowy Hydro having regard to the needs of irrigators and the scheme as a peak electricity generator. It is not always easy to balance. There are the needs of irrigators. There is the need to ensure the efficient generation of electricity. There is also the need to ensure that there are adequate flows of water into the river systems to ensure protection of the environment.

On behalf of the Labor opposition, I will be moving an amendment to the motion moved by Senator Minchin. It has been circulated in the chamber. The government has made a number of claims in respect of employment, maintenance and upgrade, issues relating to water release, obligations for irrigators and environmental flow obligations. They are all very important issues, and the Labor Party generally accept the claims. We believe, however, given the importance of Snowy in the areas that have been indicated, that there should be a report back to the Senate or to the parliament after five years. After the passage of this resolution, there should be a benchmarking exercise against the claims made—they are not claims made just by the federal government; they are also made by the New South Wales and Victorian governments—and a report back to the Senate in respect of the issues that are laid out in the Labor amendment. We think that is a reasonable approach.

There should not be the view that, because the company has been sold off, the responsibilities end for governments. This is an important public asset and there are very important issues involved in respect of the flow of waters for irrigators, electricity and the environment. They are very important issues, and the parliament should not forget about those issues just because it is sold off. That should not be the approach. There should be a report back to the parliament, there should be some monitoring and there should be some benchmarking of the claims that are being made.

The minister was correct to point out and emphasise that the Commonwealth owns 13 per cent. The Commonwealth is not anywhere near a majority shareholder. We can anticipate that a significant proportion, probably the majority of the proportion of the shares that are released to the market, will be taken up by Australian superannuation funds. So, in one sense, whilst not directly owned by government, the ownership will be very significantly spread across the Australian populace by the superannuation funds—superannuation being compulsory—and effectively owned by the people of Australia.

There is one issue I would like the minister to respond to. I understand that there are confidentiality issues, but perhaps he could give us a possible range for the sale price of the Commonwealth’s 13 per cent. It would be useful to have some sort of ballpark figure. I do not want to know what the precise figure is—I do not think he can give that—but a ballpark figure would be useful.

I now want to turn very briefly to the Democrats’ amendment. The Labor Party will not be supporting the amendment. The amendment proposes that all of the sale proceeds should be used to ensure that 28 per cent of the Snowy’s original flows are in the river by 2010. We do not believe that we should lock in all of the proceeds from the sale in terms of environmental flows. There
are a range of issues and good uses to which the moneys from the sale can be put, particularly infrastructure investments across a whole range of areas. We do not believe that the sale proceeds, whatever they may be—and that is one of the reasons why I have asked the minister to give us some sort of indication of the figure—should be hypothecated directly to the issue of the flows in the river by 2010. It would certainly be appropriate to use some of those moneys for that, but there may be other very good uses, from the Commonwealth’s point of view, to which the sale proceeds may be put. So the Labor Party will not be supporting the amendment to be moved by Senator Allison.

On behalf of the Australian Labor Party, I move:

At the end of the motion, add:

“(2) To ensure that Government claims about privatisation are met, the Senate:

(a) notes the Government’s claims that:

(i) local employment will increase through the use of local specialist contractors,

(ii) the privatisation will lead to an innovative maintenance and upgrade program for the Snowy Scheme’s equipment and infrastructure and give the company the opportunity to grow its energy business and raise capital in the future,

(iii) the privatisation will not affect water releases or water rights of downstream users in NSW, Victoria, or South Australia,

(iv) Snowy Hydro meets its obligation to release specified volumes of water into each of the Murray and the Murrumbidgee Rivers every year for the next 72 years, and

(v) Snowy Hydro meets the environmental flows for the Snowy, Murray and other rivers agreed by the Australian, NSW and Victorian Governments in the Snowy Water Inquiry Outcomes Implementation Deed for the corporatisation of the Scheme in 2002; and

(b) requires that:

(i) the performance and outcome of the share transfer and disposal are reported to the Senate at the expiration of 5 years after the passage of this resolution, and

(ii) the proceeds from sale be applied to infrastructure to build productive capacity in the Australian community.”

Senator ALLISON (Victoria—Leader of the Australian Democrats) (9.55 am)—The Democrats do not support this motion from the government to approve the divestment of the Commonwealth’s 13 per cent share in the Snowy Hydro company. We are not opposed to privatisation per se. We make our judgments on every proposal for privatisation on its merits. We also challenge the government’s arguments for this divestment. The government usually trots out the same old argument that the corporation cannot invest. I think that is ironic, given that the Snowy Mountains scheme is there because of massive public investment many decades ago. And I doubt very much that the private sector would have been even remotely interested in making investments at that time or even now. That it was such a major undertaking is the reason it is public, not because of some other strange quirk of decision making.

The other argument by the government is that governments cannot regulate and provide services. Again, there is no proof of that. That is the same argument, of course, that is used for Telstra. Leaving that aside, we believe that, as a bare minimum, state and Commonwealth governments should retain their shareholdings until at least 28 per cent of the river’s original pre-dam flows are restored, environmental damage to the Snowy River habitat has been addressed,
environmental protections are in place and significant amounts of water have been returned to the Murray. That is our main reason for opposing what we are facing today.

The Snowy hydro scheme had a profound impact on the health of the Murray and Snowy rivers, damming 2,300 gigalitres of water to be used for irrigation and generating hydroelectricity. Undoubtedly, these developments have helped to generate the material prosperity that we all share today. But they have also racked up an enormous ecological debt. The Australian Conservation Foundation report that, throughout its length, the diversity of the Snowy River’s habitat has been all but destroyed through the deposition of silts and sand, resulting in drastically reduced fish populations, a dramatic reduction in macroinvertebrate diversity, altered river bank vegetation and weed invasion.

At Orbost in Victoria the lack of flows has also meant that seawater now intrudes many kilometres upstream from the Snowy’s mouth, impacting on local land-holders and dramatically changing the ecology of the river. The Democrats are concerned that, fully privatised, there will be little incentive to restore the river system and protect the surrounding environment. In December last year, a spokesperson from the Victorian government told the Australian Financial Review that the state was not in a position to consider selling its holding, because it was not satisfied that there was sufficient environmental protection in place. I do not know what has happened in the last three months, but now it has agreed to sell its shares. I have to say that I am not confident that we have seen measures that should satisfy Victoria or us in that process.

We also note that the New South Wales and Victorian state governments have committed to increasing environmental flows to 21 per cent of the river’s original pre-dam flows by 2012, and to eventually increase that to 28 per cent. That is the point at which we should divest this investment, if at all. Presumably, these governments were once using profits from the Snowy hydro scheme to fund that promise but, once sold, we can see little evidence that they will find the money from elsewhere to ensure that that commitment is delivered upon. It does not make any sense to us to do it this way.

The Democrats believe that if the divestment of Commonwealth government shares in Snowy Hydro is to proceed, as obviously it will because the government has the numbers—unless Senator Heffernan decides to cross the floor; that would be interesting—the proceeds should be used to secure the recovery of the Murray and Snowy rivers for the benefit of the environment and the communities that rely on them. We say that is only fair.

While we oppose the divesting of government shares, we will move an amendment to the government’s motion to ensure the money is put towards repairing the Snowy and Murray rivers. That amendment states that the funds appropriated from the divestment of Commonwealth shareholding in the Snowy River Hydro company will be used to ensure that 28 per cent of the Snowy’s original flows are in the river by 2010, fulfil the existing commitment to establish the Snowy River scientific committee and the remainder directed into the Living Murray initiative as additional expenditure already committed to the scheme. We think that is far preferable to the revenue from this sale simply going into consolidated revenue or being used as a war chest by the government for the next election, which is probably more likely. I say to Senator Sherry that he needs to know that the Living Murray initiative is about infrastructure, so if he wants the money to be used on infrastructure, as the ALP amendment indi-
cates, then it would happen if they supported our amendment.

As mentioned previously, the New South Wales and Victorian governments have committed 21 per cent of the river’s original pre-dam flows by 2012 and will eventually increase this to 28 per cent. Again, we have seen no time line for that, so we do not know when this is going to take place. It could be next century for all we know, and there is very little by way of confidence, I think, out there that this is going to be achieved. According to the World Wide Fund for Nature, existing commitments will leave the river system flowing at just above a fifth of its original flow, and given the recent—quiet, I might say—recommissioning of the Mowamba aqueduct, it appears that even that relative trickle is not a certainty. So much more needs to be done.

The Snowy is the first link in the Murray chain and, if governments are not willing to enforce appropriate limits on environmental extractions at the top of the river system, the whole Murray planning regime becomes little more than an exercise in managing decline. Therefore we believe the proportion of money from the sale of federal government shares should be used to fast-track water recovery to return to 28 per cent of pre-Snowy scheme flows, and a time line is also necessary. We think that 2010 is not only feasible but absolutely necessary.

While the government has already budgeted $2 billion over four years to the Living Murray initiative, which aims to return an annual average of 500 gigalitres of water to the River Murray by 2009, there is no doubt in our minds that this is not enough. Five hundred gigalitres is only one-third of the amount that water scientists say is the minimum required to return the Murray to health, and reports suggest that to date the commitment has not yet translated into any real additional water coming down the Murray.

On top of that, scientists predict that climate change will cause a decrease of 16 to 35 per cent of water flows into the rivers of the Murray-Darling Basin by 2050 with a most probable 1,100 gigalitre reduction of inflow into the River Murray by 2023. That reduction would wipe out twice over the intergovernmental target increase, and it will not hang around until 2050 for that to happen or even 2023. It will be a gradual decline in inflows. Clearly, more needs to be done and we argue that a significant portion of the sale proceeds should be used as additional funding to that already committed by the government to return more water to the river.

Finally, the Democrats are concerned that the promise of a Snowy scientific committee has not been fulfilled. There is still no sign of that promised initiative. Basic scientific monitoring of river health to deliver required flows is essential for proper checks and balances, and the government should urgently fulfill that promise. If the government insists on divesting public shares in the hydro scheme, at the very least it should ensure that the money is used to benefit communities who are suffering as a result of environmental degradation and water losses, as any responsible government would do.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.04 am)—There was movement at the station for the word had passed around that Beijing and Tokyo and Chicago and Paris were on their way, and they have got more than a thousand pounds in their pockets. What is afoot here is the sale of effectively the environmental amenity and the water that flows onto the Snowy Mountains of Australia to any interest in the world that sees it as profitable and wants to invest in it. Let us make no bones about this: this is another example of this
government, which uses all the iconic assemblages of Australia to promote its interests, selling out on an Australian resource, taking it out of the hands of the people and putting it into the market at the big end of town not only ably supported by but at the instigation of the Labor Party.

The shareholding that the Commonwealth is about to divest from the public to the corporate sector is the lesser of the three shareholdings—the other two being those of the Labor government in New South Wales and the Labor government in Victoria—selling out the public interest. The Minister for Finance and Administration, Senator Minchin, said a while ago here that this will give the public a chance to invest in the Snowy scheme. That is from the very blighted and blinkered narrow view that all the world is about investment and money. What this is doing is taking the public interest and selling it into the city. It is taking the public interest, which is our responsibility in the parliament to represent in this democratic system, and giving it to the big end of town.

It is of course a fact that the Snowy Mountains scheme is one of the most profitable power generators in Australia, with a 19.8 per cent return on the investment, according to the last figures available. That is a roaring big profit. That is money which comes to those Labor governments, as well as to this coalition government, that the public will no longer get after the sale. That is money which will go into the pockets of big investors. The bigger they are, the more able they will be to decide whether or not this is a profitable investment for them.

Senator Allison just put another figure into the mix—that is, the potential for a 30 per cent loss of flow off the Snowy Mountains in the next 40 years or so due to global warming, due to the inaction of the Howard government. That is when the current infants of Australia will be in the prime of their life. What will that mean? Let us just stop and have a think about that at the moment, instead of holding it in complete ignorance, as this government did. By the way, I would recommend that the Prime Minister and his several ministers, including the Minister for Finance and Administration, look at the current edition of Time magazine. It is not their first edition devoted to global warming but it underscores the ratcheting up of the global horror coming our way from this human-made destruction of the environment and our future economic potential as a global community.

The minister is not even listening to this, because governments do not want to know about it. What they do want to do is to continue to turn the natural amenity of our nation and the whole world into a money-making machine for a short-term materialist viewpoint which has no sustenance. It will not be sustainable into the future. What we can do from our position is to highlight the global brains trust which is warning about this, with the intention that at some stage it may get through to the populace of Australia that to keep voting for Labor and the Liberals is to keep voting for the environmental disaster unfolding in front of us. That is writ large in this debate this morning.

A motion has been moved. That is all there is. It is a motion to be passed by the weight of numbers now that the Howard executive has control of the Senate as well as the House of Representatives. As ever, it is ably supported by the Labor Party, which deprives the Australian people of their right to have a say in this. There are irrigation interests. There are cities and towns along these great river systems. There is the urban interest. There is an enormous environmental interest. We have to represent the voteless millions who will live in these catchments in the years ahead, because we do not share the
government’s blinkered view that all that matters is the next three years.

It is very important to recognise that the public is being defrauded of its opportunity to have a say and to increase the intelligence upon which a debate like this is based within the parliament simply because the government says: ‘We’ll put it through by motion. We won’t legislate this important matter. In the process, we’ll deny the people of Australia and particularly the people in the Murray-Darling Basin and the Snowy catchment their opportunity to come and say to the parliament: “This is our viewpoint.”’ The minister says, ‘Well, the public will be able to invest in this.’ One thing the minister is about here this morning is insisting that the public have no say in it.

On behalf of the Greens, I will be supporting the Democrats’ amendment to have the short-term gain the government will get from this invested in the environmental amenity of the rivers into the future. But how much more important it is that we give the public an opportunity to have a say on this non-urgent motion. That is why I will be moving that there be a reference of this imminent sale, before it happens, to the Senate Rural and Regional Affairs and Transport References Committee.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—You should foreshadow that motion, Senator Brown, because we already have a motion before the chair.

Senator BOB BROWN—Thank you. I will do that. I foreshadow that I will be moving that the proposed divestment of the Commonwealth’s shareholding in Snowy Hydro Ltd be referred to the Senate Rural and Regional Affairs and Transport References Committee for inquiry and report by 30 June 2006. We will have a vote a little further down the line in which I expect the Labor Party will join the government in vot-
Senator Minchin may stare at the desk, but the fact is that he and the government are responsible for not responding adequately to this absolute disaster, which is going to get worse. One of the big reasons it will get worse is because of global warming, and prodigiously out in front—the villains—in creating global warming are the Howard government and this minister.

The Australian Conservation Foundation says that scientific studies and surveys of the internationally acclaimed area—it is not protected—of the Coorong show that pelicans have not bred for almost four years. The Coorong was Australia’s largest permanent breeding colony. Brine shrimp, never before recorded in the Coorong, are now as thick as soup. They need salty water. Fresh water is being replaced as the sea comes in and the natural fresh water flow diminishes. Salinity levels are three times that of sea water—it is moving towards becoming a Dead Sea type of environment. Twelve species of native fish are locally extinct. I am looking forward to Senator Minchin commenting on each of these points.

The number of migratory wader birds has dropped from an already depleted 150,000 in the 1980s to 50,000. The curlew sandpiper has dropped in numbers from 40,000 to 2,000. Ninety-five per cent of them are gone, with five per cent hanging on. Local extinction, at least, hangs over their head, with global extinction not much further down the line.

A healthy Murray River is vital for a number of reasons, including the following: the now constant threat of closure of the Murray mouth; the rising trend in salt levels in the Murray in South Australia, meaning that within 20 years Adelaide’s drinking water supplies will exceed the World Health Organisation’s salinity standards for drinking water every two days in five on average—that is the projected outcome for Adelaide; gravely threatened red gum woodlands across the southern Murray-Darling, and we know the figures there—70 per cent of them are dead or dying; declining populations and diversity of native fish and water birds; and threats to the economic value of tourism and recreation in the Murray.

It does not say this on this sheet, but let me add that unless this is addressed there will also be a broken heart—again—for the Indigenous people, who were the custodians of this great river system through enormous changes in climate over eons and who have effectively been cut out from having a say about the management of their river as we move more and more to leaving it to the market and to people sitting in velvet lined boardrooms somewhere else on the planet.

The ACF have a footnote here which says that a recent shocking report indicates that the percentage of stressed and dying red gums along 1,000 kilometres of the Murray has increased from 51 per cent to 75 per cent over the last 18 months—that is up to the end of last year—which is an increase of nearly 50 per cent.

The point to be made here is that this motion will place the future of that ecosystem in the hands of the careless market, which is not concerned about the environment except to see it as a threat to its profitability. This is the Labor Party joining the coalition to effectively straitjacket future action on behalf of the public interest to try to restore the Murray, which is facing, as Senator Allison said, a further 30 per cent decline due to global warming on top of this disaster.

The question to Senator Minchin—who used the word "environment" once in his speech—is: where is the action plan for this now disastrous situation? When is this government going to get off its bum and do something about this disastrous situation?
When is it going to remove the blinkers? It is not going to do that. Moreover, it is going to pass to its friends in big business the plum of the Snowy hydro scheme, this most profitable of energy making public ventures; this great scheme of the Menzies government. At the same time, it is going to remove the ability of the public to—through governments in Sydney, Melbourne and here in Canberra—properly and adequately address the national environmental disgrace of the Murray system. Add to that the Snowy system, with its 28 per cent flow. This problem will forever be unable to be addressed further after this motion goes through this Senate this morning. Sobering, isn’t it?

‘Please don’t look at it’, however, say the government and the Labor Party. ‘Certainly let’s not have a Senate committee so that there can be public input about it. Let’s not have the Australian Conservation Foundation brought before a committee. Let’s not have the environmental brains trust of this nation brought before a committee. Let’s not even have the interests of the city of Adelaide brought before this committee, let alone the people living in Orbost or on the floodplain of the Snowy.’ I have read that the floodplain has been elevated by two metres simply because the outwash from the Snowy has been reduced so dramatically by this Snowy Mountains Scheme. It is the watershed of this Australian icon. It should be part of the Australian people’s destiny, but it is now being sold to unknown people, careless people, people who have never been there. They will be investing from somewhere else in this country and, much more likely in this globalising economy, from somewhere else in North America, Europe or Asia. That is what we are dealing with here today. That is what the Greens have foreshadowed to open debate on this. That is what Labor will support the government in shutting down, as it turns its back on an environmental disaster that ought to be one of this government’s prime responsibilities.

Senator STEPHENS (New South Wales) (10.23 am)—I want to speak very briefly to this motion and I particularly want to support the amendment moved by Senator Sherry. We know that this is a fairly critical and emotional issue for many people. The Snowy hydro scheme is something that is held in Australian folklore as one of the most abiding symbols of nation building in Australia. It is part of our national psyche. I am sure that many people in the chamber can actually remember the ABC series last year about the whole development of the Snowy Mountains Scheme.

This is an important decision that the federal government is making here and one that we on this side of politics have agreed to support. But we want to ensure that the social, economic and environmental issues around this decision are considered very carefully. If you look at the work that went into the Snowy hydro scheme—the 100,000 workers who toiled for 25 years, basically, to construct it all—you would see just how important this scheme is in terms of our national infrastructure. But the process of sale and the process of corporatisation of the Snowy hydro system are complete and, now, the idea of moving to privatisation is part of that process, and will enable good governance and greater transparency in all that is going on for the national power industry as well.

I want to carefully remind people of the argument that we hear so many times from the government and from others, but definitively from the government—that is, that you do not actually have to own something to regulate it. That is an argument that is put here consistently in debates about assets and enterprises, and it is an important argument to understand. The corporatisation of the
Snowy hydro scheme means that it is a private company that is currently controlled by three governments. That is proving to be quite a complex management process that is, in effect, detrimental, I suppose, to the environmental concerns that have been raised in the chamber today.

We are concerned about the use of local specialised contractors. We are concerned about ensuring that local employment will increase. I know that there are concerns in the communities around the Snowy that there would be job losses. However, in moving the amendment which is in Senator Sherry’s name, we are conscious of the importance of maintaining local employment. It will provide some opportunities for maintaining and upgrading the program for the Snowy scheme’s equipment and infrastructure and will allow some investment in critical infrastructure, which will help the environmental situation and guarantee that the environmental commitments of the Snowy scheme are met.

Senator MINCHIN (South Australia—Minister for Finance and Administration) (10.27 am)—I will respond, by way of reply, to comments on the motion and to the amendments. I refer firstly to the amendment moved by Senator Sherry. We find acceptable almost all of the amendment except for (2)(b)(i), which seeks to require that the proceeds from sale be applied to infrastructure to build productive capacity in the Australian community. On the basis that that clause remains in the amendment, we cannot accept the amendment moved by Senator Sherry. It is the government’s very clear view that governments, of whatever persuasion, should not hypothecate sale proceeds to particular purposes, which is effectively what this seeks to do. Sale proceeds have always been applied to consolidated revenue—and were under our predecessors—on the basis that governments should make objective and on-merit decisions about the application of consolidated revenue to the needs of the community, be they recurrent or capital, and make those objective decisions about, in this case, the infrastructure needs of the community and the expenditures that are appropriate to it, and not just by way of hypothecation. It is the case that these proceeds will be applied, as has always been the case and was under the previous Labor government, to consolidated revenue.

I am happy to indicate to Senator Sherry that the Commonwealth understands that the value of our shareholding is likely to be around $300 million. That will of course depend on the success of the IPO and the strike price, but we anticipate our holding of 13 per cent to be valued at around $300 million.

For those reasons we cannot accept the motion moved by Senator Sherry. But I would indicate that I am perfectly happy to give an undertaking on behalf of our government that we will report back to the Senate at the expiration of five years after the passage of this resolution on the performance and outcome of the share transfer and disposal, as per 2(e)(ii) of Senator Sherry’s amendment.

Senator Allison’s amendment essentially does two things. It relates to Senator Sherry’s latter point about the appropriation of proceeds to ensure that 28 per cent of the Snowy’s original flows are in the river by 2010 and the direction of any remainder to the Living Murray initiative as additional expenditure already committed to the scheme. The amendment is similar in wanting proceeds hypothecated to infrastructure needed to ensure we reach the 28 per cent flow.

For the information of the Senate I reiterate our government’s commitment to the arrangements agreed by the three governments—New South Wales, Victoria and Aus-
tralia—at corporatisation, including those aimed at improving the health of the Snowy and other rivers by targeting, among other things, an increased flow in the Snowy to 21 per cent of average natural flows. That was the agreement reached by those three governments. We have invested $75 million in the entity that has been established to achieve that, and New South Wales and Victoria have each contributed $150 million to that end to ensure that that target is achieved. Of course, we have made very significant commitments over and above that to the health of Australia’s rivers through the Natural Heritage Trust, the National Water Initiative, the Living Murray initiative and other substantial expenditures by our government.

The implementation deed agreed by the three governments does provide an option for governments in the future to agree to participate in further increases to achieve after 2012 a total of 28 per cent of average natural flows. The New South Wales government has already started the process of establishing a Snowy River scientific committee with a view to seeing what would be required to achieve that 28 per cent target. At the end of the day that is ultimately the responsibility of the Victorian and South Australian governments, but a future Commonwealth government could of course participate in any additional investment to get beyond the 21 per cent once that target has been reached. That was very much the inference of the original agreement—a desire to seek to achieve the 28 per cent.

For the reasons I explained in relation to Senator Sherry’s motion, we cannot agree to Senator Allison’s amendment to this motion. However, I would ask the Senate to acknowledge what the three governments are doing to restore the health of the Snowy. It is a historical fact that the price Australia paid for investing in the Snowy Mountains Scheme was the degradation of the Snowy River. The whole idea of the Snowy scheme was to divert waters from the Snowy to the Murray and the Murrumbidgee—that was the essence of the scheme—and in so doing to generate electricity. You can agree or disagree with that original intent; it is now a fact of life. What does please me, particularly as a South Australian senator, is that people have recognised the damage done to the Snowy, and governments have joined and invested in seeking to at least partially restore the health of the Snowy River, albeit that it is now impossible to restore it to its previous natural flows.

Senator Brown has foreshadowed a motion to refer this to a committee for inquiry and report by 30 June 2006. The government will not be supporting that motion—for a start, just because of practicalities. The New South Wales government is proceeding with the sale of its 58 per cent regardless of what the Commonwealth does. Nothing that is done here in that sense will prevent at least 58 per cent being sold. Victoria will also join in. So all but 13 per cent will be sold in any event. We think it idiotic for the Commonwealth to sit there with its 13 per cent while the rest is sold. The New South Wales government is intent on a process which would involve that sale being completed by June. We do think in those circumstances it is sensible for the Commonwealth to participate. That is why we are moving these motions in these two houses this week.

Senator Brown was suggesting that there is some sort of democratic deficit in all of this. I point out that these motions are being moved pursuant to legislation passed by this parliament, the Snowy Hydro Corporatisation Act 1997, which required that these two houses consider this motion. That legislation was passed at a time when this government did not have a majority in the Senate. The democratically elected parliament approved it in those circumstances and put a process in
place. These motions are being considered by two democratically elected houses of parliament speaking on behalf of the people in considering the motion moved by the government. So I reject out of hand the suggestion that there is some democratic deficit involved in this. Everybody in this parliament is elected by the people to express a view. Senator Brown is entitled to express his view, but at the end of the day it is for the two houses of parliament elected by the people to determine this matter on behalf of the people, and that is the process in which we are involved.

The rest of Senator Brown’s remarks were an interesting lecture on the environmental circumstances of the Murray River. They really had absolutely nothing to do with who owns shares in Snowy Hydro Ltd. It is a matter for governments and parliaments on behalf of the Australian people to determine what should be done about the current state of the Murray River. As a South Australian I am naturally very concerned about the state of the Murray River and the Coorong. Senator Brown certainly does not have a monopoly on concern for the health of that majestic river system. However, that is a matter that is to be dealt with regardless of who owns the shares in this electricity company.

Indeed, I would assert that it is much better that governments—that is, the New South Wales, Victorian, South Australian and Commonwealth governments, who all have a responsibility in relation to this river—exercise their responsibilities in relation to the health of that river without the prejudice and bias inherent in owning an electricity company that relies on those waters to generate electricity. By owning electricity, there is inevitably a conflict of interest which prejudices regard for flows in the Murray. That is one of the reasons that we have to sell Telstra shares. In relation to Telstra, I as the minister for finance have an inherent and vested interest on behalf of Australian taxpayers in maximising the returns from Telstra. Inherently with a commercial electricity company, the New South Wales, Victorian and Commonwealth governments are interested in maximising returns from Snowy Hydro as a commercial entity. We should divest ourselves of that conflict of interest to ensure that we as governments can focus on our primary responsibility, which is to ensure the health of that river.

It is a historic fact, which cannot be reversed overnight, that in 200 years of development there has been degradation of the Murray River. It is a regrettable fact of historic life that, in ignorance, early Australian settlers clearly denuded that river system, took more water out of the river system than it was capable of sustaining and had little regard for the environmental consequences of those extractions from the river for the development of agriculture in this country. We now have the benefit of knowing the price that has been paid for those extractions of waters under licences issued by state governments over what is now over a hundred years. Our government does understand those issues—

Senator Bob Brown—What are you doing about it?

Senator MINCHIN—If I could continue without interjection, these are matters that governments need to consider without being burdened with the matter before us—that is, ownership of shares in this company. Nothing that is done with the shares in Snowy Hydro has any bearing on this, but our government is probably the first government in Australian history to recognise the extent of the issues and is proud of the extent to which it is making very substantial investments in ensuring that it does as much as it possibly can to restore the health of the Murray River.
Senator Bob Brown—What are your results so far? Tell us your results.

Senator MINCHIN—Senator Bob Brown knows full well the extent of the programs and expenditures for which we are responsible to ensure that we do our utmost to restore the health of the Murray. The fact is that whole industries and communities are vitally dependent—

Senator Bob Brown—Here come the excuses for your inaction.

Senator MINCHIN—on the extractions from the Murray River that have been granted to them under licences issued by state governments. It is all very well for Senator Brown to sit on the sidelines and lecture us all without ever having the responsibility of government. Of course, the great responsibility of government is to balance the needs and wishes of diverse interests around the community. The fact with the Murray is that we have a situation where there is obviously a very strong environmental interest, but there is also the fact of 200 years of development that has been entirely dependent on extractions of water from the Murray River for irrigation.

At the end of the day, the only way that governments can deal with that is to buy back that water from those communities. If you deny them the water, the communities die and the industries that depend on it die. Commercial trading in water is a vital part of this. We have to have realistic pricing for water so that water is used on a commercial basis. We also have to provide the market in water so that governments have the opportunity—free of the conflict of interest inherent in owning the electricity company—to buy the waters so that they can be used for environmental flows. That is something that I personally believe is the future for this river system. That is why I strongly believe that the Australian government has to retain a very responsible approach to fiscal policy to ensure it has the fiscal capacity in the future to ensure that it can manage, on a commercial basis, the provision of environmental flows for those rivers—

Senator Bob Brown—This is all waffle.

Senator MINCHIN—and do so in a way that does not, in a manner which presumably Senator Brown would have, destroy the communities and the industries that have been built up over 200 years and are dependent on those extractions. Senator Brown has the luxury of just pontificating from the sidelines with only one interest in mind. Governments and responsible parliamentarians must take account of the very diverse interests involved in this. It took us years to negotiate the corporatisation in such a way as to achieve that balance and make real breakthroughs in environmental flows for the Snowy, the Murray and the Murrumbidgee rivers. We as a government are very proud of what we have achieved. We are going to continue to ensure that we maximise our capacity to invest in restoring the health of the Murray.

I am happy to agree with Senator Brown that it is a magnificent experience to fly from Adelaide to Hobart. The Coorong is one of Australia’s great natural treasures. What has happened to that area because of 200 years of development of the Murray, in ignorance of the environmental consequences, is tragic. Our government are committed to doing as much as we possibly can to ensure the restoration of this great river system. In so doing, I seek the Senate’s support for the motion standing in my name.

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

The Senate divided. [10.48 am]
(The President—Senator the Hon. Paul Calvert)

Ayes............  32
Noes............  35
Majority........  3

AYES
Allison, L.F.  Bartlett, A.J.J.
Bishop, T.M.  Brown, B.J.
Brown, C.L.  Carr, K.J.
Conroy, S.M.  Crossin, P.M.
Faulkner, J.P.  Forshaw, M.G.
Hurley, A.  Hutchins, S.P.
Kirk, L.  Ludwig, J.W.
Lundy, K.A.  Marshall, G.
McEwen, A.  McLucas, J.E.
Milne, C.  Moore, C.
Murray, A.J.M.  Nettle, K.
O’Brien, K.W.K.  Polley, H.
Sherry, N.J.  Siewert, R.
Stephens, U.  Sterle, G.
Stott Despoja, N.  Webber, R.
Wong, P.  Wortley, D.

NOES
Abetz, E.  Adams, J.
Barnett, G.  Boswell, R.L.D.
Brandis, G.H.  Calvert, P.H.
Chapman, H.G.P.  Colbeck, R.
Eggleston, A.  Ellison, C.M.
Ferguson, A.B.  Ferris, J.M.
Ferravanti-Wellens, C.  Fifield, M.P.
Heffernan, W.  Humphries, G.
Johnston, D.  Kemp, C.R.
Lightfoot, P.R.  Macdonald, I.
Mackay, J.A.L.  Mason, B.J.
McGauran, J.J.J.  Minchin, N.H.
Nash, F.  Parry, S.
Patterson, K.C.  Payne, M.A.
Ronaldson, M.  Santoro, S.
Scullion, N.G.  Troeth, J.M.
Troid, R.  Vanstone, A.E.
Watson, J.O.W.

PAIRS
Evans, C.V.  Coonan, H.L.
Hogg, J.J.  Campbell, I.G.
Ray, R.F.  Joyce, B.

* denotes teller

Senator George Campbell did not vote, to compensate for the vacancy caused by the resignation of Senator Hill.

Question negatived.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (10.51 am)—I move the amendment circulated in my name:

At the end of the motion, add:

“(2) That the Senate is of the opinion that funds appropriated from the divestment of Commonwealth shareholding in the Snowy River Hydro Company, should be used to ensure that 28 per cent of Snowy’s original flows are in the river by 2010, to fulfil the existing commitment to establish the Snowy River Scientific Committee, and that the remainder should be directed into the Living Murray Initiative, as additional expenditure already committed to the scheme”.

Question put.

The Senate divided.  [10.52 am]

(The President—Senator the Hon. Paul Calvert)

Ayes............  8
Noes............  57
Majority........  49

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

NOES
Abetz, E.  Adams, J.
Barnett, G.  Bishop, T.M.
Boswell, R.L.D.  Brandis, G.H.
Brown, C.L.  Calvert, P.H.
Carr, K.J.  Chapman, H.G.P.
Colbeck, R.  Conroy, S.M.
Crossin, P.M.  Eggleston, A.  *
Ellison, C.M.  Faulkner, J.P.
Ferguson, A.B.  Ferris, J.M.
Ferravanti-Wellens, C.  Fifield, M.P.
Forshaw, M.G.  Humphries, G.
Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.58 am)—I move:

Omit all words after “That”, substitute: “the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 30 June 2006:

The proposed divestment of the Commonwealth’s shareholding in Snowy Hydro Ltd”.

That is just so people can have a say.

Question put.

The Senate divided. [10.59 am]

(The President—Senator the Hon. Paul Calvert)

Ayes........... 8
Noes........... 58
Majority........ 50

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

NOES
Abetz, E. Adams, J.
Barnett, G. Bishop, T.M.
Boswell, R.L.D. Brandis, G.H.
Brown, C.L. Calvert, P.H.
Colbeck, R. Chapman, H.G.P.
Carr, K.J. Conroy, S.M.
Crossin, P.M. Eggleston, A. *
Ellison, C.M. Faulkner, J.P.
Ferguson, A.B. Ferris, J.M.
Fierravanti-Wells, C. Fifield, M.P.
Forshaw, M.G. Humphries, G.
Hurley, A. Hutchins, S.P.
Johnston, D. Kemp, C.R.
Kirk, L. Lightfoot, P.R.
Ludwig, J.W. Lundy, K.A.
Macdonald, I. Macdonald, J.A.L.
Marshall, G. Mason, B.J.
McEwen, A. McGauran, J.J.J.
McLucas, J.E. Minchin, N.H.
Moore, C. Nash, F.
O’Brien, K.W.K. Polley, H.
Patterson, K.C. Pozzobon, M.

* denotes teller

Question negatived.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.58 am)—I move:

Omit all words after “That”, substitute: “the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 30 June 2006:

The proposed divestment of the Commonwealth’s shareholding in Snowy Hydro Ltd”.

That is just so people can have a say.

Question put.

The Senate divided. [11.05 am]

(The President—Senator the Hon. Paul Calvert)

Ayes.......... 56
Noes.......... 7
Majority........ 49

AYES
Abetz, E. Adams, J.
Barnett, G. Bishop, T.M.
Boswell, R.L.D. Brandis, G.H.
Brown, C.L. Calvert, P.H.
Colbeck, R. Chapman, H.G.P.
Carr, K.J. Conroy, S.M.
Colbeck, R. Couroy, S.M.
Crossin, P.M. Eggleston, A.
Ellison, C.M. Faulkner, J.P.
Ferguson, A.B. Ferris, J.M. *
Question agreed to.

**TELECOMMUNICATIONS (INTERCEPTION) AMENDMENT BILL 2006**

In Committee

Consideration resumed from 28 March.

The **TEMPORARY CHAIRMAN** (Senator Kirk)—The committee is considering the Telecommunications (Interception) Amendment Bill 2006 and Greens’ amendment (1) on sheet 4889 moved by Senator Bob Brown. The question is that the amendment be agreed to.

**Senator LUDWIG** (Queensland) (11.09 am)—Senator Brown’s amendment does not find favour and support with the opposition, and I need to make a couple points in respect of that. When you look at the issues that were gone through, if we had had more time then perhaps the opposition might have been able to have a better look at the amendments proposed by Senator Brown. Those matters were not explored by the Senate Legal and Constitutional Legislation Committee during the committee stage and therefore they were not able to be looked at by the committee in any great detail. It is a shame that that could not have been done. The more scrutiny in this area the better, from our perspective.

It is also worth reiterating some of the issues that Senator Brown covered a bit earlier. If you look particularly at the submission by George Williams, the matters that he raised in his submission really went to B-party intercepts. He had two specific concerns with schedule 2. In his submission he outlined what they were, namely, that the Telecommunications (Interception) Amendment Bill 2006 allows interception and use of all B-party communications, and he went on to articulate those matters, and there was no nexus required between the nature of the warrant and the investigation of the particular offence. His second matter concerned the issuing officers for stored communication warrants. So he had two specific concerns in relation to schedule 2: (a) the B-party intercepts and (b) issuing officers for stored communication warrants. Ostensibly they were picked up in the committee process and recommendations are provided in that committee report which go to addressing those concerns.

He also went on to say that the bill purports to clarify and restrict pre-existing B-party interception powers under the Telecommunications (Interception) Act 1979. What he is effectively saying—and I think that the evidence before the committee also went there—is that currently if you then say, ‘What is the status quo in respect of both stored communication and B-party?’ then it is important to note that the current position would be a continuation of 3L, that is, ordinary search warrants to access stored communication if this bill is not passed. In that
respect this bill provides for safeguards that are not presently available if this bill were not supported.

In respect of B-party, it is a slightly more complex position. If you examine the case law that is currently available—and Flanagan’s case has been aired in the committee report—B-party would be available as a policy decision by the AFP, or the AGD perhaps, to use. This bill tries to strengthen the area to ensure that there are appropriate safeguards, which Blunn recommended, that is, in limited and controlled circumstances. What I think the government has not been able to do successfully is ensure that there are sufficient safeguards to protect, and I think that the committee made that point well in providing a range of recommendations to strengthen the provision to ensure that it will strike the right balance between privacy and the use of this power by the AFP.

I will not dwell on that, but I think it was worth while to bring back the debate to where we are in respect of this bill. The government is pushing ahead with it, notwithstanding that the better course would have been to examine the committee recommendations and come back, at least insofar as B-party warrants are concerned. I think stored communication could have been dealt with in a more pragmatic way than the government is now pursuing, and I will have some more to say about that in respect of my recommendations. I will not take up too much time on this amendment. As I have indicated, Labor are not prepared to support the amendment. We think that it might, in principle, have some merit, but unfortunately there has been insufficient time to consider it in any detail. That is the complaint I made last night and I make it again today.

Senator STOTT DESPOJA (South Australia) (11.15 am)—Following on from Senator Ludwig, I reiterate my concerns about the process and the time line that we have been given in relation to the Telecommunications (Interception) Amendment Bill 2006, not just for the committee stage for the Senate inquiry but for dealing with a raft of amendments, new ones being included as of this morning. We have had insufficient time to scrutinise some of the proposals. I want to again put on record my concerns that the good work of the Senate committee and the positive recommendations contained in the chair’s report, the majority report, endorsed by coalition members and Labor Party members—I support the recommendations contained in the chair’s report—should go further, and that is why I made a supplementary report with recommendations which now form the basis of my amendments on behalf of the Australian Democrats.

In that context, like Senator Ludwig, I recognise that there are aspects of the Greens amendment that do have merit. Limiting the operation of the act in relation to concerns we have about privacy infringement or invasion is an important thing to do. Anything that seeks to protect professional, legal or other forms of privilege is meritorious. I happen to think that the Australian Democrat amendment seeks to achieve the same ends. Through you, Temporary Chairman Kirk: Senator Bob Brown, I recommend my amendments, which I think do this in a more comprehensive fashion. I am sure that you will support them if—surprise, surprise!—the numbers are such that your amendment goes down this morning.

Subclauses 2A(2)(b), (c), (d) and (e) of the amendment go to the specific issue of professional privilege, be that legal professional privilege, doctor-patient relations, federal and state members of parliament or High Court and Federal Court judges. I acknowledge the worth of that motion, I support the intent and I believe that my amendments seek to do and will achieve a similar thing.
I am concerned, however, about subclause 2A(2)(a) of the Greens’ amendment. I am not sure whether the minister and his departmental advisers will be offering an opinion on their understanding of the consequences of (2)(a) in the Greens’ amendment. Through you, Temporary Chairman: my understanding is that, when you, Senator Brown, specify ‘unless the person is suspected of engaging in the planning of, or other involvement in, terrorist acts or murder’, we are narrowing to a great extent the operation of the act—restricting the use of the entire Telecommunications (Interception) Act solely for the investigation of acts of terrorism or murder. I am not sure whether that is something that the minister can elaborate on, but that is my understanding.

In that case, this becomes a limitation on the operation of the act, and I am not sure whether it strikes the proportioned balance that we have been talking about between the needs of our enforcement agencies in crime fighting and safeguarding and securing the community and, on the other hand, some of the social justice and privacy issues that you and I, Senator Brown, are very concerned about in this debate. I think that there is a strong argument to suggest that this may make the operation of the act too narrow and perhaps does not give sufficient recognition to the needs of enforcement agencies when fighting corruption and other criminal acts—violent assault, sex crime, drug smuggling. I am not sure whether they are knocked out by this provision. If they are not, that would change my view on the entire amendment, so I seek clarification from the government and officials.

That is not because I do not support limitations on this bill. In fact, I am a proponent of safeguards, protections and mechanisms in this bill to ensure that the operation of these warrant regimes is not as far reaching as it currently is. In that respect, I remind the Senate that I have moved amendments that deal with some of these issues—legal, professional and other forms of privilege—as well as other amendments that seek to constrain in some respect the operation of the stored communications and B-party warrants.

Having said that, I am conscious of the need for balance. I understand privacy rights. I know I go on about them a lot in this place, but I do understand that privacy is about balancing the needs of the community—both our personal privacy protections, if you like, and the broader needs of the community. I do not want the government, or the opposition for that matter, to dare suggest that the amendments that I am moving on behalf of my party seek in any way to undermine that aspect of creating a safe and secure society. But, as I and others have said in this place, we do not want to get the balance wrong to a point where we are providing powers to enforcement agencies—unprecedented powers in some cases—that will have a deleterious effect on our community. I do not want the very democratic, positive principles that we are all arguing for to be undermined by some of the legislation or some of the mechanisms that we are employing in order to fight terrorisms or other issues.

So, in that respect, I say through you, Madam Temporary Chairman, to Senator Brown that I have a problem with subclause (2)(a) in this amendment. But the other limitations are, I think, worth while. I do not think it is a surprise that the Australian Democrats would support the notion of recognition of international treaties or conventions. Obviously, not only would we seek to have a bill of rights or charter of freedoms in this nation, we would also seek—as we have attempted to previously and as I attempted to do in relation to the anti-terrorism legislation we dealt with in late November last year—to enshrine in legislation some reference to in-
ternational treaties such as the International Covenant on Civil and Political Rights. That is not intended necessarily to limit or constrain the law-making powers of this parliament. It is a minimum, with an expectation that we will at least be mindful of, refer to and be conscious of those particular treaties and conventions and our obligations under them.

In that respect, I do not think it is particularly problematic to do as this amendment seeks to do, which is to attempt to include the ICCPR, although I guess it goes a little further in that it cuts out any part of the act that opposes it. So we recognise the intention of the amendment and we are certainly supportive of provisions that give consideration to principles of international human rights law when interpreting domestic legislation. I think you will find, Madam Temporary Chairman, that increasingly there will be debates in this parliament and outside about having some kind of domestic form of protection of human rights and civil liberties in this nation—a bill of rights or a human rights act or whatever we may end up with. The momentum is going to build precisely because of the legislation that we are dealing with today and precisely because of its cumulative effect when viewed in conjunction with other bills that we have dealt with. But (2)(a) makes it a little too narrow for me, Senator Brown. Having said that, I think I have picked up the intent of the rest of the motion in my Democrat amendments. I hope that in the short time allowed the chamber will consider those amendments favourably.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11.24 am)—The point made by Senator Stott Despoja is one that was in my mind as I wrote this amendment in the forced atmosphere of this legislation being dumped on the parliament with unnecessary haste and speed, and without the due diligence that we should be bringing to it. But that is part of government control of the Senate. The executive and Prime Minister John Howard say, ‘Put that legislation through,’ and it goes through. We sat late last night for no good reason whatsoever.

The Senate is now being abused almost on a daily basis by Prime Minister Howard’s executive. We even found yesterday afternoon that, with a major environmental matter being discussed before the Senate, the minister for the environment was not here, because there was a cabinet meeting on—a cabinet meeting while both houses of parliament are sitting. There were no ministers, presumably, in either house because the Prime Minister says: ‘Parliament does not matter any more. It is what I, my executive and my ministers do that runs this country. The elected parliament of the people does not matter. It is out.’

We are well on our way to a dictatorship of the executive. In fact, we are at a dictatorship of the executive. We are not on the way; we are there. The parliament is being treated with utter contempt by the Rt Hon. the Prime Minister John Howard as he deals with the decision-making process in his rooms. He just says to his ministers and minions: ‘Get on with it. Change the sittings of the Senate. Reduce them to the minimum’—and we are reduced to the minimum—‘but extend the length of the sitting’—so we sat last night rather than having another week’s sitting—‘and then guillotine any debate that gets long so that we can get out of here and not have the government under scrutiny.’

They are the circumstances under which the real opposition, which is here on the crossbench, is working. Labor are supporting this extraordinary piece of legislation, which erodes so many civil liberties in Australia. The real opposition here on the crossbenches is left rapidly trying to write amendments
which would bring sanity into the imprudent, to say the least, legislation that we are dealing with.

I put that amendment there, Senator Stott Despoja, through you Madam Temporary Chair, simply to point out that this is not just about terrorism or murder. This is about a whole range of issues on which government snoops can now phone tap innocent people’s lines, record the greatest intimacies between innocent Australian citizens and in the process come up with charges on crimes or potential crimes that are of a minor nature and which were never ostensibly in the view of the people voting for them. The government and the opposition will vote for this. It can be used, for example, to examine people’s taxation records. Totally unbeknownst to the citizen, a conversation between an innocent person and somebody who is a suspect being investigated by the tax department can be recorded and investigated by the snoops in the backroom. That can be kept on record or further charges can come out of it. I seek leave to remove subclause (2)(a) from my amendment.

Leave granted.

Senator BOB BROWN—The point is that we now revert to the catch all, where there is an enormous amount unlisted. There is nothing from the government or the opposition supporting this legislation to say where the line is drawn. What is the guidance? In this unprecedented legislation, which cuts right across time honoured freedoms in our great Australian democracy, what crimes are we seeking to arraign private citizens for that allow snooping on their phone lines and intimate conversations?

I quoted from an essay last night which involved the very incisive legal mind of Mr George Williams. I want to quote from his Saturday essay, which was in the Age last weekend—just a part of it; we should incorporate the whole into Hansard—and I recommend it to senators. He says:

Unfortunately, new laws have been made with such haste— he is talking about this sort of law—that a careful assessment of where we already stand has been impossible. The laws passed after the London bombings were enacted so quickly that they have come into force before two continuing inquiries into the effectiveness of our existing laws can report. Before the 2005 attack, neither the Government nor its key agencies were putting the case for change to the law or an expansion of their powers, yet after the bombings the pressure for this proved irresistible.

The cycle of an attack followed by a new law is dangerous. Driven by fear and the need to act, we run the risk of a series of overreactions. This is the dynamic that terrorists rely upon. By our own actions, we may isolate and ostracise members of our community, who instead of helping intelligence-gathering may be susceptible targets for terrorist recruitment. Through our overreactions and short-term thinking, we may actually make ourselves more vulnerable to terrorist attack.

Later in that essay, Mr Williams said:

It is natural that our fears will lead us to do all that we can to protect ourselves and our families, especially in response to a faceless and unknown threat such as terrorism. With a recent poll finding that more than two-thirds of Australians believe the terrorists will strike ‘before too long’ and that a terrorist attack in this country is inevitable, it is not surprising that there is great pressure to enact new laws at any cost.

What we need is leaders who, rather than play to our fears, help us to understand that we must accept a level of risk of terrorist attack. There is no other option. If we strive for the illusory goal of full protection from terrorism, we risk doing even greater damage to our society and its freedoms and values. This will also warp political debate, policy choices and resource allocation in ways that cannot be justified— witness this truncated and ill-informed debate today in the Senate. Mr Williams says:
We risk repeating these same mistakes if we do not change course. Unfortunately, there is no current sign that this will occur. New attacks will lead to new laws that will further erode our fundamental freedoms, increase fear and anger in parts of the community and make the problem more intractable.

It seems likely that in the past 4½ years we have seen only the beginning of the ‘war on terror’. The laws we have today were unthinkable before September 11. It is equally hard to imagine the laws that we will end up with in the event of future attacks.

Today we have laws coming through that are not a result of an attack, but they will result in a widespread attack on liberties and privacy, which are fundamental to a healthy democracy and which Australians have taken for granted. They can no longer take it for granted. This legislation allows a whole array of government snoops to move into the privacy of communications between innocent Australians, on innocent Australians. We will see the government turn down every amendment to put a check on that.

We have the Howard government, this Liberal government, which should stand for individual liberties—and what is more important there than the right to privacy?—attacking them, eroding and corroding them and giving powers to faceless people. There are not dozens of them but hundreds of them, in an increasing array of bureaucracies way beyond just ASIO and the Australian Federal Police, who will be able to at the behest of an Attorney-General, including Mr Ruddock, the current Attorney, gain information from the calls of innocent Australians who felt they were free from this sort of move towards police-state surveillance.

We, unusually amongst the community of older democracies, have no bill of rights. We have got no guarantee in our constitution at all, unlike the Americans, the British or the Germans. We are vulnerable, and this Howard executive, which has sidelined parliament, is going for broke. The minister might like to say what the government thinks about a bill of rights and responsibilities in this country and what its argument for refusing to entertain such an idea is. It is such a dangerous time for democracy—and I do not mean danger at the behest of terrorists; I mean danger at the behest of an authoritarian executive as we have now in the Howard government. We have the Greens and Democrats defending long-held liberal ideals, long-held rights of Australians to know that their privacy is not being invaded by governments with people in backrooms with recordings of their intimate conversations without them knowing about it, without them ever knowing about it and without accountability for that.

On the matter of safeguards, if you look at yesterday’s report to the parliament about the requirement for warrants in such matters and the approach from the Australian Federal Police and others to those who issue warrants you will find that out of some 250 requests not one was turned down. Who knows about that? Who knows the argument when an approach for a warrant in secret—of course, it has to be—is made? There is no counter-argument. There is no defence in that system.

Here we are expanding that capability enormously. It is very dangerous legislation because it is not limited, because it throws the net so wide and because no Australian, no matter how innocent they might be, is outside the reach of this snoop legislation. My motion on behalf of the Greens tests the water on it. It simply says: let us see if we cannot have doctor-patient relationships and lawyer-client relationships protected from this snooping. Let us see what the government has to say about the vulnerability of members of parliament and High Court and Federal Court judges to having their phones tapped under this legislation. Let the minister
explain to the Senate under what circumstances their phones might be tapped in this new era, when nobody at all is invulnerable to the creeping invasion of privacy which is inherent in this legislation.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.38 am)—At the outset, can I say in relation to the question put by Senator Stott Despoja that (2)(a) of the Greens’ amendment would have narrowed greatly the application of this bill. That has now been withdrawn. It was a sensible move by Senator Brown. Even on a cursory reading one could see that a simple assertion to limit the interception of communications in those circumstances would have meant very much narrowing the application of the act. It is very simple; it is very straightforward. I am surprised that that was included. Anyway, it has been withdrawn and I recognise that. I found it quite surprising that it was in the proposed amendment.

There are other aspects to this which I need to comment on, and they are in relation to the question of whether federal and state members of parliament, High Court judges, Federal Court judges and people in other areas should be subject to the interception of communications. The Greens say they should not be. It is very difficult for law enforcement agencies to guess what they might or might not come across in an interception. When you intercept telecommunications, you do not know what lies ahead. This was recognised in the case of Carmody and MacKellar, a decision of the full bench of the Federal Court which was cited by the Attorney-General’s officials before the Senate Legal and Constitutional Legislation Committee. It basically puts the proposition that you allow the interceptions to take place, within legal requirements, of course, but it is then for the court to determine the admissibility or otherwise of that evidence. That is how our system works. If you have legal professional privilege, that could be grounds for counsel to object to that evidence being adduced in relation to a court proceeding. The court then determines that you are right and that that should not be admitted, and it is not.

It is up to the court to determine what evidence should be admitted or not. If you say to law enforcement agencies: ‘You can’t even go to the first step of investigation,’ then you are going to limit law enforcement greatly. In fact, we are dealing here with particularly serious offences, such as possible sex trafficking and trafficking in narcotics, which would have been excluded by (2)(a) if it had been left in by the Greens. That is why you have to give law enforcement agencies the ability to have this interception power, particularly in relation to counter-terrorism. It is very difficult, in fact impossible, to put upon law enforcement agencies the ability to say: ‘If I intercept this communication it will involve one of these exclusionary areas. Therefore, I shouldn’t do it.’

The other aspect of this which the government do not agree with is that we should exclude federal and state members of parliament from scrutiny. We believe that all Australians are equal before the law and all can be subject to investigation by law enforcement equally. Politicians should not be exempt. If Senator Brown is saying that the individual has to be protected against the state, we would say that all individuals are equal before the state. If you are a federal or state member of parliament, you are subject to the same aspects of legal investigation as anybody else. The same applies to a High Court judge or Federal Court judge. We have seen in the past that, unfortunately, members of parliament and judges have been found guilty of offences. I think that that vindicates the position that the government are taking. No-one in Australia should be exempt from investigation in such a manner as proposed...
in this amendment. That strikes at the very heart of the rule of law in this country.

As for the International Covenant on Civil and Political Rights, the government are firmly of the view that this bill accords with our international obligations. We have had in place now for some time interception regimes in relation to law enforcement. In fact, it is widely accepted by Australians across the country that, provided that there are legal requirements in place and they are met, there should be the ability for law enforcement agencies to have these interception powers. Senator Brown said that this was in some way a knee-jerk reaction. That was the implication of what he was saying with reference to Professor Williams and it has been his approach to this debate in general.

This interception bill had its genesis, as I said yesterday, in 2004 when we looked at the Telecommunications (Interception) Act. After committee scrutiny, it was said that stored communications needed to be looked at. In fact, I mention again that there was view, much publicised by the AFP and AGD, about a different approach to this issue. Much was made of it. There was much debate. There was parliamentary committee scrutiny at the time and there was a bill that canvassed telecommunications interception at that time. We commissioned the Blunn report in the interim. Over those intervening two years much has been done in relation to the question of modern technology and telecommunications interception.

The Senate committee handed down a report, which we have responded to. We have adopted some of its recommendations and, as I have said, the Attorney-General will continue to consider some of its other recommendations. It is bit much for the Greens to come in here and say that there has been no debate on it and that this is a knee-jerk reaction. Senator Brown has also been forced to admit that he made a mistake in his proposed amendment.

I could ask Senator Brown whether he attended any of the Senate Legal and Constitutional Legislation Committee hearings on this. I know what the answer would be: no. As I understand it, although Senator Brown and his colleagues in the Greens are participating members, not one of them attended the hearings of this committee to have any input into the report to this parliament on what he says is a very important bill. When he comes in here and puts forward all these platitudes about the protection of the individual and about the fact that this is a knee-jerk reaction, let us look at and reflect on what contribution the Greens made to this report.

The government has looked at this report and acknowledged that it is a good piece of work. We have adopted some of its recommendations and will continue to consider some of its other recommendations. If I am to compare, Senator Stott Despoja was at the hearings and wrote a dissenting report. Indeed, Senator Ludwig was there and contributed greatly to the Senate report. I want to place that on record so that those listening understand the background to this debate.

The government does not agree with the proposals put by the Democrats. The opposition has put forward proposed amendments which reflect the recommendations made by the committee which we have not adopted. We have said that we will continue to look at those recommendations. But at least we have had some contribution—in fact, a good deal of contribution—from the Democrats and the opposition in relation to the writing of this report by the Senate Legal and Constitutional Legislation Committee. Senator Brown says that he has been robbed of a chance to provide input, but he is a participating member
and he had every chance to go to those committee hearings.

This amendment by the Greens is flawed on a number of counts. We have seen how flawed it is by the fact that Senator Brown has had to withdraw paragraph (2)(a), which narrowed greatly the effect of this bill. This bill conforms with our international obligations, and therefore the first part of Senator Brown’s amendment is unnecessary. The other part of Senator Brown’s amendment, which we oppose vigorously, purports to exempt certain Australians from any investigation under the interception regime which is being proposed. We believe that all Australians are equal under the law and should all be subject to the same investigative capacity by law enforcement, especially when you are dealing with serious criminal offences and terrorism. For those reasons, the government opposes the amendment moved by the Greens.

Senator LUDWIG (Queensland) (11.48 am)—I have only a couple of quick comments in respect of this. Senator Brown again sends a barb across to Labor. Labor indicated its position in respect of this bill very early on. It engaged in the process. It in fact engaged way back in 2002, because this had its genesis in us looking at stored communications and the problems of how you deal with SMS and email in the modern technological era we find ourselves in.

In fact, Labor have been intimately involved in all the committee hearings from 2002 until now, and we have sought to make recommendations in the committees and to move amendments in here to make sure that this government does not get away with tipping the balance towards law enforcement agencies. We have sought to make sure that there are reasoned and sensible arguments put forward as to why recommendations should be adopted and amendments made to give effect to those recommendations. Labor has been there throughout that whole debate.

I am not going to argue about whether the Greens have or have not been involved in the debate—it is not my place to do that. We are here to argue for our recommendations and to indicate why we will not support the Greens amendment. The Greens amendment, quite frankly, was not a matter that was properly examined by the committee; it was not brought to the committee for it to have a look at. Unfortunately, the amendment goes much further than the bill does. What it purports to do is, as Senator Ellison said, put politicians above the law. That is not something that Labor supports. We do not want to do that; neither do we want to put High Court judges or Federal Court judges above the law, for that matter.

The amendment also winds back the clock in terms of telecommunications interception legislation. Perhaps it might be clearer if Senator Brown had indicated right from the start that his problem is that he does not agree with telecommunications interception legislation. I understand the position that you might adopt in respect of that. It is not a position that Labor adopts, but I can understand why the Greens might adopt that position.

There is a balance to be struck here involving privacy. Essentially, this is privacy legislation; that is what it is about. There is a balance to be struck between privacy concerns and ensuring that law enforcement agencies have sufficient powers—but not more than is necessary—so that they can fight drug traffickers and the rest. Senator Brown says that the amendment is a protection that is needed. However, this protection goes further than simply covering what is in this bill; it goes to the whole of the telecommunications legislation. He wants to provide those sorts of protections over the whole telecommunications interception regime. The
committee did not have an opportunity to examine that.

Senator Brown, if you want to continue with that view, there will be an opportunity in the review of the telecommunications interception legislation for you to put your position articulately and clearly. Blunn indicated that this is a matter that is not going to rest here. There is going to be further opportunity to debate these issues, and I look forward to your view as to how those matters should be dealt with, rather than moving an amendment here that seeks to cut across the whole of the telecommunications interception regime without, I think, reasoned thought or argument as to why these provisions should be supported.

I understand that you might want to rely on an opinion piece in an essay by Professor Williams, which is a very good essay, quite frankly. In the committee process, we relied on his written submissions and the evidence that he gave, which was extraordinarily helpful. In fact, the recommendations that he made, I think, found their way into the committee’s recommendations and subsequently into amendments. They may be in a slightly different form but, effectively, the gist of those matters is in Labor’s amendments because we wanted to ensure that the bill strikes the right balance—and Labor are keen to ensure that that occurs. Senator Brown, I am not so sure that you are here to participate in that process.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11:54 am)—What a poor response from the Labor Party as it moves on to support this Howard government legislation, which breaches a century of protection of privacy as expected by Australian citizens. One would have thought that the Labor Party in opposition would be in here to question the government about where the lines are drawn on this snooping and invasion on innocent Australians, which is now so open for exploitation under this legislation. But, no, it gets into that attack on the Greens, who are doing its job for it. I am not going to resile from this responsibility for opposition for one minute, not at all.

The Labor Party cavils with the amendments that the Greens have put forward, but there is no other way of tackling this government apart from seeking to see where the boundaries are. I have no concern about politicians and judges being treated as every other citizen. What I am saying is that other citizens should not have their privacy invaded, as under this legislation, without enormous restraint put on that legislation. The restraint is not there and the Labor Party says, ‘Okay’. As is so typical, this Beazley opposition wants to align itself with the Howard government time and time again on matters to do with security simply because it is frightened of being pointed to as being soft, when in fact it should have the gumption to be strong on standing up for the hard-fought-for rights that are essential to a functioning democracy. Those rights are under attack and are being rapidly eroded. We have to ask ourselves in this country: is it not time for a bill of rights? We have to ask ourselves: where is the Labor Party nationally on that matter? It never introduced one during its 13 years of office before the Howard government came to power, and it is not about to introduce one now.

The reality is that we do need safeguards for ordinary citizens. I am not talking about criminals here; I am talking about ordinary citizens, law-abiding, innocent citizens. There is extraordinary reach to legislation aimed at drug runners, terrorists and massive tax evaders. Let us hope that includes those who take their assets offshore to escape paying tax—some of the big friends of the gov-
Ordinary citizens should not be treated in the same way.

What we are learning here is—and I think this is new territory—that politicians and High Court judges can be snooped on now by not just ASIO but a growing range of instrumentalities with fewer and fewer restrictions and guidelines and with less and less prohibition on them crossing the line into gratuitous, unnecessary and destructive invasion of innocent citizens’ privacy. That is what the Labor Party should be standing up for. That is what it is failing to stand up for as it votes for this legislation. It might hurt about that. It might want to point the finger at the Greens and say: ‘You’re falling into the trap of being exposed to government criticism. We would never do that.’

We are here to provide the opposition for the citizens of this country because their families, their workplaces, all their communications, their mobile phones, their SMSs and their computers are now open to invasion. I am talking about innocent Australians. We are here to defend their right not to have their intimate communications passed around in the backrooms of intelligence agencies, tax agencies, police agencies, quarantine agencies and a whole stack of other agencies under this legislation. Labor might not care about that or be too fussed about this enormous erosion that is occurring with this legislation in regard to people’s right to privacy, but we do.

I put up this amendment knowing it was going to fail. It is a blunt instrument. The minister says, ‘Senator Brown, you weren’t at the one-day inquiry into this matter.’ No, I was not, because I was representing my constituency, in the inevitable competition for time you have as a seven-day a week, seven-night a week senator. I was defending my constituency’s interests elsewhere. It is terrible when you only get a one-day inquiry in one city on a matter like this that affects all Australians. That is part of the attitude of this high-handed government and this minister—they say they will have an inquiry, and it is in fact a farce. It is not like the Senate inquiries of the past. This is the age of Senate sideling by the government.

That inquiry did enable some light to be shed on this bill, but it was almost wall-to-wall critical. The minister might like to get up and say, ‘Who came to the inquiry to defend it?’ The users of the bill did. But I challenge the minister to get up and say, ‘Which community organisations of this great country of Australia defended this legislation?’ The answer to that is none, not one, not a solitary organisation representing civil society against the incursion by this legislation on the rights to privacy of Australians.

**Senator STOTT DESPOJA** (South Australia) (12.01 pm)—Chair, you have heard me outline the Democrat view on this amendment and draw the Senate’s attention to our concerns with (2)(a), which has since been withdrawn. I just want to emphasise the issue of legal professional privilege. Senator Brown’s course of action is to deal with the issue of exception or exemption, something with which the major parties obviously have a problem. Based on the evidence presented to the inquiry, specifically by Professor Williams, I am inclined to think that an exception approach is one way of dealing with the issue of legal professional privilege. Senator Brown’s course of action is to deal with the issue of exception or exemption, something with which the major parties obviously have a problem. Based on the evidence presented to the inquiry, specifically by Professor Williams, I am inclined to think that an exception approach is one way of dealing with the issue of legal professional privilege. I am not sure about the other professional privileges that we have talked about and that were dealt with during the committee hearings.

I suspect the other way, and this is what I have sought to do with my amendments, is, as the minister has mentioned, to deal with the issue of admissibility and obviously ensure in the first place that the issuing authority considers the issue of legal professional privilege. Colleagues in the chamber will
see, looking at (3), (5) and (10) of my amendments, that we deal with issue of admissibility and also with the issue of punitive sanctions as a consequence of failing to acknowledge the importance of legal professional privilege.

There may be some issues with the amendment before us. Senator Brown describes it as a blunt instrument. But I do want to emphasise that, while I have had concerns about how this amendment is drafted, I do support the intent behind it. I do have difficulties with the notion that somehow we are above the law, whether we are state or federal members of parliament or indeed judges, but I do think the reference to those particular professions is intended to jog everyone’s memories. I can hear a baby crying. That is okay; it is not mine. That is all good. We are reminding people that this is serious legislation in terms of what conversations or communications can be intercepted, stored and used for other, shall we say, crime-fighting purposes—that is, what evidence can be collected for other purposes. I think that it is important that people recognise that those professional privileges and specifically legal professional privilege, I believe, should be protected more than the current act provides. In that respect I am supportive of that notion and have sought to do it in a different way.

I have made my comments on the international treaties. I would say, though, to Senator Brown that I think that there are probably varying views on a bill of rights or a human rights act in this place. But I remind him that, I believe, Gareth Evans and Lionel Bowen drafted a human rights act or a bill of rights. I am looking to Labor here for some guidance. It passed the lower house in 1985 and I think it was withdrawn in 1986. The Labor Party has an interesting history when it comes to a human rights act or a bill of rights. I will not take away from Lionel Murphy’s efforts in his 1973 bill of rights. The Labor Party does have a history in that regard.

Senator Bob Brown—It’s ancient history.

Senator STOTT DESPOJA—It is ancient history; that is right. I take that interjection. But I want to put this on record. I am a late convert to the notion of a bill of rights, and it is partly because I think that legislation is becoming increasingly invasive and having an impact on the human rights and civil liberties of Australians. It is understandable to have a free kick at Labor. I enjoy having a free kick at Labor occasionally. But I do acknowledge that there is a history and I would not take away from the history of the Murphys and the Evanses their work on a bill of rights.

On that tangent, I think I have made clear some of the concerns that we have with this amendment but I understand the intent behind it. I commend the Democrat amendments that seek, perhaps in a different way, to address this issue of legal professional privilege, enshrine it and ensure that issuing authorities are conscious of it and have consideration of it. That is the way that we have preferred to approach the issue of admissibility.

Question negatived.

Senator LUDWIG (Queensland) (12.06 pm)—I seek leave to move opposition amendments (2), (3) and (12), on sheet 4882, together.

Senator Ellison—the vote will have to be taken separately because a different question is put on amendment (12). But the debate can be cognate.

Senator LUDWIG—the matters will have to be put separately.

The TEMPORARY CHAIRMAN (Senator Lightfoot)—We will put them separately, but you may speak to the three.

Senator LUDWIG—by leave—I move:
(2) Schedule 1, page 4 (line 2) to page 61 (line 11), omit “enforcement agency” (wherever occurring), substitute “interception agency”.

(3) Schedule 1, item 2, page 4 (line 18), before “law”, insert “criminal”.

We also oppose schedule 1 in the following terms:

(12) Schedule 1, item 36, page 48 (lines 5 to 9), TO BE OPPOSED.

The debate on this revolves around the same issue. If you look at recommendations (2), (3) and (5) of the Senate Legal and Constitutional Legislation Committee, I think they are germane to the particular issue. Unlike Senator Bob Brown’s amendment, these amendments are designed to progress the committee report and achieve a better outcome for the safeguards that Labor is here to protect. Senator Brown’s amendment was quite a spray, quite frankly. I was not going to answer much of it because I took for what it was: simply a stunt.

The committee believed that access to stored communication warrants should not be available to all agencies, as is spelt out in the legislation, because in that instance the extension strikes the wrong balance between individual privacy and effective law enforcement. The committee and Labor argue that at this point in the program, given the long history of this, stored communication should remain with law enforcement agencies.

Senator Brown would not have heard the argument from ASIC—the Australian Securities and Investments Commission. Apparently he does not want to. They wanted to use stored communication warrants for notices to produce. I think that argument should be expelled. It has the wrong emphasis. What they were arguing for during that part was that you could use covert—although they took exception to that word, I must say—stored communication warrants as notices to produce. I just do not think that is acceptable. When you look at their practices, you see that they had been using notices to produce to access stored communication—that is, SMSs and emails. They had not utilised a covert notice to produce in the last 12 months. It is not a power that would add to their array of law enforcement or civil enforcement activities in the area of their work. Therefore, to me and to the committee, it seems to be an unnecessary extension at this time.

Of course, the key distinction that we have to focus on is between covert and overt searches. The principal test should be the impact on individual privacy. The bill would result in a significant number of government agencies being able to covertly obtain material and, further, the proposed system would allow access to stored communication warrants for a range of sometimes relatively minor offences. So a wider range of agencies—those outside what we would regard as the law enforcement agencies: the AFP, the ACC and ASIO—would have the ability to utilise covert access to stored communication. We think that goes too far. It was not sufficiently justified by the agencies or by the submissions by the Attorney-General’s Department. I do not think the need for it was well argued by them.

The information that they seek to obtain from emails can be obtained from notices to produce, ordinary search warrants and the like for agencies. I think the agencies were just throwing their hat in to see if they could gain a covert power. It was not and is not necessary. These amendments will give effect to ensuring that that power is not in the legislation. It was for a range of otherwise minor offences which could be civil in nature, and therefore you would expect that, if they wanted to obtain and enforce that, they could do it in the ordinary way. They can use notices to produce and search warrants to
obtain the evidence in that way and enforce the civil proceedings in the usual manner without covert access to stored communication at an internet service provider.

The view of the committee was that the invasion of privacy did not warrant an extension beyond core law enforcement agencies. Stored communication warrants should be limited to criminal offences. I think that provides the right balance. As I have said, other agencies can continue to use notices to produce. From the evidence given to the committee, there was not an apparent diminution of their ability to use the legislation to deal with their enforcement activities.

Senator STOTT DESPOJA (South Australia) (12.13 pm)—Briefly, as Senator Ludwig has pointed out, these matters were raised in the committee. Indeed, the majority report came up with recommendations that the amendments pick up. For that reason alone, I would hope that the government would give the recommendations and the amendments serious consideration. I remind members, senators and the public that the recommendations were from a majority committee report—that is, the chair’s report, which was endorsed by coalition members as well as Labor members of the committee.

As I have indicated previously, the Democrats support the recommendations in the chair’s report because we believe that they perhaps ameliorate some of the worst aspects of the legislation. Particularly in light of the good work of the chair of this committee, I would hope that the government would view these amendments in a positive light. As I have said, the Democrats believe that additional amendments and, thus, additional recommendations are required. We believe that Labor amendment (2) is an important amendment because it restricts the number of agencies that will have access to the stored communication warrants to that which the bill currently allows, which is a number of state and Commonwealth statutory bodies. We are restricting that to enforcement agencies. That was discussed and recommended. It has privacy and, obviously, other accountability implications. It is a good amendment. We are dealing with the amendments cognately now but, as Senator Ludwig has indicated, we will vote on them separately.

Similarly, we support opposition amendment (12), which stops agencies other than enforcement agencies having access to stored communications warrants. Finally, amendment (3), to insert the word ‘criminal’ into the definition of a ‘serious contravention’, has the impact of specifying that the law is in relation to criminal law only. This may not necessarily be required, as the punishment provisions and definition of proscribed offences et cetera deal with this issue. But, clearly, the intent of this amendment is to isolate stored communications to criminal matters only and, as such, removes any reference to pecuniary penalties. For the reasons that Senator Ludwig outlined, we support that amendment also. So the Democrats will be supporting the Labor amendments before us.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.16 pm)—These three amendments proposed by the opposition purport to limit the agencies that would have access to the stored communications interception regime. I think that what we have to look at is the sort of material that we are accessing here. We are not saying that the ACCC, ASIC or the Australian Taxation Office, or Customs for that matter, should be able to intercept communications. What we are saying is that they should be able to access documents which are stored electronically—documents which previously would have been found in a filing cabinet and been accessible by those agen-
cies under different warrant regimes under the law.

So we are saying that, where you have a stored communication, it is much like a document. An email, for instance, really is a letter that has been transmitted electronically, and I think a lot of people fail to realise that these days. Much of Australia’s litigation today, and prosecutions, involve at some point along the line the introduction into evidence of an email. Many people, I think, treat it much as a telephone call rather than a letter. What we are saying is that, where today’s prosecutions involve that sort of stored communication, these agencies should have access to it. We do not believe that it is unduly expanding the interception regime, because we are not saying that they can intercept telephone calls.

I can give you some examples. The ACCC, in dealing with cartels and any offence which would relate to cartels—where more than three years imprisonment is involved—would need to have access to this sort of information if it were to found a prosecution. It is similar for ASIC with corporate prosecutions, and indeed there has been much publicity about those in recent years in Australia. The Customs Service, involved in very serious issues, would need to have access to this sort of stored communication. In the case of the Australian tax office, as evidenced by Operation Wickenby, which is currently under way—I will not go into the details, but it is public information that it involves alleged massive tax evasion—one can only imagine that the ATO would need to rely on the evidence of stored communications.

In many investigations today, you see the seizure of information held on computers as forming the basis for prosecutions of serious offences. That is why it is essential that these agencies be allowed to have access to stored communications. Certainly, interim arrangements that we have had in place have allowed these agencies that access—and we are not saying that, just because it has been in place, we should necessarily continue it. The reason is that the environment is changing and, instead of seizing documents in a filing cabinet, you are now seizing information which is stored electronically. This ability has to be extended to agencies such as the ACCC, the ATO, ASIC and others, because they are very much involved in law enforcement and they need to have the power to intercept stored communications.

I appreciate the committee’s comments in relation to this and I have looked at those comments. The Attorney has said that, of course, we will continue to consider the committee’s recommendations, but we feel that at this point we have to maintain the current interim regime, for the reasons I have mentioned.

Senator LUDWIG (Queensland) (12.20 pm)—I will be brief. Senator Ellison makes a case for a stored communications regime. Labor support a stored communications regime. What we do not support is the agencies outside the core law enforcement agencies being able to access stored communications covertly. That is the word, ‘covertly’—in other words, directly to the ISP without the knowledge of the intended recipient. Those other agencies have the ability, and will continue to have the ability, to access computers, emails and software with the knowledge of the recipient. It is the ‘covert’ point which is the point of difference here between the coalition and Labor arguments. Labor say that the coalition’s position strikes the wrong balance. Labor say that our position, reflected in our amendments, effectively ensures that the privacy protections are there and the balance is there, as the committee found.
The TEMPORARY CHAIRMAN (Senator Moore)—The question is that opposition amendments (2) and (3) be agreed to.

Question negatived.

The TEMPORARY CHAIRMAN—The question now is that schedule 1, item 36 stand as printed.

Question agreed to.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.22 pm)—I move government amendment (2) on sheet PA337:

(2) Schedule 1, item 1, page 4 (lines 5 to 13), omit the item, substitute:

1 Subsection 5(1)

Insert:

stored communication means a communication that:

(a) is not passing over a telecommunications system; and
(b) is held on equipment that is operated by, and is in the possession of, a carrier; and
(c) cannot be accessed on that equipment, by a person who is not a party to the communication, without the assistance of an employee of the carrier.

Amendment (2) amends the meaning of ‘stored communication’ to clarify that a stored communication warrant only applies where a law enforcement agency seeks access to a communication with the assistance of an employee of the telecommunications carrier. This amendment provides certainty to law enforcement and security agencies and telecommunications industry participants alike and responds to issues raised during the Senate committee consideration of the bill. I commend the amendment to the committee.

Senator LUDWIG (Queensland) (12.23 pm)—As I understand it, it was a matter that did need repairing. I think it demonstrates—and I made this point last night—that some of these would have been picked up through a better process if this government had adopted a better way of going through the legislation. It has done that in the past. It did it in the years when I was on other committees. It seems to have changed its tune since 1 July. It promised it was not going to change its tune when it got control of the Senate. I think this again demonstrates that it has in fact changed its tune. It now treats the committee process as a way of facilitating the debate in here—or perhaps not facilitating it at all—and using this place as a sausage machine.

I complained about it last night. I promised I was not going to complain about it again, but it is a new day and I thought a new complaint would not hurt. But I will not complain again today about this. The point needs to be made that, with a constructive opposition and an accountable government, you would end up with a much better outcome and we would be in a position where we could ensure that those unintended consequences—the slips and the mistakes—were all fixed up and we could agree to move on. We could perhaps have an argument on principle and policy differentiation rather than arguing where, in many respects, with a bit more energy and a bit more effort we could improve the operation of this bill. This bill does need improvement. It does fall short. The government knows that. The government knows it is ramming it through. It should pick up the amendments that the committee made. It is not going to, clearly, and that is a disappointment. But this amendment relates to a minor procedural matter and the opposition supports it.

Senator STOTT DESPOJA (South Australia) (12.24 pm)—Ditto. The Australian Democrats will be supporting this necessary clarification to the definition of ‘stored communication’.
communications’. I totally agree with what Senator Ludwig said. We had a complaint last night about the process. The government does give us grounds for a perpetual whinge. It is not an isolated incident. I would suggest to Senator Ludwig that in fact the Senate committee inquiry is being used as a de facto committee stage and is designed to truncate some of the discussions that we should be having in this place. I once again record my concerns. I wish the government were picking up more of the recommendations contained in the Senate committee report.

Question agreed to.

Senator STOTT DESPOJA (South Australia) (12.26 pm)—I move Democrat amendment (1) on sheet 4869:

(1) Schedule 1, item 2, page 4 (line 23), omit "3", substitute "7".

On behalf of the Australian Democrats, I have just moved the first of a number of amendments to try not only to encapsulate the gist of some of the Senate inquiry issues and submissions but indeed to encapsulate the recommendations that we have moved through our supplementary report with additional comments of dissent. The amendment is intended to raise the threshold for access to a stored communications warrant from imprisonment for a three-year period to imprisonment for a period of seven years.

Those who of us who were involved in the committee will know that there was a bit of a debate about the differential thresholds. The Australian Democrats maintain that the differences are a little spurious. We are not at all convinced by the argument that voice-mail, SMS or email is less private or in some way less confidential because it has been more considered or more thought out. I am not sure about some of the SMSs that people are sending around this place—and I am not quite sure why Senator Johnston is laughing so much. Maybe I have touched on something!

As such, the Democrats believe that stored communications warrants should not be treated differently from an interception warrant which deals with live communications. There was evidence given to the committee in relation to this issue. As those who attended the committee would be aware, I asked a number of witnesses about their views on the differential treatment in relation to the differing thresholds for interception warrants and stored communications warrants. The Attorney-General’s Department, some officers of which are here today, will remember that I asked during that inquiry about the rationale for those different thresholds for stored communications and interception warrants, again relating to the notion that emails and SMSs are more considered than a live communication. I asked about that rationale, and one of the responses was:

It is something that is in writing—something that definitely involves more consideration of the expression—although there is the speed issue.

I think that rationale may be a little outdated, and certainly it is somewhat unconvincing. I will quote from Professor Williams. As we have heard in this debate, he provided written and verbal submissions to the inquiry. I believe I asked him about it. He said:

It strikes me as nonsensical that a differentiation would be drawn between speaking to somebody on a mobile phone and sending them an SMS message. Many of the students whom I teach today see them as equivalent forms of communication. It makes no sense as a matter of law or public policy why, indeed, it is easier to gain one type of information than the other.

He then said:

I think the proper focus for assessing this legislation is: what is the appropriate limitation upon the privacy of Australian people? For them there is no rational distinction, so I cannot see how you could justify one from the government’s end.
I do think that we need to change the thresholds. The attempt of this amendment—by increasing the three years to seven years—is to achieve parity between the two types of warrants. I think that if we did a vox pop of people in this parliament and on the street as to whether or not they consider that there is a difference between a so-called live communication and one that is written—and that includes SMS which I think is a fantastic medium—they would say it was quite a spurious claim that they are different and therefore one should be treated with more protection, privacy or confidentiality than the other—and, indeed, it is easier to obtain a warrant for one than another and there is a different threshold of imprisonment terms.

I commend this amendment to the Senate. I think it makes sense. Again, as Professor Williams stated in his response, the basic matter here is privacy protection for the Australian people. I also think that, as a matter of law, there are some important legal parities, if you like, that are not served by the bill in its current form. I commend the Democrat amendment and ask senators to support it.

Senator LUDWIG (Queensland) (12.31 pm)—Senator Stott Despoja will not be surprised that I am not supporting the amendment. There is some joy later on, though; I can see significant merit in some of the later amendments. One of the difficulties in this process—by way of explanation rather than complaint—is the argument about real-time and stored communication. This bill introduces a stored communication regime that came from Mr Blunn. He saw the matter as necessary, he put a distinction in and he then, in the independent review, came up with a regime that included this type of outcome. When you look at the sense of it, with SMSs, stored communication and emails the real difference that strikes you is that there is a point where you do not have to send it. There is a point where you do not have to press the button. There is a point—no matter how short or long—where you can reflect upon the message before you send it.

Unfortunately, with live communication, with voice, you cannot review it after you have said it and choose not to say it. It has been said. There is no point where you can press the button—although many a time in front of a journalist I suspect I might have wanted to do precisely that. There is no consideration; there is no seven-second delay that allows me to review it. Effectively, Mr Blunn was saying the regime would provide adequate protection of stored communication in the way that he proposed. With the committee’s recommendations, it would provide this. By not picking up all of the recommendations, I think that the government falls short of ensuring that the regime provides sufficient protection and a balance between protecting people’s privacy and effective law enforcement. I think that increasing imprisonment from three to seven years does not add that protection; supporting the recommendations of the committee does. This is a matter that got some consideration by the committee but is not one that Labor would sufficiently support. It was not recommended and therefore it does not find our favour. We will not be supporting it.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.34 pm)—Certainly, the government does not agree with this amendment. Senator Ludwig has touched on some of the reasons on which the government has a similar view. I think that to compare stored communications with a communication that is taking place is somewhat unreal. To therefore say that stored communications need a higher threshold of offences, which attract a minimum seven-year penalty, is accordingly inappropriate.
I think that once a message or communication has been transmitted it is of a different nature to one that is in process. That is precisely what was acknowledged by Mr Blunn in his report when he acknowledged the difference between real-time interception and a communication that has been received. He recommended that the distinction between intercepting real-time communications and accessing stored communication be maintained. The bill maintains that, and I might just say that when you deal with the post, sending a letter through the mail, it is a written communication.

We have postal warrants, which can be obtained for the interception of mail. That letter is in a similar position to an email, which is a stored communication. It is different whilst it is being communicated, in that a person is speaking on the telephone or entering text into their computer and transmitting it. As Mr Blunn said, that difference has to be maintained. That is what this legislation does. We believe that the Democrats amendment places too much emphasis on the fact that stored communication is just as important as the communication in process. Three years is sufficient and affords law enforcement the opportunity to investigate serious offences and use the mechanisms that the bill provides.

Senator STOTT DESPOJA (South Australia) (12.36 pm)—I am not going to prolong this debate, but I am curious about the minister’s response. I acknowledge the Blunn report, but I am not suggesting that this is not a blurry area. I do not think it is immediately obvious or simple, but I do find it fascinating, and I would be curious to hear the minister’s response. He uses the example of a live communication—for example, having a telephone conversation or a discussion as we are now, juxtaposed with writing something down or pressing a button like ‘send’. However, doesn’t this issue become a bit more blurry when we are talking about the difference between picking up a phone and having a chat—such as, ‘Hello, Senator Ellison, I wanted to have a chat about the telecommunications interception bill’—and not actually getting through to the person but getting their voicemail?

I am trying to clarify whether there is a distinction. Do we treat differently the fact that I have not spoken to the minister but I have got through to his voicemail? Why would you treat that any differently? If I am wrong about that, I would like to have it checked. It may well be that people are much more adept when they leave a voicemail message, but I think all of us have been in the circumstance when we are caught off guard and think, ‘Gosh, it would’ve been easier to talk directly to this person.’ It is perhaps more challenging. I do not know. Maybe one is more considered and one is not. But doesn’t the fact that getting through would be treated one way and not getting through but leaving a recorded message would be treated another way seem ludicrous? That is just an example that comes to mind. I am curious to hear the minister’s response to that example.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.38 pm)—I turn to Mr Blunn’s report, where he said:

As such, real-time access is akin to eavesdropping which was the comparison used by the then Attorney-General (Sir Garfield Barwick) when the Telephonic Communications Bill 1960 was introduced providing protection against unauthorised interception ...

Interception was then defined as ‘listening to or recording any communication in its passage over the telephone system’.

He went on to say:

Accordingly, I recommend that the distinction between intercepting real time communications
and accessing ‘stored’ communications be maintained.

He did point out:

Increasingly much of the data ‘passing over’ the telecommunication system are not voice communications. However it seems to me impractical and undesirable to suggest different regimes for real time access (i.e. interception) depending on whether the communication is voice or in some other form.

What he was getting at was that intercepting someone in the process of making a communication—that is, they are on the phone or they are transmitting it—has to be treated differently to obtaining a communication that has been received, because a telecommunications interception is an ongoing warrant which is issued for 90 days, as I recall it. Intercepting that line—listening to the communications on that line—is an ongoing thing.

Stored communication is something different. That warrant allows you to intercept only that which has passed over the telecommunication system. It has been received. It is there as an item which has been received. It does not require a period of time with which to monitor it because it is not ongoing. The warrant simply lets you go in and intercept that aspect which has been received. It is at that point in time. It is fixed. It has been received, and it is in the past tense. The other warrant is very different. It is ongoing and you can listen to what is being done in real time. I think that Mr Blunn describes that well in his report, and that is why there is the difference between the two.

Senator STOTT DESPOJA (South Australia) (12.41 pm)—I understand the fact that they are being treated differently. I can even grapple, in this day and age where technology is changing and advancing all the time, with the technical distinction or rationale for that differential treatment. The thing that I do have a problem with and that I do think is a spurious rationale is the notion that one is more considered than the other. That is certainly an argument that has been put forward. In that respect, regardless of the rationale that is based on technological or other grounds, I think that in this day and age the notion that one is more considered than the other is increasingly spurious.

Having said that, I read the numbers in the chamber and I understand that this amendment will be lost. However, I do think that this is something—and I suspect the minister may even agree with me on this; I am not sure—that will be subject to continual discussion, review and debate, especially as technology advances at this extraordinary pace, because I think that in this day and age the notion that one is more considered than the other is not convincing.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.42 pm)—The minister did not answer my earlier questions, so I ask: could a situation occur here under this legislation as happened under the analogous legislation in the United States, where a group called Food Not Bombs was targeted by the FBI?

Senator Stott Despoja—Food?

Senator BOB BROWN—Food Not Bombs—it serves vegetarian meals to homeless people. Could an organisation be wiretapped or have their stored communications listened to? If not, what are the means to stop that happening—on the presumption that a case is put to somebody who arbitrates on a warrant that, through the very name of this organisation and some other allegations, they did deserve listening into? I mean, if the FBI can make that error, what is to stop it happening in Australia, where 250 out of 250 applications by the Australian Federal Police, for example, to intercept communications have been agreed to by warrant-issuing authorities?
Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.44 pm)—I am not aware of the situation in the United States, so I cannot comment on the particular instance that Senator Brown has mentioned. However, I can say that our warrant regime has judicial oversight, and I stand by it.

Question negatived.

Progress reported.

MATTERS OF PUBLIC INTEREST

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

Australia on the Map Project

Senator EGGLESTON (Western Australia) (12.45 pm)—This year is the 400th anniversary of the first recorded sighting of the Australian coast by European navigators. The Australia on the Map Project is dedicated to commemorating the 400th anniversary of European discovery of the Australian continent and the subsequent voyages of discovery that literally put Australia on the map. There were various discoveries by a range of European powers over the years, so that little by little, with each voyage, more of the continent of Australia was mapped. This culminated in 1811 with the publication of a virtually complete map of Australia by the French, and this was followed by the British in 1812. Of course, we should acknowledge that the Aboriginal people of Australia had been here for at least 40,000 years before Europeans stumbled upon the continent, and I am sure that people from the Indonesian archipelago had known for thousands of years that Australia was here. When President Hu of China visited this country a few years ago, he made the claim in the House of Representatives that the Chinese had discovered Australia in the 14th century, when their great boats on their voyages around the world came to Northern Australia.

On 6 April this year, as part of the Australia on the Map Project, the replica of the Dutch ship the Duyfken, the first known European ship to discover Australia, will set off on a journey from Fremantle, where the replica of the Duyfken was built, which will culminate in its arrival in Sydney on 10 December. On the way the Duyfken will call into a range of ports in Western Australia, South Australia, Victoria, Queensland, Tasmania and New South Wales.

Even in ancient times, the existence of a large landmass in the Southern Hemisphere was speculated on, but it was not until the early 17th century that Europeans first discovered the Australian landmass. The first Europeans to venture near Australia were the Portuguese, who dominated the East Indies throughout most of the 16th century. There is speculation, but no compelling evidence, that they were the first Europeans to reach Australia. By 1606, the Dutch had become the dominant European power in the region, and their main base was Batavia—now Jakarta—on the island of Java in the Indonesian archipelago. As a result of their commercial activities in the East Indies, the Dutch played a large part in the discovery of Australia. In 1602, they founded the United East India Company, or VOC. The Dutch were traders, and their exploration was largely for the purpose of finding new sources of commodities to further their broader commercial objectives. In short, they wanted to discover new supplies of commodities to ship back to Europe as trade.

As stated in the recent publication Great Southern Land, ‘The first Dutch exploration of Australia in 1606 took place in the context of the Dutch domination of the Spice Islands, and within half a century the Dutch had explored the entire north and west Australian coasts and a large proportion of the southern coast of Australia.’ In March 1606, while exploring the south coast of New Guinea,
Captain Willem Janszoon, on board the original *Duyfken*, stumbled on the west coast of the Cape York Peninsula, thus becoming the first European to discover Australia. It seems he was unaware that he had discovered a new landmass. Instead, he thought that what he had found was part of New Guinea. A decade later, the Dutch discovered the west coast of Australia. It would be over 150 years until Europeans discovered the east coast of the continent; that is, not until 1770, with the arrival of Captain James Cook.

The usual route to the Dutch East Indies, north-east from the Cape of Good Hope, often resulted in ships becoming becalmed in the doldrums of the Indian Ocean. In 1611, Dutchman Hendrik Brouwer discovered an alternative and faster route to Batavia. After rounding the Cape of Good Hope, he travelled in an easterly direction for about 3,000 miles before turning north for Batavia. Henceforth, this became the route that all VOC captains took. With no accurate method of determining longitude, it then became only a matter of time before the Dutch were to stumble across the west coast of Australia. So it was that in October 1616 the *Eendracht*, captained by Dirk Hartog, stumbled on an unknown coastline quite by accident, while journeying from Europe to Batavia. We now know that that unknown coastline was the coastline of Western Australia in the mid-west, around what is now known as Shark Bay. Hartog sailed about 250 miles along the coast, naming his discovery Eendrachtsland after his ship.

On 26 October he set foot on an island at the entrance to Shark Bay, which now bears his name, at what is now known as Cape Inscription. Here Hartog erected a post to which he nailed an inscribed pewter plate recording his visit. This was the first instance of printing performed in Australia and the first recorded landing on Australia of Europeans. So began a series of both intentional and unintentional Dutch contacts with Australia.

By 1622 the Dutch had discovered the western coastline from Cape Leeuwin to Shark Bay. A number of ships were wrecked over the years, perhaps the most famous being the shipwrecking of the *Batavia* in 1629 on the Abrolhos Islands, near Geraldton. I would think that the ensuing mutiny, murder and executions is one of the most blood-thirsty stories in Australian history. In December 1618 two Dutch vessels, the *Dordrecht* and the *Amsterdam* reached the Western Australian coast at a more southerly point than Hartog and sailed north along the coast.

In July 1619 Frederick de Houtman came close to discovering the Swan River but, mistaking Rottnest Island for a cape, he failed to see the river. Then in 1622 the crew of the *Leeuwin* discovered the extreme south-western point of the coast of Australia, now known as Cape Leeuwin after the ship, and they proceeded to map the south-westerly coast of Western Australia. In 1624 the *Gulden Zeepaard* landed near Cape Leeuwin and sailed along the Great Australian Bight towards what is now South Australia. In 1627 Gerrit Frederikscoon de Witt on the *Vyanen* reached the west coast near modern day Port Hedland and followed it to the Montebello Islands, which of course are just north-west of what is now called Dampier.

In 1644 Abel Tasman charted a long section of the Western Australian coast. In 1696 Willem de Vlamingh, on board the boat *Geelvink*, was sent to search for a shipwreck on the Western Australian coast. Although de Vlamingh failed to find the wreck, he did discover a river, which he explored over a number of days. Owing to the plentiful number of black swans on it, he named the river the Swan River. Of course, the river still
bears this name today and is the site of both Perth and Fremantle. Vlamingh’s party made several inland expeditions to explore the mainland but did not see any potential for trade and so did not seek to establish a settlement. On his journey Vlamingh came upon an island off the Western Australian coast with strange creatures that he thought were large rats. In fact the animals were quokkas, a type of marsupial. He gave the island the name rottennest, or rats nest, and, of course, today it is known as Rottnest Island and is a very important tourist resort in Western Australia.

On 30 January 1697, de Vlamingh rediscovered Dirk Hartog Island. He landed and found the pewter plate that Hartog had left there. Vlamingh replaced Hartog’s plate with a new one, inscribing Hartog’s old record and also recording his own visit. He then took Hartog’s plate with him and it is now held by the Rijksmuseum in Amsterdam. According to Michael Pearson, writing in the publication *Great Southern Land*, ‘de Vlamingh’s voyage greatly enhanced the knowledge of the geography of the west coast, by closely fixing its position and principal features’. However, the VOC was somewhat displeased because none of these explorers had found any potential for trade and so no Dutch settlements were established in Western Australia.

In 1688 the English buccaneer William Dampier on board the Cygnet repaired his ship at King Sound on the north-west coast, where modern Derby is located. French navigators were also active on the WA coast. In fact the French laid claim to Western Australia in March 1772 when the Frenchman Francois-Alenso de St Allouam, on board the Gros Ventre reached Cape Leeuwin. He subsequently sailed north to Shark Bay, where he buried an act of possession, claiming the west coast of the landmass for the King of France.

In 1792 another Frenchman, Joseph-Antoine Raymond de Bruni D’Entrecasteaux charted the Western Australian coast from Cape Leeuwin to Termination Island. In 1800 the Baudin expedition of two ships, the Geographe and the Naturaliste, sailed up the Western Australian coast naming many points along the coast, which explains why there are so many French names on the Western Australian coast. Of particular interest to me is that the Baudin expedition went to Geographe Bay in the south-west near where the town of Busselton, where I grew up, is now located. The district is called Vasse after a French seaman who was lost overboard from that expedition.

Although focusing on the west coast, I hope that this speech has served to highlight the very significant contribution that the Dutch especially—but also sailors from other European nations, particularly France and Portugal—made in putting Australia on the map. Also, I hope this speech has made the point that there were European navigators on the west coast over 150 years before the British charted the east coast of the continent. In conclusion, I would like to encourage the communities in the 25 harbours that the replica of the *Duyfken* will visit as it sails around the Australian coast this year to become involved in the event and to celebrate the history of French, Dutch and Portuguese navigation of the Australian coast.

**Hillsong Emerge**

*Senator HUTCHINS* (New South Wales) (12.59 am)—I rise to speak today about a number of issues that have been raised in the House of Representatives recently regarding Hillsong. Senators do not need to be told by me that the 2004 federal election result in Greenway was made possible by the tens of thousands of dollars that were poured into the Liberal Party campaign and the coffers of Louise Markus’s campaign fund. Louise
Markus's own spokesperson readily admits that in the 2004 election Hillsong members doorknocked and handed out pamphlets for Louise Markus.

Leigh Coleman is the business manager for Hillsong Emerge and employed Louise Markus. Louise Markus was employed primarily as a social worker. Her role there, as I understand it, was to provide services for the Hillsong community. Mrs Markus was a full-time employee on the payroll of the Hillsong company. Mrs Markus has an intimate understanding of how the company works, who runs it and what they would do with the money coming in from grants. So it is no surprise that Mrs Markus wrote a glowing endorsement of the grant application submitted by the organisation that employed her. Mrs Markus did as any loyal former employee and dedicated follower would do: she heartily endorsed the grant application.

Leo Kelly, the Labor Mayor of Blacktown, is a fine example of grassroots representation in the community. Councillor Kelly has admirably served the community of Blacktown for over 20 years with a no-nonsense approach that has delivered immeasurable results for the people of Blacktown City. It was a complete surprise to me that the member for Mitchell, Alan Cadman, attacked the good work of Councillor Kelly in an adjournment speech on the last day of the last session of parliament. The member for Mitchell should take a leaf from Councillor Kelly’s book and, instead of defending a profit-making venture like Hillsong Emerge, should be as concerned as Leo Kelly is that the program simply does not do what Hillsong said it would do in its grant application. That is wrong.

The facts speak for themselves on this issue. I have read the original grant application that Hillsong put together and have made the following notes about the application. The sorry saga starts with an application for funding by the Hillsong Emerge group to the Attorney-General’s Department which asks for $414,479 for a project that will be completed over three years. Hillsong write in section 2 of the application that they are key community stakeholders and that they have a range of community organisations that have formed together to be known as the ‘Community Crime Prevention Partnership’. The truth of the matter is that these community groups had never met and had not formed any partnership together, formally or informally. The stakeholders that Hillsong list as being involved are in fact not involved as community partners at all.

Hillsong go on to claim in their application that each of these community partners will run its own programs and that Hillsong will ‘collate the data gathered by each of the partners and use it to plan, implement and evaluate a three-year project’. That looks good on paper. It completes the necessary paperwork to make everybody feel good about working together, getting information, helping people and reaching a common goal. All I can say is this: at the time of the application being submitted to the Attorney-General’s Department, the organisations that Hillsong list that would be working together had not even been approached to join the partnership. I ask the government senators here today: how did Hillsong think they were going to get all this data collected when there was in fact no community organisation even aware that this submission included them as project partners? It must be said that this is quite puzzling indeed. This is the application that Louise Markus gave a glowing endorsement for. I ask you, Madam Acting Deputy President: did Louise Markus even read what she was supporting before, with one flick of the pen, getting it through the Attorney-General’s Department and to the minister’s office?
Hillsong, in section 3 of their application for funding, ‘Project workplan’, provide so-called crime statistics that completely contradict what the New South Wales government’s own website lists as accurate crime figures. There has been a trend over the 2000-04 period for crime rates to remain steady or decrease in that region. Louise Markus is all over this application, endorsing it and helping it through the processes. As a former employee of this organisation, Louise Markus jumps to be a ringleader and then pulls the grant through the slippery channels of a discretionary government slush fund.

One would assume that Hillsong know a thing or two about budgets and money. I would take a guess here that Louise Markus is also aware of how projects are funded and how projects are calculated. This Hillsong budget, I might add, includes $107,000 set aside for ‘administrative costs’—a big black hole where money can be sucked out at any time by the Hillsong group of companies. We all know that it is not hard to knock up a ledger line under an all-encompassing ‘administrative costs’ group. It is specifically designed to act as a generic budget line. What the people of the community of Greenway want to know is: did any of this $107,000 go into making pamphlets or flyers or sending mail-outs to any member of the Hillsong congregation?

So, left in the funding is $103,584 for wages. This would be close to $34,528 as an annual salary. Madam Acting Deputy President, you would have to agree that this is a junior salary level. Exactly how did the group plan on running such a huge project with such junior staff? Interestingly enough, a local Hillsong worker in Blacktown, Ms Mara Mackey, said that ‘all staff members have to be involved in the church’. Does that mean that the junior staff who were running this huge three-year project with taxpayers’ money were assessed on their capacity to do the job by the religion that they followed rather than their project management skills?

When the inaccuracies and lies were exposed, this grant fell dead in the water. In order to save face, a deal was offered by Hillsong to one of their so-called ‘community partners’. In a handwritten letter to the Riverstone Aboriginal Community Association, Mr Leigh Coleman writes that Hillsong Emerge will support the association in obtaining some $280,000 as long as the Riverstone Aboriginal Community Association abides by the rules and parameters set out by the Hillsong Emerge board of directors. This is another example of how Hillsong continues to monopolise the projects. Was Mr Coleman, Mrs Markus’s former boss, ever really concerned about the local Aboriginal people benefiting from the money—or was it just a shameless exercise in saving face and diverting a public outcry?

The questions I get asked all the time in Greenway concerning the issue of Hillsong are raised along these lines: were any of the song booklets being passed around at the local Hillsong gathering printed on ‘administrative costs’ paper? The questions I get asked the most about Louise Markus are: is Louise helping the government repay a debt to Hillsong that allowed the Liberal Party to spend next to nothing on the campaign itself in Greenway and was this part of a deal that saw a quiet backhander to the organisation that took the gamble during the campaign? I want to believe that is not how democracy works in Australia. I want to believe that Louise Markus would not preach about social service one day and be involved in money smuggling the next.

What does the local matriarch of the Hillsong movement and federal member Louise Markus do about this? Nothing. Louise Markus has done nothing to stop any of this rorting from happening. People in Greenway ask
me: why hasn’t she ever admitted that the budget is out of whack with any other similar project proposal? Why is this one different? Madam Deputy President Moore, I ask you: what am I, and you, and the good people of Greenway meant to think when Louise Markus stays silent on this issue? What are people meant to say when Louise refuses to acknowledge that the Hillsong budget was thrown together without substance or any reasonable way to work? Spending years as a social worker would have exposed her to numerous grants and budget plans. Louise Markus’s fingerprints are all over this dodgy budget, and for as long as she remains silent on the issue her guilt gets thicker.

The substance of this application was to commence a project aimed at reducing crime in Indigenous communities. The application asked for $610,968 to fund this program. In a separate application for funding the Hillsong group, again supported by Mrs Markus, stated that the aim of the project was to engage Aboriginal people into self-employment. Senator Abetz would later reveal that this money had not assisted any of the program's participants into self-employment. Why is Louise Markus supporting an application that sees taxpayers’ money tied up in a program that is not targeted at finding employment for Aborigines? It is particularly sad to see that Louise Markus can see this money being taken from the truly needy people in her own electorate, and lap up the good times at Hillsong with their closed-door programs.

Hillsong have repeatedly tried to dodge questions about the grant applications and subsequent debacles by ignoring requests for interviews from local journalists. This continual evasion of any scrutiny into Hillsong becomes even more concerning when an outstanding local journalist, Nick Soon, was approached by the office of Kevin Andrews, offering to reply on Hillsong’s behalf.

Senator Boswell—Madam Acting Deputy President, I raise a point of order. I draw your attention to standing order 193. Mrs Markus is a member of the House of Representatives and the senator is absolutely abusing standing order 193, which says that you cannot maliciously attack a member of either house of parliament, in this case the House of Representatives.

Senator Wong—Madam Acting Deputy President, on the point of order, I have been listening carefully to my colleague’s contribution and it seems to me, with respect, that he is outlining a range of issues and questions as to behaviour. I suggest that it is not transgressing standing order 193.

Senator Coonan—Madam Acting Deputy President, on the point of order: unfortunately, I have not heard all of Senator Hutchins’s contribution; I have heard some of the latter part of it. I am fairly sure that Senator Hutchins is framing his argument with questions, as Senator Wong puts it, with adverse conclusions that certainly reflect on the character of Mrs Markus. I would think it fairly and squarely offends the standing order.

The ACTING DEPUTY PRESIDENT (Senator Moore)—I have listened to the comments and to Senator Hutchins’s contribution. My understanding is that he is asking questions and making statements. I will continue to remind him of the standing order if I believe he goes across that line. At this stage I am listening and I ask you to continue your contribution, Senator Hutchins, bearing in mind the standing order.

Senator Hutchins—The office of Minister Kevin Andrews did answer questions on behalf of Hillsong. I would like to know why. It seems very suspect that the minister would want to involve himself in defending an organisation that has so blatantly manipulated the grants process. Minis-
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Andrews goes to great lengths in an email to defend the Hillsong application. He says, ‘Much of the criticism that has been made seems to be politically motivated against Hillsong itself.’ Minister Andrews knows that this is not an attack on Hillsong followers or believers, or beliefs. As with any organisation that receives government money—taxpayers’ money—it is essential that the organisation remains accountable for how it is spending the people’s money.

I am shocked, quite frankly, that Minister Andrews would act as a bodyguard to Hillsong. The minister’s office writes to journalist Nick Soon that the whole reporting of the grant is a nonissue. He claims that the reporting ‘misses the intention of a pilot program’ and, even though they did not help a single Aborigine to become employed, ‘That is okay. It was just a pilot program—no big deal. That 25 people have renewed confidence in themselves to become self-employed is to be congratulated.’ None of them actually were self-employed at the end of the program, but Minister Andrews thinks it is well worth $610,968 of taxpayers’ money to help 25 people feel good about themselves.

I do not think that is good enough. It is not good enough that the minister feels he needs to shield the blame from Hillsong and its endorser Louise Markus. What we have here is a local rort pushed along by the member for Greenway and pandered to by this federal government. The member of Greenway, the minister and the Prime Minister should be ashamed.

Senator Coonan—Madam Acting Deputy President, I raise a point of order relating to standing order 193.

The ACTING DEPUTY PRESIDENT—Senator Hutchins, I do take the point of order at this stage. I ask you to withdraw that particular statement.

Senator HUTCHINS—I certainly do, Madam Acting Deputy President.

Skilled Migration

Senator JOHNSTON (Western Australia) (1.15 pm)—Today I want to put a very important issue before the Senate—that is, what has happened in Western Australia with respect to the response of the Department of Immigration and Multicultural Affairs to our skill shortage. I commence by mentioning the names of two outstanding Commonwealth officers: Mr Glen Dival and Ms Karen Crockford. They are two members of the immigration department who have been performing their duties as outreach officers, Mr Dival with the Chamber of Commerce and Industry and Ms Crockford with the chamber of mines, the Australian Mines and Metals Association and the Australian Petroleum Production and Exploration Association. Both of those individuals have been at the coalface securing skilled migrants into areas in my home state of Western Australia where there has been chronic skill shortage, such that the jobs of other Australians and the wellbeing and financial viability of many projects have been threatened.

I also pause to compliment Mr Jose Alvarez; the former state director of the department of immigration in Western Australia, the current state director; the new state director, Mr Bruce MacKay; and the deputy state director, Ms Joanne Verikios. Each of those five people, particularly the senior officers, has been instrumental in attacking the issue of skill shortage in Western Australia through the provision and the promotion of various solutions and responses, such that a number of industries—and I will deal with those industries a little later on—have been able to maintain consistent viability in the face of a chronic labour and chronic skilled labour shortage. The outreach officers go to employers in each of those two streams of in-
dustry—the mining industry and the Chamber of Commerce and Industry—and provide assistance to employers to access skilled migrants from various places around the world for employment in jobs in Western Australia.

I have received numerous items of feedback from employers, particularly in regional Western Australia, who compliment me and the government on the very successful outreach officer program in Western Australia. I attended the launch in September of last year at Austal Ships. Austal are the world’s largest producer of fast passenger aluminium ferries and are based at Henderson in Western Australia. Austal, as I am given to understand by their production manager, had severe skill shortages, particularly in aluminium welding. They have accessed some 23 Filipino welders, who have come into Austal. Austal produce Australia’s Armidale class patrol boats, amongst other vessels, for the Australian Defence Force. Those 23 highly skilled Filipino welders have been able to fill a void that the management at Austal was having significant difficulty with. That has meant that the whole shipyard now has contracts on the books which they can anticipate completing on time and on budget of more than $350 million. That has been a huge response with the assistance, as I understand it, of the outreach officers.

I say in passing that at the beginning of 2005 we had 394,000 new apprentices in training throughout Australia, a great tribute to the efforts of ministers in the Howard government. That is a very favourable comparison to the mere 144,000 that we inherited in the mid-1990s. There has been a huge effort on the part of the government to train and to bring on skilled apprentices. In Western Australia, the demand in the minerals and mining, fabrication and engineering, and the oil and gas sectors has been, in short, overwhelming. Accordingly, there has had to be an innovative, resourceful response to this demand. We are talking about growth rates approaching and beyond 10 per cent per annum. The outreach officers go into the peak industry organisations, at the coalface, analyse the demands of the employers in these industries that are experiencing this phenomenal growth and then go away and provide assistance to those employers to access skilled migrants.

The Commonwealth government has been working very hard, hand in hand with business, to provide support and assistance to make Australian industry—particularly minerals processing, mining and manufacturing in Western Australia—competitive and successful. There are 16 outreach officers throughout Australia. Those officers are dealing with industry on a direct, face-to-face basis. I hope and trust that they are as successful and as productive as Mr Dival and Ms Crockford have been in Western Australia. The circumstances of the outreach officers are that the host peak body provides office space, support arrangements, telephones and all of the necessary resources on the ground to make the position of the outreach officer successful and focused. The department, on the other hand, provides the salary for the skilled and highly trained officer, travel expenses and other incidental support. It is a hand-in-hand partnership between industry, business and government, and the outreach officers are out there in the workplace trying to arrest a very difficult problem.

As I have said, Western Australia has had tremendous growth in the industries that I have named—to the point where most Western Australian government members have been besieged by employers in various industry sectors asking what can be done about the chronic skills shortage. In 2004 we took those concerns to the minister, and I must say that Minister Vanstone has responded quite magnificently with the innovation and
mobilisation of these outreach officers and in providing a comprehensive package of initiatives. The minister has initiated 20,000 extra skilled migration places, and I believe a very large proportion of those will be going to my home state of Western Australia.

Priority has been given to employer sponsored positions. Members on the other side of the Senate chamber will be interested to know that priority has also been given to state sponsored positions. The states are partnering the Commonwealth government in accessing skilled migration from around the world. That is something I think the opposition in this place needs to come to terms with. There has been promotion of various visa options to migrants and foreign visitors in this country who can apply to work while they are here and also to enhance the knowledge of Australian employers as to what is available through the Department of Immigration and Multicultural Affairs in the nature of acquiring skilled migrants to assist in their businesses.

I pause to congratulate the minister with respect to what has taken place in Western Australia. It has been quite outstanding—and I know that it is going to go on. The leadership displayed by the minister in response to what was a huge problem for our state has been quite significant and very successful. I pay great tribute to her for the magnificent job she has done for industry, particularly the mining industry, in Western Australia. An employer from Kalgoorlie rang me the other day to tell me how his business has gone ahead in leaps and bounds with the assistance of a number of skilled migrants in the area of accounting and other related professions.

I will turn to the specific initiatives that the minister has brought forward with respect to skilled migration. The department has undertaken extensive promotional programs in Australia and overseas. These have been called expos. The expos in Australia have been held in a number of major centres, using the benefit of outreach programs. Overseas, we have had expos in London, Amsterdam, Berlin and Chennai. More than 8,000 people who had the skills and backgrounds Australia is looking for attended these expos overseas. Almost 50 exhibitors, employers, state and territory governments and Commonwealth departments also attended. Expos have also been held in Australia in Brisbane, Melbourne and Perth and there will be further expos this year. There will be another expo in Perth in November this year. That is a tremendous initiative on the part of the department to respond to this very significant problem.

As I say, Western Australia—if I may be so bold to say to senators from other states—has been the engine room and the beneficiary, with its mineral production, of the enormous growth in China. Without the department of immigration’s proper response and assistance, Western Australia would be nowhere near as prosperous or as viable in terms of responding to this enormous demand from East Asia and South-East Asia.

The department has also promoted regional officers, attaching to business centres in each state and territory. These people have been available in areas of high growth in regional Australia to provide specialised skill, support and information to employers as to how to meet their skills needs through skilled migration opportunities.

I will talk for a moment about the Regional Sponsored Migration Scheme. The Regional Sponsored Migration Scheme allows employers in regional or low-population growth areas of Australia to fill with employees from overseas skilled positions that they cannot fill locally. This has been outstandingly successful in Western
Australia, as I have said. By being located in the regions, the regional certifying bodies are best placed to consider the skills needed and the occupations that should be approved for their regions. These certifying bodies are regional investment boards, chambers of commerce and regional officers of state and territory departments. Again I underline the fact that the states have been very willing and sensible participants in partnering the Commonwealth with respect to skilled migration from overseas. Regional Australia is defined as being any part of Australia except Brisbane, the Gold Coast, Newcastle, Sydney, Wollongong, Melbourne and Perth.

A further initiative has been the regional 457 temporary business long stay visa. Business visa sponsorship allows employers to sponsor a specified number of skilled workers for temporary entry to work in their businesses. To ensure that only skilled workers are recruited there are minimum skill and salary levels. In addition to ensuring that only skilled people are accepted under this arrangement, the minimum salary also discourages any attempt to exploit overseas workers and reinforces the skilled nature of their work.

A further initiative has been the promotion and enhancement of the skilled independent regional provisional visa. The SIR visa allows skilled people who fall marginally short of the general skilled migration pass mark to have three years of temporary residence in Australia provided they are prepared to live and work in regional Australia for at least two years. SIR visa holders can apply for permanent residency after two years if they have been employed for at least 12 months in regional Australia. The options open to them include the Regional Sponsored Migration Scheme visa, the state or territory nominated independent visa or the state or territory sponsored business owner visa. SIR visas are available to migrants intending to settle anywhere in Australia except the non-regional areas as mentioned above.

A further initiative has been the subclass 137 visa—the skilled state or territory nominated independent visa. The skilled state or territory nominated independent visa enables state and territory governments to nominate applicants for migration who are willing to settle where the skills are in demand. I am given to understand that this has been a very popular visa. Again I underline the fact that here the states have seen an opportunity and, with the assistance of the Commonwealth, we have worked in partnership to solve a very serious problem.

From 1 November 2005 the trade skills training visa has allowed overseas nationals to undertake high-quality trade skills training by doing an apprenticeship in regional Australia on a full fee paying basis. After finishing their training these visa holders can apply for a suite of existing regional migration visas. And so it goes on: working holiday visas, concessions for temporary protection and humanitarian visa holders, and a skill-matching database also assists in identifying people with the appropriate skills. Can I close by paying tribute to the department, its officers and the minister for the work that they have done in this difficult area.

Sex Education

Senator ALLISON (Victoria—Leader of the Australian Democrats) (1.30 pm)—I want to speak today on the subject of sex education. There is nothing more controversial than the topic of abortion, of course, but the topic of young people and sex runs a very close second. There is typically an outcry when the issue of sex education for young people is raised. The government recently announced a $51 million package for pregnancy counselling and, while there will be ongoing debate about the purpose of this package and how it will be put in practice, it
must be true to say that it will have no effect on reducing the number of unwanted or unplanned pregnancies, sexually transmitted infections or relationship violence in the community. Nor will it do anything to fight homophobia or help young people decide if and when they will be sexually active.

Pretending that young people are not interested in reproduction and are not sexually aware, keeping them in the dark about their bodies and the changes taking place therein, or suggesting that they just say no are also not effective responses to safeguarding the safety and wellbeing of young Australians. Many parents and others may not approve but we do know that by the end of high school most young people are sexually active and we know that sexual activity is beginning at a younger age than ever before. The national sex survey published in 2003 revealed that the average age of onset of puberty in Australia today is now 10 years of age and the average age of first vaginal intercourse is 16.

The secondary students and sexual health 2002 survey found that the majority of young people in years 10 and 12 are sexually active in some way—only around 20 per cent have no sexual experience at all. It also found that sexual activity has increased among secondary school students since the previous survey in 1997. The survey found that 25 per cent of year 10 students and more than 50 per cent of year 12 students had had vaginal intercourse and 56 per cent of year 12 students had participated in oral sex within the last 12 months. These statistics are, of course, coupled with the later age of marriage, and this means that young people today can expect to have a long period between the onset of puberty and the commitment to a lifetime partnership across a stage of their life in which they are likely to be sexually active. During this period serial monogamy or a number of sexual partners in a year is likely to be the norm.

Rates of sexual ill-health and sexual risk-taking behaviour are high amongst young people. Pregnancy, childbirth and sexually transmitted infection are major contributors to the overall morbidity of the adolescent age group. Contraception is used inconsistently and not at all by many young people and they often do not think about protecting themselves from diseases. Many adolescents delay seeking prescription contraception for an average of one year after initiating sexual activity. Forty-five per cent of sexually active Australian high school students do not use condoms consistently, while 31 per cent use condoms without another form of contraception.

Teenagers are the most frequent users of emergency contraception at Australian family planning clinics and half of adolescent pregnancies occur in the first six months of sexual activity. Rates of chlamydia are on the rise, particularly in under-25-year-olds. The few prevalence surveys undertaken of Australian adolescents have reported rates of chlamydia of up to 28 per cent. Repeated infections are the main cause of pelvic inflammatory disease and adolescents are at greater risk of this complication than adults. Pelvic inflammatory disease can lead to tubal infertility, chronic pelvic pain and ectopic pregnancy, with consequential substantial drains on public funds during the adult years.

The national sex survey found that knowledge of how common sexually transmitted infections, such as chlamydia, gonorrhoea, genital warts and herpes, are transmitted is alarmingly poor. How can we expect our young people to reduce their risk of infection or advise their peers if they do not actually know what sexually transmitted infection is?

Twenty-three per cent of the students in the 2002 study indicated that they were
drunk or high the last time they had sex, increasing the likelihood that they would fail to use contraception and have sex when they did not want to. That 2002 study of high school students found that 4.6 per cent of young men and 8.8 per cent of young women in years 10 and 12 reported some level of same sex attraction. Studies of same-sex-attracted young people show that they often struggle with these issues in a climate of homophobia and silence with frequent experiences of bullying and harassment. They are also frequently the ones that engage in high levels of unsafe sex with members of the opposite sex in a desperate attempt to hide from their feelings. These young people are also at higher risk of dropping out of school, homelessness and poor mental health.

Child sexual abuse, date rape, rape and sexual assault and sexual coercion are common experiences of many young people. In most cases the perpetrator is known to the victim. Many victims do not know that they have a right to say no and be taken seriously, and many perpetrators believe they have a right to sex. Just over a quarter of sexually active students in the 2002 survey reported that they had had unwanted sex at sometime in their life.

We often hear that the constant presence of sexualised images in Western countries creates pressure on adolescents to have sexual relationships, yet Australia has not implemented comprehensive sexual health education programs to teach children and young people the skills to resist these pressures or to protect themselves from adverse consequences. This is despite evidence that education and access to resources from an early age may protect children from child sexual abuse and also delay the age of first sexual intercourse, increase the use of contraceptives and decrease sexually transmitted infections and HIV infection, unwanted pregnancy, abortion and maternal and child mortality.

Australia does not have a national standard for sexuality and relationship education in schools. Sex education is part of the Australian school curriculum, but it is not mandatory. Individual schools decide what is taught in the classroom, and there are differences between states. The Commonwealth funded classroom resource Talking Sexual Health is being implemented in all states, but only in some schools and to varying degrees. It only looks at education about diseases. There is little attention to the positive sides of sexuality, providing insight into one’s own sexual development or developing skills in communicating. There is nothing on teaching young children about sexual abuse and self-protection skills. Quality sexual health and relationships education can strengthen children’s and young people’s judgment skills and decision-making abilities. It can teach young people to understand their rights, responsibilities and the importance of respect for themselves and others.

This information and these skills enable people to negotiate safe and consensual sexual behaviour throughout their lives to reduce their sexual risk taking and to show how inclusive our community can be. It also helps people to make their own choices, either to abstain from or enjoy sexuality free of guilt, shame and regret. Of course there will be resistance. There are a lot of misconceptions about what good sex and relationships education is about. There are also those who argue that sex education encourages early sexual behaviour, promiscuity and homosexuality despite all of the evidence to the contrary. In South Australia in 2003 when 15 schools began to trial a sexual health and relationships education program based on five years of research that drew on best practice in overseas countries, the religious right
went to town with misinformation and intimidation.

There needs to be proper training for teachers and involvement of parents. The Commonwealth’s own sexual health resource points out that sexuality education overwhelmingly relies on volunteers and conscripts, who are largely expected to train themselves. They say:

... sexuality education, the most loosely defined and disparate of curriculum areas, is being taught by teachers who invariably feel under-trained, under-resourced and under siege.

We need professional development programs that focus on improving the knowledge base of teachers as well as on developing skills to build an appropriate classroom climate to recognise and cater for the diversity of students and to link at-risk students to appropriate services.

We cannot continue to ignore that we live in a world where most young people will not be waiting for their parents to tell them the facts of life but will be piecing together at a very early age from all they see in the world around them information on the subject. Instead, we need to engage with their newly developing capacity to make good and healthy decisions for themselves and provide them with the support that they need. An inquiry into sex education would tell us what information our young people are or are not receiving, counter the baseless claims about sex education and even allow young people to speak for themselves about what they need and want to know. We need to be able to draw from the experiences of other nations and existing programs to create a model of age-appropriate sexuality and relationships education that works with parents to prepare our children and our young people for the real world.

Guantanamo Bay

Senator KIRK (South Australia) (1.41 pm)—I rise to speak again on behalf of one of my South Australian constituents David Hicks, who is being held in Guantanamo Bay by the US administration, and to call again on the government to take action following the release of a United Nations report into Guantanamo Bay which was made public last month, on 16 February. This report makes it very clear that the facility at Guantanamo Bay should be closed down. The UN report says that Guantanamo Bay operates in violation of international treaties, a point that has been made many times before. The UN report says that the prisoners there are denied justice. It accuses the United States of perpetrating acts on Guantanamo detainees which amount to torture. It calls for the prosecution by US courts of officers and politicians ‘up to the highest level’ for their involvement in the torture of detainees.

This is not the first time we have seen allegations of human rights abuses and a failure to provide justice at Guantanamo Bay. The Australian government has time and again ignored reports of mistreatment, abuse and torture of Guantanamo Bay detainees. With the release of this report by the world’s highest human rights organisation, the government cannot continue to bury its head in the sand in relation to this issue. The Prime Minister, Mr Howard, the Attorney-General, Mr Ruddock, and the Minister for Foreign Affairs, Mr Downer, must act urgently on this matter. They must listen to UN Secretary-General Kofi Annan, who has backed this report saying that the US must shut down Guantanamo Bay. Our government must not ignore the British, French and German ambassadors to Washington, who now also say that Guantanamo Bay must be closed.
This 54-page UN report is a summary of investigations by five independent experts. The findings were based on interviews with lawyers and former detainees. The US government has criticised the report, saying that the authors had not visited Guantanamo Bay. However, according to the report, the envoys had sought permission to visit and to interview prisoners but were refused by the US administration. As an aside, I have also had experience in trying to gain permission to visit Guantanamo Bay. Last year I was invited to visit Mr Hicks, accompanied by his military lawyer, Major Michael Mori. However, the response I received, which was relayed through the Australian Embassy in Washington, said:

Visits by non-US nationals are, with very few exceptions, restricted to those related to law enforcement and intelligence purposes. No parliamentarians from third countries have been permitted to visit the facility.

As a senator for South Australia, I am one of David Hicks’s political representatives and I believe that was a reasonable request. We have to ask: what are they trying to hide? I have to say that I found this refusal for me to visit Guantanamo particularly galling because, according to the US Secretary for Defense, Donald Rumsfeld, 77 members of the US House of Representatives and Senate have been to visit Guantanamo Bay. Why does our government accept a situation where US political representatives are permitted to visit Guantanamo Bay but elected Australian representatives, in particular those who have a constituent in the facility, are denied access?

I would like to spend a few minutes on what I consider to be five of the most serious findings in the United Nations report. I will go through these quoting from the report:

1. “The executive branch of the United States Government operates as judge, prosecutor and defence counsel of the Guantanamo Bay detainees: this constitutes serious violations of various guarantees of the right to a fair trial before an independent tribunal as provided for by article 14 of the International Covenant on Civil and Political Rights.”

2. “Attempts by the United States Administration to redefine ‘torture’ in the framework of the struggle against terrorism in order to allow certain interrogation techniques that would not be permitted under the internationally accepted definition of torture are of the utmost concern.”

3. “The interrogation techniques authorized by the Department of Defense, particularly if used simultaneously, amount to degrading treatment in violation of article 7 of the International Covenant on Civil and Political Rights, and article 16 of the Convention Against Torture. If in individual cases, which were described in the interviews, the victim experienced severe pain or suffering, these acts amounted to torture as defined in article 1 of the Convention.”

4. “The excessive violence used in many cases during transportation, in operations by the Initial Reaction Forces and force-feeding of detainees on hunger strike must be assessed as amounting to torture under article 1 of the Convention Against Torture.”

5. “The lack of impartial investigation into allegations of torture and ill-treatment and the resulting impunity of the perpetrators amount to a violation of articles 12 and 13 of the Convention Against Torture.”

As I said, those are just five of the most serious and disturbing findings of the UN report.

There are still some 500 people being held inside Guantanamo Bay. My constituent David Hicks, who, as we know, is one of only 10 who have been charged, is awaiting trial as part of a military process which many have said is fatally flawed. I have spoken previously on the subject of the military trial process that is to take place at Guantanamo Bay and I do not intend to again go into the detail of all the fatal flaws and defects that exist in that process. However, I do want to comment briefly on a recent report, on 2 March this year, in the *Age* newspaper that
one-third of detainees at Guantanamo Bay are to be transferred to their home countries. We were also told that another 14 detainees will be released outright. Yes, just like that—these men, who have been locked up for years, stripped of all dignity, possibly mistreated and tortured, are now deemed to be such a low risk that they can go home. But what about David Hicks? In the words of his civilian lawyer, South Australian David McLeod, ‘Does David have to be the last detainee left at Guantanamo Bay or die in captivity before the irrationality of his continued detention is exposed?’

Today I am calling on the Australian government to, at the very least, request that the US government set up an independent inquiry into Guantanamo Bay, including the allegations of torture and mistreatment, as well as into the extraordinary rendition process. This UN report just adds more fuel to arguments that the way Guantanamo Bay is operating is fundamentally inconsistent with international law and conventions. Our government should, of course, also demand immediate justice for Mr Hicks. If the government is not prepared or does not have the courage to go to the US administration and demand that Guantanamo Bay be shut down, it should at the very least demand of the US that an impartial investigation take place into the flood of allegations that are now being made about the operations of Guantanamo Bay.

West Papua

Senator NETTLE (New South Wales) (1.50 pm)—I want to inform the Senate about a meeting that occurred in parliament yesterday of the Parliamentarians for West Papua Group. We were addressed yesterday by a human rights worker from West Papua who is currently in Australia but who cannot be identified because she is here after finding out that Indonesian authorities had ordered an attack on her life and after her home was raided while her two young children were in that home. She spoke about the situation for students who are hiding in the jungles around Jayapura, the capital of West Papua, fearing retribution from the Indonesian authorities as a result of the recent protests that have occurred at the university in Jayapura.

I spoke to one of those students on the weekend. He is currently staying with relatives—he explained to me that nobody was in the dormitories at the moment. He explained that on Friday there had been helicopters hovering all day and late into the night over the forest area out the back of the university. He indicated that he had received information that there had been shootings from these helicopters into the forests where students were hiding as a result of their fear of retribution. Yesterday we heard from the human rights worker that she understood there were around 200 students still hiding in the jungle, that they were running out of food and that some of them had injuries, including gunshot wounds, that they had not been able to get medical help for.

She also indicated that between five and 10 people who had been in hospital with injuries they had sustained as result of the activities of the protest had been intimidated by the Indonesian authorities whilst they were in hospital. They had now fled the hospital, regardless of their injuries not having been fixed, in order to avoid that intimidation. They are now on the run. The plea from her yesterday was for the Indonesian authorities to guarantee not to harm these students so that they can come out of the jungle and get the help they need.

We also heard from Reverend John Barr from the Uniting Church, who was in West Papua earlier this month. He was saying that church and human rights groups in West Papua are trying to get food and medical
support together for these students. But, because it is so difficult to get it into the jungles, it is hard for them to know how useful and effective their assistance can be. This request to guarantee the lives of these students is something that the Australian government could and should be making to the Indonesian government. The human rights worker also asked that there be a request for international monitoring to ensure that any guarantee provided by the Indonesian government about these students’ lives could be adhered to. She asked for international monitoring to ensure that it was adhered to.

She also talked about the security sweeping of students and other people in Jayapura by Indonesian authorities which is continuing in the aftermath of these protests. She spoke about the way in which vehicles are being stopped, houses are being searched, and people are being searched and questioned. She said that people were being asked whether they were highlanders or from coastal areas. If they were highlanders they were being held and interrogated for longer.

There have been a number of reports in the Australian media about the number of students who may have been shot or killed as a result of the protests and the retaliation that has followed in Jayapura in West Papua. It is very difficult to get accurate information about the injuries and deaths because the Indonesian police and military are stopping people from having access to those students who are at the back of the university or being held in some of the hospitals. She told us the specifics of the death of one student who had been nearby when the protests had occurred on the 16th of this month. He was a student at the university and he gained his income by selling newspapers. This was what he was doing at an area not too far away from but not directly involved in where the protests were. She described the way in which he had been taken into custody by the police. His stomach had been slit open and his intestines had poured out. She described how he was then taken to a local health clinic, but his life was not able to be saved.

Many people in Australia have already seen the footage taken by Indonesian television stations of the Indonesian police shooting at students during these protests. When those kinds of atrocities are happening in the land of our near neighbours, we must speak out for peace and nonviolence. Australians in the community are increasingly speaking out against these atrocities, but we need to hear our government also speaking out on our behalf. If we wish to maintain the role that we can and should play in our region as a defender of human rights, now is the time to be calling on the Indonesian government to ensure that all of their representatives in West Papua uphold the human rights of the West Papuan people.

Cyclone Larry

Senator McLUCAS (Queensland) (1.56 pm)—I will take the opportunity in the five minutes we have left to complete a speech that I started last Monday night in the chamber. I was advising the Senate about how North Queensland is faring following tropical Cyclone Larry. There are a couple of issues that I would like to inform senators about. The first goes to the question of how the media responded to the events that we saw in Far North Queensland. I thank members of the media for the way they came into action to ensure that information was being shared in the most timely way with victims of the cyclone. All commercial radio stations did what they could. I commend the ABC for the actions they took. They worked many hours on top of the regular broadcasting that had been scheduled. I commend each and every one of those people for doing what they did.
I also alert the Senate to something that occurred which undermined the efforts of those ABC personnel. Unfortunately, the transmitter at Mount Bellenden Ker was affected by the cyclone, which meant that transmission on the FM band, I understand, was curtailed. It meant that people who could not access the AM band—and there are quite a few of them—had to rely on other forms of media to get their information. I ask the government to have a good look at why that happened and find out whether there are any ways to stop the type of damage that occurred. We realise this was a major, category 5 cyclone. It may be impossible to stop interruption to transmission because of the damage to the transmitter at Mount Bellenden Ker. But please have a good look at it. We were offline for quite some time and that did affect people’s ability to have information in a timely way.

The other issue I want to talk about very briefly is the importance of tourism in tropical North Queensland to the economy of our region. Of course, the area that has been decimated will be, let us say, closed for business for at least some months. There has been quite a bit of evidence to say that people who were intending to travel to North Queensland have cancelled their holidays. That is terribly unfortunate, because, in areas in the north such as Cairns itself, Port Douglas, Cape York, the northern part of the tablelands and the Townsville area, we are ready and willing and we would like you to reconsider and come back. We needed you to come and visit our part of the world. We need the income that you bring to us.

If any people listening or any senators in this place have heard of people who have cancelled holidays and travel to Northern Queensland because of the cyclone, I urge them to reconsider. We are ready, willing and happy to have your business. The Great Barrier Reef has been damaged only a very small amount. The wet tropics rainforest has been damaged considerably in the area that was hit by the cyclone. But there are plenty more beautiful places for you to see and enjoy, so please come north and enjoy what we have to offer you.

QUESTIONS WITHOUT NOTICE

Workplace Relations

Senator MARK BISHOP (2.00 pm)—My question is to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations in this place. Is the minister aware of comments by the President of the Australian Industrial Relations Commission that using the Fair Pay Commission to set minimum wages will see a slowdown in the rate of growth of minimum wages? Didn’t the president say ‘that is what the Fair Pay Commission is for’? Don’t these comments by the President of the AIRC, who of course was appointed by this government, highlight the impact on the low paid of the government’s new workplace laws? Can the minister now explain why the government thinks the nearly two million Australians already only getting the minimum wage of $12.75 an hour should get smaller pay rises in the future?

Senator ABETZ—Can I indicate that I am not personally aware of the comments, but I will take a punt and accept them at face value only because it is Senator Bishop asserting it. If it were some of his other colleagues, I would not be as confident in accepting their comments at face value. Even if we were to accept that the President of the Australian Industrial Relations Commission made those comments, it remains to be seen whether or not that assertion is proven.

Of course, what we on this side have had to tolerate, year after year—indeed, for a full decade now—is that each time we have come in with a reform—be it the goods and services tax, the waterfront reform, our first
tranche of industrial relations changes or the first sale of Telstra—no matter what our reform program, it has been met by a chorus of doom and gloom from a whole host of people, some of whom are very well informed but all of whom, I must say, have been proven to be incorrect.

We as a government have presided over a decade of seeing the low-income earners of this country enjoying increased wages to an extent unparalleled under the previous 13 years of the Labor government. Given that, I pose this question: why on earth would we as a government, having this wonderful record over the past decade, all of a sudden say: ‘Well, let’s try and lower the wages—after having increased them for a decade, let’s try and decrease them’?

It does not make sense, it is not on our agenda and, if there is one thing that the Prime Minister can be very proud of, it is the way that he has looked after the battlers of this country. That is why in common parlance today they are referred to as Howard’s battlers—because he is the one to look after them.

Senator MARK BISHOP—Mr President, arising from that response, I have a supplementary question. Can the minister confirm that, if the government had got its way over the last 10 years, the nearly two million Australians on the minimum wage would be paid $2,600 a year less than they are being paid now? Why does the government always want to pay the nearly two million Australians on the minimum wage less?

Senator ABETZ—The honourable senator knows that that is a very old, hoary argument that has no substance to it whatsoever. What the honourable senator knows is that, at the end of the day, people judge us on what is in their pay packet as a result of 10 years of the Howard government in comparison with what they got under 13 years of the Hawke-Keating government when the ACTU had its feet under the cabinet table and the Hawke-Keating government was able to deliver about a 1.2 per cent increase for the battling workers of this country. We have presided over an economic scenario where their wages have gone up above inflation—and, what is more, interest rates have been kept low so that, when they have had to borrow for a house, a car or something else, they have been able to do so on a sustainable basis.

Workplace Relations

Senator JOHNSTON (2.05 pm)—My question is to the Minister representing the Minister for Employment and Workplace Relations, Senator Abetz. Minister, are you aware of any recent comments in support of a modern industrial relations policy in this country?

Senator Sherry—You already know that! The Liberal leader in Tasmania—

The PRESIDENT—Order, Senator Sherry!

Senator JOHNSTON—Are you also aware of any alternative policies on this important issue for Australia’s continued growth and economic prosperity?

The PRESIDENT—Senator Abetz, if you heard the question over the interjection from my left, I would ask you to answer it.

Senator Hutchins—He didn’t need to hear it; he wrote it!

Senator ABETZ—I did hear the question, and I thank Senator Johnston for his loud, booming voice, which did allow me to hear the question above the din from those opposite. I am aware of a number of comments in support of a modern industrial relations system in this country. Indeed, in recent times Mr Bracks, the Victorian Premier—and when I say ‘in recent times’ I mean a decade ago—said that the Labor opposition ‘supports in
principle the concept of a single national system of industrial relations’. Prior to that we had the New South Wales Premier, Bob Carr, who famously said:

In a nation of 17 million people—

as we were at that time—

struggling to modernise its economy, seven separate systems of industrial regulation are an absurd luxury.

Or how about the opposition IR spokesman, the member for Perth, who said last year:

It is possible to consider ... a single or a unitary system. It’s not a novel policy idea, and you can contemplate a whole range of efficiencies ...

What these three quotes show is that the Australian Labor Party know what needs to be done to modernise our industrial relations system. I will give them another quote to assist them. It is this—and I would ask honourable senators to listen to it, because it is very important:

It is going to be necessary to strike an alternative industrial relations policy [that has] regard to the open-trading nature of the economy ...

Those opposite can squirm as much as they like in listening to it, because it was said by their real leader—and by their real leader I am not referring to Mr Beazley but to Mr Greg Combet, the Secretary of the ACTU. So we have the prospect of the ACTU itself recognising that you cannot go back, you have to move forward. But what is Mr Beazley’s policy in relation to the reforms we have just introduced? It is a ripper. He is going to rip up our policy and go back to that which existed prior to 1996, when his own ACTU secretary, Greg Combet, has finally been mugged by reality and now acknowledges the need for reform in the open economy in which we now operate.

While the Labor states are trying to mount a constitutional challenge against this unitary system, we have the Victorian Premier, Mr Smith, supporting the unitary system; the member for Perth, Mr Smith, supporting the situation; and even the ACTU secretary, Mr Greg Combet, supporting the notion of the need for modernisation. If I cannot convince them, I trust that the Rt Hon. Tony Blair can convince them, because when he addressed the Trade Union Congress after becoming Prime Minister he said this about the Thatcher reforms:

We are not going back ... We will keep the flexibility of the current labour market, and it may make some shiver, but, in the end, it is warmer in the real world.

I encourage those on the other side to join us and Mr Blair in the real world. (Time expired)

Workplace Relations

Senator MARSHALL (2.10 pm)—My question is also to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. I refer the minister to his answer yesterday about the government’s decision to remove unfair dismissal protection from nearly four million Australian workers. Can the minister confirm that under the government’s new system employers will be able to sack their workers today but offer them the same job back tomorrow on a lower wage? Can the minister explain why the government thinks that employers should be able to take advantage of the new system simply to cut costs?

Senator ABETZ—Inherent in that question is the old Marxist concept of the class conflict between capital and labour. In this, the 21st century—

Opposition senators interjecting—

The PRESIDENT—Order! Senators on my left!

Senator ABETZ—In this, the 21st century, those sorts of notions have been dismissed, as I just pointed out in my previous answer, even by luminaries of the labour
movement such as the Rt Hon. Tony Blair. What we are looking for is flexibility at the workplace—and flexibility at the workplace requires the confidence of small business employers to be able to put on staff without having the yoke of unfair dismissal legislation around their business necks. Mr Beazley himself has acknowledged the problems with the unfair dismissal laws as they existed in the past but, having acknowledged the problem, his answer is: ‘I will go back to those problems. I will not accept the reforms of the Howard government.’

I do not know of any employer who takes delight in sacking a worker. I know there are people like Senator Conroy who take great delight in seeing parliamentary colleagues sacked, but I do not know of an employer who wakes up of a morning and says, ‘Who can I sack today?’ They are concerned about the welfare of their business enterprise—the welfare of which determines their capacity to employ the workers within that enterprise. That is why, especially within the small business community, there is that close relationship between employer and employee—something which has driven up productivity and employment opportunities for our fellow Australians. Indeed, small business has been the engine room of economic activity and employment growth. All we had to do was ask small business, ‘Why aren’t you employing more people?’ and the one answer that came through loud and clear, time and time again, was, ‘The unfair dismissal laws act as a disincentive to employment.’

Senator Chris Evans—What sized business was that at the election?

Senator ABETZ—Small business, Senator Evans. What we are about is seeking to ensure that there is appropriate and proper cooperation between employer and employee. This is what Work Choices is all about, and the thing that those opposite are so concerned about, as ex-trade union officials, is that trade union membership in percentage terms has actually declined, despite their ongoing $50 million scare campaign against Work Choices throughout the community.

Senator George Campbell interjecting—

The PRESIDENT—Senator George Campbell, shouting across the chamber is disorderly.

Senator Kemp—I rise on a point of order, Mr President. I was trying to listen very carefully to that answer from Senator Abetz, and a very detailed answer in response to the question it was, too.

Senator Robert Ray interjecting—

Senator Kemp—But one thing I will not be doing is spending all my time in New York, Robert Ray, I can tell you that.

Opposition senators interjecting—

The PRESIDENT—Order! Senators on my left! Senator Kemp, what is your point of order?

Senator Kemp—My point of order is that I think we should have far more order from that side of the chamber, because it is impossible to hear the answers.

The PRESIDENT—I think we all know that shouting across the chamber is disorderly, Senator Wong. Continuing interjections are also disorderly. I remind senators on both sides of the chamber that shouting across the chamber is disorderly, and I ask Senator Marshall to ask his supplementary question.

Senator MARSHALL—Mr President, as a supplementary question, doesn’t this show that Senator Minchin was right when he said that the great majority of Australians do not support what the government is doing on industrial relations; they violently disagree? Isn’t a system that allows an employer to cut wages by firing workers then rehiring them
on a lower wage and inferior conditions simply unfair and un-Australian?

Senator ABETZ—In relation to the last part of the question, the answer is clearly no. Having said that, can I indicate that it is quite natural for our fellow Australians to express some concern at the changes that the government has implemented. They expressed similar concern when we introduced the goods and services tax, and Labor thought it could lazily ride into government on the alleged wave of GST discontent. Of course, the people of Australia said, ‘That’s not good enough.’ This is what Labor is trying to do again: ride into government on a scare campaign and a wave of discontent. But I suggest to those opposite that, just as they had to suffer the humiliation of doing their backflip on GST, they get it out of the way now, do the backflip today and save themselves the embarrassment tomorrow. (Time expired)

Aged Care

Senator PARRY (2.17 pm)—My question is to the Minister for Ageing, Senator Santoro. Would the minister please inform the Senate of steps taken by the government to protect the finances of Australians in aged care facilities, and would the minister further explain: is he aware of any alternative views?

Senator SANTORO—Before answering the substantial part of Senator Parry’s question, can I acknowledge his longstanding interest in the welfare and safety of the aged and frail in our community. Can I also particularly say thank you to Senator Parry for his strong representations to me in relation to the abuse issue, which has been in the public domain during recent weeks. I acknowledge those very strong and effective representations by Senator Parry. I am pleased to inform Senator Parry and the Senate of the passing of legislation yesterday that will protect more than $4 billion worth of accommodation bonds held by the aged care industry on behalf of residents. These new prudential arrangements will protect older Australians from being financially disadvantaged in cases where nursing homes or aged care facilities go into bankruptcy, as well as ensuring that the bonds of aged care residents—often representing an individual’s life savings—are repaid in a timely manner in the event of such a bankruptcy.

While there has never been a situation in Australia where bonds have not been repaid in such a case, it was essential that the government take steps to reduce the risk of this occurring, as recommended by Professor Hogan in his report to the government on pricing arrangements in residential aged care. This legislation underlines the Howard government’s commitment to ensuring choice for residents, quality services and financially sustainable aged care industry structures. I am proud that we have taken these measures to further protect our elderly citizens when they need the protection the most.

Turning to the second part of the Senator Parry’s question, of alternative views on the finances of Australians in aged care, I have been intrigued in the last few weeks by the differing views of the Australian Labor Party on this matter. On 14 March here in Canberra the member for Rankin delivered what I thought was a thoughtful and measured contribution to the debate on the finances of Australians in aged care, through a speech to the ANU. We know that the member for Rankin has been active in writing and contributing to public policy of late but, following his very serious contributions to ageing and the challenges it presents—indeed, the most serious contribution to come from the opposition, I would say, with respect, in a long time—one must ask the question, ‘Who is the opposition’s real spokesman on ageing: Senator McLucas or the member for Ran-
Further to this, we need to ask the question, ‘Was the member for Rankin’s speech cleared by Senator McLucas or her office?’ Are we to take it that the views expressed by the member for Rankin have been endorsed by the opposition spokesperson on ageing, or is the member for Rankin just free ranging from the backbench, just as Mark Latham did a few years ago—and couldn’t we tell a story or two about Mark Latham! We might do that one day, while he waits for Bob Hawke’s demand that he be reinstated to the front bench to become a reality.

These are the questions that need to be put so that those Australians in aged care and the families of those Australians in aged care know exactly what the Labor Party stands for when it comes to aged care policy in this country. Let us hope that Senator McLucas will follow the lead of Dr Emerson and that of her state colleagues—and I wish to stress ‘that of her state colleagues’—who I will meet with here in Canberra on 10 April as we work cooperatively on the troubling matter of abuse of the elderly and start making positive contributions to policy discussions on how to improve aged care services in this country, rather than the cheap politicking that we have seen of late, including during the debate on the prudential administration bill yesterday.

**Workplace Relations**

**Senator FORSHAW** (2.21 pm)—My question is to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. Can the minister confirm that under the government’s new workplace laws employers can legally sack people simply because they do not like them? Can the minister further confirm that other lawful reasons for being sacked under the government’s new system—which workers now cannot do anything about—include chewing gum, the need to cut wages or simply no reason at all? Can the minister now explain exactly why the government thinks that it is okay to sack workers for any of these reasons?

**Senator ABETZ**—As the honourable senator knows, the government has ensured that in Work Choices there is a guarantee that workers cannot be sacked for unlawful reasons, and they have been set out in some considerable detail in the legislation. That is what provides the workers of this country with protection against unlawful termination. The Labor Party is still harking on about its unfair dismissal social experiment, which has been a failure for the men and women of Australia who have sought employment and have been denied employment until we were able to remove that from the statute book. Make no mistake: the unfair dismissal provision only came into legislation under the Keating government. It was not as though it had been there forever and a day; it had only come into the Commonwealth legislation as a social experiment by the Keating government, something which demonstrably failed.

**Senator Forshaw**—Mr President, on a point order: the question was specifically about unlawful dismissal. There was no mention of unfair dismissal in the question. The minister started his answer by referring to unlawful termination but he has now gone on to talk about an entirely different aspect. I ask you to draw his attention to the question.

**The PRESIDENT**—I hear your point of order, Senator, but the minister has almost 2½ minutes to complete his answer. I remind him of the question.

**Senator ABETZ**—Just to assist the honourable senator who, given his former days as a union representative, I would have thought might have had a better grasp of some of these concepts, unfair dismissal and unlawful termination are concepts that basically go hand in hand. It is quite churlish of...
those opposite to seek to discuss one in isolation from the other. What those opposite do not want the Australian workforce to hear is that they have protection against unlawful termination. That is what those opposite are scared of: the Australian workers hearing that there is that guarantee of protection against unlawful termination for reasons such as race, gender or indeed, as Senator Conroy would be very interested in, whether or not you belong to a particular trade union, which I understand is one of the reasons certain people were sought to be disendorsed in Victoria; that is, they happened to belong to the wrong trade union.

With the unfair dismissal laws, what was allowed to occur—and Mr Beazley himself acknowledged this—was that go-away money was paid in the most outrageous of circumstances simply to get the case out of the way, at great expense to small business and, what is more, as a great disincentive to small business employers putting on more workers. As a result, what we sought to do was strike a balance to get rid of the unworkable—and indeed unfair—unfair dismissal laws. I have gone through case after case in this place highlighting to those opposite how unfair the unfair dismissal laws were. There was that celebrated case on the west coast of Tasmania.

Senator Sherry interjecting—

Senator ABETZ—Senator Sherry knows what I am talking about. Under his regime, those outrageous circumstances would remain and people would be paid money simply to go away when it was the totality of the workforce that had in fact sought that dismissal. We as a government acknowledge that we have changed the law in relation to unfair dismissal. We believe it is a change for the better. Workers still have protection in relation to the unlawful termination sections. (Time expired)

Senator FORSHAW—Mr President, I ask a supplementary question. I notice that the minister spent most of his time talking about unfair dismissal, not unlawful dismissal. I ask: given that an employer is hardly going to tell a worker that they have been sacked because of their age, their race or their sex, won’t an employee who thinks that they have been sacked unlawfully now have to prove it in court? Is the minister aware that the average cost of undertaking a claim for unlawful dismissal is $30,000? How does the government expect workers, battlers, to afford $30,000 in legal bills on top of losing their job when they have been sacked unlawfully?

Senator ABETZ—Once again the Australian Labor Party is seeking to dissemble in relation to this. As those opposite know, prior to Work Choices, the workers would have to have relied solely on their own resource to take the legal action. We now have a fund that individual workers can avail themselves of, if I recall correctly, up to $4,000, and the office of workplace standards will assist them in that regard. This is a huge step forward but, of course, what those opposite are condemning is that we are giving them the capacity to seek independent advice and they do not have to go cap in hand to the trade union movement. That is the thing that those opposite are concerned about in relation to this particular reform. (Time expired)

Internet Services

Senator LIGHTFOOT (2.28 pm)—My question is directed to the Minister for Communications, Information Technology and the Arts, Senator the Hon. Helen Coonan. Will the minister advise the Senate what the government is doing to deliver high-speed internet access in metropolitan black spots? Is the minister aware of any alternative policies?
Senator COONAN—Thank you to Senator Lightfoot for a very pertinent question. I would be delighted to tell those listening how they can get connected to fast internet if they live in a black spot area in a metropolitan area. High-speed internet services, as we know, can simply transform the way in which Australians keep themselves informed, educated and entertained. That is why the government launched the $50 million Metropolitan Broadband Connect program earlier this month. This program will make high-speed internet more accessible for households, small businesses and not-for-profit organisations in metropolitan and outer metropolitan Australia.

Because of the limitations of technologies and particular local factors, there are pockets of major cities where households are not always able to access high-speed internet, and that must indeed be very frustrating. But, as technology presents a problem, so it also presents a solution, and these problems are being systematically overcome. To expedite connection to faster broadband for people living on the fringes of our major cities, the government committed $50 million to encourage telecommunications companies to sign on. Metropolitan Broadband Connect is a demand driven program which will be rolled out in areas where the greatest numbers of people are interested in the service.

I would encourage people in metro areas who are unable to access broadband to register their interest in connecting to broadband on the Metro Broadband Connect demand register on the Department of Communications, Information Technology and the Arts website. The program operates by subsidising internet service providers for each customer they connect to eligible areas. The subsidies are around $500 per customer, and they double to $1,000 per customer if they have been on the demand register for more than six months. To promote investment in new infrastructure, 50 per cent of the funding in any particular year can go directly towards funding the cost of new broadband infrastructure up front. The number of Australians in metropolitan areas who are unable to access broadband has dropped from close to a million three years ago to fewer than 200,000 now, and of course that number is falling fast.

Metropolitan Broadband Connect is just one of the government’s $3.1 billion Connect Australia packages. The government has demonstrated its commitment to quality telecommunications services across Australia with the biggest regional communications package in Australia’s history. The benefits are clearly being felt, with Australia experiencing rapid growth in broadband take-up. During the 12 months to September 2005, the number of broadband subscribers increased 98 per cent, to 2.6 million. This was an increase of 1.6 million subscribers, or 160 per cent, in the 15 months from 30 June 2004. This is being achieved in a competitive environment. Just today, Austar and Soul, for instance, announced they would roll out a wireless broadband network which is expected to pass 750,000 homes in regional Australia by the end of 2007. While Labor fiddles and does nothing on telecommunications, this government is committed to ensuring that all Australians have quality communications, irrespective of where they live.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the President’s gallery of an Australian Political Exchange Council delegation from our friends across the Tasman in New Zealand, led by Ms Sue Moroney MP. On behalf of all senators, I welcome you here to our Senate and to our parliament and I hope that your visit here is productive and enjoyable.
Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Uranium Exports

Senator ALLISON (2.33 pm)—My question is to the Minister representing the Minister for Industry, Tourism and Resources. Minister, exactly what safeguards has the government negotiated in its deal to sell uranium to China, and when will you release details of the deal? Does this deal include any improvement in China’s poor management of security and safety in their existing nine reactors, found by the United Nations to be the worst in the world? Does it include China getting rid of any of its nuclear weapons or ratifying the comprehensive test ban treaty?

Senator MINCHIN—I thank Senator Allison for that question. As I said yesterday, negotiations with China on a nuclear safeguards agreement have been under way for some time and, I am advised, are progressing well. It may be that, during Premier Wen’s visit next week, an announcement may be made in respect of that matter. I can also confirm, as I think I said yesterday, that any such agreement would be based on the very strict safeguards regimes that we have in place with four other nuclear weapons states—the UK, the US, Russia and France. They have been extremely successful for the long period that they have been in place, and China would be no different if such an agreement were brought about.

I note that the agreement would of course provide for monitoring of China’s compliance, and China has already agreed to International Atomic Energy Agency inspections of designated facilities. Other conditions that would apply would include no retransfers to third countries, no uranium reprocessing without prior Australian consent, an assurance that internationally agreed standards of physical security would be applied to Australian-supplied uranium, and detailed administrative arrangements setting out procedures on accounting for and reporting on Australian-supplied uranium. Any agreement that is negotiated between our two governments would be subject to parliamentary and public scrutiny through the Joint Standing Committee on Treaties process. So we do approach this matter extremely seriously. We will not tolerate any relaxation of what is a very strict regime regarding the export of uranium.

I should note that we are very conscious of the very significant demands in the booming Chinese economy for additional energy sources, given the growth of the Chinese economy. I would have thought parties of the Left, like the Democrats and the Greens, who profess to have an interest in issues of climate change and global warming, would want to see a country like China increasing its reliance on nuclear power generation rather than relying on coal-fired power generation, if they have any interest in containing greenhouse gas emissions. I do not know whether that is a factor in the thinking of the Democrats, but it is certainly a matter that we take into account.

We do think Australia, as a major resource holder of uranium and conscious of the demands for additional energy supplies in the world, should be in a position where it can properly consider requests for the supply of Australian uranium, given the impact on the emission of greenhouse gases that is involved in any developments based on coal-fired power. Therefore I would have thought the Democrats would be interested in China developing the peaceful nuclear power option. But I can assure Senator Allison and the Senate that we will have very strict safeguards in relation to any agreement to supply uranium to China for that purpose.

Senator ALLISON—Mr President, I ask a supplementary question. The minister may
have forgotten that I asked about nuclear weapons and whether there are any undertakings by China in this deal or an agreement by China to ratify the comprehensive test ban treaty. He may turn his attention to that in the supplementary. I also ask: why is it necessary for China to come to Australia to explore and exploit uranium mining when Roxby Downs is set to increase, I understand, production fourfold over the next few years? If this uranium from Roxby is not going to China, Minister, to what country does the government intend to sell this explored and exploited uranium?

Senator MINCHIN—The sale of uranium from Roxby Downs is a matter for the owners of the Roxby Downs mine, which is now BHP, to do in accordance with Australian law and in accordance with any agreements Australia has with recipient countries. They must comply with the law, but the commercial arrangements are a matter for them. The agreements that are proposed with China do not involve any question of mining or exploration in Australia; they relate only to the question of whether Australian companies can supply Chinese power stations with uranium for use in peaceful power generation.

As I said to Senator Milne yesterday, the question of mining exploration is not a matter for these agreements. They are matters that involve state and territory laws governing mining and exploration, and of course Foreign Investment Review Board consideration of any such application involving foreign companies.

Uranium Exports

Senator RONALDSON (2.39 pm)—My question is to the Minister for the Environment and Heritage, Senator Ian Campbell. Will the minister explain to the Senate how Australian uranium sales can play a part in building a clean energy, low emissions future for the world? Is the minister aware of any constraints on uranium sales?

Senator IAN CAMPBELL—I thank Senator Ronaldson for his question. I think Senator Minchin has made quite clear in a previous answer to Senator Allison that those of us who care about ensuring we do not see global warming create dangerous climate change will explore every option Australia has available to it to contribute to international action, as well as pursue the $2 billion in domestic programs to ensure we do not see global warming contribute to climate change, which can damage biodiversity and ecosystems and put human settlements at risk through storm surges, increases in cyclone intensity and a range of other natural disasters.

It is incredibly important that we pursue all of these options. It is useful to add to the debate, at a time when the discussion about enhancing Australia’s uranium exports is in the press, that we understand the greenhouse benefits of that. For example, the uranium that is currently mined in Australia produces enough energy—around 400,000 megawatt hours—to substitute for fossil fuel produced energy, which is the major baseload alternative in the world, that would produce 400 million tonnes of carbon dioxide and other greenhouse gas emissions a year. Australia’s current uranium sales are producing a massive and measurable benefit in abating and constraining greenhouse gas emissions.

To put another important statistic on the record, the uranium oxide that comes from that single mine expansion that Senator Allison referred to earlier in relation to Roxby Downs, which is being expanded by BHP Billiton, will substitute for the fossil fuel equivalent of the entirety of Australia’s greenhouse gas emissions on an annual basis for decades into the future—550 million tonnes of greenhouse gas emissions saved be-
cause Australia is expanding uranium oxide mining at Roxby Downs.

It underscores the importance, the credibility and the honesty of the response that Premier Mike Rann made yesterday on national television when he said that the Australian Labor Party’s policy to stop the expansion of uranium mines in Australia—the antiquated three-mines uranium policy, which is pursued by the Western Australian government, the Queensland government and every other government with the notable exception of South Australia—is, to use his words, ‘antiquated and out of date’. It was a policy that was designed in an era when global warming was not an issue for the world.

Mr Beazley should understand that if he wants to talk the talk in relation to greenhouse gases he should immediately change the Labor Party’s policy to one which leads the world to a clean energy future. We know that within the Australian Labor Party there are some substantial opponents to the Beazley weakness on this issue. Martin Ferguson has said that the policy is anachronistic. It is. It is madness. It is bad for the environment and it is bad for the Australian economy, and Mr Beazley should get away from his 10-year record of weakness and vacillation on these policies and support a sensible policy that is good for the Australian economy and very good for the global environment.

Westpoint Collapse

Senator SHERRY (2.43 pm)—My question is to Senator Minchin, representing the Treasurer. I refer to the Westpoint scandal in which thousands of Australians, many of whom are elderly and retired, have lost up to $400 million of their savings. Can the minister confirm that the Westpoint scandal is the largest financial scandal to hurt Australians since the collapse of HIH? Given the investment product of Westpoint entities was in the form of so-called promissory notes, can the minister explain why the Liberal government failed to regulate this type of financial product as it does all others?

Senator MINCHIN—The collapse of Westpoint is something that concerns all Australians who are genuinely worried about the impact of these financial collapses on ordinary investors. It is true that a number of the property development projects operated by Westpoint have run into financial difficulties, and a number of retail investors who lent money to the projects are at risk of losing their investments.

From the federal government’s point of view, I can confirm that ASIC, the relevant authority, started considering Westpoint’s fundraising activities as far back as 2002 and first took regulatory action in 2003. ASIC’s action against Westpoint is still before the courts, and a further ruling is expected very shortly. At the same time, ASIC started an investigation into the promotion of high-risk debt investments, offering higher than normal yields to retail investors. As part of that action, ASIC issued a number of warnings to the public on the dangers of entering into such investments. The first such warning was released as long ago as May 2003. ASIC’s ongoing investigations are extensive and may result in regulatory action against the individuals and firms targeted. Because the matter is subject to vigorous ongoing action by ASIC, it would be inappropriate for a member of the government to speculate on possible outcomes just yet.

The question of how these investments were promoted to retail investors, and the potential liability of financial advisers for misleading or negligent advice, has emerged as one of the key issues in this case. The law requires that all the risks associated with a particular investment must be disclosed to
retail clients. Financial advisers promoting Westpoint investments were also paid higher than normal commissions of 10 per cent or more. The law again requires that any commission payments must be disclosed to clients. It appears likely that certain financial advisers did not follow the legal requirements as to the disclosure, investment risks and commission payments in promoting these Westpoint Investments.

ASIC has announced that it will be investigating the activities of a large number of licensed and unlicensed individuals in this regard and that disciplinary action will be taken where breaches of the law are found. It has been reported that a class action on behalf of investors against certain financial planners, and possibly the directors of the Westpoint entities involved, will be started soon, based on breaches of the Corporations Law relating to disclosure and ‘know your client’ requirements. I think this does show that the investor protection mechanisms in the law are working as they were designed to do.

Senator SHERRY—Mr President, I ask a supplementary question. Didn’t the minister answer every question that I did not ask? I would like to ask again—

Government senators interjecting—

Senator SHERRY—This is very serious. Thousands of investors have lost up to $400 million, Senator Vanstone; you might like to think about that.

The PRESIDENT—Order! Do you have a supplementary question?

Senator SHERRY—What about that lot?

The PRESIDENT—Ignore the interjections.

Senator SHERRY—Given that the Treasurer received urgent and specific warnings on Westpoint from the West Australian government in mid-2002—more than 3½ years ago—why did the Liberal government fail to act on those warnings and regulate the product? Why is the Liberal government so weak in protecting hardworking Australians’ savings?

Senator MINCHIN—I thought I did answer that by indicating that ASIC, as the responsible federal authority, has been actively involved in this issue since 2002. It issued public warnings in 2003 and it has been actively involved in investigations of breaches of the law. It is a matter for ASIC, properly established by this parliament, to conduct those regulatory activities and to prosecute breaches of the law where they are occurring. It is a well-funded organisation to undertake that.

We deplore any breaches of the law or any deliberate deception of ordinary Australians in relation to their investments. It is tragic, it is unacceptable, and it is something that this government certainly will not tolerate. ASIC is well funded to ensure that it pursues every potential breach of the law like that.

West Papua

Senator NETTLE (2.49 pm)—My question is to the Minister representing the Minister for Foreign Affairs. It relates to the UN-supervised Act of Free Choice in 1969 in West Papua, when 1,022 hand-picked voters chose integration over independence in a process that the West Papuans call the ‘Act of No Choice’. Is the minister aware of the comments by the UN undersecretary responsible for monitoring the event, who said: It was just a whitewash … Nobody gave a thought to the fact that there were a million people who had their fundamental human rights trampled. How could anyone have seriously believed that all voters unanimously decided to join Soeharto’s regime?

Does the government accept the 1969 Act of Free Choice as the legitimate expression of
the will of the West Papuan people, and will the government support calls for the United Nations Secretary-General to review the status of the Act of Free Choice?

Senator COONAN—I thank Senator Nettle for the question. As I indicated yesterday—and the position certainly has not changed between yesterday and today—the attitude this government has in respect of West Papua is one which strongly supports Indonesia’s territorial integrity, including its sovereignty over Papua, and this government does not support separatism. We do say that full and effective implementation of special autonomy is, in the government’s view, the best way of meeting the considerable needs of the local community.

As I said yesterday, rather than taking up issues in relation to the report, we are currently implementing something practical for the West Papuans: a $3.7 million development program in Papua that focuses on health, HIV-AIDS, education and public expenditure. There is also a great need in West Papua for capacity building. In respect of the whole situation in West Papua, we continue to urge the Indonesian government to investigate local conditions and alleged human rights violations and to ensure that the human rights of all citizens in West Papua are respected. The important issue is that this government is concerned that local conditions in West Papua are improved for the local populous. We are concerned to ensure that Indonesian territorial integrity is respected, and that is the attitude we will continue to take in respect of West Papua.

Senator NETTLE—Mr President, I ask a supplementary question. I remind the minister about answering the question in relation to the Act of Free Choice. What role does the Australian government see for the international community in mediating discussions between the independence movement in West Papua and the Indonesian government? What will the government do to monitor human rights in West Papua? Will the government raise the status of West Papua as an issue in upcoming international and regional forums? If not, what considerations does the government believe are more important than the human rights of the West Papuans?

Senator COONAN—Thank you to Senator Nettle for the question. What I have said in relation to this government’s attitude to West Papua has been well and truly articulated both in an answer yesterday and again to you today. This government is concerned that the conditions of the West Papuans are monitored. We expect all international obligations to be observed in respect of West Papua. I think that all Australians are concerned about these kinds of matters but we see them in the context of the fact that we do respect Indonesian sovereignty. I would have thought, quite frankly, that Senator Nettle would have forfeited any right that she might have ever had to think that she was concerned about human rights. She is well and truly on the record as being deeply insensitive to the rights of people in this country and I am not going to add anything further—(Time expired)

Australian Broadcasting Corporation: Funding

Senator WORTLEY (2.54 pm)—My question is to Senator Coonan, the Minister for Communications, Information Technology and the Arts. I refer the minister to comments by the Prime Minister that he was prepared to examine advertising on the ABC, and her own remarks that advertising was a matter for the ABC board. Can the minister confirm that at the last election the government promised to maintain the current ABC Act prohibitions on advertising and sponsorship? Will the minister advise the Senate whether the government intends to keep its
election promise, or is the minister going to send the ABC down the American road where public broadcasters have to beg for corporate sponsorship to remain viable?

Government senators interjecting—

The PRESIDENT—Order! Senators on my right! Senator Kemp, come to order!

Senator COONAN—Thank you to Senator Wortley for the question. The question is based on a completely false premise that I have ever endorsed or ever had a proposal for advertising on the ABC or have ever raised the issue of advertising on the ABC. What I did was respond to a question from a journalist in which I said that sometime down the track it might be a matter for the board to raise the issue of ABC advertising. I made it very clear in that interview, I think, or certainly in a subsequent one, that the ABC has just had its triennial funding looked at and that takes any suggestion of how it funds itself out of the question up until at least 2009. Clearly, in the circumstances, advertising is not even permitted under its current charter. So those who got out the egg-beater and whipped up something that was non-existent can put it away again. There is no immediate prospect of advertising on the ABC, and that at least goes up to 2009. Even if there were to be any consideration of advertising, you would have to change the charter of the ABC to consider it. You would also need to have regard to the proper interests of commercial broadcasters, who obviously advertise, and that is a critical issue.

Honourable senators interjecting—

Senator COONAN—I gather from the moans opposite that the ALP must support advertising on the ABC. This government does not. We do not support advertising on the ABC and, indeed, we have not actually proposed it.

Senator WORTLEY—Mr President, I ask a supplementary question. Is the minister aware of comments by her colleague Senator Humphries that the ABC needs advertising revenue to restore services in regional Australia? Did the minister also agree with Senator Humphries when he said: We can sit back and wait for the wonderful day when money comes from government but it is unlikely to happen in significant quantities into the future.

Can the minister explain why the government has starved the ABC of the funds that it needs to fulfil its charter? When will the government end its ideological obsession with destroying the ABC and restore adequate funding?

Government senators interjecting—

The PRESIDENT—Order, senators on my right! Order! Senator Kemp, come to order!

Senator COONAN—Yes, I can always explain government policy to do with any matters in my portfolio. I can say unequivocally that ABC funding has been maintained in real terms for the whole of the time that this government has been responsible for the funding in the ABC and we will continue to honour our election commitments to properly fund the ABC. We have just done the triennial funding and we have just had a proper review of adequacy. Senator Wortley should really try to get herself informed before she starts making ridiculous allegations that she cannot substantiate.

Commonwealth Games

Senator McGAURAN (2.58 pm)—My question is to the Minister for the Arts and Sport, Senator Kemp. Will the minister update the Senate on the results of the Melbourne Commonwealth Games drug testing regime? Will he also outline the government’s initiatives to stamp out drugs in sport
in Australia? Is the minister aware of any alternative policy?

Senator KEMP—I thank Senator McGauran, my colleague, for that very important question. It is very important that colleagues take an interest in sport, and I encourage the shadow minister to also take a very active interest in this area. I have gone through the many achievements of the Commonwealth Games. The Commonwealth Games, by every measure, were an outstanding success.

One point I did not make yesterday was that another significant achievement of the 2006 Commonwealth Games was the antidoping program conducted by the Commonwealth Games Federation. The CGF undertook the toughest antidoping program ever undertaken at a Commonwealth Games.

Senator Carr interjecting—

Senator George Campbell—This is boring repetition.

Senator KEMP—Senator Campbell, you might be bored by it, but a lot of Australians are very interested. That is another example of the Labor Party being out of touch. According to the CGF, the games’ antidoping program met its target of conducting some 1,000 tests, substantially more than the number of tests conducted at the Manchester games. Mr President, as you know, Australia is regarded as a world leader in the fight against doping in sport—

Senator Carr—How much did it cost to dope the National Party?

The PRESIDENT—Order! Senator Carr, you are continually interjecting in this answer, and I ask you to come to order.

Senator KEMP—As I was trying to say over the rowdiness of the Labor Party, in the lead-up to the Melbourne Commonwealth Games, I announced the creation of a new antidoping body, ASADA, which underscored Australia’s absolute commitment to maintaining its fight against drugs in sport. ASADA, I am pleased to say, is open for business, and I thank those opposite for their support of the legislation which enabled ASADA to open for business throughout the Commonwealth Games. ASADA is the focal point for Australia’s antidoping activities, which include testing, investigation, presentation of cases, research and education. Those who know the Black report will recall that in 1990 Senator John Black, a Labor Party senator, proposed a similar body. Regrettably, the Labor Party in that period failed to take up that proposal from Senator John Black, but I am very pleased to be the sports minister that has brought in this new, very important antidoping body.

It is important that I bring to the attention of the Senate the reaction of other important bodies to the creation of ASADA. David Howman, Director General of the World Anti-Doping Agency, said that ASADA is the model for the rest of the world. He also said that he will be promoting the ASADA model—the model that Australia has created—to a world antidoping conference which will be held in June this year. All Australians can be proud of our international name for achieving great sporting success without the use of drugs. The establishment of ASADA will continue to further the reputation of Australia in leading the fight against antidoping in sport.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Australia-China Nuclear Safeguards Agreement

Senator MINCHIN (South Australia—Minister for Finance and Administration) (3.03 pm)—Senator Milne asked me a ques-
tion and a supplementary question yesterday in relation to proposed nuclear safeguards agreements with China. I have an answer to her supplementary question, which I seek leave to incorporate.

Leave granted.

*The answer read as follows—*

Yesterday Senator Milne asked a supplementary question of a technical nature pertaining to possible arrangements for the sale of uranium to China. Given the detailed nature of her question, I undertook to take advice on these matters before answering her question in this chamber.

The answer to Senator Milne’s question is as follows.

Safeguards are designed to prevent horizontal proliferation: they do not cap military programs in nuclear weapon states.

In a nuclear weapon state, such as China, IAEA safeguards are intended to ensure there is no diversion from declared civil facilities to military programs.

A bilateral safeguards agreement with China, in line with similar agreements with the other nuclear weapon states, will require Australian obligated uranium to be used only at facilities subject to China’s safeguards agreement with the IAEA, which includes the Additional Protocol ratified by China.

The IAEA is entitled to conduct inspections at these facilities and apply safeguards measures, including environmental sampling.

The IAEA conducts inspections in line with its safeguards strategy for China.

**ANSWERS TO QUESTIONS ON NOTICE**

**Question Nos 1333, 1353, 1355 and 1369**

**Senator MARK BISHOP** (Western Australia) (3.03 pm)—My question is to the Minister representing the Minister for Defence, Senator Ian Campbell, and it is pursuant to standing order 74(5). I ask the Minister representing the Minister for Defence for an explanation as to why an answer has not been provided to questions on notice Nos 1333, which I asked on 20 October 2005, 1353, which I asked on 8 November 2005, 1355, which I asked on 9 November 2005, and 1369, which I asked on 21 November 2005.

**Senator IAN CAMPBELL** (Western Australia—Minister for the Environment and Heritage) (3.04 pm)—I thank Senator Bishop for asking that question. I am not sure whether he contacted my office before question time to advise this. I got back from a luncheon function just before two o’clock, so I was not advised that you were going to raise this.

**Senator Mark Bishop**—I advised the Minister for Defence’s office two days ago.

**Senator IAN CAMPBELL**—Fine. I was not made aware of it, but I will follow that through for Senator Bishop and make sure that an explanation or the answers is provided as quickly as is humanly possible.

**QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS**

**Workplace Relations**

**Senator MARK BISHOP** (Western Australia) (3.04 pm)—I move:

That the Senate take note of the answers given by the Minister for Fisheries, Forestry and Conservation (Senator Abetz) to questions without notice asked today relating to changes to industrial relations.

Mr Deputy President, if you were to read any of the daily press from the last 12 months on the topics of industrial policies, industrial relations or labour law reform, you would be clearly aware of one thing—that there is a gaping chasm emerging in this country as to how labour relations and industrial relations in the workplace should be regulated.

One side of this parliament, one side of this chamber, is clearly committed to growth; productivity improvement; reforms that guarantee wealth creation and institutional
reform that achieves that end; giving reward for effort; reward for hard work; and, most importantly of all, achieving and maintaining equity and fairness in the workplace. The other side of the debate, the other side of the chamber, is committed to the creation and continuation of class conflict and industrial warfare; the creation of productivity decline; institutional conflict and inertia; reward only via exploitation and harm; the spreading of hatred, violence and restrictions on lawful activities; and, most importantly of all, the denial of basic human rights in our workplaces.

The latter scenario that I outlined is the policy of the current government—of the coalition parties. In their haste and desire to revert and return to the 1890s, as they bring laws of change into this place, they seek to deliberately avoid their responsibilities as we go into the first quarter century of the 21st century. Their system, recently passed, is designed around the creation of an expensive, huge and bureaucratic set of regulations. They seek to restrict the ability of workers and managers to engage in discussions and negotiations on issues of their own choice. They pass reams and reams, pages and pages, of activities that employers, trade unions and workers may not engage in under the heading of 'Prohibited content'. They seek to continually deny any semblance of rights and are gleefully proud of their achievement. They deny any sense of responsibility and they continue to deny any concept of rights, protections or interests.

The other side, this side of the chamber, are committed to an alternate scenario—a scenario that is truly progressive in terms of labour market reform in this country, a policy of those who care about and love their country, a policy of vision for the next 50 years—not a return to the archaic days of the last 120 years—and a policy about reward, success, achievement, productivity, production and helping and assisting those in need. That is the policy of the Australian Labor movement.

We saw it today spelt out in headlines in the Australian Financial Review: a way forward, a clear vision and a brief set of clearly spelt out and easily understood principles, having regard for the open trading nature of the Australian economy, and having particular regard for fundamental rights of workers in the workplace; the creation of an effective safety net protection against unfair, unlawful, illegal and harsh treatment in the workplace; the right, for those who choose so, to collectively bargain; the right for those who want it to have active union representation in the workplace; and, most importantly of all, access to an independent umpire to set minimum wages and an appropriate safety net—(Time expired)

Senator LIGHTFOOT (Western Australia) (3.10 pm)—I listened to Senator Bishop and I thought he was speaking about the coalition policy. Senator Bishop is someone closely associated with the Trades and Labor Council of Western Australia, which, incidentally, enjoys the dubious honour of being the most strikebound state of all the states and territories of Australia.

Senator Bishop is a product of the Trades and Labor Council. His was a strange speech when one considers, say, that the trade union movement in Western Australia is the most militant and the most dictatorial. It almost seems as if the Western Australian Trades and Labor Council was schooled by the old Arthur Scargill school of left-wing socialism; it is so steeped in the tradition of the old English system of 'them and us'. I can think of two prominent trade union leaders in Western Australia: the porcine Kevin Reynolds from the CFMEU and his partner, Joe McDonald, who is not quite the same rotund shape as Mr Reynolds but who has also been
in a jolly good paddock with a big deep trough.

This is the sort of thing you have in Western Australia. This is the background and the training that Mr Bishop came from: it does not matter what you tell them; tell them anything as long as they all believe it. Some will believe anything you say, Senator Bishop, but they will not believe the garbage about you being good for Australia. What is good for Australia is the Howard coalition government and the new changes that have been made—those necessary changes that have been made to the economy. You could not argue, for instance, that the economy is not better off; the economy is better off. It is one of the best performing in the OECD. You could not argue that under these workplace reforms no-one is going to lose their job without some sort of reason. That has gone on from time immemorial. It has gone on for the last 100 years under trade union movements in Australia. It is going to go on for the next hundred years.

But let me go back to the Western Australian trade union movement and the CFMEU there. They are wreaking havoc upon the Labor government. They are biting the hand that feeds them in Western Australia. I do not know how Mr Alan Carpenter, the new Premier, whom I have known for some years—in fact, I worked with him in the Western Australian parliament as well—can handle the job he has. I suppose he will; he is quite clever. He is not a bad profile for a Labor Party person these days. But he has 400 workers who are doing crucial work on the new railway there—working on the tunnel that is going through the CBD in the fair city of Perth—who are subject only to the orders of the shop steward. When it gets a little hot the shop steward says, ‘Go home.’ It is not the foreman or the contractors on the job but the shop steward who says to go home. And then they go off for two weeks. How can an economy survive things like that?

How can the opposition survive in this place, coming from the trade union movement as it does and steeped in the history of ‘them and us’, which does not exist today? This government was elected because the battlers voted for the Prime Minister’s team. You have lost the backing of your people. Not many kids today want to be associated with Labor. Some aspire to be tradesmen. Previously, they supported your movement. Some aspire even to be professionals. But you say, ‘No, we are going to stick with the old, traditional Labor.’ You are always going to lose. There may be a time when you come onto these Treasury benches again, but you are going to eventually lose them because you are political Luddites in every sense of the word. You do not want change. You fear change. What this brave government has done is give Australia change that is going to be good for the future. Every person in Australia today on average is worth $300,000, right across the board. That is a heck of a lot better than the biggest socialist country in the world, China, where their wages are $5,000 a year. Is that what you want? Is that what Australia wants to go back to? Do we want to go back to a system that is retrograde? Do we want to go back to a system that puts your people in penury for the rest of their lives? This is the system. It works very well. And under the new system it is going to work much better than it has in the past.

Senator MARSHALL (Victoria) (3.15 pm)—I am not surprised that Senator Lightfoot did not address any significant part of the Work Choices legislation or the intended or unintended consequences of this legislation. He, I suspect, like most people over there, is ignorant of the consequences. We heard the fanfare that accompanied the introduction and implementation of the Work Choices legislation on Monday. We heard
over the last several months all the claims about one particular aspect of the Work Choices legislation—that is, the removal of the unfair dismissal laws. In fact, in Senate estimates Senator Abetz on the public record claimed that with the introduction of Work Choices and the consequential removal of unfair dismissal laws there would be an increase in employment of 78,000 overnight—the day after the introduction of Work Choices, 78,000, he said.

You can imagine my surprise when I woke up on Tuesday morning and read the papers. I expected to see headlines about an increase of 78,000 jobs. Of course, if it had happened the government would know. In the same Senate estimates hearing when Senator Abetz made those claims, the department was asked whether they had mechanisms and tools in place to capture that sudden jobs growth overnight. They assured us that they did, and I am sure that if there was such a jobs growth they would have passed that on to the government. They would have made that available to the press.

But there was no massive jobs growth and no overnight increase with the removal of unfair dismissals. Instead, we saw stories about workers being sacked. We saw headlines about workers being sacked and then offered casual jobs on lower rates and lesser conditions. We saw stories about workers sacked and replaced by workers that were employed the week before. We saw stories about workers being sacked for being too old. We saw stories about workers being sacked for being injured—juries that occurred in the very workplace they were subsequently sacked from. We saw workers being sacked for simply being sick.

A case was brought to my attention this morning of a worker who was sick on Monday and Tuesday of this week—Monday was the introduction of Work Choices—and had a medical certificate. He advised his employer that he was unable to attend work for two days, that he had been to the doctor and that was on doctor’s advice. When he arrived at work today, he was told he had been dismissed. When he asked why his employment had been terminated, he was not given a reason and was then informed that no reason is required to be given. That is true. Under the present regime that is in place, there is no requirement to give a reason why you want to sack someone. In fact, it does not matter because there is no unfair dismissal protection whatsoever—unless in those very limited circumstances of discrimination—and there is no practical redress against unlawful termination either.

When we went through the Senate inquiry into the Work Choices bill, we explored this issue and, much to my amazement again, Senators Barnett and Troeth tried to defend the government’s position and said that workers would not be unfairly sacked. When Professor Peetz presented to the committee and gave an example of a worker potentially being sacked for simply chewing gum, the government senators said that was clearly untrue. We had Senator Barnett come into this place and say that Professor Peetz was wrong and that Senator Marshall had misrepresented the position of the department, but the department has confirmed that this is the case. Who else recently confirmed that it is the case? The Minister for Employment and Workplace Relations himself.

The minister indicated quite openly and frankly on Lateline that there is no reason, apart from those narrow unlawful reasons, for a worker unfairly being sacked. You can sack people unfairly in this country under this regime. You can sack them because you do not like them. You can sack them because you might be in a bad mood that day. You can sack them for chewing gum. You can sack them simply because you want to sack
them and replace them with other workers or, as we know—and the examples are coming out—you can sack them in order to replace them with people on lesser wages and conditions. You can sack them, as we know is the case and has been widely reported in the press, and then offer them the exact same job back on less wages and lesser conditions.

What response did we get when we explored these things and put them on the public record? The government attacked Professor Peetz personally. They deny that this is the intended consequences of their bill. The fact that you can sack someone unfairly also makes an absolute mockery—(Time expired)

**Senator PARRY** (Tasmania) (3.20 pm)—I also rise to take note of the answers of Minister Abetz. A negative picture has just been portrayed by the opposition of the situation that now arises in the workplace in Australia. Let me explain, as Senator Lightfoot did, with some of my real-life experiences as an employer. Every employer in this country wants the best out of any workforce. With any workforce you employ, you want the best. That includes harmony within the workplace. It includes productivity issues. It includes happiness. Modern employers realise that you need to have a happy and congenial workplace for productivity.

Employers are not going to disrupt a system where productivity is paramount and where harmonious relationships need to be constantly in place. Let us look at the positives, not the negatives. It is very easy to come in here and be negative about any situation. By and large, employers are going to want the best that is possible out of any situation, any employment contract and any employment base. I would like to think that employers listening to this broadcast, if they have time to do so, would understand that this is a government that is very concerned about moving Australia forward.

We would be criticised strongly if we did not pursue the best interests of this nation as a whole. Part of the reason for our strong economy, for us moving forward and for the whole direction of this government is to have reform constantly. You cannot sit back; you cannot stay in one place forever and a day and say: ‘This has been working well since the early 1900s. Let’s keep it going at that same pace.’ We have built into the new industrial relations reforms things that are going to take this country forward. Senators opposite mentioned that that was what they wanted to do. In particular, I quite rightly agree with my colleague Senator Lightfoot, that it sounded as though Senator Bishop was trying to elicit information or suggest that the Labor Party cares for workers well into the future. We do. It is quite evident that we do. The legislation speaks for itself on how we do it.

Senator Marshall asked Senator Lightfoot as he was leaving: ‘Why didn’t you speak about the legislation?’ I will talk about some of the benefits of the legislation. I will highlight them so that they are on the public record once again. The regulations are really here to protect us. Certainly, the regulations are going to highlight some of the issues that need to be dealt with. One of the issues is that the minister may intervene at any time in proceedings before the AIRC. That was under the old system. Now this power of intervention is going to be replicated in sections 102 and 103 of the Workplace Relations Act. It has been necessary to fix up some of these provisions.

Another claim about the provision of information to the minister was that the regulations provided for the AIRC, together with the OEA, to provide certain information to the minister. This is essentially a replication of provisions that applied under the old system. For example, under the old system, the
president of the AIRC was required to provide the minister with detailed information. This included information on industrial action and disputes.

Senator Marshall—The benefits?

Senator PARRY—That is correct. Everything is a benefit under the new system. The Work Choices legislation and regulations represent the unwinding of 100 years of complex, confusing and overlapping legislation which has been unnecessary for a long period of time. It was also suggested earlier by senators opposite that we introduced this legislation in a rushed manner. This legislation was well thought out over a long period of time. It has taken a long time to develop the best system to move Australia forward. We will find as time marches on that this government will be credited for improving the situation within the workplace and making greater workplaces in this country. But, more importantly, it is taking us forward in a more productive way and is creating more employment opportunities. I note that the Labor Party indicated that there are now 70,000 more people wanting to join the unions. What they failed to say is that that represents—(Time expired)

Question agreed to.

Westpoint Collapse

Senator SHERRY (Tasmania) (3.25 pm)—I move:

That the Senate take note of the answer given by the Minister for Finance and Administration (Senator Minchin) to a question without notice asked by Senator Sherry today relating to the collapse of the property development company, Westpoint.

What is Westpoint? By way of background, Westpoint was a group of property investment companies involving a financial instrument known as promissory notes. There has been considerable media coverage of the Westpoint financial collapse. It is the largest financial collapse since the collapse of HIH—up to $400 million. Thousands of Australians have been hurt because of the Westpoint financial scandal. Many of those thousands of Australians who have been hurt are elderly and retired. I have seen quite a number of letters and emails about this and have spoken to many people on the telephone who have been badly hurt by the collapse of Westpoint. As I said, many of them are elderly and retired. They had invested all or a substantial part of their superannuation savings in the Westpoint entity.

The question I posed to the minister today went to the financial instrument that Westpoint investors were placing their moneys in. The financial instrument was known as a promissory note. In the Australian financial system, almost all financial products and institutions are regulated by the federal government. That is as it should be. However, the Westpoint financial entities, these promissory notes, were not regulated by the federal government. This had very serious adverse consequences for the thousands of people who had invested in the Westpoint entities. The Commonwealth government and the regulatory agency—in this case ASIC—could not regulate the promissory notes. They could not regulate in that area.

What concerns the Labor Party is that the Western Australian government, the minister and the Office of Fair Trading, wrote to the federal Treasurer, Mr Costello, in mid-2002 and outlined the regulatory gap—the fact that the federal regulator, ASIC, could not take action in respect of promissory notes. Also, the Western Australian government urgently warned the Treasurer about the activities of Westpoint. They drew to the attention of the Treasurer the fact that this regulatory gap did not allow the regulator, ASIC, to intervene in order to protect consumers. This was in mid-2002. So we had the Western Australian government warning the Treas-
urer in writing in mid-2002 of the activities of Westpoint and the fact that there was a regulatory gap—that the Commonwealth and its regulator, ASIC, could not directly regulate Westpoint and these promissory notes. That was in mid-2002, when many thousands of people had not yet put money into Westpoint.

The question I asked today of the Minister for Finance and Administration, representing the Treasurer, was: why didn’t the federal Liberal government and the Treasurer act on the warnings the Western Australian government gave in mid-2002? Why didn’t they act on the warnings and regulate this particular financial product as almost every other financial product in Australia is regulated—through ASIC? Three-and-a-half years later, after thousands of Australians have been burnt—many of them elderly and retired—with many having lost their entire life savings, the federal Liberal government has still not acted legislatively to regulate this particular financial product. And this despite the warnings from the WA government 3½ years ago.

That is not the only aspect of maladministration and bad regulation in respect of Westpoint, but it is quite a critical aspect of it. The Commonwealth and the Treasurer, Mr Costello, should have paid closer attention to the warning 3½ years ago. They should have heeded the warnings of the Western Australian government and regulated this area. If the federal Liberal government had done so, there would have been far fewer people burnt as a consequence of the Westpoint financial collapse.

Question agreed to.

**Uranium Exports**

**Senator MILNE** (Tasmania) (3.30 pm)—I move:

That the Senate take note of the answer given by the Minister for the Environment and Heritage (Senator Ian Campbell) to a question without notice asked by Senator Ronaldson today relating to uranium mining and nuclear power.

Senator Campbell has become what can only be described as a wild advocate for uranium mining and nuclear power and tries to suggest that this advocacy will in some way have a positive impact on climate change. He is completely wrong to suggest that climate change can be dealt with by running out nuclear power stations around the world.

Nuclear power is inherently limited in its capacity to protect the climate. The emissions nuclear power directly produces are only about two-fifths of the total emissions associated with it. You need to take into account all the transport emissions, for example. A nuclear power station has to run steadily, rather than varying widely with loads as many other types of power plant are able to do. A nuclear power station’s units are too big for many smaller countries and rural users.

It is also a less helpful climate solution because it is the slowest option to deploy in terms of capacity or annual output. It is also the most costly—it has a higher cost than competitors per unit of net CO₂ displaced, so that every dollar invested in nuclear expansion will worsen climate change because it provides less solution per dollar. If you are serious about climate change then you want to address the problem quickly and in the cheapest and safest way possible. Nuclear power does not do that. Nuclear power is the most expensive option and cannot exist without heavy government subsidies. There is no private sector interest in investing in nuclear power stations because it is not competitive with renewables.

Even if you were to invest in nuclear power stations thinking that that might do something about climate change, they do not come on stream for more than a decade—
is very slow—whereas you can roll out renewables tomorrow. In terms of cost and in terms of speed in addressing climate change, nuclear power is simply not the answer. In fact, if we are genuine about climate change, then buying the fastest and most effective solutions is what we need to do. What that involves is energy efficiency, cogeneration and investment in and rollout of renewables now.

Senator Campbell is trying to suggest that uranium mining has a carbon neutral footprint. That is not so. I would like him to tell us what the carbon footprint is of the Roxby Downs expansion, which he was talking about at lunchtime today. Let me put it to you this way: Roxby Downs will use 120 million litres of water per day. This is in South Australia, which is struggling with water already. It cannot take that water out of the Great Artesian Basin or the Murray River. So where is Roxby Downs going to get 120 million litres of water a day? The answer is a desalination plant; they are going to put in a desalination plant.

What will power that desalination plant? We will have a coal or gas fired power station—there has been no guarantee about renewables. Perhaps Senator Campbell could come back in here tomorrow and tell me the estimated level of CO₂ emissions that will come from the power plant that will fuel the desalination plant to give Roxby Downs 120 million litres of water a day for its proposed operation. Then you need to add to that the CO₂ emitted by all the mining equipment and machinery, plus the freight to get the uranium from where it is being mined to the ports and eventually to its destination in China. When you look at uranium mining, it is far and away not carbon neutral.

Then add to that the ecological costs of uranium mining. Look at Ranger’s spills: 120 spills since it opened in 1981—and that is just one uranium mine in Australia. Think about all the consequences for Kakadu, not to mention the other dangers associated with the exposure of workers. In March 2004, workers drank water contaminated with a level of uranium that was 400 times the limit. That was in Australia. Japan, which has a high energy demand met by nuclear power, has had some of the most terrible accidents in recent times. They are looking at what they can do about that. The UK has just announced that it is not going nuclear. Its main reason for not going nuclear is the uncertainty over the cost of nuclear stations. (Time expired)

Question agreed to.

PETITIONS

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

Trade: Live Animal Exports

To the Honourable the President and Members of the Senate in Parliament assembled:
The Petition of the undersigned notes the inadequate numbers of livestock available for Australian slaughter, food consumption and hides; the increase in Australian abattoir closures; the growing negative economic, employment and social impacts on rural Australia; and the unnecessary suffering endured by Australian livestock because of this nation’s pursuit of trade and financial benefits at any cost. Your petitioners call on the members of the Senate to end the live export trade now in favour of developing an Australian chilled and frozen halal and kosher carcass trade using humane slaughtering practices.

by Senator Bartlett (from 15 citizens).

Trade: Live Animal Exports

To the Honourable President and Members of the Senate in Parliament assembled:
The Petition of undersigned citizens of Australia calls on the Australian government to end the export of live animals from Australia to the Middle East.

Australia has strict laws to protect the welfare of animals—based on sound scientific research and
community expectation. It is therefore ethically and morally unacceptable to export Australian animals long distances to countries where they will endure practices and treatment that would be unacceptable or illegal in Australia.

We, the undersigned therefore call on the Australian government to end this trade and in doing so restore Australia’s reputation as a compassionate and ethical nation.

by Senator Bartlett (from 26 citizens).

Defence: Involvement in Overseas Conflict Legislation

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

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

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

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

by Senator Bartlett (from 143 citizens).

Petitions received.

NOTICES

Presentation

Senator Allison to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to amend the Broadcasting Services Act 1992 to encourage healthier eating habits among children and to prohibit the advertising of junk food during certain times, and for related purposes. Protecting Children from Junk Food Advertising Bill 2006.

Senator Carr to move on 10 May 2006:

That—

(a) the Senate recognises that secure and affordable housing provides a platform for social inclusion, good mental and physical health and participation in employment, education and training; and

(b) the following matter be referred to the Community Affairs References Committee for inquiry and report by 29 November 2006:

An examination of the housing needs of low and middle income households across Australia, whether those needs are being met and options for improving outcomes, including:

(i) the capacity of the Commonwealth Government to influence the price and availability of housing;

(ii) the effectiveness and efficiency of existing forms of direct government rental housing assistance in alleviating housing stress and ensuring that Australians have access to affordable, secure and appropriately located housing, with particular reference to:

(A) the effectiveness of Commonwealth Rent Assistance in improving affordable access to the private rental market,

(b) the intent and effect of the Commonwealth State Housing Agreement, and

(c) the evidence from Australia and overseas on the relative cost-effectiveness of different forms of direct housing assistance,

(iii) the potential for attracting private investment into affordable rental housing,

(iv) recent changes in the shape of the private housing market and their impact on home ownership, rental affordability and housing security, with particular reference to:
(A) trends in the proportion of Australian households that own their home outright, those that own their home with a mortgage and those that rent,

(b) the potential for intergenerational inequity as a result of sustained low levels of home ownership affordability,

(c) the availability and effects of government subsidies and loan financing schemes and possible alternative approaches to government support for home ownership, and

(b) the benefits and risks associated with new financial instruments, including shared equity and reverse mortgage products, and

(v) the specific issues faced by Indigenous households and communities.

Senator Ludwig to move on the next day of sitting:

That the Senate—

(a) notes:

(i) the comments by the Prime Minister of the United Kingdom (UK), Mr Tony Blair, made in the House of Representatives on 27 March 2006, about the need for Australia to re-engage with global efforts to tackle climate change,

(ii) that the UK has released a new climate change program setting out the UK agenda for action on climate change, including a stricter emissions cap on industry,

(iii) that the Conservative Party in the UK has committed itself to emission targets for 2010, 2020 and 2050 and has said that targets ‘must be locked in through binding commitments, stretching decades into the future and reinforced by market-based emissions-trading mechanisms’, and

(iv) that during the South Australian election campaign, the South Australian Liberal Party committed to a 60 per cent cut by 2050 and to reduce the state’s emissions by 20 per cent by 2020; and

(b) calls on the Government to follow the lead of the other conservative parties by setting emission abatement targets and putting a price on carbon in order to send the clear signal that industry and the financial sector need if they are to invest in the new technologies required.

Senator Ellison to move on the next day of sitting:

That, on Thursday, 30 March 2006:

(a) the hours of meeting shall be 9.30 am to adjournment;

(b) consideration of general business and consideration of committee reports, government responses and Auditor-General’s reports under standing order 62(1) and (2) shall not be proceeded with;

(c) the routine of business from not later than 4.30 pm shall be government business only;
(d) divisions may take place after 4.30 pm; and
(e) the question for the adjournment of the Senate shall not be proposed till after the Senate has finally considered the bills and items listed below, including any messages from the House of Representatives:

Telecommunications (Interception) Amendment Bill 2006
Family Law Amendment (Shared Parental Responsibility) Bill 2006
Family Assistance, Social Security and Veterans’ Affairs Legislation Amendment (2005 Budget and Other Measures) Bill 2006
Appropriation Bill (No. 3) 2005-2006
Appropriation Bill (No. 4) 2005-2006
Issues from the Advance to the Finance Minister as a final charge for the year ended 30 June 2005
Health Legislation Amendment (Pharmacy Location Arrangements) Bill 2006
Bankruptcy Legislation Amendment (Fees and Charges) Bill 2006
Therapeutic Goods Amendment Bill 2005
Cancer Australia Bill 2006
Ministers of State Amendment Bill 2005
Postal Industry Ombudsman Bill 2005 [2006]

Senator Milne to move on the next day of sitting:

That the Senate—

(a) notes that the Federal Government’s Climate Change: Risk and Vulnerability report states that:
(i) both the Great Barrier Reef and the Wet Tropics are very sensitive to changes in temperature and that an increase of as little as 2°C could have devastating effects,
(ii) climate model projections suggest that within 40 years water temperatures could be above the survival limit of corals, and
(iii) the value and uniqueness of World Heritage listed areas are already established and these should be given prominence in adaptation research and planning;

(b) further notes that:
(i) the World Heritage Committee considers that the Great Barrier Reef is one of many World Heritage sites that will become increasingly affected by climate change – other prime examples include the Kilimanjaro National Park, biosphere reserves such as the Cape Floral Region in South Africa and cultural sites such as the Venice Lagoon which is threatened by the rise in sea level, and
(ii) at the World Heritage Committee meeting of climate change experts at the United Nations Educational, Scientific and Cultural Organization Headquarters in Paris on 16 and 17 March 2006, the Australian Government joined with the United States of America in arguing against the Great Barrier Reef being listed as World Heritage in Danger because of climate change; and

(c) calls on the Government to support inclusion of the Great Barrier Reef on the World Heritage in Danger list because of climate change.

NOTICES
Postponement

The following item of business was postponed:

Business of the Senate notice of motion no. 3 standing in the name of the Leader of the Australian Democrats (Senator Allison) for today, proposing the reference of a matter to the Employment, Workplace Relations and Education References Committee, postponed till 11 May 2006.
COMMITTEES

Migration Committee
Meetings

Senator MARSHALL (Victoria) (3.38 pm)—At the request of Senator Kirk, I move:
That the Joint Standing Committee on Migration be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sittings of the Senate.

Question agreed to.

MR KEVIN CHARLES 'PRO' HART, MBE

Senator SANTORO (Queensland—Minister for Ageing) (3.38 pm)—At the request of Minister for the Arts and Sport, Senator Kemp, and the Minister for Communications, Information Technology and the Arts, Senator Coonan, I move:
That the Senate—
(a) notes the sad passing of Kevin Charles (Pro) Hart, MBE on Tuesday, 28 March 2006;
(b) extends its sympathy to Mr Hart's wife Raylee, his children John, Kym, Marie, Julie and David and to his extended family;
(c) recognises how Pro Hart used his well-documented 'larrkin' persona and iconic art to document how Australians see themselves and their history through rural and outback images and subjects; and
(d) records the significant contribution Pro Hart made to Australia and Australia's cultural identity through many artistic mediums including painting and sculpture over more than 40 years.

Question agreed to.

WEST PAPUAN ASYLUM SEEKERS

Senator BARTLETT (Queensland) (3.39 pm)—by leave—At the request of Senator Stott Despoja, I move the motion as amended:
That the Senate—
(a) acknowledges:
(i) the provision of Temporary Protection Visas by the Department of Immigration and Multicultural Affairs to the West Papuan asylum seekers who arrived in Australia in January 2006 claiming human rights abuses by Indonesian forces in Papua, and
(ii) the need for an end to the ongoing human rights abuses in Papua;
(b) recognises:
(i) that a commitment to the formal process of special autonomy for the province of Papua, that began in 2001, is integral to the peaceful solution of the conflict in Papua and calls on the Indonesian Government to fully implement the Special Autonomy Law, and
(ii) the partitioning of Papua into the provinces of West Irian Jaya and Papua is disputed and has been contested by Papuan political and community leaders; and
(c) calls on the Australian Government to support and encourage President Susilo Bambang Yudhoyono to continue to push forward his reform agenda for Papua as he has done in Aceh, and implement special autonomy for Papua.

Question negatived.

COMMITTEES

Environment, Communications, Information Technology and the Arts References Committee
Reference

Senator LUNDY (Australian Capital Territory) (3.40 pm)—by leave—I move the motion as amended:
That the following matter be referred to the Environment, Communications, Information Technology and the Arts References Committee for inquiry and report by the first sitting day in September 2006:

Women in sport and recreation in Australia, with particular reference to:
(a) the health benefits of women participating in sport and recreation activities;
(b) the accessibility for women of all ages to participate in organised sport, fitness and recreation activities, with additional reference to state and federal programs, including:
   (i) the number of women actively participating in organised sport, fitness and recreation activities,
   (ii) characteristics of women not participating in organised sport, fitness and recreation activities (including, for example, socio-economic strata, age, women with a disability, Indigenous or Culturally and Linguistically Diverse (CALD) women),
   (iii) constraints, including strategies to overcome the constraints that may prevent these women from participating,
   (iv) the effectiveness of current state and federal grant programs that encourage women to participate,
   (v) the retention and attrition trends of grassroots participation, including comparisons with male athletes at a similar level,
   (vi) the remuneration, recruitment, retention and attrition of elite female athletes, including comparisons with male male athletes,
   (vii) retention of athletes competing in senior and open age state and national sporting competitions, with possible strategies to retain female competitors in elite and sub-elite competition,
   (viii) opportunities and barriers for national team members and competitors in international competition, and
   (ix) the financial status, success and viability of women’s national league competitions, including strategies to improve these factors;
(c) the portrayal of women’s sport in the media, including:
   (i) the role of the government to regulate and review the coverage of women’s sport in the media (print, radio and electronic),
   (ii) the influence of pay television on the coverage of women in sport,
   (iii) the promotion and publicity of women’s national league competitions,
   (iv) the financial status and success of women’s national leagues, and
   (v) strategies to improve the amount and quality of media coverage for women’s sport; and
(d) women in leadership roles in sport, including:
   (i) the number and proportion of women in coaching, administrative and officiating roles,
   (ii) the issues associated with women in leadership roles in both elite and grassroots activities,
   (iii) trends and issues for women in organisational leadership roles, and
   (iv) strategies to improve the numbers of women in coaching, administration and technical roles.

Question agreed to.

PALESTINIAN LAND DAY

Senator Nettle (New South Wales)
(3.41 pm)—I move:
That the Senate—
(a) notes:
   (i) that Thursday, 30 March 2006 is Palestinian Land Day, and
   (ii) the statement by the Prime Minister of the United Kingdom, Mr Tony Blair, to the Australian Parliament on 27 March 2006 that ‘once the Israeli election has taken place, we must redouble our efforts to find a way to the only solution that works—a secure state of Israel and a viable, independent Palestinian state’; and
(b) calls on the Government to:
   (i) support the formation of a ‘viable, independent Palestinian state’, and

Question negatived.

Senator NETTLE—byleave—I wish to note that the Australian Greens were the only people to support that motion.

The DEPUTY PRESIDENT—Your comment will be noted in Hansard.

COMMITTEES

Scrutiny of Bills Committee

Report

Senator MARSHALL (Victoria) (3.42 pm)—On behalf of the chair, I present the second report of 2006 of the Senate Standing Committee for the Scrutiny of Bills. I also lay on the table Scrutiny of Bills Alert Digest No. 3 of 2006, dated 29 March 2006.

Ordered that the report be printed.

BUDGET

Consideration by Legislation Committees

Additional Information

Senator FERRIS (South Australia) (3.42 pm)—On behalf of the chair of the Environment, Communications, Information Technology and the Arts Legislation Committee, Senator Eggleston, I present additional information received by the committee relating to supplementary hearings on the 2005-06 budget estimates.

Consideration by Legislation Committees

Additional Information

Senator FERRIS (South Australia) (3.43 pm)—On behalf of the chair of the Legal and Constitutional Legislation Committee, Senator Payne, I present additional information received by the committee relating to supplementary hearings on the 2005-06 budget estimates.

COMMITTEES

Public Works Committee

Reports

Senator FERRIS (South Australia) (3.43 pm)—On behalf of the Parliamentary Standing Committee on Public Works, I present the following reports:

4th report of 2006 — Proposed fit-out of an extension to leased premises for IP Australia, Woden, ACT;

5th report of 2006 — Proposed redevelopment of post-1945 conflicts galleries and discovery room for the Australian War Memorial, Canberra, ACT; and

69th annual report

Senator FERRIS—I move:

That the Senate take note of the reports.

I seek leave to incorporate the tabling statement in Hansard.

Leave granted.

The statement read as follows—

Fit-out of an Extension to Leased Premises for IP Australia in Woden, ACT;

I present the Committee’s fourth report of 2006, which addresses the fit-out an extension to leased premises for IP Australia in Woden, ACT, at an estimated cost of $12.95 million. IP Australia expects that the proposed work will enhance operational efficiencies, reduce environmental impacts, improve amenity for staff and visitors and improve security arrangements.

The Committee investigated all aspects of the work, paying particular attention to the impact of lease incentive arrangements on reported project costs; and the proposed incorporation of a café and gymnasium, which had not been finalised at the time of the public hearing.

Following consultation with the Department of Finance and Administration, the Committee was satisfied that the lease incentive obtained by IP Australia represents standard commercial practice and that any surplus funds would be returned to Consolidated Revenue. In respect of the gymnasium and café, it is recommended that IP Australia keep the Committee informed as to the final
decision regarding the inclusion of these facilities in the building extension. The Committee recommends further that the project proceed at the estimated cost of $12.95 million.

———

Redevelopment of Post 1945 Conflicts Galleries and Discovery Room for the Australian War Memorial, ACT;

The Committee’s fifth report of 2006 presents findings in relation to the proposed redevelopment of the Post 1945 Conflicts galleries and the Discovery Room at the Australian War Memorial. These galleries have typically rated low on visitor satisfaction surveys, so the proposed work aims to refurbish the displays to the world-class standard of the Memorial’s other galleries. Specifically, the works will provide an additional 1,700 square metres of exhibition space and allow for the display of iconic objects such as an Iroquois helicopter from Vietnam and the bridge of the HMAS Brisbane.

In reviewing the proposal, the Committee took cognisance of:

• the heritage issues attendant upon works undertaken in an iconic national building;
• environmental factors, including air-conditioning, energy conservation initiatives and local impacts;
• access equity provisions;
• consultation with staff, stakeholders and the public; and
• funding issues.

Having satisfied itself in respect of these matters, the Committee is pleased to recommend that the proposed works proceed at the estimated cost of $17.8 million.

———

Sixty-Ninth Annual Report;

Finally, in accordance with Section 16 of the Public Works Committee Act 1969, I present the Committee’s Sixty-ninth Annual Report. This Report gives an overview of the work undertaken by the Committee during the 2005 calendar year.

In addition to its Sixty-eighth Annual Report, the Committee tabled 22 reports on public works, with a total estimated value exceeding $990 million. Throughout the year, the Committee conducted 46 meetings, 26 of which were public hearings.

Issues of note arising from the Committee’s deliberations in 2005 included:

• the difficulties associated with the consideration of works delivered through Public Private Partnership arrangements;
• the Committee’s increasing workload;
• the need for changes to the Public Works Committee Act;
• the timeliness with which works are referred to the Committee; and
• the quality of evidence supplied by referring agencies.

The Committee remains concerned at the absence of a legislative framework for the referral and scrutiny of Commonwealth works delivered through Public Private Partnership (PPP) arrangements. As agencies are encouraged to explore non-traditional funding options, the Committee expects that the referral of such projects will become increasingly common.

The first work of this type to be examined by the Committee was the Headquarters Joint Operations Command (HJOC) project, which presented the Committee with a number of challenges. Defence needed Committee approval of the HJOC project before proceeding to the tender stage, so the Committee was required to examine the project and costs at a conceptual level only, as the design, construction and financing details were to be developed by the successful private tenderer. Effectively, the Committee was asked to approve the project before all matters relevant to cost had been determined. In order to redress this problem, the Committee requested that Defence reappear to provide a further briefing on the project following the selection of the joint venture partner and recommended that the agency provide progress reports and budget updates at each stage of project completion. The Committee believes that the Act should be amended to establish provisions for the optimum timing of PPP referrals and any additional progress reporting requirements.

The Committee’s very heavy workload was a notable feature of 2005. Members are of the opin-
ion that the continuing increase in the number of referrals can be attributed largely to the $6 million statutory limit for referral, which has not increased since 1985. The Committee notes that the current equivalent of the 1985 figure would be between $12 and $15 million, and has requested that the Act be amended to reflect this increase.

In December 2005, the Committee welcomed advice from the Parliamentary Secretary to the Minister for Finance and Administration to the effect that a review of the Act had been completed and had gone to Ministers for response.

Members were pleased to learn that the review covered issues of concern to the Committee such as:

• the consideration of works delivered under PPP arrangements;
• consideration of accommodation leases;
• service delivery contracts; and
• the statutory limit.

The Committee looks forward to learning the detail of the proposed changes and their expeditious implementation in 2006.

Throughout 2005, considerable pressure was placed upon the Committee and its staff by agencies seeking early consideration of works on the grounds of ‘urgency’. The Committee wishes to remind agencies that there is a legislative requirement for an inquiry to be conducted into any public work estimated to cost $6 million or more. Moreover, the Committee cannot commit to a public hearing date until a work has been referred. It is, therefore, the responsibility of referring agencies to ensure that they have allowed sufficient time in their project schedules for the full and proper execution of the inquiry process.

The Committee noted a high degree of variance in the quality of evidence submitted by referring agencies throughout 2005. The failure to supply adequate project cost information was a particular problem. In some cases, the financial information supplied was not sufficiently detailed to enable the Committee to judge the true value-for-money of the work. In these instances, the Committee was forced to request supplementary information in order to complete its deliberations, thereby delaying the scrutiny and reporting process.

On behalf of the Chair and myself, I wish to express my gratitude to all of the members of the Committee for their continued hard work and support throughout 2005. I would also like to thank the secretariat, Hansard and Broadcasting staff, and those officers in the Department of Finance and Administration who play an integral role in facilitating references and expediency motions.

I commend the Reports to the Senate.

Question agreed to.

Legislation Committees
Reports

Senator FERRIS (South Australia) (3.44 pm)—Pursuant to order and at the request of the chairs of the respective committees, I present reports on the examination of annual reports tabled by 31 October 2005.

Ordered that the reports be printed.

DOCUMENTS
Responses to Senate Resolutions

The DEPUTY PRESIDENT—I present a response from the ACT Chief Minister, Mr Stanhope, to a resolution of the Senate of 1 March 2006 concerning aged care.

FAMILY ASSISTANCE, SOCIAL SECURITY AND VETERANS’ AFFAIRS LEGISLATION AMENDMENT (2005 BUDGET AND OTHER MEASURES) BILL 2006
First Reading

Bill received from the House of Representatives.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.45 pm)—I move:

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

Question agreed to.

Bill read a first time.
Second Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.46 pm)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

This bill will amend the family assistance law, the social security law and the Veterans’ Entitlements Act 1986 to implement several measures announced in last year’s Budget and some other current initiatives. These measures will be particularly important to Australian families and those helping to support themselves in retirement.

Families will gain higher rates of family tax benefit through an increase in the lower income threshold for family tax benefit Part A. The current threshold of $33,361 will rise to $37,500 from 1 July 2006 and the new threshold will keep its value by being indexed according to CPI on every following 1 July. The increase is substantially more than would have occurred through annual indexation processes.

The bill will help reduce family tax benefit and child care benefit debts by improving the way customers’ estimates of income are managed in working out their entitlements. New provisions effective from 1 July 2006 will allow income estimates to be updated where the customer has not provided a reasonable estimate of income for the current income year. Income estimates will be updated at the beginning of each income year and in certain circumstances where actual income for the most recent income year becomes known. Importantly, however, customers will continue to have the option of providing a reasonable estimate of income that would then be used to calculate their family tax benefit entitlements or child care benefit fee reductions instead of the automatically updated amount. That is, customers will continue to have responsibility for their estimate of income.

The bill contains two further measures relating to child care. Under the first, the distribution of available child care places will be enhanced by allowing the transfer of child care places from areas with lower demand to areas where the places are needed. Secondly, from 1 July 2006, the recovery of child care benefit debts will be improved by more closely aligning the recovery methods currently available with those available for family tax benefit debts. In particular, a customer’s child care benefit debt will be recoverable by applying the customer’s, or a consenting person’s, tax refund.

From 1 July 2006, the bill standardises the backdating provisions for carer allowance to allow a maximum backdating period of 12 weeks before the claim is lodged, whether the carer is caring for an adult or a child.

The bill makes various social security and veterans’ entitlements amendments flowing from the Government’s response to the review of pension provision by small superannuation funds. These beneficial amendments, which are backdated to 1 January 2006, allow retirees to manage their income needs better and increase certainty that they will not outlive their retirement savings.

In part, these amendments extend the term of market-linked income streams and life expectancy income streams so that payments may continue until the member or spouse reaches age 100. Similarly, if the member or spouse has a life expectancy greater than age 100, the greater age will be allowed for. These amendments also allow customers to vary annual market-linked income stream payments by amounts between plus and minus 10 per cent to mitigate the impact on annual payments that otherwise would result from large fluctuations in the value of the assets backing the income stream.

The bill makes other minor amendments in this area, including to improve or enhance the operation of the income stream rules and to allow certain non-superannuation annuities to be split as part of a divorce property settlement.

Lastly, the bill amends the social security law and family assistance law as they relate to payments being made overseas (known as portability). It will now be possible for a person’s portability period for a social security payment or family tax benefit (normally 13 weeks) to be extended in certain circumstances. The circumstances are that the person is seeking life-saving medical treat-
ment overseas, or needs to accompany someone else seeking such treatment, and financial assistance is payable for the treatment under the Medical Treatment Overseas Program administered by the Minister for Health and Ageing.

Debate (on motion by Senator Ellison) adjourned.

Ordered that the resumption of the debate be an order of the day for a later hour of the day.

HEALTH LEGISLATION AMENDMENT (PHARMACY LOCATION ARRANGEMENTS) BILL 2006

First Reading

Bill received from the House of Representatives.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.47 pm)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.47 pm)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

This bill proposes a number of amendments to the National Health Act 1953 relating to the arrangements for approving pharmacists to supply pharmaceutical benefits subsidised by the Commonwealth.

These amendments are the result of the Fourth Community Pharmacy Agreement between the Government and the Pharmacy Guild of Australia, and are aimed at ensuring that all Australians, particularly those located in rural and remote areas, have reasonable access to the supply of pharmaceutical benefits.

Significantly, this bill will extend the operation of pharmacy location rules and their administration by the Australian Community Pharmacy Authority (the Authority). These rules prescribe location-based criteria that must be satisfied in order for a pharmacist to obtain approval to supply pharmaceutical benefits at particular premises. Once approved, a pharmacist is entitled to be paid by the Commonwealth for the supply of pharmaceutical benefits. The extension of these rules and of their administration by the Authority until 30 June 2010 will provide stability in the pharmacy sector and help to ensure that an accessible network of pharmacies exists to dispense pharmaceutical benefits to the Australian public.

On some occasions however, the location rules are unable to take into account the unique circumstances of a community and can result in that community being left without reasonable access to the supply of pharmaceutical benefits. This bill will provide the Minister with a discretionary power to address, on an individual and timely basis, any unintended consequences of the application of the location rules. It enables the Minister to substitute for a decision by the Secretary not to approve a pharmacist, a decision to approve a pharmacist. The Minister is able to exercise this discretion if satisfied that the application of the pharmacy location rules will result in a community being left without reasonable access to the supply of pharmaceutical benefits by a pharmacist and approval of the pharmacist is in the public interest.

The bill will also make improvements to the administration processes governing the approval of pharmacists to supply PBS medicines.

A small yet important amendment seeks to clarify the Secretary’s ability to approve more than one pharmacist to supply pharmaceutical benefits in respect of particular premises. Such approvals become important when a pharmacist has ceased trading but has not yet vacated the premises. The approval of a second pharmacist in these instances will allow for a greater continuity of the supply of pharmaceutical benefits to those communities affected by the closure or relocation of a pharmacy business. This is because the incoming
pharmacist will be able to begin the supply of pharmaceutical benefits as soon as the original pharmacist ceases to trade from the premises.

The bill also proposes to simplify the approval process for pharmacists wishing to expand or contract their premises. Under existing arrangements, these types of applications must be referred to the Authority, and can only be approved by the Secretary if the Authority has recommended approval. This amendment means that it will no longer be necessary for such applications to be referred to the Authority unless the Secretary considers it appropriate. This amendment will reduce unnecessary administration for both the Government and pharmacists alike, and promote greater efficiency in the pharmacy approval process.

Finally, the bill makes several minor amendments. One amendment will increase the membership of the Authority to include a consumer representative, and the others are technical amendments to correct some references regarding the ACPA.

Debate (on motion by Senator Ellison) adjourned.

ENERGY EFFICIENCY OPPORTUNITIES BILL 2005
Returned from the House of Representatives
Message received from the House of Representatives informing the Senate that the House has agreed to the amendments made by the Senate in the Energy Efficiency Opportunities Bill 2005.

CENSUS INFORMATION LEGISLATION AMENDMENT BILL 2006

TRADE PRACTICES AMENDMENT (PERSONAL INJURIES AND DEATH) BILL 2006

FUTURE FUND BILL 2006
Assent
Message from His Excellency the Governor-General was reported, informing the Senate that he had assented to the bills.

(Quorum formed)

GUIDE TO THE ASSESSMENT OF THE DEGREE OF PERMANENT IMPAIRMENT - SECOND EDITION

Motion for Disallowance

Senator CONROY (Victoria) (3.51 pm)—At the request of Senator Wong, I move:


The Comcare guide is in the form of a disallowable instrument and was tabled on 10 October 2005 in both the House and the Senate. The guide is an updated guide prepared by Comcare, a department under the responsibility of the Minister for Employment and Workplace Relations. The guide was approved by the minister.

The existing guideline is based on a United States model. In light of medical science advances, the US guide was updated. These changes led Comcare to take the view that the Australian version should also be reviewed and updated. The guidelines are in extremely technical language. The review process took approximately two years. There are three general areas where the new guide will affect employees: (1) the musculoskeletal tables under the new guide; (2) the commencement of the new guide and its impact on third party claims; and (3) the distinction between non-military and military personnel.

The amended guide provides for new parameters for an injured employee to satisfy the threshold requirement of 10 per cent whole person impairment to enable an injured employee to receive compensation for non-economic loss. There is a concern that the reduction of entitlements is primarily due to the changes made to the musculoskeletal table, the most commonly used table for in-
jured employees. Not only are the criteria much more difficult to satisfy but there are a number of tables which have sought to reduce workers’ rights without legislative authority.

For example, section 24(7) currently provides that, subject to section 25, if (a) the employee has a permanent impairment other than hearing loss and (b) Comcare determines that the degree of permanent impairment is less than 10 per cent, an amount of compensation is not payable to the employee under this section. But looking closely at the guide it becomes clear that there is no specification for a 10 per cent criterion. Tables 9.15, regarding the cervical spine, 9.16, regarding the thoracic spine, and 9.17, regarding the lumbar spine, do not specify a 10 per cent criterion. Instead, an eight per cent criterion is specified followed by a 13 per cent criterion in the case of the lumbar spine and an 18 per cent criterion in respect of the cervical and thoracic spines. In doing so, the new guide has raised the percentage required of a permanent impairment from 10 per cent to 18 per cent. This has the effect of excluding a large number of employees from compensation.

Another area worth mentioning briefly is part 4: the restriction of compensation to 10 per cent for a whole person impairment. To put it more plainly, permanent impairment is to be assessed on the basis of the employee as a whole person, not on the permanent impairment of any body part system or function of the employee. The new guide goes on to require that the employee suffers from 10 per cent whole person impairment before being entitled to compensation.

Section 24(1) clearly provides that Comcare is liable to pay compensation where an injury results in permanent impairment. Section 24(7) provides that compensation is not payable where Comcare determines that the degree of permanent impairment is less than 10 per cent. This is despite the fact that the Safety, Rehabilitation and Compensation Act defines ‘impairment’ to mean the loss of use of any part of the body system or function or any part of a system or function. So, in effect, the new guide appears to seek to further restrict the meaning of this section—a restriction that an employee is required to suffer not a 10 per cent permanent impairment to part of his or her body function or system but a 10 per cent whole person impairment. This will risk leaving, for example, an employee who may suffer from limitations in the movement of their cervical spine without any significant assistance because, while this would be a permanent impairment of the cervical spine greater than 10 per cent, under the new guide it would not satisfy the 10 per cent whole person threshold.

The new guide also impacts on third party claims. There is a concern that the commencement of the guide from 1 March places many employees at a disadvantage. It is well known that employees permanently impaired through work often base their decision to not make a third party claim on the basis that a lump sum payment for permanent impairment will be made. Under the old guide, employees had five months to lodge a third party claim. This will not assist those people whose conditions are not yet permanent or those who are not aware of the changes. As a result, many workers will lose the entitlement to lodge a claim as they have failed to adhere to limitation periods.

We remain concerned that the new guide, as drafted, potentially introduces a discriminatory system for the assessment and treatment of workers compensation. The government’s decision, for instance, to exempt the military from application of the new guide is problematic. Setting up a two-tier system which treats more favourably injured military employees as against other Common-
wealth employees is unjust and unfair. A work related injury, particularly one that results in permanent impairment, should not be compensated differently because they have a different employer. All work related injuries are to be deplored and, as a matter of principle, victims deserve appropriate compensation from a scheme and benefit structure which is equitable and transparent. We remain concerned that this principle has been lost under the new guide. I use these examples to illustrate how this new guide does not serve the interests of all employees well. Labor cannot accept that the guide in its current form is in the best interests of all applicable employees. Labor seeks to disallow this guide.

Senator HUMPHRIES (Australian Capital Territory) (3.57 pm)—I rise to indicate that the government does not support the motion of disallowance that Senator Conroy, on behalf of Senator Wong, moved. Instead, I indicate that the regulations that have been tabled, the new Guide to the Assessment of the Degree of Permanent Impairment, are considered to be a modern updating of a guide which is very important in the assessment of entitlement to compensation. In fact, it greatly improves the position compared with the previous guide, which was something like 16 years old and clearly in need of updating.

The Minister for Employment and Workplace Relations approved the new Guide to the Assessment of the Degree of Permanent Impairment on 8 September last year. Under the Safety, Rehabilitation and Compensation Act 1988, the guide provides the basis for assessing the compensation payable for permanent impairment and non-economic loss resulting from a work related injury. The guide was tabled in September, as I have indicated, but has been in operation since 1 March and it applies to all permanent impairment applications made from that date.

It is obvious that a guide which was some 16 years old needed to be updated. Indeed, the previous guide was based on the outdated second edition of the American Medical Association’s Guides to the Evaluation of Permanent Impairment. The American Medical Association’s guide, as updated from time to time, appears to be the best practice or world standard that is used in these matters, and I understand a number of countries use this guide as the basis of their assessment of permanent incapacity as well. So, since the original second edition came out, there have been very significant advances in medical knowledge and clinical practice of impairment assessments.

The American Medical Association guide is now in fact in its fifth edition; there have been three further additions since the one upon which the previous Australian guidelines were based. The old guide simply no longer provided a clear and objective system for measuring impairment. Indeed, the former guide was heavily criticised by the Administrative Appeals Tribunal and the Federal Court as being confused, poorly drafted and ambiguous. It was also, incidentally, inconsistent with the majority of state and territory schemes operational in this country—those of Queensland, New South Wales, the Northern Territory, Tasmania and Victoria—as well as, by the way, New Zealand. Those states and territories, and that country, base their assessment guides on either the fourth or the fifth edition of the American Medical Association guide.

The new Australian guide, which the minister brought down last year, requires medical assessors to use more specific measurements of impairment. It has more comprehensive instructions about which measurements are required and how ratings may at times be combined. Comcare has already provided training in the new guide to more than 100 specialists and is in the process of
training more. Many more will be trained in the next few months. Senator Wong’s motion is simply designed to delay the commencement of the revised guide, thereby denying a significant number of employees covered by the SRC Act the right to have an assessment of their impairment conducted under a regime which is both relevant and consistent with contemporary practice.

This is not a measure to reduce costs. I do not think that allegation was made by Senator Conroy, but, in case it is inferred that this is some way of reducing the cost to employers or the Commonwealth that is entailed in the process of compensating injured employees, let me assure the Senate that the guide actually provides for higher payments for a number of impairments, particularly impairments which are considered to be more severe. The guide is not a cost-cutting exercise; rather, it is about using the best medical assessment processes available today.

In order to produce the most contemporary and up-to-date guide to practice, Comcare as the agency charged with overseeing these guidelines consulted very widely in developing and finalising the new guide, involving a large number of important stakeholders. The Australian Government Solicitor and a number of other legal practices were brought in for that task, as were representatives of plaintiff lawyers, employee representatives, ex-service organisations and expert medical specialists. As part of the process of putting in place the new guide, Comcare conducted trial parallel assessments using the draft new guide side-by-side with the old guide. Where necessary, Comcare adapted elements of the new guide to suit Australian clinical practice. So it has not been taken holus bolus; it has been carefully adapted and carefully canvassed with stakeholders in this field.

As I said, one important difference in the new guide is that it requires medical assessors to use more specific measurements of impairment and has more comprehensive instructions about which measurements are required and how ratings might at times be combined. Comcare expects that medical specialists rather than general practitioners will do assessments under the guide and, as I said, has already provided training to more than 100 of those specialists in anticipation of the guide coming into operation.

I do not wish to respond specifically to the technical issues that were raised by Senator Conroy. The fact is, however, that those issues were no doubt considered very carefully, as stakeholders and others contributed to the process. It would be unfortunate if the advantages the new guide provides to the industries affected by it were delayed. It is now in operation. It is now understood by a large number of participants in the sector. There are more than 100 specialists now conversant with the terms of the new guide. It is an important step towards guaranteeing contemporary and up-to-date practices in the field of assessing permanent impairment. I therefore urge the Senate to reject the disallowance motion in Senator Wong’s name.

Question negatived.

DECLARATION OF PERCENTAGE OF COMMONWEALTH SUPPORTED PLACES

Motion for Disallowance

Senator WONG (South Australia) (4.06 pm)—I move:

That the Declaration of percentage of Commonwealth supported places to be provided by Table A providers for a course of study in medicine, made under paragraph 36-35(1)(b) of the Higher Education Support Act 2003, be disallowed.

I am moving this motion on behalf of the opposition to disallow the Minister for Edu-
ocation, Science and Training’s declaration increasing the cap to 25 per cent for the number of full fee paying domestic undergraduate medical students able to be enrolled in Australia’s public universities. This is a fundamental point of difference between the government and the Labor opposition. This government wants to allow yet more $200,000 degrees, whereas Labor believes in fair and equitable entry into our universities based on merit, not on money.

We believe in entry to universities based on merit, not on the size of your bank balance. The government’s only solution to the doctors shortage is to allow more students to jump the queue and buy their way into a medical course, even if those students with money have lower marks. Labor believes increasing HECS funded medical places is the only way to ensure more doctors are willing to work in rural and regional areas.

The policy change that this regulation encompasses is the result of an agreement announced by the Prime Minister following the Council of Australian Governments meeting in February. There is no doubt that this was hastily cobbled together and not thought through. We learnt during a recent Senate estimates hearing that the Department of Education, Science and Training—and presumably the education minister—did not know about the change until the public announcement was actually made. And it shows. Fumbling this announcement, the Prime Minister repeatedly demonstrated his complete ignorance and lack of understanding about how Australia’s university system works. During the COAG press conference, the Prime Minister said:

... there would be an increase from 10 to 25 per cent in the number of fully-funded places ... in university medical schools that will bring, for medical students, the figure of fully-funded places up to the same level as exists for other faculties.

But he got it completely wrong. These are not fully funded places. They are full fee paying places—a big difference to students, a completely different type of funding mechanism. Instead of being supported by the Commonwealth, these places are full fee and are fully paid for by the students. The change does not, as the PM thought, bring the number of these students up to the same level as other courses. Other faculties and courses have a 35 per cent cap and this declaration brings the cap up to 25 per cent for medicine. In a valiant defence of the Prime Minister’s fumblings with some basic understanding of the structure of higher education, during Senate estimates a DEST official told us:

We are all aware that not everything is absolutely accurately stated during the course of press conferences, because they go on for a long time and many things are said. I think that what the Prime Minister was intimating was quite clear ...

Perhaps all that was clear is that you cannot believe everything that the Prime Minister says! But students in this country already know that. In 1999, the Prime Minister said that there would be no $100,000 degrees in Australia. This year there are over 60 degrees in this country which cost more than $100,000. The policy change that this government is bringing forward and that we are debating here today will increase the number of $200,000 degrees in Australia. In fact, none of the degrees to which this proposal applies will cost less than $100,000. This is all about creating more opportunities for the select few who can afford—or perhaps, rather, whose parents can afford—to spend more on a medical degree than many Australians can afford to spend on their first home.

This government’s approach is simple: any growth in university places should come from full-fee places. Under this government, it is students who will meet the full cost of expanding medical education in Australia.
Full-fee medical degrees cost an outrageous $216,000 at the University of New South Wales, $148,000 at the University of Queensland and $205,000 at the University of Melbourne. Figures are similar elsewhere in the country. To those students, the Prime Minister’s promise that there would not be $100,000 degrees in this country must ring extremely hollow! Of all the full-fee medical degrees available in Australia’s public universities, none of them cost less than $100,000. These are not sums within the contemplation of ordinary Australian students. But, in the Howard government’s Australia, apparently $200,000 is a reasonable amount to pay to become a doctor.

The President of the Australian Medical Students Association, Ms Teresa Cosgriff, put it simply and eloquently when she spoke a truth that it seems only those opposing the declaration before us understand. She said: Full-fee places are simply not an option for most students and it defies logic to argue otherwise. The skyrocketing cost of obtaining a degree under this government is impacting on participation in higher education. There can be no question about this at all. Late last year, Central Queensland University handed back 490 HECS places to the Commonwealth because of insufficient student demand. So, just one year after the Howard government’s 25 per cent HECS hike, student demand has softened sufficiently in some courses such that at least one university has been unable to fill its quota of places. Along with CQU, James Cook University and Edith Cowan University are also reportedly facing the prospect of handing HECS places back to Canberra.

Central Queensland University’s decision to hand back these places is unfortunate for that institution, but it actually presented the Commonwealth government with a unique opportunity to do something about the doctors shortage in Queensland. If the Howard government were serious about providing more opportunities for students to study medicine and to become doctors and work in regional areas experiencing shortage, the Howard government would have converted these returned places into HECS funded medical places. But instead of doing that—instead of turning the 490 HECS places CQU handed back into medical places in Queensland—the Howard government is content to simply increase full fee paying places in medicine by 285 right across the country.

Commenting on the Howard government’s decision that we are debating today, Dr Mukesh Haikerwal, who is the National President of the Australian Medical Association, said that the government’s plan to increase medical student numbers would be more effective if the places were HECS funded and not full fee paying. In other words, even the AMA—and they can hardly be accused of being a Labor lobby group—are saying: ‘This is not effective policy; this is not the way forward. What the government should be doing is funding HECS places.’ That is actually what the opposition has been saying. Ms Cosgriff from the Medical Students Association also comments that the decision to increase full-fee places rather than HECS places is ‘a simplistic measure that addresses neither the question of equity nor the workplace shortages we are experiencing’.

Whilst the previous minister missed his chance late last year, the new education minister could convert any further places James Cook or Edith Cowan universities are reportedly considering handing back to the Commonwealth into HECS funded medical places. Let us see if the new minister, Ms Bishop, has a little more foresight than her predecessor and is prepared to use the opportunity to expand HECS funded places for
medical students so we can properly address the doctors shortage which exists.

Labor knows, from doing things like talking to people at universities, that there is spare capacity in medical schools, at James Cook University and Griffith University, where new HECS funded medical places could be located. If this was to be done with the HECS places being given back to Canberra in other disciplines because of softening demand, it could be done without costing the government one extra cent. More HECS places in medicine are the only solution to our severe doctor shortage. Federal Labor will continue to focus on increasing the availability of HECS funded places producing graduate doctors. Our policy at the last election was to have 1,000 additional commencing medical places. This policy far exceeds the increase in full fee paying places that this government is putting forward as its solution.

It is ridiculous to expect that someone with a $200,000 debt is going to work on an average general practitioner’s salary in the country. Doctors with fee debts bigger than mortgages will clearly, for market reasons, be drawn to higher pay specialisation. The Howard government’s plan will exacerbate the existing biased distribution of graduate doctors staying in metropolitan areas because full-fee places in medicine are not rural bonded. Full-fee students cannot be required to work in a rural or regional area. Those senators in the National Party who profess to represent rural and regional Australia might think about the impact of this government’s approach and the fact that full fee paying places are hardly going to yield the sorts of doctors who are likely to move into rural and regional areas as general practitioners, simply by virtue of the fact that they will have been saddled with an enormous debt because of this government’s policies.

Peter Beattie, like other state premiers, is working hard to solve the shortage of doctors, particularly in regional and rural areas. His task is made so much harder by this government’s refusal to provide sufficient HECS funded medical places. In light of the Howard government’s stubborn refusal to do what should be done, the state and territory governments clearly signed up to this second-best outcome. We in federal Labor acknowledge the difficult position our state and territory colleagues have been put in by this government, but we cannot support the expansion of $200,000 degrees in this country. This approach will do nothing to solve the doctors crisis and may only make it worse.

Senator Vanstone was the education minister who, in 1996, introduced full fee paying domestic undergraduate courses to Australian universities. She presided over the introduction of a policy that puts the size of your bank balance ahead of your hard-earned school marks when deciding who can go to university. But even Senator Vanstone, if you look back at what she said then, would not go as far as the current minister is going here with this latest change. When announcing the introduction of these places in 1996, Senator Vanstone said in a press release:

The only course where the extra opportunities will not be available will be Medicine where, for health policy reasons, the Government wishes to limit the number of medical graduates. It would be instructive to hear from the government what has changed over the last 10 years—which health policy reasons have changed so that we can now allow one quarter of the domestic medical students at our public universities to be full fee paying.

Or perhaps Senator Vanstone could tell us the fate of the highly respected foreign doctor working in Brisbane who, according to the Courier Mail of 19 March this year, may be kicked out of country because of a techni-
cal dispute over medical expenses for the doctor’s child, expenses which the family is willing to fully pay. There is a desperate doctor shortage in Queensland, which has been the justification for this increase in $200,000 degrees, yet the federal government is contemplating kicking out a highly regarded and qualified doctor. This does not make any sense.

This increase in the cap on full fee paying students is yet one more example of how this government is Americanising our university system. Over 10 long years we have seen higher fees, less opportunity and diminishing public investment at a time when we would have thought Australia’s prosperity into the future as well as the needs of our ageing community require a greater investment in our public education system. The Howard government has cut $5 billion from our universities since 1996. It is little wonder that the OECD reports that Australia was the only developed country to have reduced public investment in tertiary education during this time. The average increase in the OECD was a 38 per cent increase. So, whilst Australia is going backwards, the rest of world is surging ahead.

Student debt in Australia has blown out by $10 billion under this government, with current and former students now owing the Commonwealth $13 billion. This government’s education agenda is clouded by misguided ideology and a lack of understanding. Education is an investment in our future. It is not a cost to be avoided. Labor has opposed having full fee paying domestic undergraduates at our public universities since they were introduced by this government. It was our policy to abolish these fee paying places at the 1998, 2001 and 2004 elections. We are consistent in our position that education is an investment. We are consistent in our position that access and entry to university should be predicated on your ability and on your hard-

earned school marks, not on the size of your or your parents’ bank balance. We again move today to prevent to further spread of $200,000 degrees.

Senator TROOD (Queensland) (4.20 pm)—I rise to oppose this motion of disallowance. In doing so, I cannot help but think that Senator Wong might feel somewhat embarrassed about having to come into this chamber today and move this motion in relation to what is essentially a policy train wreck for the Labor Party. Various elements of the party are at odds with each other as to precisely what should be done in relation to this issue. Senator Wong gave an account of some of the decision making, but I will take the opportunity to inform the Senate a little more fully as to the circumstances surrounding this issue.

Senator Wong interjecting—

Senator TROOD—I think it would be quite instructive, Senator Wong, if you would listen. Senator Wong made the point—accurately—that this decision is a result of a COAG meeting last month. What she neglected to inform the Senate was that it was essentially a COAG decision which resulted from a specific request made of COAG by the Premier of Queensland, Mr Beattie. Mr Beattie came along to the COAG meeting desperate to find some political cover for the maladministration of health in Queensland and desperate to get some sort of joy from the COAG meeting so that he might take something back to Queenslanders to try to explain the shortage of doctors which exists in Queensland and move himself some way down the track where he might be able to say, ‘I have got the health problems in Queensland under some sort of control.’

Mr Beattie asked the COAG meeting whether there might be some support for an increase in the number of doctors educated in Queensland. The COAG meeting was, as
Senator Wong said, obliging—it offered that support. Indeed, Premier Beattie came out of the COAG meeting enthusiastic about the results of the COAG meeting. He said in a press conference later: ‘I’m happy. I’m very happy. These COAGs just get better and you get happier too.’ He was in full enthusiastic puppy mode. Enthusiastic about the decision, he said: ‘I fully support this and I express my appreciation to my colleagues for supporting this proposition from Queensland because we do have a doctor shortage,’—as we indeed do.

So here we have the Premier of Queens-land enthusiastic about the results of the COAG meeting but what happens next? The shadow minister for education in the other place, the member for Jagajaga, goes into the public domain and, with her usual and well-known obsessive ideological opposition to full fee paying places in relation to educa-tion, comes out and says, ‘We oppose this decision from COAG’—putting herself at odds with a decision which the Premier of Queensland was specifically interested in securing from the COAG meeting. One wonders how this came about. It turns out that this seems to have been a decision taken independently of any decision making within the Labor caucus.

Senator Wong—For three elections we have run the same line.

Senator TROOD—Taken independently, Senator Wong, of any decisions made within the Labor caucus—Ms Macklin standing there on her own making this decision. Not surprisingly, she found some opposition among her colleagues in the caucus about the decision. So what happened next? The interest-ing thing was that various senior members of the caucus came out in opposition to the decision taken by the shadow minister for education. The member for Lalor, the shadow minister for health was quoted as saying:

The only body that can determine this is federal caucus ... Currently there is not a federal Labor Party position on this matter.

As far as I know, there is still no federal La-bor Party position on the matter.

This might have been an occasion where we might have expected the Leader of the Labor Party to invest himself on the matter and become involved in trying to sort out the confusion which exists between the Premier and the Labor Party caucus here in Canberra. What did he do? He certainly did invest him-self in the whole matter, to the point where, rather than take what might have been a logical course of action, to assemble the cau-cus and try to sort out the matter and sort out the differences between Canberra and Queensland, he decided to support his shadow minister for education. In some respects, that might have been regarded as a useful and loyal thing to do, but it of course put him at odds with the Premier of Queens-land, who specifically requested this kind of decision. Hence we find ourselves in this rather bizarre situation where a decision speci-fically sought by the Premier of Queens-land is opposed today by Senator Wong—coming into the chamber and asking for a disallowance of this particular declaration. That is the reality of the decision making in relation to this situation.

The reality is that the Premier of Queens-land is desperate to find some new doctors. And one can sympathise with him, because there is a need for new doctors in Queens-land—indeed there are shortages across the country. This COAG decision is designed to provide the opportunity for more people to be trained in the medical schools across the country so that we can increase the number of doctors who are available to treat peo-
ple—in this case, the citizens of Queensland in particular.

As Senator Wong said, the decision is to increase the cap on fee paying places from 10 per cent to 25 per cent. The expectation is that, if this opportunity is taken up, there would be an increase of around 400 new places in medicine in public universities by 2007. The decision to increase the cap may not necessarily be taken by all universities. Universities will not be forced to make that decision. They will make choices about whether they increase the cap. Some universities across the country at the moment choose not to have full fee paying students. Universities such as the ANU, the University of Western Australia, Flinders and, I understand, James Cook University do not have full fee paying students, and they may decide to continue with that policy and not to implement this decision. But if the university system were to accept this opportunity, there would be in the vicinity of 400 new places, new doctors, for the country.

Senator Wong said in her remarks that there was only one way the Howard government would ever be prepared to increase the opportunities for medical training in Australia, and that would be through full fee paying places. She seems to have neglected the fact that, during the press conference after the COAG meeting, the Prime Minister made it clear that, if there is a need for additional Commonwealth places in medicine, that would be considered at the next COAG meeting later this year. So there will be an opportunity, Senator Wong, to specifically address this question later in the year when COAG meets again—and there is a likelihood that there may be further places made available later in the year.

The important thing to note is that this decision does not represent a decline in or the removal of some of the places already existing in medicine. This means that an additional number of people will be able to train in medicine. In a couple of years from now, there will be something in the vicinity of 2,195 new Commonwealth supported places, as Senator Wong wanted, in medicine in Australian universities. That is a very considerable number. It represents precisely the policy that Senator Wong is happily advocating.

There are other aspects of this matter which I think should encourage Senator Wong. For example, there is an increase in the FEE-HELP loan limit available to students, which rises to $80,000 as a result of decisions taken by the government. So those students who choose to take this course from the full fee paying places will have an opportunity to get access to a loan scheme which will make that easier for them.

The point has been made, again by Senator Wong and by others in this debate, that people should only be allowed into medical schools—and, indeed, people should only be allowed into universities as a whole—by maintaining standards.Merit is important; I agree with that proposition. I agree and I particularly agree with it in relation to medicine. I am not the person who would look with enthusiasm upon being operated on by yet another Dr Patel in Queensland, whose particular medical talents perhaps are better suited to a knackery or an abattoir than an operating theatre.

There is no sign, there is no indication, there is nothing which suggests that this decision is going to result in a decline in the standard of people entering medical schools. There is nothing, Senator Wong.

Senator Wong—There are lower TE scores for full-fee payers.

Senator TROOD—Nothing says that. In fact, you also know as well as I do that medical admission policies are strict. You
also know, Senator Wong, that there is a range of tests which students are subject to for access to medical schools—the Undergraduate Medicine and Health Sciences Admission Test, the Graduate Australian Medical Schools Admission Test, and often universities ask students to go through interviews and the like. This is a rigorous process and nothing I have seen—and Senator Wong has not provided us with any evidence this afternoon—indicates that these standards are likely to fall as a result of this decision. So some of these claims are just nonsense. They have no foundation other than a reflection of the ideological expectations that exist on behalf of the Labor Party in this matter.

Senator Wong—And yours is ‘buy your way into university’.

Senator TROOD—Senator Wong, it is not a question of buying your way in—it is giving an opportunity to students to get access to universities who would not otherwise have it, and I would have thought you would have been enthusiastic about that. I thought you would have been particularly enthusiastic given the fact that your comrades in Queensland are desperate to increase the number of people involved in medical education—which is precisely what this decision does and will do over the next couple of years.

Let me go a little further, because the problem in medical education in this country is not just about students getting into universities. There is a wider problem and it is a problem which needs addressing and, sadly, it is a problem which cannot easily be resolved. Sadly, it is one which is an affliction of the Queensland health system and all the troubles that now beset it. It is all right to increase the number of medical places in universities, and that is desirable, but students in medical schools of course need in-house training. They need training in hospitals—they need the opportunity, as it were, to get their hands dirty. If they are not given that opportunity within medical schools, and also to be involved in teaching and in learning expertise within universities then they are no good to the community.

That is the task for the Beattie government—it has to provide those opportunities not just in medical schools. We do not just have to have the opportunities in medical schools, we have to have the opportunities in hospitals and, until such time as those opportunities are available—not just for doctors but also for the allied health professionals: the nurses, the physiotherapists, the radiographers et cetera—then we are not likely to have a fully functioning medical system. That is a need which the Beattie government needs to address. It is a problem which will exist as long as there are hospitals across the state which are at excess capacity and where there are insufficient opportunities for medical students to gain training. So, the case in relation to this disallowance collapses at every level and I assert the fact that the government opposes this motion of disallowance.

Senator STOTT DESPOJA (South Australia) (4.35 pm)—I rise to speak to this disallowance, proposed by the Australian Labor Party, on behalf of the Democrats and as their higher education spokesperson. We will be supporting the disallowance of the government’s declaration to increase the percentage of full fee paying medical places in each course. We have said previously and still believe that this is a short-sighted—so somewhat unsustainable and superficial—remedy to the medical workforce shortage, and we believe it will not do a lot to increase Australia’s access to general practitioners.

Following on from Senator Trood’s comments, he is right to suggest that there is a much broader problem here, and I would
suggest that there is also an issue of chronic underfunding and under-resourcing in both the health and education sectors in this country—a consequence of successive governments and indeed currently as a consequence of cost shifting involving both state and federal governments. So there is no doubt that it is a broader problem, but this is not the solution that the government seems to think it is.

We believe this proposal, which aims to decrease the required percentage of Commonwealth supported places from 90 per cent to 75 per cent of places, which therefore allows more medical places for full fee paying students, is not a particularly equitable solution either. It is an inadequate approach to a chronic long-term problem that we have all been aware of for years. In fact, it is doubtful that it will make any difference to the shortage, particularly in the regional and rural areas that everyone keeps referring to. Medical students who pay up to, and possibly more than, $200,000 for a degree may not necessarily feel a public duty to serve their community as a GP. In fact, I would probably suggest that they would be focused on servicing their FEE-HELP loan rather than necessarily be performing GP tasks in regional and rural areas. Just as Senator Wong was saying, there is absolutely no way that you can ensure and insist that that will be the effect.

These students are likely to pursue more lucrative specialist careers in urban areas than offer their services as a GP in a country area. I do not wish to generalise, because I have no doubt that many of those students would simply want to do their best for their communities wherever they may be, but the harsh reality of their circumstances will be that they have an incredible debt as a consequence of this study. There is no impetus for full fee paying students to take jobs in rural areas. Increasing full-fee degrees, as opposed to HECS places, actually eliminates the opportunity to make medical degrees rural bonded, which would ensure that some students work in regional areas. Regardless of your view on the rural bonded places in medicine, obviously, once you take away that Commonwealth component, you lose any opportunity to ensure that that work is performed in regional and rural places, which therefore makes part of the argument by this government for this particular measure somewhat spurious.

Generally, full fee paying places do have a lower cut-off score than HECS places. Full-fee medical places are likely to have lower cut-off scores. I have no doubt about it. Shouldn’t we be increasing the opportunities through Commonwealth funded places for those clever doctors who achieve maximum scores as students to study and aspire to be health care professionals? It is simply another move by the government to further entrench a user pays system. Once again, it is another example of the government abrogating its responsibility to adequately fund Australia’s universities. If I sound ho-hum about this, it is not because I am not angry about the policy suggestion; I am just used to the policy. This is just another step by the government to further entrench a user pays system. The government’s logic is a bit twisted in some respects. You cannot argue that you are going to get the best health care professionals and doctors and then argue that you are not necessarily going to have lower cut-off scores when the evidence has been to the contrary. You cannot suggest that students are going to end up serving their time in regional, rural or remote areas when you know there are going to be financial and other imperatives that maybe steer those students or doctors to more lucrative practices in order to pay off their debt.
In the past 10 years, Commonwealth contributions to university running costs have decreased by 61 per cent to 41 per cent. It is a radical change in the funding arrangements when it comes to public funding in this country. That whole cost-shifting exercise was started by Labor but has been undertaken by this government in particular. We know that student contributions have increased from 14 per cent to a whopping 42 per cent. Students are paying a hefty whack of their degree. In order to do it, we are seeing massive changes in their lifestyle and their sacrifice. I believe it is also having an impact on the way universities operate. The government has been quite happy to offload a significant amount of its responsibility for funding to individual students, but it is not just full fee paying students bearing the brunt of the government’s miserliness. Those students who are paying their HECS fees have noticed a sharp hike in their contributions. In fact, at the start of this year, only three of the 37 institutions—that is, public universities in this country—had not raised student contribution levels. Everyone is doing it. As a result of the changes to the Higher Education Support Act, or the introduction of the HESA, a few years ago, everyone is hiking up their fees and charges. In fact, 29 of those universities had increased those HECS fees by the maximum 25 per cent. Combine these factors with the inadequate student income support and the loans scheme that encourage mortgage-size debts for students, and you have an education system that is pricing itself out of the range of most Australians, particularly those disadvantaged Australians.

I noticed that Senator Wong talked about the Americanisation of the system. It is interesting because, when you compare our fees with public institutions in the US, you see that we come off worse. I am not disputing the fact that there are private universities in the United States, but we are starting to leave the public institutions for dead. We have among the highest fees and charges in the industrialised world. It is an absolute shame. Instead of reinvesting or putting more money and resources into the sector, whatever that may be for—higher education or, more broadly, vocational education and training, lifelong learning, schools or anywhere—this government is ducking that responsibility. I find it extraordinary that it gets away with it.

Following the 25 per cent increase in HECS, demand for university places fell by 16,000. Increasing the number of full fee paying places may not have the intended effect of increasing doctor numbers. In fact, it may work the opposite way. There is more evidence of the emergence of a user pays system in the higher education sector. I am not sure if this has been discussed in any detail in this place yet but, recently, the education minister revealed that lawyers had reinterpreted a section of the Higher Education Support Act 2003, concluding that universities were not compelled to fill all Commonwealth subsidised places in a course before enrolling full fee paying students in popular courses such as medicine and law. They do not have to stick by that so-called proviso in the Higher Education Support Act anymore. The rules for enrolment of domestic fee-paying undergraduates were a critical safeguard in the act that prevented the higher education sector from charging full fees for more than 35 per cent of places for domestic undergraduates in each undergraduate course of study.

Let us all remember that wonderful debate back in December of that year when the four Independents gave the government the numbers to pass one of the most shameful and regressive pieces of education legislation in this country’s history. Well done, you four Independents. What did you get for it? Not much. You got the review of indexation requirements for universities, but no guarantee
that indexation would actually be implemented.

I hope those four Independents are very proud of those efforts to put debt on the kids of Australia. This is what they got. There was a critical safeguard in there in terms of guaranteeing the number of places that had to be filled before you could enrol those upfront, full fee paying places. And what have they got? A reinterpretation of the law. So that critical safeguard has gone too. The one rule that ensured some more equitable access to university study for domestic undergraduates—and that has gone too. For such an important change in the rules, the manner in which it was done seemed to involve absolutely no consultation with other groups. It was presented as a fait accompli, not to be challenged.

We have seen the situation where universities have been forced to pay back funding for Commonwealth supported places, having been unable to fill them. Why not allow universities to inject this funding into creating sufficient Commonwealth supported places to meet demand for all disciplines instead of creating more full fee paying places? This is where governments make a very clear and conscious decision. Do you want more places for people who can pay or do you want to expand the sector in the way that recognises the merit and the opportunity for all and ensures that publicly funded and accessible education is available? That is the fork in the road. The government has made a very clear decision: ‘Elite education for the rich is okay. It is okay under coalition country policies. We do not want to be a clever country. We want to ensure that there are distinctions—and if you’ve got money and you can pay you are okay.’ We have been heading in this direction for at least a decade, and the government now makes no bones about it. So if you are short on medical places, short on doctors, the answer is: let’s put in full fee paying places. That is not a solution.

The relaxing of the HESA 2003 regulations apparently should have a positive impact on regional universities: they should be able to attract full fee paying students in high demand courses when places run out quickly. But this fails to recognise that those rural and regional students with money may prefer to head to some of the city universities. Those without money will not necessarily enrol in full fee paying courses—they will not be able to do it. But you might suggest, and I am sure the government would, that there is FEE-HELP to fund the increasing number of Australian students who will be paying for full fee paying courses at public universities and, of course, at a number of private institutions.

That is an aspect of current higher education policy in this country that we should not forget. It is a new definition of cost shifting, where we take money from the public sector, from taxpayers, and we give it to private institutions. We have seen it happen in schools. The Democrats fought those proposals the first time around. They had support the second time around—not so good; lost that debate. One debate where we have had minimal support has been on that cost shifting of public university dollars, taxpayers’ dollars to universities, into the private institutions. They have been going into the private institutions at the behest of the Prime Minister and, indeed, with strong support from the Leader of the Opposition, Kim Beazley. So private institutions are now accessing those funding dollars, and of course FEE-HELP now applies to a number of private institutions. So it is not enough that the government is luring students into paying for the full cost of their degrees. Under FEE-HELP, let us not forget that undergraduate students must pay a 20 per cent loan fee on their FEE-HELP debts. With more than 23,000 students al-
ready paying the full cost of their courses under the FEE-HELP scheme, students are obviously being saddled with more and more debt. It has already blown out, but it is going to blow out even more if this loan cap is raised.

I want to address the issue that Senator Trood has brought up about the loan cap, and that is increasing the cap on the FEE-HELP loans from $50,000 to $80,000. That is one of the Prime Minister’s pledges following the last COAG meeting. It is an increase in the amount that students will incur in debt and have to pay back—and don’t forget that 20 per cent loan fee. Reports suggest that this increase has already taken place. However, from my understanding of the law and from studying this policy for goodness knows how long, it appears that this change, unlike the increases in full-fee places, must be legislated for. So I ask the government today, and hopefully they will come clean on this: when on earth do you plan to introduce the legislation to increase the loan cap? I know we have dealt with a lot of delegated legislation and we have even dealt with issues that have required legislation, things like the ARC board, or NBET, back in 1996-97, but we have done that through administrative means and not bothered with legislation. In fact, I seem to recall the Notice Paper showing that we were supposed to deal with the student assistance amendment bill on the closing down of that student loan, which of course was closed administratively more than a year ago anyway. So I know we do not always do things through legislation under this government. But when will the legislation be introduced to deal with the increase of the cap on the FEE-HELP loans?

What is the Labor Party position on this? I noticed Senator Wong interjected when Senator Trood was talking about this as a great solution. That interjection was spot-on: more debt for students. But I do not know what the official position of the Labor Party is. Are you opposing the increase in the cap? That is going to be the next line in the sand in this debate: are we going to see an increase in that cap from $50,000 to $80,000? The decision on this is significant. First of all, how the decision is made is important. It has to be made in a transparent way. It has to be done in a way that allows sufficient debate to take place.

Inadequate levels of student income support are also having a huge impact on our students, leaving them high and dry. We already know that student income support is a key in access and equity. It is a key to ensuring that, in particular, students or aspiring students from traditionally disadvantaged backgrounds can enter into and participate in higher education. You would be aware of course, Madam Deputy President Crossin, of the recent student income support inquiry. Actually, it was not so recent: we reported just over a year ago—there was a slight hiatus because of the election. It was Democrat initiated and it was the first Senate inquiry to look solely at the issue of student income support.

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Look at the anomalies that that inquiry threw up. The inquiry found that Austudy recipients are not eligible for rent assistance. That still exists—isn’t that extraordinary! Part-time scholarships are not exempt from tax. There is no logical policy reason for any of these. Even the government has not been able to put forward reasons for these anomalies, yet they hurt and hit our students. The inquiry recommended that the rent assistance anomaly be dealt with, but so far nothing has been done. Why not deal with some of these issues that are crying out desperately for some fixing instead of tampering unnecessarily with the HESA Act?

A recent inquiry found that half of the part-time students surveyed would rather be
full-time students if their finances permitted. One-third believed that a lack of government support was stopping them from studying full-time. The study also showed that part-time students were more likely to come from lower socioeconomic backgrounds and have attended public schools. Student income support matters—it makes a difference. But loan schemes and increased full-fee courses do little to improve that access. I would prefer it in a way if the government did not pretend this was about addressing shortages and just said: ‘Yes, it’s okay—we’re happy with an elite education system for the rich. If you have money, you can pay and we’ll see what happens to the rest of you.’ The reality is that these measures are a financial and psychological disincentive to participating in education at a higher level. That is shameful.

According to the COAG website, the Commonwealth, states and territories agreed that these new measures are not to displace current places or future increases in Commonwealth funded student places. Apparently, an increase in Commonwealth funded medical places will be considered at the next COAG meeting, which is in June. Why wasn’t it considered in February? Why not consider that instead of increasing the number of full fee paying places? The state health ministers are waiting for the June COAG meeting to hear whether or not the number of additional HECS places addresses workforce shortages. While some have welcomed this increase in full fee paying places, they have made it clear that they are expecting a significant increase in HECS funded places to address doctor shortages, particularly in hospitals and regional areas. Queensland wants 325 HECS places and my own state, South Australia, wants at least a modest 46. I urge the government at the next COAG meeting to come up with a better outcome—one that is a real solution and does not disadvantage those students who are traditionally disadvantaged; one that does not place more barriers and financial obstacles in the way of people who want to pursue education at all levels, specifically those people who want to become doctors. (Time expired)

Senator McLUCAS (Queensland) (4.55 pm)—I am also pleased to support the disallowance of this move by the government to introduce $200,000 medical places in Australian universities. In doing so, can I say that the position we are taking today is consistent with Labor policy that we have held over many years. Senator Trood’s attempt to explain what he thinks has been the history and evolution of this was mischievous. I suppose that is a nice way of putting it, but misleading would probably be more accurate. To tell half a story might be a little bit entertaining for those people who were listening to him, but it goes a long way from the truth. Labor has been opposed to full fee paying students. This is consistent with our policy and there has been no deviation.

The COAG communique from last month recognises the chronic doctor shortage we have in Australia. You could say that it has taken this government a very long time to realise that their actions over the last 10 years have led us to the position we are in today. Ten years of inaction and not responding to what we have known to be a growing doctor shortage by not increasing HECS places for medical students at universities has put us in this position. The blame for that must be sheeted home to the government of the day. We know that it takes 10 years to produce a doctor. The fact is that this government have been in power for 10 years. It is now totally the responsibility of this government to realise that their actions over the last 10 years have led us to the position we are in today. Ten years of inaction and not responding to what we have known to be a growing doctor shortage by not increasing HECS places for medical students at universities has put us in this position. The blame for that must be sheeted home to the government of the day. We know that it takes 10 years to produce a doctor. The fact is that this government have been in power for 10 years. It is now totally the responsibility of this government to realise that their actions over the last 10 years have led us to the position we are in today. Ten years of inaction and not responding to what we have known to be a growing doctor shortage by not increasing HECS places for medical students at universities has put us in this position. The blame for that must be sheeted home to the government of the day. We know that it takes 10 years to produce a doctor. The fact is that this government have been in power for 10 years. It is now totally the responsibility of this government in the way they cut medical places over that period of time and also did not allow for growth and keeping up with the known demand that we were going to have. The reason we are in this circumstance is
The response to the acknowledged doctor shortage that we face in this nation from the government of allowing universities to increase the number of full fee paying places—that is, people will have to pay up to $200,000 to get themselves a medical degree—is wrong. It is wrong for two basic reasons. It is wrong in principle and it is wrong in effect. The reason that it is wrong in principle is that entry into these places will not be based on the merit or scholastic achievement of the school leaver; it will be based on the depth not of their pocket but probably of their parents’ pocket. That is the entry requirement that we will have for this cohort of doctors coming into our universities.

Senator Vanstone in 1996 was absolutely correct when she said on introducing full fee paying places in Australian universities that the one area that was exempt was medical places at universities. She used then the evidence that said that it was not consistent with good health policy. I would like to know what has happened between 1996 and now. The principle was right then and the principle remains right now. In response to Senator Trood’s comment that these people are going to be equally talented, it stands to reason that a successful applicant who is entering in the knowledge that they are going to have to pay $200,000 for this degree will be less qualified than a person who could have achieved a place but did not have the $200,000. There is just simple logic there. You cannot deny it.

You can say that they will be marginally less qualified to take that place, and maybe that is the case. But is this not a question of equity? How fair is it that someone who is pretty bright but whose parents have a lot of money should become a doctor in this country and not a person who is also pretty bright but comes from the wrong side of the railway track? There is an equity question that this policy does not address, and it is an equity question that I will continue to defend in terms of full fee paying places.

Coming from regional Australia, I know that my university, James Cook University, which is based in North Queensland and increased its HECS places this year, will have to hand back a number of places because it has not been able to fill them. Why, you ask, has it not been able to fill those places? It is because, for people in regional areas who are less used to going to university, cost is a real disincentive. The year that HECS goes up, we know that those students do not apply. There is a direct correlation between increasing the cost of a degree and people from rural areas not applying. That is a truth. That is happening now at the Central Queensland University, it is happening at James Cook and it is happening in regional universities right across Australia. I raise the issue to underline the fact that people who have less money in their pockets will not go to universities. They will not take places in universities if they are going to have the high costs following their graduation.

I said I was opposed to this policy for two reasons. I said it was wrong in principle, but it is also wrong in effect. I am actually interested in solving the doctor problem in Australia. I come from regional Queensland. We are the people who, everyone understands, are finding it hard to attract doctors into our region. I am opposed to this because it will do nothing to solve that problem. I am interested in outcomes in this place, and this policy will not, in my view, put another doctor in Barcaldine, Bouliia or Charters Towers. That is what I am interested in doing. Unfortunately, this policy will do nothing to solve that problem. What it will do for those 285-odd students who do graduate in four or five years time is put them into Wickham Terrace.
For those people who do not come from Queensland, that is our specialist street. That is the street that the specialists work on. If you graduate with a debt of $200,000, you are interested in paying off that debt. The best way to pay that off is to specialise quickly, get onto Wickham Terrace and charge a lot of money so you can fix up your debt. It is not going to Boulia and working in the state public health system, because you simply do not earn the same amount of money.

We know this not only because it is common sense but also because, during the inquiry into Medicare that we conducted some years ago, the Australian Medical Students Association told us that they were opposed to the bonded student policy that was being discussed. They said that students who were bonded to go to regional and rural areas would buy out their bond and stay in the cities in order to get through university and then pay back that bond, rather than spend the number of years that they were meant to be bonded to go into the bush. We know that is happening already now. That is what is going to happen. People are not going to end up in rural and regional Australia as a result of this measure.

You do not have to just rely on me and my commonsense approach to this policy. The Australian Medical Students Association criticised the government for its ‘attitude of denial’ regarding the latest attempt to justify its massive hike in full fee medical student places. Teresa Cosgriff, the president of the association, said:

To state that the current funding system provides equitable access for students is ridiculous.

She said:

Full-fee places are simply not an option for most students and it defies logic to argue otherwise.

She went on to say:

While the Government has acknowledged the need for additional doctors to be trained, it has invested nothing into additional HECS places for medical students.

The Australian Medical Association’s Dr Mukesh Haikerwal said on the day that this policy was announced:

... the Government’s plans to increase medical student numbers would be more effective if the places were HECS-funded, not full-fee paying.

He said:

... Government funding of the places would better reflect the Government’s commitment to easing medical workforce shortages, and would give the brightest students, not just the wealthiest students, the opportunity to pursue a medical career.

In his press release he goes on to say that the sort of people who will be applying are the people from wealthier families, rather than people who should get there on merit but simply do not have the dollars in their pockets. He goes on to reiterate my point that these doctors will not end up in rural or regional areas but on Wickham Terrace in Brisbane and in the inner cities of Sydney and Melbourne.

As I said, I am actually interested in solutions. We do have a shortage, but the answer that would truly solve this problem is the increase of the number of HECS places at universities. That is the fair way of doing it. That is the way that will get the best and brightest students into those places — those who have the most motivation to follow their careers rather than pay off their debt.

Can I also say that, if we are actually keen to solve the problem of doctor workforce shortages in rural and regional Australia, we should do what is proven to work. Universities in South Australia and James Cook University have proven that if you recruit students from regional and rural areas, if you train them at universities that have a focus on rural health — like Charles Sturt University in South Australia and, certainly, James Cook
University in North Queensland—if you train them with a focus on regional health and if you then offer them placements in interesting regional and rural places—for example, lots of students are doing fantastic placements in Mount Isa and on Thursday Island, and I know the Northern Territory has provided great opportunities for these sorts of placements—then the likelihood is that they will apply for jobs and will stay in regional and rural areas.

So, if you recruit from regional areas, if you train students in universities that have a regional health focus and if you give people placements in regional areas, the proven likelihood is that they will end up staying there for life. They are the facts. This policy will do nothing to deliver that outcome. As I said, I am a Queensland senator based in a regional area. I have a commitment to solving this doctor shortage problem. This policy does nothing to solve that problem; $200,000 degrees do nothing to solve the doctor shortage in rural and regional Australia. I am pleased to have been consistent with Labor policy over many years and to support the disallowance of this measure.

Question put:

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

The Senate divided. [5.13 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes………….. 31
Noes………….. 33
Majority…….. 2

AYES

Conroy, S.M. Evans, C.V.
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.
Murray, A.J.M. Nettle, K.
O’Brien, K.W.K. Polley, H.
Ray, R.F. Sherry, N.J.
Stephens, U. Stott Despoja, N.
Webber, R. * Wong, P.
Wortley, D.

NOES

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

PAIRS

Crossin, P.M. Ellison, C.M.
Ludwig, J.W. Vanstone, A.E.
Siewert, R. Joyce, B.
Sterle, G. Minchin, N.H.

* denotes teller

Senator Bob Brown did not vote, to compensate for the vacancy caused by the resignation of Senator Hill.

Question negatived.
Senator CONROY (Victoria) (5.16 pm)—I move:

That the following matter be referred to the Environment, Communications, Information Technology and the Arts References Committee for inquiry and report by 8 August 2006:

The impact of proposed changes to cross media laws outlined in the Government’s media reform options paper, with particular reference to:

(a) the likely effect of the changes on media diversity in urban and regional media markets;

(b) whether the safeguards proposed by the Government are adequate to prevent an excessive concentration of media ownership;

(c) whether editorial separation, or a so-called two-out-of-three rule, would effectively protect media diversity; and

(d) the impact of the proposed changes on the advertising market, particularly for small business.

Two weeks ago Senator Coonan unveiled an options paper canvassing the most significant changes to media law that this country has seen in 20 years. The release of the paper came after nearly 12 months of closed door consultations between the minister and the media moguls. It is quite clear that the purpose of these negotiations was to work out what changes were acceptable to the big players. The Prime Minister and Senator Coonan stated explicitly that they wanted ‘broad industry consensus’ before they would proceed. While talks with the incumbents took place, the consumers of the media in this country—the readers, the viewers and the listeners—did not have a seat at the table.

Earlier this month the minister belatedly announced a public consultation process on the government’s plans for media reform. Shamefully, however, the time she is allowing the public to consider and comment on the proposals is ridiculously short. The moguls were given more than a year to lobby the government. In contrast, the Australian public has been given just one month to have its say. For Senator Coonan, consumer consultation is just an afterthought. It is something to be done for the sake of appearances. Well, Labor does not believe that this is acceptable. The issues at stake are too important. Labor is moving today to establish a Senate inquiry to redress this situation. The inquiry that Labor is supporting would focus on the proposals that are of most concern to the public. Without a doubt this is a plan to effectively abolish the cross-media laws which prevent the common ownership of a free-to-air television station, a commercial radio station or an associated newspaper in the same market.

This parliament needs to ensure that ownership laws protect and promote media diversity. A diverse media which gives expression to a wide range of views is fundamental to a healthy democracy. Australia needs to have a vibrant marketplace for ideas. This is the only way to ensure informed debate about public policy issues and good outcomes for the community. The diversity of ownership of media interests is important because the media is not just a form of entertainment. In our society, the media plays a vital role in informing citizens about key issues affecting the nation and their lives. Media proprietors occupy a powerful position in our society. History shows that they have been ruthless in using their media power to pursue their business objectives. This is why the media ownership rules are so important. This is something that is well understood in the Australian community. Re-
search shows that 80 per cent of Australians oppose any further concentration of media ownership. They understand that in a democracy it is not healthy to allow too much power to go into the hands of just a few proprietors. They also understand that a diverse media is essential if governments are to be held accountable. To work effectively, democracies need an independent media that is prepared to rigorously scrutinise matters of public interest.

We already have one of the most concentrated media markets in the world. Under the minister’s plan, the number of owners of major commercial media in Sydney and Melbourne could halve. That is right: halve. In Brisbane and Perth the number of owners could fall from eight to five. In Adelaide two owners could disappear, leaving the city with just five owners. Under Senator Coonan’s proposal, Hobart could be left with just four owners of the major commercial media.

Despite the minister’s claims to the contrary, this is not just an issue for the state capitals. Senator Coonan’s proposals have the potential to gut media diversity in regional Australia, and I welcome the fact that Senator Boswell has stayed in the chamber. I hope to hear you contribute to this debate, Senator Boswell, because I know it is dear to your heart. I know you have been having discussions that I have seen reported in the press.

Yesterday in question time the minister was unable to deny that under her plan the number of media owners could fall from six to four in many regional markets. These markets included places like Albury, Wodonga, Ballarat, Bundaberg, Dubbo, Gladstone, the Gold Coast, Mackay, Maryborough, Mildura, Nambour, Newcastle, Orange, Rockhampton, Shepparton, Toowoomba, Townsville and Warwick. That is right—all of those towns face the prospect of a greater concentration of media ownership. Independent Regional Radio Broadcasters, a body representing 73 commercial radio services in regional Australia, predicts that the government’s proposal will result in a single, dominant media company emerging in 47 areas of rural and regional Australia.

Senator Coonan claims that the big players must be able to merge in order to generate economies of scale. What will this mean in practice? Will newsrooms be merged? Will local reporters be sacked? What will happen to local content, particularly in regional Australia? What guarantee is there that dissenting voices will be able to be heard? Now that the National Party has been publicly expressing concerns about these issues, Mr Neville, the member for Hinkler and chair of the coalition’s backbench communications committee, told the ABC’s AM program yesterday that under the minister’s plan:

Someone could effectively dominate a regional market by owning the local newspaper, perhaps the best two radio stations and perhaps even the pre-aggregation television stations that still have the local news service. That would create, I think, a very unhealthy concentration of media in one ownership.

Mr Neville is dead right. He went on:

One thing is absolutely certain. In its raw form, there’s more potential for abuse in this system than there is in the current system of radio, television and newspaper.

Senator Joyce has also raised concerns that, in concentrated regional media markets, small businesses may not be able to get access to affordable advertising. Senator Boswell has expressed fears about the effect of media mergers in the Cairns market. Cairns currently has seven independent media owners. This could fall to just four if Senator Coonan has her way. I congratulate Mr Neville, Senator Joyce and Senator Boswell for speaking out on this issue. They have
correctly identified some of the real dangers inherent in Senator Coonan’s plan. However it is not enough for the National Party to just talk tough. If they want to do something for the people that they claim to represent, they need to act. I do hope, though, that the media reform debate will not mirror what we saw in the Telstra debate.

In that case The Nationals talked the talk but ultimately failed to deliver and sold out the people who voted for them. With the Telstra sale we saw a lot of posturing and threats to cross the floor but ultimately when it came to the vote the National Party did not have the ticker to stand up to the Liberal Party. It is no wonder Senator McGauran walked. No wonder he says that there is no difference, that he may as well join the Liberal Party. Barnaby backed down, Ron rolled over and Fiona folded. And, after that, Julian jumped. Senator McGauran decided that he would rather give the orders as a member of the Liberal Party rather than be a member of a subservient and cowed National Party. How does it feel, Senator Boswell, to take orders from Senator McGauran now?

Today Labor is not asking Senator Boswell and Senator Nash to cross the floor and defeat a government bill. Today all they have to do is say: ‘Wait a minute, Minister. We have serious concerns and we want the media ownership proposals properly examined by open and transparent Senate inquiry. We want to hear what the people of Australia have to say.’ Senator Boswell, that is all you have to say. The government is proposing major changes to the media laws. They have significant implications for how our democracy operates. They have the potential to gut the amount of local content that is received by the people that the National Party claim to represent.

Some Nationals have put forward ideas for additional safeguards like editorial separation, where merged media companies would be required to have separate newsrooms. Another suggestion that has been made is the introduction of a rule where proprietors are only permitted to have two out of the three of the traditional media, namely TV, radio and print. Calls have also been made to put local content requirements on regional radio operators. If The Nationals are serious about any of these proposals, they should support Labor’s plan to establish this inquiry so that they can be properly examined.

Of course, the minister claims to be interested in protecting diversity. Senator Coonan says that her plan contains safeguards. Labor believes that the inquiry should closely examine the safeguards proposed by the minister. The government has claimed that we can rely on the scrutiny of the Australian Competition and Consumer Commission to prevent excessive concentration in media markets. There are serious doubts, however, about how the ACCC will perform this task. The Productivity Commission is on the record expressing reservations about the ability of the Trade Practices Act to protect media diversity. Ultimately, regardless of the approach taken by the ACCC, the fact is that it does not make the law. The courts will interpret the Trade Practices Act.

If the ACCC frustrates the ambitions of powerful media interests, the matter is sure to end up before the High Court. The ACCC has itself conceded that there are difficulties defining news and information markets. Last November in Senate estimates, I asked Graeme Samuel if the prohibition on anti-competitive mergers in the Trade Practices Act would operate to stop the two giants of the Australian media, News Ltd and PBL, from merging if the cross-media rules were removed. Mr Samuel was not able to rule out that possibility. How can the minister pretend that the ACCC is able to safeguard media
diversity if there is no guarantee that it would be able to stop the two giants of the Australian media landscape from getting together?

The ACCC has talked about issuing guidelines on its approach to media mergers. Parliament should be given the opportunity to scrutinise its thinking. If the minister is confident in her claims that the ACCC can protect media diversity, she should have no objection to allowing the Senate committee to question the ACCC.

The other claim made by the minister is that in this age of the internet the media ownership rules do not matter. It is claimed that the internet has opened up a universe of diverse content. There is no doubt the internet has added a great deal of diversity in terms of international news and entertainment. It is fantastic that Australians are now able to access services like the BBC, CNN and the New York Times for coverage of international events, but for local and national news the traditional media remain the most influential.

Every night nearly 2.5 million Australians watch the news on Channel 7 or Channel 9. Every day more than 1.6 million people read the Herald Sun. Over 700,000 people read the Age. The No. 1 broadcaster in Sydney, Alan Jones, has an audience of 182,000 listeners every morning. In contrast, the leading new internet source of news and opinion, crikey.com.au, has around 9,000 subscribers. There are thousands of blogs on the web, but it is just silly to compare their influence on public opinion with that of a major media operation like Channel 9 or the Herald Sun.

It is true that Australians are turning to the internet to keep themselves informed. However, when Australians turn to the internet for news they overwhelmingly turn to the sites operated by the giants of the so-called old media. Nearly 90 per cent of the hits on Australian news websites are on sites owned by Fairfax, News Ltd, PBL or the ABC. The minister’s claim that the rise of the internet means that we do not have to worry about increasing media concentration really does need some close examination.

I am sure that the government will argue that this inquiry that Labor is moving today is premature. I look forward to hearing the debate. It will argue that the government has only released a discussion paper and that the Senate should wait for media reform legislation to be introduced into the parliament. I would caution senators, however, that the government’s form since taking control of the Senate means that this is a dangerous path to follow. Time and again on contentious issues, it has used its numbers to ram legislation through. The government has not allowed the Senate and its committees to perform their constitutional role of scrutinising government legislation.

Senators should cast their minds back to the farce that was the committee process on the Telstra sale bill and the new telecommunications regulatory regime. Upon the introduction of the legislation, the government allowed only one day of scrutiny of five extremely complex bills. The terms of reference of the Telstra inquiry excluded any discussion on the question of privatisation. Only one day of hearings was permitted. Hearings were restricted to Canberra. The public were given only 24 hours notice to come and have their say. The opposition was given just 12 minutes to question key witnesses like the ACCC. This is not how the parliament, the Senate, is meant to operate.

The industrial relations legislation was another case which exposed the government’s determination to avoid scrutiny by Senate committees. Major aspects of the legislation, such as ending unfair dismissal for firms with fewer than 100 employees—not
the 20 that was the election promise—were not included in the terms of reference. The committee had just five days to question 105 witnesses and to process more than 5,000 submissions. The committee then had just one day to prepare a report at the conclusion of the hearings.

With that sort of track record, the Senate cannot afford to wait until we see the legislation before scrutinising the government’s plans. These are the most significant reform proposals for the media in 20 years. They should be rigorously examined by this chamber. They should be considered by each and every senator before the vote is put. The public must have an opportunity to be heard. I urge the Senate to support Labor’s call for the communications committee to be able to examine the impact of the government’s plans for media ownership. Stand up and be counted today, National Party. You talk a big fight, but when it comes to a vote in this chamber you roll over to the Liberal Party and the vested interests, and you sell your supporters down the drain every time you do it.

Senator MURRAY (Western Australia) (5.35 pm)—I rise to put forward the Democrats’ view on Labor’s motion to refer the government’s proposed changes to cross-media laws to the Environment, Communications, Information Technology and the Arts References Committee. Before I do so, I want to remark on how quickly technology and the market have moved and how important it is for media law and regulation to keep pace with rapid change. That change can often mean that, on media in general, we parliamentarians need to be thinking differently than we have. For many people, telecommunications and media have been seen as separate fields, but both are about the gathering, transmission and receipt of information. Telecommunications and media are absolutely intertwined and have to be considered in tandem.

For telecommunications and media, we need to establish what we think must be essential, guaranteed, affordable services available to all but the remotest Australians and enforced through legislated customer service obligations. For the rest, the market needs to be as free and open as possible. We need to distinguish between consumer needs and political or societal needs. Consumer needs are satisfied by a free rein being allowed for new technology and a maximum variety of product types. That is best guaranteed through few barriers to entry and through encouraging real competition.

Consumer needs are best looked out for by competition and consumer regulators—the ACCC and ASIC. Political and societal needs, on the other hand, mean that we must promote a genuine diversity of economic, political and social voices, serviced by properly resourced and diverse information and news-gathering abilities. That is where a much stronger special regulator, the ACMA, comes in. We need to let the market run free in as many aspects as we can, regulated by the ACCC and ASIC, always provided that the Trade Practices Act is really strengthened. Where limited spectrum or channels or media voices are available, in return for having a scarce good we need to require regulation and enforcement of local content, editorial independence and a high level of news-gathering and current affairs capacity.

The Democrats will support this motion for three reasons. Firstly, we believe there is no doubt that the current government media policy is outdated. We need to work out where we need to be going. The current media policy does not allow open competition in the marketplace and does not provide conditions where sufficient diversity and independence of voices can be heard. However,
we believe that the government’s media reforms as they are currently proposed have the potential to have a profound and often negative impact on our democracy and the ability of Australians to access a range of views and voices. The Democrats believe that the government are exaggerating the impact that the internet has on media diversity and that concentration of the market is inevitable under the government’s current package. In fact, I have yet to hear any credible commentator agree with the government that these reforms will not lead to a concentration of the media market.

If you want to hear a clear message on these proposals, listen to the stock exchange and the market. However muted the commercial media have tried to be in an attempt to keep this policy unopposed, the stock exchange movements and the analysts are telling us their real expectation—greater media concentration. The big will have more power, more profits, more concentration. And that is what the market says.

Change in cross-media ownership rules and lifting foreign ownership restrictions may notionally increase competition but in the way they are presently constructed the reality will be different. It will not, in my view, increase the diversity of views and voices. The reality, as the shadow minister outlined, is that the majority of people still get their views from traditional sources of media—predominantly television and newspapers. In November 2005, a Roy Morgan poll found that 48 per cent of Australians get their main source of information from television—which might be why they are not as well informed as they might be—22 per cent from newspapers, 19 per cent from radio and only eight per cent from the internet. The internet market share data from ACNeilsen shows that Australian content on the internet is now more concentrated than in the old media of newspapers, magazines, radio and TV.

Minister Coonan’s assurances that the Australian Competition and Consumer Commission will protect competition are worthless. I wish her assurances were true but in reality the Trade Practices Act is weak, it is out of date and it badly needs strengthening. If the Trade Practices Act was strong, there would already be forced divestiture in over-dominant media companies and more competition than there is at present. Instead, under the coalition package, big media business will get the chance to accelerate the oligopolisation of the media market.

Because of big business pressure, the coalition has not had the courage to implement the March 2004 recommendations of the Senate Economics References Committee inquiry into the Trade Practices Act. Those recommendations include: introducing effective divestiture powers; clarifying the meaning of a ‘substantial degree of power in a market’ and ‘take advantage’ in section 46 to overcome existing deficiencies; introducing a financial power consideration; and strengthening the ACCC’s powers to prevent creeping acquisitions. Those recommendations, if implemented, would give the Trade Practices Act real teeth and afford us enforceable protection from anti-competitive abuses of market power. If those recommendations were implemented you could loosen up the present media rules quite considerably.

Australian experience clearly proves that market forces alone will not guarantee competition or the service that we are looking for in highly concentrated or very vulnerable industry sectors. But I acknowledge that these TPA recommendations alone will not be enough to ensure diversity. The current view of a media market has tended to focus on advertising revenue rather than diversity.
of views and voices and on a commercial imperative rather than a societal imperative. The new media will also force policy makers and regulators to change the way they think about the media market, and so it should. In this respect Australia can learn from the United Kingdom’s use of a plurality test when considering mergers and acquisitions. There are critics of this approach. Some think it is not transparent enough and it should be a more open public process. But these are issues that this parliament should be exploring and they are issues that a good Senate inquiry would explore.

Regulatory powers are necessary safeguards for efficient, effective and diverse competition. This is particularly important where the government is introducing media reform changes in an environment where it feels politically vulnerable to vested interests and so feels obliged to be beholden to those interests. In many respects I feel sorry for the government. They are so frightened of losing power that many of them are going to act in this matter in ways which are actually contrary to their personal views and interests. They are going to react to big business pressure in a way which seems to suit the political self-interest but which does not address the national interest.

I also have concerns about journalistic independence, resources and editorial separation. I must confess that I have not been able to solve this one yet but one idea I have had is to require editorial independence mechanisms to be developed by the company to the satisfaction of ACMA and then be enshrined in the company charter or constitution and be subject to periodic independent audit. However, I am still thinking about that one, and that is the sort of concept I would like to see explored in a committee such as Senator Conroy is recommending.

On that theme, in 2003 the Democrats successfully moved an amendment to the then media ownership bill that required media companies owning television stations and other types of media such as newspapers to cede editorial control of their television news to an independent internal news editor. The aim of the amendment was to protect diversity of viewpoints, even if ownership in media companies was concentrated under the bill. The Democrats were successful in that debate, with an amendment establishing an independent editorial board to guide the editorial content of a cross-media company’s television station. The three-person board, which would include a journalist-appointed member and an independent chair, would have to ratify the appointment or the dismissal of a news editor. The news editor in turn would appoint the staff. The news editor, under the guidance of the board, would be responsible for the editorial content of news and current affairs rather than the media company.

However, those Senate amendments came to nought because the government abandoned that bill. The government have decided to abandon those amendments in this latest media reform package as well. I think this issue of editorial independence and editorial separation from corporate motivations needs to be revisited and investigated, because it goes to the heart of what I would describe as the political or societal needs, rather than the commercial needs of the corporations.

Our view is a simple one, and that is that further concentration of power in television and newspapers would be devastating to the society we want to see Australia enjoy. Democracy works best with a strong and diverse media: one that is unafraid to tackle big and small interests, whatever they are; one which has a resource base which enables it to do proper investigation; and one which
is imbued with a public interest and is not just commercially driven and dictated by profits and by the particular views of the board. I would argue that these reforms as they stand—that is, Senator Coonan’s recommendations—only seem to benefit the coalition government. That is a situation Australians cannot afford if this is a government that already has a stranglehold on the federal parliament and will continue to have that stranglehold. It is important, therefore, that these issues are properly examined.

The second reason we support this motion is because we do not trust this government to give the parliament adequate time to analyse and scrutinise the media reform legislation once it is introduced into parliament. Since the Liberals and the Nationals have had control of the Senate, the role of the Senate in scrutinising legislation has been negatively affected. I will remind the chamber of some of those abuses. A motion moved on 6 September 2005 to allow a Senate committee to inquire into and report by 10 October on the very complex legislative measures of regulation, licensing and funding attached to the sale of Telstra was opposed by the government. It was instead replaced with an amendment for a one-day committee inquiry. Senators had to start the second reading debate five minutes after the bills were introduced without having sighted any of them and before the Senate inquiry had begun. The public had less than two days to be fully across all the potential issues or implications in the bills, make submissions to the inquiry and appear before the committee. The committee and other parties had the weekend to write the reports. The chamber had two hours to debate amendments—which, I might add, were not actually debated because government members asked dorothy dixer questions. It sounds familiar to us all these days.

The government’s behaviour on the Anti-Terrorism Bill (No. 2) 2005—a significant bill which, in my view, attacked the rights and freedoms of all Australians—was not much better. The government moved without warning, late on the afternoon of Thursday, 13 October 2005, a motion to refer the proposed antiterrorism legislation to a committee for a one-week inquiry. A subsequent delaying move by the Democrats forced the motion to the next sitting period and the government accepted the slightly later reporting date, which was 28 November 2005. The bill itself was guillotined through the chamber over two days, with a total time of six hours of debate. Similar abuses of Senate process and scrutiny occurred for the Work Choices, Welfare to Work and voluntary student unionism bills, just to name a few.

If there are any Queensland listeners who either voted for the coalition or put their preferences in such a way that it benefited the coalition and knocked off my colleague Senator John Cherry, this is what you achieved. If we had had Senator John Cherry in this chamber and the coalition did not have the numbers delivered in Queensland, this would never have come to pass. That is the effect when you allow the government to dominate this chamber. Given the government’s recent and autocratic track record, we in the non-government seats are concerned about potential threats to our democracy and need to be sure that the government would give due process to scrutinising media reforms. We do not have any faith that that is likely to occur. That is the second reason we support this motion.

The third reason we support this motion is we think it is about time the Nationals followed through on their words and their various media assurances. Some Nationals members have, I think quite honestly, expressed concerns that concentration of media will result in generic programming and a
lack of local input, may push up advertising rates in regional areas, may reduce the sort of media service which they get at present and will damage small business as well as the community in the process. Here is a chance for the Nationals to have a Senate committee examine these and other concerns. Personally, I am bit sick of the hype that the media give the Nationals on these issues when, in the past, they have often failed to deliver. When the Telstra sale was under way, the Nationals were so busy haranguing Senator Joyce and trying to present a unified conservative front with him being painted as a maverick that they missed their chance to come through with a very strong negotiation on the sale of Telstra. It was only a lot later that as a group they finally realised that a more independent stance was in their interests, but that was after the deal was done.

For all their talk on getting a great deal for regional Australia, they failed in important respects. With the sale of Telstra, the Nationals squibbed a golden opportunity to insist that the Trade Practices Act be strengthened with antitrust powers and to attack the issues of creeping acquisitions and section 46 deficiencies. That reform alone would have curtailed excessive media and excessive telecommunications power. They did not even have to do the work, because the Democrats and Labor had a host of amendments that addressed the industry’s and the regulator’s concerns. The Nationals also failed on broadband. In the 21st century one of the most important delivery systems of media content is the internet, which is why I say telecommunications and media are absolutely intertwined. It provides access to the most diverse range of media content, but rural and regional Australia will miss out on this access because of the lack of telecommunications infrastructure to deliver high speed broadband access.

When the Nationals sold Telstra, instead of negotiating that rural and regional Australia would be able to access video on demand, video streaming and audio streaming from down the street and around the world, most rural centres will be unable to even get a public telephone. It is a pity that nobody advised the National Party that telecommunications is the way to deliver media diversity in the 21st century. That is a shame, because I think the Nationals’ hearts were in the right place but their political heads were not at the time. All they could see was that Senator Joyce was being a maverick, when in fact his independent voice was saying, ‘This is a way in which we can exercise some meaningful power.’

If we are to have a fair and open society, this government must pursue policies to increase diversity of views and voices. It must improve use of and access to new technology, such as digital and broadband; it must ensure open access to media content; it must ensure that there is an adequate level of local and Australian content; and it must protect the independence and freedom of journalists and the media. Failure to protect diversity of viewpoints is a failure to protect the necessary public debate that makes our democracy function—and, as Democrats, we intend to fight hard on this issue.

Before I close my remarks, however, in case everyone listening thinks I have been unfairly hostile towards and critical of this overall package, I would say that it does have one major redeeming feature, and that is a recognition that we cannot persist with the present media regulation and policy. It is outdated and it needs to be addressed. I do not think that any serious person examining this area would think otherwise. That is another reason that we should be supporting this ALP motion. I would not mind at all if the government were to suggest improvements to the motion. That is not the issue.
The issue is how we devise on a cross party basis a media policy which is genuinely in the national interest instead of a media policy that is promoted by just one side of politics and will be pushed through to the great misgivings of all the other political players who are not part of the coalition.

For those reasons, I do support the Labor Party’s bid for a comprehensive inquiry into cross-media reforms. I hope those many Nationals and some Liberals who feel concerned about the direction this is going in will apply some internal pressure to perhaps recognise the wisdom of going down an inquiry route and coming to more consensus and a better compromise on this proposed package.

Senator EGGLESTON (Western Australia) (5.54 pm)—The government has committed to reforming Australia’s media ownership laws while protecting public interest in our diverse and vibrant media sector. As is well known, the government recently released outline proposals to reform our media ownership laws as part of a broader reform package relating to new digital services and other key broadcasting issues. In this paper, it has been proposed to remove the current cross-media and foreign ownership rules, with diversity protected by a floor under the number of media groups permitted in a market to prevent undue concentration of ownership.

The floor of four voices in regional markets and five in mainland state capitals seeks to find a balance between establishing too high a threshold that would prevent any mergers taking place and ensuring protection for a minimum number of voices and media outlets. However, this would not include national daily and out-of-area newspapers, the ABC and SBS, pay TV, the internet and other potential news services over other platforms, which will all continue to supplement the commercial platforms to deliver a wide variety of information, entertainment and opinion to the Australian people wherever they may be.

Under this approach, the Australian Communications and Media Authority, ACMA, would have the power to grant an exemption certificate where a cross-media transaction does not breach the floor. The Trade Practices Act 1974 would continue to apply to media transactions, and the Australian Competition and Consumer Commission would play a critical role in assessing competition issues associated with mergers, including in regional areas where media markets operate on lower revenue and higher costs.

There was a comprehensive inquiry into the issues surrounding cross-media ownership, which I chaired several years ago, in which all of the issues surrounding this matter were examined. The government will be introducing legislation on changes to cross-media ownership in the near future. When that happens, the legislation will be referred to the Senate Environment, Communications, Information Technology and the Arts Legislation Committee. Accordingly, referring this matter to the ECITA references committee at this stage would unnecessarily duplicate the inquiry the legislation committee will be holding in the not too distant future. Therefore, the government will be opposing this motion.

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

The Senate divided. [6.02 pm]
Ayes……………… 29
Noes……………… 32
Majority……… 3

AYES
Allison, L.F.……………… Bartlett, A.J.J.
Bishop, T.M.……………… Brown, C.L.
Campbell, G.……………… Carr, K.J.
Conroy, S.M.……………… Crossin, P.M.
Hogg, J.J.……………… Hurley, A.
Hutchins, S.P.……………… Kirk, L.
Ludwig, J.W.……………… Lundy, K.A.
Marshall, G.……………… McEwen, A.
McLucas, J.E.……………… Milne, C.
Moore, C.……………… Murray, A.J.M.
Nettle, K.……………… O’Brien, K.W.K.
Polley, H.……………… Stephens, U.
Sterle, G.……………… Stott Despoja, N.
Webber, R. *……………… Wong, P.
Wortley, D.

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

PAIRS
Brown, B.J.……………… Joyce, B.
Evans, C.V.……………… Campbell, I.G.
Faulkner, J.P.……………… Mason, B.J.
Forshaw, M.G.……………… Vanshone, A.E.
Ray, R.F.……………… Ellison, C.M.
Sherry, N.J.……………… Minchin, N.H.

* denotes teller

Senator Siewert did not vote, to compensate for the vacancy caused by the resignation of Senator Hill.
Question negatived.

BUSINESS

Rearrangement

Senator KEMP (Victoria—Minister for the Arts and Sport) (6.06 pm)—by leave—I move:

That, on Wednesday, 29 March 2006:

(a) the hours of meeting shall be 9.30 am till not later than 11.40 pm;

(b) the question for the adjournment of the Senate shall be proposed after consideration on the business listed in paragraph (d) or at 11 pm, whichever is the earlier;

(c) consideration of government documents shall not be proceeded with; and

(d) the routine of business from 6.50 pm shall be the following government business orders of the day:

Family Assistance, Social Security and Veterans’ Affairs Legislation Amendment (2005 Budget and Other Measures) Bill 2006—second reading

Health Legislation Amendment (Pharmacy Location Arrangements) Bill 2006

Therapeutic Goods Amendment Bill 2005

Bankruptcy Legislation Amendment (Fees and Charges) Bill 2006

Bankruptcy Legislation Amendment (Anti-avoidance) Bill 2006

Ministers of State Amendment Bill 2005

Postal Industry Ombudsman Bill 2005 [2006]—consideration in committee of the whole of message from the House of Representatives

Appropriation Bill (No. 3) 2005-2006 and Appropriation Bill (No. 4) 2005-2006—second reading.
NOTICES

Withdrawal

Senator NETTLE (New South Wales) (6.06 pm)—At the request of the Leader of the Australian Greens (Senator Bob Brown), I withdraw business of the Senate notice of motion No. 6, standing in the name of Senator Bob Brown for today, proposing the reference of a matter to the Rural and Regional Affairs and Transport References Committee.

TELECOMMUNICATIONS (INTERCEPTION) AMENDMENT BILL 2006

In Committee

Consideration resumed.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.07 pm)—by leave—I move government amendments (3) and (12) on running sheet PA337:

(3) Schedule 1, item 2, page 4 (line 29) to page 5 (line 6), omit paragraph 5E(1)(c), substitute:

(c) could, if established, render the person committing the contravention liable:

(i) if the contravention were committed by an individual—to pay a pecuniary penalty of 180 penalty units or more, or to pay an amount that is the monetary equivalent of 180 penalty units or more; or

(ii) if the contravention cannot be committed by an individual—to pay a pecuniary penalty of 300 penalty units or more, or to pay an amount that is the monetary equivalent of 300 penalty units or more.

(12) Schedule 1, item 9, page 27 (lines 19 to 26), omit paragraph 139(3)(c), substitute:

At the outset, I say that these were not a result of the Senate committee recommendations, on which there has been some discussion during this committee stage. What I can say is that amendments (3) and (12) amend the references to pecuniary penalties in the bill to ensure that stored communications warrants are available to agencies in connection with the investigation of offences punishable by reference to a pure monetary amount. The threshold for a stored communications warrant is the investigation of an offence of at least three years imprisonment or a penalty of 180 penalty units, which equals $19,800.

Stored communications information can be used and disclosed in connection with the investigation of an offence of at least one year imprisonment or a penalty of 60 penalty units, which equates to $6,600. These amendments will ensure that enforcement agencies can gain access to and use stored communications via the stored communications warrant regime in appropriate circumstances. As I said, this is not a result of the Senate committee recommendations; they are amendments that the government thought would enhance the operation of this act. I commend the amendments to the committee.
Senator LUDWIG (Queensland) (6.09 pm)—One of the things I think this highlights is that it is a necessary amendment. It was a matter that looks like it was missed. In this instance, it does seem that the government ignored the Senate committee report and then went along on its own track and found a couple of errors and omissions of its own accord. It is a pity that it did not provide as much diligence to the committee report’s work as well. In any event, it is a clarification that is required and should be dealt with.

Senator STOTT DESPOJA (South Australia) (6.10 pm)—The Democrats will be supporting these amendments moved by the government. My understanding is that these amendments do clear up a mistake. As I recall, this was referred to in the Senate committee. If I am on the right track, ASIC referred to the issue involving civil penalty units, so we were conscious of this and are glad the government has addressed the issue.

Question agreed to.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.11 pm)—I move:

(4) Schedule 1, item 2, page 5 (lines 20 to 25), omit section 5F, substitute:

5F When a communication is passing over a telecommunications system

(1) For the purposes of this Act, a communication:

(a) is taken to start passing over a telecommunications system when it is sent or transmitted by the person sending the communication; and

(b) is taken to continue to pass over the system until it becomes accessible to the intended recipient of the communication.

(2) However, if a communication is sent from an address on a computer network operated by or on behalf of the Australian Federal Police, it is taken not to start passing over a telecommunications system, for the purposes of this Act, until it is no longer under the control of any of the following:

(a) any AFP employee responsible for operating, protecting and maintaining the network;

(b) any AFP employee responsible for enforcement of the professional standards of the Australian Federal Police.

(3) Subsection (2) ceases to have effect at the end of the period of 2 years starting at the commencement of this section.

This amendment relates to the meaning of when a communication is passing over a telecommunications system and provides greater clarity. The government believes this amendment is necessary and, in part, responds to recommendation 16 of the Senate committee report.

Communications that are passing over the telecommunications system remain subject to the prohibition against interception. Communications that are not passing over the telecommunications system—that is, stored communications—are subject to the new prohibition against access to stored communications. The amendments and the bill generally ensure a comprehensive level of privacy protection for the users of the Australian telecommunications system. What we are saying here—and there has been much discussion of this in relation to real time intercepts and others, and I have referred to the Blunn report earlier—is that, once the communication has been transmitted, it remains still and becomes a stored communication. Of course, that is a very different situation to where you have a communication that is in the process of being passed over the telecommunications system or in the process of transmission. I think enough debate has been had in relation to the difference between a stored communication and a communication that is in transit. I will
not take it any further other than to say that this is an important clarification and that it responds to the Senate committee report.

Senator LUDWIG (Queensland) (6.13 pm)—That is all very well and good for 5F(1). The difficulty I face relates to 5F(2), which is a proviso. As I understand it, it goes on to say:

However, if a communication is sent from an address on a computer network operated by or on behalf of the Australian Federal Police, it is taken not to start passing over a telecommunications system, for the purposes of this Act, until it is no longer under the control of any of the following:

Then we have two paragraphs (a) and (b). We agree with what the minister said with regard to 5F(1). It is a matter that the committee report dealt with, and we think it needed to be clarified. This does that, and we are in a position to support it. With regard to 5F(2), I am not sure exactly how we do this but, if I cannot get the minister to do it, I will move to have 5F(2) split, because that is a separate issue which you have bound up in 5F(2) and 5F(3).

There seems to be a separate issue that is being dealt with in (2) and (3), because you have also then got the ‘period of 2 years starting at the commencement of this section’. So perhaps the minister could indicate firstly what the import of (2) and (3) is and then whether he is prepared to separate those out. The minister does not need to deal with (1) again, in the sense that we accept that (1) is from the committee report. But I cannot recognise (2) from the committee report. It might be one of those ones where you have again gone off on a frolic of your own, as I indicated earlier.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.15 pm)—This relates to government amendments (5) and (6), which are next on the list. It relates to the Australian Federal Police. It might assist the committee if I just outline a bit of background to this. The Australian Federal Police requested an amendment to the bill to allow the AFP to copy all incoming and outgoing emails to and from the AFP network for professional standards purposes. Accordingly, the definition of ‘intended recipient’ and ‘passing over’ will contain an AFP-specific definition in the bill to mean, for AFP purposes only, a network administrator lawfully engaged by the AFP. This will mean that, for the AFP only, a communication is no longer passing over the telecommunications system, and therefore not subject to the general prohibition and offences against interception, as soon as a communication can be accessed by a network administrator employed by the AFP, for example, at the firewall or the mail sweeper server.

I note that the issue of network administration applies to all organisations, both public and private, and is one in relation to which the Attorney-General’s Department is undertaking further work. A policy proposal regarding a long-term solution to the conflict between the general prohibition against interception and the need to allow appropriate access for network administrators to conduct their activities lawfully is yet to be finalised as it is still the subject of ongoing consultation with interested stakeholders. So it really is a question of the AFP being able to monitor its own network, and of course that is a request by the AFP for the monitoring of professional standards. I will talk to (5) and (6), if I may, because I think that clarifies the position.

Senator LUDWIG (Queensland) (6.17 pm)—Can we split the amendment?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.17 pm)—I think we would like to keep it as it is, for the reasons I have mentioned.
The TEMPORARY CHAIRMAN (Senator Crossin)—Minister, I understand it is possible to split your amendment so that we could move it in two sections.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.17 pm)—Okay, we will do it that way. I will just outline what we are getting at, just so that we take the argument in its context. An email would not commence its passage over the telecommunications system until such time as it exits the AFP network boundary, and ceases its passage as soon as it enters the AFP network at the firewall or mail sweeper server. Of course, that would enable lawful access to those communications for the AFP within the AFP network boundary.

As I have just said, we are looking at other networks but, in the first instance, the AFP has asked for this ability for professional standards purposes, and we can understand that. We have just introduced into the parliament legislation which deals with AFP professional standards and the ACC. The amendments that I will be proposing are subject to a sunset clause and will cease to have effect two years from the date of commencement. But I think that that is important for the AFP. We can take the vote in two parts, but we believe that it is an important aspect for quality assurance or, more importantly, professional standards assurance for the AFP to monitor its own network. I commend government amendment (4), but I appreciate that if that is the way the committee wants to deal with that amendment then we will deal with it in two parts.

Senator LUDWIG (Queensland) (6.19 pm)—Thank you, Minister, that in fact does help. I suspect the chair is following this better than I am, but in amendment (4), 5F(1) becomes one motion. Then it would be (2), and (5) and (6) could be moved at the same time as they relate to the same parts. Or you could number them the way you like.

The TEMPORARY CHAIRMAN (Senator Crossin)—Can I take some liberty as chair and clarify this. I suggest that government amendment (4) be put in respect of proposed section 5F(1). There being no objection, the question is that government amendment (4) on sheet PA337 in respect of proposed section 5F(1) be agreed to.

Question agreed to.

The TEMPORARY CHAIRMAN—The question now before the committee is that government amendment (4) on sheet PA337 in respect of proposed section 5F(2) and (3) be agreed to.

Senator LUDWIG (Queensland) (6.20 pm)—I will speak to that. This is a matter that has come up before, but there are a number of questions that the minister might be able to help the chamber with. It is a new matter in that it has not been to the committee. It was not proposed as part of the original bill. It appeared to be an afterthought. It was not in the submission, but the AFP had the opportunity at the committee hearing to raise this issue as a matter that they might want to pursue or as an additional matter. They could also have taken the opportunity when appearing before the committee on the particular day to raise it as an issue. They did not seek to. Let me also say that it is not a new matter because the AFP have asked for this or complained about this before. If the government had been minded to deal with it in this bill, it could have been put in the bill and could have allowed the committee to then deal with it. So it makes me suspicious, I have to say.

If I recall correctly, this is a matter that came up before the committee in respect of stored communications. The AFP were complaining about the difficulty they would have in ensuring that they could monitor incoming...
emails. I am happy for the minister or the AFP to correct me, but my understanding was that, for integrity purposes, they wanted to monitor incoming emails of law enforcement officers through their network before the intended recipients received them. It is similar to a covert application to an ISP, which would then require a warrant. That is why you effectively require an exemption in this part; otherwise, they would have to have a covert warrant—that is, a stored communication warrant—to be able to effect the same result.

Quite frankly, I did not understand why when they raised it some time ago. Clearly, they did not want to raise it because they knew the response they might have got from the committee. It seems to me that their systems for whatever reason are letting them down. What they could have done is taken this and dealt with it as part of the ACLA legislation. If it is about ensuring that there are law enforcement integrity measures in place and the network has that, they could deal with it during that time. Alternatively, you could have made it a substantive part of the original legislation.

It is not a new matter. This has been around and was looked at. I do not think that at the time they raised it the AFP saw it as a huge problem. But, if they did think it was such a problem, it surprises me that they did not bring it first. Rather, it looks like they hung back and waited to do it now. I do not know whether the minister was aware of that history of it, but I am sure that the advisers would have been. I am surprised, Minister, that you were not informed about that. If you were informed about that, I am surprised that you were a party to it.

The other issue, of course, is who has been consulted in respect of this new issue. Has the association been consulted about whether or not its members are going to be subject to this type of exception from the stored communication regime? Once you start having exceptions to a stored communication regime, where does that little bit of cotton end? You then start having a whole raft of exception regimes put in place because of other integrity measures or because other law enforcement agencies might also have the same problem. If it is a problem with the computer network, they have had years to fix it. You have certainly given them sufficient resources to be able to deal with it. I would rather have a bit more information from the minister about this. I have raised a number of issues. Some are relevant and some might have an answer. But it would be helpful to have that information before we voted on this—or we could leave that part and move on to others.

Senator STOTT DESPOJA (South Australia) (6.25 pm)—I think it is probably more important that the minister addresses some of the questions raised by Senator Ludwig, but the Democrats have similar concerns. Our inclination is to oppose this proposal and this aspect of these amendments partly because of some of the unanswered questions to which Senator Ludwig referred. I think there is a bit of an ironic debate about exceptions here. But I would not mind some background on why this has come up now and perhaps some responses to Senator Ludwig’s questions. Otherwise, I think this is something that would be best dealt with at a later stage. I am not quite sure why it has come up at this stage, but I certainly think it would have been important to have had this as part of the deliberative process of the committee.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.26 pm)—I understand that the AFP has been dealing with the AFP Association. That is my understanding. They were happy with that aspect of it. I certainly met with the AFP Association the other night and discussed a
range of things, including the professional standards legislation and a whole range of issues, and it was not raised with me. I certainly have not discussed it with the AFP Association. I understood that the AFP has done that.

With regard to submitting it to the committee, the AFP, to be fair, did not have the policy approval for this at the time of submitting it to the committee to the extent that this is a policy determined by government. It was something that the government was asked by the AFP to approve. That was done recently. I do not think it is of such great consequence that it needs to be held up in any way. I think it complements what we have introduced into the parliament. I think it is something that can be looked at as to its operation along with other aspects of this bill. I personally will keep a close eye on it.

Senator LUDWIG (Queensland) (6.28 pm)—I will not delay this any further. We will not divide on this issue. I do not think the minister has answered the questions adequately. I think there are still a couple of questions that remain unresolved in respect of that. Clearly, Minister, you are not going to be able to assist us any further with this. I am not satisfied that the association have been adequately informed about this, but I will take your word that they have been. We should move on.

Question agreed to.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.29 pm)—by leave—I move government amendments (5) and (6):

(5) Schedule 1, item 2, page 5 (line 27), before “For the purposes”, insert “(1)".

(6) Schedule 1, item 2, page 6 (after line 2), at the end of section 5G add:

(2) In addition to the person who is the intended recipient of a communication under subsection (1), if a communica-

I canvassed this earlier in the debate. I simply move the government amendments (5) and (6), which are necessary to ensure the ongoing ability of the AFP to monitor its network to ensure compliance of its staff with stringent professional standards. I do not think I can take it any further than that.

Senator LUDWIG (Queensland) (6.29 pm)—I wrapped up the debate in the previous amendment. It is worth indicating that the reason that Labor are not supporting the amendment is not that it may not provide a matter that the AFP requires and it is not that it is a matter that the AFP may not need. We do not know that. I am not convinced by the late submissions by the minister about this particular provision, and our concerns are that, without more information, it should not be supported. There was an opportunity for it to either go to the committee or be dealt with in a more fulsome way. There was no opportunity afforded to us to ensure that it will have the intended effect and will not have any unintended effect.
Having said all that, it is a matter that may prove to have otherwise garnered Labor support, but without more it is one of those matters that we are not minded to support. As I have indicated, we will not divide on it but it is disappointing in the sense that it looks like it is being brought late, outside the original bill and not as an amendment to improve the bill but as a matter that has been added on. On that basis, the Senate has not had the ability to give it appropriate scrutiny. We have not had the scrutiny of the AFP to explain how it will operate and the need for this type of provision, nor have other interested parties examined the provision. On that basis, I think it is reasonable that Labor do not support the amendment.

Senator STOTT DESPOJA (South Australia) (6.31 pm)—I agree with Senator Ludwig. I just want to make clear for the record, based on the minister’s comments earlier, that I did not intend—and I do not think others in the chamber intended—to have a go at the AFP when the minister was saying that, to be fair, they did not necessarily have policy approval et cetera. I am not having a go at the AFP here. In fact, as Senator Ludwig has suggested, I would have liked to have had the opportunity to ask the AFP about these proposed changes. I think we are having a go at the government in that we are dealing with this legislation and these new amendments only circulated this week. I think this issue of what looks to me like a broadening of the definition of ‘an intended recipient’ is relatively important.

This definitional change has the effect of allowing the AFP network to access emails. I think that these are relatively important matters, but the fact that it is being put forward as some kind of technical amendment bothers me. It bothers me more that people do not seem to have respect for the fact that the Senate committee met in good faith in a short time frame and did its job of scrutinising some of the changes in this legislation. We would have liked the opportunity to discuss these issues. I am certainly not having a go at the AFP or anyone else, for that matter, except government, with whom the policy responsibility lies. I do think that there are potential consequences—unintended or otherwise—of these amendments. We are talking about amendments (5) and (6), but I guess (6) in particular should have been thrashed out in that committee stage. On that basis, my inclination is not to support this and to ask for more information from government and relevant agencies.

Question agreed to.

Senator Ludwig—by leave—I ask that it be recorded that the opposition opposed the amendments.

Senator Stott Despoja—by—leave—I ask that it be recorded that the Democrats opposed the amendments.

Senator LUDWIG (Queensland) (6.34 pm)—Hopefully we are now looking at schedule 1, item 3, which is on page 2 and is sheet 4882 and page 6 of the bill. It relates to and comes from committee recommendations 14 and 15. It is worth having a look at the recommendations. I do not know whether enough attention during this debate has been paid to the work of the committee; there certainly was a significant amount of work done by the committee in a relatively short time. Recommendations 14 and 15 state:

... The Committee recommends that the Bill be amended to ensure that copies of communications cannot be accessed without a stored communications warrant.

... The Committee recommends that the definition of ‘record’ be amended so that it applies in relation to accessing a stored communication.

A number of concerns were raised. The report says:
... the Committee is of the view that it is essential that the definitions proposed in the bill provide sufficient clarity to support the effective operation of the stored communications warrant regime.

The committee went on to acknowledge:

... the advice from the Attorney-General’s department that in some cases work is continuing. However, the Committee considers that definitional issues should be settled prior to the passage of the Bill.

I took the time to go through that section because I think it highlights what the committee was struggling with. Unfortunately, this seemed to be a rather rushed job, and a number of amendments that the government has now put forward are not part of the recommendations but are additional to them.

It concerns me that those sorts of definitional issues have not been settled, because right back when we started looking at stored communication a lot was said about getting the definitions right to make sure the legislation would work effectively so that law enforcement agencies would have certainty when they applied this law—because they will need certainty to apply it. Also, it will apply to a range of different and emerging technologies which there should not be any doubt about, because where there is doubt there will be litigation, expense and delay—and, just maybe, vital evidence will be lost. That would be a matter that would cause me some concern. In working through this, the committee made the point that those sorts of issues should in fact be settled to such an extent that they are robust and can stand scrutiny. To that end, the committee recommended that the definition of records and the treatment of copies be tightened. So I seek the government’s support and I move opposition amendment (4):

(4) Schedule 1, item 3, page 6 (line 19), after “communication”, insert “or any record or copy of such a communication”.

Senator STOTT DESPOJA (South Australia) (6.38 pm)—The Australian Democrats will be supporting the Labor amendment. It is a good amendment. It is one that was covered in the committee. It is something that we have not covered. This deals with the issue of whether a copy or a record can be considered the same as a stored communication and ensures that any copies of records are considered the same as a stored communication and are consequently subject to the same destruction provisions—something that we are quite concerned about. We believe that it is necessary to clear up some of those definitional issues in the schedule. Obviously this helps the AFP understand their requirements on the issue in relation to copied material specifically. So I will be supporting this amendment, which suggests that copies are not to be treated differently from the original stored communications.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.39 pm)—I think Mr Tom Sherman covered this aspect in a report several years ago. The government considered it then and decided not to proceed with it. As I understand it, the agencies concerned have indicated that there is an administrative burden in this which far outweighs any benefit that might be provided by possible enhanced accountability, and it is the government’s view that the amendment proposed would do little to enhance accountability in practical terms. For that reason, the government does not support opposition amendment (4).

Question negatived.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.40 pm)—by leave—I move government amendments (7) and (8) together:

(7) Schedule 1, item 9, page 9 (lines 12 and 13), omit paragraph 108(1)(b), substitute:
(b) the person does so with the knowledge of neither of the following:

(i) the intended recipient of the stored communication;

(ii) the person who sent the stored communication.

(8) Schedule 1, item 9, page 9 (after line 18), after subsection 108(1), insert:

(1A) Without limiting paragraph (1)(b), a person is taken for the purposes of that paragraph to have knowledge of an act referred to in paragraph (1)(a) if written notice of an intention to do the act is given to the person.

Note: For giving notice, see section 28A of the Acts Interpretation Act 1901.

These amendments, like a previous one, are not part of the Senate committee recommendations. They demonstrate that the government is prepared to consider in an ongoing fashion the whole question of how this regime works. I believe that this is really proof in the pudding of the government’s attitude to having an open mind about adopting enhancements where they are needed. These amendments alter the prohibition on access to stored communication to provide that a communication may be accessed with the knowledge of either party to the communication and that written notice is sufficient to attain the knowledge of those parties.

The effect of the amendments is to clarify that a stored communications warrant only applies where access to the communication is sought without the knowledge of a party to the communication and with the intervention or assistance of an employee of the telecommunications carrier. These amendments further ensure that the knowledge requirement in the stored communications regime does not unduly restrict the endeavours of those agencies to access stored communications in an overt manner. I add that it makes sense that, if you have the knowledge of a party to the communication, it certainly can make a difference in relation to the terms of access. I think that these amendments are sensible. As I said, they are not the result of the Senate committee recommendations, but that is no prohibition to the government making an amendment to its own legislation where it sees a benefit.

Senator STOTT DESPOJA (South Australia) (6.42 pm)—The Australian Democrats will certainly be supporting amendment (8). I will ask a question about amendment (7) but, in relation to (8), the idea of allowing for the notification of the person against whom the warrant is being exercised is something we support. These knowledge provisions are important. I ask the government to provide clarification as to the definition of the term ‘given’. Does it mean it is given personally? I am not sure. Is it given over the phone or in an email? Could the government elaborate on that?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.43 pm)—In my previous remarks I mentioned that it was written notice.

Senator STOTT DESPOJA (South Australia) (6.44 pm)—I thank the minister for that clarification. I want to make clear amendment (7). I note that it states in the explanatory memorandum that it is intended to allow enforcement agencies to access stored communications with the knowledge of the sender or the intended recipient. I want to clarify that that is the effect of the wording of the provision. I am not sure whether I have this right, but the wording seems in some cases to have almost the opposite effect, requiring that the sender and the intended recipient must have knowledge. I want to double-check that.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.44 pm)—It is either/or: either the intended re-
recipient or the person who sent the stored communication. That is it.

Senator Ludwig (Queensland) (6.45 pm)—Through you, Chair, to Senator Stott Despoja: I do not think it says what the minister said.

Senator Stott Despoja—That is what I am thinking; it is good it is not just me.

Senator Ludwig—No, I can understand what it intends to do. I am not sure that is what it actually does. It says the person does so with the knowledge of neither—that is without the knowledge—of the following. One, the intended recipient of the stored communication. I wonder if it meant to say ‘either’. No, it says ‘neither’. Then, Minister, you might just want to have another go at explaining it.

Senator Ellison (Western Australia—Minister for Justice and Customs) (6.46 pm)—It says the person does so with the knowledge of neither of the following, and that is perhaps putting it the reverse way around. In the context of that, my first impression would be to say ‘either’ would be better. I will tell you what we will do: we will defer this and I will come back to it, because I remain to be convinced that this wording is the best. So we will talk about it over the break and we will defer that. I have not seen it expressed quite that way before and I have dealt with many bills in this place.

Senator Ludwig—It could be a double negative.

Senator Ellison—I know, it could be a double negative.

The TEMPORARY CHAIRMAN—Minister, could I just clarify this: are you still seeking to move amendment (8)?

Senator Ellison—No, I have just said that I am asking to defer—

The TEMPORARY CHAIRMAN—Amendments (7) and (8).

Senator Ellison—amendments (7) and (8). We will move on.

The TEMPORARY CHAIRMAN—The question is:

That amendments (7) and (8) be deferred.

Question agreed to.

Senator Ellison (Western Australia—Minister for Justice and Customs) (6.47 pm)—by leave—I move government amendments (9), (10) and (11) together:

(9) Schedule 1, item 9, page 10 (line 27), omit "device.", substitute "device; or"

(10) Schedule 1, item 9, page 10 (after line 27), after paragraph 108(2)(g), insert:

(h) accessing a stored communication by an officer or staff member of the Australian Communications and Media Authority engaged in duties relating to enforcement of the Spam Act 2003.

(11) Schedule 1, item 9, page 26 (lines 17 to 25), omit section 138, substitute:

138 Employee of carrier may communicate information to enforcement agency

(1) An employee of a carrier may, for a purpose or purposes connected with the investigation by the Australian Communications and Media Authority of a serious contravention or with the performance of its functions relating to enforcement of the Spam Act 2003, and for no other purpose, communicate to an officer or staff member of the authority the following:

(a) lawfully accessed information other than foreign intelligence information;

(b) stored communications warrant information.

(2) An employee of a carrier may, for a purpose or purposes connected with the investigation by any other enforcement agency of a serious contravention, and
for no other purpose, communicate to an officer or staff member of the agency the following:

(a) lawfully accessed information other than foreign intelligence information;

(b) stored communications warrant information.

These amendments will exempt inspectors of the Australian Communications and Media Authority from the operation of the general prohibition against access to stored communications when they are lawfully engaged in the enforcement of the Spam Act 2003. Similarly, telecommunications carriers, including internet service providers, can pass spam material to officers of the Australian Communications and Media Authority to conduct an investigation under the Spam Act. These amendments will ensure appropriate access to stored communications, such as emails, so the enforcement of the Spam Act 2003 is maintained. This is an appropriate exemption, as access to spam does not include a significant privacy intrusion; spam is of the nature of an unsolicited public broadcast of advertising. I think that speaks for itself. Unsolicited material on the internet is something that everyone is experiencing more and more. It is not a breach of privacy as such, and I commend these amendments to the committee.

Senator STOTT DESPOJA (South Australia) (6.49 pm)—I suspect I should have requested that amendments (10) and (11) be dealt with together, but I do not think it really matters. Amendment (9) seems to be a technical amendment in relation to the ACMA and the Spam Act. I have to say the Democrats are a little wary of amendments (10) and (11). The provision removes a member of the ACMA from the broad prohibition—outlined in section 108 of the act—of accessing stored communications as long as it has something to do with their investigation regarding the Spam Act. I acknowledge that is the intent, but it does lower the threshold for members of the ACMA.

Progress reported.

FAMILY ASSISTANCE, SOCIAL SECURITY AND VETERANS’ AFFAIRS LEGISLATION AMENDMENT (2005 BUDGET AND OTHER MEASURES) BILL 2006

Second Reading

Debate resumed.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (6.51 pm)—The Family Assistance, Social Security and Veterans’ Affairs Legislation Amendment (2005 Budget and Other Measures) Bill 2006 seeks to amend the social security law and the Veterans’ Entitlements Act 1986 to implement a range of measures, most of which were contained in the 2005 federal budget. The bill deals with a number of areas including assistance for carers, family tax benefit and the allocation of child-care places. On behalf of Labor, I will be taking the opportunity during the debate to move amendments in all three of those areas.

The bill will, from 1 July this year, increase the family tax benefit Part A income threshold from the current $33,361 to $37,500. Over 530,000 families in receipt of an FTB part A payment will be eligible for a bigger payment—up to $828 a year, depending on their circumstances—as a result of this change to the income threshold. Labor is happy to support this provision of financial assistance to families. The bill will also make minor amendments to the portability of benefits allowing people travelling overseas to continue to receive relevant social security payments and FTB. It makes minor amendments to the treatment of income streams for pensioners. The bill also seeks to restrict the period for backdated claims for carer’s al-

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allowance to allow for a maximum backdating period of 12 weeks prior to the claim lodgement date. I know my colleague Senator McLucas will be speaking on that particular issue and moving an amendment. I note that these changes were the significant issue in the inquiry into this bill with every relevant submission strongly opposed to those changes.

The bill also makes changes to the administration of child care. It will allow for the child-care benefit debts to the Commonwealth to be recovered through tax refunds, as is already the case with family tax benefit debts. It will allow the departmental secretary to, in certain circumstances, use a default estimate to calculate the rate of CCB a family should receive. The bill also gives the secretary the power to take allocated but unfilled child-care places from a provider. The government’s justification for this is that it will allow the reallocation of places from areas of low demand to high demand but it is unlikely that is the way it will work in practice.

Child-care allocation under this government is slow and unresponsive. Centres and family day carers will have to wait two years to get back places taken from them by the department. The fact is that this government does not even know where places are needed. During recent questioning by Labor senators, officials admitted that the department does not have any measures of demand at the regional level, does not know how many places are currently being utilised, has only ‘some sense of the numbers’ and has not yet decided on a definition of excess places. That is all quite extraordinary, even for this government. It is asking the parliament to approve a new power to allow it to redistribute places which are ‘consistently underused’ but it is not even certain what consistently underused means.

Labor’s concerns with the changes are: the absence of any guarantee that child-care places removed from one service will in fact be reallocated; the slow, rigid and unresponsive system for reallocation; and the government’s poor performance in assessing unmet need for places. Labor’s amendment will temper the secretary’s new power and improve the allocation system by: limiting the power to reduce the allocation of places to a service unless (a) it has been continually vacant for one year and (b) it will be reallocated to another service within one week; obliging the secretary to assess applications for additional places to meet demand from child-care providers throughout the year; and requiring the government to include in the annual departmental report to parliament the number and location of services which have been subject to an involuntary removal of places, the services to which those places have been reallocated, and the services which have had requests for more places declined. We think that will add to the accountability and effectiveness of the system and we hope the government supports those sensible amendments.

As I indicated earlier, I will also be moving an amendment on behalf of the Labor opposition which will impose a family income threshold on the payment of family tax benefit part B. Labor’s amendment will mean that FTB B will no longer be available where family income is greater than $250,000. Family tax benefit part B gives us a critical insight into the Howard government’s ideology when it comes to welfare. Family Tax Benefit B provides a non means tested, obligation free, taxpayer funded bonus to some of Australia’s wealthiest families. Some of our wealthiest families are on welfare. It is paid to these families at the same time as the poorest families in the country are seeing dramatic cuts to their already meagre incomes, either through the
Welfare to Work package or the new industrial relations legislation.

Because the rules governing the payment of FTB B ignore total family income, families earning more than $1 million a year can receive this welfare payment. On the latest available figures, 70 families earning over $1 million are receiving $3,300 a year in welfare benefits courtesy of the taxpayer. The same figures show that more than 3,000 families earning in excess of a quarter of a million dollars a year are receiving the payment. There can be no argument that these millionaires and wealthy families actually need the additional money. We know that the more a family earns, the more it will spend on discretionary items that fall well beyond the necessities of running a home and raising a family. And there can be no argument that families on low incomes need the same money to buy school books and clothes for the children.

Over the last 10 years our welfare system has been abused for party political ends and to mould Australian families so they fit the Prime Minister’s social agenda. The allocation of welfare is no longer based on need. I thought we had moved to a needs basis many years ago. The Howard government seeks to influence votes and cover over the flaws in its payments system at election time with lump sum bonuses and cheques in the mail. At the same time it rewards mums for staying at home and not working. That is obviously part of John Howard’s philosophy of how Australia used to be and should be.

The government does not have the courage to stand up and defend the FTB B payment on the grounds of public policy. It has never mounted a defence for FTB B as promoting families or assisting married women. Neither has it defended it as good public policy—because it is indefensible. Instead the government has argued that it would not be cost effective to stop the payments going to wealthy families saying that means testing and better targeting of payments would be prohibitively expensive. I am sure all the single mothers about to be hit by the welfare changes would be astonished to hear that.

And yet this is the argument it makes in relation to FTB B. Why is FTB B the only welfare payment that cannot be effectively means tested? The government will spend a great deal of resources chasing down small debts from single parents or age pensioners, even when the debt arose because of a Centrelink error. It sends Centrelink officers out with police to pull over taxi drivers and check if they are working illegally while collecting welfare. But at the same time it claims that it is not cost effective to stop millionaires receiving welfare payments. The figures that I quoted from earlier are evidence that family income information on FTB B recipients is already being collected. It cannot be beyond the capacity of the federal government to use that information to better target family tax benefit B payments. The reality is that while it would be easy to impose an income test, the government does not want to—certainly the Prime Minister does not want to. It wants the payments to continue.

The other defence the Prime Minister has tried to argue is that the payment compensates single-income families for not accessing two tax-free thresholds. Again, this is plainly untrue, because families can access a second tax-free threshold and collect FTB B. Under the arrangements put in place by the Howard government, the second income earner in a millionaire family can earn $6,000 a year, the total tax-free amount, and continue to receive almost the entire FTB B payment. So they can have it both ways—two tax-free thresholds and their welfare payment.
The government’s defence for paying welfare to millionaires is simply not credible. Putting aside the government’s agenda and its flimsy justifications, these payments force us to question our ideas about welfare. Do we as a community support paying $3,300 in welfare payments to millionaire families? Do the people who are paying taxes on very low incomes support that approach? Do we support welfare without need? I do not think so.

The Howard government talks long and loud about the need for mutual obligation and the dangers of passive welfare. The FTB B payment is exactly that—passive welfare without mutual obligation. The FTB B is a payment largely to women who stay at home in families where there is a high income, and the only obligation that that family has to meet for that $127 a fortnight is that the stay-at-home partner has to guarantee that they will not look for work.

There is no sit-down money for single mums. From 1 July this year, single mums on welfare will be forced to look for work and will have their fortnightly payments cut by $55.50. The hypocrisy in approach, the difference in treatment, is startling. The government is supporting those that have high incomes but penalising single parents who want to stay at home with their children. The double standards are absolutely staggering.

One of the government’s other justifications for its welfare cuts for single parents is the need to encourage workforce participation. What incentives lie in the payment of FTB B payments? We all know that we need to expand our workforce and encourage people back into the workforce. There is no way that FTB B to rich families can be defended on that basis. They will be paid not to work, irrespective of whether they need the money, under the current arrangements. It is madness, it is discriminatory, it is unfair and it ought to be stopped.

The combination of FTB A and FTB B, along with their interaction with tax rates, means the government is clawing back 60c to 70c in every dollar earned by low- and middle-income families. The combination of FTB A and FTB B creates a massive financial hurdle for low- and middle-income families when moving from welfare to work or from a low-paid job to a higher paid position. From 1 July this year the income tax rate for an individual will be 30c in the dollar up until an income level of $70,000 per annum. But the reality for families earning between $200 and $1,200 a week will be an effective marginal tax rate of between 60c and 75c in the dollar. This is due in part to the reduction in FTB payments over this income range.

While the government is happy to talk about considering changes to taxation, the Prime Minister has ruled out any changes to FTB that would address these crippling effective marginal tax rates. Because the government has been keen to push welfare payments up the income scale, even families on $90,000 a year face very high effective marginal tax rates. The skills shortage and the ageing of the population means the system should be encouraging increased participation by ensuring there is a real reward for work. The Howard government’s family payments system provides the opposite effect: it provides tangible disincentives.

Under Prime Minister Howard, the welfare system is becoming a $100 billion pork barrel. That is bad public policy and over the long term it is unsustainable. There needs to be a debate about who gets welfare and why. That is part of putting our system on a sustainable footing for the future by containing payments. The Howard government seems to believe that the only welfare spending that needs to be contained is that paid to the poor, to single parents and to the disabled.
Australia’s targeted system of benefits has been eroded by this government. We need a simple, streamlined, integrated system which is transparent, user-friendly and well administered. Our system is becoming more and more complex, inefficient and unwieldy as the government backflips and applies bandaid after bandaid—quick political fixes for deep systemic problems. Our welfare system should interact effectively with other regimes, such as taxation, to meet meaningful social goals, to provide real incentive for hard work, to encourage workforce participation and to help families tackle disadvantage and really get ahead. Our system should be built on the principles of fairness and equity. It must provide a decent system of support, not punishment, to families, children and individuals who have fallen on hard times.

We cannot start to reform our welfare system today unless we make those changes. Labor urges the government to support our amendment and end the farce of millionaires on welfare. It seems exactly the wrong signal to our community when we pay welfare to very-high-income families and it is the height of hypocrisy for the government to punish those least able to defend themselves in our community—single parents, people unable to work because of disability—while at the same time it directs taxpayers’ money from hardworking families to support millionaires on welfare. It has got to stop and I urge the Senate to support Labor’s amendment and put an end to this totally hypocritical practice.

Senator KIRK (South Australia) (7.06 pm)—I seek leave to incorporate a speech by Senator Siewert.
Leave granted.

Senator SIEWERT (Western Australia) (7.06 pm)—The incorporated speech read as follows—

As I expressed in the Australian Greens and the Australian Democrats minority report into this bill – I am very concerned by schedule 6 - which proposes to change the backdating provisions for carers’ allowance.

If passed - schedule 6 will substantially reduce the maximum backdating period for carers of both children and adults – from 52 weeks for children and 26 weeks for adults – down to a flat 12 weeks.

The Community Affairs legislation committee report into the bill does acknowledge that the changes proposed will not be reasonable in all circumstances. The report provides a recommendation that discretion should be applied during the assessment of the application for carers allowance to determine if the applicant should be entitled to the full back pay provision.

While I am encouraged by the committees’ recommendation– I do not believe that it goes far enough to protect carers and I am proposing an amendment to delete schedule six for the bill.

The Australian Greens believe carers are the backbone of our nation. They provide loving care to the most vulnerable people in our community.

A recent report by Access Economics concluded that carer’s annually contribute $30.5 billion dollars of care to the community.

They do this at there own expense. Often having to give up full paid employment or drop to part-time hours so they can be available to provide care when it is needed.

So not only are carers providing their services at no cost they are also foregoing the opportunity to earn a well paid living in their own right.

And our government’s response to this sacrifice – limitations on the amount of back pay a carer can claim. The departments stated reason for this legislative change –

“The measure will standardise the backdating period available....” and

“The measure will rationalise.....”

The Government is proposing to standardise and rationalise payments at the expense of carers who provide so much selfless support and care in our community.
The department estimates that these measures will save the government $107.6 million over 4 years – hardly significant compared to the $30.5 billion they currently save when family members provide the necessary care to their loved one.

And this is not the first time they have tried to implement this change – the government first announced an intention to reduce the backdating payment provision for carers allowance in the 1996-97 budget and it had a second attempt in 1997-98 budget.

A 10 year campaign to reduce the backdating provisions for carers' allowance shows how doggedly determine the government is when it comes to implementing its social security policy agenda.

The back pay carers receive is used to support the person needing care. It provides for the costs of diagnosis, transport, pharmaceuticals, nappies and the necessary modifications to their home. Medical care is expensive and trying to provide for someone with high care needs without a full time wage is a real struggle in Australia today.

Carers' organisations have condemned schedule 6 and believe it should be withdrawn. There are many reasons why carers need generous backdating provisions.

These include:

- A person providing care does not always identify themselves as a carer. Initially they don’t see that they are doing something other than what is required of them - so often they do not look into financial provisions which may be available - until they are facing a financial obstacle they can not over come themselves.
- They are focused on addressing the crisis at hand. Often a person needing care requires it very quickly and without the necessary planning that may go into other decisions people make affecting their life. A carer usually just gets on with the immediate job at hand and looks after seconding things such as, financial provisions, when the person in need of care has reached a place beyond the initial crisis.
- It takes time for people to come to terms with the changing circumstances in their life. Often so much has happened in such a short period of time that both the person providing care and the person in need of care - need time to fully assess the changed circumstances of their life. It can take a while for people to admit to themselves that they need additional assistance.
- The information provided for carers is not easy to understand or access. Carers need to be aware that the allowance is available to them. Often they do not find out the types of benefits available until well after they have began caring for a family member. It again takes time to access networks and support organisations that provide information to carers.
- They are often just overwhelmed by the demands of on going care provision. It is all they can do each day just to meet the needs of the people they care for – they do not need the added burden of government imposed timeframes placed on the assistance available to them.
- There can often be delays in diagnosing the needs of the person in care. The full extent of their needs can take time to be revealed and even then it is not always clear just how much or how little they will be able to do for themselves. It can take a long time to access medical specialists - especially in the public hospital system. Carers should not be penalised for the time taken by the medical profession to complete the documentation necessary for the assessment of eligibility for a carers' allowance. Nor should the medical profession be placed under additional pressure by placing specific timeframes on the turn around of information.
- Carers also have great personal strength and commitment. They often do not seek outside assistance at all. Only turning to alternative means of support as a last resort and when there personal financial circumstances have reached crisis point.
- This government has prided itself on promoting public policy that encourages citizens to help themselves before asking the government for assistance – well here is the model example of people doing just that! – Why
further penalise them when they have already done everything they can to help themselves and there family.

Carers Australia highlight in there submission that the proposed changes will "...further disadvantage and marginalise carers. The 2003 ABS Survey of Disability, Ageing and Carers indicates that carers are over-represented in the lower household income quintiles. These carers are identified as being at particular risk of low wellbeing in the Australian Wellbeing Index Survey 2005"

The majority committee report’s recommendation for departmental discretion is not good enough – carers should have certainty in the backdating provision. As Vision Australian presented in their submission “Standardising backdating periods should not mean reducing time periods in such a way that individuals and families facing massive emotional and physical challenges are also then deprived of their rightful financial assistance. We propose that if standardisation is the purpose of these changes then the carer allowance backdating provisions be standardised to 52 weeks.”

The Australian Greens amendment proposes the deletion of schedule 6 all together and that the current backdating provisions stand. We also encourage the department to look at streamlining access to carers’ allowance – particularly for people under increased stress.

I further believe that the issues raised during the committee hearing in relation to Schedule 5 – Reducing the allocation of child care places be followed up.

I am concerned about childcare particularly in regional areas. I do not believe the department of Family and Children’s services (FaCS) have a true assessment of the needs of regional communities - that accurately determines the number of child care places needed. Nor do they have a robust method for acquiring this information.

I encourage FaCS to develop an assessment process which allows them to model the future needs of regional communities demand for child care places. And that FaCS looks at designing a forward planning process to address the identified future needs of child care in regional areas.

Senator POLLEY (Tasmania) (7.07 pm)—I rise to speak on the Family Assistance, Social Security and Veterans’ Affairs Legislation Amendment (2005 Budget and Other Measures) Bill 2006. This bill gives effect to a number of measures announced in the 2005 and 2006 budgets, as well as a number of other measures relating to family assistance, carer allowance and income streams. From 1 July this year the lower income thresholds for family tax benefit part A will be increased from the current $33,361 to $37,500. According to the explanatory memorandum accompanying this bill, the new amount will be indexed in accordance with the movement in the consumer price index on 1 July each year. The financial impact of this measure will see around 400,000 families receive an increase of, on average, $24 and, perhaps more importantly, an extra 40,000 families will become newly eligible for a health care card.

Other measures contained in this bill include indexing income estimates made by claimants for family tax benefit part A and family tax benefit part B and for child-care benefit. This amendment aims to reduce the likelihood of payments being made to claimants based on inaccurate estimates. The bill modifies the definition of ‘returns to paid work’ as described in the Family Assistance Act for the family tax benefit part B. The bill provides for the recovery of child-care benefit debts from the claimant’s tax refunds as currently is provided for in the recovery of family tax benefit debts from tax refunds. The amendment proposes to tap into tax refunds to clear child-care benefit debts caused by an underestimate of income.

The bill also provides for the movement of unallocated child-care places from area to area. The proposed change would provide flexibility to respond to changes in demand and use by allowing approvals for unused places to be transferred to other providers
with excess demand. The bill also aims to allow for the extension of fixed term income streams and other minor changes to the treatment of income streams in line with similar tax treatment changes for income streams.

The provisions for carer allowance will be standardised under this bill from 1 July this year to allow for a maximum backdating period of 12 weeks prior to the claim lodgement date by carers of both children and adults. This bill would also clarify the circumstances in which payments may be extended beyond 13 weeks to a person temporarily overseas seeking life saving medical treatment.

As a member of the committee assigned to review this bill, I would like to raise several aspects which were of concern to members of the committee. The majority of submissions received by the inquiry related to the proposed changes to carer allowance payments. At the moment the commencement date for payment of carer allowance for caring for a child can be backdated up to 52 weeks prior to the date of a claim. Similarly, the commencement date for the start of payment of carer allowance for caring for an adult can be backdated up to 26 weeks prior to the claim.

The majority of submissions received by the committee as part of the inquiry into this bill raised concerns about the limiting of backdating to claims. Throughout the course of the inquiry, no arguments were put forward as to why carers should be denied the current rates of backdating in the future. Currently in Australia, 95,000 new people receive carer allowance payments each year. This equates to around 72,000 new adult recipients and 23,000 child recipients every year. The Department of Families, Community Services and Indigenous Affairs stated as part of the inquiry that 72 per cent of the 23,000 new recipients of carer allowance child and 36 per cent of the 72,000 new recipients of carer allowance adult receive backdated payments.

If this bill is passed, the maximum backdated payment for new carer allowance recipients would be 12 weeks, regardless of whether they are claiming for care of a child or adult. Annual savings for the government as a result of this measure are expected to be almost $35 million. Labor senators agree that this proposal to cut carer allowance backdating is wholly about savings for the government—savings that the government wants to make at the expense of 95,000 carers every year.

Carers Australia recently commissioned a report by Access Economics which found that in 2005, 2.6 million people—or one in eight Australians—were providing informal care to a family member or friend. Given the huge impact and contribution carers make to the Australian economy every year, these cuts do seem to be extremely unfair and unAustralian. The report also estimated that these carers provided around 1.2 billion hours of care a year. If this time was replaced with services by formal care providers, the value would be almost $31 billion. As part of this bill, the government wants to save itself $35 million a year for services rendered by carers in the community with a value to the tune of $30.9 billion.

According to Carers Australia, carers can be anyone: parents, partners, brothers, sisters, grandparents, friends, even children. Carers look after their loved ones 24 hours a day. To replace the level of care that they provide would be an even greater toll on our economy than $30-odd billion dollars. There is also the problem of finding professional carers to take on the huge amount of work that is done by people who have a rightful claim to carer allowance.
I note that the chair of the Community Affairs Legislation Committee, Senator Humphries, has made a recommendation that the legislation be amended to allow a discretion for the backdating of carer allowance for a period of 12 weeks where it would have been unreasonable in all the circumstances for a claimant to have made an earlier claim for the carer allowance and a failure to backdate would occasion significant financial hardship. Also of note is the evidence the committee heard from groups that many people are unaware of their ability to claim carer allowance, explaining why many may not claim immediately when beginning to care for a loved one. The department admitted that the government does not make an attempt to identify people who may be eligible for carer payments and let them know of their eligibility.

Senator Humphries has also taken this into account in the committee report and recommendation 1 advises that an effort should be made to promote the availability of carers allowance. However, so far the government is yet to commit to implementing such a campaign.

A point raised by Carers Tasmania on their website that should be noted is that caring is a difficult and time-consuming task. It would no doubt be a common occurrence that many carers are left so tired and energy sapped that searching for help and assistance would be the last thing on their minds. Caring is a demanding and time-consuming task. It is not like a normal nine to five job; it often involves 24-hour care. In the midst of all of that hard work, can we really expect carers to take the time out within that first 12-week period to lodge a claim?

Labor will be proposing amendments to this bill to ensure that these cuts do not adversely affect the thousands of carers throughout the country who are currently entitled to carers allowance but who have not yet claimed, and those who may be entitled to claim in the future. With Australia’s inevitably ageing population, it is of the utmost importance that we support these people who are prepared to care for their loved ones, should the need arise.

The government should be doing everything in its power to support these people, but instead it sees fit to take away what small benefits they are entitled to. This is such a familiar tune played by this government. This is another example of an arrogant and out of touch government that has no real understanding of the enormous contribution that carers make to our community.

Senator BARTLETT (Queensland) (7.16 pm)—The Family Assistance, Social Security and Veterans’ Affairs Legislation Amendment (2005 Budget and Other Measures) Bill 2006 deals with family assistance and social security matters. A lot of them are what might be called minor or technical changes. Some raise income tests thresholds and index income estimates and other sorts of things to do with the family tax benefit part A and B and the child-care benefit.

Having participated in the brief Senate Community Affairs Legislation Committee inquiry into this legislation, it is clear that the almost total area of concern about the legislation concerns the changes regarding the curtailing of the backdating available for new claimants of carers allowance. Having sat through that inquiry and read the submissions, particularly the very valuable, as ever, submission of the Welfare Rights Centre, and listened to the evidence from the department and read their own submission, it totally baffles me as to why the government has put forward this measure to reduce the amount that people claiming carers allowance can get in initial payments from backdating.
It is the sort of measure that you could imagine some sort of razor gang, desperately trying to cut back a multibillion dollar deficit, might slice away at in a desperate bid to try to save $30 million or so here and there, to try and pull the balance back towards the black. But it is the sort of measure that is absolutely unfathomable at a time when we have record budget surpluses—over $10 billion. We get different estimates all the time, and who knows what the final figure for the final budget surplus will be when the financial year ends, because the estimates are always out by so much, but there is no doubt that, at the most conservative end, it will be well and truly over $10 billion.

How we can possibly justify tearing money away from carers at a time when we have billions and billions of dollars in surplus is simply unfathomable. I just cannot see any possible reason. Also, from the evidence given by the department, there seemed to me to be no particular reason. There was no evidence given about what the actual impact would be on certain groups of carers. There were no particular arguments advanced, as far as I could see, as to why carers should be denied the current rates of backdating in the future. It has to call into question some of the statements made by some members of the government over the years about their commitment to carers.

I do not mean to reflect negatively on some of the work of the former Minister for Family and Community Services, Senator Patterson, because she did achieve some positive gains for carers in her time in the ministry—she was still a minister, of course, when the budget went through and this measure was announced. But to see this sort of clawback in this area of entitlements available to a group of carers is simply extraordinary, and it is very hard to comprehend what the rationale could be. Nonetheless, it is being done. I would hope that some members of the Liberal and National parties in the Senate—one or two is all it would take—will vote to knock that schedule out of the legislation. I think there is no justification for it to be in there.

The Senate committee report and the majority recommendation of the government members of the committee—chaired by Senator Humphries—recommended an amendment to allow some discretion for backdating for a longer period if there are issues such as significant financial hardship, and that is welcome. I have not as yet seen a government amendment to reflect that recommendation and I hope there is one. I do not believe it goes far enough. As I said, I do not see any justification at all for removing backdating. It should not be about carers having to demonstrate that they are in a position of significant financial hardship before they get access to the backdating that has been available—at least with regard to caring for children—for a very long period. At a minimum, some modification or amendment such as that should be put in place. My understanding is that an amendment along those lines has been circulated by the ALP.

The Democrats’ position is that the measure is unnecessary, it is unfair, it is unreasonable and it will impact on a group in the community that I think would have to be in the upper echelon of groups that really deserve every bit of extra help they can get. So the Democrats’ position is that this part of the bill—schedule 6, the schedule that contains this measure—should simply be removed. I will move in the committee stage to take that measure out of the legislation. We support the rest of the legislation, although there are other comments that I have made as additional comments in the committee’s report regarding one or two other matters. But that section of the legislation dealing with carers allowance should be removed. As a fallback, we would expect to support the
ALP amendments, subject to any issues that may be raised or that may be brought forward in the committee stage of the debate.

I emphasise again the detail of carers allowance and how it operates. It is a payment that, as was clear from the evidence before the committee inquiry, a lot of people are not aware of. People may be aware of carers payment or what is often thought of as ‘carers pension’, but carers allowance is a separate payment. It is quite a small payment. I think it is around $90 or so a fortnight, from memory, or a little more than that. It is not a huge amount; it is a supplement. It is not an income support payment; it is a supplement to recognise the significant extra costs involved in caring. It is not just straight-out expenditure but costs in terms of lost earning opportunities or other lost opportunity costs on the part of the carer.

A lot of people are not aware of that extra payment. I can speak from my own experiences, a long time ago now, when I worked in the then Department of Social Security as a social worker. I think most of, if not all, the claims for the then child disability allowance, which was the forerunner of the carers allowance, would go past the social worker to do an assessment, because it is not just a medical assessment of the condition; it is an assessment of the amount of extra care that is required because of the condition that a child—or, under carers allowance, an adult—brings to bear on a family member. It was a fact even at that stage that a lot of people who applied for a child disability allowance—and the same applies now to carers allowance—are not aware that the payment exists. Many people who could claim would have been providing significant extra care for their child for quite a long period of time, years in some cases, before they became aware that there was this extra payment that could assist them. Evidence was provided to the inquiry that that is clearly still the case.

It is a payment that is not income tested. I think the department actually provided some statistics in regard to this. A percentage of people on carers allowance receive not only no income support payments but also no other payments at all from Centrelink. Many people who are in that circumstance, who are in the higher income earning situation, just would not realise that this sort of payment through Centrelink would be available to them, because they would assume their income would disqualify them. So there are many people who are not aware of their potential eligibility for this payment.

I welcome the recommendations in the report from all the senators, including government senators, that there should be a comprehensive education campaign aimed at medical practitioners and others charged with assessing the care needs of individuals to improve awareness of the availability of assistance for carers and emphasising the existence of the carers allowance entitlement. That is welcome, and I think that should be implemented as a matter of urgency. It was clear from the evidence to the committee that there was no budget or plan to do that, but I believe it is important that that is done.

This is not just an ordinary income support payment; this is a payment to assist a group of people in the community who, quite frankly, save the taxpayer enormous amounts of money. The amount of money that will be saved if this measure goes ahead is, according to the department’s figures, not much over $30 million a year. That is less than half the amount this government saw fit to spend last year on promoting their own industrial relations policy. They are happy to grab that amount of money straight from the taxpayer to promote their own policies and overcome political difficulties, yet they cannot see fit to provide even half that amount to assist people who provide significant care for their
children. I think that sends a very strong and very negative message to the community about how carers are recognised. I again urge all coalition members to rethink this matter.

I also indicate another reason many people should be eligible for backdating. The fact is that this level of backdating has been in place since the old days of the child disability allowance. The child disability allowance was merged with another payment which related to adults, which I acknowledge did not have backdating at that time, to create the carers allowance. Currently people can be eligible for backdating of up to 12 months if they are caring for a child or children and up to six months if they are caring for an adult who has had acute onset of their condition. So it is not as though it is just some recent piece of generosity that is now being wound back again; it has been in place for a long period of time and it has been there for very good reasons, some of which I have outlined. But also, as the evidence clearly showed, when you are talking about children, particularly young children, it takes quite a period of time for many conditions before parents become aware of precisely what condition their children may have. So they spend more of their time trying to get diagnoses and trying to get assessments, and they are not thinking of themselves as having additional caring burdens at that stage.

By the time they get around to applying for carers allowance, they may well have already been putting in enormous amounts of extra hours for years before recognising that this is an ongoing reality that they are going to have to live with for a prolonged period of time. To deny them that little bit of extra assistance up front by way of backdating when they first get around to claiming carers allowance is, I think, miserly in the extreme and really sends a message back not only that caring is not being valued but that there is a lack of recognition of the reality of the experience that many carers go through, particularly when it involves children with extra needs, the nature of which takes a while to ascertain.

The amount that recipients of carer allowance child will lose potentially will be close to $1,900. Many people—on the department’s own figures, about 40,000 people a year—will lose access to that $1,900 when they first apply for carer allowance. That is not a fortune by any means. As Labor senators pointed out, there are people who get much more than that under the family tax benefit B, which is also not means tested. Millionaire families can be paid up to $3,300 a year under family tax benefit part B, but for some reason or other paying $1,900 by way of backdating carer allowance, recognising the caring that people have already done, is seen as unacceptable. The best they could come up with for excuses or rationale was that it would standardise or rationalise the backdating period available. It does not particularly standardise it. It certainly does not standardise it with any other payments to bring it back down to 12 weeks maximum. I am not sure how you can apply the word ‘rationalise’, either, in regard to what is being done here. What is being done is simply a withdrawal of entitlement to claim backdated payment for carer allowance, a withdrawal that will cost up to 40,000 people each year $1,800 or $1,900. It is unsatisfactory and demonstrates a lack of recognition of what it is like to be in the shoes of many parents in particular who find themselves in this situation with their children.

When we pass legislative measures in this place, it is particularly important to think about the circumstances of the men, women and children—the families—that these measures will affect, to put ourselves in the shoes of people who are caring for children or other adults, to put ourselves in the shoes of parents who have become aware that their
child may have special needs but are not able to nail down precisely what those needs are. Examples were given during the Senate committee inquiry in relation to a condition that is becoming far more prevalent and much more recognised in recent times—autism spectrum disorder. Many times this disorder is diagnosed when children become three, four or five years old. It can take quite a long time before it is clearly diagnosed. It has different characteristics for different people and different children. So the nature of it, the level of care and the type of care that may be required can take a very long time to specify and, I might say, can also require quite a lot of expenditure. All parents are willing to assist their children but most parents do not immediately think, ‘Is there some payment for me as a result of my needing to do this?’ It is not until a long way down the track that those sorts of things might spring to mind when they realise how much expense, time and extra activity can be involved in dealing with children with, for example, an autism related condition.

More and more young people are being diagnosed with this condition as awareness of its nature and variety becomes apparent and more skill is developed in the professions that look for these sorts of conditions. These cases relate precisely to the sorts of things that carers allowance can provide for. I recall a couple of cases in particular back in the late 1980s with applications for disability allowance for children with an autism related condition. That sort of condition is not as straightforward as a physical disability, in some respects therefore making it all the more difficult to assess precisely how much extra care is required and the nature of that care. Failure to recognise that conditions like autism spectrum conditions involve a lot of extra time, care, attention and cost can add to the difficulty and trauma for parents trying to deal with the situation. That to me is a broader concern with measures like this—a lack of recognition of the nature of what many parents are going through, a lack of recognition of the seriousness of the situation and, I might say, a lack of recognition of just how important it is that children with extra needs get that care.

It is always possible and it does occur with some parents, whether through financial necessity or lack of awareness, where they just let things go. If extra assistance is not provided at an early age, 10 years down the track the child, in particular, and the family and society as a whole will pay the price. Measures like this can be false economies and we will pay the price for them. The simple fact is that carers will pay the price straightaway if this measure goes through. I urge all coalition senators to think carefully before they allow it to become a reality.

Senator McLucas (Queensland) (7.36 pm)—In tonight’s contribution, I will confine my comments to schedule 6 of the Family Assistance, Social Security and Veterans’ Affairs Legislation Amendment (2005 Budget and Other Measures) Bill 2006, which seeks to restrict the period of backdated claims for the carer allowance. From 1 July 2006, the backdating provisions for carer allowance will be restricted to allow for a maximum backdating period of 12 weeks prior to the claim lodgment date. The measure will significantly reduce payments made to carers when first applying for the allowance, with the government estimating a saving of approximately $35 million in the first year. The carer allowance is currently $94.70 a fortnight.

In evidence to the Senate Community Affairs Legislation Committee inquiry into the bill, the Department of Families, Community Services and Indigenous Affairs explained that the reasoning behind the proposal was that the 52-week rule was a remnant provi-
sion of the previous child disability allowance, which existed up until 1999 and which depended very much on a medical diagnosis. Under those arrangements, considerable time might be taken by families in confirming the medical diagnosis of their child in order to put in that claim.

The bill’s explanatory memorandum states:

... assessment methods are based on functional ability or care needs. As a result, qualification can generally be established quickly, which removes the need for long backdating periods.

In my comments tonight, I take issue with that explanation. The conclusion was refuted by individuals and groups who provided evidence to the legislation inquiry. Mr Michael Raper, President of the National Welfare Rights Network, said:

... in our experience, the reality within Centrelink is that most people in Centrelink would not accept those claims without the medical evidence. Be it right or wrong, without that medical evidence they will not accept the claim.

Carers Australia described the situation where a disability service officer recently visited a family whose second child has a very rare disability. The child is 18 months old and the final diagnosis was made after numerous tests and visits to doctors and specialist clinics. As the child was only recently diagnosed, the mother has just received the carer allowance, which has been backdated for the current 52-week period. This is the only extra assistance that this family has had since the birth of their child 18 months ago. As Carers Australia put it:

The bureaucratic delays in having a child diagnosed, particularly with a rare syndrome, can take a considerable period of time. When they are already facing a lifetime of care, support and additional expenses, it is totally unnecessary to further penalise these families in very stressful situations by reducing further a small amount of income that does not even cover the costs involved in caring.

It is obvious from that comment to the committee that carers still believe that a diagnosis is required. The decision to slash the current backdated period from 52 weeks and 26 weeks to 12 weeks for child and adult payments respectively, with no consultation with carers organisations or welfare groups, to my mind was a purely political decision taken by the Howard government. The argument that the government is simply bringing this backdating provision into line with other payments is plainly a furphy.

When I asked carer groups whether they had been consulted about the proposal to reduce the backdating period to 12 weeks, Carers Australia said that they had not been consulted in an in-depth way and Mr Raper, the President of the National Welfare Rights Network, said that his organisation had not been consulted at all. Ironically, both groups said that they were consulted about other measures contained in the budget—measures that were more positive in terms of their effect on carers. Carers Australia said that they had welcomed the one-off carer bonus in the 2005-06 budget. They also said that they were very concerned about changes to the backdating arrangements.

In my view, in this budget carers were given a sweetener—the changes to the one-off payment and the other more technical changes to the payment system—but there is a sting in the tail, and it is a sting in the tail that carers are going to have to carry. The government is repeating a pattern that we saw in Welfare to Work. If this proposal is adopted, carers who are currently receiving payments will not be disadvantaged, but the carers who come on line after 1 July will face considerable disbenefit. The pattern is to quarantine people who are currently receiving payments will not be disadvantaged, but the carers who come on line after 1 July will face considerable disbenefit. The pattern is to quarantine people who are currently receiving payment and then hurt those who come on line after 1 July and who will probably not know what they have missed out on.
The majority of the submissions to the inquiry for this omnibus type bill were concerned with the backdating provisions of the carer allowance. By the department’s own admission, a majority of the 42,000 carers who annually apply for carer payment will be adversely affected, some losing up to $1,894. That does not sound like a lot of money, but if you have just had your child diagnosed with a severe illness or if you are having to modify your house or having to find money for extra medication, $1,894 would be extremely beneficial to you, and that is what the evidence to the committee told us.

No evidence was provided by the department or the government on the impact these cuts would have on carers. The department provided evidence that 72 per cent of applicants for carer allowance child and 36 per cent of applicants for carer allowance adult are currently backdated for the full period that they are eligible for—that is, 72 per cent of applicants for the child payment get 52 weeks back pay and 36 per cent of carer allowance adult get 26 weeks back pay.

The cuts in payments to carers as a result of the proposed measure, totalling $35 million a year, are significant. They contrast with the Howard government’s policy of paying $3,300 a year to millionaire families in receipt of family tax benefit B. They are also in contrast to my being told at Senate estimates last July that ‘Not many people would be affected’.

The committee heard from a number of groups that many people were not aware of their entitlement to carer allowance, and therefore did not apply for it immediately. The department indicated that the government makes no attempt to proactively identify those people who may be eligible for carer allowance and inform them of their entitlement was confirmed by Centrelink, which advised the committee that they have not been specifically funded to publicise these proposed changes to customers.

The only publicity of the carer allowance that the committee was advised of is a booklet available at Centrelink service centres, fact sheets available on the Centrelink website—including the disability and carer payment rates fact sheet—and a small section in the A Guide to Australian Government Payments booklet. They are mailed directly to people who already receive the carer allowance and the carer payment, and to relevant community organisations. There is very little work done by either the department of families or Centrelink to ensure that people who are potential customers, potentially recipients of carer allowance, are aware that the payment actually exists.

I move now to the application forms for carer allowance. I mentioned earlier in my contribution to this debate that you do not need a medical diagnosis to apply for a carer allowance because it is not a medical assessment but an assessment of need, and I made the point then that I was going to come back to this. Because, if you go to the actual forms that a person has to fill in, unless they have heard that information from the department—and many have not—they will be absolutely convinced that their child who has a disability requires a medical diagnosis first. If you look at the treating doctor’s report, the first question that the doctor really has to answer is ‘please provide your diagnosis of the condition’. The pages then go through cerebral palsy, epilepsy and syndromes that I cannot pronounce and have not heard of.
This is a medical form; no-one can say that this is an assessment of care needs. There are pages and pages of medical diagnoses, yet the government and the department are saying, ‘No, this is an assessment of care needs.’ A few pages further on, the treating doctor’s report says ‘please indicate if the child has any of the following medical conditions’, and then we get another list of medical conditions. Then there are a few pages at the back—and I have to say I found it extremely difficult to work out how they would indicate care needs—which ask the doctor to describe the abilities of that child. That is meant to indicate the care needs of that child. Then you go to the 13 pages that you as the applicant have to fill in. The question ‘Do you personally provide care on a daily basis because of the disability or medical condition?’ is the only question in those 13 pages that asks what care you provide.

So I truly understand the evidence from the National Welfare Rights Network and from Carers Australia where they say that many applicants honestly believe that they have to get a medical diagnosis before they can actually get a payment. They also said that GPs often incorrectly fill in the forms or do not fill them in unless they can absolutely identify clinically what is wrong with that person. So the government has a big job to do to shift community understanding of what entitles a person to carer allowance.

The department also stated in the inquiry that they do not collect information on why people delay applying for so long. This is why we have to ensure that people do not miss out on their entitlement for a variety of reasons. So the situation is that on average 42,000 people are new applicants for carer allowance every year. Seventy-two per cent of applicants for carer allowance child and 36 per cent of applicants for carer allowance adult will be affected; we know that. We also know that the proportion of people who get carer allowance child is much higher compared to the people who get carer allowance adult. We know there is no proactive strategy for identifying potential claimants by the department or by Centrelink, there is no strategy to inform a potential claimant of their eligibility and there is no intention to revise the application form to acknowledge that it is care needs, not clinical diagnosis, that are relevant in dealing with the application.

I acknowledge that the chair of the Senate Community Affairs Legislation Committee, Senator Humphries, has attempted to address in his recommendations the problem of information dissemination. However, to date the government has made no commitment to implement such an education campaign. Recommendations by the legislation inquiry were twofold: first, to implement an education campaign and, second, to amend the legislation to allow the secretary to exercise discretion to backdate the carer allowance if there were reasonable reasons why the person had not claimed and if there were going to be financial implications for the person if the claim could not be backdated.

In response to that, Labor have drafted an amendment which picks up on that government senator recommendation and puts it into effect. Our amendment will provide a discretionary power to the secretary to extend backdated carer allowance claims in cases where there are genuine reasons for the delayed application. There are a range of reasons and they are not exclusive. But the amendment is quite explicit about when a person should be able to backdate for up to 26 weeks with carer allowance adult and 52 weeks with carer allowance child. Labor’s amendment recognises that there are a range of reasons why people currently are not aware of the carer allowance or do not apply for it in a timely way. The amendment allows for the secretary to use discretion if an appli-
cant does not apply because they fall into one of these categories, which are not ex-
haustive.

The amendment inherently, though, puts the onus back on the government to become more proactive, to use its systems to identify potential claimants and to ensure that there is a strong promotion of the carer allowance more broadly in the community and with specific groups—carers, GPs, community health workers and neighbourhood groups, for example. You will recall that the government spent over $50 million advertising its industrial relations reforms last year. I would be surprised if $100,000 is being spent annually to advertise carer allowance and carer payment to the whole of Australia.

The amendment also puts the onus on the government to change this onerous application form. If passed, the amendment turns the tables and puts the responsibility back onto the government to ensure carers get their applications in in a timely way. Given that the Liberal members of the legislation committee have recommended that discretion should be allowed, I urge Senators Humphries, Adams and Barnett to take this opportunity to support this amendment—which is fair, reasonable and in accordance with their recommendation.

A recent report by Access Economics, commissioned by Carers Australia, found that in 2005 about 2.6 million people—one in eight Australians—were estimated to be providing informal care to a family member or friend. The report estimated that informal carers will provide a total of 1.2 billion hours of care in 2005—a figure that none of us can contemplate. If informal care were replaced with services purchased from formal care providers and provided in the home, the replacement value would be $30.9 billion. That is a lot of money. It is a lot of money that these people save from our economy for our community, and $30 billion a year is what they are going to have stripped from the contribution that is being made to that care. These carers look after family members or friends day in, day out, 365 days a year. We cannot ignore the fact that providing informal care comes at a cost to carers in terms of their wellbeing, their quality of life, their financial security and their opportunity to be in the paid workforce. The contribution carers make is not only to the people they care for but also to the community and, as I said, the economy more broadly.

Labor understands the pressure that Australian families are under, particularly those caring for the most vulnerable members of our community, and supports carers in their efforts to have their voices heard and their needs recognised by this government. In conclusion, I think we should hear from the carers themselves:

Carers Australia strongly believes that there is no sound rationale for the proposed amendments in the bill, which are estimated to reduce expenditure by over $100 million over four years. They are not related to eligibility, financial hardship or the amount of care that the carer provides. The amount of care that carers provide our community with is really at the foundation of our health and community care systems.

... ... ...

Carers Australia believes that the proposed changes to the backdating measures for carer allowance recipients will further disadvantage and marginalise our family carers.

By passing Labor’s amendment, we can protect carers from the excesses of this Howard government.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (7.55 pm)—I thank senators for their contributions to the debate on the Family Assistance, Social Security and Veterans’ Affairs Legislation Amendment (2005 Budget and Other Measures) Bill 2006. Whilst this concludes
the second reading debate, the committee stage will follow and there are amendments which have been foreshadowed. In this bill, the government continues its support to family assistance, social security and veterans entitlements customers. Families and Australians helping to support themselves in retirement will particularly benefit from the measures which come from last year’s budget and current initiatives.

Australian families will have higher rates of family tax benefit when the bill increases the lower income threshold for family tax benefit part A from July this year. The current threshold of $33,361 will rise substantially to $37,500. Importantly, the increased threshold will keep its value because it will be indexed annually according to CPI from July 2007. To ensure more families receive the correct payment of family tax benefit and child-care benefit, the bill will introduce an improved way of handling customers’ estimates of income. From July this year, a customer’s income estimate will be updated if the customer has not given Centrelink a reasonable estimate for the current year. Income estimates will be updated at the start of each income year and also in certain circumstances when actual income becomes known for the most recent income year. Customers will still be able to provide a reasonable estimate to be used in their entitlement calculation instead of the automatically updated amount.

The bill makes amendments in two areas relating to child care. Firstly, unused child-care places will be distributed more efficiently by allowing child-care places to be transferred from areas with lower demands to areas where places are needed. Secondly, child-care benefit debts will now be recoverable in the same way as the family tax benefits. In particular, a customer’s child-care benefit debt will be recoverable by applying the customer’s or a consenting person’s tax refund. From July this year, the backdating provisions applying to care allowance will be standardised. It will be possible to backdate a claim for a maximum period of 12 weeks prior to the claim lodgment date.

Australian retirees have benefited from the Australian government’s response to the review of pension provision by small superannuation funds. As part of that response, this bill will now ensure that retired social security and veterans entitlements customers can better manage their own income needs and give greater confidence that they will not outlive their retirement savings. These beneficial amendments are backdated to 1 January this year.

Finally, the bill amends the provisions in social security law and family assistance law that relate to payments being made overseas. This deals with the area of portability. A discretion will be provided to extend the normal 13-week portability period if the person is seeking life-saving medical treatment overseas, or if the person needs to accompany someone who is seeking such treatment, and if the financial assistance is payable for the treatment under the medical treatment overseas program administered by the Minister for Health and Ageing. These are important measures and, of course, this bill reflects the ongoing response by the Howard government in relation to family assistance, social security and veterans affairs. I commend the bill to the Senate.

Debate (on motion by Senator Ellison) adjourned.
HEALTH LEGISLATION AMENDMENT (PHARMACY LOCATION ARRANGEMENTS) BILL 2006
Second Reading
Debate resumed.
Senator McLUCAS (Queensland) (7.59 pm)—I seek leave to incorporate my speech in the second reading debate. I have checked that with the government.
Leave granted.
The speech read as follows—
The amendments in this bill are the result of the Fourth Pharmacy Agreement between the Commonwealth and the Pharmacy Guild of Australia which commenced on 1 December 2005 and will terminate on 30 June 2010. The Agreement provides for new pharmacy location arrangements to commence on 1 July 2006, and this bill gives effect to some of the issues around those arrangements.
Specifically this bill will:

(1) Extend the operation of the Australian Community Pharmacy Authority until 30 June 1 2010. The Authority’s role is to consider applications made by pharmacists for approval to supply benefits under the PBS, to determine if such applications comply with the Pharmacy Location Rules and to make recommendations to the Secretary of the Department of Health and Ageing as to whether such applications should be approved.

(2) Increase the membership of the Authority from five to six members by including a consumer representative, appointed by the Minister.

(3) Provide the Minister with a new discretionary power to overrule a decision of the Secretary, made in accordance with the Pharmacy Location Rules, if that decision will have the unintended or unforeseen consequence of leaving a community without reasonable access to pharmacy services. Affected parties may seek a review of any decision made by the Minister under this power under the Administrative Decisions (Judicial Review) Act 1977.

(4) Provide for the processes associated with this discretionary power, such as how an applicant may make a request to the Minister for consideration of the Secretary’s decision.

(5) Clarify the ability of the Secretary to approve more than one pharmacist to supply PBS benefits from a particular premise.

(6) Provide that the Secretary can approve a pharmacist’s application to expand or contract their premises without prior recommendation by the Australian Community Pharmacy Authority.

The actual changes in Pharmacy Location Rules will:
• Permit co-location of pharmacies with large medical centres that operate extended hours;
• Allow location of pharmacies in small shopping centres;
• Allow the relocation of an additional pharmacy to one-pharmacy rural towns and one-pharmacy high growth areas without regard to the usual distance criteria;
• Remove the requirement that a specified number of commercial establishments are open and trading before an approved pharmacy can relocate to a shopping centre; and
• Provide greater flexibility for pharmacies located in private hospitals by allowing establishment of satellite dispensaries for hospital in-patients.

These changes do not require legislation but are exercised through a set of regulations authorised by Ministerial Determinations under Section 99L of the National Health Act 1953.

The Changes to the Rules will have a number of benefits, especially in rural and remote areas and growing suburban areas.
• Co-location of pharmacies with medical centres will assist in providing access to pharmacy services for acute medication needs, at the time of medical consultation,
• Location of pharmacies within small shopping centres recognises the retailing trend for smaller centres with larger supermarkets. The
existing requirement for large shopping centres (with at least 30 commercial establishments) has limited access to pharmacy services in many retail developments.

- Not all of the required commercial establishments in a shopping centre need to be open and trading at the time of application approval. In some cases, this requirement has delayed access to pharmacy services in new shopping centres.

- Rules for relocation of an additional pharmacy to single-pharmacy rural towns and high growth urban areas will mean a second pharmacy can be approved in these communities.

For these reasons Labor will support this bill.

I do note however that there is nothing in this bill that will ensure that Aboriginal and Torres Strait Islander people have better access to PBS medicines and pharmacy services. This is despite the fact that PBS spending per capita on Indigenous people is only one third of that on the non-Indigenous population. Once again, the health of our Indigenous population has been forgotten and I think that this is a serious oversight.

Labor is also very concerned that the Howard Government is failing to properly manage the PBS, and that is why I have moved this second reading amendment today.

In finally reaching agreement on the Fourth Pharmacy Agreement and the new Pharmacy Location Rules, the Howard Government and the Minister for Health, Tony Abbott have hardly covered themselves in glory.

Despite the importance of pharmacy services to all Australians, and despite the fact that the Agreement covers some 22% of PBS spending, negotiations were protracted, sometimes acrimonious, and always hidden behind closed doors.

The Health Minister was alternatively belligerent or cowed. Several times he used changes to the Pharmacy Location Rules as a threat. That’s why this is the third time in less than 12 months that the Parliament has been required to act on these Rules.

In May 2005, Parliament voted, with Labor support, to extend the current provisions with respect to the Pharmacy Location Rules to 31 December 2005 through a provision in the Health Legislation Amendment (Australian Community Pharmacy Authority) Bill 2005. Then in October 2005, these provisions were further extended until 30 June 2006 through passage of the Health Legislation Amendment Bill 2005.

On both occasions, the Government’s stated reason for the extension was to allow time for the Government to consider the findings and recommendations of the Joint Review of Pharmacy Location Rules, which were received in June 2005. However at the same time fierce and protracted negotiations were underway with the Pharmacy Guild of Australia over the Fourth Pharmacy Agreement and it was clear that pharmacy location issues, linked to the ability of pharmacies in supermarkets to dispense PBS medicines, were being used by the Howard Government as heavy-handed negotiating tools.

Labor has said that it does not support the location of pharmacies within supermarkets. Labor has previously stated, when the above bills were considered last year, that it could support extension of the Pharmacy Location Rules as finally agreed in the Fourth Pharmacy Agreement.

Labor is therefore relieved that finally we have a sensible agreement that both benefits pharmacy and the Australian consumer – especially those who are elderly, frail, sick and unable to travel long distances to get their prescriptions filled and receive important pharmacy services.

However the Health Minister Tony Abbott has failed to tell the Australian public the real story about the impact of the Howard Government’s policies on the Pharmaceutical Benefits Scheme and on the affordability of essential medicines.

Since the introduction of the 21% increase on PBS co-payments last January and the 12.5% cuts in generics in the middle of the year, the growth rate for PBS spending has now fallen to 1% and it is expected to drop even lower. The growth in prescription numbers (a good measure of whether people can afford to get their prescriptions filled) is already in negative territory.

The Government’s own figures show clearly that fewer prescriptions are being filled in some crucial categories - for cardiovascular conditions, for
anaemia and blood clotting problems, for hormone replacement therapy needed because of thyroid, pituitary or pancreatic problems, and for mental illness, epilepsy, Parkinson’s Disease and Alzheimer’s Disease.

This is only good news if you put budget savings ahead of health outcomes. The Health Minister and the Treasurer consistently confuse PBS sustainability with cost cutting, and never look at the impact on the overall health system and the ability of patients to afford their needed medicines.

The Minister’s office has tried to say that the fall in prescriptions is not serious because it does not include drugs dispensed through the highly specialised and high cost schemes – an analysis of the data shows that explanation is wrong. The Department of Health and Ageing has tried to say it is because Vioxx was taken off the PBS – again wrong. There is a clear an unambiguous decline in PBS growth rates regardless of the Vioxx effect.

Furthermore, these comments are in direct contrast to what the Treasury has officially stated in its Mid Year Economic and Fiscal Outlook (MYEFO) paper.

This paper now states that the growth in PBS expenditure in 2005-06 will be 2.2 percent less than the budget projection of 7.4 percent.

The MYEFO states that this will see a windfall for the government of $283 million – and there is every chance that it will actually be more than this as growth rates head well below those projected by Treasury.

It is obvious that rising out-of-pocket costs due to increased co-payments, special patient co-payments and therapeutic and brand premiums are hitting the sickest and neediest Australians, meaning that too often they must choose between buying their medicines or the other necessities of life. And the impact of changes to the PBS safety net and the new 20-day rule is yet to kick in.

As patients will have to pay more out-of-pocket before they hit the thresholds for the PBS safety net, and the 20-day rule makes it increasingly difficult for some patients to get their PBS costs to count towards the safety net, we can only expect things to get worse.

In particular the 20-day rule is having a major impact on patients in rural and remote locations who only visit town infrequently and elderly patients who rely on others to get their prescriptions filled and delivered.

This is not just confusing and troublesome for patients. It is making life difficult for busy doctors and pharmacists. In proposing this policy the Government has failed to recognise that there are many legitimate reasons for patients to acquire their medications within 20 days.

But the Government doesn’t care, and the Minister for Health doesn’t want to know.

In the meantime the Treasurer, the Minister for Finance and the Minister for Industry push on with their plans for more PBS budget savings. They are either oblivious to the consequences or they don’t care.

The Minister for Health is not included in these budget decisions. His lack of involvement and lack of concern places him in clear dereliction of his duty to protect the health of all Australians.

Labor has consistently called on the Government to monitor the impact of these PBS cost cutting measures to ensure that there are not adverse consequences which will see a blow out in hospital costs and more expensive medical procedures.

Again today, I call on the Minister for Health and the Treasurer to look at the full impact of their short sighted and short term policies to cut the PBS. These are not the way to make the PBS and our health care system as a whole sustainable into the future.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

THERAPEUTIC GOODS AMENDMENT BILL 2005

Second Reading

Debate resumed from 28 November 2005, on motion by Senator Colbeck:

That this bill be now read a second time.
Senator McLUCAS (Queensland) (8.01 pm)—I seek leave to incorporate my speech in the second reading debate.
Leave granted.

The speech read as follows—

The purpose of this bill is to amend the Therapeutic Goods Act 1989 (the Act) by creating an exemption to the current certification requirements for registering or listing therapeutic goods in the Australian Register of Therapeutic Goods (ARTG).

The Amendments are a response to concerns raised by representatives from the complementary medicines industry, over-the-counter (OTC) medicines sector and the Australian biotech industry that the current patent certification requirements are more onerous and broader than they need to be.

The bill is proposed to particularly exempt the complementary and OTC medicines industry from the Australia-US FTA requirement which imposes obligations on producers to prove that the products they propose to have listed on the Register do not infringe existing patents, which generally involves conducting expensive global patent searches.

The bill will effectively alter the way these products are brought into the market in Australia by restricting the patent certification requirements for particular products (such as those that do not require manufacturers to submit safety or efficacy data) in their application.

The practical implication of this is that the majority of complementary and OTC products will no longer be subject to certification requirements.

The intent of the FTA as it applied to generic pharmaceutical products was to put up a barrier at the regulatory approval stage to the market entry of generic copies of prescription drugs.

Changes to the Therapeutic Goods Act (the Act) introduced by the Therapeutic Goods Administration (TGA) on 1 January this year went far beyond what was the original intent of the FTA. Complementary and OTC medicines manufacturers, in particular, have been caught up in the onerous requirements.

Once the bill is enacted, it will enable the removal of obligations for parts of the industry which should not have been imposed in the first place.

The amendments seek to rectify an unintended consequence of previous amendments made in light of the Australia-US Free Trade Agreement. These amendments came into force from 1 January 2005 to introduce certification requirements in relation to patents.

This outcome was clearly not intended by the Free Trade Agreement.

Labor will support this bill so that the unnecessary and unreasonable compliance and costs to the complementary and OTC medicines industry caused by the original drafting error are quickly rectified.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (8.03 pm)—I seek leave to incorporate my speech on the second reading debate on this bill.

Leave granted.

The speech read as follows—

The current legislation is part of a response by the Government to an incident in 2003 in which the TGA suspended the licence of Pan Pharmaceuticals for the breach of manufacturing safety and quality standards and what was believed to be the systematic and deliberate manipulation of quality control test data.

It led to some 1,600 products being taken out of the market, the biggest recall in Australia’s history. The decision significantly impacted on Pan and other complementary medicine companies, particularly smaller companies that had links with Pan.

At the time many people in the complementary medicines industry argued that the TGA had been heavy-handed and overreacted to the problems with Pan.

Complaints were made about the handling and release of information—information which eventually led to the collapse of the complementary drugs manufacturer.

In fact only last month Pan’s former boss Jim Selim launched a series of cross claims against
the TGA, which he blames for the collapse of the complementary drugs manufacturer in 2003.

Documents lodged with the Federal Court show that Mr Selim claims that if the TGA had acted properly there would have been no need for the regulator to have taken action against Pan, which ultimately led to its collapse.

Let me be clear - the Democrats support the TGA’s role in protecting public health and safety. They play a vital part in ensuring the quality and safety of all medicines that are available to the Australian public.

In a society where many consumers have decided that they wish to use complementary medicines it is important that the community has confidence that complementary health care products are safe. The TGA is essential to that confidence.

However we share the concerns of some in the complementary medicines industry that the sector has been subject to regulatory compliance that is unnecessarily onerous and out of step with the low risk nature of the vast majority of their products.

We are concerned that the measures in this bill will continue that pattern.

It is true that the Australian system of regulation makes no clear distinction between complementary medicines and other medicines. Indeed complementary medicines are regulated according to the same risk management approach that governs regulation of all other medicines listed on the Australian Register of Therapeutic Goods.

This means that the type of assessment process used for a specific product is determined by an evaluation of the risk of that product.

This would seem to suggest that there are appropriate differences between the approaches taken to regulating lower risk complementary medicines than are used for higher risk prescription medicines.

But there are parts of the complementary medicines industry that argue this is not the case.

Many within the industry have raised concerns with me that the TGA does not have sufficient expertise in complementary medicines or an adequate understanding of the nature of their products.

Some sectors of the complementary medicines industry have argued that the lack of expertise and experience displayed by the TGA staff during its handling of the Pan Pharmaceuticals recall meant that the TGA exercised its authority in an overly partisan manner during that situation.

It has been suggested that there was no evidence that such a huge number and quantity of products needed to be recalled and destroyed - a process which lowered confidence in the complementary medicines industry unnecessarily.

This mistrust on the part of some in the industry means that they are concerned about how the new sanctions and enforcement options will be applied to their industry.

It is important to note that this bill does not introduce any new offences to those already existing in legislation; it simply increases the range of options available to the TGA when offences are committed.

The Democrats supported the changes to the Act in 2003 that tightened regulation around manufacturing standards but we have not been convinced of the need for this legislation or that sufficient safeguards have been put in place to ensure that the complementary sector is not unduly negatively affected.

In light of the Pan crisis it may be appropriate for the TGA to review the nature and frequency of its audits but there seems to be little justification for the introduction of what have been described by some as draconian measures.

Indeed there is a case for the TGA to improve its own practices in relation to the complementary medicines sector.

The Australian National Audit Office’s report, released in December 2004 looked specifically at the TGA’s ability to regulate non-prescription medicines - the bulk of which are complementary medicines.

This report was critical of the level of consistency, transparency and accountability in TGA systems and procedures.

For instance, the report says:

Manufacturers approved by the TGA are subject to regular audit. An audit frequency matrix determines the time to next audit. This is based
upon two risk parameters: the products manufactured; and compliance with the Code of good manufacturing practice from the previous audit. However, the rationale for assigning audit frequencies for these risk parameters has not been documented, nor supported by a systematic risk analysis.

The audit frequency may be varied from that indicated by the risk parameters. However, the reasons for the variation are often not documented, reducing transparency and accountability for these discretionary judgments.

The report also says:

The TGA’s regulatory framework is supported by a substantial number of standard operating procedures. However, greater clarity and guidance is required for some key aspects of the TGA’s regulatory functions. There are also some gaps in documented procedures.

Decision-making, including reasons for particular action and enforcement, requires more structured documentation, especially when discretionary judgments have been made.

It goes on:

Performance management arrangements are insufficient to support sound management of regulation, and accountability to stakeholders. Performance indicators provide limited insight into the effectiveness of the regulation of non-prescription medicines, and of manufacturer compliance.

Transparency to manufacturers and sponsors can be enhanced, both to facilitate manufacturers’ ability to comply with regulatory requirements, and to improve the TGA’s accountability for its actions.

The legislation before us will give the TGA unprecedented discretionary power.

Much of the detail of this legislation will be expressed in guidelines and will be implemented through regulations.

We need to have confidence that any decisions about whether a breach has been made, the severity of the breach, what penalty should be imposed and what action taken is made objectively and open to assessment.

It is interesting that Medicines Australia have said:

It is not particularly clear from the amendment bill or the narrative outline provided with the bill precisely how the regulator will decide when to pursue a criminal penalty ... There seems to be a degree of discretion available to the TGA, which is not good regulatory practice.

So we might have a situation where different companies commit the same breach and they are handed different penalties.

This is not how things should operate.

It should be clear to all involved what penalty will apply to a particular action.

It is also worth commenting that parts of the industry have expressed concern about the lack of consultation about this bill in the first place.

I hope that there is sufficient consultation with the industry in an ongoing manner as this new regime comes into effect.

The Democrats are also concerned, as were many who put in submissions to the Inquiry into this bill, that there is a lack of right of review and appeal in relation to penalties.

The concerns raised by many over the interpretation and application of these new sanctions within the highly discretionary framework that the TGA will operate in, surely means that redress to an independent arbitrator is essential when disputes arise — as they invariably will.

Another aspect of this legislation that is problematic is that the TGA can publicly name a drug company or an employee that they believe is breaching the rules—even if this has not been proven.

There are many risks with this approach.

Not the least of which is the damage that can be done to that person’s or company’s reputation before any guilt has been established.

And let us not forget the discussion that has occurred around the size of any fines that might be placed.

Many witnesses to the Inquiry commented that the level of proposed penalties, particularly for civil penalties, is very high.
One witness commented that breaches of the Therapeutic Goods Act will carry double the financial penalty for treason, terrorism or genocide. The seemingly excessive level of the fines proposed in the civil penalties regime and the potential impact of these fines on the complementary medicines industry is unjustified. There is a real and beneficial place for complementary medicines in the health care arena. It is time that the Government recognised the value of this sector.

Question agreed to.
Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

BANKRUPTCY LEGISLATION AMENDMENT (FEES AND CHARGES) BILL 2006

First Reading

Bill received from the House of Representatives.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.04 pm)—I move:
That this bill may proceed without formalities and be now read a first time.

Question agreed to.
Bill read a first time.

Second Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.05 pm)—I move:
That this bill be now read a second time.
I seek leave to have the second reading speech incorporated in Hansard.

Leave granted.
The speech read as follows—
The Bankruptcy Legislation Amendment (Fees and Charges) Bill 2006 will facilitate implementation of the government’s cost recovery policy in providing personal insolvency services.

The Insolvency and Trustee Service Australia (ITSA) provides personal insolvency services to the community. In accordance with the government’s policy, ITSA has undertaken a review of its fees and charges to ensure they properly reflect the cost of providing those services. That review has also enabled the government to determine which activities should attract a fee and the type of fee to apply. It is appropriate that some services should attract a fee payable by the person receiving the service while others are more appropriately paid for through an industry levy. The government has also decided that some of ITSA’s services, in particular the cost of processing debtors’ petitions and debt agreement proposals, should continue to be budget funded. Stakeholders have been extensively consulted as part of the cost recovery review and will be consulted as part of any future reviews of fees and charges.

The amendments proposed by this bill will enable me, as the portfolio minister, to make legislative instruments to determine the fees and charges that are provided in the Bankruptcy Act 1966, the Bankruptcy (Estate Charges) Act 1997 and the Bankruptcy (Registration Charges) Act 1997. The bill does not set out the amounts of any fees and charges. The amounts of the fees and charges will be set in legislative instruments to be drafted. The new fees and charges will apply from 1 July 2006.

Enabling the minister to determine the fees and charges in a legislative instrument will allow greater flexibility to reflect price changes as they occur. ITSA intends to review its fees and charges biennially unless there are special circumstances warranting an earlier review.

The bill will empower the minister to determine by legislative instrument, the following fees and charges:

• the fees payable as remuneration to the Official Trustee for acting as trustee, controlling trustee or administrator in any administration under the Bankruptcy Act 1966;

• the fees payable to the Official Receiver for issuing a Bankruptcy Notice and exercising a power at the request of a trustee under the Bankruptcy Act 1966;
• the fees imposed on persons who are not creditors of a bankrupt or debtor for access to documents required to be filed by the Bankruptcy Act 1966;
• the fees payable for applying to be registered as a Registered Trustee, being registered as a Registered Trustee or obtaining an extension of the registration of a Registered Trustee;
• the fees relating to the National Personal Insolvency Index; and
• the rate at which realisations charge is payable.

Under ITSA’s cost recovery arrangements, the realisations charge will be set at a level designed to recover the costs of the regulation of practitioners, investigation of bankruptcy fraud and administration of assetless estates. The government has decided not to apply the realisations charge to money received in debt agreements. This will assist in ensuring that debt agreements continue to be available as a viable alternative to bankruptcy for many debtors. There will be no change to the existing policy that the realisations charge must not be higher than 15 per cent.

The costs of processing applications for, and extending, the registration of persons wishing to be registered as trustees under the Bankruptcy Act 1966 and changing the conditions that may be placed on their registration, are charges separately imposed under the Bankruptcy (Registration Charges) Act 1997. As the costs of application for registration and its extension, are able to be determined by reference to the actual costs of providing these registration services, these fees will properly be characterised as fees for service and not as taxes. The new fees will be determined by the minister by legislative instrument as fees for those services.

The bill also includes some minor technical amendments to the Bankruptcy Act 1966 to clarify or update existing provisions.

The amendments to be made by this bill have been developed following extensive public consultation. They will provide a flexible and accountable way to reflect the costs of providing personal insolvency services to the Australian community.

I commend the bill.

Senator MARSHALL (Victoria) (8.05 pm)—Mr Acting Deputy President, are we now dealing with the Bankruptcy Legislation Amendment (Anti-avoidance) Bill 2006 or the Bankruptcy Legislation Amendment (Fees and Charges) Bill 2006?

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—We are dealing with the Bankruptcy Legislation Amendment (Fees and Charges) Bill 2006.

Senator MARSHALL—On the basis that we are dealing with the Bankruptcy Legislation Amendment (Fees and Charges) Bill 2006, I seek leave to incorporate Senator Ludwig’s speech in the second reading debate.

Leave granted.

Senator LUDWIG (Queensland) (8.06 pm)—The incorporated speech read as follows—

This bill changes the manner in which fees and charges are set for services provided by the Insolvency and Trustee Service Australia (ITSA). Fees and charges for ITSA services are currently contained in the Bankruptcy Act and Bankruptcy Regulations.

Under the proposed framework, the fees and charges will be determined by the Attorney-General through legislative instrument.

This is an appropriate change, given that ITSA is moving to a cost recovery model of funding. Under any cost recovery model it is important to ensure that fees and charges are set at the cost recovery point and no more. Otherwise it becomes a type of backdoor tax.
The ITSA model for cost recovery – which we understand to have been developed in consultation with stakeholders – will involve a biennial review of fees and charges. Legislative instrument is an appropriately flexible method to ensure that the recommendations of these biennial reviews can be quickly adopted.

The use of legislative instrument still provides Parliament with a mechanism to disallow any increase in fees, so it does not entail a substantial loss of scrutiny.

In fact, let me use the opportunity of this debate to invite insolvency practitioners, small businesses and other stakeholders to contact the Opposition if you ever feel that ITSA's fees and charges are spiralling out of control. We will be keen to take up your cause in this place. It is one of Parliament's most ancient and most important tasks to prevent unjustified imposts by Government. Labor is committed to our job of holding the Government to account for any attempt at backdoor taxation.

ITSA has been moving to cost recovery for several years now, and the details were included in the papers for the 2005/2006 budget.

Under the proposed funding model the cost of some services will be recovered through a fee payable by the person receiving the service while others will be paid through an industry levy.

This bill will allow the following fees and charges to be set by the Attorney-General:

- fees to the Official Trustee for acting as a trustee, controlling trustee or administrator
- fees to the Official Receiver for exercising power at the request of a trustee
- fees for access to bankruptcy documents by persons who are not creditors of a bankrupt or debtors
- fees associated with registration as a Registered Trustee
- fees relating to the National Personal Insolvency Index
- the rate at which realisation charge is payable.

The realisation charge is a levy imposed on trustees and we understand the Government's intention is to set this at a level high enough to cover the costs of the regulation of practitioners, investigations of bankruptcy fraud and administration of assetless estates.

Certain services will remain wholly Commonwealth-funded, including processing debtors' petitions and debt agreement proposals.

As I mentioned earlier, the fees and charges will be subject to a review every two years, or sooner if required. These reviews are to involve stakeholder consultation.

Labor supports the shift to cost recovery and this bill to enable that shift. However we will keep a close eye on developments to ensure that we have cost recovery and no more. We look forward to working with stakeholders to make sure that the Government does engage in genuine consultation and to hold the Government to account for any unjustifiable increases.

In addition to providing the framework for the transition to cost recovery, the bill will also make two other changes:

- changing the period for payment of realisation charges and interest charges from twice yearly to annually
- amending provisions related to forms to allow greater use of electronic service delivery.

These also seem to be sensible changes that will improve the operation of our bankruptcy system. For these reasons, Labor is pleased to offer our support to this bill.

Senator MURRAY (Western Australia) (8.06 pm)—In making my remarks on the Bankruptcy Legislation Amendment (Fees and Charges) Bill 2006 I want to start by saying that I do not like this Senate process that we are under way with one bit. We do not need a guillotine if senators are going to treat debate on important bills relatively lightly. Without reflecting on any other senators, I wish the government had advised senators of the likelihood of us sitting later today, so that people with other engagements were able to rearrange their affairs and enter the chamber to address these matters.
This bill, however, could well have ended up in the non-controversial slot. I do not think it is contentious. The Bankruptcy Legislation Amendment (Fees and Charges) Bill 2006 simply repeals the Bankruptcy (Registration Charges) Act 1997 and amends the Bankruptcy Act 1966 and the Bankruptcy (Estate Charges) Act 1997 to implement cost recovery arrangements for Insolvency and Trustee Service Australia by enabling the minister to make regulations to determine fees and charges on a cost recovery basis. It amends sections which impede electronic service delivery where currently only cheques are accepted—which seems somewhat outdated. These amendments allow for EFTPOS transactions and do away with some requirements for signatures so that electronic service delivery is streamlined—a useful modernisation measure—and provide for an annual payment by bankruptcy trustees of realisations, charges and interest charges at the end of the financial year rather than the current twice-yearly payment.

There is a chance that creditors might object to the fact that they will now have to pay to access documentation relating to bankruptcy, although it is often entities with a capacity to pay for this kind of service who do want to access documents. It might in theory prove a disincentive for personal creditors but the fees are set at a cost recovery rate—so hopefully not. A fee will be payable to access the National Personal Insolvency Index. This will mostly impact on creditor providers, such as banks, who wish to access the NPII to determine credit worthiness. Again, all these fees are on a cost recovery basis, so hopefully they will not blow out.

The regulations may provide the inspector general with a discretion re payment of fees, which would be a good thing as there may be an opportunity for the fee to be waived in some circumstances, which is hard to say prior to the drafting of the regulations. One of the reasons that I wish to speak to the bill rather than wave it through is that I hope that the minister in closing the debate will indicate whether there might be an opportunity when the regulations are drafted for the fee to be waived in hardship cases, which is a common practice in many jurisdictions and circumstances. The Democrats strongly support this bill.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.09 pm)—in reply—In closing the debate, can I say that, generally, there will be a discretion to waive fees. I think that accommodates the concern that Senator Murray has expressed. Senator Murray has outlined the purpose of the Bankruptcy Legislation Amendment (Fees and Charges) Bill 2006, so I will not take it much further than to say that the bill will reflect the government’s cost recovery policy in providing personal insolvency services. There has been extensive consultation. The bill will enhance the delivery of personal insolvency services, including effective electronic service delivery, and make some minor amendments to clarify provisions of the Bankruptcy Act 1966. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

BANKRUPTCY LEGISLATION AMENDMENT (ANTI-AVOIDANCE) BILL 2006

Second Reading

Debate resumed from 27 March, on motion by Senator Santoro:

That this bill be now read a second time.

Senator MARSHALL (Victoria) (8.11 pm)—I seek leave to incorporate Senator
Ludwig’s speech on the Bankruptcy Legislation Amendment (Anti-avoidance) Bill 2006.

Leave granted.

Senator LUDWIG (Queensland) (8.11 pm)—The incorporated speech read as follows—

The problem of high-flying professionals who use bankruptcy to avoid tax and other liabilities first came to national attention in 2001. That was when Paul Barry, for the Sydney Morning Herald, published an investigation into NSW barristers, some of whom had been bankrupt more than once, but who continued to enjoy the high life because they had put all their assets into the names of spouses or trusts—unreachable by the tax office or other creditors.

Playing catch-up, the Government set up its own taskforce to look into the matter that same year. Now here we are in 2006—5 years later—finally debating a piece of legislation that might deal with this issue. Before I discuss the detail of this bill, this House deserves to hear its history. It is an extraordinary tale of incompetence. For five years the Government has zig-zagged bizarrely between nonchalance and over-zealousness, until now never managing to steer a straight, sensible path.

At first, the Government dragged its boots for three years before producing any response. Then in 2004 it produced an exposure draft that went overboard with a disproportionate response to the problem. It proposed retrospective laws and a reversed onus of proof. That draft also would have undermined legitimate asset protection arrangements, where families divide their property so that all family members are not exposed to the business and credit risks taken by one. Bankruptcy law has to get the balance right between cracking down on rorters and protecting legitimate family arrangements. The exposure draft got it completely wrong—and a furore erupted. Coming up to the 2004 election the Government took the anti-avoidance parts of that plan completely off the table. This was the return to another period of inaction.

Rather than have another try at more sensible legislation, the Coalition gave up on getting anti-avoidance right. The Attorney-General came back with the Bankruptcy and Family Law Amendment Bill—basically the exposure draft minus the anti-avoidance schedule.

Although we supported that Bill, Labor was very disappointed that the Government would let slip an opportunity to fix the high-flyers problem once and for all. We moved some amendments which would have gone part of the way. The Government, in its arrogance, refused to consider them. That was once year ago.

One year later—in all, five years too late—Labor is pleased to see that the Government has accepted the approach we had advocated. Finally, we have before us a bill sensibly targeting the use of bankruptcy to avoid tax and other debts. It takes the approach of strengthening existing ‘claw back’ provisions, as Labor proposed through amendments last year. ‘Claw back’ provisions allow the trustee to undo transactions, transfers and arrangements designed to defeat or frustrate creditors. They make it harder to hide assets.

This bill proposes four mechanisms to toughen claw back provisions.

First, it will introduce a rebuttable presumption of insolvency where the bankrupt has keep books, records and accounts below an acceptable standard, or not retained them at all. That is a real shame, because these laws could have been active a whole year earlier if not for the Government’s pure arrogance. Sadly, the Attorney-General would rather delay reform of the law than be seen to pick up an amendment proposed by the Labor Party.

A rebuttable presumption is useful because in many instances it is hard to prove that the bankrupt was insolvent at a relevant time. This introduces a new fair concept, preventing people from frustrating trustees and creditors by relying on their own incompetent record keeping.

Second, the bill will increase the time period for claw back for ‘related entities’, including family members, to four years rather than two. Avoidance techniques are obviously more common amongst related entities than strangers, so it is
reasonable to have a longer period to inquire into the purpose and nature of transactions.

Third, the bill will introduce a requirement of ‘reasonableness’ into the test for the claw back of transfers intended to defeat creditors. Currently, transferees are immune from claw back if they had no actual knowledge of the transferors’ true intention. Under this bill, transferees will only be protected if they ‘could not reasonably’ have known. This will target those cases where a person has turned a blind eye to an obvious attempt to avoid liabilities.

Fourth, the bill will allow property to be vested in the trustee in bankruptcy in those cases where the bankrupt has paid for property on behalf of someone else, but still enjoys the benefits of the property. For example, it would cover the situation where a person has put their income into a house that is technically owned by their spouse, but where the person still enjoys rent-free living. This is exactly the sort of scam that allows some high-flying bankrupts to maintain a high income lifestyle while still avoiding creditors.

The bill contains three other changes relating to the admissibility of transcripts from interviews by the Official Receiver and correcting two possible unintended interpretations of the sections 120 and 121. These are uncontroversial.

Indeed this whole Bill is uncontroversial—it is a welcome set of reforms to target the high-flying bankruptcy problem. Labor will closely watch to see whether they achieve this.

The only controversy here is why this bill has taken so long—6 years since the problem emerged. It is all the more embarrassing given that Labor offered a large part of the solution 12 months ago, only to have it arrogantly dismissed by the Attorney-General.

Earlier today we started debating the Family Law Amendment (Shared Parental Responsibility) Bill 2005. That is another case in which the Opposition has made some constructive amendments to one of the Attorney’s bills. I hope he has learnt from the embarrassing experience of this anti-avoidance bill that good policy sometimes means being prepared to swallow his pride and accept Labor’s good ideas the first time around.

**Senator Murray (Western Australia)**

(8.11 pm)—The Bankruptcy Legislation Amendment (Anti-avoidance) Bill 2006 is legislation that has been a long time coming. Looking back over the history of these recommendations, we see that it is partly based on a media furore which occurred from 2001 when Paul Barry wrote a series of articles pointing out that bankruptcy was a way in which barristers were avoiding paying tax. The bill also addresses what has been the extremely common practice where high-income earners who experience financial difficulty declare bankruptcy to avoid paying their debts, to the detriment of others.

The often arrogant pursuit of law and the assumption of high morality in our courts of those particular legal people are not reflected in the way that they conduct their private affairs and the dissonance between the oaths they take and the laws that they are sworn to uphold. Their personal behaviour reflects badly on the ethics that they are taught to follow. Such people impugn the reputation, credibility and good faith of the vast bulk of barristers, lawyers and judges who do conduct their tax affairs and their personal affairs appropriately and properly. However, my disappointment in some members of the legal profession was again generated by a story in the *West Australian* newspaper on Saturday, 18 March 2006 which identified a particular accounting firm which was giving tax advice to members of the legal profession about schemes which were designed to avoid tax.

More generally, in my opinion, the culture of tax avoidance is encouraged by the government’s overly generous provision of tax concessions which encourage people to enter into negative gearing and pursue capital gains and other things to minimise tax paid. The thought that you can run losses on one side of your family balance sheet and cover those by your tax concession on another side.

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**Senator MURRAY (Western Australia)**

(8.11 pm)—The Bankruptcy Legislation Amendment (Anti-avoidance) Bill 2006 is legislation that has been a long time coming. Looking back over the history of these recommendations, we see that it is partly based on a media furore which occurred from 2001 when Paul Barry wrote a series of articles pointing out that bankruptcy was a way in which barristers were avoiding paying tax. The bill also addresses what has been the extremely common practice where high-income earners who experience financial difficulty declare bankruptcy to avoid paying their debts, to the detriment of others.

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More generally, in my opinion, the culture of tax avoidance is encouraged by the government’s overly generous provision of tax concessions which encourage people to enter into negative gearing and pursue capital gains and other things to minimise tax paid. The thought that you can run losses on one side of your family balance sheet and cover those by your tax concession on another side.
is amongst the causes that get people into moral and ethical trouble—and I might say in passing: Lord help them if the property market ever falls! We had a visitor a while back—the head of the United Kingdom tax office—who indicated that his greatest motivation and campaign was in fact to change the culture by which people address their tax affairs and tax compliance matters. It is important that the government leads both in a moral and ethical sense in this field as well as in a legislative sense.

Getting back to the legislation before us, this bill will tackle some of the avoidance practices that have been used to manipulate Australia’s bankruptcy laws. Unfortunately this just reflects human nature. The government’s legislation cannot and will not put an end to some of the more outrageous abuses of the bankruptcy system by a few high-income earners, but it certainly will improve the authority’s ability to lessen and minimise those practices.

Australians, in general, are rightly angry to see some corporate or former corporate high-flyers and other high earners in our society claiming bankruptcy and avoiding creditors despite having obvious wealth at their disposal through some third-party entity or family members. Any West Australians in the chamber might recognise those characters who feign mental illness and have a terrible problem recalling their details, and have these amazing friends living in Switzerland and England who look after them. And then suddenly—hey presto—they have a lovely house in Cottesloe and their family are doing awfully well, thank you very much, and they are back in business. I do not know what these laws will do to address characters like that, but hopefully they will have some impact.

The report from the Joint Committee on Corporations and Financial Services noted that there is a practice in, for instance, the building industry whereby people set themselves up as phoenix companies, go bust and then repeat the process again and again. It is an attitude that has to be stamped out and I must commend ASIC for responding very well to that committee’s report on the matter and starting to be far more active in this area than they were before. I must say in that regard that the committee was greatly assisted by an in-depth submission put to the committee by the CFMEU, many of whose members had been hurt by the phoenix company types.

People should not be able to avoid creditors through artificial arrangements that secure their own financial wellbeing but result in great hardship to others who have entered into business arrangements with them in good faith. While it is true that the bankruptcy system must guard against abuse, care in addressing the abuses must not result in preventing access to bankruptcy by those with a genuine need to do so. We should always understand that bankruptcy laws were designed right from the very beginning as a safety net for those experiencing unfortunate circumstances in life, and the fact that some miscreants abuse those laws should not blind us to their overall intention.

Most bankrupts today—probably as always—are low- or middle-income earners who owe relatively small amounts of money and have got out of their depth. Those who genuinely require recourse to bankruptcy should not face unnecessarily artificial barriers or be subject to unduly punitive measures. They should be given the chance of rehabilitation and I think the government and this legislation are, indeed, conscious of that. The Democrats support the extension of time to allow the trustee in bankruptcy to examine transactions up to four years prior to the bankruptcy and to recover funds to pay creditors. We also support the extension to five years where property is transferred to
related entities or family members and no consideration is paid for the transfer.

Since the High Court’s decision in the matter of John Cummins QC was handed down on 7 March 2006 several lawyers have pointed out that this legislation is now not necessary and could impact negatively on the spouse of, say, a problem gambler. There is a possibility of this and we must recognise that one of the consequences of shifting the law like this is that people may be hurt at the margins. I am sure the Attorney-General’s Department will keep an eye on that one and see if adjustments need to be made to the law. However, given the premeditation of action which this bill is addressing, it seems more likely to impact on those in receipt of expensive financial advice, or with a skill or knowledge of their own about how the system works and how to use it to their own advantage and with a premeditated motive.

I do not agree with the lawyers who claim that the High Court decision in Cummins ‘reaffirms that the Bankruptcy Act already has enough teeth’. The reason I do not agree with this assessment is that the High Court overturned a decision of the Federal Court which held in favour of Cummins, if I understand the matter correctly. The minority judge in the Federal Court, with whom the High Court agreed, said:

…it beggars belief to suggest that by August 1987, after spending over twenty two years in practice at the New South Wales Bar … without paying any tax … that he was not fully conscious of his exposure to the (tax) Commissioner …

What the High Court decision means is not that the Bankruptcy Act as it now stands has enough teeth but that the trustee in bankruptcy had to battle all the way to the High Court and await the decision handed down on 7 March 2006 before being in a position to pay the creditors of Mr Cummins. Mr Cummins was guilty at the outset but he had to be dragged through an expensive process to make sure that the facts on the face of the case were as they were stated, because he defended himself all the way through. We know he is entitled to do that, but when somebody’s fingerprints are on the knife and you find them with their hands on the knife and the knife is in the body, they might be able to defend themselves all the way to an appeal to the Governor-General but nevertheless their hand was on the knife, and that is essentially what the High Court found with respect to Mr Cummins and his tax affairs.

We are all fully aware of the delays in the court systems in all states and, as the saying goes, ‘justice delayed is justice denied’. There is no doubt that some of Mr Cummins’ creditors would be so disadvantaged by the length of this delay that their lives would have been irreversibly changed by it. I use that case because it has been a high-profile case but of course there have been many other cases which this legislation addresses. It has been controversial legislation. There was concern about retrospectivity which I understand has now been addressed. The Australian Democrats think that, despite some worries at the margins—as I say, there is a fear that in some cases spouses who do not deserve to be caught in the web might end up being caught in decisions—this is a necessary change to the law and we support it. I am sure the Attorney-General’s Department will continue to watch this area of law to make sure that the law has its proper and intended effect.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.21 pm)—The government welcomes the support of other parties in relation to the Bankruptcy Legislation Amendment (Fees and Charges) Bill 2006 and of course it will strengthen existing anti-avoidance provisions in the Bankruptcy Act 1966. Senator Murray has touched on many aspects of that and of course this is something which there is a
great deal of concern about in the community. I commend the bill to the Senate.
Question agreed to.
Bill read a second time.

Third Reading
Bill passed through its remaining stages without amendment or debate.

MINISTERS OF STATE AMENDMENT BILL 2005
Second Reading
Debate resumed from 1 March, on motion by Senator Kemp:
That this bill be now read a second time.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.22 pm)—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’ pay 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 salaries 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 of the principal executive officer band with effect from 1 July 2005. These new rates have flowed to senators, members and ministers. The act currently limits the sum appropriated to $2.8 million. This sum needs to be increased to $3.2 million to meet increases in ministers’ salaries in this financial year and to cover any possible increases in the future following Remuneration Tribunal reviews. I commend the bill to the Senate.
Question agreed to.
Bill read a second time.

Third Reading
Bill passed through its remaining stages without amendment or debate.

POSTAL INDUSTRY OMBUDSMAN BILL 2005 [2006]
Consideration of House of Representatives Message
Consideration resumed from 12 September 2005.

House of Representatives message—
(1) Schedule 1, item 11, page 19 (line 32) to page 20 (line 5), omit subsection (2A).

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.24 pm)—I move:
That the committee agrees to the amendment made by the House of Representatives to the bill.

Senator MARSHALL (Victoria) (8.25 pm)—The opposition will not insist upon this amendment. I seek leave to incorporate a statement on behalf of Senator Conroy.
Leave granted.

Senator CONROY (Victoria) (8.25 pm)—The incorporated statement read as follows—
Labor supports the introduction of a Postal Industry Ombudsman. It is a policy that we took the last federal election. Consumers should have access to a low cost, simple procedure to resolves disputes with postal operators. It is regrettable that the Government has decided to reject these amendments because they would have resulted in a better scheme.
The Ombudsman that will be established under this bill will only have jurisdiction over Australia
Post and any other operator that chooses to join the PIO scheme.

Of course Australia Post is the largest postal operator in this country but there are several other large firms competing in the market.

Firms like Toll Holdings, DHL, UPS, Allied Express and TNT compete vigorously in the parcel and courier markets.

Labor’s amendments which were endorsed by the Senate last March would have broadened the scope of the Ombudsman scheme to capture all large postal operators.

I am talking here about companies with more than 20 employees or turnover of more than $1 million.

It is disappointing that the Government has decided to deny the benefits of the ombudsman to consumers and businesses that use the services of large private postal operators.

While Labor remains of the view that the Government’s ombudsman scheme is flawed, we do not intend to try and delay the passage this bill.

The Government first promised to establish a Postal Industry Ombudsman nearly 4 ½ years ago before the 2001 election.

This is a reform that is long overdue.

Labor will monitor the operation of the scheme and will strengthen it if necessary after the next election.

Question agreed to.

Resolution reported; report adopted.

APPROPRIATION BILL (No. 3) 2005-2006

APPROPRIATION BILL (No. 4) 2005-2006

Second Reading

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

That these bills be now read a second time.

Senator MURRAY (Western Australia) (8.26 pm)—I rise to speak on the Appropriation Bill (No. 3) 2005-2006 and the Appropriation Bill (No. 4) 2005-2006, which I shall discuss concurrently. The Appropriation Bill (No.3) appropriates sums additional to those sought through the Appropriation Act (No. 1) 2005-2006 for the ordinary services of the government. Similarly, the Appropriation Bill (No. 4) appropriates sums additional to those sought through the Appropriation Act (No. 2) 2005-2006 to fund unbudgeted administered expenses and non-operating costs.

The additional amounts to be appropriated are valued at approximately $2.6 billion, with this amount split more or less equally between both bills. In isolation, $2.6 billion sounds like a large sum of money to be appropriated but, with respect to the funds appropriated through the government budget for each portfolio represented in these two bills, the additional appropriations only represent less than five per cent in additional funding requirements. Moreover, the money bills in totality—that is, all annual appropriation bills—as a category only represent as a rough rule approximately 20 per cent to 25 per cent of annual Commonwealth spending. Thus, to extend my funding analogy, the $2.6 billion that we are discussing here today represents a tick over one per cent of the total funding needs for this government for the 2005-06 fiscal year.

Now that we have some perspective on these additional appropriations, there are a couple of points that I wish to make which repeat some of the points I have made before but which I think are necessary to emphasise on a regular basis. Firstly, we are here today under the guise of good governance to approve an extension of budgetary spending by the government. That is very proper. However, these two bills only offer a semblance of that good governance because, as I have already remarked, between 75 per cent and 80 per cent of government funding, which is the critical mass, bypasses parliamentary approval and oversight as it is channelled via standing appropriations in the various bills.
that have gone through the parliament over time. Standing appropriations mean that the funding is permanently enshrined for the period designated in the various acts.

This government’s use of standing appropriations is not unique—it follows a long trend of other governments. And that use of standing appropriations, in preference to annual appropriations via parliamentary money bills, is overall the antithesis of good governance principles—although I must stress that there are occasions when the case for a standing appropriation is validly made. One such seems to have been the recent aged care bills where the case was put that the nature of the call upon bonds in aged care required a particular form of standing appropriation to insure that the response could be prompt and to the point.

In general, there is no administrative or other merit in seeking to exempt the use of public funds from regular parliamentary scrutiny and approval. Yet standing appropriations have this very consequence and they have, to this date, continued to grow unchecked in Australia and are at a far greater extent, it seems, than in other like jurisdictions. Fortunately, the parliament is growing more alert to this danger and there is greater reporting of the matter and reaction to these occurrences. The numbers of special appropriations and special accounts and the amounts of expenditure involved have steadily grown over the 100 years of the life of the Commonwealth. Sometimes we find ourselves in the ridiculous situation of participating in a parliament where its historical prime power, which is the power to deny a government its funds, is actually completely emasculated or hamstrung.

The due process of parliament approving additional government expenditure is a significant and important occasion, but today we are reviewing just one per cent of annual government funding. As one per cent, of course, it is not significant; as $2.6 billion it is extremely significant. So there you get the alternative views.

Other countries, some of our close peers, acknowledge and understand the undermining effect of standing appropriations. In the United Kingdom, for example, standing appropriations are reported to amount to only one-third, as a percentage, of that experienced here in Australia. So the government of the day is still largely accountable to the parliament in the United Kingdom for its annual budget.

More concerning still, in a report on the financial management of special, standing, appropriations in November 2004, the Australian National Audit Office found widespread illegalities and lack of accountability and control in the management of these appropriations. These were largely described as technical offences by many people. There is no evidence, and hopefully none will ever emerge, of corruption or fraud, but there is certainly evidence of mismanagement and bad process. More than half of those appropriations were not properly reported by departments and agencies in their annual financial statements, according to the Audit Office. From my interactions with the Department of Finance and Administration I know that DOFA were not at all pleased about that matter.

As I have already stated, these two bills seek to appropriate an additional $2.6 billion in funding. Items of note include: $104 million for business assistance for the fishing structural adjustment package to support the sustainability of Australian government managed fisheries; $110.7 million for the workplace relations reform package—there will be lots more coming there, I am sure; and $111.8 million for the Department of Defence to fund operations in Afghanistan. I
should say in passing that I think it is very important Australia continues to commit itself to Afghanistan and to helping that country recover from its past. There is also $304.3 million to support primary producers eligible for exceptional circumstances assistance, and $346.3 million in GST compensation payments to the states and territories—for which they can thank the coalition and the Democrats for passing that secure and growing funding source.

I hope that the increasing attention the parliament is giving to matters of standing appropriations, and concern that appropriations should revert to an annually supported basis, will give the government pause in this area. We hope that they do not continue to try and advance standing appropriations above the percentage that presently applies of between 75 and 80 per cent. In fact I hope it falls back somewhat, because of the dangers when funding is not subject to the kind of scrutiny that an opposition can provide, supported by the cross-benches when they are able to do so. A government that is not accountable to its people will not be able to claim to govern with a mandate, and a government that governs without a mandate will be nothing but a parliamentary dictatorship which is sourced by funds pre-established under other guises.

In closing, I must say that we do support these appropriation bills. The Democrats have no reason to question these allocations and we have long held the belief that funding for the ordinary services of government should not be blocked, although obviously we have regularly in the past opposed new measures for new appropriations. Therefore, these bills should pass.

Senator SHERRY (Tasmania) (8.35 pm)—I rise to speak in support of the appropriation bills. Appropriation legislation is traditionally an opportunity to speak on any particular issue that a senator wishes to focus a policy speech on. I want to speak tonight on some economic issues. Last Friday week we learnt that Australia racked up its 46th consecutive trade deficit in January, at $2.7 billion, which is the highest on record. Our trade balance is the ultimate barometer of Australia’s capacity to compete in the world and to sustain our prosperity into the future. The trade balance in our case is a trade deficit—that is, a deficit of imports over exports—and one that, as I said, reached $2.7 billion in January. And a trade deficit ultimately leads to an ever increasing national debt—a debt that the Australian economy and Australian citizens owe to the rest of the world.

Persistent deficits are a consequence of a number of factors. Firstly, there is the issue of productivity. Our productivity, which was fast approaching the US levels in the 1990s, has subsided substantially in recent years. Tonight I want to touch briefly on some of Labor’s plans to reverse the decline in our productivity and competitiveness and turn around our trade balance. The trade balance, the deficit itself, of course, and the national debt have to be funded. That is done through the importation of capital or foreign investment from overseas. The reason that occurs is because Australians at the present time are dissaving. For the last three to four years in the Australian community, household savings have been negative. As a consequence of that, we need to import the capital to sustain the trade balance and the trade deficit and in order to contribute to economic growth. There is no option. I am not a person who is opposed to importing capital. It is a necessity. Australia has done that for I think almost all of 200 years since European settlement. But we could do far better in respect to national savings in order to fund a larger proportion of that trade deficit.
Australia over the last 14 years—and I do emphasise 14 years, not just the 10 years under the Liberal-National Party rule—has enjoyed great prosperity and uninterrupted growth. The economy has been resilient in the face of a number of economic shocks—for example, the Asian crisis and the dotcom meltdown. The Australian economy was remarkably resilient when those economic shocks occurred. The Treasury Secretary, Mr Henry, recently explained this resilience as a result of three key developments in the 1990s. He attributed it to the floating of the Australian dollar, the increased emphasis on the supply side of the economy and the adoption of a medium-term framework for economic policy.

Speaking on behalf of the Labor Party, the Labor Party was a significant contributor. In terms of the floating of the Australian dollar, Labor in government took that decision. It was a significant contributor to the increased emphasis on the supply side of the economy. So Labor does claim ownership of and was the architect of certainly the first of those key factors. It is largely responsible for the second of those key factors. Labor is proud of the economic reforms that it undertook during its 13 years in government. They have greatly assisted our recent economic prosperity, as I said, over 14 years.

We have recently seen the almost seamless shift in the economy, underwritten by record house prices, to record commodity prices, which are assisting to keep our economy buoyant. However, there are some issues beneath the buoyant surface which concern the Labor Party. I have already referred to one, which is the very significant trade deficit at a time of record commodity prices. If it were not for the record commodity prices, we would be facing a New Zealand type meltdown on our current account deficit and our national debt.

But Labor recognises that Australia does need a long-term plan to lift our competitiveness and sustain our prosperity into the future. The central issue is why, when commodity exports are earning their highest prices in a generation, is Australia not running a trade surplus? It is running a massive deficit. Unless we can lift our export performance, the very good economic growth rates over last 14 years will be things of the past. Unless we can turn our trade deficits into surpluses, our foreign debt, which reached $473 billion in 2005, will continue to climb.

Senator McGauran— I’m waiting for your policy!

Senator SHERRY—I was going to say, Senator McGauran, that we are waiting for National Party policy across a range of areas, but that response is not relevant to you anymore. Senator McGauran took that decision to continue to be a doormat but at least a Liberal Party doormat. We had a foreign debt level of $473 billion in 2005. Unless urgent long-term plans are put in place to at least try to reduce the trade deficit, it will continue to climb.

Senator McGauran—And they are?

Senator SHERRY—Just hang on, Senator McGauran. I have another 13 minutes.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Can you direct your contribution to the chair, Senator Sherry, and ignore Senator McGauran.

Senator SHERRY—I will. You are right, Mr Acting Deputy President—I should ignore Senator McGauran, as the National Party has had to do for some time. At the heart of the issue is our slump in manufactured exports. From double-digit growth in the 1990s, it has almost halved. We are now in an absolute decline in terms of manufacturing exports. As a result, since the year 2000 Australia has shed over 115,000 manu-
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facturing jobs. That is 10 per cent of the manufacturing workforce that has gone in the last six years.

I know that some shrug and take the view that manufacturing decline is inevitable—we just cannot compete with China and India, and that is the end of the matter. That is not a view that the Labor Party holds. At a recent CEDA seminar held in Melbourne entitled ‘Can, or Should, Australian Manufacturers Compete against China and India’, the example of Berri Ltd was given. Berri has been exporting packaged juices to India since the late 1990s. That is a value-adding of a primary industry manufacture—in this case, juices. It holds some five per cent of the Indian market and is experiencing growth of 30 per cent a year. There are some significant opportunities to sell higher-value-added goods such as clean, safe and high-quality food products into India and China and also to open up markets in other sectors.

If you look at the two countries, India and China are experiencing rapid growth and rapid ‘middle-classing’. The demand for products and services is rapidly rising with that increase in disposable income. Australia needs to redouble its efforts to re-engineer existing processes and develop new products to fit the demands of these two emerging economic superpowers—and they will be economic superpowers, there is no doubt about that.

Labor recognises that the world economy is changing, and we must change with it. Less than 50 years ago, agriculture, manufacturing and services contributed almost equally to global GDP. Now services account for over two-thirds of wealth generated in the global economy, yet Australia’s service exports are just four per cent of our gross domestic product. That is the third-lowest in the OECD and just one-third of the OECD average. So we do have some very great opportunities to position ourselves with India and China in a vast array of service industries, for example: biotechnology; medical research; the environment, information and communication technologies; financial, professional and technical services; education; and health care.

Now to Labor’s strategy in the light of these challenges for the next 20 years. First, we need to recognise that, as Asia lifts its game, we need to match and even exceed it. We must understand and invest in our strengths. We must know in which way the trade winds are blowing, and focus accordingly. Industry by industry, businesses, workers and government need to work together to offset Asia’s low-cost advantage and open new markets. Labor believes that we need to lift our productivity. This is central to our economic challenge. That is the only way to improve our competitiveness, turn around our trade performance and secure our prosperity for the future.

There are eight pillars attached to this strategy that I would like to comment briefly on tonight. Firstly, it is built on the foundation of budget discipline. Before I go on to this, let me comment briefly on workplace relations, which has occupied considerable attention not just here but also in the Australian community over the last six months. Labor does not oppose changes to workplace relations, but we do oppose most of the government’s changes. They are the wrong changes.

We know from Senate estimates, where I sought answers to questions, that Treasury has only carried out limited analysis on the claims that these workplace relations changes will lift employment and grow the economy. That is the constant mantra of the current Liberal government. But Treasury’s own limited analysis did not support the government’s central contention and the
proposition that the changes will lift productivity. There is ample independent evidence that questions whether they will deliver higher productivity. This includes a damning critique from the government’s own favoured expert, labour market economist Professor Mark Wooden. When the budget is delivered in May, which is not so far away, Labor will be presenting alternative proposals for genuine productivity and workplace reform. There will be a blueprint speech by our leader, Kim Beazley, as there has been on a number of issues over the last few months.

Labor knows that, first and foremost, business needs a stable macroeconomic environment to flourish. All policy options must be measured against the overriding objective of keeping the budget in balance, on average, over the course of the economic cycle. How does that translate to the upcoming 2006-07 budget? We are enjoying strong budget surpluses. The prediction in the government’s Mid-Year Economic and Fiscal Outlook that revenues will exceed expenditure by over $42 billion over the forward estimates period is more likely than not to be revised up at budget time. In other words, fiscal policy has tightened since the mid-year economic forecast, which explains recent comments by the Reserve Bank governor suggesting that fresh tax cuts would not necessarily trigger an interest rate response.

Labor is very aware that a significant proportion—some analysts say as much as half of the likely surplus—would arise from a temporary surge in tax revenues, in particular corporate tax revenue, off the back of the recent and continuing record commodity prices. There is ample scope to outline and begin funding a major tax reform package but there is a strong case against using any of the temporary windfall to fund recurrent spending or permanent tax cuts. So Labor argues that you could quarantine the temporary surplus in the Future Fund or it could be applied to some non-recurrent investment where such investment eases capacity constraints, infrastructure and inflationary pressures. This year’s budget should be about striking the right balance between setting in train some meaningful tax reform and investing in the productivity and export potential of the economy.

Labor’s view in terms of constraints and fiscal discipline is that there are eight pillars for growth. The first is reform of the tax system so it offers real incentive, is competitive and simpler. We could increase our workforce capacity and productivity by investing in skills and education, rather than importing both skilled and unskilled labour from overseas, which this government is becoming more and more reliant on. We could remove export bottlenecks by showing national leadership on infrastructure—again, I must say that we share some concerns with the National Party. I acknowledge that the National Party have at least referred to the problem but not done much about it. Infrastructure is a very important issue for Australia.

We could get the regulatory burden off the back of business by adopting new, simpler, flexible and competitive regulatory models. I have been doing some policy work—and this will be announced too—in respect of regulation of the financial sector. If you asked anyone in the finance sector: ‘Is there less red tape and regulation applying to your sector today compared with 10 years ago?’ they would laugh at you. There are significant and onerous new red tape requirements on the financial sector that are very significant indeed.

Another pillar is removing road blocks to developing and commercialising new products and services, accepting that only cooperative federalism as distinct from dictated centralism, which we are seeing from this government, can deliver real reform and deal
with state governments of all persuasions in good faith. Another is raising workforce participation by strengthening incentives for people to move from welfare into work. Another is fostering a domestic savings culture and reducing our reliance on foreign savings. I referred earlier to the fact that we are now more dependent than ever on foreign savings to fund our current account. I have no philosophical objection to importing capital. It is a necessity when our household savings have been negative over the last three to four years.

There is much more I want to say, but time is limited. I will be making some further economic comments about Labor’s agenda for economic growth—fiscal discipline, budgetary discipline and dealing with the issues of savings, the current account deficit and the national debt, which are important economic issues. I will have a lot more to say about that in future contributions.

Senator SANTORO (Queensland—Minister for Ageing) (8.53 pm)—in reply—At the outset I would like to thank Senator Murray and Senator Sherry for their comments and for their support of Appropriation Bill (No. 3) 2005-2006 and Appropriation Bill (No. 4) 2005-2006, which we have been debating this evening. As honourable senators have stated, the bills request new appropriations of approximately $2.6 billion. People out there who are listening to this debate may be asking, ‘Why do we need to appropriate $2.6 billion?’ and the reason is worth restating. The requirement for additional funding arises from policy decisions taken by the government since the last budget, most of which were described in the Mid-Year Economic and Fiscal Outlook document published in December last year. However, they were also necessitated by changes in the estimates of program expenditure due to variations in the timing of payments and forecast increases in cost and because of reclassifications and funding movements.

I listened with great interest to the contributions of Senator Murray and Senator Sherry. I listened to quite a bit but not all of Senator Murray’s contribution, and I listened to the whole of Senator Sherry’s contribution. I appreciated the tone of it, but the content of it seemed to suggest that the economic prosperity and all the good social consequences that come from the economic prosperity are the result of Labor Party policies implemented during their term—or it is wishful thinking by the Labor Party whilst they have been in opposition. From our point of view it really is worth restating the economic achievements of this government. I will not take all night, and I certainly will not take up all of my time, but in order to respond somewhat to Senator Sherry’s statements it is important to say that these additional estimates do support the government’s budget and economic management and they do request funding for important initiatives and the maintenance of government initiatives which in fact have put Australia in the great economic and social condition that it is in at the moment.

The government obviously stands by its performance and economic management. I will not accept the tacit or explicit criticisms of Senator Sherry. Since 1996, the Australian economy has seen a long period of sustained, strong growth. In 2005-06, the economy is forecast to grow by three per cent. During the sustained period of growth, the unemployment rate has been reduced while inflation and interest rates have been kept low. If we are looking for clues as to why Australia enjoys the economic advantage and strength that we are able to boast about, it is mainly because of those two achievements—low inflation and low interest rates. They have created the business certainty, as a result of which small businesses in particular have
been able to plan their economic activities and production in a way that has certainty.

The official interest rate has fallen from 7.5 per cent in March 1996—that date being, of course, when the people of Australia saw Labor off—and it is five per cent at the present time. At the current rate of 5.3 per cent, unemployment remains the lowest since monthly labour market statistics were introduced in February 1978. That is certainly an achievement worth noting, and that achievement has been under the Howard-Costello Liberal-National Party coalition government. Inflation remains moderate. The CPI rose by 0.5 per cent in the December quarter of 2005, and it increased by 2.8 per cent through the year. In terms of the fiscal record, there are other major boasts that we can make tonight. The government have reduced net debt, which we inherited from the Labor Party, by $85.3 billion to $11.5 billion in 2004-05. As a result, Australia is able to boast of having one of the lowest government net debt levels in the OECD. That is worth restating.

I heard Senator Sherry talk about the eight pillars of the Labor Party’s forthcoming economic statement, which will guarantee the economic growth and stability that previous Labor Party policies in government were not able to guarantee. We wait to see what is different in terms of the forthcoming economic statements by Mr Beazley and Senator Sherry in this place. Senator Sherry talked about budget discipline, reform of the tax system and greater funding for skills and education. The figures that Australia is able to quote as being its proud economic boast are in fact the result of budget discipline, reform of the tax system and massive, record increases in the funding for skills and basic education in Australia. That has happened since 1996 under the Howard-Costello Liberal-National coalition government. In the event of, God forbid, a Labor Party victory at the next election, Australia may still stand a chance of prospering if Labor’s policies reflect ours. But why go with an imitation rather than the real thing? That is the problem that you on that side of the chamber are all grappling with at the moment. We will leave that to you to come to grips with.

In terms of workplace relations, I can only say to Senator Murray, and also in response to Senator Sherry’s comments about the lack of any serious research on the impact of workplace relations policies, that the workplace relations policies which came into effect on Monday do not represent a revolution in workplace relations reforms. They are part of an evolutionary process that has been adopted by this government over the last 10 years. That evolutionary process has seen the ordered, considered and sensible introduction of reforms, the results of which speak for themselves. The Treasurer does not have to go about undertaking extensive research and extensive surveys about the impact of the additional workplace relations reforms that were introduced on Monday, because our track record speaks for itself. I have just outlined it. So this suggestion that we need to have research to justify our introduction of further reforms to the system just does not stack up. We stand by our record. As we say day after day in this place in answer to questions, our track record speaks for itself and that is why the people of Australia have elected this government on four successive occasions. They will continue to do that as long as we keep on delivering the goods. It is our intention to keep doing that.

I heard Senator Sherry speak about budget surpluses. He obviously admired budget surpluses and made some suggestions on how we should consider spending the budget surpluses. I will tell you what we will continue to do: we will continue to retire Labor Party debt to the point where there will not be any more debt to retire. We will continue to pro-
vide tax cuts, as we have been doing in successive budgets and successive statements.

Senator Murray—We want tax reform.

Senator SANTORO—We will continue to provide tax cuts, and I will take Senator Murray’s interjection. I think that tax reform is another way to describe what we have been doing for the last 10 years. We will continue to fund essential services and we will continue to fund essential national priorities such as vocational education and training, and also education. We will continue to fund the states at record levels, with increased GST revenues. It is politically risk-free, ever-increasing GST revenue, which unfortunately most of the states do not spend as efficiently as the people in those states wish them to. That is the story of budget surpluses under this particular government.

In conclusion, the government have overseen a fiscal strategy that has helped to deliver strong economic and employment growth coupled with modest inflation, as well as a sound fiscal position. These two appropriation bills will build on that very significant and, from our point of view, proud record. I commend the bills to the Senate. I move:

Debate (on motion by Senator Santoro) adjourned.

BUSINESS
Rearrangement

Senator SANTORO (Queensland—Minister for Ageing) (9.04 pm)—by leave—I move:

That, on Thursday, 30 March 2006, the routine of business be varied to provide that the government business orders relating to the following bills be considered immediately after Prayers:

Telecommunications (Interception) Amendment Bill 2006

Family Assistance, Social Security and Veterans’ Affairs Legislation Amendment (2005 Budget and Other Measures) Bill 2006

Cancer Australia Bill 2006.

Question agreed to.

ADJOURNMENT

Senator SANTORO (Queensland—Minister for Ageing) (9.05 pm)—I move:

That the Senate do now adjourn.

Mental Health: Mount Hawthorn

Senator JOHNSTON (Western Australia) (9.05 pm)—In this adjournment debate I would like to make a contribution, and I want to talk of injustice, a total lack of consultation by a very arrogant state government in my home state of Western Australia, a lack of consultation by its officials and a minister who should know better but who grows increasingly arrogant and distant from the views and aspirations of ordinary Western Australians. The lack of provision of mental health services in Western Australia has become such a problem that even the state government can no longer sit idle, ignore it and deny responsibility for it. And so it was that in October 2004 the Hawthorn Hospital in the Perth suburb of Mount Hawthorn closed and ceased to function—

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Order! I am finding it difficult to hear Senator Johnston.

Senator JOHNSTON—as a respite aged care facility—

The ACTING DEPUTY PRESIDENT—It is unruly to walk between the speaker and the Chair, Senator Watson.

Senator JOHNSTON—after more than 70 years in service. Then in February 2005 the state agency Office of Mental Health formed a planning committee for the Hawthorn Hospital site. This was all in secrecy and in confidence, without any of the public
being made aware of it. By August 2005 this agency had made its intentions known to the planning department of the responsible local government authority, namely the town of Vincent.

The planning department at that point gave to the Office of Mental Health some sage advice. It told the office not to lodge any application concerning the Hawthorn hospital site until it had implemented a community dialogue. Sadly, this advice was ignored arrogantly and contemptuously. On 22 September 2005 the state health department lodged a formal development application for this site and continued to thumb its nose at any form of community dialogue or consultation. Around 27 September a very small number of immediate neighbours to the site had received by hand some information packages which, to say the least, caused concern amongst those residents. So the wider immediate community soon became aware of the plan to develop the site into a 20-bed step-down facility, or interim care facility, for people who had been receiving intensive psychiatric treatment. There was no explanation or disclosure as to what this meant in terms of the ongoing and practical use of the site.

By 1 October 2005 a residents advocacy group had formed to represent approximately 60 households in the immediate vicinity of the hospital. On 6 October the town of Vincent convened a public meeting with the health department wherein the residents sought further information as to the development, as you would expect that they would. Astonishingly, many obvious questions as to the department’s intent with respect to the site were ‘taken on notice’ and information was not forthcoming—in other words, a quaint parliamentary device, which we all know, was used to fob off the residents’ questions as to what was proposed for the development of the site. This quaint device was used by the state health department to actively deny information to the residents.

This in turn achieved two very important things: firstly, suspicion as to what the department had to hide and, secondly, a great deal of anger that the process was clearly contemptuous of their right to be fully informed as to what was planned for their community. Needless to say a further element was enlivened—a great sense of injustice at the tardy treatment meted out to the local residents by the department and the minister.

Having got to this point I want to briefly turn to the issue of mental health. The anger and injustice that I have adverted to has nothing to do with the residents advocacy group’s attitude or disposition to the provision of mental health facilities in their community. My colleague in this place, Senator Webber, also from Western Australia, has in three speeches now in the Senate set out her passion and concern for the mentally ill in Western Australia and highlighted the need for care facilities. I must say I share her passion and concern as does almost every senator and member in this parliament. I must say to Senator Webber, however, that a sense of awareness and compassion for people suffering a mental illness is not advanced in any degree at all by an arrogant, dictatorial approach or process to the provision of those services into our community—and that is what we have seen in Mount Hawthorn.

May I say that the conduct of Minister McGinty and the department has done a lot to set the cause of mental health back many a long year. Indeed the concerns of the residents action group have been pilloried as bigotry and the residents have been attacked for having the temerity to want a dialogue and information as to what is proposed. May I also say that Senator Webber should not allow her passion and empathy for mental
health to overshadow her responsibility to allow all sections of the community to be informed, to be heard, to have their views and concerns properly considered, and to not be pilloried as being prejudiced against mental health institutions. To fail in this is to trample on many fundamental principles of consultation, equity and fairness. The end cannot ever justify the means.

When the local mayor, who is a former Labor state member of parliament, the local member of state parliament, a Labor member, and the mums, dads and families are in agreement and come together about the unacceptable nature of the process, the outrageously arrogant process that has been thrust upon them, what does that say? It says that the minister and the department have failed the mental health patients to be put in this facility and have failed the residents. This whole sorry saga is an exercise in mismanagement and maladministration. Further to this, I should put on the record that the residents do not complain about the fact that this facility is to be a mental health facility; they complain about the planning. Sixteen people will be put into this intensely developed residential suburb. The traffic issue alone is one that is of great concern, with children going to school and people coming and going et cetera.

I see some senators on the other side saying, ‘Oh, yes.’ Again, because you complain about not being consulted, you are pilloried as if you are prejudiced. That is just outrageously unfair. I might also say that non-English-speaking residents who are neighbours of this facility have never been engaged or consulted. That too is a disgrace. The consultation process—if it can be called that—has been disingenuous, farcical and phoney. The residents seek consultation. That is all they are asking for—a steering committee and consultation. I would not have thought that was too much to ask. Of the 1,000 residents from the immediate vicinity surveyed, 78 per cent were opposed. I do not believe that is about mental health. I think it is more about the shockingly inept consultation process that has been brought to bear.

In closing, I want to read from a local newspaper in Western Australia:

The Mt Hawthorn proposal has fuelled a war of words, with Town of Vincent Mayor and former Labor MP Nick Catania this week blasting Mr McGinty and the State Government for trying to impose on to the community a project he says it clearly does not want.

Mr Catania, whose council recently withdrew its approval for the Mt Hawthorn redevelopment, said that a survey of 1000 residents showed 78 per cent objected to having a mental-health facility in their back yard.

He claimed the Government had not consulted the local community enough about the project, leaving the council to face the music.

“This is typical of McGinty’s bull-at-the-gate approach,” Mr Catania said.

And that is one Labor man talking about another. It goes on:

“Instead of consulting with them first, so that they are part of the solution, what he is saying to residents is, ‘I am going to hit you across the head and will put this facility in your back yard whether you want it or not’.

“They have created a hostile environment by not consulting and now this dopey minister—this idiot of a minister—is stating that the community is unreasonable for opposing this project.

“This Government, this minister and his health department have been negligent in the caring of mental health patients.”

That says it all about the process. It has been pathetic. This issue is not over, and this bullying state government had better start doing things properly with respect to this development and the basic rights and entitlements of the local residents and not arrogantly and contemptuously ride roughshod over those rights and entitlements. The residents need it and so do the patients.
Child Sexual Assault

Senator MURRAY (Western Australia) (9.15 pm)—I thought for my adjournment speech tonight I would try again to raise the appalling crime of child sexual assault, both past and present. I was prompted to do so by an article sent to me by one of a number of priests campaigning internationally against this scourge. Right at the outset I will ask why some politicians who so loudly proclaim their concern for families or so publicly parade their religion or are so forthright on conscience votes on religious or quasi-religious matters are so quiet on the issue of the sexual abuse or the sexual assault of children. I wish it were not so.

The sexual assault of children remains a matter of such widespread and national concern that it does require the federal parliament and the federal government to take up the gauntlet. Other governments have—for example, the Irish and South Australian governments. I raise this issue again, not only because it involves our most vulnerable and precious community members, our children, but because so many Australian adults—hundreds of thousands of them—experienced sexual abuse or sexual assault as children and suffer for that today.

Currently, the South Australian commission of inquiry into children in state care, set up by Premier Rann, has revealed a staggering amount of sexual crimes committed against children. In that state alone, Commissioner Mulligan estimates huge numbers of children under the age of 16 are likely to have been or are being sexually abused or sexually assaulted. Two recent Senate Community Affairs References Committee inquiries have also revealed just how widespread the sexual assault of children has been and continues to be for those in care. These were the 2001 child migrant inquiry and the 2004 children in institutional care inquiry. Many other studies in Australia talk of a large problem in families and in society at large. Those Senate inquiries also exposed the tragic long-term social problems a survivor may experience in adulthood, which include welfare dependency, criminality, addictions and mental illness—all problems which result in huge budgetary expenditures.

Evidence also reveals that, in the sordid records of sexual abuse and sexual assault, the church in all its manifestations has historically figured prominently. Here in Australia, the Catholic, Anglican and Uniting churches have all been implicated, as has the church-based organisation the Salvation Army. This is not something to run away from. It is something to tackle head-on. A number of leading religious figures have been determined to tackle this problem forthrightly, and I support them in doing so.

Take the case of our close ally the United States. The big Catholic archdioceses of Boston, Philadelphia, Chicago and Los Angeles have been rocked to the core with this problem. They now face the task of rebuilding trust and confidence among their laity and their clergy. This situation is confirmed in an article titled ‘An American epiphany’ published in the international Catholic newsletter The Tablet on 21 January 2006. I commend it to the Senate; it is a good article to read. It starts with a piece that appeared back in 2002 in the Boston Globe which told of the sordid goings-on in the Boston archdiocese. It told of how church officials in what was then the proudest bastion of Catholicism in the United States had knowingly relocated a serial paedophile priest many times to many parishes, without punishment, because of repeated allegations of sexual assault. They just moved him on. The Tablet article also reveals how the revelations in the Boston Globe acted as a catalyst to many more allegations of sexual assault by priests and other church workers across the United States. To
the great credit of the United States Attorneys-General, they took action.

Four years and hundreds of cases later, the damage to the Catholic faith in the United States is enormous; but many admirable Catholics are leading the way to facing up to the problem and recovering from those times. The article tells us of how compensation paid to sexual assault victims in America now exceeds $US1 billion; of how dioceses have been declared bankrupt and others may follow; of how dioceses have been forced to endure parish and school closures, both because of and adding to the disenchantment among rank-and-file Catholics; of how bishops have resigned; of how local communities have been separated from the church as a whole; of how the senior American cleric Cardinal Law was forced to take early retirement because of his role in concealing the crimes and reassigning paedophile priests; and of how those priests who remain—many of them very fine people—endure a crisis of morale, having witnessed hundreds of their peers consigned to oblivion.

Unfortunately in Australia—with exceptions—neither our law officers or our media, our politicians or our priests have addressed the Australian problem adequately. They should have, because the evidence of children having been or being sexually assaulted is there. There are of course senators and members, including those on the Senate Community Affairs References Committee and others, such as Senator Santoro, who do recognise the gravity of this problem and have called for greater action by both federal and state governments and parliaments. The community affairs committee members endured many agonising hours reading and taking evidence from the survivors of child sexual assault, as revealed in the two unanimous reports of the Senate inquiries referred to earlier.

I am mystified as to how the federal government can ignore the pressing moral and social imperative to tackle the sexual assault of children and its consequences head-on. I am mystified because there are so many politicians amongst us who wear their morality or their religion on their sleeves but who fail to take up this challenge. It is even odder because hundreds of thousands of people are affected. Such selective morality is indeed perplexing. There are senators that rightly engage at length with issues such as stem cell research, abortion, internet pornography and the like, but when it comes to child sexual assault the propensity is for disengagement. Granted, it is a murky and unpleasant issue and one difficult to deal with. But protestations of disgust and empathy are just not enough. Nor is it enough just to handball the issue to the states and territories. It is just too complex an issue, as evidenced by the burgeoning crises in child protection systems across Australia.

It is the easy way out not to face up to this problem and we should not be going down that path. We do have a duty to support those members of the religious groups and those members in the community who are fighting to do something about this problem. We do have a duty to pursue problems of national importance and public concern, especially those that have such damaging long-term implications. Sadly, federally so far the political will to take the matter further has not been there. Nowhere is this better demonstrated than in Prime Minister Howard’s response to the call for a royal commission into child sexual assault. On rejecting this proposal, the Prime Minister stated on 13 May 2005 that he would rather spend the money involved in a royal commission on further service provision and early prevention initiatives than ‘lining the pockets of lawyers’. What a cop-out.
I am also bitterly disappointed at the failure of the federal government to agree to recommendation 6 of the Forgotten Australians report. This called for the establishment of a national reparation fund for survivors of abusive childhoods spent in institutional and other forms of care—one modelled on those already operating in Canada, Ireland and even here in Tasmania. Tasmania is far ahead of the federal government in trying to address this issue, as indeed is the South Australian government.

This failure by the Prime Minister and the coalition has left many survivors of sexual assault and sexual abuse as children so disillusioned. In a few sentences, the expectation that their government would finally right their wrongs was dashed and their long wait for a measure of justice for the crimes perpetrated on them as defenceless children has been sunk. They are again stuck with the only recourse previously available to them—either to go through the courts or through negotiations with those who managed or funded the institutions. Both avenues have proved unsuccessful, especially when our DPPs lack the spine of American attorney generals in being willing to take these matters up.

We do have the principal hurdle of limitation laws which effectively cause time to run out for many criminal and civil cases against the perpetrators. Or, on the other hand, we have church processes which are fundamentally adversarial and tend to revictimise the survivors. There are, fortunately, some church leaders and some churches which do not take that approach and are a great aid to people. Of course, there is Premier Rann’s government which is really trying to do something in this area. I urge all parliamentarians to turn to their conscience on this matter and engage in a serious way. You can start by reading the unanimous Senate reports. National leadership is vital and national leadership on this issue is a must.

Trade: Live Animal Exports

Senator McGauran (Victoria) (9.24 pm)—I rise to speak in strong defence of the live sheep and cattle trade in Australia, in particular in my state of Victoria. It is a significant export industry for Australia and a crucial market for our rural sector. It is a $1 billion export industry, making Australia the leading exporter in this field. It creates many thousands of extra jobs beyond the farm gate. As a measure of its importance to the farm gate and the saleyard sector, just imagine some four to five million sheep and some 800,000 cattle being thrown back onto the domestic market and into the cattle yards. You would have a crash in domestic prices, I would say, of greater than 20 per cent. This being the size and importance of live exports to our export industry and to our rural sector, it is amazing, perplexing and annoying that such an industry is in a very unjustified way under attack from extremists, the animal welfare groups known to all—PETA, Animals Australia and the ever publicity seeking RSPCA—that seek to close the industry down.

While the attacks on the animal welfare methods of the industry go back virtually to its origins, a benchmark event was the Cormo Express incident. It intensified the extreme and the outlandish criticisms of the industry. I will remind the Senate of that Cormo Express incident. In 2003 there was a shipment of live sheep left stranded when Saudia Arabia officials rejected its load. The hot sun and inability to unload for some 80 days caused many deaths and stresses on board. But there are certain points to be made about that incident. Firstly, it was an uncontrollable incident that related to the Saudi politics. Our exporters had no direct involvement in creating the incident.
Secondly, regardless of this, the government moved to establish the Keniry inquiry into the incident. As animal welfare matters arose from that incident the industry responded to the Keniry report. That has led to enormous improvements, placing Australia's live sheep and cattle trade at world's best practice. For example, a Cormo Express type incident cannot occur again as the protocols and contingencies are in place with other countries, like Kuwait, to unload and yard quickly should a recurrence eventuate. There has been a revision and implementation of new heat stress models and a comprehensive research and development program for exported livestock has been actioned. I note that in the Cattle Council of Australia 2005-06 yearbook it describes that R&D project as 'the world's most comprehensive program'.

In short, what was basically a self-regulatory industry is now under stricter government legislative management of the standards and codes. It is all working very well and the proof surely is in the death rates onboard. This has been the definitive benchmark used by the government, the industry itself and the animal welfare groups to ascertain the welfare and adherence to the codes and standards.

I refer to the department's Report to parliament on live-stock mortalities for exports by sea for the reporting period 1 July 2005 to 31 December 2005. They are quite remarkable results. For cattle export voyages, death rates were 0.14 per cent. For sheep export voyages, they were 0.97 per cent. They are remarkable results on any analysis. Anything less than one per cent is commendable if not stunning, given that anything of two per cent or over must be immediately reported to the parliament and the minister ahead of the official report. These are figures that are less than what would occur down on the farm itself. You will always have certain deaths on board or down at the farm, and these results are highly commendable. I should add that the Victorian port of Portland has the lowest overall sheep mortality rate in Australia.

Yet, in the face of these undisputable facts of improvements in welfare to the highest standards in the world and probably the lowest possible mortality rates you could get, the industry is still hounded by extremists with the aim of closing the industry down by using sabotage and distorted publicity stunts. The latest charade was the 60 Minutes show on 28 February, in which a segment showed cruelty to cattle at abattoirs in Egypt. The assertions and the cruelties which were purported to be shown in the segment were that the cattle were Australian, were being treated roughly, were having their tendons cut and were being cruelly slaughtered. If this were true, it would be bad. But it was not true; it was far from the truth.

It was typical of a set-up by extremist animal liberationists who seek to deliberately mislead. They were not Australian cattle, it was not an abattoir to which we send our cattle and the methods of slaughter were not common to Egypt. Rather, the practices are illegal even in Egypt. The whole story was a farce and should never have gone to air. It was a story pitched against a most credible and well-managed Australian livestock industry, but it seems that 60 Minutes and more so Richard Carlton, not surprisingly, decided to put credibility below sensationalism and wrap it up in misrepresentation.

There is no doubt that PETA and other extremist groups seek by any method to close down this vital economic industry. If that segment on 60 Minutes was not enough, only one or two years ago one of their followers took the extreme and dangerous action of contaminating the feed of sheep yarded in the Victorian port of Portland to be shipped out bound for the Middle East. There was a
rather strange contradiction between his action of contamination and his intent to protect the sheep. Even though he was charged with the crime, he got off scot-free, such were the loopholes in the law. Yet there was serious economic damage done. His actions of sabotage halted the shipment and caused damage to our reputation as a reliable supplier, let alone to the health and welfare of the sheep.

The industry deserves better because it up to world’s best practice. That is undeniable, and it is a vital industry to rural and regional Australia. Moreover, there is no alternative to this niche market. It is absurd to assert that the same product could be sold and transported packaged. That is not how our customers want it. Culturally, as well as religiously, they want it as a live animal. The meat and livestock industry of Australia reported that when live sheep trade to Saudi Arabia was halted in August 2003, the processed shipped meat was not in demand in that country as an alternative.

The industry deserves to be protected equally from both the propaganda war and the economic sabotage being waged against it. In particular, the states, which have power in these matters, ought to move tough uniform laws with regard to the intent to cause economic loss, so we can send a message to the animal liberationists that they will not get off scot-free and that they are accountable. Currently, the laws are weak and fail to properly protect against sabotage, disruption or violent protestors. We need to support the farmers, workers, business exporters and traders over the extremists, liberationists and plain mad who seek to destroy the industry.

Community Pharmacies

Senator WATSON (Tasmania) (9.34 pm)—Tonight I wish to raise some concerns about aspects of the cost savings proposals for the Pharmaceutical Benefits Scheme—often known as the PBS—and the impact that these savings are having on community pharmacies. Honourable senators would be aware that I have some interest in this matter, as my wife is a director and chief pharmacist of the Launceston Friendly Pharmacy—a pharmacy that distributes its profits to its members, supports the health needs of the wider northern Tasmanian community and provides scholarships for nurses going to the University of Tasmania.

Earlier this year, the *Australian Journal of Pharmacy* said:

Growth in spending on the PBS—the Pharmaceutical Benefits Scheme—has slowed to the point where Treasury now forecasts growth of only 2.2 percent for the 2005-2006 financial, adjusted by Treasury from the original 7.4 percent forecast in last year’s Budget.

Proposals for further PBS savings through changes to generic pricing were being considered by government for possible announcement in the May 2006 budget. The federal government—fortunately and wisely—has now decided to defer this decision until a later date. It was a wise decision to defer, because PBS growth is at its lowest level for at least two decades. It also follows closely on the recent signing of the fourth agreement between the Pharmacy Guild of Australia and the government. I report to the Senate that now is not the time to be considering further cuts to the Pharmaceutical Benefits Scheme. You, Mr Acting Deputy President Lightfoot, would be aware of the concerns of local community pharmacies in Perth and in Western Australia generally.

The slowing growth rate of the PBS was acknowledged in Treasury’s Mid-Year Economic and Fiscal Outlook published in December 2005. Treasury took $283 million off the budget forecast for Pharmaceutical Benefits Scheme expenditure for 2005-06. In the 12 months to December 2005, PBS prescrip-
tions were one per cent lower than in the same period in 2004. Also, in the 12 months to December 2005, government spending on the PBS grew by only one per cent—the lowest level of annual growth for at least two decades.

Recent government initiatives to rein in the PBS are having more than the desired effect. I submit to the Senate that they are having a deleterious effect in terms of the community pharmacy and their ability to discharge their responsibilities to the wider community. These government initiatives include the copayment increases of January 2002—$888 million in PBS savings; the 12.5 per cent generic measures—more than $1 billion in savings; and the changes to the safety net. These are all more than what the industry can really absorb and afford.

We had the much heralded fourth agreement between the Commonwealth and the guild, which has only recently been concluded after much protracted debate. The pharmacy sector were prepared to work to provide further savings of $350 million over the next four years. But the other measures that I have referred to pale into insignificance when compared with that general arrangement. Have they been conned? Pharmacists expect that they should be able to plan with certainty for the remainder of the five-year agreement. But these continual changes are impacting adversely on that ability to plan or even to make profits.

The slowdown in the Pharmaceutical Benefits Scheme growth not only results in the government savings compared with forward projections but also means lower community pharmacy revenue. With little or no growth in the PBS—which makes up the majority of a pharmacy’s sales—increases in expenses will reduce the viability of many pharmacies. Salaries, for example, have risen by an average of 8.9 per cent for the last seven years, while pharmacy rents have been increasing on average by 8.2 per cent a year over the same period.

Any of the generic savings proposals, if adopted by government, would completely undermine the goodwill of pharmacists established by the signing of the fourth agreement. Worthwhile initiatives, such as PBS online, which could result in billions of dollars in savings to government revenue over time, could struggle to receive any support from pharmacists if this bombardment of cost cutting continues.

The community pharmacy is at the end of the medicine supply chain, and charges to patients for PBS prescriptions are fixed. The proposed changes, as they have been publicised, could result in a minimum $50,000 cost to each pharmacy each year from lost PBS income. This is a significant sum to remove from pharmacy income and could jeopardise the viability of 50 per cent of pharmacies.

The pharmaceutical industry last year turned over some $15 billion and employed around 36,000 people. The proposed changes, if adopted, could drive drug companies offshore—as occurred disastrously in New Zealand—and force substantial cuts to the large body of research and development activity that brand pharma undertakes in Australia.

The community pharmacy has been recording declining gross margins for many years. An ever-decreasing share of PBS prescriptions has been the main source of this decline. Let me quote some figures. In 1984-85 pharmacy remuneration accounted for 46.5 per cent of PBS costs. By 1993-95 this had reduced to 27.8 per cent. For the last financial year, 2004-05, pharmacy remuneration accounted for just 20.1 per cent of PBS costs. This figure has declined every year since 1985-86 and is now at the point where
pharmacy PBS remuneration does not cover all the pharmacy expenses, which are approximately 21.4 per cent of revenue on average. This is before including the salary of a pharmacy proprietor, who would have to work at least 45 hours per week. If this is included, an average pharmacy requires a remuneration percentage of about 27.5 per cent just to break even. Clearly, the present trend is just not sustainable.

Earlier tonight the Senate passed the Therapeutic Goods Amendment Bill 2005—a bill which allows the Commonwealth to continue to deliver safe, high-quality therapeutic goods to the Australian people. But I would ask: what is going to be the role for community pharmacies in the future if they are just not there to deliver the sorts of services that the Australian community expects of their pharmacies? We see that the government has been quite successful in its goal to minimise PBS spending, but at what cost? I point out to the Senate that we must be aware of the needs of the community pharmacies. If we drive more and more pharmacies out of the market—as all of these measures will inevitably do—the government will have to take up the shortfall in the provisions of medicines to Australia, perhaps by a more costly avenue or through a vehicle which provides a lot less service and a lot less certainty to the people of Australia—through perhaps a Woolworths type chain. I regret the trends and I ask the Senate for its support.

Senate adjourned at 9.44 pm

DOCUMENTS

Tabling

The following government documents were tabled:

Australian Radiation Protection and Nuclear Safety Agency—Quarterly report for the period 1 July to 30 September 2005.

Migration Act 1958—

Section 440A—Conduct of Refugee Review Tribunal (RRT) reviews not completed within 90 days—Report for the period 1 July to 31 October 2005.

Section 486O—Assessment of appropriateness of detention arrangements—

Government response to the Commonwealth Ombudsman’s reports 017/05 to 019/05 and 020/06 to 048/06.

Reports by the Commonwealth Ombudsman—Personal identifiers 017/05 to 019/05 and 020/06 to 048/06.


[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]

ACIS Administration Act—ACIS Administration (Modulation) Guidelines 2006 [F2006L00885]*.


Civil Aviation Act—

Civil Aviation Regulations—

Civil Aviation Order 40.2.1 Amendment Order (No. 1) 2006 [F2006L00908]*.

Instruments Nos—

CASA EX12/06—Exemption – Asian Express operations at Auckland aerodrome [F2006L00917]*.
Indexed Lists of Files

The following documents were tabled pursuant to the order of the Senate of 30 May 1996, as amended:

Indexed lists of departmental and agency files for the period 1 July to 31 December 2005—Statements of compliance—
  Attorney-General’s portfolio agencies.
  Employment and Workplace Relations portfolio agencies.
  Environment and Heritage portfolio agencies.
  Human Services portfolio agencies.
  Industry, Tourism and Resources portfolio agencies.

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—
  Agriculture, Forestry and Fisheries portfolio agencies.
  Human Services portfolio agencies.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Attorney-General’s: Consultants**

(Question No. 592)

Senator Chris Evans asked the Minister representing the Attorney-General, 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 Ellison—The Attorney-General has provided the following answer to the honourable senator’s question:

**Attorney-General’s Department:**

(1) The department has not engaged consultants throughout this period to conduct surveys of community attitudes to departmental programs.

(2) Not applicable

**Administrative Appeals Tribunal:**

1 (a) Year (b) Cost (ii) Name (iii) Select or Open tender
2004 - 05 $27,130 Profmark Consulting Ltd Select

(2) The results are still being assessed and a decision to release will be made after assessment of the report.

**Australian Federal Police:**

1 (a) Year (b) Cost (ii) Name (iii) Select or Open tender
2002 - 03 $24,310 Market Attitude Research Services Select

(2) The survey outcome was not released publicly, given that it was undertaken to evaluate an internal AFP Project.

**Australian Government Solicitor:**

(1) Nil

(2) Not applicable

**Australian Institute of Criminology:**

(1) Nil

(2) Not applicable

**Australian Law Reform Commission:**

(1) Nil

(2) Not applicable
AUSTRAC:
(1) Nil
(2) Not applicable

Australian Crime Commission:
(1) Nil
(2) Not applicable

CrimTrac:
(1) Nil
(2) Not applicable

Australian Customs Service:
(1) Nil
(2) Not applicable

Director of Public Prosecutions:
(1) Nil
(2) Not applicable

Family Court of Australia:

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<tr>
<td>2004–05</td>
<td>$80,011</td>
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<td>Open</td>
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(2) The survey results were not released to the public and it is not proposed that they will be. The survey was conducted to gather data to inform business improvement and court system reform projects. Press releases have been released on these projects describing the Court’s response to the results. Currently, extensive national consultations are under way regarding the results and possible Court response with staff, practitioners, clients, Community Based Organisations, Government agencies etc.

Federal Court of Australia:
(1) Nil
(2) Not applicable

Federal Magistrates Court:

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<th>Year</th>
<th>Cost</th>
<th>Name</th>
<th>Tender</th>
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<td>2002–03</td>
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<tr>
<td>2004–05</td>
<td>$1,650</td>
<td>Profmark Consultants</td>
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(2) Yes the survey results are published at http://www.fmc.gov.au/pubs/html/surveys.html on the following dates:
Results of the 2002 Survey on Awareness and Performance: 23 August 2002.
2005: Not yet complete.

High Court of Australia:
(1) Nil
(2) Not applicable
Human Rights and Equal Opportunity Commission:
(1) Nil
(2) Not applicable

Insolvency and Trustee Service, Australia:
(1) Nil
(2) Not applicable

National Native Title Tribunal:

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<th>Year</th>
<th>Cost</th>
<th>Name</th>
<th>Method</th>
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<tr>
<td>2003</td>
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(2) The executive summary for the research was made publicly available from the Tribunal website www.nntt.gov.au in December 2003. The full survey results are available if requested. The survey was also made available to the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund.

Office of Film and Literature Classification:

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<td>2002–03</td>
<td>$21,710</td>
<td>Newspoll</td>
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(2) In February 2002 the OFLC conducted quantitative market research to better understand a range of issues, including the level of consumer familiarity with the organisation, with the symbols it uses to classify film, video and computer games, and with the yellow “yet to be classified” slide used in cinemas. A national study using AC Nielsen’s face to face omnibus service was conducted in both metropolitan and rural areas across the six States and two territories, surveying 1075 people aged 14 years and over. A report on the findings is publicly available on the OFLC website and summarised in the 2001/2002 annual report.

In September 2002, the OFLC commissioned Newspoll to conduct quantitative market research to better understand how Australians use the classification system and how they feel about it. A national telephone study using Newspoll’s adult omnibus service was conducted in both metropolitan and rural areas across the six states and two territories, surveying 1200 people aged 18 and over. In addition, a sample of 400 teenagers aged between 13 and 17 were interviewed in Sydney and Melbourne in order to better understand the views of youth in the community. A report on the findings is publicly available on the OFLC website and summarised in the 2002/2003 annual report.

Office of Privacy Commissioner:
(1) Nil
(2) Not applicable

Office of Parliamentary Counsel:
(1) Nil
(2) Not applicable

Attorney-General’s: Consultants

(Question No. 602)

Senator Chris Evans asked the Minister for Justice and Customs, upon notice, on 4 May 2005:

With reference to the department and/or its agencies:

QUESTIONS ON NOTICE
(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 Ellison—The answer to the honourable senator’s question is as follows:

The Attorney-General has provided response on behalf of the portfolio in his reply to Question on Notice No 592.

Minister for Veterans’ Affairs: Overseas Travel
(Question No. 706)

Senator Chris Evans asked the Minister for Veterans’ Affairs, upon notice, on 4 May 2005:

(1) In relation to all overseas travel where expenses were met by the Minister’s portfolios, for each of the financial years 2000-01 to 2004-05 to date what was the total cost of travel and related expenses in relation to: (a) the Minister; (b) the Minister’s family; and (c) the Minister’s staff.

(2) In relation to all air charters engaged and paid for by the Minister and/or the Minister’s office and/or the department and its agencies, for each of the financial years 2000-01 to 2004-05 to date: (a) on how many occasions did the Minister or his/her office or department and/or agency charter aircraft, and in each case, what was the name of the charter company that provided the service and the related respective costs; and (b) what was the total cost.

Senator Ian Campbell—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

(1) Ministerial travel costs are tabled biannually in Parliament.

(2) Ministerial travel costs are tabled biannually in Parliament. Air charters engaged and paid for by the Department of Veterans’ Affairs for departmental officials and veterans are as follows:

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<tr>
<td>(a)</td>
<td>Nil</td>
<td>Nil</td>
<td>2 charters</td>
<td>Nil</td>
<td>2 charters</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Pacific Helicopters ($1 193)</td>
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Advertising Campaigns
(Question No. 743)

Senator Chris Evans asked the Minister representing the Treasurer, upon notice, on 4 May 2005:

For each financial year from 2000-01 to 2002-03 can the following information with regards to advertising be provided:

(1) (a) What advertising campaigns were commenced; and (b) for what programs.

(2) In relation to each campaign: (a) what was its total cost, including a breakdown of advertising costs for: (i) television placements, (ii) radio placements, (iii) newspaper placements, (iv) mail outs with
brochures, and (v) research on advertising; and (b) what was the commencement and cessation date for each aspect of the campaign placement.

(3) For each campaign: (a) on which television stations did the advertising campaign screen; (b) on which radio stations did the advertising campaign feature; and (c) in which newspapers did the advertising campaign feature.

(4) Which: (a) creative agency or agencies; and (b) research agency or agencies, were engaged for the campaign.

(5) (a) In the event of a mail out, what database was used to select addresses – the Australian Taxation Office database, the electoral database or other.

(6) (a) What appropriations did 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) which financial year will these appropriations be made; (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) Was a request 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) Did the Minister for Finance and Administration issue a drawing right as referred to in paragraph (7); 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 Minchin—The Treasurer has provided the following answer to the honourable senator’s question:

Information relating to advertising and markets research is included in the department’s annual reports relating to these periods. The very detailed additional information sought in the honourable senator’s question is not readily available in consolidated form and it would be a major task to collect and assemble it. The practice of successive governments has been not to authorise the expenditure of time and money involved in assembling such information on a general basis.

Advertising Campaigns

(Question Nos 744 and 746)

Senator Chris Evans asked the Minister representing the Minister for Foreign Affairs and the Minister for Trade, upon notice, on 4 May 2005:

For each financial year from 2000-01 to 2002-03 can the following information with regards to advertising be provided:

(1) (a) What advertising campaigns were commenced; and (b) for what programs.

(2) In relation to each campaign: (a) what was its total cost, including a breakdown of advertising costs for: (i) television placements, (ii) radio placements, (iii) newspaper placements, (iv) mail outs with brochures, and (v) research on advertising; and (b) what was the commencement and cessation date for each aspect of the campaign placement.

(3) For each campaign: (a) on which television stations did the advertising campaign screen; (b) on which radio stations did the advertising campaign feature; and (c) in which newspapers did the advertising campaign feature.
(4) Which: (a) creative agency or agencies; and (b) research agency or agencies, were engaged for the campaign.

(5) In the event of a mail out, what database was used to select addresses – the Australian Taxation Office database, the electoral database or other.

(6) What appropriations did 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) which financial year will these appropriations be made; (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) Was a request 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) Did the Minister for Finance and Administration issue a drawing right as referred to in paragraph (7); 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 Foreign Affairs, on behalf of himself and the Minister for Trade, has provided the following answer to the honourable senator’s question:

DFAT
No advertising campaigns were commenced.

AusAID
No advertising campaigns were commenced.

Austrade
(1) (a) In 2001-02 a generic campaign to promote Austrade’s services to SME’s and the general business community was conducted.
(b) No specific programs were advertised.

(2) (a) Total cost of the campaign: $705,575*+ incurred over 2000-01 and 2001-02

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>i) Television</td>
<td>0</td>
</tr>
<tr>
<td>ii) Radio</td>
<td>0</td>
</tr>
<tr>
<td>iii) Newspaper</td>
<td>$439,326</td>
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<tr>
<td>iv) Mail outs &amp; brochures</td>
<td>0</td>
</tr>
<tr>
<td>v) research on advertising</td>
<td>$44,076</td>
</tr>
</tbody>
</table>

* Austrade also utilised outdoor advertising via Airport Posters to the value of $151,386
+ Creative development cost was $70,787


(3) (a) No television advertising
(b) No radio advertising
(c) Newspapers that advertising appeared in:


**Selected Suburban Newspapers:** Bankstown Torch, Blacktown Sun, Hornsby Advocate, Liverpool Champion, Parramatta Advertiser, Wollongong Advertiser, Altona-Laverton Mail, Manningham Leader (Doncaster-Templestowe News), Footscray/Maribyrong Mail, Knox Leader, Melton Bacchus Marsh Leader, Werrabee Banner


(4) (a) Creative agency – Grey Direct  
(b) Research agencies  
  - Pre-campaign testing – Blue Moon Research  
  - Post-campaign tracking – Wallis Consulting

(5) No mail out was conducted  
(6) Not applicable  
(7) No  
(8) No  
(9) No

**ACIAR**  
No advertising campaigns were commenced.

**AJF**  
No advertising campaigns were commenced.

**EFIC**

(1) (a) EFIC’s commercial services were advertised for each of the three financial years in question.  
(b) EFIC does not administer programs. The purpose of the advertising was to promote EFIC’s services and increase EFIC’s corporate profile.

(2) (a) Total cost for 2000/01 was $311,970 for newspaper placements and mailouts.  
Total cost for 2001/02 was $182,735 for newspaper placements and mailouts.  
Total cost for 2002/03 was $161,233 for newspaper placements and mailouts.  
(b) Advertising was ongoing throughout the period.

(3) (a) Not applicable.  
(b) Not applicable.  

(4) (a) Hidden Talent, TCG Graphic Design Pty Ltd, OzAd, United Notions.  
(b) Newspoll, Susan Bell Research, Eureka Strategic Research.

(5) Other; EFIC’s own client databases.

(6) (a) None.
(b) Not applicable.
(c) Not applicable.
(d) Not applicable.
(7) No, not applicable.
(8) No, not applicable.
(9) No, not applicable.

Veterans Health
(Question No. 1164)

Senator Bob Brown asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 8 September 2005:

With reference to the editorial and article in the New Scientist dated 27 August 2005, referring to post-traumatic stress disorder:

(1) (a) Has the Government taken any action to offset the deadly impact on returned service men and women; and (b) in particular, what compensation is offered to those who have suffered cancer, cardiovascular disease, or other illness, as a result of exposure to combat, including in Vietnam and Iraq.

(2) (a) What arrangements are in place to measure and minimise the impact on Australians now serving overseas; and (b) do these include pre and post-service assessment and counselling.

Senator Ian Campbell—The Minister for Veterans’ Affairs has provided the following answer to the honourable Senator’s question:

(1) (a) The Government has a number of long-standing treatment and service options for those suffering from mental illness, including Post Traumatic Stress Disorder (PTSD). These include a wide range of mental health services through public and private hospitals, psychiatrists, psychologists, general practitioners and the highly regarded Vietnam Veterans Counselling Service, which provides both individual counselling as well as group programs.

The Government also works closely with experts in the field of mental health. Notably, the Department of Veterans’ Affairs has a strong working relationship with the Australian Centre for Post Traumatic Mental Health (ACPMH) to ensure the Department’s programs and services are consistent with internationally accepted best practice.

As well as continuing to provide a range of appropriate services, the Government has undertaken a number of national initiatives, to better identify and address Veteran Mental Health concerns.

These include:

• The release in 2001 of the Towards Better Mental Health for the Veteran Community policy document. This document set out the future directions for mental health service delivery for the veteran community, and ensured that this approach was consistent with the whole of government National Mental Health Strategy.

• A study Pathways to Care was conducted in 2004 to examine how veterans of recent conflicts and deployments access and interact with the mental health service sector. This report is informing policy to better ensure access to appropriate services for those with mental health issues.

• A consultation paper was released in 2004 to inform the veteran and provider communities and seek their response to a proposal to move towards a community orientated service model of
care for veterans with mental health issues. Responses to the consultation paper were positive and have informed a new community orientated model.

- An initiative to create opportunities to reduce alcohol related harm in the veteran community commenced in 2001 as a result of the Vietnam Veterans’ Health Study. The health promotion aspect of this initiative “The Right Mix: Your Health and Alcohol”, provides a range of resources and self-help material and has been endorsed and supported by the Veteran community. The initiative also aims to strengthen service provision for veterans with alcohol related problems through a range of resources to promote best practice such as screening tools, guidelines and resources to improve treatment provisions.

- Lastly, in December 2004 the Minister for Veterans’ Affairs established the National Veterans Mental Health and Wellbeing Forum to enable a more focused interaction with the veteran, ex-service and defence communities around mental health issues. This forum is chaired by the National President of the RSL (Maj. Gen. Retd.) Bill Crews, and has broad representation from across the Veteran and ex-service communities, with 11 organisations represented, as well as the Australian Defence Force and the Department of Veterans’ Affairs.

(b) All members of the Australian Defence Force (ADF) are covered by Commonwealth legislation, which entitles them to compensation for injuries or disease arising out of their defence service. Which legislation applies in a particular instance depends on a number of factors, including the date of injury or onset of a disease.

All Australian veterans are eligible for non-liability treatment at the Department of Veterans’ Affairs (DVA) expense for malignant neoplasm, pulmonary tuberculosis, PTSD, anxiety and depression. In addition, treatment is also provided where liability has been accepted because the condition is causally related to service.

The Veterans’ Entitlements Act 1986 (VEA) covers those who served before 1 July 2004. Under the VEA disability pensions are paid to compensate veterans for injuries or diseases caused or aggravated by war service or certain defence service rendered on behalf of Australia. The Military, Rehabilitation and Compensation Act 2004 (MRCA) covers those who have served and have been injured or have contracted a disease as the result of their defence service since 1 July 2004. This includes those who have been exposed to combat in areas such as Iraq.

Where a member’s or former member’s injury or illness arose from their service, they are entitled to receive the support they need to return to work where possible, and to be offered social and psycho-social assistance that is sensitive to their individual needs and circumstances. The other benefits available include compensation payments for economic and non-economic loss, treatment (including psychiatric treatment and counselling), assistance with household and attendant care services and vehicle modifications necessary because of the injury or disease. In some cases, the person is also entitled to a payment to assist with the cost of financial advice.

Besides the disability pension, a service pension provides a regular income for people with limited means. A service pension can be paid to veterans on the grounds of age or invalidity, and to eligible partners, widows and widowers. It is subject to income and assets tests. Rent assistance is also available to veterans and their spouse who are in receipt of service pension and paying private rent.

(2) (a) The Australian Defence Force (ADF) has one of the largest workplace mental health support systems in Australia that provides a wide range of mental health and counselling services. While deployed, ADF personnel have access to mental health and critical incident support and care, either through embedded ADF or coalition health staff, or fly-in teams. ADF personnel have access to specialist counselling services, which include social workers, psychologists and chaplains, who provide a 24-hour service.
b) The ADF provides mental health support across the deployment cycle inclusive of pre-
deployment screening and psychological briefings, the provision of embedded (Australian or
colition) and/or ‘fly-in’ mental health support and the conduct of post operational psycho-
logical screening and programs to assist re-integration after returning from the operational en-
vironment. Additionally, veterans of deployments are also able to access the services of the
Vietnam Veterans’ Counselling Service.

Family and Community Services: Grants
(Question No. 1364)

Senator Chris Evans asked the Minister for Family and Community Services, upon no-
tice, on 21 November 2005

With reference to the eight community grants identified as Family and Community Service (FACS) Budget measures in the 2005 Budget:

(1) (a) Under what FACS programs were the eight community projects listed in the 2005 Budget
funded; and (b) were they funded on an ad-hoc basis.

(2) Why were these eight projects separately identified in the 2005 Budget, while many other grants
awarded by FACS were not.

(3) When did the department last, if ever, identify local community grants as a separate budget meas-
ure.

(4) Who made each of the election commitments relating to these grants and when were the commit-
ments made.

(5) Were claims made by local Coalition candidates that they were responsible for securing the funding
for these projects.

(6) What role did the relevant Coalition candidates in each of the electorates play in getting the grants
approved.

(7) When did the department first become aware: (a) of the eight projects; and (b) that it would be re-
 sponsible for funding the projects.

(8) Can the Minister confirm that seven of the eight projects (all except the Eastern Access Community
Health project) were included in a list of Regional Partnership Program grants administered by the
Department of Transport and Regional Services that was circulated in November 2004 after the
election.

(9) Had seven of the eight projects been approved for funding under the Regional Partnerships Pro-
gram.

(10) What was the status of these seven projects under the Regional Partnerships Program.

(11) Was there a decision to transfer these seven projects from the Regional Partnerships Program to
FACS; if so: (a) when and why; (b) who made the decision; and (c) why were these projects trans-
ferred.

(12) Has there been any other instances in which grants have been transferred to FACS from a grants
program in another department.

(13) With reference to each grant, what was the process by which the funding for these projects was
approved, specifically: (a) did the department undertake any assessment on the viability and/or
quality of the proposed projects; if so, when; (b) did the department provide any advice or recom-
mendations to the Minister in relation to the funding of these projects; (c) did the department pro-
vide any information to the Minister in relation to these projects; (d) did the Minister formally ap-
prove the funding for the projects; if so: (i) when, and (ii) was this approval in accordance with the
recommendations, if any, provided by the department; and (e) under what power was the funding for these projects appropriated.

(14) With reference to each of the eight projects, was there an application made by an organisation in relation to the project prior to the 2004 election; if so: (a) when were these applications received; (b) under what program were they received; (c) had these applications been assessed under that program prior to the 2004 election; and (d) what was the result of that assessment, that is, were they approved or rejected.

(15) In the months leading up to the 2004 election, was the department asked to provide information to a Minister’s office on individual grant applications, which may have included the eight applications.

(16) Has the department provided information to a Minister’s office in relation to grant applications outside the normal approval process; if so, can a list be provided of the instances in which this has occurred.

(17) (a) In terms of the ongoing administration of these projects, are they being treated like other community grants under the Local Solutions program; and (b) is the area responsible for this program administering the grants.

(18) To date, what funding has been paid under each of the eight grants.

Senator Kemp—The Minister for Family and Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:

The community projects listed in the FaCS Portfolio Budget Statements 2005-06 under Community Organisations – One Off Grants were funded on a one-off basis with funding provided through the 2005-06 Budget. The Coalition Government made election commitments to fund the eight community projects.

Seven of the eight projects were referred to FaCS from the Department of Transport and Regional Services. Any matters previous to the referral to FaCS are the responsibility of the Department of Transport and Regional Services.

From time to time the Government makes the decision to refer programs to departments where they are most suited for administrative purposes. After the election, the Government considered the administrative arrangements for these election commitments and allocated the eight projects to the FaCS portfolio.

The authority to fund these election commitments, made during the 2004 election campaign, was provided under the existing 2004-05 Appropriation Bill 1, Outcome 2.

To date, funding has been paid as follows:

- Eastern Access Community Health in Victoria —$165,000;
- Ovingham Sport and Social Club in South Australia —$29,000;
- Ringwood Skate Park in Victoria —$47,000;
- 1st Toongabbie Scout Group in New South Wales —$20,000;
- Blackburn Scouts in Victoria —$20,000;
- Ringwood Scouts in Victoria —$15,000; and
- Swan Italian Sporting Club in Western Australia —$15,000.

Payment has yet to be made to the Kilburn Blair Athol Community Youth Centre in South Australia.
With reference to Cape York:

(1) What was (or what will be) the date of the final handover of responsibility for the Council of Australian Governments’ (COAG) trial from the department to the Office of Indigenous Policy Coordination (OIPC).

(2) When, specifically, did the department begin handing responsibility for the trial over to OIPC.

(3) When did the department first indicate to OIPC or the Department of the Prime Minister and Cabinet that it was seeking to withdraw as leading agency from the COAG trial: (a) in Cape York; and (b) in Shepparton.

(4) Can details of the Regional Partnership Agreement (RPA) that is being negotiated with the Cape York region be provided, including: (a) the name of the parties negotiating this agreement; (b) the names of those negotiating on behalf of the Cape York Indigenous community; (c) when negotiations began; (d) the anticipated completion date; (e) the anticipated implementation date; and (f) whether the RPA deals principally with welfare reform.

(5) With reference to page 9 of the Indigenous Economic Development Strategy, which states that the Government is supporting the Cape York’s Institute agenda through the ‘implementation of welfare changes’: (a) which welfare changes have been implemented; (b) which welfare changes are being considered; (c) will these welfare changes be implemented through a regional partnership agreement for Cape York; (d) will these welfare changes require legislative amendments; (e) will these welfare changes extend beyond the Cape York region; and (f) when will an announcement in relation to these welfare changes be made.

Senator Abetz—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator’s question:

(1) The Department of Employment and Workplace Relations has handed the lead agency responsibilities for the Cape York COAG trial site to the Indigenous Coordination Centre (ICC). The ICC has a key responsibility to act as a whole-of-government conduit for Australian Government services, Indigenous communities and other stakeholders in this site. The Department continues to support improved outcomes in this site through its staff located in the ICC and through the range of programmes and services provided to Indigenous clients in the area. The Department will provide leadership on employment and economic development initiatives in the area.

(2) This was anticipated as part of the new Indigenous Servicing Arrangements announced by the Australian Government on 15 April 2004 and the announcement, on 30 April 2004, of the establishment of ICCs.

(3) Refer to response to question 2.

(4) ICCs have been consulting with Indigenous communities in North Queensland including the Cape York region. This may result in a Regional Partnership Agreement. However, consultations are still progressing with a range of parties to clarify whether they would like to become involved in such an agreement and if so, what the nature and objectives of any agreement should be. The negotiations began as part of the ICC servicing to the region in 2004. There is no completion date set for the finalisation of negotiations around an agreement in the area.

(5) The Department of Employment and Workplace Relations is currently in consultation with four communities in Cape York to develop strategies for improving access to work and work-orientated...
training and activities and the removal of the Remote Area Exemption (RAE) from the activity test for unemployed individuals within those communities.

The removal of the RAE, which supports the Australian Government’s election promise to reduce passive welfare, does not require legislative change. In accordance with the Social Security Act, the RAE is only applied to an individual where there is no viable labour market, labour market programme or training programme in the area where the person resides. The removal of the RAE is being rolled out across Australia in consultation with each community and with comprehensive support provided for the implementation and maintenance of participation in the community.

Consideration will be given to whether the Government will implement the welfare changes through a regional partnership agreement, a shared responsibility agreement or similar vehicle for Cape York and other remote communities, at the appropriate time.

The removal of remote area exemptions is part of the work under the Indigenous Economic Development Strategy and as such was included in the announcement of the strategy.

Western Australia: Services
(Question No. 1557)

Senator Murray asked the Minister for Communications, Information Technology and the Arts, upon notice, on 23 January 2006:

With reference to the recent and first Western Australian cyclone of the season, Cyclone Clare, and with reference to any current concerns with potential targeted terror attacks in key economic and strategic areas:

(1) Can the Minister confirm that the north-west shelf of Western Australia is a key economic and strategic area, responsible for approximately 26 per cent of Australia’s exports by value.

(2) (a) Can the Minister confirm that: (i) the one Telstra Exchange services a large area including Port Hedland, Karratha and Dampier, and (ii) that there are no second-line or back-up systems; and (b) in view of the known cyclone dangers and terror concerns, what back-up or contingency is available or planned.

(3) (a) Can the Minister confirm that the central Telstra exchange servicing that area incurred a serious roof leak and then burnt down so that for at least 3 days of Cyclone Clare there was no fixed line or mobile telephone service and only satellite phone services; (b) was the state of the roof known in advance; and (c) can details be provided.

(4) Can the Minister confirm that the community lost Australian Broadcasting Corporation (ABC) radio service as well during Cyclone Clare and why.

(5) What effects on: (a) security; (b) emergency service coordination; and (c) community information services, did these events have during the period of Cyclone Clare.

(6) (a) Can details be provided of when the Telstra exchange was last assessed for: (i) upgrade, (ii) maintenance, and (iii) security; (b) by whom; and (c) with what consequences.

(7) (a) Can the Minister confirm that Telstra is responsible for back-up systems for the ABC radio station in Karratha; (b) can details be provided of when the ABC facilities in north-west Western Australia in Karratha was assessed for: (i) upgrade; (ii) maintenance, and (iii) security; (c) by whom; and (d) with what consequences.

(8) Can the Minister confirm that the ABC Karratha back-up lead-acid batteries were not serviced by Telstra as they should have been under sub-contract, and that they were flat, resulting in the ABC Karratha losing its ability to provide emergency community service during Cyclone Clare.
Senator Coonan—The answer to the honourable senator’s question is as follows:

(1) The north-west shelf of Western Australia is not responsible for approximately 26 per cent of Australia’s exports by value. The Western Australia Department of Industry and Resources has advised that this area represented 6.5 per cent of Australia’s exports for the 2004-05 financial year and approximately 19.7 per cent of Western Australia’s exports.

(2) (a) (i) Telstra has advised that individual exchanges service each of these towns. Port Hedland and Dampier rely on the Karratha node for connection into the greater Telstra network.

(ii) Telstra has advised that there is a DC powered back-up generator in Karratha. Telstra exchanges require electrical power to operate. Exchanges possess a high level of redundancy with respect to power systems. The Karratha site is fed via AC mains, backed up by an auxiliary diesel generator. The network equipment is then run primarily on DC power provided by a DC power system consisting of rectifiers and batteries. The batteries are there to provide a DC reserve in the event of AC failure or rectifier failure.

The telecommunications equipment is powered by an A and B feed to give a level of power redundancy right to the equipment.

In the case of Cyclone Clare, the site experienced a power failure due to fire damage to the main power system and cyclone damage to the auxiliary system.

(b) Telstra has advised that Business Continuity Plans and recovery plans are in place for all elements of Telstra’s network. In this event immediate recovery was made difficult due to the inability to move staff and equipment during the cyclone. Telstra has also advised that the health and safety of its employees are its highest priority.

(3) (a) Telstra has advised that there was no roof leak at the site and the exchange did not burn down. A fire occurred within the exchange building during the cyclone, the cause of which is still under investigation. The fire damaged parts of the power system caused loss of fixed line and mobile services from around 1am on Tuesday 10 January 2006. Progressive restoration of services began at 4.30am with all services restored by midday of the following day.

(b) Telstra has advised that the roof of the Karratha exchange is a concrete slab ceiling which is checked as part of the building inspection regime four times a year.

(c) Telstra has advised that there were no defects on the building roof and none has been generated since as its integrity was not brought into question during the event.

(4) The ABC has advised that during Cyclone Clare, ABC Local Radio and other ABC Radio and Television services to cyclone-affected sites in the north western region of Western Australia were disrupted. Local Radio was off air on 10 January from 1pm to 1.45pm due to the failure of the Telstra line. ABC Television and Radio National lost satellite program input for approximately 6 hours from 1.07pm on 9 January due to weather conditions. In addition, cyclone damage to the transmitter site resulted in the power authority disconnecting mains power until repairs could be carried out, putting ABC TV and the Radio National FM service off air for approximately 53 hours from the evening of 9 January until 11 January when mains power was restored. However ABC Local Radio continued normal transmission through this period using emergency generator power, other than for the 45 minute period referred to above when the service was off air due to the failure of the Telstra line.

(5) (a) The Fire and Emergency Service Authority (FESA) of Western Australia has advised that the major problem Cyclone Clare caused for security activities were difficulties in communicating due to breakdown of the Telstra network.
(b) The Fire and Emergency Service Authority of Western Australia has also advised that the major problem Cyclone Clare caused for emergency coordination and dissemination of public information were issues relating to the breakdown of the Telstra network. There were locations affected by the cyclone that did not have any land, mobile, or data network and communications were limited to satellite phone. This impacted on FESA’s ability to communicate with their officers in the field as well as updating local residents and media via their website bulletins.

(c) ABC radio services has advised that the ABC Local Radio is a key source of community information during a cyclone. As noted above, ABC Local Radio was off air for 45 minutes.

(6) (a) Telstra has advised that building inspections are conducted four times a year and the exchange was last inspected for upgrade, maintenance and security purposes on 23 November 2005.

(b) Telstra has advised that inspections of the exchange are conducted by the Transfield Facility Manager, accompanied by Telstra’s third party independent auditor.

(c) As a consequence of the inspection, a down pipe was replaced.

(7) (a) The ABC has advised that transmitter services (including back-up systems) are provided independently to the ABC by Broadcast Australia. Studio and other broadcast systems and equipment are the responsibility of the ABC. Telstra provides the program lines which carry the local content from ABC studios to each transmission site. During cyclone Clare these connections were lost as a result of the Telstra exchange failure.

(b) (i) The ABC is currently planning to upgrade and refurbish the Karratha studio in May 2006.

(ii) The ABC last serviced the broadcast systems in the Karratha Studio in September 2005 as part of its routine maintenance program. At that time all of the systems were functioning to normal specifications. The ABC checks the standby generator every three months. The Universal Power Supply (UPS) is serviced by the ABC on a six-monthly cycle. Both the UPS and standby generator were in functioning order prior to Cyclone Clare.

(iii) The ABC facilities in Karratha were last assessed for security on 12 October 2005.

(c) The 12 October 2005 assessment of the ABC facilities in Karratha was conducted by the ABC’s Western Australian Facilities Manager.

(d) During the 12 October 2005 visit, the security systems were found to be in working order and work practices of securing the building from unauthorised entry were reinforced with staff.

(8) Telstra has advised that it does not have responsibility to service backup lead acid batteries for the ABC facility in Karratha. The ABC has advised that its Karratha studio continued to function throughout Cyclone Clare with back up generators and UPS systems ensuring studios and computer systems remained operational. As outlined above, ABC Local Radio services were disrupted by the failure of the Telstra landline connecting the ABC Karratha studios and the transmitters. ABC TV and FM Radio National services were disrupted by the loss of satellite inputs, physical damage to the FM and TV transmitter site buildings and loss of mains power.

Tobacco Advertising

(Question No. 1571)

Senator Allison asked the Minister representing the Minister for Small Business and Tourism, upon notice, on 31 January 2006:

With reference to an article in the Herald Sun, dated 18 October 2004, which reported that the Premier of Victoria (Mr Bracks) will ask for funds to compensate for the loss of revenue expected after September 2006 when exemptions for motor racing cease under the Tobacco Advertising Prohibition Act 1992:
(1) Has the Government been approached to provide compensation, subsidies or any other kind of assistance to replace tobacco advertising revenue for the Melbourne Formula One Grand Prix and/or the Phillip Island MotoGP; if so, can copies of the correspondence or records be provided; if not, why not.

(2) Has the Government considered providing revenue or assistance for this purpose; if so, why and will it do so.

Senator Minchin—The Minister for Small Business and Tourism has provided the following answer to the honourable senator’s question:

(1) I have not received a specific request for compensation for loss of revenue consequent on the cessation of the exemption for tobacco advertising for motor racing. However, on 9 August 2005, I received a letter from the Victorian Minister for Tourism, the Hon John Pandazopoulos MP, concerning previous discussions about the possibility of Australian Government support for staging the Melbourne Formula One Grand Prix and the Australian MotoGP. A copy of Mr Pandazopoulos’s correspondence is at Attachment A and of my reply of 30 August 2005 is at Attachment B.

(2) I am not aware of any Government consideration of providing revenue or assistance for this purpose.

The Australian Government as a matter of course works hard to attract major events to this country in view of the benefits that such events generate. To this end Tourism Australia is dedicating resources to marketing Australia as a major events destination and works in partnership with industry and other government stakeholders to leverage such events for tourism promotional benefits. For example, currently Tourism Australia is working with the Australian Government’s Commonwealth Games Taskforce, the Melbourne 2006 Corporation and Tourism Victoria to maximise the tourism benefits of the Melbourne 2006 Commonwealth Games.

Tourism Australia is not providing direct assistance to the organisers of the Melbourne Formula One Grand Prix or the Australian MotoGP. However, Tourism Australia has a calendar of events on the recently launched dedicated events website www.events.australia.com. The Fosters Australian Formula One Grand Prix is one such event that is featured on this site.

Attachment A
The Honourable Fran Bailey MP
Minister for Small Business and Tourism House of Representatives
Parliament House
CANBERRA ACT 2600
Dear Minister

AUSTRALIAN FORMULA ONE GRAND PRIX AND POSSIBILITY OF FEDERAL GOVERNMENT SUPPORT

I refer to previous discussions we have had concerning the possibility of Federal Government support for the Australian Formula One Grand Prix and Australian MotoGP events.

During those discussions I gave a commitment to follow up with correspondence detailing the Victorian Government’s proposal.

Please find enclosed correspondence signed on 31 March 2005, but which due to a departmental administrative error, was not forwarded to you.

I apologise for the delay and look forward to your active consideration of this important issue and await your formal response.

Yours sincerely

JOHN PANDAZOPOULOS MP
Dear Minister

AUSTRALIAN FORMULA ONE GRAND PRIX AND AUSTRALIAN MOTOGP

Following our recent meeting, I write to you regarding the provision of Commonwealth Government financial assistance for the future staging of the Australian Formula One Grand Prix (GP) and Australian MotoGp (MotoGP) in Victoria.

The importance of staging these events for Victoria and Australia cannot be underestimated. The two Grands Prix generate annually over $180 million in economic benefit as well as creating over 4,000 full-time equivalent employment positions per year.

More importantly, the two events provide massive publicity of the “Australia” brand through the international television broadcast of the events and huge international press coverage. Even the naming of the two events as the “Australian” Grands Prix provides significant promotion of the Australia brand.

Over the course of the next five years, the contracts awarding both events to Australia will expire (2000 for the MotoGP and 2010 for the GP). Prior to this occurring, the Victorian Government will enter into negotiations with the owners of the events to establish their costs with the aim of resigning the events into the future.

The Victorian Government has financially supported both the GP and MotoGP for many years, and as you would be aware, the costs of these events are continually increasing due to escalating rights fees and increasing operational and staging costs.

Given the significant publicity already provided by these events to the promotion of Australia, I would like to raise with you again how the Commonwealth Government can help Victoria in retaining these important Australian events. As part of the Commonwealth Government support, we are sure we can provide additional opportunities such as promotion of the Commonwealth Government’s tourism initiatives and various hospitality and other benefits.

I therefore seek urgent discussions with you in order to identify areas of Commonwealth Government funding to assist with the future retention of the GP and MotoGP in Victoria and Australia.

If you require further information on this issue and support in arranging a suitable meeting time, please contact Mr Ozan Ibrisim, Ministerial Adviser in my office on (03) 9651 9950.

Yours Sincerely

JOHN PANDAZOPOULOS MP
The Honourable Rod Kemp MP

Dear Minister Kemp

AUSTRALIAN FORMULA ONE GRAND PRIX AND AUSTRALIAN MOTOGP

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Yours Sincerely

JOHN PANDAZOPOULOS MP
Minister for Tourism

cc. The Honourable Fran Bailey MP, Federal Minister for Tourism

Attachment B

The Hon John Pandazopoulos MP Minister for Tourism
GPO Box 4509RR
MELBOURNE VIC 3001

Dear Minister

Thank you for your letter of 9 August 2005 concerning Australian Government support for the Formula One Grand Prix and MotoGP.

As you know, major events were discussed at the Tourism Ministers’ Council (TMC) meeting on 19 August 2005. While the minutes have yet to be agreed, I recall that TMC agreed to establish an events working group. This working group would focus on improving the partnerships and coordination associated with branding major events.

I anticipate that Tourism Australia will chair the working group. Once the TMC minutes have been finalised, I will ask Tourism Australia to action this matter.

In regard to financial assistance for major events, the Australian Government is providing significant financial and in-kind support for the M2006 Commonwealth Games, as we did for the Sydney Olympics.

The Australian Sports Commission provides funding for national sporting organisations. It is the responsibility of each sporting organisation to determine its priorities for the distribution of these funds.

QUESTIONS ON NOTICE
Senator Allison asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 8 February 2005:

Has the Government considered the implications of research conducted by Robert B Jackson of Duke University, in the United States of America, and others—including Commonwealth Scientific and Industrial Research Organisation Land and Water—published in the December 2005 edition of Science, Volume No. 310, with regard to afforestation policy and practices; if not, does the Government have data or other information to suggest these findings are incorrect with regard to reductions in stream flows that result from forest planting.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

Yes the Government has been aware of this issue for quite some time and has taken steps to determine how the issues raised in the paper are relevant to the Australian context. The recent Senate Inquiry into Australian Plantation Forestry investigated whether there are opportunities to better integrate plantations into achieving salinity and water objectives and targets and optimise the environmental benefits of plantations in low rainfall areas. Similarly the House of Representatives Standing Committee on Agriculture, Fisheries and Forestry Inquiry into future water supplies for Australia’s rural industries and communities was charged with inquiring into the provision of future water supplies for Australia’s rural industries and communities.

It is important to keep this report in context. It is a global study that makes global assumptions: “General trends in water use and chemistry found in our global analyses and field work must be adjusted to include local factors, including site history, soil texture, and the availability and quality of groundwater. In regions such as southern Australia and the African Sahel, plantations are being used successfully to keep saline groundwater below crop rooting zone…Plantations are also being used successfully to help dry waterlogged soils and alleviate flooding…Reforestation of floodplains can also be beneficial for maintaining biodiversity, reducing erosion, improving water quality, mitigating peak flows and controlling groundwater discharges (upwelling). Plantations provide a proven tool for managing Earth’s carbon cycle.”

The article reported that extensive plantations can have negative effects on soil fertility and salinity in, for example, the Pampas area of Argentina where extraction of freshwater lenses by trees has resulted in brackish water rising in the profile. The article goes on to state: “A different situation is found in other regions, where reforestation and afforestation can improve water quality. A notable example is the extensive eucalypt woodlands of southwestern Australia, where 4.4Mha of lands are negatively affected by salinity. This salinization is attributed to increased groundwater recharge and rising water tables after the conversion of woodlands to agriculture. Afforestation and reforestation in southwestern Australia therefore have the dual environmental benefits of carbon sequestration and increased water use, reducing recharge, lowering water tables, and reversing dryland salinization associated with agriculture.”

Dr Barrett, the CSIRO co-author of the article, recently made this comment to the Canberra Times: “Plantation forests deliver enormous social, economic and environmental benefits to regional economies. In Australia, forest industries are applying world’s best practice based on world’s best science. When trying to generalise results from, predominantly overseas, studies to Australia it is crucial to rec-
ognise some key differences, interpret in the context of the Australian environment, and recognise that a one-size-fits-all approach is flawed. The vast majority of plantations established in Australia in the past decade...cover less than 6% of the land area in any given catchment. Australian research shows that the impact on stream flow is less than in extensively planted catchments overseas.”

**Workplace Giving Australia Program**

(Question No. 1581)

Senator Chris Evans asked the Minister representing the Minister for Families, Community Services and Indigenous Affairs, upon notice, on 13 February 2006:

In relation to the Workplace Giving Australia Program, can the following information be provided: (a) a brief description of the program, including the date the program commenced; (b) the total amount of funding allocated to the program in each financial year since commencement; (c) the number of employers participating in the program, by state and territory; (d) a full list of employers participating in the program; (e) the total amount of funding spent under the program, by state and territory; (f) the total amount of funding spent under the program, by federal electorate; and (g) the total amount of funding paid to each employer participating in the program.

Senator Kemp—The Minister for Families, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:

(a) Workplace Giving Australia is an awareness-raising initiative which encourages employers to offer to their employees the opportunity to make pre-tax charitable donations through the payroll. It was launched by the former Minister on 22 August 2005. Businesses are not funded or required to sign-up to any program. The key elements of Workplace Giving Australia include a workplace giving kit for medium and large businesses and support services for businesses and the Australian Public Service.

(b) Workplace Giving Australia is funded from the Prime Minister’s Community Business Partnership allocation ($3.107m 2005-06).

(c) The support initiative (workshops and advisory service) is available to all employers in Australia. Employers do not register their organisations to participate in Workplace Giving Australia.

(d) Not applicable see answer to c) above.

(e) Funding is not allocated by state and territory. Funding has been allocated to deliver information and a support program available to all employers.

(f) Not applicable see answer to e) above.

(g) No money is paid to employers.

**Perth Airport: Brickworks**

(Question No. 1593)

Senator Siewert asked the Minister for the Environment and Heritage, upon notice, on 16 February 2006:

With reference to the Perth Airport Brickworks Proposal:

(1) Is the Minister aware that the proposed brickworks area is an area of high biodiversity value, which was subject to the Western Australian Environment Protection Act 1983 and Area M52 recommendations, including “that the Commonwealth of Australia retain as much uncleared land as possible”.

(2) Is the Minister aware that: (a) System 6 area, with high biodiversity value, was nominated to the Federal Government’s register of the National Estate; and (b) this area is an area of very high Indigenous heritage value.
(3) In relation to the Major Development Plan undertaken for the proposed Perth Airport Brickworks Project:

(a) what detailed Indigenous heritage cultural survey, including treatment of the Dreaming track through this area, was completed;
(b) what detailed fauna survey, including release program of the Short Neck Tortoise and the high use of the area by Quenda, was completed;
(c) what detailed flora surveys, including a treatment of the significance of the unusual form of golden-flowered Banksia Menziesii, was completed; and
(d) can the results of these studies be provided; if not, why not.

(4) If the above studies were not undertaken, why was the Major Development Plan allowed to proceed in the absence of adequate and high quality detailed Indigenous heritage, detailed fauna and detailed flora surveys.

Senator Ian Campbell—The answer to the honourable senator’s question is as follows:

(1) I am aware of the area M52 recommendations.

(2) (a) Yes. However, the proposed site for the brickworks is not part of the area that was subsequently listed on the Register of the National Estate. (b) I am aware that parts of the System 6 area have high Indigenous heritage values.

(3) Details of relevant studies undertaken on the proposed brickworks site are described in the Draft Major Development Plan for a Clay Brick Manufacturing Plant prepared by Westralia Airports Corporation. This document was made available for public comment.

(4) In making the decision under Section 87 of the Environment Protection and Biodiversity Conservation Act 1999 that the impacts of the proposal will be assessed on Preliminary Documentation, my delegate was satisfied that the documentation provided in the draft version of the Major Development Plan will allow me to provide informed advice to the Minister for Transport and Regional Services under Section 163 of the Environment Protection and Biodiversity Conservation Act 1999.

Mr Shi Tao

(Question No. 1603)

Senator Bob Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 27 February 2006:

With reference to the Chinese poet and writer, Shi Tao, who was sentenced to 10 years prison with forced labour, on 27 April 2005:

(1) Can the Australian Government confirm that Mr Shi’s crime was sending information about Chinese government media restrictions to a New York-based website.

(2) Is Mr Shi being held at the high-security Chisan prison in Hunan province.

(3) What is known of his health and wellbeing.

(4) Does the Australian Government approve of his imprisonment; if not: (a) what action has been taken to have Mr Shi freed; (b) when was this action taken; and (c) what was the result.

Senator Coonan—The following answer has been provided by the Minister for Foreign Affairs to the honourable senator’s question:

(1) I understand that Mr Shi was convicted by the Changsha Intermediate People’s Court for the offence of “illegally providing state secrets overseas”. I understand Mr Shi had emailed to a foreign website his notes regarding a government document that was read at an editorial meeting of Contemporary Business News in April 2004.
(2) I am aware of reports that Mr Shi is being held at Chishan Prison in Hunan.

(3) I am aware of reports from December 2005 that Mr Shi is suffering from respiratory problems and a skin inflammation problem.

(4) No. The Australian Government raised Mr Shi’s case at the last round of the Australia China Human Rights Dialogue in Beijing in June 2005. The Chinese Government responded that Mr Shi had deliberately supplied state secrets classified as “top secret” to overseas organizations, severely jeopardising state security.