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the Senate and committee hearings are available at

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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.

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FORTY-FIRST PARLIAMENT
FIRST SESSION—SIXTH 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
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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.
(5) Chosen by the Parliament of South Australia to fill a casual vacancy vice Hon. Robert Murray Hill, 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

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<td>Prime Minister</td>
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<tr>
<td>Minister for Trade and Deputy Prime Minister</td>
<td>The Hon. Mark Anthony James Vaile MP</td>
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<tr>
<td>Treasurer</td>
<td>The Hon. Peter Howard Costello MP</td>
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<tr>
<td>Minister for Transport and Regional Services</td>
<td>The Hon. Warren Errol Truss MP</td>
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<tr>
<td>Minister for Defence</td>
<td>The Hon. Dr Brendan John Nelson MP</td>
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<tr>
<td>Minister for Foreign Affairs</td>
<td>The Hon. Alexander John Gosse Downer MP</td>
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<tr>
<td>Minister for Health and Ageing and Leader of the House</td>
<td>The Hon. Anthony John Abbott MP</td>
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<tr>
<td>Attorney-General</td>
<td>The Hon. Philip Maxwell Ruddock MP</td>
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<tr>
<td>Minister for Finance and Administration,</td>
<td>Senator the Hon. Nicholas Hugh Minchin</td>
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<tr>
<td>Leader of the Government in the Senate</td>
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<td>Vice-President of the Executive Council</td>
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<tr>
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<td>The Hon. Peter John McGauran MP</td>
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<tr>
<td>Minister for Immigration and Multicultural Affairs</td>
<td>Senator the Hon. Amanda Eloise Vanstone</td>
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<tr>
<td>Minister for Education, Science and Training and</td>
<td>The Hon. Julie Isabel Bishop MP</td>
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<tr>
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<td>The Hon. Ian Elgin Macfarlane MP</td>
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<tr>
<td>Minister for Employment and Workplace Relations and Minister</td>
<td>The Hon. Kevin James Andrews MP</td>
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<tr>
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<tr>
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*(The above ministers constitute the cabinet)*
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<td>Senator the Hon. Christopher Martin Ellison</td>
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<td>Senator the Hon. Eric Abetz</td>
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<td>Senator the Hon. Charles Roderick Kemp</td>
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<td>The Hon. Joseph Benedict Hockey MP</td>
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<td>The Hon. John Kenneth Cobb MP</td>
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<td>Minister for Revenue and Assistant Treasurer</td>
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<td>Special Minister of State</td>
<td>The Hon. Gary Roy Nairn MP</td>
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<tr>
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<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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<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. Christopher Maurice Pyne MP</td>
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<td>The Hon. Christopher John Pearce MP</td>
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<td>The Hon. Gregory Andrew Hunt MP</td>
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<td>Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry</td>
<td>The Hon. Sussan Penelope Ley MP</td>
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<td>Parliamentary Secretary to the Minister for Education, Science and Training</td>
<td>The Hon. Patrick Francis Farmer MP</td>
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<td>Parliamentary Secretary (Foreign Affairs)</td>
<td>The Hon. Teresa Gambaro MP</td>
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Leader of the Opposition  The Hon. Kim Christian Beazley MP
Deputy Leader of the Opposition and Shadow Minister for Education, Training, Science and Research  Jennifer Louise Macklin MP
Leader of the Opposition in the Senate, Shadow Minister for Indigenous Affairs and Shadow Minister for Family and Community Services  Senator Christopher Vaughan Evans
Deputy Leader of the Opposition in the Senate and Shadow Minister for Communications and Information Technology  Senator Stephen Michael Conroy
Shadow Minister for Health and Manager of Opposition Business in the House  Julia Eileen Gillard MP
Shadow Treasurer  Wayne Maxwell Swan MP
Shadow Attorney-General  Nicola Louise Roxon MP
Shadow Minister for Industry, Infrastructure and Industrial Relations  Stephen Francis Smith MP
Shadow Minister for Foreign Affairs and Trade and Shadow Minister for International Security  Kevin Michael Rudd MP
Shadow Minister for Defence  Robert Bruce McClelland MP
Shadow Minister for Regional Development  The Hon. Simon Findlay Crean MP
Shadow Minister for Primary Industries, Resources, Forestry and Tourism  Martin John Ferguson MP
Shadow Minister for Environment and Heritage, Shadow Minister for Water and Deputy Manager of Opposition Business in the House  Anthony Norman Albanese MP
Shadow Minister for Housing, Shadow Minister for Urban Development and Shadow Minister for Local Government and Territories  Senator Kim John Carr
Shadow Minister for Public Accountability and Shadow Minister for Human Services  Kelvin John Thomson MP
Shadow Minister for Finance  Lindsay James Tanner MP
Shadow Minister for Superannuation and Intergenerational Finance and Shadow Minister for Banking and Financial Services  Senator the Hon. Nicholas John Sherry
Shadow Minister for Child Care, Shadow Minister for Youth and Shadow Minister for Women  Tanya Joan Plibersek MP
Shadow Minister for Employment and Workforce Participation and Shadow Minister for Corporate Governance and Responsibility  Senator Penelope Ying Yen Wong

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

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

Shadow Minister for Agriculture and Fisheries Shadow Assistant Treasurer, Shadow Minister for Revenue and Shadow Minister for Small Business and Competition
Gavan Michael O’Connor MP Joel Andrew Fitzgibbon MP

Shadow Minister for Transport
Senator Kerry Williams Kelso O’Brien

Shadow Minister for Sport and Recreation
Senator Kate Alexandra Lundy

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

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

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

Shadow Minister for Immigration
Anthony Stephen Burke MP

Shadow Minister for Ageing, 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 Minister for Citizenship and Multicultural Affairs
Senator Annette Hurley

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 Livernore 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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Tuesday, 13 June 2006

The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 12.30 pm and read prayers.

CONDOLENCES

Mr Roy Edward Bullock OBE

The PRESIDENT (12.31 pm)—I inform the Senate of the death on 13 May 2006 of Mr Roy Edward Bullock OBE, a former Clerk of the Senate. Mr Bullock joined the Senate department in 1946 and served until 1980, holding the office of Clerk of the Senate in 1979 and 1980. On behalf of the Senate I have conveyed condolences to Mrs Bullock and her family, and I record our thanks to Mr Bullock for long and faithful service.

ROYAL COMMISSIONS AMENDMENT BILL 2006

First Reading

Bill received from the House of Representatives.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.32 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) (12.32 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 is a bill to amend the Royal Commissions Act 1902 for the purpose of clarifying the operation of the Act in respect of claims of legal professional privilege. This is a technical matter but also one of some importance. The amendments have been requested by the Honourable Terence Cole AO RFD QC, the Commissioner of the current Inquiry into Certain Australian Companies in relation to the UN Oil-for-Food Programme, in light of the recent Federal Court decision in AWB Limited v Cole.

Before dealing with the impact of that decision on the Cole Inquiry and the amendments to be made by the bill to overcome that impact, I would like to first highlight the Australian Government’s commitment to properly investigate the findings of the Final Report of the Independent Inquiry Committee into the United Nations Oil-for-Food Programme, more commonly known as the Volcker Inquiry final report.

The Australian Government established the Cole Inquiry to investigate whether companies named in the Volcker Inquiry final report into the Oil-For-Food Programme may have breached Australian law and, if so, whether the question of criminal or other proceedings should be referred to the relevant agencies. The government moved quickly to establish a publicly transparent and extensive inquiry in response to the findings of the Volcker Inquiry final report, and has provided the Inquiry with the full powers of a Royal Commission, including the authority to compel witnesses and the production of documents.

As the Prime Minister has noted, the Cole Inquiry is arguably the most thorough and comprehensive investigation initiated in any of the 66 countries named in the Volcker Inquiry final report into the UN Oil-For-Food Programme. The Australian Government is committed to providing full cooperation with the Inquiry, including providing access to all relevant documents and officers. This policy extends to all levels of government, and I note that the Prime Minister, the Deputy Prime Minister and Minister for Trade, and the Minister for Foreign Affairs as well as current and former ministerial staff and public servants have appeared before the Inquiry. To date, at least four-
teen Commonwealth departments and agencies have provided documents and more than 70 current and former Commonwealth officials have submitted statutory declarations to the inquiry.

Senior Counsel Assisting the Inquiry, Mr John Agius SC, noted on 14 March 2006 that the Inquiry had the power to investigate and make findings in relation to the knowledge of the Commonwealth of alleged misconduct by Australian companies participating in the Oil-For-Food Programme. The Commissioner has himself issued a statement about the scope of his Inquiry, making clear that if during the course of his Inquiry it appears to him that there might have been a breach of any Commonwealth, State or Territory law by the Commonwealth or any officer of the Commonwealth related to the terms of reference, he would approach the Attorney-General to seek a widening of the terms of reference to enable him to make such a finding. The Commissioner also said that this point had not been reached.

Since the Inquiry commenced its public hearings, the Australian Government has acted on a number of occasions to expand and clarify the Inquiry's terms of reference, and to give the Inquiry an extra three months to deliver its report. In each case the Australian Government has acted quickly to respond to requests made by Mr Cole. The government's actions have at all times been consistent with its ongoing commitment to ensure Mr Cole has all the powers, resources and time he needs to conduct a thorough inquiry.

During the course of the Inquiry's hearings, the question of the treatment of claims for legal professional privilege under the Royal Commissions Act has arisen. Public attention has focused to an extent on a draft statement of contrition by Andrew Lindberg, former CEO of AWB, which was inadvertently produced to the Inquiry. As a result of Mr Cole's decision to reject AWB's claim for legal professional privilege over the draft statement of contrition, AWB applied to the Federal Court for review of Mr Cole's decision, challenging not just Mr Cole's decision on the document, but also his capacity to determine claims of legal professional privilege.

While the Federal Court decision in AWB Limited v Cole dismissed the application by AWB on the facts of the case, it also cast significant doubt on whether Mr Cole (or any other person appointed under the Royal Commissions Act) has the power to require the production of a document for inspection where a claim to legal professional privilege has been made.

Mr Cole has expressed his concerns with the decision to the Australian Government and has sought urgent amendments to the Royal Commissions Act, noting that legal professional privilege claims have been made in respect of many documents that have not been produced to his Inquiry.

The Australian Government has accepted that it is desirable to amend the Royal Commissions Act to enable Mr Cole to complete his Inquiry expeditiously, and that this should be done as soon as possible. We are therefore seeking passage of this bill in the current Winter sittings. Once passed, the amendments will have immediate effect in assisting Mr Cole with his Inquiry.

The amendments to be made by the bill will put beyond doubt that a Commissioner may require the production of a document in respect of which legal professional privilege is claimed, for the limited purpose of forming an opinion about that claim. The amendments will not preclude privilege claims or prevent an application for review by the Federal Court of a Commissioner's decision on a privilege claim.

Essentially, the bill is intended to reflect the position that the Australian Government understood was the case prior to the decision in AWB Limited v Cole. While passage of the bill will, of course, be of immediate benefit to the Cole Inquiry, it will also clarify the law with respect to legal professional privilege under the Royal Commissions Act more generally.

The Australian Government has repeatedly shown its willingness to address any concern raised by Mr Cole and it will continue to do so. The amendments to be made by this bill provide another example of this willingness.

Senator LUDWIG (Queensland) (12.32 pm)—The Royal Commissions Amendment Bill 2006 can be summed up in the four words that were used to sum it up in the other place: too little, too late.
covering the whole truth about the wheat for weapons scandal, and we all know what that is. It is the restrictive terms of reference that Commissioner Cole has to operate under. It is too late because the little it does do should have been done months ago. Labor recognised the problem back in March. If this issue had been addressed then, we would have avoided the expense and delay of the Federal Court case, which told the government what Labor told them for free—that we need action to stop the abuse of legal professional privilege to obstruct the inquiry.

Having recognised that problem in the first place, Labor supports this bill to remedy the problem. However, it should be clear to all senators that this bill is no solution to the real problem affecting Commissioner Cole, and that is, as I have said, his restrictive terms of reference—and I will come to that later—which this government has to take responsibility for.

This bill, in particular, will make amendments to the Royal Commissions Act 1902. The amendments will have an effect for the current inquiry into the involvement of Australian companies in the UN oil for food program and that is why we are dealing with the legislation here today not only promptly but urgently. However, the bill will also have a more lasting effect for all future commissions exercising powers under the act. The bill will provide a special procedure for commissions to determine the validity of claims for legal professional privilege over documents a commission seeks. Of course, legal professional privilege is a common law rule of evidence that prevents courts from requiring the production of evidence that would disclose confidential communications between a lawyer and their client. It is an important principle of justice, as clients should feel free to be able to provide full instructions to their lawyers so that lawyers can provide complete and accurate advice. This freedom is compromised if clients fear that their instructions could subsequently be used against them in a court.

However, legal professional privilege does not apply to all communications between a lawyer and their client. In order to attract the privilege the communication must have been made with the dominant purpose of either obtaining legal advice or in relation to actual, pending or reasonably anticipated litigation. As a result, not every claim of legal professional privilege is a valid one. It does concern Labor that we may be seeing an increasing trend for some companies to make exaggerated claims of privilege or to conduct certain business affairs in the presence of lawyers simply to form the basis for a later claim of privilege. We have seen examples of this in the current AWB, that is, the Australian Wheat Board case, and to some extent in the James Hardie case before that. Parliament does have the opportunity to send, and should send, a strong message that this simply is not on. To properly protect the privilege we cannot allow it to be misused. Legal professional privilege is intended to be a safeguard in our system of justice, which relies on openness between lawyers and their clients. It is not meant to be a cloak for hiding unlawful conduct.

The bill does go some way to sending that message to businesses and others that might want to hide under that cloak by streamlining the process for assessing claims of privilege in the context of royal commissions. This should be a disincentive against making trumped-up claims by ensuring that the onus to pursue privilege claims lies with the claimant, not with the commission. It would provide that legal professional privilege remains a reasonable excuse for failing to provide requested documents to a commission only if either a court or a member of the commission has accepted that the document is in fact privileged.
However, under this bill a member of a commission would be empowered to demand by written notice the document for at least inspection in the first instance. Inspection could be made by either the member or a person authorised by the member—for example, an adviser. If the claim is accepted, the commission would be required to disregard the document for the purpose of any report or decision the commission makes.

The first question of course is: why is this bill necessary? It has clearly, in the context of this debate, been brought forward by the government to solve a problem. It is necessary because of a Federal Court case involving the Cole commission—that is, AWB Ltd against Cole. This case involved precisely the sort of exaggerated claim I am talking about today. AWB claimed privilege over the now infamous draft statement of contrition—not everyone will recall it, but I know many here in this chamber and certainly many in the gallery will—which had been produced in December 2005. Commissioner Cole determined that privilege was not attached to the document and there was no reasonable excuse for it to be withheld. AWB then applied to the Federal Court to order Commissioner Cole not to use the document. The Federal Court found that the document was not subject to privilege on the rudimentary ground that it had not been produced and circulated for the dominant purpose of obtaining legal advice. In short, it was produced for the purposes of public relations, not legal advice—and AWB’s public affairs department went into overdrive on that.

However, the court cast serious doubt over whether the commissioner also had the power to demand to inspect the document in order to make a determination on the claim of privilege. Ultimately, the court did not make a binding determination on the issue, but it did point out that, in principle, privilege would prevent the commission from inspecting a document over which privilege is claimed and that any abrogation of legal professional privilege to allow such an inspection could only be made by clear and unmistakeable language in the RCA, not merely by implication.

So that is the vital change that this bill makes. In providing a special process it makes it crystal clear that a commissioner can demand to see a document in order to make his or her determination over the matter of whether it can be admitted into evidence. The fact is that determining whether a document meets the dominant purpose test of legal professional privilege often requires the decision maker to see the document. In the House of Representatives, the shadow minister referred to concerns that were raised by the Law Council about the possibility that commissioners could be prejudiced by seeing documents that are later held to be privileged. It is a point that to make a determination you need to see the document. The Law Council raised the issue of whether that would prejudice the proceedings. As the shadow Attorney-General indicated, we are satisfied that adequate safeguards are in fact in place to prevent this problem.

Labor is convinced that this bill merely streamlines the process by putting the onus of commencing litigation on the claimant, not the commission. This should deter false and exaggerated claims as well as reducing the incidence of litigation—and the expense and delays that go with it—during the life of the commission. But let me make it clear that this bill does not in any way affect the substance of legal professional privilege or the protection it affords to lawyers and their client communications.

Having described what the bill does, I want to make it absolutely clear to the Senate what this bill does not do. The bill does not remove the obstacles to a full investigation
by Commissioner Cole into the wheat for weapons scandal. The bill does not address the restrictive terms of reference with which the government has restricted the inquiry. The bill does not demonstrate any serious commitment to a full, open and transparent inquiry into what really happened behind the Iraq kickbacks scandal and how deeply this government is embroiled within it. Whether this bill passes or not, Australians can have no faith that the Cole commission will get to the whole truth of this shameful episode while it has the restricted terms of reference that have been provided to it by this government.

As I said, the reason for that is that this government has imposed terms of reference that restrict the inquiry. These terms are like blinkers, designed to deprive the inquiry of its peripheral vision, where if it focused its attention it might find a whole lot more. The Minister for Foreign Affairs, the Minister for Trade and even the Prime Minister himself might be examined a little closely because, when you look at their responsibilities, questions remain about whether they have failed in their responsibilities to protect the good name of Australia, questions remain about whether they have maintained an openness of government and questions remain about whether officers or ministers may have breached administrative law, international law or criminal law in Australia. We will perhaps for some time question whether the Cole commission might, with wider terms of reference, have found the answers.

It is very important to look at those sorts of issues, because in such an issue as this there should be no doubt that the Cole commission should have full and open powers to investigate all of the issues so that in the end, whatever the result might be, we can come away with the confidence that all of those stones that should have been turned over have been turned over and that everything that should have been brought to light has been brought to light and examined in the cold, hard light of day. But when you have a government that has imposed terms of reference which seek to constrict the ability of the commission to look under all of those rocks then you do have a problem—a manifest problem within government. You have to ask: did this government turn a blind eye, or was it involved in a systemic operation to undermine the Iraq sanctions regime? These questions will preoccupy us for some time, I suspect. It is an issue that goes to the heart of the integrity and competence of this tired government.

Let us not forget what happened here. An Australian company, not just any company we sometimes like to talk about but an Australian company that was Commonwealth owned for some time and to this day retains a Commonwealth sanctioned monopoly on the export of wheat, paid over $300 million in kickbacks to the regime of Saddam Hussein. At the same time Australia was a party to the United Nations sanctions against Iraq and the Australian government was preparing for war against Iraq to remove Saddam as a dictator. The bottom line is that, while the Australian government was asking our men and women in the Navy to participate in a blockade against Iraq, A WB was paying out $300 million. You have got to ask yourself: was the A WB undermining those efforts being made by paying kickbacks to prop up that very same regime? When you look at that scenario you do have to ask: how do the people who put that effort and energy in on behalf of our Defence Force in serving our country feel? How do they feel about this government who may have turned a blind eye and who may have not done the right thing by them? I cannot speak for them but you would have to put a question mark about how they feel about their operation. They would want to be proud to be serving this
country and representing us internationally and they would want to be proud to hold their heads up and say, ‘We are doing the right thing internationally.’ They would not want to have that feeling in the back of their minds that there was a company, AWB, paying kickbacks to Saddam Hussein and they would wonder what kind of involvement the Australian government may have had.

We need to know what role the government played in the scandal. It could have been sheer incompetence. It would not be surprising; they seem to have demonstrated it everywhere else. They could claim sheer incompetence. They could put their hand up and say, ‘It was just absolute incompetence on our behalf.’ That is probably their best defence. Was it a failure to read cables, pick up the 29 warnings or take the necessary action? In the foreign minister’s case was it failure to follow up his own requests for more information, scribbled in the margin of one of the cables he did not apparently bother to read? It is all of that. That is the government’s best argument in all of this, I have to say: that they were incompetent, or maybe we will even accept lazy. Or perhaps, more plainly, they were just stupid. These are ministers with front-line responsibilities for our national security and economic well-being, but it seems that they do not read cables.

Should we accept incompetence as a defence or was it more than that? Was it wilful blindness? I do not know. Was it a sideways glance, a nod and a wink and ‘It’s okay’? We might not know. But the public should know. The government should ensure that if there is a suggestion that those matters are out there they can wipe them off by saying that they will ensure that the Cole commission has a clean, wide, open reference to make sure that we can then take those off the table. Otherwise we are left with all those unanswered questions.

We cannot make the accusation, though we can raise it: was it a deliberate action? We do not know. With all of the scenarios it is no exaggeration to say that this is one of the most appalling scandals I have seen in the history of this Commonwealth government. Yet we have an inquiry that is prevented from examining the most pressing and serious questions in respect of the whole matter. How did the Australian government betray the Australian people and the Defence Force and those people who are serving their country by letting money flow past their blockade into the treasury of one of the world’s most ruthless tyrants? One thing we do know is, whatever happens, the Howard government has continued to ensure that we will not be able to examine it completely, that there will continue to be a cover-up.

That has not changed one jot with this bill. It is a sensible bill, though, that makes a necessary, albeit modest, procedural change. But it does not go to the core mechanism: the restrictive terms of reference, as I have said. Even this little change has not been something the government has done willingly. It took the expense and delay of a Federal Court case to show them what action was needed. Of course, they do not have to take our advice. It would have been helpful if they had. They could have looked at the issue in more detail but they chose not to. Labor had raised the issue of legal professional privilege stymieing the commission’s operation in March. But, notwithstanding all that, we are pleased that the government are finally addressing the concerns that Labor raised months ago.

But as the tenor of my speech today highlights, we are disappointed with the delay. We are disappointed that the government had an opportunity with this bill to provide a better course of action by saying in their second reading speech that they had also examined the issue of the terms of reference and they
agreed that they should be broadened. But they have not gone there. We do want the commission to complete its job as quickly as possible. We would have preferred to be debating a bill addressing the privileges issue weeks ago but we are pleased to support it today and facilitate its urgent passage through this parliament so that Commissioner Cole can continue his work with minimal further interruptions. But the government cannot be allowed to continue their ruse that the bill demonstrates their commitment to helping Commissioner Cole to find the truth. That is just simply baseless.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (12.52 pm)—We have heard from the opposition that the bill before us amends the Royal Commissions Act 1902 to clarify the operation of the act in respect of claims of legal professional privilege. The Royal Commissions Amendment Bill 2006 is a result of a request by the Hon. Terence Cole, commissioner of the current inquiry into certain Australian companies in relation to the UN oil for food program, better known to most Australians as the Cole inquiry into the AWB. While the bill may assist the commission to get to the bottom of the AWB’s involvement in the kickbacks to the Saddam Hussein regime via the oil for food program, it will not in fact help to uncover the extent of the Australian government’s knowledge of the scandal or why the Australian government failed to act on no fewer than 29 warnings that it received on AWB’s possible involvement in those kickbacks.

The government’s fingerprints may not be all over the AWB’s feather-nesting of Saddam Hussein, but its failure to investigate warnings, to cooperate with UN investigations, to expand the Cole inquiry terms of reference or to take any responsibility and its blocking of Senate attempts to ask questions, we say, make it culpable nonetheless. This government has become arrogant and reckless and is abusing its parliamentary power to avoid responsibility, and this is one example of that.

The request to amend the Royal Commissions Act 1902, as this bill does, was made after Commissioner Cole rejected a legal professional privilege claim over the document referred to as the ‘draft statement of contrition’, which was inadvertently submitted to the inquiry by AWB Ltd. AWB subsequently applied to the Federal Court for review of Commissioner Cole’s decision, challenging not just the decision on the particular document but also his capacity to determine claims of legal professional privilege.

The Bills Digest notes that the litigation was in the context of long-running disputes over the production of documents by AWB Ltd. In February this year, Commissioner Cole said that the situation with AWB’s claim for legal professional privilege had almost reached the point of absurdity. Commissioner Cole further revealed, on 30 May, that he was not satisfied that the company had fully responded to 14 formal requests for documents over the last five months. It has also been reported that a further 1,200 documents or categories of documents, with a further long list of hundreds of documents, may also have been the subject of legal professional privilege claims by AWB.

The Federal Court held that the application by AWB should be dismissed, that the document in question was not subject to legal professional privilege and that Cole had the power in the circumstances of the case, as the document had been inadvertently provided to the inquiry, to form an opinion on whether the document was subject to legal professional privilege. However, the decision did cast some doubt on whether Commissioner Cole or any future person appointed under the Royal Commissions Act has the
power to require the production of a document for inspection where a claim to legal professional privilege has been made. The court did not make a binding determination on this issue. Federal Court judge Justice Young did point out that in principle the privilege would prevent the commission from inspecting a document over which the privilege is claimed and that any abrogation of legal professional privilege to allow such inspection could be made only by clear and unmistakable language in the Royal Commissions Act, not merely by implication.

While legal professional privilege is an important principle of justice, concerns have been raised that some companies and some lawyers are making exaggerated claims for privilege or, in some cases, conduct certain business before a lawyer in order to claim legal professional privilege. Commissioner Cole was understandably concerned about the judgment, given the sheer number of documents that AWB have reportedly claimed legal professional privilege over. The explanatory memorandum to the bill says:

Mr Cole has expressed his concerns with the decision to the Australian Government and has sought urgent amendments to the RCA, noting that LPP claims have been made in respect of many documents that have not been produced to his Inquiry.

The bill therefore intends to put beyond doubt that any current or future commissioner appointed under the act may require the production of a document in respect of which legal professional privilege is claimed for the specific purpose of making a finding about whether to accept or reject it. The bill will still require the final decision to be reviewable by the courts. The Democrats believe that, given concerns that some companies and lawyers are increasingly taking advantage of legal professional privilege laws, it is appropriate that it is made clear that the commission has the right to determine whether in fact a document is subject to legal professional privilege. Because of this, we support the intent of the bill.

However, the Law Council questioned whether the commissioner would be influenced by the content of such documents when writing the report. The concern is that this may in turn lead to allegations of actual or apprehended bias by affected parties, which may be especially important in cases such as the Cole inquiry, where the commissioner is making findings of liability for individuals and corporations. Where legal professional privilege has been claimed before the commission, new subsection 6AA(3) makes it clear that the commission may require production of the document for inspection by the commissioner and/or an authorised person or persons for the purpose of deciding whether to accept or reject the claim. The Bills Digest notes:

... in practice under the Rules of Court in Australian jurisdictions, if it is undesirable for the judge who will hear the case to see the document in relation to which the claim of privilege is made, a discretion is allowed for the court to decide that the question of privilege should be decided by a different judge ... Issues of bias are completely avoided by this process.

Although this is an option under new subsection 6AA(3) of this Bill, it is not a specific requirement.

Unlike Labor, the Democrats do not think that there are appropriate safety nets in this bill to prevent bias. Therefore, I will be moving an amendment that will give the commissioner a specific discretion to have another authorised person related to the inquiry decide questions of privilege so that the final report is not influenced in any way by the material contained in documents, if found to properly attract legal professional privilege.

I will now return to the question of the government’s failure in its responsibilities to
the international community and the Australian public. Whatever Mr Howard might say, politicians are not here just to score political points. This is not, after all, a game of football that we are conducting. In our view, government ministers have a very serious duty and obligation to serve the interests of the country and to do all they can to uphold their legal responsibilities.

The obligations of members of the United Nations, including Australia, to enforce sanctions against Saddam Hussein’s government were very clear. United Nations Security Council resolution 611 makes it clear that the government of Australia was bound to prevent any Australian company or individual making payments to the Saddam Hussein government or to anyone acting on behalf of that regime. In acknowledgment of the UN Security Council resolution, the Australian government in fact amended the Customs (Prohibited Exports) Regulations to say that goods could be exported to Iraq only if the Minister for Foreign Affairs granted an export permit.

The simple fact is that, whatever AWB has done, the federal government had the legal responsibility to know and to ensure that Australian companies were not breaching international sanctions. Clearly, they failed in this responsibility—and they failed despite receiving 29 different warnings that AWB may be involved in kickbacks to Saddam Hussein’s regime. You would think that one or two warnings would be enough, but to ignore 29 warnings suggests that they did not want to know.

From 1998 to 2003, Australian intelligence gave something like six warnings that the Iraq government were using transport companies, including the Jordan based Alia Corporation, to circumvent United Nations sanctions by charging commissions. From about January 2000, the Australian government received several warnings from the United Nations that AWB may be involved in giving illegal commissions to Saddam Hussein’s government. It is reported that in one cable the United Nations asked if Australia would make discreet high-level inquiries to ensure that AWB were not in breach of sanctions. To the best of our knowledge, no discreet high-level investigation was made and, instead, DFAT responded without first contacting AWB, saying: ‘We think it unlikely that AWB would be involved in a breach of the sanctions regime.’ There were 29 warnings that we know of, and they failed in that responsibility.

The government’s refusal to accept any responsibility risks causing major harm to Australia’s future agricultural, trading and diplomatic activities and, domestically, it further destroys public trust in governments. Even if they did not care about Saddam Hussein’s sanctions—although Mr Howard obviously cared enough about Saddam Hussein to attack his country, helping the United States to kill possibly 100,000 Iraqis in that event; but of course they do not want to know exactly how many there were, and there are still no confirmed figures—the failure to ask about Abu Ghraib torture, weapons of mass destruction, depleted uranium or Iraqi civilian deaths points to selective intelligence gathering and gross hypocrisy on the part of a government that has again damaged our standing in the international community.

Similarly, domestic scandals such as ‘children overboard’, Cornelia Rau and Vivian Solon demonstrate a government that refuses to take accountability seriously. It is an absolute disgrace that the Minister for Trade can state on 41 separate occasions and the Minister for Foreign Affairs can state on 27 separate occasions that they ‘could not recall’, ‘could not remember’ or ‘had no recollection’ whether they had read warnings about AWB’s possible involvement in pro-
viding kickbacks to Saddam Hussein’s regime. That is either sheer incompetence, which the ministers in question should be sacked for, or it is a wilfully arrogant government whose ministers, to avoid any responsibility or liability, purposely avoid formal damning communications.

These are ministers with front-line responsibility, including for the nation’s security, and they claim that they, or presumably their staff, cannot possibly read everything that comes across their desk. I would say it is lucky that AWB was not plotting a terrorist attack! As we know, a very different standard is applied to a person ASIO suspects of knowing another person who may be plotting an attack or may be just thinking about plotting an attack. They will be detained for days without legal representation—and their memory will have to be a lot better than that of the Minister for Foreign Affairs.

The experience of a number of Senate inquiries—most notoriously the ‘children overboard’ inquiry—has shown that ministers from this government deliberately and frequently use their personal staff as a firewall to excuse themselves from responsibility and full scrutiny about what occurs. Sometimes ministerial staff are used as scapegoats, are sacked or are promoted out of the office, and the minister simply wipes his or her hands clean of the messy, bothersome affair. Past inquiries in the Senate have identified this problem and proposed solutions—but of course these, too, have been ignored by this government. Again and again, members of the government have been able to get away with the lines ‘to the best of my knowledge’ or ‘I do not recall’, without facing proper, open and transparent scrutiny.

The prevailing culture of government deception and cover-up is made much worse with the government having control of the numbers in the Senate. The government may be reluctantly agreeing to fix the barrier to Commissioner Cole getting access to documents, but when are they going to fix the problem for the Senate? All sorts of excuses have been given for not supplying documents ordered by the Senate. We have had everything from ‘commercial in confidence’, to a document which is ‘provided to cabinet’ or is ‘legal advice’—the list goes on—and it remains as inconsistent as it has been over the last few years.

Unfortunately, Commissioner Cole has no powers to make determinations about whether ministers have done their jobs under Australian domestic law or have refused to hand over documents that might put them in a bad light. The Prime Minister refused to amend the terms of reference to allow Commissioner Cole to make findings as to whether ministers, their offices and departments have discharged their duties under Australian administrative law and under international law. But he has argued that Commissioner Cole is wrong in his claim that a change to the terms of reference is needed to make such determinations. We can only hope that Commissioner Cole puts that claim to the test. The Prime Minister obviously has something to hide.

In the February estimates, the government declared a blanket ban on public servants responding in any way to any questions about AWB and the Saddam Hussein kickback scandal. This gag was even extended to ASIO and to CrimTrac. There is simply no way that the government would have tried this on without control of the Senate. Surely this is a clear case of contempt of the parliament. The Clerk of the Senate, Mr Harry Evans, provided advice on this unprecedented move, stating:

... my colleagues and I have been unable to find any precedents for this direction.

He also pointed out:
On various occasions, questions have been asked and answered in estimates hearings about the conduct of commissions of inquiry, for example, the HIH royal commission in 2003 and the building industry royal commission in 2002.

Mr Evans, that fierce defender of the Senate’s role in holding the executive of government to account, will not be with us in three years’ time. His forced 10-year contract expires in 2009 because of laws that were passed in this place and supported by the ALP. His term cannot be renewed, as we all know.

We agree with the sentiments that are reflected in the ALP’s second reading amendment that was put in the House of Representatives—that is, that, if the Howard government has nothing to hide in the wheat for weapons scandal, it would expand the Cole Commission’s terms of reference to allow Commissioner Cole to make such determinations. But the most galling aspect of the government’s behaviour is its refusal to ask precisely how this failure occurred so that it can ensure that such an economically and diplomatically damaging scandal does not happen again. The insistence by government members and officers that they could not or should not have done anything differently beggars belief. Apparently, we must all sit and wait and see if something like this happens again, because nothing is going to be done to stop it happening. Once again, we are seeing the consequence of a government having total control of the Senate—an attitude which displays serial contempt for the electorate.

If Mr Howard continues to refuse to extend the royal commission’s terms of reference, as Commissioner Cole indicated is necessary, then, at the very least, Mr Howard should have the gumption to admit that the government failed in its responsibilities and outline how he and his ministers will ensure it does not happen again. We say that it is time that this government started acting like a government: in a responsible, accountable and transparent manner. The arrogance of this government is a disgrace to this country.

The Democrats will be moving amendments that will overcome the problem identified by the Law Council and encourage the commissioner to consider allowing another member of the commission to make a judgment about legal and professional privilege, removing any real or perceived bias that might arise from sighting a document which it is subsequently determined should not be admitted on the basis of legal professional privilege.

Senator Chris Evans (Western Australia—Leader of the Opposition in the Senate) (1.10 pm)—I also want to address some remarks to the Royal Commissions Amendment Bill 2006. I note that Senator Ludwig presented the detailed case on behalf of the Labor opposition, but I want to add what I think are some important remarks regarding this matter. The bill is a response to issues of legal professional privilege that have arisen at the Cole royal commission into the AWB wheat for weapons scandal. The bill provides a procedure whereby royal commissions will be able to determine whether or not claims of legal professional privilege over documents sought by an inquiry are valid. It is a straightforward change and one that Labor supports.

However, the context of this bill, the wheat for weapons scandal, is characterised by the Howard government’s incompetence in discharging its responsibilities and its culpability in these matters, and its more recent attempts to avoid scrutiny, both at the inquiry and in the parliament. The need for this bill arises out of a dispute between the Cole commission and AWB over that company’s claims of legal professional privilege over the documents sought by the inquiry. The bill
provides clarification of an issue arising out of the Federal Court’s findings in the case between the commission and AWB. The court determined that the commissioner has powers under the Royal Commissions Act to determine whether a document is covered by legal professional privilege, but it did cast doubt over a commission’s power to demand inspection of a document to make such a determination. This bill explicitly provides that power to a royal commission.

The fact that we are debating this bill today reflects adversely on the competence of the Attorney-General. Back in March this year, the shadow minister for foreign affairs and the shadow Attorney-General jointly alerted the government to the need for action to address AWB’s exaggerated claims of legal professional privilege and the hindrance that this was proving to the Cole inquiry. At the time, the Howard government’s Attorney-General dismissed Labor’s call as misconceived. It took the delay of an expensive case in the Federal Court to prompt this legislation—which we have been calling for for months and which was arrogantly and wrongly dismissed by the Howard government’s Attorney-General.

What this bill does not provide is the extended terms of reference that the Cole inquiry needs in order to get to the bottom of the wheat for weapons scandal and to report on the much broader issues of the government’s culpability in this shameful episode. The Howard government has deliberately designed the terms of reference for the inquiry to preclude it from making findings in regard to the government’s behaviour—clearly one of the key areas of interest and clearly one of the areas upon which a royal commission finding would be required. This is a government political strategy to protect itself from any assessment of its incompetence or culpability in these most serious matters.

The wheat for weapons affair is the largest corruption scandal in the Commonwealth’s history. Australia’s monopoly wheat exporter has systematically rorted the oil for food program to provide nearly $300 million of kickbacks to Saddam Hussein. The $300 million that went to the Saddam Hussein government should have gone to buying food, medicine and humanitarian supplies for the Iraqi people. The Howard government was well aware that the Saddam government was rorting the program in cooperation with its suppliers, and it used that fact to support its case for war against Iraq. The fact that an Australian company was the biggest single rorter of the scheme shames this country, immeasurably damages our reputation as a trading nation and undermines our legitimacy in Iraq.

We saw the perverse situation where Australian troops were deployed to fight in Iraq against an enemy funded in part with money rorted by Australia’s monopoly wheat exporter. We had the situation where Australian troops were at risk of death and injury from weapons funded by the rorting of wheat sales to Iraq. That is an incredible position, one that I think shocked the nation and one that deserves the fullest of examinations by the royal commission. While the Australian government has denied all responsibility for ensuring that Australian companies complied with the obligations of the oil for food program, that clearly is not good enough. It flies in the face of the specific regulations stating that Australian companies can export to Iraq only under an export permit issued by the Minister for Foreign Affairs where ‘the minister is satisfied that permitting the exportation will not infringe the international obligations of Australia’.

As we know, the Howard government has had 29 separate warnings over many years in regard to AWB’s engagement with Saddam Hussein’s regime. It beggars belief that none
of those warnings set off an alarm bell at senior levels of government. I do not know whether it was the cosy nature of the National Party wheat club, where the pressure to ensure that nothing interfered with wheat sales to Iraq was insurmountable, but clearly the government was engaged at a very senior level with the players in these matters. Clearly it was warned by people of very senior rank about all of these matters.

Of course, we know that, in the lead-up to the Iraq invasion, we spent a great deal of effort monitoring the intelligence issues surrounding Iraq at the time. While we clearly got a lot of the intelligence wrong or misread the intelligence, I do not for one minute believe that our intelligence did not show up the involvement of AWB in the kickback scheme that was funding Saddam Hussein’s regime. Despite all of these warnings, the government says it knew nothing.

The Cole commission report will hopefully add to our knowledge of all these matters, as have the hearings. But the key problem for us is that the extent of the government’s involvement and its culpability will not be tested because of the government’s refusal to widen its terms of reference. All of this is on the public record and I do not pretend that I add anything to it—although, as I say, I think it is probably worth repeating in one sense because of the enormity of what has occurred here. I think there should be continuing outrage amongst Australians about what has occurred. But I know that the news cycle moves on and the government is relying on that in terms of its defence in these matters.

What I wanted to comment on today—and I think Senator Allison touched on it—is the government’s unprecedented step of directing officials at Senate estimates hearings not to answer questions on any matters pertaining to issues that may come before the royal commission. It is completely opposite to the approach they took to the terms of reference of the Cole inquiry. The Cole inquiry’s terms of reference are limited and they prevent the inquiry from going beyond set boundaries. But their interpretation of what officials of departments could answer at estimates was very broad indeed. Anything that mentioned wheat, Iraq, government departments, ministerial roles et cetera was immediately ruled out of order as being potentially a matter that could arise before the Cole royal commission. In other words, the defence against the Senate estimates inquiry into the matters was as broad as it possibly could be.

We know that there is no precedent for this. There is no support by past practice for the government’s position. In fact, the Clerk of the Senate pointed out in his advice that there is no precedent for the position that the government has taken. They have taken it to protect itself. Commissioner Cole has indicated that he is more than capable of conducting his inquiry and coming to his findings, despite what goes on outside of his hearing rooms. He is unperturbed by any other inquiry into or investigation of these matters.

We saw last month the government again refusing at the second round of estimates to allow any questioning of officials about their capacity in this regard. What little questioning we did get to do on matters tangentially related to these matters revealed that the government’s responses to the Cole commission’s requests for information were less than comprehensive. Commissioner Cole had to persist in his efforts. A lot of information initially requested was not provided and was
only provided after further requests by Commissioner Cole.

My main point is that the Senate has been denied its ability to hold the government to account. The areas that the Cole commission is not covering will remain untouched at this stage. Investigations by the Senate into the actions of the government have been prevented. So you have the Cole commission prevented from looking at the government’s behaviour and you have the key parliamentary accountability mechanism—the Senate inquiry and estimates systems—prevented from looking at these matters.

The government even prevents the Senate from looking at those matters that stand outside Commissioner Cole’s terms of reference. The senators would have been sensitive to the issues before the Cole commission. They would have been sensitive to the issues of the rights of individual witnesses et cetera. But there are a whole range of matters which have not been properly considered or investigated properly by the questioning of officials in Senate estimates. But, because of the government’s direction, that scrutiny was not able to take place. As a result, a whole lot of issues remain to be investigated. The gaps that existed in the terms of reference of the Cole commission have been left unfilled. The gaps in the areas of investigation have not been able to be pursued by senators because of the government’s blanket ban on questions before Senate estimates. Of course, we all know that any attempt to get a wider inquiry beyond the Senate estimates process will be prevented by the government’s use of its majority in the Senate.

I can only assume that the government think that, by delaying any Senate estimates scrutiny of these matters, they gain time, public interest will wane in the meantime and, in a sense, the trail will go cold. They hope that, by allowing the effluxion of time, our capacity to hold people to account will diminish. I think they are right that the passage of time will make it harder for the Senate estimates committees to do their job, because the fact that information revealed will be revealed so late in the piece will make it less politically potent for the government. So, as I said, I think their political strategy is likely to be successful. Of course, it reflects the arrogance that the government have developed in their use of their Senate majority. It reflects the arrogance that has come about over 10 years of government. I think it is of concern to all Australians that such actions have been perpetrated by the government.

In terms of the debate about whether or not Senate estimates committees should have been allowed to investigate these matters, I will just put on the record that, despite the government spending millions of taxpayers’ dollars on two unsuccessful inquiries into the Centenary House matter—inquiries which came to nothing—it did not prevent them from talking about those matters, making comment on those matters, and raising those issues in estimates hearings and in parliament during the whole period of those inquiries. So it is one rule for them and one rule for the rest, and, when they think they are under any political threat, the rules are different.

Of course, that was also true during the inquiry that Commissioner Cole ran into the building industry. There was no shortage of dorothy dixers in the parliament and no shortage of commentary by government ministers and backbenchers as they aired their views on those matters, because they thought the target was trade unions. They thought the target in the Centenary House inquiry was the Labor Party, so a different set of rules applied. There was no attempt to bar questioning, public debate or public inquiry on those occasions. However, when their politi-
cal life is at risk, when there is a threat to them or their culpability is to be examined, then a whole new set of rules applies because they have to protect their own self-interest. There is nothing about principle or proper process in that; it is all about the protection of base political self-interest. Senate processes have been abused in order to pursue those objectives.

As I know all too well, our capacity to deal with the government’s power in this regard is limited. There is no question that the government’s approach to this is based on the fact that they do because they can. They have the numbers. The change in the balance of power in the Senate has allowed the government to take those actions. No-one should be surprised and no-one should misunderstand the basis of that: it is because the government can. They have the power and they will use it; they have the power and they have used it. What we have seen again in this matter is their capacity to limit the scrutiny of their actions. They did it in two ways on this occasion: one was by limiting the terms of reference. The executive draws up the terms of reference. The government drew up the terms of reference for the Cole commission that prevented any inquiry into their culpability and their actions. They had the power to do that and they exercised it. In having an investigation into AWB’s rorting of the oil for food scandal, their defence was that they had a Cole royal commission, but they ensured that their role in it could not be properly examined.

So what was left for Australians in hoping that proper accountability of government could occur? There was the traditional mechanism of the Senate and its estimates committee process, the Senate and its references committee process—the sort of function that we played in the ‘children overboard’ matter; the function that we have traditionally played in holding governments to account for actions taken, by inquiring into, investigating and ensuring that officials and ministers answered for their actions. As a result of the government’s order to its officials, the Senate was not able to play that role. The reason the government could do that is that they knew they could get away with it, and they got away with it because they knew the Senate had no capacity to overturn that direction. There was no capacity to have an inquiry that the government did not approve of and no capacity to direct officials to answer questions directed at them at estimates hearings. They have the numbers, they have the power and they will abuse it. This is just another example of the government’s capacity and willingness to abuse their Senate majority.

I know this does not interest a lot of people and I know it is a difficult argument, but people do need to understand that the government’s ability to protect themselves from proper investigation of their actions in this matter is a direct result of their Senate majority. They did not need any parliamentary input into the terms of reference for the Cole inquiry, but they did need to have the power in the Senate to prevent proper examination of their behaviour, their actions and their culpability in relation to the oil for food program. The fact that they have been able to abuse their Senate power to prevent Senate estimates committees from getting to the bottom of what really occurred is testament to their ability to exercise that power and prevent the Senate from performing its traditional functions.

A very important secondary point in this debate is that not only are we not able to ensure that there are full terms of reference for any royal commission called by government but also, with the loss of the balance of power in the Senate, with the government majority in the Senate, the main accountability mechanism that the parliament has to
hold a government to account—to hold a government’s actions up to the light and to see whether or not they have been proper, moral and in accordance with the law—is denied us. I think that is a very serious state of affairs.

Labor will persist; the story will come out. That is the one thing you know about all of these things: eventually the story will come out. The truth of these matters will out. But the government’s hope is that, by delaying and by trying to allow the trail to go cold, they will defend themselves in the short term. When the truth does out, of course the ministers responsible will have retired and been promoted overseas to ambassadorial posts, and the personal accountability that is called for in these matters will not be there. That is the government’s plan; that is their political tactic—but it is based on pure political self-interest. There is no basis in principle, there is no basis in procedure, there is no basis in precedent.

While we support this bill, I urge senators and others in the Australian community to take very seriously what this government has done in undermining the Senate’s capacity to hold government to account. This is a classic case where the government majority prevents us, the other senators and the Senate from holding the government to account and properly examining its culpability in probably the most amazing Commonwealth scandal that I have ever seen. It is important that the government is held to account. It will not be held to account currently, but Labor will do all in its power to pursue that accountability. As I say, our efforts will be seriously undermined by the government’s use of its majority in this place.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.31 pm)—in reply—I think a number of points need to be made in relation to today’s debate on the Royal Commissions Amendment Bill 2006. It may assist us if we look at this in a historical context—that is, that the United Nations tasked the Volcker committee to inquire into corruption of the UN oil for food program in relation to Iraq. The Volcker committee handed down its report last year and an inquiry with the full powers of a royal commission was established by this government on 16 November 2005. Of course, terms of reference were provided.

Senator Allison mentioned in passing that we have to look to our international obligations as a country. The Cole inquiry fulfils that obligation in relation to the report handed down by Volcker and his committee. In fact, it is interesting to note that it is the most comprehensive and transparent investigation initiated by any of the 66 UN member states with entities named in the Volcker report. That is indeed a telling statistic. It clearly demonstrates that Australia lives up to its responsibilities and has responded in an appropriate fashion.

The government has provided Commissioner Cole with terms of reference that will allow him to investigate and make findings in relation to Commonwealth knowledge of alleged misconduct by Australian companies participating in the UN oil for food program. That is indeed a wide reference. Commissioner Cole stated on 3 February this year that, if there were any suggestion that there had been a breach of Australian law by the Commonwealth or its officers in relation to the terms of reference, he would seek a widening of these terms of reference to permit him to make a finding to that effect. He also noted that this point had not been reached.

The government—and particularly the Prime Minister—has made it very clear that it would take seriously any request by Commissioner Cole for an extension of the inquiry’s terms of reference. The government’s
commitment to enabling the inquiry to do its job is reflected in the fact that it has implemented all extensions and variations to the letters patent that the commissioner has requested. This bill demonstrates a further commitment to the government’s cooperation with the Cole inquiry.

We have heard debate of how this came about. The Federal Court’s decision in AWB v Cole cast significant doubt on whether a commissioner has the power to require the production of a document for inspection where a claim to legal professional privilege has been made. Indeed, when the commission was set up, it was thought that the position on that was rather straightforward. Of course the Federal Court decision now throws that into doubt, and a legislative response is required. I might add that Commissioner Cole endeavoured to resolve this with the parties when this surfaced in March this year. For Senator Ludwig to say that we have done too little too late really is disingenuous because Commissioner Cole requested an amendment on 19 May and we introduced these amendments on 25 May—only a few days after that request was received. Such has been the response of this government to requests made by Commissioner Cole.

Let us return to the decision in the Federal Court. That decision would have forced a commissioner to apply to the Federal Court to determine legal professional privilege claims when the commissioner would know no more about the document than that a privilege claim had been made. These amendments are doing nothing more than clarifying the law as it was understood when this commission was set up. These amendments put beyond doubt that where a person makes a claim of legal professional privilege in respect of a document a commissioner has the power to test that claim. If the commissioner accepts that the privilege claim is properly made, then the document will be returned to that person and disregarded for the purposes of the inquiry. If that claim is rejected, the commissioner’s decision may be reviewed by the court. While passage of the bill will of course be of immediate benefit to the Cole inquiry, it will also clarify the law with respect to legal professional privilege under the Royal Commissions Act more generally. I think that we should look at this in a wider context at this point. This will assist royal commissions set up in the future. While being of immediate benefit to the Cole inquiry, it will have a wider benefit and is therefore a desirable amendment. I note that the opposition is supporting the bill.

There were a number of points made in the debate. Senator Allison said, ‘The Prime Minister has something to hide,’ and senators Ludwig and Evans implied that as well, stating that the government was ‘hiding evidence and information by stopping the Senate from questioning officials’. I think it is quite evident that the government has been totally forthcoming in its cooperation with the commission, and not only in the cooperation of government agencies. I think there are about 14 government agencies that have been cooperating with the commission. No fewer than two senior ministers of this government and the Prime Minister himself have appeared before the commission to give evidence and subject themselves to cross-examination. That is a much greater step in exposing a government to scrutiny than any Senate estimates committee process.

What we have seen is something that we have not seen in this country for 20-odd years: that is, a Prime Minister fronting a royal commission to be questioned and cross-examined. That is hardly the action of a Prime Minister who has something to hide. Indeed, not only did the Prime Minister appear but also two senior ministers—the Minister for Trade and the Minister for Foreign Affairs—appeared. So it is a total furphy
and, in fact, a total misrepresentation of the situation by the opposition and the Democrats to say that the government has something to hide by not allowing officials to be questioned at Senate estimates committees. What would be inappropriate is if we ran a parallel inquiry—that is, if we allowed officials to be questioned in a royal commission and had a parallel inquiry at an estimates committee which could well thwart the process of the royal commission. That would be inappropriate. We have gone down the path of saying that a royal commission has been set up and we should abide by that; and, indeed, that is exactly what we have done.

There is an amendment proposed by the Democrats. We can deal with it in the committee stage, but I can foreshadow that the government, for a number of reasons, will not be supporting that amendment. However, this bill is essential for the good working of royal commissions in general and it will benefit greatly the Cole royal commission in particular. I might just add—and I will finish on this note—that there has been extensive debate and inquiry in the Senate and in the House of Representatives in relation to this. This subject has received a great deal of scrutiny not only in the parliament but also in the press and the public at large. Added to that, there has been a royal commission where no less than the Prime Minister and two senior ministers of the government have fronted to be questioned and cross-examined. That is hardly a situation where things are being swept under the carpet. Indeed, internationally, Australia leads the way in what it has done to date in response to the Volcker inquiry and report.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (1.40 pm)—I move:

(1) Schedule 1, item 5, page 5 (after line 2), after subsection 6AA(3), insert:

(3A) In deciding whether a document required to be inspected in accordance with subsection (3) should be inspected by a member of the Commission or a person authorised by the member of the Commission, the member of the Commission may consider not inspecting the document if:

(a) there is a likelihood of criminal proceedings arising where the document may be used; or

(b) there is a likelihood that inspection may cause a member of the Commission to be biased.

This amendment was foreshadowed in my speech in the second reading debate. It does not require any further discussion, but I think it is important to respond to the earlier comments of the Minister for Justice and Customs.

As I understand it, there were not a lot of questions asked of the Prime Minister but, nonetheless, the big issue was that he came out of that hearing and pre-empted the Cole royal commission’s findings by declaring that the government had nothing to hide and that somehow his appearance demonstrated that. Some of us do not go along with that. We also do not think that the Prime Minister fronting up to a hearing means that no-one else need be asked to speak and answer questions. That is the point that was made by both Senator Evans and me: it was not appropriate for the government to gag public servants in the way that they did and it was quite proper for us to ask questions. The government is making it up as it goes along by saying that when you have a royal commission on you cannot ask questions about it—that you cannot have parallel inquiries. There have been
examples of many cases where it suits the government to have parallel inquiries take place.

The amendment I have moved allows some flexibility to avoid the possibility that legal professional privilege might in some way bias the findings of the commission as a result of the commissioner sighting a document and subsequently discovering that it is covered by legal professional privilege. It is a straightforward amendment and one that I ask the Senate to support.

Senator Ludwig (Queensland) (1.43 pm)—Not to make this matter more trouble than it is—and I know that you have said it is a straightforward amendment, Senator Allison—but I want to ask a question. I follow (3A)(b) and it might quite easily be that I have missed the point of (3A)(a), which says ‘there is a likelihood of criminal proceedings arising where the document may be used’. I will put that aside, although I do want a better explanation of what that actually means and how it would operate. I do not have any trouble with (3A)(b) in the sense that it makes plain that where ‘there is a likelihood that inspection may cause a member of the commission to be biased’ it is a straightforward issue that is easily ascertainable and quite clear. So I think you are right about that.

My understanding is that the problem with the ‘criminal proceedings’ reference is that—and I have had to do this a bit on the run—commissions always tend to run the risk of running into difficulties by publishing documents, proceedings and evidence that they gain. Royal commissions usually wend their way through as best they can because they are after the truth of the matter. It sometimes happens that they run over some of those issues; they deal with them as they arise. But it certainly does not deter or stop them—they park it, in that sense.

There is also the other matter, in which I was trying to work out whether you meant this: if it were a criminal proceeding, would they admit it? Of course, it would then be part of the record. That would be royal commission work anyway; they would make that decision whether or not it was, which goes back to my earlier comments. But if it were not admitted then there is really no problem, in the sense that if it might lead to a criminal matter they might choose not to do that anyway. Therefore it does not become admitted, it is not part of the matter that is before the commission and for that reason it would not necessarily taint any future criminal matters. I am sorry to put you on the spot like this, Senator Allison, but I do want a further explanation of (3A)(a). I can agree to (3A)(b), so your choice in that sense—depending on whether or not you want our support—is to try to convince me on (3A)(a) or to delete (a) of (3A) and renumber (b) as (a). We would then support it.

Senator Allison (Victoria—Leader of the Australian Democrats) (1.46 pm)—I will, to the best of my ability, try to convince you. This was the legal advice we were provided. It is to do with indicating the case that may be more severe than the commission might be inquiring into. Not all commissions are investigating criminal proceedings, and this is just to indicate that there is an added encouragement, if you like, for this to occur where there is a high degree of severity in the case being considered. So it is about incrimination and criminal proceedings. I would be agreeable to removing that if there is some doubt about it, but I gather it is a relatively straightforward proposal that simply adds a bit of weight to the encouragement in such cases.

Senator Ellison (Western Australia—Minister for Justice and Customs) (1.47 pm)—Just for the record, as I said earlier, the government opposes this amendment and
sees no need for a further amendment in relation to any aspect of bias. It believes that there is in this bill an appropriate mechanism for dealing with questions of privilege. The amendments proposed in this bill would explicitly authorise inspection and provide that a commission must disregard information from a document found to be privileged. No serious question of bias arises where a document is privileged; it requires no more, in effect, than that the commissioner exclude irrelevant consideration. You see it in civil jurisdiction, and in criminal jurisdiction to a lesser extent. A judge may rule on the admissibility or otherwise of evidence that is sought to be led. You might say then that the judge has seen other evidence and could well be biased because of having seen that. Our judicial system provides for that. In a criminal situation there is a voir dire; the judge presides over what evidence will go to the jury. Although the jury is the arbiter of fact, the judge still remains the judge of that trial and is running that trial. In the address to the jury and sentencing, the judge subsequently has a profound influence on the future of the accused.

We do not say that any determination of that evidence should be done by someone else in case there is a perception of bias or in case the judge becomes biased. It is in our system as it is, and it has worked well. We see that it should be no different for a royal commission. These amendments essentially reflect the government’s understanding of the intended operation of the act prior to the Federal Court’s decision. I point to the explanatory memorandum:

Item 7 adds “or subsection 6AA(3)” to the end of paragraph 6DD(1)(b)—

and this is the important part—

to ensure that evidence produced by a witness in order for a claim of legal professional privilege to be determined by the member under subsection 6AA(3) cannot be used against that witness in any civil or criminal proceedings.

So it ensures further that that cannot be used against the witness concerned. Therefore I think that already in this bill we have a sufficient process which guards against bias, and one which reflects something that exists in our civil and criminal jurisdictions to date.

Senator LUDWIG (Queensland) (1.50 pm)—Senator Allison, for the sake of brevity it would be easier, if you want our agreement, to remove (3A)(a). I am not convinced it adds anything to what the commissioner would already do in similar circumstances anyway. It is the issue of bias which is central to this matter and which has concerned us and is before us now, with (b) being the germane issue. I think (a) complicates the matter more than it needs to. I suspect it is a matter that would be taken into consideration by a commissioner anyway. They meet these all the time in royal commissions. I am sure they met it at the bottom of the harbour at that famous commission but dealt with it accordingly, and also at many others since then. So it probably does not serve any purpose, although I can see it may add a belt and braces approach. In that sense I think it is adequately dealt with, but if you want our support we are happy to have (3A)(a) deleted and (b) renumbered as (a). If not, you can proceed.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (1.52 pm)—I am persuaded by the arguments, so I seek leave to delete paragraph (a)—I believe there is now no need for paragraph (a)—and run the wording on to read:

... the Commission may consider not inspecting the document if there is a likelihood that inspection may cause a member of the Commission to be biased.

Leave granted.
Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.52 pm)—Just for the record, even with that change, the government opposes the amendment for the reasons I outlined previously. I will make a quick reference to the comment that Senator Allison made in relation to the Prime Minister’s evidence. The Senate should recall that Commissioner Cole made a statement on 27 April this year in relation to allegations that the Prime Minister was pre-empting the commission’s determination and, indeed, was in contempt. The commissioner made it very clear that that was not the case, and I just place that on the record. The government opposes this amendment.

Senator LUDWIG (Queensland) (1.53 pm)—Given that there is to be no division, I indicate that Labor support the amendment.

Question negatived.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.54 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

CHILD SUPPORT LEGISLATION AMENDMENT (REFORM OF THE CHILD SUPPORT SCHEME—INITIAL MEASURES) BILL 2006

First Reading

Bill received from the House of Representatives.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.54 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) (1.55 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 represents the first implementation phase in the Government’s comprehensive reform of the Child Support Scheme. This reform flows from the extensive work of the Ministerial Taskforce on Child Support and the Government’s response in February this year to the Taskforce’s recommendations.

The Child Support Scheme was introduced in 1988 to deal with the consequences on children of marriage and relationship breakdown, including the relatively low living standards of many children, the large numbers of separated parents dependent on welfare, and the low amounts being paid in child support by non-resident parents.

The House of Representatives Standing Committee on Family and Community Affairs responded to ongoing community concern about child custody arrangements with a wide-ranging inquiry and report, Every Picture Tells a Story, which was released in late 2003. The Ministerial Taskforce on Child Support was then established to look further into the complex detail involved, leading to its report, In the Best Interests of Children, being presented to the Government in mid-2005.

The Taskforce suggested the present Child Support Scheme does not reflect community standards on shared parenting and the increased participation of women in the workforce. It also re-
ported that the Scheme does not accurately reflect the relationship between income and spending on children in ordinary families, nor is it well integrated with the income support, family payments and family law systems.

The package of reforms announced by the Government in response to the Taskforce findings will constitute a major overhaul of the Scheme. Notably, it will include a new child support formula that reflects the true costs of raising children in Australia, recognising the incomes of both parents and balancing the needs of first and second families. The changes will affect 1.4 million parents and 1.1 million children. The aim is to reduce conflict between separated parents, particularly through encouraging shared parenting as part of a system that is fairer and puts the needs of children first.

The reform package announced by the Government will be introduced in three stages, with the more extensive and complex elements, including the new formula, being the third stage. This bill introduces the first legislative stage of the package of reforms, to be implemented in July 2006.

Among these initial measures is an increase in the minimum child support payment from the current amount (equal to $5 per week) to the amount that would have been in place if the old minimum had been indexed since its introduction in 1999. Furthermore, this new minimum payment (currently equal to about $6.15 per week) will retain its value through a regular indexation process.

A further measure will lower the cap on income that is taken into account in working out child support liabilities. At present, income in excess of two and a half times the yearly value of average weekly total earnings for full-time adults is disregarded. The changed cap will have regard to a comparable amount drawn from the average weekly total earnings for all employees—a lower reference amount. This will mean that some high income earners will pay child support at a lower rate than under the current cap, which has required some payers to pay more than the actual costs of their children.

The bill will also provide more detail on the circumstances in which a parent’s capacity to earn may allow the Child Support Agency or a court to depart from the usual administrative assessment rules in setting the amount of child support payable. A decision under the capacity to earn rules is one where the parent’s real income is not disputed, but it is considered that he or she has a capacity to earn at a greater level than is being exercised. A decision may be made in these circumstances to assess the child support liability as being at a higher rate. Greater clarity and accountability is to be brought to capacity to earn decisions.

For example, before such a decision may be made, it would have to be clear to the Child Support Agency or a court that the parent either is unwilling to take up clear work opportunities, has reduced his or her employment to a level that is lower than the normal full-time level in the occupation or industry in question, or has otherwise changed his or her occupation, industry or working pattern. Also, it would have to be considered that these employment decisions are not justified because of the parent’s health or caring responsibilities. Lastly, the decision could only be made if the parent had not demonstrated that a major purpose of the parent’s employment decisions was not to affect the child support assessment.

The bill increases from 25 per cent to 30 per cent the proportion of a payer’s child support liability for a particular child support payment period that may be met through what are known as prescribed non-agency payments. These are payments made by the payer to certain third parties in partial satisfaction of his or her child support liability. Payments such as child care costs, school fees and essential medical and dental bills, amongst other things, are allowed for this purpose. The increased level will give payers extra flexibility in meeting their obligations. Any remaining amount of a payment that exceeds the 30 per cent limit will continue to be credited against the payer’s liability in subsequent child support payment periods.

Lastly, the bill addresses a constitutional issue with the application of the Child Support Scheme to exnuptial children in Western Australia.

Constitutionally, the Child Support Scheme extends to children of marriage in all states but to exnuptial children only to the extent that the states either refer their powers to the Commonwealth or adopt Commonwealth laws. All states
have referred to the Commonwealth their power to make laws in relation to exnuptial children except for Western Australia, which has chosen instead to adopt the child support legislation from time to time. However, the Western Australian adoption Acts have tended to lag behind the Commonwealth amendments.

In the periods between Commonwealth amendments and Western Australian adoption, two parallel child support schemes have operated—a pre-amendment scheme applying to exnuptial children in Western Australia and a post-amendment scheme applying the up-to-date legislation to all other children in Australia, including children of marriage in Western Australia.

The amendments in the bill confirm the legal status of this arrangement, to provide certainty to families and children affected.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (1.55 pm)—On behalf of the Labor opposition I rise to speak on the Child Support Legislation Amendment (Reform of the Child Support Scheme—Initial Measures) Bill 2006. I am pleased to see so many government senators coming in to listen to my contribution; I am sure it is unrelated to the near start of question time! The Hawke Labor government established the Child Support Scheme in 1988. It was set up in response to the growth in child poverty since the early 1970s—a phenomenon due in part to the growth in the number of post-divorce sole parent households. There was community concern at the time at what was perceived to be the unfairness and ineffectiveness of the court based maintenance system and the fact that only 30 per cent of non-custodial parents were making regular maintenance payments.

Since 1988 Australia’s system has become an international model, and it has recently been the base for the scheme that was introduced into Britain. However, there are many concerns in the community about how our scheme operates, its fairness, the assessment formula and the issues of compliance. All MPs and senators are well aware of how sensitive this area is for many. The concerns and problems that many parents have with child support policy and implementation are part of the bread-and-butter work of electorate offices around the country.

Labor acknowledges that, despite its success, the Child Support Scheme is in need of reform. Labor’s approach to this policy area is guided by a set of core principles. Central to these is our belief that the interests and wellbeing of children must always come first. As far as possible, child support policy should serve to support the child in security and in economically sustainable and acceptable conditions. Policy should aim to ensure that both parents contribute to the wellbeing of the children and, as far as possible, maintain active and ongoing roles in their children’s lives. We believe that shared parenting is beneficial to both children and their parents and that there should be a fair balance between parents in meeting the costs of a child’s care and upbringing. To serve the interests of children and parents, the Child Support Agency needs to be competently administered and sufficiently resourced. We advocate strong enforcement and compliance measures so that the obligations of parents are met.

The process of child support reform has been a lengthy one. The House of Representatives Standing Committee on Family and Community Affairs delivered its report into family separation issues, *Every picture tells a story*, in December 2003. Among the committee’s bipartisan recommendations was the establishment of a ministerial task force to evaluate the Child Support Scheme. I pay tribute to all those members of the House of Representatives who served on that committee. They did good work and worked hard to find balanced outcomes.
The role of the evaluation would include establishing the costs of raising children after parental separation, recognising different income levels of households, and reflecting the costs for both parents of maintaining meaningful contact with their children. The report of the ministerial task force on child support, chaired by Professor Patrick Parkinson, was presented in May 2005 and was the first exhaustive and systemic evaluation of child support arrangements.

The task force recommended a new formula for the assessment of child support—a formula based on evidence of the actual costs of raising children, the principle of shared parental responsibility for those costs and a recognition of each parent’s level of care. It is this new formula which has attracted most attention andcomment and lies at the heart of the changes. While Labor support the principles on which the new formula is based, its practical effects on low-income resident families make up the core of our concerns about the package—a subject I will return to in detail later.

In addition to the new payment formula, the changes include increased compliance activity, more use of courts to recover debts, a new approach to parents understating income to avoid the child support liability and access for administrative review for the SSA. The reality is that only half of all child support obligations are currently met in full and on time. This is a level of noncompliance that is totally unacceptable. It points to both the need for reform of the scheme and the need for an increased focus on compliance. The 2006-07 budget measures indicate that $165.1 million over five years has been allocated for transitional and ongoing compliance activity. Labor also notes that over the last six months investigations into income minimisation have seen a $2.3 million increase in child support. We welcome that activity and urge more.

Ministerial Arrangements

Senator MINCHIN (South Australia—Minister for Finance and Administration) (2.00 pm)—I inform the Senate that Senator the Hon. Santo Santoro, Minister for Ageing, will be absent from question time today, tomorrow and Thursday. Senator Santoro is representing the Australian government at the first World Elder Abuse Awareness Day global symposium at the UN in New York. Senator Santoro will also be representing the Australian government at a memorial service to be held in Washington for the 40 US servicemen killed in 1943 in Australia’s worst aviation disaster at Bakers Creek near Mackay in Queensland. During Senator Santoro’s absence, Senator the Hon. Eric Abetz will take questions on behalf of the portfolios of Health and Ageing.

Questions Without Notice

Skills Shortage

Senator WONG (2.00 pm)—My question is to Senator Vanstone, the Minister for Immigration and Multicultural Affairs. Does the minister stand by her comments last week that the government is allowing skilled guest workers into the country in order to keep wages down? Has the minister finally been honest in admitting that the Howard government is allowing more skilled guest workers into the country in order to undermine the working conditions of Australians? Don’t the minister’s comments send a clear message to employers: do not train local staff; simply bring in skilled guest workers who can be employed on minimum wages under the government’s extreme industrial relations laws? Doesn’t the minister’s admission make it clear that the increasing use of guest workers is not about meeting a short-term skills shortage but is really about opening up a cheap source of labour for employers?
Senator VANSTONE—I thank Senator Wong for her question. Senator, I certainly do not believe that I used the words that you used. I think you are paraphrasing, and you might be good enough to admit that. You might also indicate that what you are referring to is an article in the Australian Financial Review and possibly the West Australian—

Senator Chris Evans—The Age.

Senator VANSTONE—and maybe the Age as well—where the proposition was put to me that an employer in Western Australia wanted to make sure that he was not engaged in some sort of upward wages spiral. What you do not mention, Senator, is that in the same article the union representative clearly indicated that he believed 457 workers were being used to—and I could be paraphrasing, but it is pretty close to the words he used—in semi inverted commas because I am not sure this is a direct quote—‘exploit a skills shortage’. So we have some differences of opinion here, Senator Wong.

Equally, Senator Wong in her question says to all of Australia, or such of it that is listening to this broadcast when it goes to air or reads Senate Hansard, that Australia now allows guest workers to come in on minimum wages. In fact, that is not true. I believe Senator Wong would understand that. The requirements of coming in on a 457 visa are that either the Australian award is paid or the minimum salary level, whichever is the higher. In fact, the average for these workers at the moment is about $60,000. It is true that the minimum salary level at the moment is around $41,000, but it is also true that the average is around $60,000—hardly what you would regard as guest workers coming in to work on minimum wages.

What I have said is that, obviously, when people can come in and work under these conditions it does ensure that there is another pool of labour that employers can rely on, but I do not believe—and I do not think that most employers believe—that these visas are used in the manner described by Senator Wong, that is, to drive wages down. But I do believe that they may be used to stop the union movement doing as the union advocate suggested that they wanted to do, namely—in semi inverted commas because I am not sure this is a direct quote—‘exploit a skills shortage’.

For those who have had any experience of recessions or the good times in Australia, this government, even after 10 years of growth and with the lowest unemployment in 30 years, are still not making the boast that Mr Keating made, ‘This is as good as it gets,’ because if Australia sticks with us it will get better. Senator Wong, your party is silly enough to say it was as good as it gets. We do not believe that; nonetheless, we also do not believe that the good times should be brought to an end by an upward wages spiral.

Senator WONG—Mr President, I ask a supplementary question. Can the minister confirm that, when she stated that the guest workers should get a fair day’s pay for a fair day’s work, she was in fact referring only to the minimum wage under the government’s industrial relations laws and not to relevant certified agreements applying at the workplace? Isn’t the minister’s admission that this use of guest workers is to prevent employees from seeking better wages and conditions simply an indication that the Howard government’s guest worker program is not about dealing with the skills shortage, which has occurred on the Howard government’s watch, but is about ensuring employers have access to cheap sources of labour?

Senator VANSTONE—I will make a couple of points. An average salary of $60,000 indicates that there are certainly many people with salaries above that, which is hardly what you would regard as a cheap
source of labour. The largest user of this visa is the New South Wales department of health—hardly known to be a right-wing cabal of people seeking to undermine Australian workers. It is used by Saint Vincent de Paul, Red Cross and the universities. Senator, I am afraid that you and I come to this from a completely different perspective.

Senator Wong—They can employ them on lower wages and conditions.

Senator VANSTONE—There are, in fact, the limits that I have already indicated numerous times in this place and, Senator, I do understand that there are some people who want to exploit a skills shortage. In some areas only there are skills shortages. And Senator Wong invites me to remind the chamber that the last time there was a big cut in skills funding was under the Labor government at a time when I think Mr Beazley was the training minister when funding for new commencements went to one of the lowest levels it has ever been. (Time expired)

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the President’s gallery of a parliamentary delegation from the Republic of Indonesia, led by Dr Muhammad Hikam. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Employment

Senator BARNETT (2.07 pm)—My question is to Senator the Hon. Eric Abetz, representing the Minister for Employment and Workplace Relations. Will the minister update the Senate on the latest employment figures? How is the Howard government acting to further drive down unemployment in this country? Is the minister aware of any alternative policies, particularly in light of the backflip by the Leader of the Opposition, the Hon. Kim Beazley, with respect to AWAs over the weekend?

Senator ABETZ—I thank Senator Barnett for his question and acknowledge his longstanding interest in creating employment in this country and especially in our home state of Tasmania. I am pleased to inform the Senate that the latest employment figures reveal that Australia’s unemployment rate has fallen to just 4.9 per cent—the lowest in 30 years. Fifty-five thousand eight hundred new full-time jobs were created in May, meaning that over 1.8 million new jobs have now been created since the Howard government came into office. This is on top of the 22,700 full-time jobs created in April.

If I recall correctly, and I am sure Senator Marshall will be able to assist, a prediction was made some time ago that 77,000 new jobs would be created as a result of the Keating government’s job-destroying unfair dismissal laws. Can I just note that, by my calculations, with the 55,800 new full-time jobs created in May and the 22,700 created in April—and I accept that this is based on my state school education—78,500 new full-time jobs have been created since Work Choices was legislated. While it is perhaps too early to claim that the removal of these laws is the reason for this jobs growth, you would have to admit there is a strong circumstantial case, especially when you consider that for 20 months the unemployment rate in this country hovered between five and 5.3 per cent.

So what was the circuit breaker that allowed the unemployment rate to break through that vital psychological barrier of five per cent? The Financial Review editorialised on this. They talked about the alternative explanations, and then they said:
The alternative, that under Work Choices employers can create jobs without fear of being held to ransom by unfair dismissal actions, might even ... be considered.

I would suggest to those opposite that they might like to consider that very sensible proposition.

I was asked about alternative policies. As Senator Barnett indicated in his question, Mr Beazley, having said he would rip up our laws and then that he would consider workplace agreements, has now done a backflip yet again. He is now going to rip them up. So what is Labor’s policy? It is simple. It is rip up, roll over and roll back. First of all, they will rip up the laws, then they will roll over to the unions and then they are going to roll back to one million Australians unemployed.

That is the shameful thing about Labor’s policy. They know where it will take Australian workers. It will take Australian workers back to the scrapheap of unemployment. With over 500,000 people now on Australian workplace agreements, Mr Beazley and the Labor Party have promised that they will rip up 500,000 individual workplace agreements in this country. Each time we have done something for the workers, be it industrial reform or tax reform, those opposite have opposed it, claiming it would create further unemployment when in fact unemployment has decreased. We are the friends of the workers. We put the workers first. Whereas those opposite put the trade unions first, second and third, we put the workers first. (Time expired)

Skills Shortage

Senator HUTCHINS (2.12 pm)—My question is to Senator Vanstone, the Minister for Immigration and Multicultural Affairs. Is the minister aware that in 2000, when allegations were raised that businesses were starting to bring in temporary overseas workers to meet skills shortages, the then minister for employment rejected those allegations? Didn’t the then employment minister, Peter Reith, not only downplay those claims but also state that the government was ‘seriously committed’ to increasing training opportunities to ensure we had the skills needed? Can the minister now explain why it is that, six years on, the skills shortage has worsened? Haven’t Peter Reith’s claims about the government’s serious commitment to training proved hollow, with 300,000 people being turned away from TAFE? And why is it that instead of maintaining its commitment to training locals to meet this shortage, the government is now encouraging employers to import skilled guest workers?

Senator VANSTONE—I thank the senator for his question. I cannot tell you what Mr Reith might have said in 2000. My memory is pretty good, but it is not that good. I may not have even focused on what it was that he said at that time.

Senator Robert Ray—Do you remember what you wrote to him about the campaign song back in 1989?

Senator VANSTONE—Good on you, Senator Ray. Through you, Mr President, if I may acknowledge that interjection, I am glad to see that Senator Ray is concentrating on what, in his mind, are the more important matters that are happening. The senator raises the question of training in Australia.

Opposition senators interjecting—

The PRESIDENT—Order! Interjections are disorderly.

Senator VANSTONE—The point I wanted to make, Mr President, is the same point I was making to Senator Wong, and it is not widely understood in Australia, and that is that during the recession that Labor said we had to have there was a desperate situation of businesses closing down and laying off people they could lay off. And who did get laid off? A lot of apprentices. In
fact, a lot of the training money and apprenticeship money spent by the Labor government was for subsidies to keep apprentices on, because if they had not paid subsidies apprentices would have lost their jobs, and many of them did.

I thank the senator for reminding me of this. It will give me the opportunity to go back and check the Hansard that I have been looking at in the last couple of months to remind myself—and I may take the opportunity to come and remind the Senate—of the remarks made by Mr Beazley at the time acknowledging that when you so run an economy that you lead into the ‘recession we had to have’ and you have nearly a million Australians out of work, with some of the highest unemployment rates anyone in this chamber has ever seen, you necessarily change the focus of your training money. What it does not mention in the Hansard are the very substantial cuts to training under Labor. I cannot imagine how Mr Beazley can stand up in front of the Australian media and say that he is going to train Australians and he is going to train them now when the last time he had the job that is not what he did.

Senator Chris Evans—I raise a point of order that goes to relevance, Mr President. The minister may be unable to find her brief but trying to reminisce about things she may have read or debates she may have had years ago is not the same as answering the question. I ask you to draw her attention to the question, which was about the government’s programs for skills shortages and what they are going to do to address those skills shortages.

The PRESIDENT—The minister has a minute and 45 seconds to complete her answer and I remind her of the question.

Senator VANSTONE—Thank you, Mr President. I think that when the question of skills shortages is raised it is relevant to focus on why it is that now we have employers saying, ‘We cannot get people with 10 years experience to do this job.’ It is not true, as we all know, that if you come out with a trade training qualification or come out of a university you are ready to do the most serious jobs in whatever your faculty area is. It is simply not true. Experience is valued and we do have a shortage of people with 10 to 15 years experience. The senator also knows very well that TAFE is the responsibility of the states and territories. But as a matter of interest he might like to know that—

Senator Chris Evans—You’ve done nothing for 10 years, yet you say it is someone else’s fault.

The PRESIDENT—Order, Senator! The question was asked and the minister is trying to answer it despite the interjections from those people on my left. I ask you to come to order.

Senator VANSTONE—Thank you, Mr President. Senator, I am sure that you do understand that TAFE training is a responsibility for states and you probably also understand that under this government there has been an increase in the number of Australians in training by 141 per cent—

Senator Chris Evans—Rubbish!

Senator VANSTONE—The senator interjects: ‘Rubbish.’

Senator Chris Evans—It is rubbish.

Senator VANSTONE—You see, the senator does not even want the answer, Mr President. We have encouraged quite dramatically vocational education in schools, providing $10.8 million over the next four years—the biggest commitment ever to vocational training by any government. We have increased New Apprenticeships and we are providing an additional 167,000 places over the 2005-08 period. It is very clear who cut training funding in Australia, and that is
the previous Labor government. (Time expired)

Senator HUTCHINS—Mr President, I ask a supplementary question. Does the minister recall claiming that the use of skilled guest workers will avert a wages spiral and therefore keep interest rates down? Doesn’t this admission make it plain that the use of skilled guest workers is all about keeping the wages of Australians down? Doesn’t this current crisis, particularly in the trades, simply reflect the fact that for the last 10 years the government has not done enough to ensure we have the skilled local workforce we need?

Senator VANSTONE—It is very clear, and acknowledged by the senator in his question, that there are areas where there is a skills shortage. I do not think that is denied even by the union movement. Australia is going gangbusters. As Senator Abetz has recently reminded us, we have the lowest unemployment that we have had in some 30 years. For skilled unemployment it is even lower than that. The average that Senator Abetz quotes is for both skilled and unskilled. The skilled unemployment level is down around two per cent. Clearly, we need to bring in skilled workers. Where we do not bring in skilled workers and a business could employ them, that business cannot grow and develop, it cannot make more money, and it does not keep Australian jobs secure.

Senator, I am happy to give you a briefing in relation to some of the companies that have been very direct with us about the consequences of them not being able to bring in additional workers. I will put you onto the meat factory in Western Australia that says that without the additional workers they could not run a second shift. What does that mean? That means that some extra Australians would not get jobs and the company would not be as secure. (Time expired)

Economy: Performance

Senator FIFIELD (2.20 pm)—My question is to the Minister for Finance and Administration, Senator Minchin, representing the Treasurer. Will the minister inform the Senate of the results of the March quarter national accounts and any other indicators as to the strength of the Australian economy? Will the minister further inform the Senate what is needed to maintain a strong economy?

Senator MINCHIN—I thank Senator Fifield for his question and acknowledge his strong interest in our biggest responsibility, that of managing the national economy. It is an opportunity to draw the Senate’s attention to the March national accounts, which might not necessarily have been read thoroughly by all senators present. The March national accounts were released last week and they revealed that the Australian economy grew by 0.9 per cent in the March quarter and 3.1 per cent through the year to March. The government welcomes the fact that real GDP growth in this country has returned to a level above three per cent following the modest slowdown in the domestic economy over the past year. So the Australian economy is now once again one of the fastest growing economies in the developed world.

But if you look behind the veil, the components of that growth are very positive. Household consumption grew moderately—up 2.9 per cent through the year. Dwelling investment actually contracted by 2.3 per cent through the year, reflecting an orderly slowdown in that sector which had of course seen very dramatic growth most recently. The fall in dwelling investment in recent quarters is in fact moderate by historical standards.

The most significant thing in the national accounts was business investment, which is incredibly strong. Machinery and equipment
investment has gone up 27 per cent over the year. New engineering construction has gone up nearly 14 per cent over the year. Exports, happily, have risen 1.8 per cent through the year. In other words, we are seeing a continuation of the rebalancing of growth away from the housing sector and domestic consumption and towards investment and net exports. Our terms of trade remain very high by historic standards and were up 10.7 per cent through the year to March. Our gross domestic income as a country continues to grow faster than real gross domestic production—up 5.1 per cent, in fact, through the year.

The national accounts also showed that inflation in Australia is well contained. The household price index was up 2.8 per cent through the year, within the two to three per cent band that we have set. The most significant thing, I think, is that productivity growth has also rebounded strongly. GDP per hour worked rose 0.4 per cent in the quarter and was up 2.7 per cent through the year. I think it is common knowledge that one of the keys to maintaining high living standards in this country is to ensure strong productivity growth in our economy. If you are going to maintain strong productivity growth, you do have to have a flexible, competitive national economy.

One of the most important contributors to productivity—a goal which we all share—is a flexible labour market. That is of course recognised by the British and New Zealand Labour governments, which both preside over more flexible labour markets than the one Australia now has under our Work Choices legislation. In fact, over the last 10 years the coalition government has taken successive steps to free up our labour market, after the initial steps taken by the Keating government, from the centralised, union dominated system that seems to find favour in the Labor Party. We introduced the Workplace Relations Act, which included Australian workplace agreements. We reformed work practices on the waterfront. The new Work Choices package builds on those achievements with very significant reforms, particularly to enhance employment by small business, as Senator Abetz pointed out.

Given our success in lifting productivity, keeping the economy strong, cutting unemployment to below five per cent for the first time in 30 years and raising living standards for ordinary Australians, it is amazing that the Labor Party at the weekend, in the form of Mr Beazley, announced that Labor in government would abolish Australian workplace agreements. I notice that this is a reversal of his own policy and one that he announced apparently without informing his own shadow cabinet—some of them, we read today, are dismayed by the announcement. Labor propose an extraordinary deregulation of the labour market. We hope for the sake of Australia that they never get a chance to implement it. (Time expired)

Asylum Seekers

Senator CROSSIN (2.24 pm)—My question is directed to Senator Vanstone, the Minister for Immigration and Multicultural Affairs. Can the minister explain how the government’s new detention policy reflects the position announced by the Prime Minister on 17 June last year to humanise detention practices? Didn’t the Prime Minister back down last year and agree to release the families with children in detention into the community, the finalisation of applications within 90 days, the provision of improved mental health services and the review of long-term detainee cases by the Ombudsman? How will those commitments be honoured if all asylum seekers are removed to Nauru and Manus Island? Wasn’t this latest tough stance on asylum seekers a direct response to concerns raised by the Indonesian govern-
ment, following the granting of visas to 42 West Papuan asylum seekers? Hasn’t the government now cynically walked away from its commitments of June last year in an effort to appease the Indonesian government?

Senator VANSTONE—I thank the senator for the question. Senator, you know full well that the arrangements made last year related to people in detention in Australia. You should also know, on the basis of plenty of media reporting, that the announced changes relate to unauthorised boat arrivals. They do not relate to all asylum seekers in Australia. I think the vast majority of asylum seekers in Australia will be people who have overstayed, got caught and thought: ‘Uh-oh! Put in a protection visa claim.’ The changes relate particularly to people coming unauthorised by boat, seeking asylum. They are not properly claimed as being refugees until their claim has been heard. Yes, we have decided that future unauthorised boat arrivals will have their claims, should they wish to make asylum claims, processed in Nauru and that we will seek to provide protection for them in other countries.

Senator Conroy—Shame!

Senator VANSTONE—I note that the senator says, ‘Shame.’ But, Senator, we have a number of obligations as a government and we intend to live up to all of them. One of them, as Australia is a signatory to the UN convention, is to make sure that if someone coming to Australia puts in an asylum claim they have their claim heard and that protection is offered. But you would know, Senator, that the UN convention does not say they have a right to indicate where the claim is heard and where the protection is offered.

We have that obligation. We also have border protection obligations and we have an obligation as a government to keep good relations with our strong and friendly neighbours—namely, Indonesia. Of course we do. So, yes, we have taken a policy position that will allow us to balance the three priorities that we have in this area. We are not like Ms Feller, from the UNHCR—an Australian—who has as probably the sole requirement of her employment to promote the very, very best rolled-gold practice for the UNHCR. That is her task—I respect her for it—but it is not mine. The government’s task is to live up to those three obligations: live up to our requirements under the convention, live up to border protection commitments to the Australian community and live up to our foreign affairs obligations to keep good and stable relationships with our neighbours. That includes making sure that Australia is not used as a staging point for protests about domestic issues in other countries.

Senator Bob Brown—Appeasement, that’s what it is. It’s just appeasement.

Senator CROSSIN—Mr President, I ask a supplementary question. Given the recent reports of abuse in detention centres, won’t the removal of asylum seekers offshore only reduce external scrutiny and protection for detainees? How will the Prime Minister’s commitment to allow families with children to live in the community be honoured when they are sent to Nauru and Manus Island? Didn’t the minister claim last year that detaining these families should be a last resort? Won’t all asylum seekers, including children, now be locked up when they are moved offshore?

Senator VANSTONE—There are three points. I did hear an interjection from someone about this government appeasing Indonesia.

Senator Bob Brown—That was me.

Senator VANSTONE—It seems extraordinary to me that the grant of 42 protection visas against the wishes of the Indonesian
government can be classed as appeasement. But then I saw who made that interjection and I thought, ‘Yes, you are intellectually capable of coming to that conclusion. You are intellectually capable of deciding that giving 42 visas to the West Papuan Indonesians against the wishes of the Indonesian government should be classified as appeasement.’ You take the cake!

The PRESIDENT—Order, Minister! Would you return to the question and address your remarks through the chair.

Senator VANSTONE—Sorry, Mr President. I was momentarily distracted, for which I apologise.

Senator Crossin—Mr President, I rise on a point of order. I asked the minister the supplementary question—not Senator Brown. I would like my question answered, please.

The PRESIDENT—I have already asked the minister to return to the question, and I believe she is going to. She has 27 seconds to complete her answer.

Senator VANSTONE—There are two points in relation to the question. Firstly, the agreement made last year was made in relation to people who are in Australian detention facilities. Of course, if some of them are on Nauru they are not in Australia, so it follows from that—

Opposition senators interjecting—

Senator VANSTONE—It was quite specifically excluded. The second point is that it is an immigration processing facility in Nauru. Women and children will be free to move around during the day but, partly as a consequence of duty of care obligations, they will be required to be there at night.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from the Republic of Vanuatu, led by the Hon. Esmon Saemon, Second Deputy Speaker of the Parliament of Vanuatu. On behalf of all honourable senators, I wish them a warm welcome to Australia and, in particular, to the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Environment: Alternative Energy

Senator CHAPMAN (2.31 pm)—I direct my question to the Minister for the Environment and Heritage. Will the minister inform the Senate of recent steps taken by the Howard government to secure energy resources for Australia’s future? Has the government considered any alternative policies?

Senator IAN CAMPBELL—I thank Senator Chapman for his question. It is very clear to me and to the government—and increasingly clear to governments around the world—that there are two parallel challenges that the world must meet in the next 25 to 30 years. We need to provide for double the amount of energy, so that people can have job security in countries like Australia and so that people who live in places like sub-Saharan Africa or the poorer parts of Asia can get past the age of five and not die due to malnutrition, starvation, malaria or AIDS. We also need to ensure that that power is supplied to the world when we also know that greenhouse gas emissions must be reduced by 50 per cent to 60 per cent in roughly the same time scale, so that we do not suffer the consequences of dangerous climate change.

We know that we need to work within Australia domestically, and we need to work efficiently and effectively internationally to get a global strategy in place. We also need to ensure that all of the technologies that are currently available are brought on stream as quickly as possible and that new technologies, like hydrogen and next-generation solar, are also brought on. The Australian gov-
ernment is, for example, investing hundreds of millions of dollars in solar technologies. We will, by the next stage of the PVRP, the photovoltaic rebate scheme, have rolled out around 11,000 solar cells on school buildings and homes around the country. The $75 million Solar Cities program will see four entire cities transferred to solar energy, with smart meters and integration with the grid, in a world-leading program.

We know that we also need to do wind better than it has been done before. Under Labor, there were 20 wind turbines in Australia. We are on track to build 600 wind turbines in Australia under our policies. We have to invest in projects like geothermal leading renewable energies. We have invested, through the Renewable Energy Development Initiative, $5 million to assist Geodynamics to bring on a process in Innamincka in northern South Australia. We know that we have to do energy efficiency measures, which we have enacted through this parliament and which both the private sector and the industrial sector are engaged in. We know that we need to clean up coal. We know that we need to develop the technologies to capture carbon off the coal stack and bury it under the ground. That is why the Australian government is investing hundreds of millions of dollars, in partnership with the coal industry, energy producers and, very importantly, with the Victorian government and the Queensland government—they are our partners in this.

We also know—and the Prime Minister has shown leadership in this regard—that we cannot ignore any available technology if we are to meet those twin policy goals: reliable secure energy for the future of our people and for those around the world, and much lower greenhouse gas emissions. That is why you cannot ignore nuclear and you cannot ignore our role in the uranium cycle. That is why the establishment of this debate is important. We also have to act effectively internationally. That is why we are very proud, Senator Chapman, that Howard Bamsey will lead a United Nations framework convention dialogue in this regard.

Senator Chapman asked about alternative policies. There is a plethora of them. You have Mr Albanese with one policy on uranium mining. He is going to close it down in South Australia, taking 20,000 jobs from South Australia. Mr Ferguson has another policy, Mr Garrett has another policy, and Mr Beazley has policies all over the place. We know where Labor stand on uranium: they are all over the place. The one policy they seem to have is a policy in favour of another very dangerous commodity for a political party, and that is the policy of pandemonium.

Asylum Seekers

Senator NETTLE (2.35 pm)—My question is to Senator Ian Campbell, representing the Minister for Defence. My question relates to the recent announcement by the Minister for Defence about the Australian Navy’s involvement in joint patrols with the Indonesian navy. Has the government sought written legal advice about whether the actions of the Australian Navy in returning West Papuan asylum seekers to face persecution in Indonesia are a breach of the refugee convention?

Senator IAN CAMPBELL—Thank you very much for the question. I do not have a brief on that, but I am happy to take it on notice and get an answer for the senator.

Senator NETTLE—Mr President, I ask a supplementary question. Is the minister aware of comments by a number of legal experts to the Senate inquiry into the government’s new migration legislation that the deployment of the Australian Navy to interdict asylum seekers and return them to Indonesia when carried out in respect of Indonesian nationals would be a clear breach of the
refugee convention? Will the government seek specific advice on this issue?

Senator IAN CAMPBELL—I have said that I will get a brief on that. If you do not know the answer, it is better in politics to actually be honest about it, so I have done that. I will get that brief.

East Timor

Senator JOHNSTON (2.37 pm)—My question is to the Minister for Justice and Customs, Senator Ellison. Will the minister update the Senate on the ongoing efforts of Australian personnel to help restore law and order in East Timor?

Senator ELLISON—I think all senators now realise the extent of our involvement in East Timor in relation to the recent troubles that country has been experiencing. On 24 May this year, we received a request for assistance from the government of East Timor. The government of Australia responded immediately. The ADF was deployed. The Australian Federal Police deployed a scoping mission to assess what was needed. I can report that, in country, we have 1,300 ADF personnel on the ground, with offshore support. As well as that, there are 198 Australian Federal Police. We deployed 45 yesterday and a further 47 today.

At a recent meeting I had at the United Nations with Senator Robert Hill and UN officials, it was acknowledged by the UN that Australia was doing great work in the region in relation to peacekeeping. Indeed, it was of great satisfaction to hear that the UN has a very high regard for our peacekeepers, particularly the Australian Federal Police, who have been involved in that role over such a long period of time. What we are engaging in is a policing role with the ADF, and the East Timorese government has given policing powers to the Australian Federal Police. We are on patrols with the ADF. We are bringing to those patrols the expertise that we have in relation to policing.

There have been recent crimes committed—horrific crimes where deaths have resulted. A number of police have been murdered. There was the tragic arson which involved the death of six members of one family, and there have been a number of other civilian deaths. These are being investigated. We are doing the job of preserving evidence to ensure that investigations can then take their course and that those who are guilty are brought to justice.

The first priority for our people on the ground is to restore law and order to not only Dili but the districts as well. I am pleased to say that the East Timorese police are assisting in the districts. The Portuguese paramilitary police are now assisting in a district in Dili which has been designated to them. We are working with police from New Zealand and Malaysia. It is anticipated that the policing force from Australia will number 200, with 250 from Malaysia, a further 50 from New Zealand and 200 from Portugal. This is a mission which is an extremely important one not only for East Timor but for the region and for Australia. What we are doing is fundamental to the preservation of law and order in East Timor.

We acknowledge that the UN mandate needs to be renewed and expanded. That is what we are supporting. That was a subject of my discussions in the UN when I was there recently. The mandate will have to be extended. We certainly look forward to supporting that. But, in the interim, firm measures are needed, and that is what we are taking. At the end of the day, it is up to the East Timorese government and the people of East Timor to determine the future of their own country. They are a sovereign nation and they have responsibility for their own future, and we recognise that. We, as a neighbouring

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nation, stand ready to assist them in relation to the recent challenges that we have seen in that country. Our commitment has been extensive over a period of time and no doubt will continue for some time into the future. We are there for the long haul and we are there to assist East Timor as long as they ask for that assistance.

Soccer World Cup: Antisiphoning List

Senator CONROY (2.41 pm)—My question is to Senator Coonan, the Minister for Communications, Information Technology and the Arts. Did the minister watch Australia’s emphatic 3-1 victory over Japan in last night’s World Cup match? Has the minister seen media reports of the outpouring of jubilation by Australians from all sections of the community? Does the minister stand by her comments to Senate estimates that ‘Australia does not have very much participation’ or ‘has very small participation in the cup’ and that world cup football ‘probably attracts the same level of audience interest as the Tour de France’? Does the minister now accept that the Socceroos matches are clearly of national importance and cultural significance? Will the minister reverse her decision and amend the antisiphoning list to include Socceroos World Cup qualifying matches?

Senator COONAN—I am very pleased to see that Senator Conroy is apparently barracking for Australia this time, as opposed to barracking for England, which he did when the Ashes were on. I must say that it is good to see that Senator Conroy has discovered a sense of great national pride. It is important that we continue to review the antisiphoning scheme. As I have said over and over, the antisiphoning rules were introduced to ensure that events of national significance and cultural importance which have traditionally been available on free-to-air television would continue to be available to free-to-air broadcasters despite the introduction of pay television services in Australia. The rules operate to ensure that pay television licensees may not acquire pay TV broadcast rights until the free-to-air broadcasters have either declined to acquire broadcast rights or the event is delisted.

What we have said about the antisiphoning list, which is set up until about 2010, is that it should be looked at. We should be very careful to ensure that the owners of the rights are matched appropriately with those who can bid for those rights and to ensure that the free-to-air broadcasters continue to be able to operate the antisiphoning list in the way in which it was intended. Because there are a wide range of views on this, which depend on whether you support the pay TV industry or the free-to-air industry, it is important that we review the list—and that review is coming up in about 2009—and that, where it is appropriate, the list is trimmed or added to as the case may be. It is important that we do not pre-empt that. Things should largely operate on a commercial rights acquisition basis, unless there is some reason to add to the free-to-air antisiphoning list.

We do not just act on a knee-jerk reaction, as Senator Conroy would know. We look carefully at where the balance of interest lies and we look to the consumer interest. This government and, I am certain, everyone in this chamber congratulate our boys on an absolutely emphatic and marvellous victory last night. I am sure that everyone in this country was barracking for the Socceroos. It was an absolutely marvellous achievement. But the extent to which you add in other competitions is a matter that has to be looked at from time to time. I do not think we should pre-empt it. I think we should enjoy the World Cup and wish the Socceroos all the best, and we should keep the antisiphoning list under review.
Senator CONROY—Mr President, I ask a supplementary question. Is the minister aware that the broadcast rights to Socceroo World Cup qualifying matches have been sold exclusively to pay television until 2013?

Senator Faulkner—Is that a double-sided scarf that you are wearing?

Senator CONROY—It is the Andrew Bolt definition of multiculturalism, Senator Faulkner. Can the minister explain why the government ignored the recommendation of the Australian Broadcasting Authority in 2001 to include these matches on the antisiphoning list? So much for knee-jerk consideration. Why does the minister think that Australian families should have to pay at least $600 a year to watch the Socceroos qualifying campaign for the next World Cup?

Why did the government list Rugby Union tests involving the Wallabies but not World Cup qualifiers involving the Socceroos? Can the minister explain why the government treats soccer as a second-class sport?

Senator COONAN—There is not a great deal that I can add to my former answer that warrants a response to such an impassioned plea by Senator Conroy. We all know that Senator Conroy is an absolute soccer nut. There are other sports that we enjoy. But we all enjoy soccer. We will continue to review the list as appropriate and we will make it, of course, subject to commercial rights as they may be placed and acquired. The antisiphoning list operates in the way in which it was intended. This government will continue to review it when appropriate and keep all of the matches that might otherwise qualify under review.

Indigenous Communities

Senator BARTLETT (2.47 pm)—My question is to the Minister representing the Minister for Families, Community Services and Indigenous Affairs. I draw the minister’s attention to a report on ABC radio, which stated that Aboriginal domestic violence is ‘now widely acknowledged to be devastating Indigenous communities around Australia’. That statement was made on 23 July 2003. It was made following the Prime Minister’s summit on domestic violence in Indigenous communities, which was held in Canberra that day with 16 Indigenous leaders from around Australia. Minister, what has the government done over the three intervening years to assist Indigenous Australians at community level to deal with this very significant problem? Why does the upcoming summit on Indigenous violence, three years after the Prime Minister’s one, now have no Indigenous participation? Given that Australia seems to have discovered—or rediscovered—that domestic violence is still devastating Indigenous communities, can the minister indicate what will be different this time with this summit?

Senator KEMP—I thank Senator Bartlett for asking a very important question. As a result of the work of Mr Brough, I think this has been able to focus community attention on the problems that are being experienced in Indigenous communities. I think it signals in a very powerful way the government’s concern about this. The levels of family violence and child abuse in some Indigenous communities require an urgent multilateral response. The widespread and endemic nature of the problem is highlighted by the recent New South Wales report on child sexual assault in Indigenous communities. This is why the Australian government has called state and territory premiers and chief ministers or their ministerial representatives to attend an urgent summit on 26 June in Canberra. The summit will focus on improved law enforcement, child protection and criminal justice to protect those who are the subject of or at risk of violence and abuse.

Senator Robert Ray—Only seven more question times!
Senator KEMP—Senator Ray, I think this is a very serious issue. For Senator Ray to be making jokes about it—

Senator Wong interjecting—

Senator KEMP—I am actually reading the brief from the minister who is responsible for this area. The question was asked and I have a brief on this issue. I am explaining it to the Senate, Senator Wong. Is there anything wrong with that? Do you object to that?

The PRESIDENT—Order! Senator Wong, interjections are disorderly. Minister, I ask you to address your remarks through the chair.

Senator KEMP—Thank you. The summit will also look at the appropriate role of customary law in related criminal proceedings. The outcomes of the summit will be considered by the Council of Australian Governments at its meeting in July. The Australian government, I can assure the Senate, will do its part. But it cannot succeed alone. That is why the states and territories should join us in delivering immediate and practical responses to this crisis. Mr Brough makes the point that states and territories must meet their responsibilities, especially for policing and child protection.

Vulnerable people need to be protected wherever they live and they need to have confidence in the criminal justice system. The government does not accept that violence and abuse are a traditional part of Indigenous culture or are condoned by it. Individuals and communities must also find the courage to act. People must have the confidence and support to report these crimes and give evidence. This is essential if we are going to break the cycle of violence and abuse. The government supports those Indigenous people who have taken a stand on these issues and it encourages more Indigenous Australians to do the same.

In conclusion, the government has shown its commitment to work in partnership with the states and territories and Indigenous Australians to prevent and reduce family violence. This is a very important issue. It is entirely appropriate that this matter be discussed in this chamber. I would encourage all senators to show support for the government’s actions in this area rather than involving themselves, Senator Wong, in childish comments in this chamber.

Senator BARTLETT—I thank the minister for that answer. Could the minister ascertain, I presume through Mr Brough, whether he would be able to table in the Senate any letter of invitation that has been sent to the participants in the latest summit and a copy of the proposed agenda? I also ask the minister whether he would acknowledge that all governments—state, territory and federal; Liberal and Labor, and, indeed, any support from minor parties as well that has been provided along the way—have failed dramatically in this area? Given that that is the case, would the minister not acknowledge that a meeting of government ministers from around the country would benefit from actually hearing from some Indigenous people themselves about what they believe needs to be done and how best to go about doing it?

Senator KEMP—I will refer your request to Mr Brough to see whether he is prepared to table the information that you are seeking. I will raise that with him. You also raised the question: who has the responsibilities? I suppose you would have to say that, over the long haul, these problems have mounted over a considerable period of time. We do note that the Labor Party is in power in the six states and two territories. We notice that the state governments have primary responsibility for issues like policing.
Senator Chris Evans—That’s the sort of buck-passing that means we don’t make any progress.

Senator KEMP—What we want, Senator Evans, is the cooperation of state Labor governments and territory Labor governments to help deal with this very serious issue and to accept the responsibilities that they have.

Customs Computer System

Senator LUDWIG (2.54 pm)—My question is to Senator Ellison, the Minister for Justice and Customs. It concerns the new Customs computer system and the independent audit report handed down last Friday. Can the minister confirm that he authorised the IT project to proceed without a fixed budget? Can the minister also confirm that he oversaw the estimated cost of the project escalating from $30 million to over $205 million worth of taxpayers’ funds? When did the minister first become aware of the major problems experienced with this project? What action did he personally take to protect taxpayers’ interests? What responsibility does he, as the relevant portfolio minister, now take for this botched project and the massive cost to taxpayers?

Senator ELLISON—Senator Ludwig needs to have a close look at the Booz Allen Hamilton report, because what it says is that this new system offers substantial benefits over the system it replaces. In fact, it said that the legacy system it replaced had reached the end of its life and that something new was needed. The report states that the ICS is among the better examples of Customs systems available among the developed nations.

I totally reject that this has not been a worthwhile exercise. What we saw was the development of a complex program which we acknowledged throughout would be complex in its changeover. I can say that, in the course of the development of this, we saw the events of 9-11, which threw the scrutiny of it onto security issues. When I was in the United States recently, they expressed great interest in this, because they are going down the same integrated cargo system path. In fact, the United Kingdom is looking at it as well. What the report went on to say is that this provides a foundation which can provide a leading edge for Customs in this country. What Senator Ludwig should take note of is that, from 10 October through to 8 June, we have processed just under seven million messages in the exports area and that for imports we have processed over 13½ million messages. What the report demonstrated was that—

Senator Ludwig—It demonstrated that it was slow.

Senator ELLISON—the exports program went through without a hitch. In relation to air cargo, there were no significant issues. It was in relation to the sea cargo area that we had the issues to address in that changeover—

Senator Ludwig—It was a big one.

Senator ELLISON—and one of the major issues it pointed to was the fact that in the shipping industry you have different terminology and different methods of reporting. Air cargo has one unified language, if you like, in relation to the description of air cargo. That does not apply to sea cargo—

Senator Ludwig—Where are your efficiency gains and cost gains?

Senator ELLISON—and, of course, that is where we have developed, with the industry action group, two phases of adaptation to deal with the ocean bills of lading, which they have raised with us. Last Friday, the CEO, Michael Carmody, met with industry groups. He had a very positive meeting with them and they were universal in their agreement that this is a program on which we
could build world’s best practice and that we should look forwards and not backwards.

Senator Ludwig—Mr President, I rise on a point of order. I actually asked the minister: can the minister confirm that he authorised the IT project to proceed without a fixed budget? The minister has not come to answer that yet, and I see that he has not got very long to do that. Could the President draw him to the question? Could the President also draw him to the question: when did the minister first become aware of the major problems experienced in this project?

The President—The minister has well over a minute left to answer his question, and I think his answering of the question would be a lot easier without the constant interjections from you, Senator.

Senator Ellison—As a result of my own initiative, I established a roundtable working group, which met no less than eight times over a period in excess of 18 months, and I dealt closely with industry. There was a decision made to proceed with the cut-over. At that roundtable we had representatives from software developers, shipping, air cargo, customs brokers and freight forwarders—the whole range of industry that interacted with us. It was always acknowledged that this was a complex task. In fact, since Federation, this is the greatest change that the Australian Customs Service has seen in the way we deal with the modern facilitation of imports and exports. This system is a platform for us to build world’s best practice for this country and we are intent on achieving that goal. We have always been working and will continue to work with industry to do so. That is exactly what Michael Carmody, the CEO, is doing.

Senator Ludwig—Mr President, I ask a supplementary question. Was the minister advised of the problems with the system when he authorised its introduction? Can the minister confirm that, as a result of the decision to implement a half-ready system, the government is now facing compensation claims of up to $9 million? Has the minister approved the payments of any of these compensation claims? And will taxpayers once again be asked to foot the bills for these claims, on top of the $205 million already spent on this bungled project?

Senator Ellison—I made it clear from the start that, if there were any storage costs occasioned by the transition that could be demonstrated, under existing policy Customs would meet them. The vast majority of the claims that have been made have related to storage costs. There have been claims registered with Customs. We are looking at them closely and the CEO is working with the industry on that. Can I say that in relation to the changeover we had overwhelming support from industry for this new system and were overwhelming urged for this to occur when it did, in October last year. You have to remember that the existing system could not endure for much longer and to leave it longer would have brought in other factors that could have had much more detrimental effects.

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

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS
Skills Shortage

Senator Wong (South Australia) (3.01 pm)—I move:

That the Senate take note of the answers given by the Minister for Immigration and Multicultural Affairs (Senator Vanstone) to questions without notice asked today relating to skills shortages and to detention practices.

Senator Vanstone, in her public comments over the last week or so, has let the cat out of the bag. She has made it clear that one of the
real agendas behind the government’s skilled migration policy—the increase of skilled guest workers in this country—is to suppress wages. She has confirmed again today in question time that one of the benefits of the government’s guest worker policy is that it helps suppress wage claims—the ones she regards as unreasonable.

We know that this government has an agenda that is all about downward pressure on wages. It is about seeking to drive down wages and conditions in this country. We know that that is the effect of the extreme industrial relations laws that this government has rammed through this parliament. The effect of these laws will be the seeking to lower the minimum wage in this country. We know, for example, that the government is imposing, through the delay in the so-called Fair Pay Commission considering the minimum wage claim, an effective wage freeze in this country for low-paid Australian workers because the Fair Pay Commission will not be considering this until spring this year, which is well over a year after the previous wage increase.

We also know that Professor Harper, the head of the Fair Pay Commission, has acknowledged that the government’s industrial relations legislation may well result in a lower minimum wage and we know for sure that, under this government’s extreme industrial relations changes, Australian workers can be required to trade away wages and conditions—such as overtime, penalty rates and rostering—for just 2c an hour. We know all of these things about the government’s industrial relations agenda and the effects it will have—that is, reducing wages, particularly those of the low paid in this country.

But this government is not content with simply imposing the parameters for lower wages on the poorest Australian workers through its industrial relations laws. The government also wants to ensure that employers have access to cheap sources of labour to undermine the wages and conditions of those workers in Australia who are lucky enough to be able, through their union or because of their position in the marketplace, to negotiate wages and conditions above the paltry minimum that this government seeks to impose. That is where the skilled migrant scheme comes in.

What we have seen from this government is a failure to train. The skills shortage we are experiencing in this country, particularly in the traditional trades, is a direct result of the Howard government’s failure to train Australians. I want to point out something, because in one of her answers Senator Vanstone decried Labor’s record on training. There was a particular Commonwealth minister who in 1996-97 proposed and presided over a reduction in Commonwealth training expenditure in 1997 and 1998. Which minister might that have been? Might it have been Senator Vanstone? Might it have been Senator Vanstone as Minister for Employment, Education, Training and Youth Affairs in 1996-97 who presided over a cut in Commonwealth training expenditure from $909 million to $904 million in 1998?

Because there was an attack on the Leader of the Opposition’s training record, can I also point out that as minister in 1992 he provided an additional $720 million over three years to grow the vocational education and training system in this country, which is about $925 million in today’s dollar terms. This government reduced VET grants in 1996-97 and abolished the National Skills Shortages Strategy in the 1997-98 budget. It has presided over a failure to train. As a result of that, we have a skills shortage that means that there are some workers in this country who, by virtue of having skills in demand, can negotiate, under certified agreements, higher wages and conditions.
than the minimum that this government seeks to impose through its industrial relations changes.

So what do the government do? They say: ‘We’ll get you too. We’ll make sure that these employers can bring in skilled workers who can be employed under the minimum conditions.’ So workers in this country get it every which way. They get it under the government’s extreme industrial relations laws, which are about reducing wages, as Professor Harper demonstrated and as the examples that we have cited, like Spotlight, have demonstrated. These industrial relations changes are effectively about reducing minimum wages in this country and, on top of that, the government are ensuring through their guest worker strategy that those workers who are able to negotiate higher wages and conditions above these minima have to compete with cheaper labour sources from overseas.

(Time expired)

Senator LIGHTFOOT (Western Australia) (3.06 pm)—Let’s look at the big picture about the skills shortage prevailing in Australia at the present moment. It is a pity we do lack skilled workers, but that is a manifestation of an economy that is working.

I recall that, when Labor was in power, the apprenticeship scheme had failed in every state. Why did it fail? It failed because the trade union movement did not like young people clogging up the system and working as what was seen by the trade union movement as cheap labour, because it could not extract the fee from apprentices that it could from a worker on full wages. That is why the coalition government, when we inherited the position we did in 1996 from the Labor Party, had to practically start from scratch and rebuild the skilled trades from the apprenticeship system that the Labor Party had failed to foster. One of the major reasons that we have skills shortages today is that the trade union movement put the kibosh on training young people back in the eighties and nineties. Of course, the big picture now is that instead of having one million people unemployed we have created well over one million jobs in the decade that we have been in power—the decade we have been in office; I understand that a subtle difference is that the Labor Party come to power and the Liberal coalition come to office.

I am qualified to speak on this point because I have been a member of the Australian Workers Union, the police union, the plasterers society, Actors Equity—some people say I should still be in the latter—and the Waterside Workers Federation. I know what the trade union movement is. I know that it only represents 11 per cent of private sector workers. I also know that AWAs, Australian workplace agreements, are very successful. People who are working on an AWA in the Pilbara do not want to go back to the trade union dominated competition between the employer and the employees. They are far better off now. A questionnaire was put out by one of the major miners in the Pilbara; it asked: do you want to go back to that system or are you happy with AWAs? Eighty-four per cent said they wanted to stay with AWAs. And why wouldn’t they? More productivity led to more wages and, strangely, led to more employment in the Pilbara.

The reason we are bringing in skilled workers from overseas is simply that the economy is booming. The economy of Western Australia is the best of the six states and the two territories. It is absolutely and totally booming. The Western Australian Labor government seems to be taking the credit for it. Mr Eric Ripper, the Treasurer of Western Australia, takes the credit for the booming economy in Western Australia. I wonder what the Chinese think about that, when the growth rate in their steel mills for the past 10 years has averaged 25 per cent. It is there to
which our ore—not exclusively but significantly—goes from Western Australia. That is the sort of thing that is booming—that causes housing booms, more roads, more bridges and the extension of our freeways, and allows, in some instances, the trade union movement to survive. Had it not been for the boom, the trade union movement would represent less than 10 per cent of the private sector workforce.

We bring people in from overseas to try to keep the economy going—to satisfy the demand. We do not bring them in to lower wages. Hansen—one of the companies which is anathema to those on the opposite side—is bringing in skilled migrants, not exclusively but predominantly from the Philippines, and is paying them the wages that the unions demanded. Hansen is paying the same wages to the people that are coming in—what is the beef? What is wrong with keeping the economy going? Don’t you know? I will tell you what you do know: you know that, unless the economy dips seriously, you people on the other side will never see the Treasury bench. And I think that is a good thing. Labor’s proposal for dropping AWAs is the greatest thing that could have happened to the government and guarantees our re-election in a couple of years. Do you think any business in Australia would put up with the dropping of AWAs? (Time expired)

Senator STERLE (Western Australia) (3.12 pm)—I rise to take note of answers given by the Minister for Immigration and Multicultural Affairs to questions about the Howard government’s use of foreign guest workers to lower Australian rates of pay and conditions. The ‘minister for deporting Australians’ has the gall to call the Labor Party xenophobic. Streeth overboard! Talk about hide: the government have made an art form out of playing the race card. But that is not the only card game this government play. Since the Howard government took control of the Senate they have legislated a three-card trick to create a second-class set of foreign guest workers in Australia. They have done this for one reason alone—that is, as the economists say, to put downward pressure on wage growth. What that really means is taking the money out of workers’ pay packets and putting it into the bosses’ pockets.

The first card was to remove the no disadvantage test so that bosses are legally able to offer work under AWAs at much lower wages and conditions than the going rate. The second card was to change the welfare laws so that if a person wanted to refuse being exploited by a scungy boss offering an insultingly low-level of wages and conditions then they would be refused the dole—‘Take the crap job or starve,’ they say. The third card was to open the floodgates to a wave of foreign guest workers on temporary visas with conditions which effectively remove any bargaining power they might otherwise have had. The cumulative effect of this three-card trick is that, even in this time of low unemployment, the Howard government has created the conditions necessary to drive wages and conditions down. There have been low-paid guest workers in Australia for years; that is not new. In the maritime industry, the Howard government has exploited a loophole in our maritime laws to allow foreign flagged ships with cheap and exploited foreign labour to move freight around our coasts for years. And now that the Howard government has taken control of the Senate it has been able to bring this practice onshore. I take the point made in Senator Lightfoot’s comments about a certain employer in the state of Western Australia—in my and Senator Webber’s home state. A certain builder, Hansen, is well known and quoted in the West Australian newspaper for bragging about bringing in 170 Filipino labourers that he could proudly use to under-
mine 30 years of union collective bargaining and improving wages and conditions within the construction industry.

I want to touch on another point that Mr Hansen was confronted with two weeks ago while he was beating his chest in every form of the Western Australian media about how he wanted to bring in more and more guest workers. He said that he was paying them the minimum wage: ‘What is the big deal? There’s no drama.’ But the CFMEU in my home state actually went and confronted one of Hansen’s building jobs and put a protest on his front gate. And do you know what? Not only were there CFMEU officials on the site, highlighting the danger to Australian jobs and Australian wages and conditions of guest workers being exploited, but workers—employees of Mr Hansen’s company—actually walked off the job and joined the protest. What does that say? I will tell you what it says: they know darn well what is happening. Australians are not stupid; they are not silly. They can see that these guest workers are coming in. Yes, we have a skills shortage created by 10 years of a Howard government. Let us make no mistake about that; you have been in office 10 years. It is no good blaming anyone else. You have given people like Hansen the loophole to exploit foreign workers.

What has happened—and this is a fact that was reported in the West Australian, that great media outlet in Western Australia that would not tell any fibs—is this: the West Australian said quite clearly that not only were these people on lower wages and conditions but they also resided in a house that was supplied to them by a family member of an employee of the company. They each paid $100 a week, and there were eight of them living in that house. That is $800 a week going straight to paying off an investment for someone else.

I ask you, and I ask everyone with a conscience, to think about this: when the boom subsides—and let us hope it does not for a long time—what are we going to do? The foreign workers will be exported back to their countries and Australian children will not be trained. Australian children will not be given the opportunity. (Time expired)

Senator McGauran (Victoria) (3.17 pm)—If we ever doubted that Mr Beazley’s weekend announcement of rolling back existing Work Choices legislation and the 1996 workplace reforms was a reversion to old Labor repaying its labour masters with the abolition of AWAs and returning all things to a collectivity run by the unions with the central focus back to the old, grinding industrial relations, and if we ever doubted that that was a return to the old Labor—a party that has not adjusted and will not adjust to the new, flexible economy—we only needed to hear the previous speaker, Senator Sterle. He used all the old language of Labor. He came in here in defence, no doubt, of a surprise decision by Mr Beazley. But he was willing within a day or two to take up the cudgels and support that policy, though he may have been caught on the hop.

Mr Deputy President, you only needed to listen to his old language—that old, union, industrial language—that is so out of place today. It is so out of place amongst his own workers, for that matter. He was using terms like ‘scungy bosses’, ‘crap jobs’ and ‘hordes of foreigners’—and throw in the word ‘Filipino’ while you are at it! He said ‘exploited workers’; what a shrill performance that was. That is an example of how Labor have learned nothing since the 2004 election. They went to that election under Mr Latham with the policy of abolishing AWAs, and now they are going to the next election with that exact same policy. You have learned nothing from the lessons of the election, which was that you must have some economic credibil-
ity. People have to have some skerrick of trust in your management of the economy, but you may as well bring back Mr Latham. Your hate, your language, your paranoia and your shrillness, Senator Sterle, are equal to Mr Latham’s. You have learned nothing, and if you think the Australian public—let alone your workers, whom you purport to represent, or your new claim on middle Australia—will trust you, you will have the same destiny as you have had the past four elections. And thank goodness for that.

You will not be trusted with the Australian economy with your old-world industrial relations policies. You talk about grinding and lowering wages and you say that this is our ambition with the new Work Choices legislation.

Senator Ian Campbell—They know all about that.

Senator McGauran—What an absurdity. I heard Senator Campbell’s interjection. Before I go on to that point, to outline the record that this government has—and why would we jeopardise it?—I want to pick up the previous speaker on just one more point. I want all points home about the previous speaker and those on the other side, about just how old world they are and how tied up with the old union movement they are. That is his claim of the detriment to the unions of our new industrial relations laws in that most corrupt and criminal world of the building and construction industry and the unions involved in it. That was found by the Cole royal commission, and you come in here and defend those unions and defend that industry as if it was totally picked on. A royal commission found out what that industry was, and this government had the guts to reform it and put in place a running commission to reform that industry as part of all our reforms of industrial relations. And you cannot take it. You will not take it.

You have been rejected by your own workers. You have been rejected by the so-called middle Australia that you claim to have because our record is on the board. Why would we jeopardise a 16.8 per cent rise in wages? Why would we jeopardise a 4.9 per cent unemployment rate? These are all records for the past 30 years. I say that we will be tested on this reform, as we have always, and we know you are going to make this the centrepiece of your election campaign. But what a miscalculation you have made here today.

Senator Webber (Western Australia) (3.19 pm)—Perhaps after that unique contribution from Senator McGauran we might actually return to the issue at hand and inject some reality into the debate about wages, skills shortages and the temporary migration of overseas workers. For Minister Vanstone to assert, as she did last week, that the only reason there is opposition to temporary skilled migration is that it undermines a union’s ability to exploit high wages amidst the skills shortage is just ludicrous. The reality is, as I have said in this place time and time again, skills shortages in this country do not just materialise overnight.

This issue has been confronting this government for 10 long years. Let us consider the build-up of this crisis in skilled labour over the last 10 years. Firstly, we have the decreases in TAFE funding and places for young Australians in training. Who presided over that? This government and Senator Vanstone in particular. Secondly, fewer people of all ages are actually completing their apprenticeships. Who is responsible for coming up with a package that encourages people to do that? This government. Thirdly, we have an ageing workforce that has seen many tradespeople retire and they are not being replaced. Finally, after years of economic growth, this government has not seized the opportunity that offers and has just sat on its
hands. That is how you get a skills shortage, a skills crisis, after 10 years. They are the ingredients, not whatever it was that Senator McGauran was trying to say.

As I said, a skills shortage does not suddenly appear without warning. This current crisis is no different from any other that we have had before. To then argue that the only interest that unions have in the skills shortage is to drive up wages is absolutely absurd because, if that were the only interest they had, they could do what this government is doing and just sit on their hands and not talk about training or access for people but just let wages go up, as they inevitably will with a skills shortage. Unions have been trying to alert this government to the skills shortage for years. If it were as the minister claimed last week, the unions would have been sitting on their hands, waiting for the skills shortage to force up wages. Instead, responsible trade unions do not want the boom-bust cycle that Senator McGauran seems to rejoice in; they want long-term growth and full employment.

Wages and skills are about basic laws of supply and demand—I would have thought that those opposite would know that. When any commodity or service is in high demand and low supply, it has the effect of driving up the price. That is no secret. It is basic economic theory that is widely accepted and in common knowledge everywhere, except perhaps among those opposite. To argue that unions in this country are only interested in driving up wages to exploit a skills shortage is to turn that economic theory on its head. The reason the trade unions and those of us on this side of the parliament are involved in this current argument about temporary workers from overseas is not about driving up wages but about ensuring that nobody is being exploited.

It does not serve our national interest if we fail to meet our training challenges in the years ahead. Simply importing labour from overseas meets the short-term needs of overcoming a skills shortage, but it does not and cannot address the longer term needs of our country. There has always been an acceptance on all sides in this country that immigration was and is an important factor in building our country. That has not changed, but our concerns are that, if employers are using the skills shortage to source foreign labour as a means of driving down costs, this is not in our national interest and it is certainly not in our long-term interest.

The government and those opposite should be about ensuring that this skills shortage is overcome by a range of policy initiatives that deal with the problem now and well into the future. Do not just sit on your hands for another 10 years—or however long you are allowed to sit on that side of the chamber—actually do something to address the long-term needs of our labour market. The approach of this government has been to ignore all the warning signs. (Time expired)

Question agreed to.

Asylum Seekers

Senator Nettle (New South Wales)

(3.27 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 Nettle today relating to West Papuan asylum seekers.

I note his non-answer.

Senator Ian Campbell—I am taking that question on notice.

Senator Nettle—I appreciate that the minister said that he would take this question on notice and seek to have it answered by the Minister for Defence, but it is the third time I have asked this question and I am still waiting for an answer.
Senator Ian Campbell—Not to me, it’s not.

Senator Nettle—I have asked the question in estimates of the Chief of Navy and, subsequently, I have put the question on notice because the Chief of Navy was not able to answer it and thought maybe another official would be able to answer it. The question is about whether or not the Navy has sought legal advice to determine whether asking the Navy to intercept and turn back West Papuan asylum seekers to Indonesia is a breach of the refugee convention. It is an important question to have answered because we have already seen in the recent history of this government our armed forces being put in difficult circumstances, doing things they did not necessarily agree to, because of the policies of this government. We have seen that unrest within our defence forces in the past, and it is important to ensure that the Navy in this case is not put into that same situation.

Last week the Senate inquiry into the new migration legislation heard from David Manne from the Refugee and Immigration Legal Centre. He told the inquiry that the government’s proposal to return asylum seekers raises the very real prospect that, in the absence of guarantees, we are looking at a situation where the Australian Navy, for example, could be put in a completely impossible position, in our view, of having to determine on the face of it whether or not someone should be sent back to a situation of persecution. No proper measures have been guaranteed to ensure that this will not occur. For example, there are no proper measures to ensure an assessment and to work out whether a person needs to come to Australia to have their claim assessed. We have no answers to questions that I have asked about what rules of engagement have been put forward for the Australian Navy so that they can determine whether, when they come across a boat of West Papuan asylum seekers on our northern borders which they have been instructed to turn back to Indonesia, they are turning back asylum seekers to face persecution.

Article 33 of the refugee convention states:

No Contracting State shall expel or return ... a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

Australia made determinations in the recent case of 42 West Papuan asylum seekers that if they were returned to Indonesia they would face persecution. If they are returned to Indonesian at the hands of the Australian Navy they may well face persecution. According to the experts in international law who spoke on this issue of the refugee convention, the Australian government may well be asking the Australian Navy to break the refugee convention on their behalf.

In the inquiry, the submission from the Castan Centre for Human Rights Law said, in relation to the deployment of Australian Naval forces to interdict asylum seekers and return boats back to Indonesia:

Such a practice with respect to Indonesian nationals would be in clear breach of article 33—of the refugee convention. That is why I asked the government whether they have sought advice on this issue. I ask again. I have asked three times already and I am still trying to find an answer about whether the Australian Navy is going to be asked to breach the refugee convention. The Senate is going to be asked to make a decision on this legislation, and this is not the only issue for which we have not had answers from the government.

During the Senate inquiry we could not get information about whether lawyers
would have access to their clients in Nauru. We could not get information about how children and families will be treated and housed in somewhere such as Nauru. We could not get information, despite asking repeatedly, about the cost of this proposal. The Australian government is asking the Senate and the Australian Navy to perform all these actions without providing us with information on the impact of the changes that the government is seeking support for in the Senate.

We heard from many witnesses. When we were in Canberra we heard from Dr Penelope Mathew from the ANU. She said:

Rather than returning refugees to places of persecution, the parties to the Refugee Convention have agreed to provide them with protection of their fundamental human rights. To do otherwise is to become complicit with the persecutory regimes from which refugees have fled.

That is the message that is being given to us by the international law experts—we may well be asking the Australian Navy to break international law. (Time expired)

Question agreed to.

CONDOLENCES

Hon. John Murray Wheeldon

The PRESIDENT—It is with deep regret that I inform the Senate of the death, on 24 May 2006, of the Hon. John Murray Wheeldon, a senator for the state of Western Australian from 1965 to 1981.

Senator MINCHIN (South Australia—Leader of the Government in the Senate) (3.33 pm)—I seek leave to move a motion relating to the death of the Hon. John Murray Wheeldon.

Leave granted.

Senator MINCHIN—I move:

That the Senate records its deep regret at the death, on 24 May 2006, of the Hon. John Murray Wheeldon, former federal minister and senator for Western Australia, and places on record its appreciation of his long and meritorious public service and tenders its profound sympathy to his family in their bereavement.

John Wheeldon was born on 9 August 1929 in Subiaco, Western Australia. He was educated at Perth Modern School and then attended the University of Western Australia, graduating in arts and law before commencing work as a solicitor. Despite later serving as a minister in the Whitlam Labor government, we note with interest that John Wheeldon’s political life began when he took on the role of President of the Western Australian Young Liberals. Given his subsequent illustrious career and his rather dry views on a range of subjects, he was clearly a loss to the Liberal Party.

Senator Chris Evans—He had some views on Vietnam, as well.

Senator MINCHIN—I noticed that. John Wheeldon was elected as a senator for Western Australia in 1965, representing the Australian Labor Party. He served as a senator for 16 years, until his retirement on 30 June 1981. There are only a couple of senators still serving today who had the privilege of serving with Senator Wheeldon, including Senators Ray and Watson. Regrettably, neither Senator Evans nor I had that privilege.

John Wheeldon served at an interesting time in Australia’s history. He served during the time of the Vietnam War, and witnessed first hand the events leading to the dismissal of the Whitlam government in 1975. He had a deep and abiding interest in international affairs. He was, as Senator Evans has just noted, a fierce opponent of our involvement in the Vietnam War and made a visit to North Vietnam in the mid 1960s, at the invitation of the North Vietnam peace committee, when the war was at its height. In 1967 he also visited the United States, campaigning against that war. In parliament, he served as
a member and chairman of the Senate Foreign Affairs and Defence Committee and the joint committees on foreign affairs and defence.

John Wheeldon’s esteemed political career also included time as Minister for Repatriation and Compensation from 1974 to 1975 and later in 1975 as the Minister for Social Security in the Whitlam government. His ministerial career would have been much longer had the Whitlam government survived more than one term. He served as a member of the opposition shadow ministry in 1976.

Senator Wheeldon was particularly proud of his involvement in a report on human rights in the then Soviet Union which gave timely exposure to a range of very significant humanitarian issues in that country. In common with a number of Senate colleagues, he also served as parliamentary adviser to the United Nations General Assembly in New York during his last year in parliament.

Following his retirement as a senator, John Wheeldon was approached by Rupert Murdoch and offered a position on the Australian. He was chief editorial writer for the Australian from 1981 to 1995—a position many of us might aspire to following our political careers. With his encyclopaedic knowledge of world politics, he specialised in editorials on foreign affairs and politics. During his time with the Australian, editorials in that newspaper covered a number of key international events, including Nelson Mandela’s release from prison, Saddam Hussein’s invasion of Kuwait and Mikhail Gorbachev’s perestroika reforms of the Soviet Union.

Editorials written while John Wheeldon was at the Australian stated among other things that, for example, ‘claiming a moral monopoly’ on environmental issues would not be of assistance to the ALP; and in support of free trade that ‘undoing the harm of protectionism will take time and pain, but less pain than preserving the industrial basket cases’. So he followed in a long tradition of free trade that is evident among Western Australians from both sides of politics.

John Wheeldon will be remembered for his vast knowledge of and passion for world politics, his dry and incisive wit and his intellect both during his time as a senator for Western Australia and in his career outside of politics as a lawyer and journalist. On behalf of the government, I offer condolences to his wife, Judith, daughter, Miriam, and sons, Andrew and James.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (3.37 pm)—On behalf of the Labor opposition, I would like to support the condolence motion moved by Senator Minchin following the death of former senator John Murray Wheeldon. I extend the sincere sympathies of all Labor senators to his wife, Judith, to their son, James, and to Andrew and Miriam, his children from his first marriage. John Wheeldon was a very significant Western Australian Labor figure through his role as a senator, his brief period as a minister in the Whitlam government and his long involvement in the Western Australian Labor Party. After his retirement from politics, he remained engaged in public life through his work in journalism. He was a figure who commanded a great deal of respect across the political spectrum for his intellect and wit. That cross-party respect is clear from remarks made in the other place by my Labor colleagues and senior members of the government and in the obituaries that have been written about him.

Although I did not know him well, I was fortunate enough to meet him on a couple of occasions when he was a senator and I was a young, impressionable activist. He impressed then with his wide knowledge and his ability
to put an argument succinctly. I actually met him at the home of the Konwills in Western Australia. They were a very influential couple in the development of Western Australian politics and were active on the Curtin electorate council, and he was certainly very much involved in that circle.

John Wheeldon was born in August 1929 and studied at Perth Modern School. Perth Modern was a selective government school, now well known for educating a number of public figures, including Bob Hawke, John Stone, my partner, and journalist Maxwell Newton. Despite its strong academic credentials, Wheeldon was not too enamoured of his school, describing it as an ‘exam factory’. For a man who was later known for his erudition and intellectual sophistication, it seems the school was somewhat limiting. He later said:

Passing exams was all that mattered to the headmaster—he even disapproved of our attending ABC Youth Concerts, because in his opinion they were a waste of time.

That seems remarkable, given that it is actually a music school as well.

Various of the tributes that have flowed since Wheeldon died have noted that in his early days he was, as Senator Minchin pointed out, a Liberal. I am glad to say he saw the error of his ways. Apparently, this allegiance was due in part to his difficult relationship with his headmaster. Wheeldon noted:

The headmaster was a Labor man. In my youth I was a dedicated Liberal, largely because of him.

I think it shows how one can be influenced by certain individuals. I owe a lot to Malcolm Fraser—the old Malcolm Fraser, not the new one.

It seems that at school Wheeldon shared with Bob Hawke a characteristic Australian independence and suspicion of authority. In her biography of Hawke, Blanche d’Alpuget writes that Bob:

... joined the school cadets but then found himself rejecting the commands of his senior officers and, after three years of training, was still a private. Only three boys, another being Wheeldon, managed to remain privates.

Like Hawke, Wheeldon studied at the University of Western Australia and took an honours degree in philosophy as well as a law degree. It was during this time that he was involved with the Young Liberals and held some leadership positions in that organisation. No doubt that required drinking a lot of champagne and eating a lot of chicken. Thankfully, this did not last long. In 1950, he quit the Liberals in protest at Menzies’ act to dissolve the Communist Party—something he saw as an attack on democratic freedom.

He joined the Labor Party the following year and was a member of the Claremont-Nedlands sub-branch—a branch that was well known as an intellectual powerhouse of the party. It ranked among its members refugees from Hitler’s Europe and old-school Austrian socialists. It was a very influential part of the Western Australian Labor Party, and a lot of people like Bob McMullan, me and others were exposed to that group over the years. Wheeldon himself was strongly influenced by Joe Chamberlain, the secretary of the party in WA. Wheeldon served as a member of the WA state executive of the ALP from 1952 until 1979. In his preparliamentary life he worked as a barrister and solicitor. As the Leader of the Opposition noted in his condolence remarks, Wheeldon worked for a time in the Fabian bookshop in London—a job which, on his departure, was taken by Jomo Kenyatta, later to become the first President of Kenya.

In 1965, Wheeldon took his place as a Labor senator for Western Australia. He remained in the parliament until 1981. His first speech was an eloquent discussion of the
politics around the stevedoring industry bill—a bill which Wheeldon saw as a direct attack on the Waterside Workers Federation. I think it proves again that the more things change the more things stay the same. Victorian DLP senator Francis McManus, the speaker to follow Wheeldon, noted the ‘considerable fluency’ with which Wheeldon had delivered his first speech. Wheeldon’s capacity as a speaker was highly regarded and formidable and has been much commented on in the last few weeks. He was known not only for his eloquence but also for his wit, which could be biting at times.

The current foreign editor at the *Australian*, Greg Sheridan, who was recruited to that newspaper on Wheeldon’s recommendation, described him as perhaps the wittiest man he had ever met. A report from that newspaper gives an account of a discussion during estimates hearings in May 1973 on food in the parliamentary dining room:

Senator Wheeldon asked whether the appalling quality of the food was meant to encourage ‘Spartan living’ or ‘involuntary support for the Freedom from Hunger Campaign.’

I hope that the questioning in estimates is now slightly more focused on government accountability. I also noted a response he gave to Senator Melzer in question time when, as Minister representing the Minister for Health, he was asked about the practice of inducing births between 9 am and 4 pm. He responded:

I am afraid that I was not aware of the practice of inducing births in office hours. I suppose it would enliven an otherwise dull morning tea break. I do not know what effect it has on the mother and child. However it could have a rather startling effect on fellow clerks and stenographers. I shall refer the matter to the Minister for Health and obtain a detailed answer for Senator Melzer.

Jim McClelland described Wheeldon as ‘one of the verbal pyrotechnists of the Whitlam era’, and noted:

In full flight, speaking entirely without notes in flawless syntax on a subject such as the Vietnam War, he was a hard act to beat.

Wheeldon, who was fluent in French and German, was known for his knowledge and interest in the area of international affairs. As an opponent of imperialism in any form, he spoke out passionately against the Vietnam War from his early days in the Senate. In 1967 he and Jim Cairns travelled to the US to give a series of speeches regarding their opposition to the war and in 1973 he made a visit to North Vietnam—highly controversial visits at the time. On leaving the Senate in 1981 he said that international affairs should not be treated as a side issue by the parliament because he felt that successful foreign policy was a precondition for successful domestic policy. In his valedictory speech he said:

However excellent our policies may be on social welfare, finance, agriculture or anything else, if our country is under serious threat from some other source then it is all to no avail whatsoever.

The sentiment that led Wheeldon to oppose what he saw as American imperialism in Vietnam also made him a staunch critic of the Soviet Union. He was rightly proud of the report of the Joint Committee on Foreign Affairs and Defence from its inquiry into human rights in the USSR, which he presented to the Senate in 1979. He was concerned about both the rights of the people of the Soviet Union and that country’s international policy and saw the committee’s inquiry as a vital contribution to Australia’s broader security. It was a report which was criticised by some contemporaries for its great length and, as the Leader of the Opposition pointed out in the House, Wheeldon wrote much of it himself.

When Labor was in government in the early 1970s he was instrumental in encouraging closer dialogue with China, a policy which has served this country well since that
time. On the election of the Whitlam government in 1972, Wheeldon did not at first become a minister, though in 1973 he did become Chair of the Joint House Committee on Foreign Affairs and Defence. He was elected to the ministry by caucus following the 1974 election and he filled the vacancy left after the election defeat of Al Grassby. He served as Minister for Repatriation and Compensation from June 1974 and Minister for Social Security from June 1975, holding both positions until the dismissal of the Whitlam Labor government. His career, like the careers of many others, was cut short in 1975.

In his first speech, discussing the stevedoring industry bill and the coalition’s attempt to crack down on industrial activity on the waterfront, Wheeldon had spoken out about the miserable and dangerous conditions for workers on the wharves. He said:

The figures show that despite the claims made by the Government and other people of the many hours lost through industrial disputes and stoppages on the wharves, in any year the total number of man hours lost through industrial accidents is greater than the number of man hours lost through industrial stoppages or disputes.

Given these comments made so early on, it was fitting that he was minister at the time that Labor was trying to establish a national rehabilitation and compensation scheme. Gough Whitlam described how the Senate Constitutional and Legal Affairs Committee inquiry into the bill was overloaded by those who opposed the scheme in order to stymie the legislation. After a great public debate—one which I got involved with on the periphery as a young man—the tactic seemed to work and the government was unable to deliver a single national regime to deal with what Whitlam described as ‘hardships imposed by one of the great factors for inequality in society—inequality of luck’.

In keeping with the broader program of the Labor government, Wheeldon was the minister who in 1975 tabled the Henderson report, *Poverty in Australia*, the result of the groundbreaking investigation into disadvantage in this country established in 1972. In WA during the Whitlam years, Wheeldon was a central figure in the 1974 and 1975 election campaigns, when his considerable oratory skills were used to great effect at mass rallies and public meetings. Wheeldon stayed on in opposition until 1981, by which time he was more than ready to move on from the Senate.

In June 1981 the *Australian* reported on a caucus dinner for departing senators, which is a bit of a tradition on the Labor side. Outgoing Senator Cavanagh began his remarks by saying he felt like Mark Antony who entered Cleopatra’s tent and said, ‘I am not here to make a speech.’ Wheeldon, who was next to speak, began his remarks with the words, ‘After 16 years in the Senate I feel like Cleopatra after Mark Antony left the tent.’ Those of us with long careers in the Senate understand the sentiment.

After parliament Wheeldon had a distinguished career in journalism and, for a time, was senior leader writer at the *Australian* where he specialised in editorials on politics and foreign affairs. He was a man of very considerable intellect and personal authority. He was someone who debated and believed passionately but was not afraid to reassess his intellectual positions. I must confess that some of his later contributions in the *Australian* were not highly popular with me or members of the Labor Party but they were always very strongly argued and intellectually sound.

He was by all accounts a man of brilliance with a very independent mind. He made a very significant contribution to the Labor Party, to the Senate and to the nation. It is a
shame, from our perspective, that he was
denied the opportunity of a significant minis-
terial career. He died at his home in Sydney
on 24 May and a state funeral was held on 2
June.

Many people who have paid tribute to him
over the last few weeks have also paid trib-
ute to his wife, Judith. She is by all accounts
a remarkable woman, a distinguished
teacher, and was a devoted carer for her hus-
band. On his passing I would like to reaffirm
to her and to the family the deep and abiding
sympathies of all Labor senators. We ac-
knowledge the tremendous contribution he
made and, certainly on behalf of the Western
Australian senators, we acknowledge the
contribution he made to our state and to the
Labor cause. He will be fondly remembered.

Senator WATSON (Tasmania) (3.50
pm)—This afternoon I rise to honour one of
the Senate’s great orators, the Hon. John
Murray Wheeldon, who passed away peace-
fully on 24 May 2006. I had the pleasure to
hear Senator Wheeldon speak back when I
was first elected, and I believe I am possibly
the only person present here today to have
done so. I can safely say that he was one of
the best speakers I have ever had the pleas-
ture to hear. In fact I believe he was only sur-
passed in the field of public oratory in the
Senate by Sir John Carrick, on our side of
politics.

It is a great shame that Senator Wheeldon
served before television cameras were intro-
duced into the Senate chamber because his
skill with the spoken word together with his
quick wit stick in my mind even now, more
than 20 years later. The late Hon. John
Wheeldon was not only a gifted speaker but
a passionate parliamentarian who served his
state of Western Australia admirably for over
15 years. I recall he was most active in the
field of foreign affairs and his work on the
various committees was invaluable. I note
also that he is survived by his widow, Judith,
and their three children. I extend my condo-
lences to them and their family and hope
they will take some comfort from knowing
that their husband and father was one of the
most remarkable men ever to sit in this
chamber.

Senator FAULKNER (New South
Wales) (3.52 pm)—John Wheeldon seems
difficult to pin down: ex Liberal, lapsed La-
bor, self-styled ‘19th-century Liberal with
social democratic tendencies’. He went from
being president of Western Australia’s Young
Liberals, aged 20, to being a critic of the
Menzies government’s attempts to ban the
Communist Party, then from being a member
of the Australian Labor Party from 1951 to
being a protege of the Labor Left Western
Australian patriarch of the 1960s, Joe Cham-
berlain. Wheeldon was to say in the 1960s:
I am a thorough-going Socialist; I am on the far
Left of the Labor Party.

By 1965 he was a Labor senator, the young-
est in the parliament. By June 1974 he was
the second youngest minister in the Whitlam
government, first as Minister for Repatria-
tion and Compensation. He was to say about
war service,
I was too young for World War II, too old for
Vietnam and too scared for Korea.

He was given additional responsibilities in
June 1975 as Minister for Social Security. He
was of course sacked, along with the other
members of the Whitlam government, on 11
November 1975. After that, for just two
months, he was a member of the opposition
shadow ministry in early 1976 until his res-
ignation in protest over the Iraqi campaign
donation issue. John Wheeldon was twice an
unsuccessful candidate for Senate leadership
positions. He remained a backbench Labor
senator until 1981. After he left parliament,
his Labor Party membership lapsed. As you
have heard, he became chief editorial writer
for the *Australian* newspaper from the time of his retirement as a senator until 1995. It was a long journey and there were many twists and turns on the road.

John Wheeldon was bright—very bright. He was articulate, erudite, a wit, an intellectual, a libertarian. He had a wide general knowledge and he used it. As his political career lengthened, he would be considered more a dilettante, undisciplined, less than engaged in the political process and more carping than constructive in his criticism of colleagues and party. One of his closest friends was to say about his parliamentary career in the latter years that he travelled many thousands of kilometres a week to avoid work.

Through all this, he was exhilarating company. He was interesting and he was different. He held strong views and beliefs and he had the courage to express those views. He was his own man. John Wheeldon had a sharp tongue and he had a pointed sense of humour. I want to quote from former Labor Senate leader John Button’s autobiography, *As It Happened*. He mentions John Wheeldon in this book. He mentions just two instances of the sorts of interactions he had with Wheeldon. On one occasion John Button took John Wheeldon aside in King’s Hall in Old Parliament House and he decided to ask John Wheeldon what he thought of a particular issue—what we should do about a political issue. This was Wheeldon’s reply:

> Speak for yourself. Don’t say ‘we’. I’m a swinging voter.

On another occasion, Wheeldon explained to Button that he had been to a Labor Party meeting in Perth. I quote Wheeldon:

> I went out of curiosity. They kept complaining that people didn’t know what the Labor Party really stood for any more. I told them they were very lucky. If people knew what the Labor Party really stood for we’d have no members of Parliament at all.

So he certainly did have a sense of humour. I think it is fair to say that his attitude changed and his politics changed somewhat over a very lengthy political career. In fact, he was quoted at the end of his career as saying that being a senator was ‘a bloody awful job’. As his friend former senator James McClelland wrote of Wheeldon:

> While he reads a book a day, he’s allergic to real toil. The thing he likes least about Canberra is parliament.

I think it is fair to say that John Wheeldon always showed real passion for the causes he believed in: his opposition to the Vietnam War, his support for the independence of East Timor, his abhorrence of apartheid and his deep concern about Soviet imperialism. There was not a better advocate in parliament on those issues or any issue to which he turned his mind.

But John Wheeldon did not apply his extraordinary talents with discipline and dedication. I believe that John Wheeldon did not fulfil his political promise. Without doubt, he was an achiever. Without doubt, he could have achieved much, much more. I join with my leader and other colleagues in the Senate in expressing my sincere condolences to his wife, Judith, and family, on their bereavement.

**Senator BARTLETT** (Queensland) (4.00 pm)—I would like add the Australian Democrats’ voice to the expressions of condolence to the wife and children of former Senator Wheeldon. I think it is appropriate to acknowledge the contributions of somebody who has served 16 years in this place, including time in the ministry. As always when he is speaking about Labor people, Senator Faulkner has done so not only eruditely but also with insight and frankness—not that I am dismissing Senator Evans’s contribution, which was also good. We have also heard a fair bit from others about former Senator
Wheeldon’s talents, his idiosyncrasies and his great ability with the spoken word.

There is one aspect of Senator Wheeldon’s career which I do not think was mentioned among all the other things that have been outlined. In his valedictory speech he mentioned that he had participated in all aspects of parliamentary life with the exception of the federal Parliamentary Christian Fellowship. However, I gather that even in that area he was not completely uninvolved. During his time in the Senate I gather that, along with some other members, he engaged in a serious attempt to establish a federal parliamentary fellowship of atheists, agnostics and members of other faiths, to cater for those who felt excluded from the Christian fellowship. I am not necessarily floating that suggestion again now, but it is interesting that that idea occurred back at that time as well.

That is another insight into Senator Wheeldon’s attitude about various things, and it is also a sign that he was not someone who would just follow predetermined positions. As Senator Faulkner indicated, he may have done so in a way that was sometimes less than constructive, but it also showed a person who would think for himself. It also demonstrates once again that you can put somebody in a box because they take a certain position on a matter, or you can label someone as being from the Left at a certain time and therefore think you can tell what they think about 99 other matters. If you look at Senator Wheeldon’s strong involvement in opposition to the Vietnam War—going as far as visiting Hanoi and doing a trip around the United States with Jim Cairns—clearly most people would think that that would put him in the package of the hard Left; and I can almost hear the kind of speech that someone like Senator Mason would immediately make about what that means about what those people would do about some things and how they would ignore certain other things.

Of course, one of the other big achievements of Senator Wheeldon was his strong involvement in putting more focus on human rights abuses in the Soviet Union. Most people would have criticised people who were perceived to be in the Left at that time for turning a blind eye to that issue. It does demonstrate that most people cannot be easily put into a single and simple box but that people can have a range of views on different positions, and it shows the benefits of considering each issue on its merits.

I join in acknowledging the extensive activities and achievements of former Senator Wheeldon’s career, both in and out of the Senate, and I join with other senators in expressing our sympathies and condolence to his family.

Question agreed to, honourable senators standing in their places.

PETITIONS

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

Asylum Seekers

Petition to the Honourable the President and Members of the Federal Senate in Canberra. The Petition of the Citizens of Australia states that:

(1) The rich Christian heritage of political freedom that we enjoy in Australia has benefited all Australians; and was confirmed when we became a Federated Commonwealth in 1901 with the adoption of the Australian Constitution, the Preamble of which states, ‘Humbly relying on the blessing of Almighty God’.

(2) Many Christians around the world suffer persecution for their faith in countries where Christian principles are not enjoyed and seek refuge in our nation of Australia.

(3) The need of these Christians is an urgent need and their Christian beliefs and practices are compatible with the principles on which our Nation was established.

Your petitioners therefore humbly pray that immigration policies be framed to expedite the entry of Christian refugees into Australia.
Military Detention: Australian Citizens

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

The Petition of the undersigned draws to the attention of the Senate the continuing operation of the United States military detention facility at Guantanamo Bay. This facility exists in contravention of international law and has been widely condemned by the leaders of other Western nations, the United Nations, respected jurists and religious leaders. The recent decision to release 134 detainees following a review by the US Department of Defense, 119 to their countries of citizenship, further highlights the illegitimacy of the facility’s operation.

Your petitioners believe:
(a) the United States’ military detention facility at Guantanamo Bay exists in a jurisdictional (b) those suspected of any crime, including terrorist-related offences, have a right to a fair trial, to allow them an opportunity to defend all charges against them; (c) South Australian David Hicks has been detained at Guantanamo Bay for more than four years, and it is unlikely he will be repatriated by the Australian Government in the foreseeable future, despite the repatriation of the citizens of nearly every other Western nation; (d) in the absence of any effort to ensure the human rights of detainees, and following allegations of outright violations of these rights, the facility must be closed.

Your petitioners therefore request the Senate urge the Government to support calls for the military detention facility at Guantanamo Bay to be closed.

by Senator Allison (from 9 citizens).

by Senator Stott Despoja (from 646 citizens).

Pregnancy Counselling Services

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

The Petition of the undersigned draws to the attention of the Senate the lack of regulation of pregnancy counselling in Australia.

Some pregnancy counselling services which are anti-choice give the impression in advertising material that they provide information on the three pregnancy options (keeping the child, termination, and adoption), when they do not. Such pregnancy counselling services have also been known to provide misleading information about the risks associated with abortion and to refuse to provide referrals for abortion.

Pregnancy counselling services which do not charge for the information they provide are not subject to the Trade Practices Act, which means they are not prohibited from engaging in misleading or deceptive advertising.

Your petitioners believe:
(a) Women have the right to know what sort of pregnancy counselling service they are contacting (ie anti-choice or non-directive) when they seek information about whether or not to continue a pregnancy;
(b) Misleading information provided by some anti-choice pregnancy counselling services has caused unnecessary distress for many women considering terminating their pregnancies; and,
(c) The Federal Government should urgently move to regulate pregnancy counselling in Australia to ensure the counselling provided is objective, non-directive, and includes information on all three pregnancy options.

Your petitioners therefore request the Senate urge the Government to regulate pregnancy counselling in Australia (including banning misleading and deceptive advertising).

by Senator Stott Despoja (from 143 citizens).

Asylum Seekers

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

Whereas the 1998 Synod of the Anglican Diocese of Melbourne carried without dissent the following motion:
“That this Synod regrets the Government’s adoption of procedures for certain people seeking political asylum in Australia which exclude them from all public income support while withholding permission to work, thereby creating a group of beggars dependent on the Churches and charities for food and the necessities of life; and calls upon the Federal government to review such procedures immediately and remove all practices which are manifestly inhumane and in some cases in contravention of our national obligations as a signatory of the UN Covenant on Civil and Political Rights.”

We, therefore, the individual, undersigned attendees at Southern Peninsula Uniting Church, Rosebud, VIC, 3939; St Paul’s Anglican Church, Ringwood, VIC, 3134; and the Uniting Church, Gembrook, VIC, 3783 petition the Senate in support of the above mentioned motion.

And we, as in duty bound will ever pray.

by Senator Troeth (from 34 citizens).

**Wheat Exports**

The Honourable The President and Members of the Senate Assembled in Parliament:

This petition of certain citizens of Australia draws to the attention of the Senate the fact that the monopoly over wheat exports held by the Australian Wheat Board (AWB) has failed Western Australian Farmers.

The petitioners call on the Howard Government to:

(1) End the Australian Wheat Board’s monopoly over wheat exports from Australia.

(2) Legislate to allow competition in the wheat export market in Australia, allowing as many players into the market as wish to operate.

(3) Create an industry assistance and marketing package to restore the standing and reputation of Australia’s wheat industry in the international market.

by Senator Webber (from 11 citizens).

**NOTICES**

**Presentation**

Senator Siewert to move on the next day of sitting:

That the Senate—


(b) calls on the Government to immediately commence legal proceedings in the International Tribunal for the Law of the Sea and in the International Commission of Justice against this ‘unlawful’ whaling.

Senator Ian Macdonald to move on the next day of sitting:

That the Parliamentary Joint Committee on the Australian Crime Commission be authorised to hold a public meeting during the sitting of the Senate on Monday, 19 June 2006, from 5.45 pm, to take evidence for the committee’s inquiry into amphetamines and other synthetic drugs.

Senator Humphries to move on the next day of sitting:

That the Senate—

(a) notes the reference by the United Nations Special Rapporteur on Freedom of Religion and Belief to a confidential document which shows that Iranian authorities continue to identify and monitor the lives of Bahá’ís living in Iran;

(b) recognises the right of all people to worship freely without fear of persecution;

(c) expresses its concern that the Government of the Islamic Republic is monitoring the activities of the Bahá’í community in Iran and that Iranian newspapers and radio stations have been conducting an intense anti-Bahá’í campaign, similar to those that occurred in 1955 and 1979 in the lead up to Government campaigns of persecution against the Bahá’í community; and
(d) calls on the Government of the Islamic Republic to cease its monitoring of the Bahá’í community and to desist from any campaign of persecution against Iranian Bahá’ís.

**Senator Conroy** to move on Thursday, 17 August 2006:

That the following legislative instruments be disallowed:

(a) the Telecommunications (Operational Separation—Designated Services) Determination (No. 1) 2005, made under subclause 50A(1) of Schedule 1 to the Telecommunications Act 1997; and

(b) the Telecommunications (Requirements for Operational Separation Plan) Determination (No. 1) 2005, made under paragraph 51(1)(d) of Schedule 1 to the Telecommunications Act 1997.

**Senator Allison** to move on the next day of sitting:

That the Senate—

(a) recognises that according to the recently released report, *Counting the costs of tobacco and the benefits of reducing smoking prevalence in Victoria*:

(i) the total social costs of smoking in Victoria in the 1998-99 financial year were approximately $5.05 billion,

(ii) of the total Victorian costs, approximately 45 per cent were avoidable,

(iii) as a result of Victorian smoking, federal smoking-attributable expenditures exceeded smoking attributable revenues by approximately $160 million in the 1998-99 financial year, and

(iv) under the most conservative method of estimation, the benefits of the reduction in smoking prevalence would be $2034 million, or $10 291 for each person prevented from smoking by anti-smoking interventions; and

(b) calls on the Government to increase the proportion of smoking-related revenue that is allocated to anti-smoking interventions.

**Senator Stott Despoja** to move on Thursday, 15 June 2006:

That the Senate—

(a) notes:

(i) the condemnation of the United States of America (US) military detention facility at Guantanamo Bay by British Attorney-General Lord Goldsmith and his call for the facility to be closed,

(ii) Lord Goldsmith’s comments that the US military tribunal system does not offer ‘sufficient guarantees of a fair trial in accordance with international standards’,

(iii) that a number of world leaders, including German Chancellor Angela Merkel, British Prime Minister Tony Blair and Danish Prime Minister Anders Fogh Rasmussen, have also called for the facility to be closed,

(iv) that, in February 2006, a report by the United Nations (UN) condemned the operation of Guantanamo Bay as a military detention facility, and in May 2006 the UN Committee against Torture called for the facility to be closed as it breaches international law,

(v) human rights groups including Amnesty International have repeatedly called for the facility to be closed,

(vi) the recent suicide of three Guantanamo Bay inmates,

(vii) the long history of the US Central Intelligence Agency’s use of invasive physiological and subtle psychological interrogation techniques against suspected national security threats as documented by American historian, Professor Alfred W McCoy, and

(viii) that South Australian David Hicks has now been held at Guantanamo Bay for more than 4 years and is awaiting trial under the commission process, pending a ruling on the legality of the process by the US Supreme Court; and

(b) calls on the Government to:
(i) acknowledge the criticism of Guantanamo Bay by international leaders and jurists,
(ii) join international calls for the Guantanamo Bay military facility to be closed, and
(iii) seek the repatriation of citizen David Hicks.

**Senator Stott Despoja** to move on Thursday, 15 June 2006:

That there be laid on the table by the Minister Representing the Minister for Human Services (Senator Kemp), no later than the end of question time on 19 June 2006, the following documents:

(a) the Government’s Privacy Impact Statement on its smartcard proposal; and

(b) all privacy advice relating to the smartcard proposal obtained by the Government from Mr Nigel Waters (Pacific Privacy Consulting).

**Senator Milne** to move on the next day of sitting:

That the following matter be referred to the Environment, Communications, Information Technology and the Arts References Committee for inquiry and report by 31 March 2007:

Australia’s future sustainable and secure energy supply, with particular reference to:

(a) short-, medium- and long-term greenhouse gas abatement targets and energy emissions intensity goals;

(b) relevant existing and emerging technologies that are likely to make a significant contribution to reducing greenhouse gas emissions following life-cycle analysis and benchmarked against biodiversity, safety and regional security considerations;

(c) the mix of energy supply and energy use efficiency options that could feasibly meet Australia’s energy intensity requirements;

(d) identification of preferred energy options taking into consideration factors including, but not limited to, cost, reliability, safety, security, regional development and sustainability;

(e) identification of policy adjustments required to stimulate energy markets to develop the preferred options at least cost; and

(f) any other related matters.

**Senator Bartlett** to move two sitting days after today:

That the following bill be introduced: A Bill for an Act to prevent unreasonable impediments to entry to detention centres, and for related purposes. *Migration Legislation Amendment (Appropriate Access to Detention Centres) Bill 2006.*

**Senator Bartlett** to move two sitting days after today:

That the following bill be introduced: A Bill for an Act to amend the *Migration Act 1958* to make consequential provisions for returning excised offshore places to Australia’s migration zone, and for related purposes. *Migration Legislation Amendment (Migration Zone Excision Repeal) (Consequential Provisions) Bill 2006.*

**Senator Milne** to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) in 2001, the United States (US) Environmental Protection Agency (EPA) established radiation standards for the proposed Yucca Mountain nuclear waste repository, setting a dose limit of 15 millirem per year for the public outside the site for a period of 10 000 years after closure,

(ii) the standards were challenged in the Federal Court which found the timeframe of the EPA’s standards was inconsistent with the recommendations of the US National Academy of Science,

(iii) in 2005 the EPA proposed a revised rule of two dose standards that would apply after closure of the site, namely 15 millirem per year for the first 10 000 years and 350 millirem per year for the period between 10 000 to one million years, and
(iv) the revised standards require the Department of Energy to demonstrate Yucca Mountain can safely contain wastes, considering the effects of earthquakes, volcanic activity, climate change and container corrosion, for over one million years;

(b) recognises that establishing regulations that apply to the next one million years is absurd; and

(c) opposes and condemns the development of such nuclear waste repositories on Australian soil.

Senator Bob Brown to move on the next day of sitting:

That the Senate—

(a) notes the suicide of three prisoners at Guantanamo Bay, none of whom, despite years in captivity, had been charged or brought before a court;

(b) recognises that Australian citizen David Hicks has been detained in the prison for more than 4 years without trial; and

(c) calls on the Government to take active measures to influence the United States Administration to close Guantanamo Bay and return Mr Hicks to Australia.

BUSINESS

Rearrangement

Senator SANDY MACDONALD (New South Wales—Parliamentary Secretary to the Minister for Defence) (4.08 pm)—by leave—I move:

That consideration of the business before the Senate today be interrupted at approximately 5 pm, but not so as to interrupt a senator speaking, to enable Senator Bernardi to make his first speech without any question before the chair.

Question agreed to.

Rearrangement

Senator SANDY MACDONALD (New South Wales—Parliamentary Secretary to the Minister for Defence) (4.09 pm)—by leave—I move:

That—

(1) On Tuesday, 13 and 20 June 2006:

(a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to adjournment;

(b) the routine of business from 7.30 pm shall be government business only; and

(c) the question for the adjournment of the Senate shall be proposed at 11 pm.

(2) On Wednesday, 14 June 2006, the routine of business be varied to provide that:

(a) matters of public interest be called on at 1.15 pm; and

(b) questions without notice be called on at 2.30 pm.

(3) On Thursday, 15 and 22 June 2006:

(a) the hours of meeting shall be 9.30 am to 6.30 pm and 7.30 pm to 11.40 pm;

(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 be proposed at 11 pm.

(4) The Senate shall sit on Friday, 16 and 23 June 2006 and that:

(a) the hours of meeting shall be 9 am to 4.25 pm;

(b) the routine of business shall be:

(i) notices of motion, and

(ii) government business only; and

(c) the question for the adjournment of the Senate shall be proposed at 3.45 pm.

Senator LUDWIG (Queensland) (4.10 pm)—I wish to note what this motion does. It seeks to extend the hours for tonight, with the adjournment to be proposed at 11 pm. It
will also add for this Thursday and next Tuesday and Thursday additional hours, with the adjournment to be proposed at 11 pm. It will also add two Friday sittings—this Friday and next Friday—to the list. The government sought these additional hours to deal with the program—in other words, the bills that remain to be dealt with, as far as the government is concerned, before the winter recess. The government did give us some notice about these additional hours. However, it draws to attention whether the government is in fact ensuring that bills receive proper scrutiny, that bills can be referred to committees so committees can do their work, that the Senate can introduce those committee reports and have them spoken to and dealt with appropriately and properly and that speeches on the second reading can take those reports into consideration in the usual way that this place has proceeded in the past. We know that the government has the numbers in this place and the government can exercise its will by ensuring that this is the process that we will follow. It is really a case of either taking this motion by leave or having the argument which, in any event, the government would win.

Effectively, this motion means that we will expand the program in the last two weeks before the recess to deal with something in the order of 28 sets of bills, within which are a range of complex matters. The opposition has said that it will facilitate the passage of those bills that relate to budget measures. There is no argument about that. However, there are a number of other bills that the government has sought to put on the agenda. They are weighty bills and have weighty issues contained within them. They deserve significant consideration by this Senate. This proposed program tries to cram all that into the last two weeks. It is disappointing to see that the government has again adopted the program of trying to expand the hours to fit the bills in. In truth, what the government has missed is this: ensuring that those bills that have been brought forward over the last six months have been dealt with appropriately and referred to committees and received proper scrutiny. That is what this government has failed to manage in this place.

It is disappointing to see the government, once again, bring before us another expansion of the program to fit the hours in. Of course, it is one matter to say, ‘We are trying to avoid a third week’—as the government has indicated—‘Therefore, we will expand the hours to do that.’ However, it misses the point that this seems to be a regular occurrence. It has happened not once this term; it has happened twice. You may recall, Mr Acting Deputy President, that before the five-week break it was partly due, so I was told by the government, to the Commonwealth Games. We had roughly the same process where we expanded the program by a number of hours to fit in a range of bills that were required to be dealt with.

I am concerned that this is a process that the government will seek to adopt time and time again to deal with bills at the end of sessions. It may mean that it leaves bills that it wants to ensure do not receive adequate scrutiny from the opposition’s perspective to that last lot at the end of the session, so that it gets wrapped up and punted through. What should happen is that this government should take it on notice from the opposition that it needs to address the issue in a more sensible and pragmatic way to ensure that bills are dealt with in an orderly way, that they can be referred to committees for report back and that they can then be argued and considered speeches on the second reading can be given based on those reports and that they are not then brought on in a compacted program such as this.
The broader issue is that the government now has control of the Senate, and the object of expanding the hours might be to avoid using gags or guillotines. It is unseemly for the government to turn to this, but it has used it in the past to foreshorten debate and I suspect this is a way of trying to avoid that occurring. We will not know until the program progresses whether it has been successful in that process.

We will ensure that each bill receives adequate scrutiny. We will not delay it unnecessarily. We will ensure that each bill gets the attention it requires, but it comes down to what we can deal with in the Senate. The part that preceded it—committees being able to adequately scrutinise, having sufficient time for committees—the government should take on notice and address it in a more sensible way than what they have been doing. In the last six months, they have been foreshortening committee inquiries and making the reporting dates earlier than what is adequate to reasonably examine bills and legislation. They ensure that some committees only sit on one day and have inadequate time to consider bills. They have used gags and guillotines in the past to truncate debates on bills. As I have said, I think they are going to use this technique to try to avoid that.

What needs to be said in all of this is that the government has the numbers. It can take that course, but for the Senate to look at and scrutinise legislation appropriately the government should ensure that reports, committees and references get adequately dealt with in this place. This government has also tended to close down debate by not agreeing to adequate references which would otherwise provide insight for the Senate into particular issues.

There has been a range of issues, but I will come back to those in another debate. I am sure this government will give me an opportunity to come back on Senate process and procedures before this fortnight ends, but I wanted to make that point in respect of this motion. We have allowed it to go by leave, so there is significant understanding within this place that we need to get through the legislative program. But it is worth reminding the government that they have the numbers. They have the responsibility to make sure that legislation gets adequately scrutinised and is not rushed or otherwise dealt with in an unseemly way.

Senator BARTLETT (Queensland) (4.18 pm)—I would also like to speak to this motion. As Senator Ludwig has outlined, the motion increases the sitting hours for this week and next week for late night sittings on Tuesday and Thursday. As a bit of an aside, it once again removes the opportunity for senators to debate and speak to government documents that are tabled in this place on Tuesdays, Wednesdays and Thursdays. This follows on from the same action that happened last sitting week in May, so since March senators have not been able to speak to some of these documents.

Some senators may think that it is not that exciting, that most of those documents are annual reports, they are not that significant and it does not really matter. Firstly, I disagree. The importance of annual reports should not be underestimated, nor should the opportunity for senators to speak to them and the issues they raise be underestimated. But it also means that other significant government documents are not able to be spoken to and expanded upon more fully in this place. I am thinking particularly of some of the reports that have been tabled by the immigration minister in recent times: reports from the Immigration Ombudsman about people kept in detention for prolonged periods of time and the government’s responses to those reports. Those reports have not been able to be spoken to in the appropriate place, in the
Senate, after they have been tabled because of motions such as these by the government, which remove the opportunity to speak to them so that the government can give priority to its own business.

Documents tabled today, which again we will not be able to speak to, relate to the Refugee Review Tribunal reviews that were not completed within the 90-day period that is required under legislation. Similarly, there is the report on protection visa processing and how much of that has taken more than 90 days. That report, also, is not able to be spoken to. The report of LiveCorp, the body that oversees the live export trade from Australia—a topic that is of great interest to many Australians—has been tabled today and is not able to be spoken to. The report on how the prohibition on interactive gambling advertisements is going is not able to be spoken to.

Whilst the attitude towards some of these documents might be somewhat dismissive—and clearly is from the government’s point of view—I think it is a serious problem if you have prolonged periods of time when they are not able to be addressed in the Senate other than by a senator speaking individually on an adjournment debate late at night. I think there are 81 documents on the Notice Paper at the moment and there are another 15 or so, so there are close to 100 documents on the Notice Paper to be noted and spoken to should a senator desire. Some of those have had initial speeches made on them, but it is one area that is consistently being pushed further off the agenda and further away from any consideration that it is important business. I think it is a disconcerting trend. I am as willing as anybody else to forgo that aspect of Senate business when necessary from time to time, but to be doing it as a matter of course, week after week, becomes a significant problem.

The other aspect of this motion is that it enables the government to endeavour to put through a significant number of pieces of legislation about significant matters in a very short space of time. We have the problem that senators have to try to be across the content and detail of all of these different sorts of legislation. That is obviously particularly problematic for those of us in smaller parties; nonetheless it is something that all senators need to try to do and of course the community should be able to try to do. When you have a huge number of pieces of legislation being pushed through in a small number of days, it inevitably means reduction in the adequacy of the scrutiny that that legislation receives. So it is a matter not just of how many hours are available but also how many days those hours are spread over. The more things are crammed into a small number of days, the more difficult it is to have enough time to look at those issues. We are seeing that, of course, with some of the legislation committee reports that are coming down, where committees simply have not had enough time to look at legislation in the detail that is needed. Of course, that means that other senators that rely on those committees and their reports to get a view on legislation also do not get as full an idea as they might otherwise.

These things cascade into generally degrading the ability of the Senate to do its job and to properly scrutinise legislation and also that wider important task of not just senators but others in the community and the press gallery to communicate to the people the detail of all these measures. It is simply human nature and an inevitability that, if you have 10 important things all happening on the one day, the focus will only go to one or two of them, while if they are spread over 10 days then each of them will get the attention it deserves. That is a phenomenon that is happening more and more. It also leads to
less awareness about what is going on, less awareness about the issues that are directly affecting people and, I would suggest, a continuing decline in the public’s faith in and connection with the political process. I believe that is a serious problem. It is one that is getting worse. I for one do not want to be supporting any contribution that continues to make it worse.

The final comment I would make is that this motion to extend the sitting hours over the next two weeks to enable the government to push through as many pieces of legislation as possible is something that is particularly necessary just because of the extremely small number of sitting days the government has allowed so far this year. Today is only the 15th sitting day for this year. There are only this week and next week to go and then we do not sit until August. So when we get to the second week of August—the second week of the eighth month of the year—the Senate will only have had around 22 sitting days. That is grossly inadequate. That is a point that I have raised time and time again.

I should remind the Senate that, when the sitting days were set for the first part of this year, I moved an amendment to have an extra sitting week scheduled for the Senate in the first part of the year to avoid this sort of situation. That was not supported by the government. It was not supported by the ALP either, I might say. Frankly, I think it suits the government to have a large number of pieces of legislation crammed into a short period of time. It might suit the government but it does not suit democracy. I think it is a real problem. The Democrats will continue to speak out against it to try to reverse this situation and to have the Senate operate more in accordance with the way that it should.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.26 pm)—The Greens oppose this motion. It is an absolute affront to the voting public in this country that the government is truncating the sittings of the Senate. What we are seeing is a three-way squeeze: firstly, fewer sitting days; secondly, a lengthening of the sitting days that we have, to accommodate the usual list of necessary legislation; and, thirdly, an increasing use of the gag and the guillotine to make sure that, even with the lengthened days, the government’s legislation goes through.

On my calculations, this will be the year of fewest Senate sittings, if you set aside election years, since 1964. It is over 40 years since the Senate has sat so little in a non-election year, when of course there are fewer days of sitting because of elections. The government has taken us back to the middle of last century as far as the Senate sittings are concerned. The National Party have gone along with the dictates of the executive to have the Senate treated in this fashion, along with the voting public’s right to know that the Senate, with its charge to vet government legislation, is able to do that adequately, which is not so.

Whether or not voters again endorse the majority in this place is something that they will have to consider at next year’s election. If they do, the Senate will continue to be treated as a plaything of the executive—which essentially these days means the Prime Minister—and not as a second and equal chamber here to ensure that legislation and other matters going through this Parliament are indeed in the informed service of the public and not just a rubber stamp of the dictate of the executive. We are in a democracy. If people vote for it then people will get it.

At the last election—it has to be said—people did not know that this would be the outcome, but at the next election they will. The difficulty of course is that, to get back
the balance of power which makes the Senate function in the efficient and productive way it has in recent decades, will require the government to lose more than half the seats available in the Senate. So we will see. The Greens will be campaigning on a basis of ‘rescue the Senate’ at the next election.

Senator Ferguson—More dishonesty!
Senator Sandy Macdonald interjecting—

Senator BOB BROWN—I do not know whether the interjections are orderly to you, Acting Deputy President—

The ACTING DEPUTY PRESIDENT (Senator Watson)—Continue, Senator Brown.

Senator BOB BROWN—They are. Then I presume that the calls of ‘dishonesty’ opposite are the government proclaiming their election campaign slogan for next year! It is interesting to see a degree of honesty coming into the sloganeering of the government members. They are saying that they will be campaigning on a basis of dishonesty in the run-up to the next election. The government certainly have a record that would back up that campaign as being authentic, for once, when they go before the Australian people.

The Greens will continue to faithfully serve the Senate, to tackle the government whenever it puts a foot wrong, which is very frequently, and to bring in productive and progressive alternatives to the government’s program in this place. But there it is: this is the executive trammelling the Senate because it has the numbers. We will be campaigning very strongly to reverse that next year. In the meantime, we will accept the situation as it is—that the government is going to run for cover. That is what this motion is about. It should be called the Howard government’s run-for-cover motion. It does not want scrutiny, it does not want analysis and it does not want opposition, because it knows that it loses every time it comes under the blowtorch of parliamentary dissection, parliamentary pressure and parliamentary heat. The government interjected about dishonesty this afternoon; it should add to that ‘a failure to face up to opposition’ when it comes to a great house like the Senate. That is the government using its numbers; that is the Prime Minister using the numbers in here. We oppose the motion.

Question agreed to.

COMMITTEES
Corporations and Financial Services Committee Meeting
Senator CHAPMAN (South Australia) (4.33 pm)—by leave—On behalf of the Parliamentary Joint Committee on Corporations and Financial Services, I move:

That the order of the Senate of 10 May 2006, authorising the Parliamentary Joint Committee on Corporations and Financial Services to hold a public meeting during the sitting of the Senate today, be varied by omitting “to 8 pm”.

Question agreed to.

Public Accounts and Audit Committee Meeting
Senator SCULLION (Northern Territory) (4.34 pm)—by leave—On behalf of the Joint Committee of Public Accounts and Audit, I move:

That the Joint Committee of Public Accounts and Audit be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 14 June 2006, from 11.30 am to 12.30 pm, to take evidence for the committee’s review of Auditor-General’s reports.

Question agreed to.

Economics Legislation Committee Extension of Time
Senator SCULLION (Northern Territory) (4.34 pm)—by leave—At the request of the Chair of the Economics Legislation Committee, Senator Brandis, I move:
That the time for the presentation of the reports of the Economics Legislation Committee on the provisions of the Fuel Tax Bill 2006 and a related bill, and the provisions of the Customs Amendment (Fuel Tax Reform and Other Measures) Bill 2006 and three related bills, be extended to 14 June 2006.

Question agreed to.

NOTICES
Postponement

The following items of business were postponed:

Business of the Senate notice of motion no. 2 standing in the name of Senator Siewert for today, proposing the reference of a matter to the Community Affairs Legislation Committee, postponed till 15 June 2006.

Business of the Senate notice of motion no. 2 standing in the name of the Leader of the Australian Greens (Senator Bob Brown) for 14 June 2006, proposing the reference of matters to the Community Affairs References Committee, postponed till 20 June 2006.

Business of the Senate notice of motion no. 3 standing in the name of the Leader of the Australian Greens (Senator Bob Brown) for today, proposing the disallowance of the Criminal Code Amendment Regulations 2005 (No. 14), postponed till 16 August 2006.

General business notice of motion no. 298 standing in the name of Senator Stott Despoja for today, proposing the introduction of the Privacy (Equality of Application) Amendment Bill 2005, postponed till 22 June 2006.

General business notice of motion no. 415 standing in the names of Senators Stott Despoja and Bartlett for today, proposing the introduction of the Same-Sex Unions Bill 2006, postponed till 14 June 2006.

CHERNOBYL NUCLEAR ACCIDENT

Senator HUMPHRIES (Australian Capital Territory) (4.37 pm)—by leave—I move the motion as amended:

That the Senate—

(a) notes:

(i) that 20 years have passed since the nuclear reactor accident which occurred on 26 April 1986 at Chornobyl, with adverse consequences for approximately 2 million people in each of Belarus, Ukraine and Russia, with some 600 000 clean-up workers and more than 350 000 evacuees being exposed to high levels of radiation,

(ii) some estimates that the radiation emitted by the Chornobyl blast delivered into the atmosphere 90 times the radioactive materials of the atomic bomb blast at Hiroshima,

(iii) that a radius of 30 kilometres around the Chornobyl reactor has been declared an exclusion zone that will be uninhabitable for centuries,

(iv) that as far away as Britain, hundreds of farms are still suffering from low-level radioactive debris, which was borne thousands of kilometres by winds from Chornobyl,

(v) that of the three most affected countries, Ukraine has a special role as custodian of the Chornobyl reactor site, with the cost of a new sarcophagus likely to slow the development of its economy, and

(vi) that Ukraine and Belarus have, since independence, demonstrated good faith to the world community by eliminating their stockpiles of Soviet nuclear warheads, and Ukraine has shut down the three remaining operable reactors on the Chornobyl site;

(b) expresses concern that:

(i) as time progresses there has been a gradual downgrading of awareness in the Australian and world community about the Chornobyl tragedy and its lessons,

(ii) the affected people in Belarus, Ukraine and Russia are not receiving appropriate treatment due to a lack of funding,
alternative priorities and ignorance of the full consequences, which include thousands of thyroid cancers in the affected zone,

(iii) difficult economic conditions in Ukraine will hinder that country’s ability to fully respond to the challenge of securing the safety of the closed Chornobyl power station, and

(iv) Ukraine needs to secure the safety of currently operating reactors, especially in light of its plans to expand nuclear power; and

(c) calls on the Government to ensure that, in any debate regarding the future of nuclear power in Australia, the lessons of Chornobyl are heeded.

Question agreed to.

Senator Bob Brown—Mr Acting Deputy President, I ask that the Australian Greens’ support for that motion be registered.

DOCUMENTS

Tabling

The ACTING DEPUTY PRESIDENT (Senator Watson)—Pursuant to standing orders 38 and 166, I present documents which were presented to the President, the Deputy President and a temporary chair of committees since the Senate last sat. In accordance with the terms of the standing orders, the publication of the documents was authorised.

The list read as follows—

Committee related documents and reports

1. Environment, Communications, Information Technology and the Arts Legislation Committee—Additional information for the 2005-06 additional estimates (4 volumes) (received 19 May 2006)

2. Community Affairs References Committee—Report, together with Hansard record of proceedings and documents received by the committee—Workplace exposure to toxic dust (received 31 May 2006)

3. Employment, Workplace Relations and Education Legislation Committee—Report, together with Hansard record of proceedings and documents received by the committee—Provisions of the Australian Research Council Amendment Bill 2006 (received 2 June 2006)


Government documents

1. APEC—Australia’s individual action plan 2006 (received 19 May 2006)

2. Gene Technology Regulator—Quarterly report for the period 1 October to 31 December 2005 (received 7 June 2006)

Report of the Auditor-General


Ordered that the Community Affairs References Committee report and the Employment, Workplace Relations and Education Legislation Committee reports be printed.
Response to Senate Resolutions

The ACTING DEPUTY PRESIDENT
(Senator Watson)—I present a response from the Premier of Queensland, Mr Beattie, to a resolution of the Senate of 28 March 2006 concerning Cyclone Larry.

AUDITOR-GENERAL’S REPORTS
Reports Nos 41, 42, 43, 44 and 45 of 2005-06

The ACTING DEPUTY PRESIDENT
(Senator Watson)—In accordance with the provisions of the Auditor-General Act 1997, I present the following reports of the Auditor-General:


Report no. 42 of 2005-06: Performance Audit: Administration of the 30 per cent private health insurance rebate follow-up audit: Australian Taxation Office, Department of Health and Ageing, Medicare Australia;

Report no. 43 of 2005-06: Performance Audit: Assuring Centrelink payments: The role of the random sample survey programme: Department of Families, Community Services and Indigenous Affairs, Department of Employment and Workplace Relations, Department of Education, Science and Training, Centrelink;

Report no. 44 of 2005-06: Performance Audit: Selected measures for managing subsidised drug use in the Pharmaceutical Benefits Scheme: Department of Health and Ageing; and


COMMITTEES

Community Affairs References Committee
Report

Senator MOORE (Queensland) (4.41 pm)—I seek leave to move a motion in relation to the report of the Community Affairs References Committee Workplace exposure to toxic dust, together with the Hansard record of the committee’s proceedings and documents received by the committee.

Leave granted.

Senator MOORE—I move:

That the Senate take note of the report tabled earlier today.

I seek leave to incorporate a short tabling statement and also a short speech from Senator Polley.

Leave granted.

The statement read as follows—

The Committee’s inquiry into toxic dust arose out of the exposure of workers to crystalline silica in the sandblasting industry. One worker, Mr Richard White, sought compensation for lung disease resulting allegedly from exposure during employment as a sandblaster in the 1970s. The litigation was unsuccessful and Mr White then contacted others who knew or suspected that they had acquired lung or other disease through sandblasting. Eventually, Mr White compiled a list of over 900 names. It appeared that very few had received or sought compensation for their disability.

The Committee received 46 public submissions and 2 confidential submissions during the inquiry from a range of organisations, individuals and Commonwealth and State Government bodies. Public hearings were held in Melbourne, Sydney and Canberra.

The evidence highlighted the harmful effects of toxic dust: workers may suffer silicosis, chronic obstructive pulmonary disease and lung cancer as a result of exposure to crystalline silica; damage to the lungs, liver and spleen from exposure to beryllium dust; while exposure to timber dust is associated with cancer of the nasal sinuses.

Identifying the extent of illness related to workplace exposure to toxic dust is difficult as the main source of data is workers’ compensation statistics which do not record work-related illness that is of less than five days duration and do not record unsuccessful claims.

Added to the limitations of the datasets is the impact of the long lag time for some dust related diseases to be diagnosed. This often means that disease is blamed on lifestyle factors such as
smoking rather than workplace exposure to toxic dust. It is for this reason that witnesses emphasised the importance of regular health surveillance of employees, including lung function tests and X-rays.

While the Commonwealth and State and Territories have developed a regulatory system to ensure worker safety, witnesses stated that problems with the system mean that some workers were still being exposed to unacceptable levels of toxic dust. These problems include slow implementation of changes to the regulatory regime, poor enforcement of regulations, particularly in small industries, and lack of information on exposure to toxic dust being provided to workers. These issues, coupled with poor work practices, have resulted in many Australian workers suffering potentially harmful exposure to toxic dust.

Compensation issues for those affected by exposure to toxic dust are complex: the long latency of disease makes it difficult to link work exposure to disease; compensation systems vary in the States and Territories; various limitations exist to prevent access to compensation; and a number of models for financial support exist. The Committee has noted the compensation mechanism in place in New South Wales and has recommended that that State and Territory Governments move as soon as possible to set up nationally consistent identification, assessment and compensation mechanisms for persons affected by workplace related exposure to toxic dust and their families to at least the current New South Wales standard.

The Committee has also recommended that statutes of limitation that restrict legal proceedings for claims for personal injuries resulting from exposure to toxic dust be removed.

While concern exists to ensure that workers who have already been exposed to toxic dust receive adequate medical assistance and compensation, the emerging field of nanotechnology presents new occupational health and safety challenges. Research already indicates that nanoparticles may have serious health outcomes and the significant gaps in knowledge about how nanoparticles act, their toxicity and how to measure and monitor nanoparticle exposure. The Committee has made a number of recommendations so that these issues are addressed and to ensure that adequate regulations are introduced to overcome occupational health and safety concerns surrounding nanoparticles.

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

Leave granted.

Senator POLLEY (Tasmania) (4.41 pm)—The incorporated speech read as follows—

Mr President, I rise to speak on the Community Affairs' Committee's inquiry into Workplace Exposure to Toxic Dust. The importance of a thorough inquiry into the impacts of exposure to Toxic Dust was recognised by the Senate, which referred several matters to the committee for inquiry back in June 2005.

The Community Affairs Committee has consequently undertaken a thorough and detailed inquiry, receiving numerous submissions in respect of what is becoming a very serious and common work related health problem.

We all know, due to many well publicised cases, of the effects of asbestos and past work practices have been a contributing factor to many cases of asbestosis. Asbestos was commonly used throughout Australia from the 1940s until its use, in all forms, was banned from December 31 2003—except in prescribed circumstances.

The fibres of asbestos cause asbestosis, lung cancer and asbestos-related pleural diseases. Unfortunately, we have not only seen cases of asbestosis due to the mining of the product. Many cases have been a result of the use of asbestos as a building product, or even from indirect contact with dust—such as that which may come from renovating a house containing asbestos. The Asbestos-related Claims (Management of Commonwealth Liabilities) Bill 2005 and the Asbestos-related Claims (Management of Commonwealth Liabilities) (Consequential and Transitional Provisions) Bill 2005 Bills Digest tells us that estimates for Australia's total liability for future asbestos claims start at around $6 billion.

The effects of asbestos are well documented and State, Territory and Federal Governments, have all put mechanisms in place to manage asbestos related compensation claims. With that in mind,
the committee chose not to particularly address asbestos but instead review the issue of workplace exposure to other toxic dusts including silica dust, beryllium and timber dust, the effects of which are not so widely known.

The inquiry found that workers may come into contact with forms of toxic dust such as crystalline silica, wood dust and nanoparticles. Silica is a naturally occurring mineral in most rocks and soil, and occurs in several crystalline forms amorphous non-crystalline forms. Exposure to respirable crystalline silica (RCS) occurs through cutting, chipping drilling or grinding substances containing crystalline silica, but it may also occur through the use of materials that contain RCS for abrasive blasting.

Workers may come into contact with RCS through a range of activities including: excavation, sandblasting, grinding of materials such as granite, concrete cutting and drilling, road building, glass making, bricklaying and demolition.

The number of workers who risk a potential exposure to RCS was reported by the National Occupational Health and Safety Commission to be at nearly 294,000 in 2002. However, it was noted that not all workers across all industries have similar levels of risk to exposure—some may be at high risk, while others have a significantly lower risk of exposure.

Exposure to crystalline silica is known to cause a number of diseases, including Silicosis, but is also linked to others.

Silicosis has traditionally been known as a disease associated with mining and is caused by the inhalation of dust containing crystalline silica. However, there have been increasing numbers of cases of Silicosis occurring in workers in other trade-based industries as exposure over time to dust can be just as detrimental as working in a mining environment.

Silicosis is known to cause breathing difficulties, chest pain, respiratory failure and lead to death. The three main types of silicosis are: Chronic or Class Silicosis (which occurs after 15-20 years of moderate to low exposure); Accelerated or Subacute Silicosis (which can occur after 5-10 years of exposure to high levels of silica); and Acute Silicosis (which occurs after a few months, or as long as two years following exposure to extremely high concentrations of RCS.) Often the Acute form of the disease results in death, regardless of treatment.

The committee heard that there was a magnitude of evidence on the latency of chronic silicosis. Cement Concrete Aggregates Australia, or CCAA stated in a submission to the inquiry that chronic silicosis has a latency that may be up to seven years after cessation of exposure—even when there is little or no clinical evidence of the disease in the intervening period and there is no ongoing exposure during that time.

However, CCAA then went on to state that a delayed appearance of the disease or latency, is rare and that around 96 per cent of all cases of silicosis are diagnosable within a year of cessation of exposure, if not at the time of exposure.

CCAA also noted that silicosis does not have a long latency period at all, if compared to something like mesothelioma—which may occur up to 40 years after exposure has ceased or other occupational cancers.

However, Workplace Health and Safety Queensland stated that there is a general consensus among researchers that the latency period for most cases of the disease is in excess of twenty years from first exposure.

Of the submissions received by the committee as part of the inquiry, there were many from people living in communities located near quarries and smelters with concerns about their risk of developing dust-related diseases.

CCAA stated in their submission that there have been no known cases of silicosis arising from exposure to RCS in the community, either in Australia or overseas. Silicosis, they said, is seen as an industrial problem, not a community problem.

CCAA reported to the committee that there are procedures to monitor exposure around industrial sites and around perimeters, and controls are also in place around sites to prevent dusts from escaping and organisations can and are prosecuted for failing to meet those standards.

The committee also found that there is some dispute over the association of airway disease with crystalline silica. University of Tasmania Professor E Haydn Walters told the Committee in a
submission that internationally there is now acceptance that non-organic dust can also be a cause of fixed airflow obstruction and chronic bronchitis. This, he said, may be either additive to cigarette smoking or be more evident in smokers.

When looking at the incidence of airway disease involving crystalline silica, the committee noted that its Regulation Impact Statement on the Proposed Amendment to the National Exposure Standard for Crystalline Silica in October 2004, the National Health and Safety Commission stated emphysema, the main cause of chronic obstructive lung disease, can be caused by inhalation of crystalline silica and that silica dust can worsen the damage done by smoking.

The National Health and Safety Commission’s Regulatory Impact Statement states that Occupational exposures to respirable crystalline silica can also have heart effects. In severe cases, it says, fibrosis in the lungs can lead to prolonged increase in the blood pressure in the arteries and veins of the lungs, which is known as pulmonary hypertension. Exposure to silica has also been linked to the development of numerous disorders including autoimmune disorders such as scleroderma, systemic lupus erythematosus, rheumatoid arthritis and chronic renal disease.

Apart from crystalline silica, the committee also looked at several other forms of dusts which are known to cause severe health problems.

Beryllium cooper alloy or cooper-beryllium is used in numerous industries including mining, glass manufacturing, automotive manufacturing, smelters, foundries, ship manufacture, dental laboratories, aviation and nuclear power.

Exposure to high levels of beryllium dust results in acute beryllium disease or ABD. While workers generally recover from ABD, some will develop chronic beryllium disease, or CBD, which is incurable—although if it is caught early, its symptoms can be suppressed with steroids.

CBD can damage the lungs, liver and spleen and has a long latency. It can appear up to 40 years or more after the initial exposure. A submission received by Mr John Edwards, of Victoria, stated that he and other considered CBD to be far worse than asbestos-related lung diseases as, and I quote: “CBD can affect every major organ of the human body.”

The exposure to timber dust, alumina and textile dusts were also looked at by the committee. Exposure to timber dust is known to produce simple irritation but in some cases may also provoke rhinitis, asthma, bronchitis and pneumonitis. However, sino-nasal cancers associated with hardwood dust have also been reported in many countries including Australia.

Aluminosis is the occupational lung disease seen in workers exposed to fine aluminium powder, or dust, while Byssinosis is an occupational airway disease that occurs in textile workers due to the inhalation of certain textile dusts. A submission from the Dust Diseases Board of New South Wales informed the committee that, thankfully, this condition is now rare.

Due to the long latency periods involved in many of these diseases and ailments, there is a problem with the diagnoses of toxic dust-related health because some symptoms may not be seen for up to 40 years after exposure.

Many witnesses affirmed the need for further research to fully understand the extent of diseases caused by toxic dust, and the ACTU recommended that the Government fund research into improving medical tests for dust diseases, with a focus on early detection.

There was also mention of the need to ensure all workers who are exposed to toxic dust are adequately surveyed and regularly checked for signs of illness. The States and Territories already have hazardous substance regulations in place based on the national model regulations produced by the Commonwealth in 1994.

However, the committee noted that there are problems regarding the confusion of dust-related diseases with other lung conditions or lifestyle factors such as smoking. A recommendation from the Committee asks that the Australian Safety and Compensation Council, in conjunction with the Heads of Workplace Safety Authorities, consider mechanisms to improve health surveillance of employees, particularly those exposed to toxic dust.

A further problem uncovered by the inquiry is that particular problems of exposure to toxic dust
are not well understood or recognised by medical practitioners and that not all workers with dust related diseases will be identified.

The Union Movement has been pivotal in uncovering problems associated with workplace health and has been at the forefront in the fight for compensation for asbestosis victims. Indeed a great deal of the exposure that has been brought to the problem has come directly from Union involvement in these cases.

To increase the level of awareness already brought about by Union involvement, the committee has thus recommended that an information campaign promoting the effects of toxic dust to the medical profession be undertaken, and that the need for improvements in testing regimes for lung disease, as well as the training of those conducting tests and equipment requirements, be examined.

The effect of toxic dust and its related illnesses has unfortunately only just been touched on with the cases of asbestosis we have seen in recent years. With the ban on the use of asbestos as a building material, it is hoped that eventually cases of the illness will dwindle. Unfortunately, the same cannot be said for other diseases caused by various forms of dust examined as part of the inquiry.

Overwhelmingly the most obvious factor challenging those working against the effect of toxic dust in the workplace is a lack of knowledge. Timber dust, for example, was seen by Dr John Bisby from CCAA as a greater issue than silicosis, because the risks associated with it are simply unknown.

Also of relevance to this issue is the incidence and increase of workplace induced asthma. AAP reported on June 6 that one in 10 people who develop asthma as an adult have their work to blame. Hairdressers, spray painters, bakers, dry cleaners and other occupations with exposure to chemicals are most at risk.

Again, the issue needs to be about education and awareness. People in these occupations need to be aware of exactly what conditions they are at risk of and what they can do to prevent or decrease their exposure to toxins.

As we all know, prevention is much easier than a cure.

Debate adjourned.

AUDITOR-GENERAL’S REPORTS
Report No. 40 of 2005-06

Senator MARK BISHOP (Western Australia) (4.41 pm)—by leave—I move:

That the Senate take note of the document tabled earlier today.

I rise to talk to Audit report No. 40 of 2005-06: Performance audit: procurement of explosive ordnance for the Australian Defence Force (Army): Department of Defence, Defence Materiel Organisation. From Afghanistan to the Solomons, our forces are stretched, yet the government is stretching its credibility with the latest peccadillo outlined in the audit report before the chair for discussion this afternoon. Yet again it has bungled the buying of major defence items, this time ordnance. The Auditor-General, fresh from finding fault with the purchase of 22 Tiger helicopters, is now highly critical of Defence’s purchase buying of ordnance.

Findings from the report before the chair include: a failure by Defence to follow government guidelines in purchasing ordnance; a failure to rein in a startling propensity for prepayments; a failure to safeguard against significant risk when it comes to storing and servicing ordnance; and a failure to keep its main leasing and purchasing agreement up to date, making it more than difficult to manage the SAMS agreement.

Closer scrutiny of this report card on Defence’s procurement activities makes for most disappointing reading. Once again, when it comes to economic management and accountability, Defence fails to make the grade. It chalks its first black mark against financial management specifically in the area of prepayments. This seems to be a bad habit to which Defence has become more than accustomed. It pays virtually up front for
goods worth tens of millions of dollars in return for benefits that never materialise. Take in this instance the purchase of key munitions to maintain stocks. Defence paid $44.9 million on a $50 million contract up front for this particular ordnance. The largest purchase under this agreement was a tranche of Bolide missiles. Defence paid $33 million or 90 per cent of the total cost to suppliers Saab back in 2003. This was on condition that it received the goods ahead of schedule, yet three years later Defence is still waiting for a number of these benefits to become apparent, to materialise.

But this is not the worst example of Defence being taken for a ride because of its penchant for prepayments. Officials at estimates a fortnight ago confirmed what was laid out by the Auditor. In some instances, Defence has paid the entire price up front for a number of munitions for very little return and, in some cases, no delivery. This is in spite of assurances before previous Senate estimates that such a practice would be reined in. It seems from the Auditor’s reports that prepayments remained the preferred option for Defence to balance its budget books at the end of each financial year. It is a practice whereby Defence, finding itself in the black in one year, uses this money as an up-front payment on equipment for the following year. It is a devil-may-care attitude as to whether this will result in any benefit to the taxpayer. Incidentally, Defence advised the Auditor mid last year that it was reviewing this practice. I suppose we will see.

Defence’s second black mark is notched up in the area of inventory management. Here it received a real blasting from the Auditor. It appears that Defence has spent a total of $212 million on ordnance it cannot use. When I followed this up at Senate estimates the week before last, I was told that nearly half of Defence’s $2.4 billion worth of ordnance was currently incapable of being used. The Auditor also criticised Defence for not having the technical data to store and maintain this particular ordnance. This exposed it to significant risk regarding safety. This is in spite of setting up its own specialist group within the DMO to overcome or to keep tabs on this particular problem. The Guided Weapons and Explosive Ordnance Branch should audit and assess whether guided and explosive weapons are safe and suitable.

Defence officials assured the committee at estimates that they now have the technical know-how to safely store the particular ordnance. They also admitted that usable explosive ordnance is being stored at Orchard Hills in Penrith, a main population centre west of Sydney. This is not just bullets, but grenades and missiles. But the greatest concern remains the way Defence have managed their own Strategic Agreement for Munitions Supply, or SAMS, which I referred to briefly earlier. In short, SAMS assures Australia can meet its ordnance capability and sets out how much we pay for munitions. It is under this agreement that Defence pays $800 million over a 16-year lease to munitions suppliers ADI. Incidentally, ADI was the beneficiary of another series of prepayments under this particular agreement. Yet, when auditors went to check on this critical contract, they found Defence had not kept it up to date for each of the last five years. That says a lot about how Defence manage their business. The Auditor made no less than 15 recommendations to ensure Defence lift their game in the procurement of ordnance—bombs, warheads and rockets and guided and ballistic missiles and artillery. As I said, Defence have agreed to these 15 recommendations. We were led to believe at estimates that improvements have already begun. I will certainly follow that up at the next round of estimates.
Meanwhile, it is worth noting that, since becoming Minister for Defence, Dr Nelson has called for no less than nine reviews within his own department. I think it is fair to say that we do not need reviews; we need reform and we need that reform urgently. Dr Nelson has been taking charge, but the government has been doing too little for too long. Dr Nelson is about to find out what is happening in his own department. This government’s self-professed record of economic management is being severely undermined by its continuing mishandling of defence procurement. Urgent reform is needed to ensure there is accountability for how taxpayers’ money is being spent in the procurement of anything from missiles to particular brands of bullets. Our troops, as is often stated, are giving first-class service in a number of operations all over the world. Our troops depend on the professional procurement of defence goods. Our troops need to rely on their minister to give them the best equipment at all times and act in their best interests when it comes to procuring and providing them with that essential equipment. There is a lesson here for the new minister, Dr Nelson: read the Auditor’s reports and right the wrongs identified repeatedly in the administration of Defence. Only then will you master your department and ensure our troops’ first-class service is being backed by top-grade procurement. I seek leave to continue my remarks.

Leave granted; debate adjourned.

BUDGET
Portfolio Budget Statements
Corrigenda

Senator SANDY MACDONALD (New South Wales—Parliamentary Secretary to the Minister for Defence) (4.50 pm)—I present corrigenda to the 2006-07 portfolio budget statements for the Attorney-General’s portfolio and the Immigration and Multicultural Affairs portfolio.

PARLIAMENTARY ZONE
Proposal for Works

Senator SANDY MACDONALD (New South Wales—Parliamentary Secretary to the Minister for Defence) (4.50 pm)—In accordance with the provisions of the Parliament Act 1974, I present two proposals for works within the Parliamentary Zone, together with supporting documentation, relating to the installation of two sculptures along Parkes Place, and improvements to the existing Lobby Cafe. I seek leave to give a notice of motion in relation to the proposals.

Leave granted.

Senator SANDY MACDONALD—I give notice that, on Thursday, 15 June 2006, I shall move:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposals by the National Capital Authority for capital works within the Parliamentary Zone, being the installation of two sculptures at Questacon, Parkes Place, and improvements to the existing Lobby Cafe.

BUDGET
Consideration by Legislation Committees
Additional Information

Senator SCULLION (Northern Territory) (4.51 pm)—On behalf of the Chair of the Community Affairs Legislation Committee, Senator Humphries, I present additional information received by the committee relating to hearings on the 2005-06 additional estimates.

COMMITTEES
Foreign Affairs, Defence and Trade Committee: Joint
Reports

Senator FERGUSON (South Australia) (4.52 pm)—I present three reports of the
Joint Standing Committee on Foreign Affairs, Defence and Trade as follows:

Visit to Australian Defence Forces deployed to support the rehabilitation of Iraq, 22 to 28 October 2005

Australia’s defence relations with the United States

Expanding Australia’s trade and investment relations with North Africa

I seek leave to move a motion in relation to the report on Australia’s defence relations with the United States.

Leave granted.

Senator FERGUSON—I move:

That the Senate take note of the report.

The security treaty between Australia, New Zealand and the United States of America, the ANZUS treaty, which came into force on 29 April 1952, is a key element supporting Australia’s national security. The treaty has operated for more than 50 years and still remains relevant in a strategic environment increasingly challenged by terrorism and non-state actors. It is as a result of this environment that the treaty was first invoked following the 11 September 2001 terrorist attacks on the United States. Since World War II, Australia and the United States have developed strong defence relations. In particular, the last decade has seen a new level of defence relations encompassing Australian involvement in the first Gulf War and in the US-led coalitions in Afghanistan and Iraq.

The evidence given to the committee was overwhelmingly in favour of the alliance and the security that it provides for Australia. There was some discussion about the ongoing relevance of the treaty and whether there was a need to enhance the treaty to more broadly reflect contemporary strategic needs. While there was little support for renegotiating the treaty, some groups suggested that traditional alliances will need to adjust considerably to defeat the types of asymmetric threats faced by Western allies in the 21st century. Other groups cautioned that Australia should be more careful in how it manages the alliance, to ensure Australia’s interests are not subsumed by those of its larger alliance partner.

The committee, through its inquiry, has examined how Australia’s alliance with the United States impacts on the security of the Asia-Pacific region. Evidence to the inquiry strongly supported United States engagement in the Asia-Pacific region and indicated that Australia’s relationship with the United States is seen by most countries as a positive influence on regional security. The committee found that Australia and the United States can do more to encourage the development of democratic processes in the security forces of Indonesia, and has encouraged the United States to lift legislative restrictions on US training assistance to the Indonesian military. It is pleasing to note that the US has already acted in relation to that matter.

The committee also considered the impact on the Australia-US defence relationship of the emergence of a more powerful and assertive China. The committee found that Australia’s relationships with both the United States and China are such that Australia has the potential to act to ease any future tensions that might emerge between these powers. In undertaking its inquiry, the committee has received significant assistance from both the Australian and US departments of defence, including support for our delegation to the US to seek their perspective of the alliance. During this interaction, even the most senior US military personnel consistently reported on the excellence of the performance of the ADF in all training and operational activities. That performance bolsters Australia’s contribution to the alliance and earns great credit for the Australian Defence Force and for Australia. The challenges faced by Australia in its region and internationally will continue...
to be met in concert with our United States ally. Australia’s defence investment will ensure that Australia continues as an effective and reliable alliance partner as well as a self-reliant regional power.

It was a long inquiry, one that stretched over the period of the last election. It was a very important inquiry, which allowed all members of the joint standing committee to better understand our relationship. The inquiry also reasserted the importance of that relationship, which has been in place for so many years. As part of the inquiry, a group from the Defence Subcommittee spent just over two weeks in America in July of last year and presented a separate report on that visit, during which we were able to gain first-hand information about many of the future operations and procurements of the Australian defence forces, notably the Joint Strike Fighter, the Abrams tanks and a number of other programs that the Australian defence forces have put in place in order to ensure the ongoing reliability of our defence relationship.

I also place on record the marvellous work of our committee and of our Defence liaison officer from last year, Colonel Gus McLachlan, who was involved for most of the duration of the inquiry and enabled us to gain access to many defence officials throughout the United States and managed to make this inquiry work in such a good manner. I commend the report to the Senate and I seek leave to continue my remarks on this report later, as other members may also wish to speak at a later stage.

Leave granted.

Senator FERGUSON—I seek leave to move a motion in relation to the other two reports I have tabled today, one on the visit to Australian defence forces deployed to support the rehabilitation of Iraq, in October 2005, and the other a Trade Subcommittee report on expanding Australia’s trade and investment relations with North Africa.

Leave granted.

Senator FERGUSON—I move:

That the Senate take note of the reports.

I seek leave to incorporate tabling statements on the two reports

Leave granted.

The statements read as follows—

Visit to Australian Defence Forces deployed to support the rehabilitation of Iraq, 22 to 28 October 2005

In late October 2005, a delegation of eight members from the Joint Standing Committee on Foreign Affairs, Defence and Trade visited Australian Defence Force personnel deployed on active service in the Middle East.

Thanks to first class support by both the Diplomatic and Defence Staffs in the Middle East the Delegation was able to meet with the following organisations or agencies:

- Two members of the delegation conducted an operational mission with the Royal Australian Air Force Maritime Patrol Aircraft Detachment over the Northern Arabian Gulf and Southern Iraq;
- Royal Australian Navy personnel deployed aboard HMAS *Newcastle*;
- Royal Australian Air Force personnel conducting C130 Hercules air lift operations in support of coalition forces in both Iraq and Afghanistan;
- The Al Muthanna Task Group conducting security operations and training for the new Iraqi Army in southern Iraq;
- The Australian Embassy in Baghdad’s International Zone hosted the delegation for a meeting with the Speaker of the Iraqi Transitional National Assembly, Mr Hajim al-Hassani and members of the Transitional Assembly;
- The US Commander of Multi-National Forces Iraq, General George Casey; and
The Australian National Commander, Commodore Geoff Ledger and his staff at Camp Victory Baghdad.

The visit to ADF units in the Middle East area of operations formed part of the Committee’s wider program of inspections to Defence Force units and Defence Industry sites. Where it is practical the Committee has also sought to visit ADF personnel while they conduct operations. In recent years the Committee has visited Australian Forces in Afghanistan, East Timor and Solomon Islands.

The delegation had three specific aims in undertaking the visit to the Middle East. Its primary purpose was to demonstrate the Parliament’s strong bipartisan support, and the support of the Australian community, for Defence Force personnel deployed on this demanding operation.

Secondly the visit allowed the members of the delegation to gain a more comprehensive understanding of the situation in Iraq, the tasks being undertaken by Australian personnel and the suitability of the training and equipment they receive.

Finally the delegation, in meeting with the Speaker of the Iraqi Transitional National Assembly, became the first delegation from the Australian Parliament to the Transitional National Assembly of Iraq, supporting Australia’s engagement with the newly democratic nation.

The comprehensive delegation itinerary allowed the members to achieve each of these aims. Exposure to this range of issues and experiences could only be achieved as a result of a very well orchestrated program. The delegation thanks the Australian Defence Force for developing and coordinating a visit program that ensured the safety of delegates while giving them exposure to a wide range of personnel and locations. In particular the delegation thanks the Australian National Commander in the Middle East, Commodore Geoff Ledger, for his hosting of the delegation throughout the visit. Commodore Ledger provided the delegation the benefit of his considerable experience throughout the visit, leaving the members confident in the leadership and organisation of Australian Joint Task Force in Iraq.

The Committee would also like to thank Australian Embassy staffs in the Middle East for supporting the program. In particular the delegation thanks Dr Ralph King in Kuwait and Mr Howard Brown in Iraq. Both of these experienced officials operate under some of the most demanding conditions experienced by Australian Government personnel anywhere in the world.

The Committee returned from the visit extremely impressed by the dedication and professionalism of the Australian Defence Force personnel conducting operations in this demanding, often hostile environment. Australian personnel are working closely with the emerging Iraqi institutions and personnel, showing compassion in their daily dealings with the local people and considerable restraint when called upon to apply force. They are performing with distinction and have earned the respect and admiration of both the coalition and Iraqi forces with whom they are working.

All Australians should be proud of the achievements of the ADF on operations in the Middle East and the contribution they are making to the reconstruction of Iraq.

Expanding Australia’s trade and investment relations with North Africa

The countries of North Africa represent a market nearly eight times that of Australia. Australia has yet to fully engage with the 155 million people living in Algeria, Egypt, Libya, Morocco and Tunisia.

In May 2005 the Minister for Trade asked Committee to examine our trade and investment relations with North Africa and the likely future trends in these relations.

The Committee was also charged with assessing the role of the government and its agencies in maximising opportunities as they emerge in the region.

In addition to holding public hearings and receiving submissions the committee visited Algeria, Egypt, Libya, and Morocco to review trade and investment opportunities for Australia in person.

Two members of the committee also visited Tunisia to attend the World Summit on the Information Society.

During visits to Algeria, Egypt, Libya, and Morocco the committee met with senior Government...
The contacts made included meeting with the Prime Minister of Morocco and several senior ministers in each of the cities visited. In Morocco, Algeria and Libya there was considerable television and media coverage of our visit.

The response to the committee’s visit was positive and very encouraging.

We looked to see if there were any impediments to trade in this region, and what could be done to capitalise on the opportunities.

Although the countries are different they share some common characteristics which are relevant to Australia’s commercial interests.

GDP growth is strong in all five countries. In the resource rich countries of Libya and Algeria, further strong growth based on escalating oil prices can be expected.

Each of the countries is going through some degree of market’s liberalisation and reductions in taxes, and tariffs.

The privatisation of companies could be seen across the board.

In the region major infrastructure projects for roads, ports, electricity, water supply, airports and agriculture represent opportunities for Australian companies.

Increased consumer demand also means further opportunities in the market for Australia. Currently the most promising are:

- Wheat and agricultural products;
- Livestock and meat products (particularly lamb);
- Mining and agricultural equipment;
- Consultancy in a wide range of areas;
- Tourism training; and
- Education—particularly post-graduate students

Of course, the biggest potential remains in the oil and gas fields, especially those of Algeria and Libya.

Australia’s biggest oil explorers continue to bid for major projects in these countries, with BHP Billiton being successful in Algeria, and Woodside in Libya.

Iron ore production as well as aluminium smelting is also possible in Libya, with BHP-Billiton interests. An Australian manganese smelter is being assessed as to its possibility in Egypt.

In summary the potential for Australia in North Africa is significant because of the opportunities in resource development, because of the GDP growth rates of the big countries and because there is export potential to Europe through the countries where trade conventions with the EU exist.

In the light of its on-the-spot reconnaissance of the region, and the numerous submissions it received, and the evidence from public hearings, the committee concluded that Australia should ensure that appropriate resources are allocated to these markets to encourage Australia’s access and export growth.

To pursue these aims, the committee has recommended that, at the government-to-government level, the Australian Government should seek to improve access for Australian exports through negotiating lower tariffs on a bilateral basis, particularly in agribusiness. (Rec 1)

It should also initiate or continue ministerial discussions with North African trading partners to address technical access issues, particularly harmonising customs and standards requirements. (Rec 2)

Following discussions in North Africa about visa arrangements for entry to Australia the committee recommends that there should be closer focus given to expediting visa processing requirements. Specifically the Department of Immigration should review its visa processing arrangements for North Africa as a priority, and also consider reviewing the assessment processes for North Africa students sponsored by their governments. (Rec 3)

As requested by the Minister for Trade, the committee examined the roles the Department of Foreign Affairs and Trade and Austrade.

The committee concluded that Austrade should reconsider its organisational and representational arrangements for North Africa (Rec 4)
Australia has to compete in the region with traders and investors from Europe and America. It would be better placed to do so with a presence in the region.

Specifically, the committee recommends that high priority be given to the establishment of a Trade Commissioner and Consul-General in Algiers. (Rec 5)

Such a post would indicate Australia’s intention to pursue a long-term relationship; increase our visibility in the region, and open a gateway to opportunities there for Australian entrepreneurs.

In closing, I am grateful to all those who gave evidence to the inquiries. I also wish to thank my colleagues, and the secretariat.

I commend the report to the Senate.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

FIRST SPEECH

The PRESIDENT—Before I call Senator Bernardi, I remind honourable senators that this is his first speech. I therefore ask that the usual courtesies be extended to him.

Senator BERNARDI (South Australia) (4.59 pm)—In rising to make my first speech in this place, I extend my gratitude to honourable senators and Senate staff for the welcome and the courtesies that they have extended to me. During my time here, I will, to the best of my ability, represent the state of South Australia and the national interest by acting upon my best convictions without selfishness or malice.

I come to this chamber as a proud South Australian; Adelaide, Australia’s most civilised city, has always been my home. It is a wonderful place to live and raise a family, save that too many of our children leave in their early adulthood and too few return. While Adelaide has been rated as one of the world’s top five lifestyle cities in which to live, South Australia needs to be economically stronger. We have great potential to build on our international reputation in the arts, wine and aquaculture industries, but this alone will not be enough. We need to more effectively target and develop specific areas that will provide for our state’s future prosperity.

One of these areas, I believe, is the defence industry. The defence industry represents the greatest potential for South Australia to strengthen our manufacturing and industry base. Indeed, we are well placed to become a leader in the defence industry—from shipbuilding and ballistics technology through to systems development. Our state now needs to ensure we have the expertise and the facilities ready to make this opportunity a reality.

We already have a skilled and vibrant population, many of whom have settled in South Australia from other nations. Our migrant population has helped to establish and build South Australia. Our wine industry was founded by settlers from Germany. Our thriving fishing industry features many prominent Greek, German and Croatian families. In fact, our citizens have links to over 200 different nations, and the signature of their diverse cultures is etched on the very foundation of South Australian life. Today, more than 20 per cent of people who call South Australia home were born overseas.

One of these people is my father, Leon Bernardi. He came to Australia in 1958 from the town of Montebelluna in the region of Veneto in northern Italy. He arrived in Australia with little English but a great deal of energy. At the age of 28 he established his first business and, through hard work and determination, he has since provided employment to several hundred South Australians. He is but one of many thousands of migrants who have helped to shape our nation culturally and economically whilst building a better life for themselves and a more enriching one for all Australians.
Since Federation, Australia’s migrants and all her citizens have enjoyed a stable political system that has provided opportunity and prosperity under our rule of law. Some may consider it bold for me to link the stability of our political system to our national prosperity, but order and stability provide the platform upon which all else can be based, for governments, for business and for families.

Stability has also been a hallmark of my family life. My father, Leon, and my mother, Jo, who are both here today, have celebrated nearly 40 years of marriage, during which they have raised three sons, embraced three daughters in law and doted on seven grandchildren. My mother is a fourth-generation Australian and is the pillar that supports our family strength. Her unfailing support for my father and her children and the warmth and generosity she extends to all have been our greatest gift. Her decision to remain at home and care for her children during our early years is one that I am forever thankful for. I know that not all parents have the opportunity or actually want to make this sacrifice for their children, but sacrifice is love, and we should always be mindful that this is one of the most important gifts that any parent can give their child.

Like my mother, my wife, Sinead, who migrated to this land with her parents and siblings from the Republic of Ireland, has become the bedrock on which our family life has been built. I have been fortunate to have married my best friend and my greatest advocate. Without Sinead’s support I would not be in this place and would not have the pleasure of having her and our two sons, Oscar and Harvey, in the gallery today. Like most parents, I am very proud of my children, but their impact on my life goes far beyond that of paternal pride. Oscar and Harvey have given my life a perspective that was not readily available before. They have given me cause to reflect on the society that our children will inherit when they have children of their own.

It is for future generations that we need to redress the decline of social capital—the goodwill, the fellowship and the sense of community service—because these are the substances that count for most in the daily lives of people. These are ideals that all parents need to share with their children, because it is within the family unit that these lessons are best learned.

But social capital or any social program, no matter how well intentioned, cannot be sustained without a strong economy. Creating an environment that encourages prosperity begins with government, is sustained by business and is shared by individuals. Our nation today is a prosperous and confident one. We are admired and respected by the international community, comfortable with our responsibilities at home and abroad. We have strong employment and low interest rates and, while our level of personal debt is alarmingly high, we finally have a debt free public sector.

Our prosperity is directly linked to important structural reforms that began with the deregulation of the banking system and the floating of the Australian dollar. While these were introduced under a Labor government, they were Liberal Party policies and they were only implemented with the support of the Liberal Party. Whether in opposition or in government, the Liberal Party remains committed to our belief in free markets. We remain true to our core philosophy of individual rights and responsibility. We remain a party that supports enterprise and encourages initiative. As a government, we have continued to support the interests of our citizens by encouraging choice in education, choice in superannuation and choice in health care. We have created a business environment that
encourages employment and allows business to actually get on with business.

However, more can be done, particularly for the many thousands of men and women who operate in small business. Like my father and my brothers, I have always been involved in small business, firstly as a hotelier and later in the financial services industry. Small businesses are the engine room of our economy. They are the largest employer group outside of government. It is in our national interest to further strengthen the culture of entrepreneurship by supporting skills training for small business operators.

We also need to make dealing with government easier by making the small business environment as streamlined and effective as possible. By making available a simple business structure that provided flow-through taxation benefits and limited liability, we could encourage investment in small business. This would be good for all Australians because a strong business environment allows government to invest in the important infrastructure and policy programs that build a better society.

Investment, though, is not only the preserve of government. Australian business needs to invest even more in people, in training and in research and development. Government can foster extra investment in these areas through targeted incentives that reward those who are prepared to make a long-term commitment to people and to skills.

We should not take for granted the freedoms and opportunities we enjoy today. They are a product of our robust Constitution and they have been defended at home and abroad by the men and women of our defence forces. More than 100,000 Australians have given their lives in defence of our nation’s interests and we should remember those who have fallen protecting our freedom and our democracy.

Whilst a military career is now chosen by too few of our citizens, it is heartening to note the growing community recognition for our Defence Force personnel through the Anzac Day services. I say heartening because I remember the cries by the vocal minority during the 1980s who called for Anzac Day to be abolished with claims that commemoration services actually glorified war. When I was at school I was astonished to learn of the lack of respect given to our veterans who served in Vietnam and how they were not afforded the full recognition for their sacrifice, their bravery and their honour. I am pleased to report that this is no longer the case. With every passing year the number of young people attending Anzac vigils both here and overseas grows steadily higher and our patriotism grows with it. To me, this is evidence that the mainstream of Australia, of which I am proud to be a member, have reclaimed their voice—not only in relation to Anzac Day but in many different forums.

I remember when I was president of the Liberal Party in South Australia I was approached by the head of the party’s multicultural committee, a man of Chinese background. He said to me, ‘We are all proud to be Australian and we should acknowledge this by singing our national anthem before each state council meeting.’ And he was right. So we began singing our national anthem as witness to our pride in our nation. I have to tell you things were a little bit muted at first, but I can report today that we sing proud and we sing strong, and our voice is the voice of mainstream values.

The mainstream of Australia has clearly rejected the so-called ‘rights’ that are at odds with our laws and our traditions. In fact, one could argue the entire concept of ‘rights’ has been so debased in recent times that it is difficult to know what is a right and what is simply a desire. You will hear people telling you they have a right to swim in a certain
suburban pool or the right to borrow a book from a community library or even that they have the right to die. These are not rights—these are desires governed and formed by personal belief and self-interest. And yet ironically in this new culture of rights we are often taken into the realm of a contest in deciding whose rights should prevail. I know of child-care centres in Adelaide where management were so worried about offending non-Christian children they decided to ban Christmas celebrations. As I wrote to them at the time: what about the right for a young child to celebrate the true meaning of Christmas? It is a sad day for our nation when to celebrate the birth of the king of peace causes offence.

The modern rights industry can be even more extreme, often equating the rights of an animal or a plant to that of a man, thereby reducing mankind to just another species among species. Such claims undermine our commonsense and of course they undermine the natural law. In simple terms, the natural law is that which is written in our hearts and the hearts of all cultures. I would like to touch upon just one element of the natural law: the act of marriage. Marriage is not a right; it was not invented—marriage simply is. Marriage has been reserved as a sacred bond between a man and a woman across times, across cultures and across very different religious beliefs. Marriage is the very foundation of the family, and the family is the basic unit of society. Thus marriage is a personal relationship with public significance and we are right to recognise this in our laws. Because the term 'rights' has been corrupted in recent times, in my mind we need to transfer the concept into one of respect for the dignity of the individual. Indeed, my attraction to the Liberal Party is because of its support for the individual.

It would not be possible for me to make my first speech in this chamber without recognising the importance of sport and physical activity in the health and wellbeing of our nation. I am a product of the Australian sporting system and I know first-hand of its benefits to individuals and to our society. Sport is character building, it provides health and fitness and it is the great egalitarian process where participation and mateship are often more important than the actual result.

We need to invest in a healthy future for all Australians but this is especially important for our children. Sport teaches children cooperation, teamwork, responsibility and humility. It helps them to learn new concepts and, best of all, sport is fun. It was participation in sport that led me to try rowing, where I eventually won a scholarship to the Australian Institute of Sport. The AIS provided me with a pathway into the Australian rowing team and I represented my country at the world championships and a number of other international regattas.

I consider myself very fortunate to have represented Australia on the sporting field—or lake as it was for me—but I consider myself more fortunate to have aided in the development of sport in this country. Through my work as a board member of the Australian Sports Commission and as Chairman of the Australian Sports Foundation I know of the urgent need for improved sporting facilities, particularly in regional Australia. I know of the long-term implications for our country if we cannot get our children more active. It is a matter of national importance that physical activity and exercise are recognised as a key element of the healthy development of our children.

I am particularly enthusiastic about the role that sport can play in uplifting the lives of Indigenous Australians. It has been personally satisfying for me to have helped implement programs within Aboriginal communities that have led to a direct improve-
ment in school attendance and a reduction in substance abuse. This is a hidden benefit of sport to our society. It can make a meaningful difference to the character and health of our nation and while that is the case it will always have my strong support.

Through my involvement in sport and my ancestry I have experienced first hand the global environment in which Australia plays an important part. We cannot afford to reduce our involvement in international affairs, nor can we cease to stand for that which is morally right and that which is good for our nation, good for our region and good for our world.

I take my place as a senator for South Australia mindful of the significant contributions made by previous South Australians within this chamber. In particular I recognise the contribution to this place by my predecessor, the Hon. Robert Hill. I would also like to acknowledge the current Leader of the Government in the Senate—Senator the Hon. Nick Minchin. Over many years I have been grateful for his careful guidance, for his support and for his friendship. To commence my parliamentary career under the leadership of Senator Minchin and to have been escorted into this place by my good friends Senator Ferguson and Senator Ferris has indeed been a rare honour.

Notwithstanding my personal experiences or qualities, I would not be here today if it were not for the support of my parents, my family and my friends. I am grateful for all they have done to accommodate my political involvement over the years and, whilst there are too many contributors to name individually, I would like to extend my special gratitude to the members of the Liberal Party.

I am a strong and passionate supporter of active participation in the party political system. Whilst I believe that the enterprise and freedom represented by the broad church that is the Liberal Party of Australia is in the best interests of this nation, I accept that there are people who have not yet come to this conclusion. And while I will continue to try to win the hearts and minds of those who do not share my belief in the sanctity of human life or my belief that to ensure peace we must be prepared to fight for it, I respect their opposing voice and value their contribution to democracy.

However, in my mind there are no greater supporters of democracy than the good men and women of the Liberal Party. Our party is based on individuals. It is organised and operated by volunteers. In a time when the ‘age of belonging’ seems to have passed many organisations by, the Liberal Party remains a true party of the people. I am honoured to have served as the youngest state president in the history of the South Australian Liberal Party and also as the youngest Federal Vice-President of the Liberal Party of Australia. And today, as the youngest Liberal senator in this place, I am humbled by the faith that has placed in me. I will repay that faith by representing my state interests in this chamber while also being mindful of the national interest.

In concluding my remarks today I would like to reflect on the characteristics ascribed to a former South Australian senator and President of the Senate: the late Sir Condor Laucke. Sir Condor was regarded by his colleagues as having great humility, a high standard of personal integrity and a sense of fair play. Whilst in this place, I shall do my best to reflect Sir Condor’s principles and in doing so I shall be guided by my conscience, my family, my country and my God.

Honourable senators—Hear, hear!
COMMITTEES
Publications Committee
Report
Senator WATSON (Tasmania) (5.18 pm)—On behalf of the Joint Committee on Publications I present the report of the committee entitled Distribution of the parliamentary papers series together with the Hansard of the proceedings, minutes of the proceedings and submissions received by the committee. I seek leave to move a motion in relation to the report.

Leave granted.

Senator WATSON—I move:

That the Senate take note of the report.

The parliamentary papers series does not contain all the documents presented to the parliament. However, the significant documents that comprise the series provide vital information on the activities of government and the parliament since Federation. While electronic distribution may provide the greatest opportunities for widening the access to the series, long-term viability of these documents is not yet assured. A framework is therefore required to ensure the series is permanently available in both hard copy and electronic form for the widest possible audience.

I remind the Senate that the committee feels that the 23 recommendations contained in this report provide a foundation from which the parliamentary papers series can continue to be available to the widest possible audience. I will add background to our inquiry and report. I remind the Senate that this parliamentary papers series, the PPS, has been in existence since 1901—since Federation. Documents of a substantial nature presented to the parliament are included in the series by a resolution of either house of parliament, usually on the recommendation of the publications committee. In an average year, 430 documents out of 800 presented to the parliament are selected in the series.

Recipients of the series include national, state, parliamentary and university libraries. On 12 May 2005 the Presiding Officers wrote to the committee, informing of changes to the distribution of the parliamentary papers series to take effect from 1 January 2006 and seeking advice on further, more extensive changes to the series. The committee received 20 submissions and held hearings in Canberra on 31 October and 28 November 2005. On 6 February 2006 the members of the joint committee conducted inspections and received briefings from the National Library of Australia, the PANDORA web archive project and CanPrint Communications, parliament’s distributor of the series, regarding the processing of the documents which comprise the series. I commend the report to the Senate.

Question agreed to.

Public Works Committee
Report
Senator SCULLION (Northern Territory) (5.21 pm)—On behalf of the Joint Standing Committee on Public Works, I present report No. 8 of 2006 on the proposed fit-out of new leased premises for Centrelink at Greenway, ACT, and I seek leave to move a motion in relation to the report.

Leave granted.

Senator SCULLION—I move:

That the Senate take note of the report.

I seek leave to incorporate a tabling statement in Hansard.

Leave granted.

The statement read as follows—
Proposed fit-out of New Leased Premises for Centrelink at Greenway, ACT

The report examines the proposed fit-out of new leased premises for Centrelink’s National Support Office at a complex currently under construction
near the ACTs Tuggeranong Town Centre. The estimated cost of the proposed fit-out works is $42.79 million.

Centrelink’s 3,200 National Support Office employees are currently accommodated in 11 buildings throughout the ACT. Several of these premises are 15 to 20 years old and cannot economically be adapted to meet Centrelink’s needs.

Over time, the Department has expanded to occupy some 46,000 square metres of leasehold accommodation in Canberra, with 12 of its 15 leased premises being located in Woden.

The new National Support Office will consist of two buildings sharing a common basement, roof and enclosed central zone. The northern building will have four levels and the southern building will have five levels, including covered car parking at ground level.

In reviewing the proposal, the Committee questioned Centrelink about other short-listed sites and why these had been rejected. Centrelink explained that it had given careful consideration to a property located in the Tuggeranong Town Centre, and another situated in Woden. Both these were rejected, however, as neither was large enough to accommodate a 30,000 square metre building.

The Committee was particularly impressed by the range of access equity measures proposed for inclusion in the new premises.

Centrelink reported that the building would be designed in such a way as to allow persons with mobility concerns unimpeded access to all areas, and would incorporate such features as:

- roll-resistant floor coverings;
- hearing loops in meeting rooms;
- tactile indicators;
- full Braille signage;
- equal access toilets and showers on each floor; and
- large-winged or sensor taps.

The Committee investigated a number of other building features such as car-parking arrangements, access to child-care facilities, fire-protection provisions and the configuration of office space to ensure that the new premises would provide an appropriate level of safety and amenity for occupants. Centrelink satisfied the Committee that it had considered these factors in its project design and that it would continue to consult with staff and the Community and Public Sector Union.

Having received a submission from the Australian Greenhouse Office, the Committee also wished to ensure that the building and fit-out would meet the highest possible standards in terms of energy consumption and environmentally sustainable design. Centrelink responded that it intends to use separate digital metering of electricity, water, gas and diesel consumption to enable close monitoring of energy use. Under Centrelink’s new lease, the landlord will bear a financial penalty if agreed indoor temperature levels are not maintained. Centrelink was confident that this arrangement would ensure the preservation of indoor air quality and the sustainable use of temperature control and ventilation services.

Mr President, having given detailed consideration to the proposal, the Committee recommends that proposed fit-out of new leased premises for Centrelink proceed at the estimated cost of $42.79 million.

In closing, I wish to thank those who assisted with the inspection and public hearing, my Committee colleagues, and staff.

I commend the Report to the Senate.

Question agreed to.

National Capital and External Territories Committee

Report

Senator SCULLION (Northern Territory) (5.22 pm)—I present the report of the Joint Standing Committee on the National Capital and External Territories entitled Current and future governance arrangements for the Indian Ocean territories. I seek leave to move a motion in relation to the report.

Leave granted.

Senator SCULLION—I move:

That the Senate take note of the report.
I seek leave to incorporate a tabling statement in *Hansard*.

Leave granted.

The report is part of a program of inquiries that the Committee has undertaken in recent years with regard to governance and related issues in Australia’s external territories.

Past reports have addressed governance issues affecting Norfolk Island. The Committee is gratified to note that the Australian Government is acting on the recommendations of these and other reports, and is currently considering significant changes to the future governance arrangements of the Island.

In this report, we have turned our attention to pressing issues of governance and accountability confronting the Indian Ocean Territories of Christmas and the Cocos (Keeling) Islands. I am pleased to advise the Senate that this is a unanimous report making thirteen recommendations.

Mr President, the evidence presented to the Committee during the course of our inquiry drew us to several conclusions. Firstly, there needs to be greater accountability and transparency in decision making by government in relation to the Indian Ocean Territories. Seemingly trivial decisions taken from a great distance in Canberra can have a disproportionately large impact upon the small and isolated communities of Christmas Island and the Cocos (Keeling) Islands. The people in those territories need to know why decisions which affect their future are being taken, how those decisions are being made, and how problems will be redressed. Moreover, they need to know that their voices will be heard by governments and departments in Perth and Canberra.

Mr President, there also needs to be greater consultation between government, departments and residents in the Indian Ocean Territories. The level and quality of consultation currently depends on interpersonal relationships between islanders and departmental staff. The Committee has received evidence that those relationships have not always been effective in promoting good communications between community and government.

There needs to be a formal consultation process put in place, mandated by legislation, to bring community and government together for their mutual benefit. This is especially true of the processes surrounding the application of Western Australian laws in the Indian Ocean Territories and the implementation of service delivery arrangements.

It is self-evident that effective governance and economic sustainability go hand in hand. One cannot last long without the other. Regrettably, the Indian Ocean Territories are a prime example of the way in which ill-considered decisions can have a significant impact on small communities. The Committee believes that some reform of the system of governance is necessary to underpin economic sustainability.

Mr President, the report also makes a number of recommendations in regard to specific economic issues. The Committee has recommended that in future all Commonwealth land released for private development on Christmas Island should be sold at market rates. This is to prevent releases of free land from undermining the property market.

The Committee has also called for an investigation of the cost of sea freight to and from the territories and the abolition of customs and quarantine charges on freight travelling between the Territories and the mainland. It is hoped that this will remove imposts on economic activity.

The Committee has called for increases in the number of flights between the Territories and the mainland, and the opening of international routes, to promote tourism and increase economic activity.

Perhaps, most significantly, the Committee has recommended that the government review its decision to block the licensing of the Christmas Island Casino with a view to reissuing the licence. The Committee believes that the reopening of the Christmas Island casino would provide a significant boost to the Christmas Island economy.

Mr President, the Committee’s report also addresses wider issues of governance. The options canvassed include maintaining current governance arrangements with some refinement; incorporation of the Indian Ocean Territories into Western Australia; and some form of limited self government.
The Committee has not shown preference for any of these options. Rather, it has taken the view that the virtues and drawbacks of all should be considered by the Australian Government in conjunction with the community in the Indian Ocean Territories; and the community given the chance to make an informed decision on its own behalf as to how the Indian Ocean Territories shall be governed in the future.

Whatever alterations to the system of governance ultimately result from this inquiry, however, they should be the result of a realistic appreciation of what can be achieved.

Mr President, I would like to express, on behalf of the Committee, our gratitude to all those who participated in the inquiry and to the staff of the Secretariat. I thank my Committee colleagues for their cooperation and substantial contribution throughout the course of the inquiry.

Mr President, on behalf of the Committee I commend the report to the Senate.

Senator WEBBER (Western Australia) (5.22 pm)—On behalf of Senator Carr, I seek leave to incorporate his remarks.

Leave granted.

Senator CARR (Victoria) (5.22 pm)—The incorporated speech read as follows—Labor welcomes this report.

The report addresses issues that have been neglected for too long. The report itself is long overdue.

General context
I wish to make a few general comments before considering the specific recommendations of this report.

Of Australia’s external territories, those with permanent populations fall into two discrete groups: Norfolk island in the Pacific Ocean and the two Indian Ocean Territories: Christmas Island and the Cocos (Keeling) Islands.

There are a number of similarities: all are small islands remote from the mainland; all have small populations; each has a distinctive culture. There are obvious differences too.

Norfolk has a history as a convict settlement dating back to the earliest years of European occupation of Australia and later as a settlement for the relocated descendants of Bounty mutineers from Pitcairn Island.

Its economy survives on its tourist trade. Since 1979 it has enjoyed a form of self government under the Norfolk Island Act.

The Indian Ocean Territories have a different history.

The Cocos Islands, until relatively recently, were kept in semi-feudal conditions by a private family that had difficulty differentiating between the nineteenth and twentieth centuries.

It had a plantation economy that sustained a significant Cocos Malay community that continues to make up the majority of the islands’ population.

Christmas Island was also enmeshed within the Imperial economy, although its primary value was the mining of phosphate for export to Australia, New Zealand and further afield.

Administration of the Cocos (Keeling) Islands was transferred to Australia in 1955. In 1984, in a United Nations Act of Self determination Cocos islanders voted in favour of integration with Australia.

Christmas Island was British Crown Colony until 1958 when it, too, was transferred to Australia.

Local government was established in both these territories in 1992, and both the Christmas Island and Cocos Islands shire governments have grown to become extremely important local institutions.

Differences in approach
This brief resume highlights the problematic approach adopted by the Howard Government to the issue of governance in its external territories.

In approaching the issue of territorial governance, the Howard government has been unable to transcend the individual histories of each territory.

The government has proved incapable of formulating a systematic, coherent approach to territorial governance.

As a consequence, we now face a series of contradictions.

CHAMBER
On one hand Norfolk Island, the one territory that has been given a large measure of self government, is now in economic and political crisis. The Commonwealth Government is belatedly, and a bit reluctantly, intervening. The terms of self-governance on Norfolk Island are inevitably going to be reshaped.

On the other hand the two Indian Ocean Territories have never even been given the option of greater self governance.

Two points are relevant here. Firstly, the Commonwealth Government has for the past five years had a preferred Indian Ocean solution that would see the two territories unilaterally integrated into Western Australia. The reasoning behind this preferred option has never been adequately explained: no real discussions on this course of action have been held with the people of the two territories. As a consequence, it is hardly surprising to find that there is no-one in either territory who publicly supports integration with Western Australia.

Secondly, the Indian Ocean Territories are well aware of the problematic nature of self government. When discussing the possibility of self government, it is abundantly plain that they do not want to repeat the failed Norfolk Island experiment. Those in these territories who advocate self government argue for different, more measured models.

So it is not good enough for the Government to argue that self government for the Indian Ocean Territories is not possible because of the failure of Norfolk Island.

In the aftermath of the intervention in Norfolk Island and, as a consequence of this review, we need a new debate on external territory governance. It is not a matter of drawing back, or evading the issue of self government but rather of establishing a coherent policy for external territory governance that protects the rights of all in the territories as Australian citizens but which retains sufficient flexibility to meet local conditions and circumstances.

Recommendations from the Report

This report contains thirteen recommendations. At this stage I wish to consider a number of the most important.

The primary recommendation addresses the issue of future governance. It recommends that “the Australian Government undertake to develop options for future governance...in conjunction with the communities on Christmas Island and the Cocos (Keeling) Islands, with a view to, where practical, submitting options to a referendum of those communities by the end of June 2009 Possible options could include, but should not be limited to maintaining current governance arrangements, incorporation into the State of Western Australia, and a form of limited self government”

This is a considered recommendation. Is does not take self government as a given, but rather only possible if it the expressed wish of the territory populations. It calls for effective consultation with the communities involved- a quality that has been notably lacking in this debate so far. I urge the government to adopt this recommendation and do so in good faith.

The Government also needs to act expeditiously, to ensure that an adequate education campaign and other necessary arrangements can be put in place.

A further recommendation addresses another aspect of governance. It also recommends that governance arrangements be amended in the immediate future to provide the two Shire councils with an expanded role, including acting as direct representatives of their communities with the Minister for Territories and a formal advisory role in respect to applied laws and service delivery agreements.

Other subsidiary recommendations follow. The report also recommends:

- amendments to the current operation of applied law and the operation and management of service delivery agreements,
that every effort be made to increase the number of flights between the territories and the mainland,

that an investigation be conducted into the costs of sea freight to the territories and, as an interim measure, that customs and quarantine charges on freight travelling between the territories and the mainland be rescinded.

Finally, the report recommends that the Australian government review its curious and unilateral decision to block the licensing of a casino on Christmas Island, with a view to consult with the community and reissue a licence at the earliest opportunity.

These are all useful proposals, worthy of support.

Summing Up

This report canvasses issues that have been neglected for too long.

While I have concentrated on issues of governance, there is another issue that also needs to be tackled in a systematic way.

I am referring to the need to promote economic development in all external territories.

Tourism on Norfolk Island is under pressure while the major employer on Christmas Island, the Christmas Island Phosphate company is suffering from the length of time it is taking to get key port equipment back into operation.

We not only need to protect existing operations but to identify new opportunities.

We hear a constant message from the Indian Ocean: help us to tackle the markets of South East Asia.

Help us with the development of tourism opportunities, and with the growth of niche markets in food products.

Ultimately, economic development cannot be separated from questions of governance.

This report has provided a broad blueprint and an initial timetable for this process.

Once again, I urge the Government to assimilate the recommendations and implement them as the beginning of a process for governance and economic reform for the Indian Ocean Territories.

Question agreed to.

Treaties Committee Report

Senator WORTLEY (South Australia) (5.23 pm)—On behalf of the Joint Standing Committee on Treaties, I present the 74th report of the committee, entitled Treaty tabled on 28 March 2006. I seek leave to move a motion in relation to the report.

Leave granted.

Senator WORTLEY—I move:

That the Senate take note of the report.

I seek leave to incorporate a tabling statement in Hansard.

Leave granted.

The statement read as follows—


The Agreement for Establishment of the Global Crop Diversity Trust although a separate legal instrument, will operate within the framework of the International Treaty on Plant Genetic Resources for Food and Agriculture.

The International Treaty on Plant Genetic Resources for Food and Agriculture was reviewed in the Committee’s 68th Report and provides a binding international framework for the conservation, sustainable use and exchange of plant genetic resources for food and agriculture for global food security. The Agreement through the establishment of the Global Crop Diversity Trust secures the long-term conservation aims of the International Treaty through long-term funding.

The Agreement will provide for the establishment of a Trust to finance genebank conservation of crop genetic diversity. The focus of the Trust will be to secure the future of key international collections under the Consultative Group on International Agricultural Research system.

The Trust is a public-private partnership that will be financed by voluntary contributions from North American and European Corporations and private foundations. The permanent endowment
will be US$260 million and will generate US$10-14 million annually for the maintenance of eligible national, regional and international genebanks or collections of crop diversity. While the majority of funding received in the early stages has come from national governments, the Trust will shortly commence fundraising, concentrating on private sources.

Australia has made the largest overall financial commitment to the Trust of A$12.5 million. The Government informed the Committee that accession to the Agreement would formalise Australia’s involvement in line with its commitment to global crop diversity and complement Australia’s interests in the International Treaty.

The Committee has agreed to fast track the review of this treaty as on 6 April 2006 the Hon Alexander Downer MP, Minister for Foreign Affairs informed the Committee that Australia is seeking to secure a position on the Executive Board of the Global Crop Diversity Trust. Further, the Minister stated that Australia’s position on the Board would ensure appropriate consideration of Australia’s interests and that Australia’s Executive Board campaign would be strengthened if Australia were in a position to become a Party to the Trust Agreement at the time of the Board’s first meeting. The Board’s first meeting is scheduled to take place from 12 to 15 June 2006.

The Executive Board of the Trust will have responsibility for the operation of the Trust, control over its budget and ensure its policies are in line with those of the International Treaty. The Committee was informed that Australia has taken a leading role in the establishment of the Trust and its ongoing management and administration.

Australia was elected Chair of the Donor’s Council of the Trust for an initial term of three years at the inaugural meeting of the Council in October 2005. In this role, Australia is responsible for selecting four members of the Executive Board of the Trust in the first half of 2006.

As the Parliament would be aware, the period for review of proposed category 1 treaty actions by the Joint Standing Committee on Treaties is 20 sitting days. The period of review for this treaty would have expired in mid August at which time the Committee expects to report on seven other proposed treaty actions tabled on 28 March 2006. However, in fast tracking this review, the Committee is concerned that there is only one other Cairns Group member and no other developed country member which Australia would benchmark itself against in agricultural research, party to this Agreement and that in the Committee’s three-year review of the International Treaty, the Trust Agreement was not brought to its attention.

In conclusion, the Committee supports Australia’s campaign to seek a position on the Executive Board of the Trust and believes that Australia’s representation on the Executive Board will ensure appropriate consideration of Australia’s interests at the upcoming meeting of the Governing Body of the International Treaty. The Committee therefore recommends that the treaty reviewed in Report 74 be acceded to.

I commend the report to the Senate.

Question agreed to.

ASIO LEGISLATION AMENDMENT BILL 2006

TAX LAWS AMENDMENT (PERSONAL TAX REDUCTION AND IMPROVED DEPRECIATION ARRANGEMENTS) BILL 2006

First Reading

Bills received from the House of Representatives.

Senator KEMP (Victoria—Minister for the Arts and Sport) (5.24 pm)—These bills are being introduced together. After debate on the motion for the second reading has been adjourned, I shall move a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator KEMP (Victoria—Minister for the Arts and Sport) (5.25 pm)—I table a revised explanatory memorandum relating to
the Tax Laws Amendment (Personal Tax Reduction and Improved Depreciation Arrangements) Bill 2006 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—_

**ASIO LEGISLATION AMENDMENT BILL 2006**

This bill amends Division 3 of Part III of the Australian Security Intelligence Organisation Act 1979 which deals with ASIO’s terrorism-related questioning and detention powers.

Those powers were introduced into Parliament in 2002 as part of the Government’s broad legislative package to counter the threat posed by terrorism.

After extensive parliamentary debate, the powers commenced in July 2003.

The regime permits ASIO to seek a warrant to question, and in limited circumstances detain, a person where there are reasonable grounds for believing that doing so will substantially assist the collection of intelligence in relation to a terrorism offence.

The powers are only used where other methods of gaining that intelligence would be ineffective.

Experience with the questioning regime has shown that it is yielding valuable information in an environment of stringent safeguards and accountability mechanisms, and is proving to be a useful tool in the fight against terrorism.

Parliament enacted ASIO’s questioning and detention powers subject to a review by January 2006 by what is now the Parliamentary Joint Committee on Intelligence and Security (PJC), and a sunset clause by which the powers would cease to operate after 22 July 2006.

During 2005, the PJC conducted a comprehensive review of the operation, effectiveness and implications of the powers.

I thank the Committee for its detailed examination of the issues and welcome its report which was tabled in November 2005.

I note that the PJC concluded that for the foreseeable future there are threats of possible terrorist attacks in Australia and that some people in Australia might be inclined or induced to participate in such activity.

I am pleased that the PJC recognised that the questioning regime has been useful in dealing with this situation, and that the powers have been used within the bounds of the law and they have been administered in a professional way.

On this basis, the PJC recommended that the powers should continue beyond the sunset period, and made 19 recommendations aimed at improving the operation of the regime.

The Government has given careful consideration to all the PJC’s recommendations, and is responding in a way that addresses the Committee’s concerns so far as possible.

The Government has agreed to clarify the regime and enhance rights and safeguards where doing so would not undermine the fundamental nature and purpose of the regime, nor impact unduly on its operation.

The Government has responded positively to the bulk of the recommendations.

In addition, we have sought to address concerns in alternative ways where the PJC’s recommendation is unable to be implemented in the terms proposed.

This bill implements the Government’s response to the PJC’s report.

A key feature of the bill is to amend the current sunset provision, which would otherwise cause the questioning and detention powers to cease after 22 July 2006.

The Government accepts the PJC’s arguments about the need for ongoing review and a further sunset period, but considers that the 5½ year period recommended by the PJC is insufficient.

We consider a 10 year period to be more appropriate.

Recent experience with statutory reviews has demonstrated they are resource-intensive and have an impact on operational priorities.

The 10 year period is consistent with State and Territory Government views about the time...
needed to properly make an assessment of recently enacted anti-terrorism legislation.

The longer period will also ensure that the legislation can be used over a period the Government assesses there is likely to be a need for these powers.

Accordingly, the bill extends the sunset and PJC review period by 10 years, so that the PJC will be required to review the legislation by 22 January 2016 and the legislation will cease to have effect on 22 July 2016.

Of course the Government will also continue to assess the operation of the legislation in light of practical experience and will review its effectiveness on an ongoing basis.

In responding to the PJC recommendations, the bill also seeks to improve the clarity and operation of the two types of warrant regime—warrants for questioning, and warrants for questioning and detention.

Schedule 1 of the bill renumbers the provisions, and more clearly sets out provisions dealing with only questioning from those that deal with questioning and detention.

The items in Schedule 1 do not affect the substantive operation of the regime.

Schedule 2 of the bill contains amendments that will strengthen and clarify rights under the regime.

One of the key amendments involves making explicit rights of contact for the subject of a warrant.

The bill will insert a positive right of a subject to contact a lawyer under both types of warrant, whereas at present there is only an explicit right to do so under a warrant authorising detention.

This does not mean that the subject of a questioning-only warrant is not currently entitled to contact a lawyer—in fact they are able to do so; it is just that the right is not explicit in the legislation.

Consistent with the existing policy rationale and the PJC’s recommendation, ASIO will be able to challenge a lawyer being present during questioning on security grounds where the subject is detained in connection with a questioning-only warrant.

The bill will also insert a provision to make it clear that communications between a subject and their lawyer are not required to be made in a way that can be monitored in the case of questioning-only warrants (unless there is detention in connection with that warrant).

In addition, the ability of the subject’s lawyer to address the prescribed authority during breaks in questioning will be made clear in the legislation. This enables a subject to raise any matter with the prescribed authority through their lawyer.

The bill will also clarify and better facilitate the ability of subjects of both kinds of warrants to make complaints, particularly in the questioning-only context, and to a wider range of complaints bodies.

As part of this package of amendments, the secrecy provisions will be amended to cater for disclosures to State and Territory complaints bodies.

The secrecy provisions will also be amended to require the prescribed authority, the Director-General, and the Attorney-General to take into account certain issues in deciding whether to permit disclosures.

Those issues are the person’s family and employment interests, the public interest, and the risk to security if the disclosure were made.

The bill will make other changes to enhance the rights of the subject.

These include requiring the prescribed authority to more clearly explain his or her role, so that the subject is aware of the independent supervisory role of the prescribed authority in the proceedings.

The bill will also provide for a person to have a statutory right to apply for financial assistance for reasonable legal and related costs arising from the questioning proceedings.

These measures, combined with some other changes in response to the PJC and other minor corrective changes, will clarify and strengthen the effectiveness of ASIO’s questioning and detention regime.

At the same time, the measures contained in the bill maintain an appropriate balance with civil liberties by enhancing safeguards and conferring
more explicit rights on persons questioned or detained under the regime.

The questioning and detention regime needs to operate effectively if ASIO is to continue to have the best suite of tools at its disposal for working together with other agencies to prevent a terrorist attack in Australia.

For these reasons, I commend this bill.

TAX LAWS AMENDMENT (PERSONAL TAX REDUCTION AND IMPROVED DEPRECIATION ARRANGEMENTS) BILL 2006

Personal Income Tax Reductions

The measures contained in this bill will cut personal income tax for all Australian taxpayers from 1 July 2006. The tax cuts are another step in comprehensive tax reform that has seen income tax cut previously in 2000, 2003, 2004 and 2005.

From 1 July this year, the Government will reduce the 47 and 42 per cent rates to 45 and 40 per cent respectively. This builds on reductions to lower income rates in earlier years.

In addition, the Government will increase the thresholds so that the 15 per cent rate will apply up to $25,000, the 30 per cent rate up to $75,000, the 40 per cent rate up to $150,000 and the 45 per cent rate will apply to income above that.

The Government will cut the fringe benefits tax rate from 48.5 per cent to 46.5 per cent to ensure that the FBT rate aligns with the top marginal tax rate, including the Medicare levy.

The low income tax offset will be enhanced by increasing it from $235 to $600. It will begin to phase out at $25,000 from 1 July 2006, compared to $21,600 currently. This means that those eligible for the full low income tax offset will not pay tax until their annual income exceeds $10,000.

The Medicare levy low income phase-in rate will be cut from 20 per cent to 10 per cent, ensuring more low income taxpayers pay a reduced rate of Medicare levy.

Senior Australians who are eligible for the Senior Australians Tax Offset will now pay no tax on their annual income up to $24,867 for singles and up to $41,360 for couples.

Overall, in percentage terms, the greatest tax cuts have been provided to low income earners. These tax changes will ensure that more than 80 per cent of taxpayers face a top marginal tax rate of 30 per cent or less over the forward estimates period.

The increase in the 30 per cent threshold and the low income tax offset will provide more incentive for those outside the workforce to re-enter it and those on part-time work to take additional hours.

Moreover, a taxpayer will need to earn $121,500 to pay an average tax of 30 per cent.

From 1 July 2006, the top marginal tax rate will apply to around two per cent of taxpayers. Taxpayers will not reach the highest marginal tax rate until they earn more than three times average weekly earnings.

Reducing the top marginal tax rate and significantly increasing the top threshold will improve the competitiveness of Australia's tax system compared with other OECD countries. Australia's top marginal tax rate will be in line with the OECD average and the increase in the top threshold will place Australia tenth highest in the OECD.

Six years ago, the threshold for the top marginal tax rate was $50,000. If the threshold for the top marginal tax rate had been indexed in 1996, it would have stood below $64,000 by 1 July this year. Under the Government's reforms, by 1 July this year that threshold will be $150,000.

This package provides $36.7 billion of benefit to taxpayers over four years and reinforces Australia's reputation as a low-tax country. These tax cuts significantly restructure the personal income tax system, to increase disposable incomes, to enhance incentives for participation and to improve Australia's international competitiveness.

Business Tax

This bill also implements the 2006-07 Budget measure that will substantially improve Australia's depreciation arrangements by increasing the diminishing value rate for determining depreciation deductions from 150 per cent to 200 per cent. This will cut business tax by $3.7 billion over the next four years.
The effect of the measure is to provide the equivalent of a 33 per cent increase in the allowable depreciation rate for all eligible assets.

This will increase incentives for Australian business to invest in new plant and equipment and make it easier for businesses to keep pace with new technology and remain competitive. Investment is a key element of productivity growth and hence of economic growth.

The increased depreciation rates under the diminishing value method align depreciation deductions for tax purposes more closely with the actual decline in the economic value of an asset which will lead to improved resource allocation in the economy. This is consistent with the Government’s tax policy strategy of ensuring that the tax system has minimal effect on the allocation of resources in the economy.

The measure will apply to assets acquired on or after 10 May 2006 and includes appropriate integrity measures to ensure assets held prior to that date are not able to be brought into the new arrangements.

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

I commend the bill.

Debate (on motion by Senator Kemp) adjourned.

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

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

AGE DISCRIMINATION AMENDMENT BILL 2006
AUSTRALIAN TRADE COMMISSION LEGISLATION AMENDMENT BILL 2006
ELECTORAL AND REFERENDUM AMENDMENT (ELECTORAL INTEGRITY AND OTHER MEASURES) BILL 2006

EMPLOYMENT AND WORKPLACE RELATIONS LEGISLATION AMENDMENT (WELFARE TO WORK AND OTHER MEASURES) (CONSEQUENTIAL AMENDMENTS) BILL 2006
ENERGY LEGISLATION AMENDMENT BILL 2006
EXPORT MARKET DEVELOPMENT GRANTS LEGISLATION AMENDMENT BILL 2006
FAMILIES, COMMUNITY SERVICES AND INDIGENOUS AFFAIRS AND OTHER LEGISLATION (2006 BUDGET AND OTHER MEASURES) BILL 2006
FISHERIES LEGISLATION AMENDMENT (FOREIGN FISHING OFFENCES) BILL 2006
PLANT HEALTH AUSTRALIA (PLANT INDUSTRIES) FUNDING AMENDMENT BILL 2006
TAX LAWS AMENDMENT (2006 MEASURES No. 2) BILL 2006
EXCISE LAWS AMENDMENT (FUEL TAX REFORM AND OTHER MEASURES) BILL 2006
EXCISE TARIFF AMENDMENT (FUEL TAX REFORM AND OTHER MEASURES) BILL 2006
CUSTOMS AMENDMENT (FUEL TAX REFORM AND OTHER MEASURES) BILL 2006
CUSTOMS TARIFF AMENDMENT (FUEL TAX REFORM AND OTHER MEASURES) BILL 2006

First Reading

Bills received from the House of Representatives.

Senator KEMP (Victoria—Minister for the Arts and Sport) (5.26 pm)—I indicate to the Senate that these bills are being introduced together. After debate on the motion
for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.
Bills read a first time.

Second Reading

Senator KEMP (Victoria—Minister for the Arts and Sport) (5.26 pm)—I table revised explanatory memoranda relating to the Age Discrimination Amendment Bill 2006 and the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2006 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—

AGE DISCRIMINATION AMENDMENT BILL 2006

The Age Discrimination Act 2004 implemented the Government’s 2001 election commitment to develop legislation to prohibit age discrimination which would eliminate, as far as possible, age discrimination in key areas of public life.

The Act is working well.
The Government believes that the Act is playing an important role in addressing negative stereotypes, particularly assumptions about older workers.
All anti-discrimination laws must strike the right balance between prohibiting unfair discrimination and allowing legitimate differential treatment.
When the Age Discrimination Act commenced, it included various exemptions for Commonwealth laws.
One of these was a general exemption for all Commonwealth Acts and regulations for a period of two years.

The purpose of this general exemption was to present an opportunity for any further legitimate exemptions to be identified.
The general exemption will expire on 23 June 2006.
The general exemption for all Commonwealth laws will be replaced by a much more limited number of exemptions that will continue to protect justifiable age-related provisions in Acts and regulations.
The bill is the result of a comprehensive assessment of Commonwealth laws and programs that examined their consistency with the Age Discrimination Act.
As well as Acts and regulations, this assessment identified other instruments, schemes and programs that use age-based criteria for sound policy reasons.
It also identified areas where the scope of the existing exemptions is uncertain or needs to be adjusted.
The bill addresses these additional issues.
The scope of the new exemptions has been limited by exempting only part of a law if that is sufficient to protect the age-related provisions.
A new Schedule will list Acts, regulations and other instruments and specify which provisions are exempted.
The Government will continue to review the appropriate scope of exemptions so that the Act applies to as wide a field of public activity as possible.
Many of the amendments will provide certainty for measures that are targeted for the benefit of particular age groups.
For example, the bill will ensure that senior citizens can choose to apply for a less expensive passport, and can receive a higher rebate for private health insurance.
It will also help maintain the classification scheme which protects our children from objectionable content in films, computer games and literature.
Other provisions in the bill address Australia’s international obligations in aviation and shipping.
One of the most important objectives of the Age Discrimination Act is to reduce discrimination in employment and remove barriers to workforce participation.

The bill inserts an exemption for some Commonwealth employment programs, to ensure that programs can continue to be designed in the most appropriate way to meet the needs and circumstances of different groups, including different age groups.

To be exempted, an employment program will need to meet certain conditions.

Providing these conditions are met, an employment program will be able to be designed so that effort is targeted to where it will do the most good.

This bill is a carefully considered package of measures that will further the goal of eliminating age discrimination while allowing genuine age-related needs to be met.

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AUSTRALIAN TRADE COMMISSION LEGISLATION AMENDMENT BILL 2006

This bill amends the Australian Trade Commission Act 1985 by making changes to the governance arrangements of Austrade that will establish an executive management structure with a CEO directly accountable to me, and bring the agency under coverage of the Financial Management and Accountability Act and Public Service Act.

Austrade is responsible for the delivery of valuable assistance to Australian business efforts to export and develop international business. Austrade plays a key role in promoting opportunities to business arising from the Government’s trade negotiations, including Australia’s Free Trade Agreements, and administers the Export Market Development Grant scheme, which last year delivered over 3,200 grants valued at $124 million to small and medium exporters.

The changes introduced in this bill form part of the implementation of the Government’s response to the Review of Corporate Governance of Statutory Authorities and Office Holders that was conducted by Mr John Uhrig. The Government is reviewing all Statutory Agencies in the context of the review recommendations, to ensure that we have the most effective accountability and governance structures across the whole of government.

The Government has assessed Austrade’s existing governance structure against the recommendations and principles of the Uhrig Review and identified that the executive management template is more suitable to Austrade’s role as the Government’s trade facilitation agency.

The changes are of an operational and enabling nature. The amendments do not impact Austrade’s functions, nor Austrade’s delivery of export promotion and facilitation services to Australian business. Austrade will continue to be focussed on assisting Australian businesses to enter and develop export markets.

On behalf of the Government I would like to thank the current and previous Austrade Boards. I am grateful for their time and expertise. The views and interests of Australian business will continue to inform the government’s trade promotion activities. I will be ensuring that appropriate mechanisms exist to ensure that the best possible assistance is provided to Australian business.

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ELECTORAL AND REFERENDUM AMENDMENT (ELECTORAL INTEGRITY AND OTHER MEASURES) BILL 2006


The amendments cover a number of broad areas including enrolment and timing of the close of rolls, provisional voting, financial disclosure requirements in non-election periods, access to the electoral roll and its use, political party registration and the disclosure of political donations. The
most notable amendments in the bill include those that will:

- increase a number of the disclosure thresholds to above $10,000 (with legislated Consumer Price Index (CPI) increases) with effect from date of introduction of this bill;
- reduce the close of rolls period to provide that, in general, the roll will close at 8.00 pm on the third working day after the issue of the writ. However, persons who are not on the roll (with two exceptions, set out below) will not be added to the roll in the period between 8.00 pm on the day of the issue of the writ and polling day. The exceptions are for persons who are not on the roll who are either: 17 year olds who will turn 18 between the day the writ is issued and polling day; or who will be granted citizenship between the issue of the writ and polling day. Persons in these categories can apply for enrolment up until the close of rolls at 8.00 pm three working days after the day on which the writ is issued;
- introduce a proof of identity requirement for people enrolling or updating their enrolment by requiring that they provide their driver’s licence number on their enrolment application. If they do not have a driver’s licence, the elector can show a prescribed identity document to a person who is in a prescribed class of electors and who can attest to the identity of the applicant. If an elector does not have a driver’s licence or a prescribed identity document, they must have their enrolment application signed by two electors who can confirm the applicant’s name and who have known the applicant for at least one month;
- establish a proof of identity requirement for provisional voting. An elector (other than a silent elector) who wants to cast a provisional vote on polling day will need to show either their driver’s licence or a prescribed identity document (of the same type required for enrolment proof of identity) to an officer either at the time of casting the provisional vote or by close of business on the Friday following polling day. If the elector cannot show the document in person, they may post, fax or email an attested copy to the Australian Electoral Commission (AEC). Ballot papers will only be admitted to the count if the provisional voter has provided suitable identification and, if they were not enrolled, if their omission from the roll was the result of an AEC error;
- abolish the requirement for broadcasters and publishers to lodge disclosure returns;
- require that paid electoral advertising on the Internet be authorised in the same manner as printed electoral advertisements;
- require third parties (people other than registered political parties, candidates, Members of the House of Representatives, Senators, Senate groups and Commonwealth departments and agencies) to complete annual disclosure returns if they incurred expenditure for a political purpose, or received gifts to enable expenditure to be incurred for that purpose. This includes expressing public views by any means on specified participants in the political process, namely a political party, a candidate in an election or a member of the House of Representatives or the Senate;
- increase nomination deposits for election candidates to $500 for candidates for the House of Representatives and $1,000 for Senate candidates with the threshold for returning the nomination deposit remaining at four per cent;
- provide for access to the roll by persons and organisations that verify, or contribute to the verification of the identity of persons for the purposes of the Financial Transaction Reports Act 1988 and provide that such use is not subject to the commercial use prohibition;
- require that, in the future, divisional offices must be located within divisional boundaries unless otherwise authorised by the Minister;
- provide for the automatic deregistration of all currently registered political parties six months after Royal Assent, with exceptions for parliamentary parties and parties with past representation in the Federal Parliament. Any political party that is deregistered will
be required to re-apply for registration, and must comply with the current requirements in the Electoral Act, including the existing naming provisions. Political parties that re-apply for registration within 12 months of deregistration under this scheme will not be required to pay the $500 application fee;

- extend the definition of ‘associated entity’ to include entities with financial membership of a registered political party and entities on whose behalf a person exercises voting rights in a registered political party;

- amend the voting entitlement provisions so that all prisoners serving a sentence of full-time detention will not be entitled to vote, but may remain on the roll, or if not enrolled, apply for enrolment;

- expand the AEC’s demand power in subsection 92(1) of the Electoral Act to enable access to information held by State and Territory Government agencies for the purpose of preparing, maintaining and revising the rolls; and

- amend the Income Tax Assessment Act 1997 to increase the level of tax-deductible contributions and gifts, whether from an individual or corporation, to political parties and independent candidates and members from $100 to $1,500 in any income year.

The bill will amend the Electoral Act to increase the declarable limit for disclosure of all political donations from $1,500 to amounts above $10,000, and this threshold will be indexed to the CPI.

Where the threshold amount is amended due to CPI increases, the threshold amount will be rounded to the nearest $100, where amounts below $50 will be rounded down to the nearest $100 (e.g. $11,048 will be rounded to $11,000). Amounts of $50 and above will be rounded up (e.g. $11,667 will be rounded to $11,700).

Currently, section 155 of the Electoral Act provides for the rolls to close seven days after the writs for an election have been issued. The proposed amendments provide that the date for the close of rolls shall be:

- for people who are currently enrolled but who need to update their details, 8.00 pm three working days after the day on which the writs are issued (that is, if the writs were issued on a Monday, the rolls would close for such people at 8.00pm on the Thursday); and

- for new enrolments and re-enrolments (that is, persons who are not currently on the roll, irrespective of whether they have been enrolled previously), 8.00 pm on the day on which the writs are issued.

There are two exceptions to the close of rolls date for new enrolments:

- for people who have yet to enrol but who will turn 18 between the day on which the writs are issued and polling day; and

- for people who have yet to enrol but who are eligible to be granted a certificate of Australian citizenship between the day on which the writs are issued and the polling day.

For these people, the roll will close at 8.00 pm three working days after the day on which the writs are issued.

The bill proposes a proof of identity requirement for electoral enrolment, and provides for regulations to be made to implement the proof of identity scheme.

Currently, all claims for enrolment (including transfer of enrolment) must: be in the approved form; be signed by the claimant (with one exception in subsection 98(3) for people who are physically unable to sign their own enrolment form); and be attested by an elector or a person entitled to enrolment, who shall sign the claim as a witness in his or her own handwriting. The witness attests that he/she has satisfied himself or herself, by inquiry from the claimant or otherwise, that the statements contained in the claim are true.

The new scheme will provide that all claims for enrolment (including transfer of enrolment) will be subject to proof of identity requirements. The proof of identity requirement will remove the need for a witness. Instead, persons enrolling to vote or updating their enrolment must provide:

(i) their driver’s licence number; or
(ii) if they do not have a driver’s licence, a copy of their ID (such as birth certificate or passport) which must be attested to
by an enrolled elector in a prescribed class; or

(iii) if they do not have a driver’s licence or ID, attestations by two enrolled electors who can confirm the applicant’s name and who have known the elector for more than one month.

The bill provides for the regulations for proof of identity to prescribe additional requirements for identification for enrolment.

The current witness requirement will no longer apply once the new proof of identity scheme comes into effect.

The provisions for third party disclosure on an annual basis, rather than during an election period (the current requirement), will ensure transparency for those people and organisations involved in the political process. In this regard, the bill provides for disclosure by a third party if that third party is required to authorise an advertisement pursuant to Schedule 2 of the Broadcasting Services Act 1992. This provision will capture disclosure of political content communicated through broadcast media.

Third parties will also be required to report on expenditure incurred for the printing and publication of electoral advertisements, notices and other material that is required to be authorised by section 328 and new 328A of the Electoral Act.

The third party reporting requirements will apply to associated entities as these entities can be actively involved in the political process. Associated entities will continue to be required to provide information under the existing requirements of section 314AEA for annual returns by associated entities.

The threshold for third party reporting will be the same as that proposed for other disclosure thresholds, that is, $10,000.

Currently, prisoners serving a full-time sentence of three years or longer are not entitled to enrol or vote. These persons are removed from the roll by objection following receipt of information from the prison authorities. Prisoners not currently on the roll who are serving a sentence of less than three years are entitled to apply for enrolment, and to vote in federal elections.

The proposed amendments will apply such that all prisoners serving a sentence of full-time detention will not be entitled to vote, but may remain on the roll or enrol if they are not currently enrolled. Those serving alternative sentences such as periodic or home detention, as well as those serving a non-custodial sentence or who have been released on parole, will still be eligible to enrol and vote.

Under current law, a taxpayer cannot claim a tax deduction for more than $100 of contributions to political parties registered under Part XI of the Electoral Act. The proposed amendment to the Income Tax Assessment Act 1997 will increase the tax deductibility value of contributions and gifts from an individual or a corporation to registered political parties and independent candidates and members, in relation to Commonwealth, State or Territory elections, from $100 to $1,500 in any income year. The provisions will also ensure parity of tax treatment by allowing tax deductibility for either gifts and/or contributions to both political parties and independent candidates and members.

EMPLOYMENT AND WORKPLACE RELATIONS LEGISLATION AMENDMENT (WELFARE TO WORK AND OTHER MEASURES) (CONSEQUENTIAL AMENDMENTS) BILL 2006

Parliament recently passed the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Act 2005. To ensure that the policy intention of the Welfare to Work changes contained in the Act are fully realised and consistently applied, a number of additional amendments to the social security law are required.

Terminology and provisions in the social security law need to be replaced, amended or repealed to clarify the policy intention in relation to certain Welfare to Work measures.

This bill will allow parenting payment partnered recipients, who have a temporary incapacity exemption, to have access to pharmaceutical allowance.

It will also allow single principal carer parents who are bereaving the death of a child and are
receiving Newstart Allowance or Youth Allowance, to continue to receive the same rate they were receiving before their child died for another 14 weeks after the death of the child.

This bill extends the Employment Entry Payment. Income support recipients who are subject to a non payment period, due to compliance, are now able to continue to have access to an Employment Entry Payment. This payment is provided to income support recipients to assist in offsetting the costs associated in commencing employment or increasing the number of hours of work.

These measures and others in the bill build on announced Welfare to Work policy and ensure consistency across working age payments.

The measures in this bill will cost $4.8 million over 4 years.

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ENERGY LEGISLATION AMENDMENT BILL 2006

A secure, reliable and affordable energy supply is a fundamental input to Australia’s economic wellbeing. For this reason, it is critical that the regulatory framework governing our energy sector is sound. The Ministerial Council on Energy is the peak energy policy body in Australia and has made significant progress in its extensive energy market reform program.

In improving the operation of Australia’s electricity and natural gas markets, the Ministerial Council on Energy takes advice from many sources. A key input to its work in natural gas has been the Productivity Commission Review of the Gas Access Regime commissioned by this government. The regime governs the regulation of services provided by means of natural gas pipeline infrastructure, and operates through a co-operative legislative scheme involving the Commonwealth and all of the States and Territories.

The primary aim of the Review was to examine the extent to which existing gas access regime:

- balances the interests of service providers and gas pipeline users;
- provides a relevant framework that enables efficient investment in new pipeline infrastructure; and
- assists in facilitating a competitive market for natural gas.

The Commission found that changes to the regime could assist in the achievement of these goals.

The majority of the Ministerial Council on Energy’s policy responses to the recommendations of the Productivity Commission will be implemented through further amendments to the gas access regime which are intended to come into force in 2007. However, in seeking to ensure there is ongoing efficient investment to meet Australia’s growing energy demand, the Ministerial Council wishes to send a positive signal to market participants as soon as possible.

The Ministerial Council therefore agreed to adopt and build on some of the Commission’s key recommendations ahead of the introduction of the new legislative regime. The Ministerial Council decided to implement in the existing gas access regime two specific incentives aimed at encouraging investment in greenfields pipelines. Legislation implementing these incentives was introduced to the South Australian Parliament on 11 May 2006.

The first incentive allows the proponent of a proposed pipeline to seek a full exemption from regulation under the gas access regime for the pipeline’s first 15 years of operation. The second incentive allows proponents to seek an exemption from price regulation for a proposed international transmission pipeline which will deliver foreign gas to Australia. The key driver for this incentive is the importance of securing Australia’s long term energy security needs, while recognising the additional complexity of international infrastructure projects.

For both incentives, an independent body, the National Competition Council, will undertake an assessment of market power and public interest matters before the relevant Minister makes a decision on whether to grant the incentive. This will ensure the incentives are granted in the appropriate circumstances. Most importantly, the incentives will provide the necessary regulatory certainty for investors where market circumstances indicate the demand for potential new developments.
The amendments I am introducing today will further promote the opportunities to gain that regulatory certainty and thereby enhance the benefits created by the gas access regime. They have the full support of my State and Territory colleagues on the Ministerial Council on Energy.

In particular, the Energy Legislation Amendment Bill 2006 implements key changes to Commonwealth legislation to ensure that the incentives can function properly. First, they remove the possible application of regulation under Part IIA of the Trade Practices Act to a pipeline granted one of the incentives. Secondly, they ensure that the gas access regime can remain a certified effective access regime, notwithstanding the availability of these incentives.

Finally, I am introducing some machinery changes to the gas access regime and the electricity regime. These include:

- amendments to the Trade Practices Act and the Gas Pipelines Access (Commonwealth) Act that update the provisions which allow the National Competition Council and Commonwealth Minister to have functions, powers and duties imposed on them under the State and Territory gas access regime; and

- amendments to incorrect references in Commonwealth legislation to parts of the National Electricity Law.

I commend the bill to the Senate.

EXPORT MARKET DEVELOPMENT GRANTS LEGISLATION AMENDMENT BILL 2006

With the introduction of the Export Market Development Grants Legislation Amendment Bill 2006 the Government is delivering on its commitment to extend the EMDG scheme for another five years and provide a number of enhancements to the scheme.

The EMDG scheme, administered by Austrade, assists small and medium Australian businesses to enter into export and grow to export sustainability by partially reimbursing their eligible export promotion expenses.

It is a popular scheme that has been regularly reviewed and consistently shown to benefit Australia by supporting our exporters.

Last year the EMDG scheme delivered over 3,200 grants and paid out around $124 million to small and medium exporters. These businesses generated approximately $3.1 billion in exports.

Of the grants delivered last year, 77 per cent went to small businesses with annual incomes of $5 million or less. Twenty-three per cent of grants were paid to businesses in rural and regional Australia.

Demand for grants is even stronger this year, demonstrating the continued success of the scheme.

In accordance with the EMDG Act, in 2004 I asked Austrade to review the EMDG scheme and report on whether the scheme should be extended, and if so, options for the improved performance of the scheme.

Austrade conducted a comprehensive review of the scheme, considering 394 public submissions, feedback from 70 consultation meetings and the results of independent research conducted by the Centre for International Economics.

The review found that the EMDG scheme is an effective tool for encouraging businesses to seek out and develop export markets and that it enjoys very strong support from Australian businesses across a wide range of industries.

For example, the Eaglereach Wilderness Resort, an award-winning eco-tourism resort located in the Hunter region of NSW, told the review that ‘the scheme encourages small companies such as ours to enter into the export market’.

And GAP Agrifood Exports, a successful exporter of meat, fruit, vegetables and fish to Asia and the Pacific Islands, said in its review submission that the EMDG program is essential to the new exporter.

This positive industry feedback was supported by the independent research which showed that the EMDG scheme induces export promotion, boosts exports, improves the sustainability of small and medium businesses and has a positive impact on Australia’s export culture.
In response to the review’s findings, the Government decided to extend the EMDG scheme for a further five years and introduce some changes to enhance the effectiveness of the scheme.

The Export Market Development Grants Legislation Amendment Bill 2006 implements these Government decisions.

The bill provides certainty for Australia’s current and future exporters by extending the EMDG scheme until 2010-11, with grants in relation to export promotion expenditure incurred in 2010-11 to be paid in 2011-12.

In addition the bill contains a number of amendments to the scheme.

The proposed amendment to increase the claimable overseas visit allowance from $200 to $300 per day will be of particular benefit to new and emerging exporters. The amendment will increase the incentive for this group to take the crucial step of visiting overseas markets to meet new customers and learn how export business is done.

The amendments to the rules of the scheme in relation to the origin of eligible products, disposal of intellectual property, principal status and export earnings will make the scheme more flexible and more relevant in terms of modern business practices and emerging export industries.

Removal of the export earnings test will also address anomalies that have resulted in some SMEs and emerging exporters being denied grants or having their grant entitlement reduced.

For example, removing the test addresses the anomaly that businesses spending on export promotion in one year but not receiving export earnings until the following year might be denied a grant, simply because there was a time lag between promoting their products and receiving export sales revenue.

The other amendments in the bill will assist in streamlining administration of the scheme and enhancing risk management.

The proposed changes are to take effect for EMDG applications from the 2006-07 grant year onwards—that is, to applications received and grants paid from 1 July 2007.

I am confident that the amendments contained in the EMDG Legislation Amendment Bill 2006 will be of considerable assistance to Australia’s small and emerging exporters and will be warmly welcomed by the business community.

In conclusion, I would like to thank the individuals, businesses and organisations that contributed to the review of the EMDG scheme. Their input has enabled the Government to tailor a package of measures that will both deliver significant benefits to small and emerging exporters and further secure Australia’s exporting future.
allow families to access their unused maintenance income free area from previous years to offset any late child support payments, thus increasing family tax benefit entitlements.

The government announced in the 2006 Budget a one-off payment for certain older Australians, equal to the annual rate of utilities allowance, currently $102.80. This bonus payment will generally be paid before the end of June 2006, including to recipients of mature age, widow or partner allowance, who do not currently attract utilities allowance itself. To supplement this one-off payment, this bill provides for recipients of those three allowances an ongoing entitlement to utilities allowance, which is already available to other older Australians to assist them in meeting their everyday household expenses such as gas and electricity.

Of significant community interest will be the measure in this bill that introduces a streamlined, flexible and coordinated payment, the Australian Government Disaster Recovery Payment, which could provide emergency assistance for offshore disasters, similar to the 2002 and 2005 Bali bombings, the 2004 Asian Tsunami and the 2005 London bombings, or onshore disasters, such as the 2005 Eyre Peninsula bushfires or Tropical Cyclone Larry in 2006. The new payment will standardise the successful type of ex-gratia government assistance that was provided in response to these events.

The Australian Government Disaster Recovery Payment will give the government a flexible response option for Australians affected by onshore and offshore disaster events, complementing existing arrangements and providing choice in the way the government may wish to respond to a disaster. Adult Australian residents who are affected by an eligible natural or non-natural disaster, whether within Australia or offshore, can claim the payment. Initially, a person adversely affected by a major disaster will be able to claim up to $1,000 for him or herself and $400 for each child in his or her care.

The bill also extends carer payment to parents of children with severe intellectual, psychiatric or behavioural disabilities. Some of these parents may currently receive parenting payment and, therefore, under the Welfare to Work reforms, may be expected to work part-time. However, the demands of caring for these children are often significant, especially if the children cannot attend school, or if their behaviour is a risk to the safety of themselves or others. To recognise that these demands prevent many parents from supporting themselves through workforce participation, parents of these children may now be able to access carer payment under the expanded eligibility criteria.

A further measure in the bill will help families make private financial provision, through a special disability trust, for the future care and accommodation needs of their family members with severe disabilities. It will help to provide certainty for parents who are concerned that their family members may not have the financial support to take care of their accommodation or care needs when the parents are no longer able.

This measure will allow immediate family members to establish a special disability trust for the current and future care of the severely disabled person. All trust income and trust assets up to the value of $500,000 will not affect the severely disabled person’s social security payments, such as disability support pension. Also, gifts to the trust, to a total of $500,000, from immediate family members of age pension age, will not affect the donor’s social security payments. Under the social security law and the Veterans’ Entitlements Act, there are limits to the assets a person can hold or give away without those assets affecting their entitlement to social security payments.

The bill amends the Family Law Act to implement changes to the governance arrangements of the Australian Institute of Family Studies. These changes form part of the government’s response to the recommendations of the Review of the Corporate Governance of Statutory Authorities and Office Holders, conducted by Mr John Uhrig. The assessment of the Institute against the recommendations of the Uhrig Review found that the functions of the Institute are best suited to the executive management governance arrangements. The bill will enhance the Institute’s governance arrangements to make them fully consistent with executive management governance arrangements. For example, the Institute will become a prescribed agency under the Financial Management
and Accountability Act. In keeping with the Government’s knowledge and innovation policy announcement of 2001, the Institute will remain a statutory agency separate from the Department of Families, Community Services and Indigenous Affairs.

Lastly, the bill makes a small number of minor family assistance and social security refinements in line with current policy.

FISHERIES LEGISLATION AMENDMENT (FOREIGN FISHING OFFENCES) BILL 2006

The purpose of this bill is to amend relevant fisheries legislation to provide for custodial penalties for foreign fishing offences in Australia’s territorial sea.

This measure should be welcomed by all who are affected adversely by illegal foreign fishing—governments, industry, non-governmental groups and individual people—who wish to preserve and protect Australia’s ecologically unique and economically important fish stocks and other living marine resources.

At present Australia’s main fisheries legislation, the Fisheries Management Act 1991 and the Torres Strait Fisheries Act 1984, do provide for custodial sentences for some specific ‘secondary’ offences, whether committed on board an Australian or foreign boat, such as for failure to comply with certain court orders, falsification of information, or obstructing a fisheries officer.

However, the legislation does not currently provide for custodial penalties for the ‘primary’ foreign fishing offences of fishing illegally from a foreign fishing boat, or being in control of a foreign fishing boat without legal excuse, in our waters.

The bill addresses this issue to the extent possible consistent with international law and the current jurisdictional arrangements for fisheries management as between the Commonwealth and the States and the Northern Territory.

Illegal foreign vessel incursions threaten Australia’s sovereign interests. They pose a range of threats, such as serious quarantine risks, illegal immigration, importation of prohibited goods, depletion of fish stocks, degradation of marine protected areas and the targeting of endangered species.

The Government has committed very substantial resources to address and reduce these risks, including the additional $388.9 million package to combat illegal foreign fishing announced on Budget night.

The custodial penalties proposed in the present Bill would be a significant additional deterrent to illegal foreign fishing vessel incursions.

The key feature of the bill is that it would provide for custodial penalties of from two years to three years, depending on the specific offence, together with substantial fines. The terms of imprisonment proposed would be broadly consistent with the terms for the existing ‘secondary’ offences in Commonwealth fisheries law and with the terms of imprisonment in some States for similar ‘primary’ foreign fishing offences in their coastal waters.

In deciding the lengths of the custodial penalties regard has, however, also been had to the inherent sovereignty violation in foreign fishing boat incursions, giving rise to more substantial penalties than would otherwise have been considered appropriate.

Illegal foreign fishing harms the interests of the States and the Northern Territory as well as the Commonwealth and the need for an effective response by all governments is clear. Commonwealth-State consultations on a more coordinated strategy are continuing. Among other things, these discussions may in time result a more seamless approach across all jurisdictions.

In order, however, to put in place, as a matter of urgency, the penalties now proposed, the bill provides for the penalties, at this stage, to operate in those parts of Australia’s territorial sea that are subject to Commonwealth fisheries jurisdiction and not in the coastal or internal waters of the States or the Northern Territory.

Accordingly, the custodial penalties proposed in the bill would operate generally in the band of water that begins three nautical miles seaward of the coastline and extends to twelve nautical miles from the coast. The United Nations Convention on the Law of the Sea prohibits the imposition of custodial penalties for foreign fishing offences...
beyond the twelve nautical mile territorial sea limit.

Importantly, also, consistent with the Commonwealth’s well established principles of criminal justice, the bill would ensure that the custodial penalties are associated only with new fault based indictable offences and would not be applied to any of the strict liability offences in the existing fisheries laws of the Commonwealth.

The custodial penalties in the bill, if enacted, will strengthen the Government’s overall policy response to illegal foreign fishing. Taken alone, they will not provide a total ‘answer’ to this complex matter, but they will represent an important new element in the Government’s ongoing action to protect Australia’s sovereignty and its fish stocks and other living marine resources.

PLANT HEALTH AUSTRALIA (PLANT INDUSTRIES) FUNDING AMENDMENT BILL 2006

The Plant Health Australia (Plant Industries) Funding Amendment Bill 2006 (the bill) provides a mechanism to enable plant industries to fund their liabilities under the Government and Plant Industry Cost Sharing Deed in respect of Emergency Plant Pest Responses (the Deed).

The Deed commenced on 26 October 2005 with the Australian Government, state and territory governments and plant industries as parties. There are now 14 plant industry signatories to the Deed. It provides certainty in funding for emergency plant pest threats to Australia and certainty in providing rapid and effective responses.

Under the terms of the Deed, the Government may be required to underwrite a plant industry’s share of the costs of an emergency plant pest response. The Government has agreed to do this on the proviso plant industries agree to an appropriate repayment scheme.

The amendments will give plant industries the flexibility to either accumulate funds in advance of an Emergency Plant Pest response or to activate levy and charge arrangements following a response.

The plant industries will fund their obligations under the Deed through the imposition of new Emergency Plant Pest Response levies and charges.

Amendments to the Plant Health Australia (Plant Industries) Funding Act 2002 will provide the machinery for the appropriation and application of the new Emergency Plant Pest Response levies and charges.

Firstly, the Amendment Bill provides for amounts equal to new Emergency Plant Pest Response levies and charges to be paid to Plant Health Australia from the Consolidated Revenue Fund through the normal appropriation process.

Secondly, the Amendment Bill authorises Plant Health Australia to hold and manage these funds on behalf of a plant industry. Plant Health Australia will utilise the funds to discharge any obligations that the industry may incur under the Emergency Plant Pest Response Deed in relation to the plant product or products on which the Emergency Plant Pest Response levy or charge is raised.

If at any time a plant industry has no obligations under the Deed, it may request Plant Health Australia to apply the funds for other emergency plant pest-related purposes. However, it is not proposed that funds directed to an industry’s Research and Development Corporation be matchable by the Government.

If there is no present occasion to apply the funds, they may be held for the industry by Plant Health Australia and supplemented by any interest and other income.

This legislation has the full support of industry groups and producers. It establishes arrangements for the long term funding of emergency plant pest outbreaks and so assists in providing certainty in responding to such outbreaks.

The bill is further demonstration of the partnership approach to plant health matters between the government and industry. It will further help maintain the competitiveness of Australia’s agricultural industries through an outstanding animal and plant health status.
This bill amends various taxation laws to implement a range of changes and improvements to Australia’s taxation system.

Schedule 1 exempts from income tax ex-gratia lump sum payments made to certain F-111 aircraft maintenance personnel by the Department of Veterans’ Affairs. This will ensure that those who receive this ex-gratia payment will receive the full benefit of the payment.

The Government is making the one off ex-gratia lump sum payments from the 2005-06 income year to certain personnel who experienced a unique working environment in the maintenance of F-111 aircraft fuel tanks.

The payments are made in recognition of the difficulties eligible personnel suffered in the environment in which they worked regardless of whether there is evidence of any adverse health impacts from that work environment. The amendments apply from the 2005-06 year.

Schedule 2 amends the lists of deductible gift recipients in the Income Tax Assessment Act 1997. Deductible gift recipient status will assist the listed organisations to attract public support for their activities.

Schedule 3 amends the Income Tax Assessment Act 1997 to correct unintended consequences from the rewrite of the capital gains tax provisions completed as part of the Tax Law Improvement Project. This measure broadly reinstates the position in the Income Tax Assessment Act 1936 in relation to options exercised on or after 27 May 2005 this being the date of announcement of these amendments.

Schedule 4 extends the scope of what is considered to be a compulsory acquisition for capital gains tax and uniform capital allowance purposes. It will extend the existing compulsory acquisition provisions to cases where a private acquirer compulsorily acquires an asset through recourse to a statutory power.

Schedule 5 to this bill amends the Income Tax Assessment Act 1997 to limit the circumstances in which the franking deficit tax offset is reduced. These amendments will apply from 1 July 2002, this being the commencement of the simplified imputation system.

Schedule 6 amends the Superannuation Guarantee (Administration) Act 1992 to allow more employees to choose the fund to which their employer makes compulsory superannuation contributions on their behalf.

The Government will override state laws which require employers that are constitutional corporations to make contributions to a superannuation fund specified in that law. This will particularly benefit coal miners in Queensland, Western Australia and NSW as employers will be able to contribute to a superannuation fund of an employee’s choosing from 1 July 2006.

Schedule 7 makes various technical corrections and amendments to the taxation laws and also some general improvements to the law of a minor nature. These corrections and amendments include fixing duplicated definitions, missing asterisks from defined terms, incorrect numbering and referencing and outdated guide material.

While not implementing any new policy, the technical corrections and amendments in this bill are an important part of the Government’s commitment to improving the taxation laws.

Full details of the measures in the bill are contained in the explanatory memorandum.
ble users is through the fuel tax credit system, legislated through the Fuel Tax Bill 2006, and not through concessions within the excise system.

The companion bill, the Excise Tariff Amendment (Fuel Tax Reform and Other Measures) Bill 2006, removes the various rates that applied to fuel and replaces them with only two rates—one for aviation fuels, which are not part of the fuel tax credit system, and one for other fuels. The Customs Tariff Amendment (Fuel Tax Reform and Other Measures) Bill 2006 and Customs Amendment (Fuel Tax Reform and Other Measures) Bill 2006 make complementary changes to Customs legislation so that imported fuels receive the same treatment as locally produced fuel.

Both the Excise and Customs legislation is unlike other taxing legislation, in that a fundamental principle of the legislation is the control of the revenue authority over goods that are in scope. Where possible, and within this constrain, requirements that are redundant or inconsistent with modern business practice are removed. In certain other cases, this concept of control is drawn upon in measures to protect the revenue.

The bill clarifies the arrangements for using imported inputs to excise manufacture. In conjunction with complementary changes in the Customs bills, the import duty that would be payable on imported goods, that would be excisable if manufactured in Australia, is extinguished when the imported goods are used to manufacture, in Australia, excisable goods. The import duty is extinguished when an excise liability is created. This will provide a seamless transition from the Customs regime to the excise regime for imported products used in excise manufacture while protecting the revenue.

The arrangements for concessional spirits, that is spirits that are free of duty because they will be used for certain purposes (other than making excisable beverages) are streamlined. The complex arrangements that are currently contained in the Excise Tariff Act 1921, the Excise Act 1901, the Spirits Act 1906, the Distillation Act 1901 and the relevant regulations are replaced with simpler provisions in the Excise Tariff Act and the Excise Act. The new arrangements do not change the eligible uses of concessional spirit but streamline the administration and clarify the factors under which spirits do not attract excise duty.

Changes are made to the licensing regime so that all excise licences will now have an expiry date and application for renewal must be made. This means some licences that currently do not expire will now expire every three years and that current licences that expire every year will expire every three years. This is a balance between reducing the burden on business and protecting the revenue.

There are also changes to the factors that can be taken into account when deciding to grant or cancel a licence. These factors build on existing factors that are directed at ensuring persons who would be likely to pose a risk in terms of whether all the excisable goods or tobacco leaf is correctly accounted for, are kept out of the excise system. Tobacco plants, leaf and seed are not excisable but their production is directed towards producing excisable tobacco. Controls are necessary to ensure that tobacco does not enter the illicit market. Provisions ensuring that tobacco leaf is correctly accounted for have been amended to provide clarity and alignment with controls on excisable goods.

The bill also amends the Excise Act 1901 in a number of areas to reduce a number of prescriptive and interventionist requirements that are no longer in step with modern administration. For example the current legislation contains complex rules for establishing the volume of beer. This is replaced by a provision that the CEO may make determinations on rules for measuring quantities, weights and strengths of excisable goods. This will allow the ATO to recognise changes in commercial business operations and adopt industry standards for measuring excisable goods. The ATO will actively consult with affected industry in determining such rules.

The bill repeals the following Acts; the Fuel (Penalty Surcharges) Administration Act 1997, the Fuel Blending (Penalty Surcharge) Act 1997, the Fuel Misuse (Penalty Surcharge) Act 1997 and the Fuel Sale (Penalty Surcharge) Act 1997. The introduction of the fuel tax credit system will mean that the penalty surcharges system is no longer required.
The Coal Excise Act 1949 is also repealed. Coal has attracted a free rate of excise since 1992 but coal producers have been required to be licensed and keep records and provide returns relating to coal production. The companion bill Excise Tariff Amendment (Fuel Tax Reform and Other Measures) Bill 2006 removes coal from the schedule of excisable goods and so it is no longer necessary to have the controls provided for in the Coal Excise Act 1949.

The Distillation Act 1901 and the Spirits Act 1906 are also repealed. These acts contain provisions relating to the manufacture of spirits. Many of the provisions are already adequately covered in the Excise Act as the manufacture of spirits also is the manufacture of excisable goods. Certain provisions required to protect the revenue or ensure product standards are inserted into the Excise Act 1901. These include provisions for the maturation of brandy, whisky and rum.

The bill also provides for a grant under the Energy Grants (Cleaner Fuels) Scheme Act 2004 for renewable diesel manufactured through a process of hydrogenating animal fats or vegetable oils. This will ensure that fuel produced by this process will receive the same effective tax treatment as biodiesel.

Full details of the measures in the bill are contained in the explanatory memorandum.

EXCISE TARIFF AMENDMENT (FUEL TAX REFORM AND OTHER MEASURES) BILL 2006

This bill is a companion bill to the Excise Laws Amendment (Fuel Tax Reform and Other Measures) Bill 2006.

This bill makes changes to the Excise Tariff Act 1921 so that the mechanism of fuel tax relief for eligible users is through the fuel tax credit system, legislated through the Fuel Tax Bill 2006, and not through concessions within the excise system. In particular, the fuel items in the Schedule to the Excise Tariff Act 1921 are amended so that there are only two rates of duty, one for aviation fuel and one for other fuels. In conjunction with the fuel tax credit system this will remove the effective excise on burner fuels and provide effective excise relief for a wide range of business users of fuel, including where fuel is used other than as a fuel.

The fuel items of the tariff are also amended to recognise that fuels can now be manufactured from sources other than petroleum, oil shale or coal.

This bill streamlines the existing Schedule by removing redundant provisions and also removes certain free items where the items are for use by certain third parties. These concessions will still be available to those third parties through changes to the Excise Regulations 1926. There will be no changes to the eligibility for these concessions except for a tightening of conditions under which tobacco can be used, free of excise duty, for research purposes. The changes are directed at simplifying the Schedule and making it, as far as possible, concerned with classifying goods and not providing concessional rates in the Schedule.

The excise rate for snuff tobacco is aligned with the rate for other tobacco. Snuff is not manufactured in Australia however the complementary changes in the Customs Tariff Amendment (Fuel Tax Reform and Other Measures) Bill 2006 will ensure that importers of snuff tobacco pay the same duty as other tobacco users.

Full details of the measures in the bill are contained in the explanatory memorandum already presented.

CUSTOMS AMENDMENT (FUEL TAX REFORM AND OTHER MEASURES) BILL 2006

The Customs Amendment (Fuel Tax Reform and Other Measures) Bill 2006 contains several amendments to the Customs Act 1901 (the Act). This bill is part of a package of Bills dealing with fuel tax and excise reform.

First, the bill will repeal provisions in the Customs Act designed to address fuel penalty surcharge legislation. These amendments will ensure that the Act is consistent with the Government’s proposals to replace all existing rebates and subsidies for fuel products, including concessional and free rates of duty, with a fuel tax credit scheme.
Secondly, the bill will amend the Act to strengthen and clarify the compliance and other arrangements that apply to the use of imported excise-equivalent goods in the manufacture of excisable goods. These amendments will ensure that the revenue is more adequately protected, and will bring existing practices into line with the conditions under the Excise Act 1901.

The bill will establish that the manufacture of excisable goods may occur in a customs warehouse and will provide that such manufacture using excise equivalent goods must occur at a place licensed under both customs and excise legislation. The bill will also establish that Customs control of excise-equivalent goods continues until such a time that an excisable liability has been created under the Excise Act, or the goods are entered into home consumption and relevant duties paid, or the goods are exported.

Other amendments will identify when liability is extinguished for Customs duty on excise equivalent goods used in excise manufacture, and how owners of these goods will account for such goods to Customs.

The bill will include a provision that deals with the maturation period of certain imported spirits. This provision currently resides in the Spirits Act 1906, which will be repealed by the Excise Laws Amendment (Fuel Tax Reform and Other Measures) Bill 2006.

Schedule 1 of the bill contains amendments to the Customs Tariff to decrease the customs duty applied to aviation turbine fuel (kerosene) and aviation gasoline. These measures were previously tabled in the House of Representatives in Customs Tariff Proposal Number No. 5 of 2005 and took effect from 1 November 2005. They now require incorporation in the Customs Tariff Act. Complementary changes are being made to the Excise Tariff Act 1921 through the Excise Tariff Amendment (Fuel Tax Reform And Other Measures) Bill 2006.

Schedule 2 of the bill contains amendments to the Customs Tariff Act 1995 to complement amendments to the Customs Act 1901 and to reflect amendments to the Excise Tariff Act 1921.

In brief, the amendments to the Customs Tariff Act impose a uniform rate of customs duty of 38.143 cents per litre on most fuel products. The amendments also remove a number of redundant provisions from the Customs Tariff, including the duty differentials for petroleum products based on container size, sulphur content, and whether a petroleum product contains a fuel marker.

Schedule 2 of the bill also contains a number of related consequential amendments to the Customs Tariff to ensure that it aligns with the Excise Tariff. This includes aligning the rate of snuff with the ordinary tobacco rate.

Schedule 2 of the bill also includes some technical changes that are of a minor or machinery nature. These include:

- a change to the definition of mead to ensure greater consistency with the Wine Equalisation Tax legislation;
- a change of classification for biodiesel to ensure conformity with a World Customs Organization classification decision; and
- amendments to definitions of beer to align with the Excise Tariff definition and clarify when the different rates of Customs duty apply for different types of beer.

Finally, Schedule 2 of the bill incorporates a range of measures designed to strengthen Customs control over certain goods that are used in excise manufacture. These include the repeal of concessional items 44 and 67 of Schedule 4 to the Customs Tariff. These items currently provide the mechanism for excise manufacturers that use excise equivalent goods—petrol, alcohol and
tobacco—to remit their customs duty liabilities, except for ad valorem duty on certain spirit and fuel products.

The bill will also attach a rate of customs duty of $290.74 per kilogram to tobacco leaf (not stemmed or stripped) to ensure that if any leaf is not accounted for before excise manufacture, Customs has the legislative ability to recover the appropriate duties. The Australian Tax Office already has that ability through Section 105 of the Excise Act 1921.

Debate (on motion by Senator Kemp) adjourned.

Ordered that the bills be listed on the Notice Paper as follows: Excise Laws Amendment (Fuel Tax Reform and Other Measures) Bill 2006, Excise Tariff Amendment (Fuel Tax Reform and Other Measures) Bill 2006, Customs Amendment (Fuel Tax Reform and Other Measures) Bill 2006 and Customs Tariff Amendment (Fuel Tax Reform and Other Measures) Bill 2006 as one order of the day and the remainder of the bills as separate orders of the day.

AUSTRALIAN BROADCASTING CORPORATION AMENDMENT BILL 2006
NATIONAL HEALTH AND MEDICAL RESEARCH COUNCIL AMENDMENT BILL 2006
SUPERANNUATION LEGISLATION AMENDMENT (TRUSTEE BOARD AND OTHER MEASURES) BILL 2006

Returned from the House of Representatives

Messages received from the House of Representatives informing the Senate that the House has agreed to the bills without amendment.

COMMITTEES
Public Accounts and Audit Committee
Membership

Message received from the House of Representatives notifying the Senate of the appointment of Dr Jensen to the Joint Committee of Public Accounts and Audit in place of Mr Ticehurst.

BUSINESS
Rearrangement

Senator BARTLETT (Queensland) (5.30 pm)—by leave—I move:

That business of the Senate notice of motion No. 1 standing in his name for today, proposing the reference of matters to the Legal and Constitutional References Committee, be postponed till a later hour.

Question agreed to.

MIGRATION AMENDMENT (DESIGNATED UNAUTHORISED ARRIVALS) BILL 2006
Report of Legal and Constitutional Legislation Committee

Senator SCULLION (Northern Territory) (5.31 pm)—On behalf of the Chair of the Legal and Constitutional Legislation Committee, Senator Payne, I present the report of the committee on the provisions of the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006 together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

CHILD SUPPORT LEGISLATION AMENDMENT (REFORM OF THE CHILD SUPPORT SCHEME—INITIAL MEASURES) BILL 2006
Second Reading

Debate resumed.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (5.31 pm)—I was speaking on this legis-
lation before I was so rudely interrupted by question time—a sign of the mistaken priorities of the government! I was indicating the concern Labor has for the lack of compliance with regard to the current child support arrangements and said that we were offering the government support in looking to improve compliance and in supporting a range of compliance measures. It is a key to ensuring fairness and ongoing community support for the child support arrangements. People have to believe that the system works and that they get justice from the system. Compliance is a very important aspect of improving the system. I am hopeful that the increased payment of liabilities will diminish some of the negative effects of the new formula for low-income resident parents.

I note that this year’s budget measures allocate $146.6 million to improve service standards and carry out organisational change in the Child Support Agency. Concerns in the community about the administration of the Child Support Scheme by the CSA are just as profound as those about the payments formula and compliance. To recognise this is not to attack the CSA staff; they work in a very difficult environment. All senators and members would recognise the hard work of agency staff and the pressures they are under. Nonetheless concerns exist, and I hope that the budget allocation and related action results in some more positive outcomes for both clients and staff. I think that some of the measures to do with case management, et cetera will improve outcomes for clients but also allow the CSA staff a better working environment.

I was concerned to hear recently that an internal CSA audit found that there have been 405 privacy breaches in the last nine months—of which 69 saw sensitive information being given to ex-spouses—and that at least two families have had to be relocated for their own safety as a result of such breaches. Labor notes, from the report in the *Australian* newspaper, that the Minister for Human Services is satisfied that the agency was taking action in this regard. We encourage the government to ensure that its reforms within the agency do as much as they can to prevent a repeat of these breaches.

The ministerial task force has examined the scheme, using sound principles, and its report was generally well received. Labor believes that it does provide a strong and constructive basis for reform. As I have indicated, our principal concern is in regard to the effect that the new assessment formula will have on low-income resident parents with children aged 12 years and under. They are the losers in this change. The government has supported the report and has picked up most of its recommendations, which it now seeks to implement.

Labor has taken a constructive approach to the reforms. We do not believe that any side of politics should seek to politicise this issue. Our aim has been to support positive reform of the scheme. In this we have endeavoured to work with the government, and there has been constructive engagement between my office and Minister Brough’s office. The changes that the government is seeking to implement cut across a range of areas, and the government plans to introduce them in three stages between July this year and July 2008.

We recognise that the package as a whole is carefully crafted by an expert committee, which has endeavoured to provide a balance based on the results of its research. In designing a new payments formula, the task force has based its calculations on research into the actual costs of raising children. It recognises the fact that the costs of care for older children are greater than those for younger children. It notes also that regular contact between children and non-resident
parents increases the costs of care considerably, due to the duplication of infrastructure in two households, and that the costs of children change in accord with the parents’ income level.

At the heart of the formula is the attempt to divide these costs fairly between both parents in a way which recognises the level of care each provides. The current formula, by contrast, is not based on research into the actual costs of raising children and therefore lacks some of the intellectual rigour and underlying fairness of the new formula. The resulting package presents a trade-off in costs between resident and non-resident parents. This is in effect a zero-sum game. The new arrangements, as the Parkinson report noted, do not alter the amount of resources available for the children’s upbringing, but they do alter their allocation between households.

The task force argues that the new formula is grounded in evidence about the costs of raising children and the most defensible principles for allocating those costs. It notes the presence of anomalies in the current system and that the correction of these means that obligations must go up or down. It states:

... its recommendations can best be assessed by reference not to a comparison between the outcomes of the current and proposed formula, but by reference to the principles and evidence upon which these recommendations are based.

The package developed by the task force is a result of expert examination and analysis and seeks to balance competing factors in a sound manner. This is reflected in a balanced package of measures: a new payments formula balanced by increased compliance measures and attempts to make it harder for parties to hide their income in order to reduce their liabilities. The House of Representatives standing committee noted that ‘the CSS has a number of complex and interrelated components’ and that changing one aspect impacts on other aspects of the scheme. I believe that the same applies for the reform package. Therefore, attempting to unpick the package by amending certain measures would undermine its integrity as a whole and could create further inequities. After some consideration, the government has picked up the package largely in its entirety and Labor is prepared to support the government’s legislation as a whole.

However, Labor have indicated that our support for the package as a whole is contingent upon there being a satisfactory outcome and government action to put in place sufficient protection against income reductions for low-income resident families. We have very serious concerns about the impact of certain parts of the package of reforms. Our principal concern regards the impact the new formula will have on low-income single parents of children up to the age of 12. These households are generally headed by women. The House of Representatives report Every picture tells a story noted that 91 per cent of child support payees were female and nine per cent were male. Many single-parent families are among Australia’s poorest and most likely to fall into poverty.

While Labor accept that the new formula is based on a fair estimation and division of costs, we do not believe that the parliament can be blind to the practical consequences for the families affected. The aim of the reforms is to share the costs fairly between parents recognising the level of care they provide. The redistribution of those costs imposes minimal financial burden on the Commonwealth. While that reallocation of costs between parents is based on fair principle, Labor argue that there is a broader responsibility on the part of the Commonwealth and the parliament to ensure protection against loss of income for low-income
resident parents. We do not want to see these families with less money to raise their kids.

The reforms attempt to encourage contact between children and non-resident parents by reducing that parent’s support liability in line with their level of care. At present, the non-resident parent’s liability is the same whether they have no contact or care for 29 per cent of nights each year. The task force recommends that, where the non-resident parent has care of the child for between 14 and 34 per cent of nights per year, their liability should be reduced by 24 per cent. I know this attempts to recognise the cost of providing domestic infrastructure such as a second bedroom but, clearly, the cost of renting a two-bedroom unit rather than a one-bedroom unit does not change depending on how many nights the parent has care of the child.

Recognition of the ongoing costs for non-resident parents and the encouragement this can provide for ongoing contact is a sound principle and should be supported. However, we must recognise the fact that the fixed infrastructure costs faced by the resident parent such as rent do not decrease at a rate commensurate with the other parent’s level of care. Yet, under the proposed changes, she or he faces a 24 per cent cut in their child support payments. Fairness has to work both ways. Just as we must be fair to the non-resident parent and recognise the fixed costs they face, we must also apply that same fairness to the resident parent. This is the area in which real concern exists. This is the measure which most starkly challenges the fairness of the package.

We should also acknowledge the reality that many of the people who face cuts in their child support payments will also be hit by the government’s Welfare to Work changes. I am not seeking to politicise this debate on child support. Labor’s vehement opposition to the welfare changes is well known, particularly those aspects which result in reduction of support for single parents. However, we have to acknowledge the fact that some of the poorest families in the country face the prospect of increased work obligations, reduced welfare payments, more punitive taper rates and, now, a reduction in child support payments. If we are to observe the principle of putting the interests of children first and respect the original intent of the Child Support Scheme to reduce child poverty, then we cannot ignore the impacts that these changes will have on these families.

While Labor are signalling broad support for the package, I am also indicating that we are seriously concerned about the impact on low-income families. We argue there is a clear responsibility for government to ameliorate the negative effects the changes may have on children in these families. We urge the government to look closely at this issue and examine ways of ensuring that carer families are not unfairly penalised and whether greater protection can be offered to them. It is a small issue in many ways compared to the totality of the package, but it is a very big issue for those families—it is a very big issue for those single-parent families who are potentially getting whacked by three or four separate measures.

These legislative reforms in this first tranche include the following principal measures: changing the capacity-to-earn provisions, increasing the minimum payment and its indexation to the CPI, increasing the amount of the child support payment that the non-resident parent can direct to specific purposes, dealing with a constitutional issue regarding application of the Child Support Scheme to ex-nuptial children in Western Australia and reducing the cap on the income of non-resident parents which is assessable for child support purposes from just under $140,000 to just under $105,000. This final
measure means a reduction in payments by non-resident parents on incomes over $104,702 of up to $180 a week and a commensurate loss of income for the resident parents. This is another measure which causes me some concern. While I understand the logic behind it, the effect is that some families—some carer parents—will lose up to $180 per week from 1 July. Bang! No phase-in. Some of them I think may even still be unaware of the impact.

I think the new cap is defensible. I have certainly had a lot of encouragement to think that by some people whom I know personally. But I do think that there is an issue here in terms of phase-in. It does not matter how much income one has coming in—and if they are anything like me they are spending five per cent more than what is coming in—to say to a family, ‘As of 1 July, you suddenly have a reduction of $180 per week,’ when people have committed to school fees, mortgages, car payments et cetera, I think is harsh. While I accept the overall argument, I think the government should look again at that issue as to whether they cannot ameliorate the sudden impact of that provision on single parents caring for children. I do not pretend that the impact here is nearly as serious as it is on low-income parents who have a lot less to assist them in raising those children, but it has a very serious effect on some families. I got a very eloquent letter from a particular parent about that and I think there is an argument for them to say that there should be some sort of phase-in.

That is the main area of concern we have with the first tranche of reforms. In an effort to try and build bipartisan support and positive support for the changes, I am not looking to move amendments. Labor will not be moving amendments, but I make those two points to the government. I urge them to take them on as serious issues that ought to be addressed. I know the first stage is fairly minimal in terms of the broader package, but we urge the government before they proceed with the later stages of the package to take very seriously our concerns about low-income parents and the impact this will have on them.

There is a set of losers that even the Parkinson report identified who will be substantially hurt by these measures. Many of them will be women raising kids who will also be affected by the government’s welfare reforms or so-called welfare reforms, which also seek to cut their income. So they get a cut in income from the movement onto Newstart and they get a cut in income when the child support reforms come in. I do not think in all conscience that this parliament should be seeking to impose these two burdens, these two whacks, on them and their capacity to provide for their children.

Labor will be supporting the bill. We will be supporting the whole package in broad terms and we will be seeking to build community support for the child support system and the reforms contained herein. But there are issues on which we want the government to respond, in particular the issue about the impact on low-income sole parents. There is time before the second tranche for the government to address those concerns. At a time of large budget surpluses and the ability for the government to throw quite large amounts of money at those who perhaps do not need it as much, we could do better in how we treat low-income parents. Labor will be supporting the bill and not be seeking to move amendments to this particular piece of the legislative package.

Senator MOORE (Queensland) (5.47 pm)—In talking to this piece of legislation this evening, I think it is important that all of us in this place and those in the community understand that the people whom we are discussing are those in deep personal crisis. The
history of this legislation is that in 1988, when the first round of reforms was announced and the Child Support Scheme was introduced, there was massive community involvement and outrage because it was a new system. It was a system that was being introduced to deal with families at a time of great disruption and pain. We acknowledged this at that time—and I was working in the Public Service—and there was extensive discussion amongst those of us working in the public sector about the impact of this legislation on the wider Australian community.

There were allegations at the time of social intervention and experimentation. At this time of breakdown and dealing with the handling of such difficult arrangements, it was important that through this process the government would offer support, personal support, and give a degree of understanding while working with families to ensure that the No. 1 priority would be the rights, welfare and security of the children. That principle has never changed. In terms of the way the scheme has operated, there has been significant debate about whether any piece of legislation can effectively fulfil that outcome. There are arguments that no single piece of legislation can effectively work through these difficult processes. But, whilst balancing the impact of this legislation, we need to understand that families are working through so many other elements of change.

As Senator Evans outlined, when we are looking at the introduction of this round of amendments to child support, there is no way that you can consider this in isolation. The families who are working through how they will be affected by the document called the Child Support Legislation Amendment (Reform of the Child Support Scheme—Initial Measures) Bill 2006 are also working through the complexities of the family tax system. They are often working through various elements of the family law system and they are seeking to survive at a time when other elements of welfare change are being imposed on the community.

For many of the families affected by this piece of legislation and seeking to know where their family income will be coming from, the Welfare to Work changes will be imposed at the same time. Whilst we are not here to debate those changes, once again it reinforces that we cannot in this place talk about bills in isolation because the families cannot be absolutely clear about where one piece of legislation begins and ends and where the other one takes up when we are talking about their very survival and their livelihood. I think this is something all of us should consider. The complexity of the whole legislative framework is one with which we are struggling and I can assure you it is one with which families are struggling on a daily basis.

I am aware of that struggle through my experience working in the public sector in the then Department of Social Security and, subsequently, having the privilege of working in this place and being involved in Senate committee hearings such as the poverty inquiry. Many of the people who came to give evidence and share their personal stories about family struggles during that inquiry were trying to survive on single incomes. They are the people that a government must keep in mind whenever we are looking at change and, most particularly, when we are looking at equity of change.

This particular initial measures bill is but the start of the current round of reforms to the Child Support Scheme. The legislation was introduced in 1988. People's personal experience, the operations of departments and changes in government were worked through until early in the 1990s when the first round of legislative changes were made.
This legislation continues to impact on people and must continue to be reviewed constantly. Also, nothing can be put aside and left alone.

This bill is possibly the first major, significant change to the child support legislation since it was introduced, and it has not come upon us suddenly. We had the very, very valuable House of Representatives committee report, Every picture tells a story, which I hope all senators have had the chance to consider. Through that process, the families of Australia, as well as so many of the agencies that work with them, the legal profession and the support groups chose to come forward and work with their political representatives, to give their stories, to talk about the proposed changes that they think would best impact on their own circumstances and to share with their political representatives what the impact of the current legislation has been on them and their lives. We had significant response to the public meetings across the country. I urge people to read that report if they have the opportunity, because it effectively reflects so much of the personal experience—and also the pain.

This particular area of legislation is one where I cannot separate the issues of personal pain from those of legislative change. Through the Every picture tells a story process, we heard the genuine, painful experiences of families who had worked through interpersonal breakdowns but who were then working through how they were able to maintain contact with their children, how they could retain the financial security that was being sought and, most importantly, how they could effectively develop family relationships after an initial parenting relationship had broken down. These are the people who will be affected by the raft of changes that are coming through now in three parts from the government. These are the people who most know the experience, because it is their lives.

Indeed, as a result of the Every picture tells a story report there was further community consultation. I know that through my own party and, I would anticipate, through other parties represented in this place there was great debate about the best process to take on from the community consultations that occurred. The government decision to institute a formal review of the process through introducing the Parkinson task force was extremely positive and one which I think was welcomed by all of us here and, I think, more importantly, by those people who had been part of the Every picture tells a story experience because they could see that their experience was being considered and that the government was then going to take professional advice on the issues that were raised.

I do not think there was anyone in the community who felt that any range of legislation was going to solve all the problems, but I think that there was genuine acceptance that the government process was at least considering a way forward. Now, two years down the track, we are in the position of looking at the initial round of what is now going to be a three-part implementation of change. Certainly I have some concerns about the time period over which these changes are going to be implemented and also about the time period for some of the most important changes—in particular, the formula change. Anyone who works in this area knows that the formula on which the financial arrangement is based is the key component to working out what you are going to receive in your budget on a regular basis, and that is the living money of people who are raising children in single relationships, often without very much extra money around. So the fact that the formula change is further down the track—the actual way that people can see their own circumstances and
make the calculations is further down the track—makes the immediate impact of the legislation less powerful. In terms of expecting the change to happen, in the community in which I was working there was an expectation that these changes were going to happen in 2006 as a result of the previous processes. But when you examine the way in which the legislation is being brought in, the full complete changes—whatever they turn out to be in terms of the government debate and what happens—will not be in place in family relationships until 2008. That is a long way down the track.

In terms of the concerns we have had about the impact on any family in this process, of course we welcome the fact that the Parkinson report did some very valuable modelling of the financial impact and the expenses of raising children. That was something that was long overdue. Anecdotally, people talked about their own experiences and we had heard of the various expenses involved in child rearing, but until, through the Parkinson process, we were able to have a look at the data sets and see the background on which the decisions were made, there was still a degree of uncertainty about what the basis of the legislation was. I think that having that research was a very effective way of engaging people and showing that, whilst all of us have individual circumstances, at least there was a genuine attempt in developing the legislation to look at objective data—as objective as any discussion on families can be. There is no such thing as a model family. All of us need to work within the constraints of the community. We all look at different expenses and demands. It is very difficult, when you are talking about the impact of raising families, to be able to see yourself in the data. That is one of the things that I have been doing with some of the groups with which I have been working—taking the standard environment and the background and then working with people to see how they best fit within the mix.

Indeed, in terms of the process of finding out how people best fit, one of the things that I think is most valuable in the changes that the government is introducing is, I believe for the first time, a significant influx of funding into the Child Support Agency and some genuine dedication of resources into upskilling the people who work in that area, providing alternative service delivery mechanisms and putting outlets closer to the community so that people who are working through this system are able to deal with people who best know the system. All of us in this place would have regular contact with families who are not happy with the service that they receive from the Child Support Agency—in some cases a feeling that it is distant, that the staff in the Child Support Agency are not taking a personal interest in their circumstances and are somehow so far away, so uncaring and so unmoved by the individual pain of those with whom they are dealing that there is no genuine understanding of what it is like to be balancing a family expense account as well as working through all the other demands of raising children alone.

I think that the acknowledgement by the department that there is a need for some immediate work on behalf of the people who are working in the field—to look at specialised training programs and to ensure that people working in the Child Support Agency have effective support mechanisms as they work through quite difficult circumstances—is a major advance. That alone will ensure that the people who are working in this field feel better about themselves and feel more confident that they understand not just the technical aspects of the legislation but also the difficult personal circumstances of the people who are their clients.
I also believe that the introduction of better telephone services and hotlines will help, as will people knowing that Child Support Agency staff are well trained, they will understand their situation and they are accessible at any time. That is because some of the key issues for people who come to us concerned about decisions that have been made about their circumstances are that there is a delay in getting service from the public sector workers; there is a lack of sympathy, a lack of compassion; and there is no understanding that every single case has its own dynamic. The acknowledgment of this need for training and development is a major part of my hope that at least this first step of the process will be more effectively communicated to the public and that there will be a move towards making the process of implementing the legislation more accessible to the wider community.

Labor is concerned that, for the people who will immediately lose funding under the changes to the legislation, there will not be effective support or any ability to readjust their financial circumstances before the impost is placed on them. No matter how well you think you are operating your budget and no matter how effectively you believe you are planning your future, if there is a significant loss of regular income from your budget, which is going to impact on your lifestyle as well as that of your children, that will cause more stress and sometimes quite serious disruption to the operation of the family unit.

We acknowledge that the funding experiment has been done and that we understand that there are models in place to work out some changes to the way non-residential parents are working with the residential parents and how there can be variations to the expected amount of money that is paid on a regular basis. There are specific aspects of the legislation, such as lowering the cap and the changes to the way that people’s money can be assessed in terms of their ability to work, that are welcome. However, when that translates to a fortnightly decrease in the money on which you are expected to live, that can create great pain. As Senator Evans pointed out in his contribution to this debate, these are the people who need particular support from all of us as we look at the long-term impact of the changes.

In the whole process of the Child Support Agency working with the community, there must be an understanding that this particular change will have varying impacts on the families that are currently clients of the Child Support Agency and that, once again, there is no way that one size can fit all Australian families. We would expect there to be personal service given to each of the families who are working through the changes—a personal approach to each family so that they fully understand the impact of the changes on them. During the Senate estimates process, we talked to officials from the department about what process will be in place to implement the changes when they have been approved by the different levels of government. There was an acknowledgment that there would have to be an implementation process on a personal level, rather than just a general notice—or even a general letter like the letters that come from many government departments. Whilst some of us believe that such correspondence fulfils our legal responsibilities to ensure that a change is known and understood, those of us who have worked in the public sector understand that in reality it does not. The responses of individual clients to getting a letter from a government agency vary enormously, and there have been some research papers done on this issue.

I urge the government, in working out the implementation process for whatever changes come through, to do so through a
very personalised information-sharing process with the families who will be impacted. Unless these changes are fully understood, there will be even further pain for the people who can least balance such changes. It is very simple for us in this place to talk about balancing the various costs and impost of raising children, and understanding the various streams of income that come through from the government, including the range of family tax benefit changes we have discussed at length in this place. But, all too often, things that seem quite straightforward to the people who are developing the legislation and those working with it every day are not that straightforward or clear to those who are relying on the payment.

We already have a complex child support system, and that is one of the biggest complaints we have heard. So, in putting forward this major review of the way the system is going to operate, along with the fact that the government is going to do it in three stages, it is very important that we bring the people along with us so that every step of the way is clear to them.

There is absolutely no guarantee that a personalised process would be accepted by every client or something that they would welcome, but the least that the people of Australia who are clients of the child support system should be able to expect is that such a service is offered to them so that the changes are explained. If that is done, I think it will at least show that we have listened to some of the experiences to come out of the House of Reps committee inquiry—because the people who gave evidence to that review were clear that sometimes they felt that their interests were not best protected by the people who created the legislation. They also felt that the very title of the House of Reps committee report, Every picture tells a story, reflected the need for this personalised explanation of any changes that are going to be implemented.

**Senator BARTLETT** (Queensland) (6.06 pm)—I rise to speak on behalf of the Australian Democrats to the Child Support Legislation Amendment (Reform of the Child Support Scheme—Initial Measures) Bill 2006. As other speakers have indicated, this bill is the first of three stages of a very significant overhaul of the Child Support Scheme. I do not think there would be a politician in this place, in the Senate or the House of Reps, who has not had significant representation from a wide range of perspectives expressing concern about how the Child Support Scheme operates, which I think is an indication of how fraught and difficult this area is.

This first stage of the legislation contains a number of key measures: increasing the minimum payment for child support; strengthening the Child Support Agency’s capacity to ensure parents pay their payments in full and on time, which I think is particularly important; recognising non-resident parents on Newstart and related payments who have contact with their children; and reducing the maximum amount of child support payable by high-income earners to ensure those payments are better aligned with the actual costs of children, an area which is perhaps one of the more contentious parts of this first part of the legislation. There are also arrangements for assessing the capacity of parents to earn income, enabling non-resident parents to spend a greater proportion of the payments directly on their children and helping separating parents agree on arrangements for their children. There are more changes coming down the track in the second part of the year. A particularly important one is the allowance of an independent review of all Child Support Agency decisions by the Social Security Appeals Tribunal, which I think will address one area that has been the source of very
significant frustration. And there are further changes coming in from July 2008.

The aspect of this legislation that causes me some concern is the reduction in the maximum income for payers under the child support formula. This will mean very high income people—people in the top three or so per cent of income earners in Australia—will pay less. I think there is an arguable case for doing this, although I agree with Senator Evans that doing it basically overnight on 1 July, when it will potentially mean a very significant reduction in someone’s income, is not that desirable. What is put forward here is one of three parts of a comprehensive package that results from a very comprehensive review process which involved a lot of engagement with a wide range of stakeholders on the issue. Of course, it is problematic to pick out just one aspect and to trash that bit without it having flow-on effects to all of the other areas. Obviously there has been some attempted balancing in terms of the different interests and impacts on people. As I indicated at the start, this is an incredibly fraught area and one where it is impossible to satisfy all of the different views and concerns.

The key issue for the Democrats is to look at what will produce the best outcome for the children. I should say that part of that includes ensuring that you do not maximise the antagonism between parents. Obviously having a better relationship and connection with parents is in the best interests of the child as well. I think even the wisdom of Solomon would fall short of satisfying people in many respects, but this is somewhere that we need to continue to make the effort to get the system working as well as possible. I think the change that is coming down the track to enable appeals to be made to CSA assessments is an important one. I also agree with Senator Moore about the improvement in resourcing of the Child Support Agency. It is very important that they have the ability and time to make some of these very difficult assessments.

From my experience and from the perceptions I have got from the many people who have complained to me, the problem is not just the decision they have received from the assessment people; it is the process that has been used. Many people have perceived a dismissive attitude or a brick wall approach from the Child Support Agency. Whilst I do not suggest that a nice smiling face will necessarily satisfy everybody if they do not get a result they like, the process is important. It is an important part of how people perceive what is done and why a decision is reached. It is an important part of people at least having more understanding of why certain outcomes have occurred. If they have an opportunity to work through that with people more able to explain it and more able to ensure that the correct decisions are made the first time around, then it will at least reduce some of the very severe dissatisfaction that some people have with the Child Support Agency. So those certainly are positive measures.

It is also important to review how these measures operate and what the impact of them is. I imagine most people would not like to have another continuing set of reviews of this whole area. The process of reviewing the child support system and formula has already taken a very long period of time. It will take another couple of years yet before the whole lot of it is embedded in legislation, so I am loath to talk immediately about whether there is a need to change it again. But it is important to review how these changes operate—whether they function in a way people have anticipated, whether there are unintended consequences and whether there are more difficulties encountered by various people, particularly by children, than expected. Having said that, it is very difficult to pull one part out without
the whole house of cards falling down, given how much this has all been knitted together.

The main thing the Democrats would emphasise is that, whilst that could apply as a general comment, that does not mean we give carte blanche endorsement to every aspect of the package of changes that are being put forward now or will be put forward down the track. It also means that we will continue to do what we can to monitor the impacts. We do believe it is an important issue. It obviously affects many Australian families of all types and, of course, many children, so it is important that we do it as well as possible and do all we can to get it right. Overall, this is certainly a step forward in that regard. I acknowledge that. I do not think it is perfect. From that point of view, I think we will all keep focusing on it, and I am sure we will all keep hearing about aspects that are creating dissatisfaction for people.

Senator FIELDING (Victoria—Leader of the Family First Party) (6.15 pm)—Family First supports a fairer system for child support and believes the Child Support Legislation Amendment (Reform of the Child Support Scheme—Initial Measures) Bill 2006 is a step in that direction. The bill implements a number of the recommendations of the report of the Parkinson ministerial task force set up in 2004 to examine the Child Support Scheme and how it can be improved. The bill a number of the recommendations of the report of the Parkinson ministerial task force set up in 2004 to examine the Child Support Scheme and how it can be improved. The bill a number of the recommendations of the report of the Parkinson ministerial task force set up in 2004 to examine the Child Support Scheme and how it can be improved. The bill a number of the recommendations of the report of the Parkinson ministerial task force set up in 2004 to examine the Child Support Scheme and how it can be improved. The bill a number of the recommendations of the report of the Parkinson ministerial task force set up in 2004 to examine the Child Support Scheme and how it can be improved. The bill a number of the recommendations of the report of the Parkinson ministerial task force set up in 2004 to examine the Child Support Scheme and how it can be improved. The bill a number of the recommendations of the report of the Parkinson ministerial task force set up in 2004 to examine the Child Support Scheme and how it can be improved. The bill increases the minimum rate of child support from $5 to $6 per week; increase the proportion of child support that can be directed by the payer to cover the costs of medical care, school fees and child care; and change the test under which parents can be deemed to be reducing their earnings to pay less child support.

Child support is a complex and sensitive issue. Too often it descends into conflict between mums and dads. It can be hard to separate the issue of child support from the broader difficulties and sadness of the relationship break-up. It can also be hard to determine how changes affect children. Professor Patrick Parkinson and his ministerial task force had the difficult task of wading through all these issues and proposing a better and fairer system. I have no doubt that they did not get it 100 per cent right, but they have closely examined a very difficult policy area and come up with detailed recommendations to improve the system.

There are always going to be winners and losers when changes are made to areas like child support that involve carving up a person’s income, so it is vital to get the fundamental principles right. Family First believes the task force’s approach of focusing on the cost of raising children and ensuring the income of both parents is taken into account when determining child support payments will result in a fairer system. Currently, the custodial parent has to earn more than $40,000 a year for their income to be included. The Parkinson report also acknowledges that some non-custodial parents have been paying more than they can cope with. It is important we have a fairer system because parents are more likely to respect it and cooperate. Many non-custodial parents who recognise and accept their responsibility for contributing to the financial cost of raising their kids are still reluctant to pay under the current system because they believe it is unfair or because it places an unfair burden on them.

Family First is in no doubt that other senators have been contacted by many fathers with stories of their despair after losing contact with their children after a marriage breakdown. That affects their employment and ability to pay child support. I have been told stories of fathers who have taken their own lives, partly because of the difficulty of trying to make ends meet and start a new life after they pay the required child support.
Obviously, many fathers have been able to start new lives and have perhaps married and had a new family but they also find it difficult to survive under the current formula of paying child support for their children as well as supporting their new family. Clearly they have responsibilities for both families, but what is the fairest way of assessing their financial responsibility and ensuring they honour their obligations? One father described himself to me as an ‘EFT dad’—that is, an electronic funds transfer dad. That is the only contact he had with his children. Family First can understand the frustration of contributing financially to raising your children yet not being able to be part of their lives.

One of the aims of the Parkinson report is to remove disincentives for greater contact between children and both parents, and that can only be a good thing. Family First believes we should be doing all we can to ensure children have as much contact as possible with both parents, except in exceptional circumstances, such as abuse. It is certainly disturbing that 40 per cent of non-custodial fathers, or about 300,000, do not pay more than the minimum payment of $5 per week or $260 per year. That is a huge number, and Family First believes that should not be tolerated. About half of these fathers receive welfare. It may be that many other dads are trying to reduce their taxable income, by taking cash payments for work, for example, so that they pay as little child support as possible. The people who really suffer here are the kids. That is the real tragedy here. Family First strongly believes that both parents should pay their fair share of the costs of raising their kids. I support the Child Support Agency in its efforts to track down child support cheats and ensure they meet their responsibilities. I believe most Australians would also think this is fair and reasonable.

Finally, Family First is concerned at how long it is taking the government to implement the recommendations of the Parkinson report. While it was published a year ago, this is the first piece of legislation we have seen which implements some of its recommendations. Further, I understand that other changes will not be fully implemented for years to come. Clearly these changes are long overdue and I call on the government to implement them a lot more quickly. Family First supports a fairer system for child support and supports this bill. (Quorum formed)

Senator KIRK (South Australia) (6.23 pm)—I rise to speak on the Child Support Legislation Amendment (Reform of the Child Support Scheme—Initial Measures) Bill 2006. There have been a number of speakers on this issue this afternoon, and I have a few comments to make in relation to this. Senator Moore referred to the report that the then House of Representatives Standing Committee on Family and Community Affairs released in 2003. As she said, it would be a good idea for all senators to have a look at that report. It is a very important contribution to public debate.

The report I refer to, of course, is Every picture tells a story. It made 29 recommendations that covered the family law process, parenting arrangements and the Child Support Scheme. From that, we have seen some legislation emerge and today we are debating some of that legislation. In February of this year there was a government response given to the report of a task force chaired by Professor Patrick Parkinson, which was released in June of last year. The report made 30 recommendations to overhaul the Child Support Scheme. In its response, the government indicated its intention to adopt most of the ministerial task force recommendations for change and to implement the reforms in a three-stage process commencing in July this year.
Labor welcomes the release of the government’s plans to reform the child support system. As Senator Evans said in his speech a little earlier this afternoon, Labor accepts the need for reform of the child support system. We consider that the report released by Professor Parkinson and his task force provides a strong basis for reform. Labor notes that the government appears to have picked up on most of the recommendations contained in that report. As a consequence, Labor will support much of the government’s package and, as we have today—as we always do!—will approach the debate on all of the changes in a constructive manner. Labor supports encouraging shared parenting and a fair balance in meeting the costs of a child’s care and his or her upbringing. The fact that only half of all non-resident parents meet their child support obligations in full and on time is an issue of grave concern to Labor. On that point, I will conclude my remarks.

Senator KEMP (Victoria—Minister for the Arts and Sport) (6.27 pm)—I thank senators for their contributions. The Child Support Legislation Amendment (Reform of the Child Support Scheme—Initial Measures) Bill 2006 is a very important bill and a great deal of thought has gone into the preparation of it. A number of very interesting points were made by senators and the government will look very closely at what has been said in this chamber. A number of senators remarked on the high degree of cooperation and consultation which has occurred in the preparation of the bill. That is entirely appropriate. The government is a consultative one—it is a government which listens to people—so that does not surprise me.

I will conclude by summing up a number of matters which were raised during the second reading debate speeches. To recap: the bill will introduce a number of significant changes to the Child Support Scheme. It is the crucial initial stage in implementing the government’s overhaul of the Child Support Scheme which was announced in February of this year. More extensive and complex elements included in the new formula will be introduced in the second and third stages. These changes are a response to the ongoing community concern and concern by this government about child support issues.

Presently, the scheme affects 1.4 million parents and 1.1 million children who have experienced family separation. In response to concerns about custody arrangements, the then House of Representatives Standing Committee on Family and Community Affairs released its report Every picture tells a story in late 2003. Following that, a ministerial task force on child support was established to examine more closely the details involved, leading to its report In the best interests of children, which was presented to the government in mid-2005.

The task force’s report suggested that some elements of the present scheme are not aligned with community standards on shared parenting and the increased participation of women in the workforce. It suggested that the scheme is not an accurate reflection of the relationship between income and spending on children in ordinary families, nor is it well integrated with the income support family payments and family law systems. Under the bill, the minimum child support payment will be increased from the current amount, which is equal to $5 per week, to the amount that would have been in place if the old minimum had been indexed since its introduction in 1999. Linking the new minimum payment, currently equal to $6.15 per week, to indexation ensures that the value of the payment will not be eroded. The figure that sets the cap on a liable parent’s adjusted income to child support—

Sitting suspended from 6.30 pm to 7.30 pm
Senator Webber—I seek leave to move a motion relating to the leave of absence of two senators.

The ACTING DEPUTY PRESIDENT (Senator Crossin)—My understanding is we will deal with the bill first and then take that motion. Sorry, I thought you were intending to move or speak to something in relation to this. I will call the minister, and we will finish dealing with the bill that is currently before us.

Senator KEMP—When a Carlton supporter speaks to me and asks for leave to present some information to the Senate I generally take a very conciliatory approach. But I commend your ruling, Madam Acting Deputy President; it was entirely correct.

To recap, just before the dinner break I was indicating that the figure that sets the cap on a liable parent’s adjusted income for child support purposes is also amended by the bill. The cap is designed to limit the possibility of child support being paid by high-income parents at a level that exceeds the actual costs of caring for the child. Consequently, this measure provides that a liable parent’s income will be assessed in a way that is more in line with the actual costs of the children and that is more consistent with the treatment of the payee’s income. This measure replaces the full-time adult average weekly total earnings figure with the all employees average weekly earnings figure. These changes will effectively lower the maximum amount of a child support payment by high-income liable parents because, to use the initials, the EAWE figure is lower than the AWE figure.

The bill also includes a measure that sets out further matters for the child support registrar or a court to consider when making a decision about a parent’s capacity to earn. The capacity to earn decision is one where the parent’s real income is not disputed but the decision maker considers that the parent has a capacity to earn at a greater level than is being exercised. Consequently the decision maker may decide to assess the parent’s child support liability as being at a higher rate.

Capacity to earn decisions have been amongst the most controversial in the Child Support Scheme, as many senators will know. This measure will improve the clarity and accountability of capacity to earn decisions. The new method of assessment is intended to be flexible enough to allow parents whose earning capacity has been assessed for child support purposes to make work and lifestyle choices in the same way as parents in intact families. This might include pursuing a different career or reducing work hours because of caring responsibilities.

However, it is important that parents whose earning capacity has been assessed do not deliberately choose to avoid or reduce their child support liability by changing their working patterns. The Child Support Agency can still decide, if a parent cannot show that he or she had an appropriate reason for his or her decision about work changes, to find a higher capacity to earn.

The bill also increases the maximum percentage of a child’s support liability that may be credited towards prescribed non-agency payments such as child-care costs or school fees. This is designed to give payers of an enforceable maintenance liability greater determination over how child maintenance money is spent. This measure provides that credit may now be given up to a maximum of 30 per cent, instead of 25 per cent, of the ongoing liability in any payment period.

Finally, the bill addresses a constitutional issue with the application of the Child Support Scheme to ex-nuptial children in Western Australia. The Commonwealth government has the power under the Constitution to
make laws in relation to the children of marriage; however, in relation to ex-nuptial children, Commonwealth laws only apply if the states have referred their powers to the Commonwealth or adopted Commonwealth laws. Except for Western Australia, all the states have referred to the Commonwealth their power to make laws in relation to ex-nuptial children. Western Australia has chosen instead to adopt the Commonwealth child support legislation from time to time. However, the Western Australian adoption acts have tended to lag behind the Commonwealth amendments. Consequently in the periods before Western Australia has adopted Commonwealth amendments two parallel child support schemes have operated: a pre-amendment scheme applying to ex-nuptial children in Western Australia and a post-amendment scheme relating to the up-to-date legislation applying to all other children in Australia, including the children of marriage in Western Australia. The bill's amendments confirm the legal status of this arrangement and provide certainty to the families and children affected.

In conclusion, as I mentioned, this is a very important bill. It is one which has engaged the interest of a considerable number of senators, and we congratulate the senators on their contribution. My understanding is that there will not be any amendments moved in the committee stage, but I think I am able to say that the government will be looking very carefully at the contributions that senators have made in this chamber in their consideration of future policy initiatives in this area, which affects a large number of Australians.

Question agreed to.

Third Reading

Bill passed through its remaining stages without amendment or debate.

LEAVE OF ABSENCE

Senator WEBBER (Western Australia) (7.37 pm)—by leave—I move:

That leave of absence be granted to Senator Lundy for the period 13 to 16 June 2006 on account of parliamentary business overseas and to Senator Sherry for the period 13 to 16 June 2006 on account of personal reasons.

Question agreed to.

COMMITTEES

Legal and Constitutional References Committee

Reference

Senator BARTLETT (Queensland) (7.39 pm)—by leave—I move the motion as amended:

That the following matters be referred to the Legal and Constitutional References Committee for inquiry and report by the last sitting day of 2006:

With regard to Indigenous workers whose paid labour was controlled by Government:

(a) the approximate number of Indigenous workers in each state and territory whose paid labour was controlled by government; what measures were taken to safeguard them from physical, sexual and employment abuses and in response to reported abuses;

(b) all financial arrangements regarding their wages, including amounts withheld under government control, access by workers to their savings and evidence provided to workers of transactions on their accounts; evidence of fraud or negligence on Indigenous monies and measures implemented to secure them; imposition of levies and taxes in addition to federal income tax;

(c) what trust funds were established from Indigenous earnings, entitlements and enterprise; government transactions on these funds and how were they secured from fraud, negligence or misappropriation;
(d) all controls, disbursement and security of federal benefits including maternity allowances, child endowment and pensions, and entitlements such as workers compensation and inheritances;

(e) previous investigations by states and territories into official management of Indigenous monies;

(f) current measures to disclose evidence of historical financial controls to affected Indigenous families; the extent of current databases and resources applied to make this information publicly available; whether all financial records should be controlled by a qualified neutral body to ensure security of the data and equity of access;

(g) commitments by state and territory governments to quantify wages, savings and entitlements missing or misappropriated under official management; the responsibility of governments to repay or compensate those who suffered physically or financially under ‘protection’ regimes;

(h) what mechanisms have been implemented in other jurisdictions with similar histories of Indigenous protection strategies to redress injustices suffered by wards; and

(i) whether there is a need to ‘set the record straight’ through a national forum to publicly air the complexity and the consequences of mandatory controls over Indigenous labour and finances during most of the 20th century.

Question agreed to.

ASIO LEGISLATION AMENDMENT BILL 2006

Second Reading

Debate resumed.

Senator LUDWIG (Queensland) (7.39 pm)—I rise to speak on the ASIO Legislation Amendment Bill 2006. This bill comes with a significant history attached and it is worth while—in part at least—going through some of the background of this particular bill. Those in the chamber might recall that it was introduced in a form in 2002. It sought to enable the incommunicado detention of non-suspects, both adults and children, for up to 48 hours with potential for the indefinite renewal of warrants under which they were to be held. That is the background upon which this current bill is before us. That bill was referred to the then Parliamentary Joint Committee on ASIO, ASIS and DSD, together with other antiterrorism bills at that time. It was also referred to the committee that I served on—and still do—as a participating member of the Senate Legal and Constitutional Legislation Committee.

To go back through some of the history, numerous recommendations came out of that particular process, the 2002 bill passed the House of Representatives and was further amended in the Senate. The House of Representatives had accepted many of the amendments but negatived others that the Senate continued to press for. As a result the bill did not proceed. In fact it was laid aside and the rest finally came when the government brought forward a second bill—the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002. It was introduced into the House of Representatives back in March 2003. It was passed but, during the course of the passage through parliament, significant amendments were also made to the extent that it was—as those on this side of the chamber would say—a significantly improved bill that finally passed and was enacted.

It had significant powers, and you have to recall the time that was around—it was post-September 11, the government was urging these matters to be pressed and passed, and the opposition was taking a careful and considered approach as it always does in examining these matters. But ultimately what occurred was that the bill became law. What that also laid out was the ability for the matter to come back and be reviewed. What we
have now is another report by the Parliamentary Joint Committee on ASIO, ASIS and DSD entitled ASIO’s questioning and detention powers: review of the operation, effectiveness and implications of division 3 of part III in the Australian Security Intelligence Organisation Act 1979. It provided the ability for the parliamentary joint committee to conduct what can only be considered an extensive review. It commenced, effectively, on Friday, 17 January 2005 with an advertisement which started the process. Background papers were prepared by the committee secretariat, hearings were then convened and conducted by members on that committee, and finally this report was produced. That is, in effect, the background to where we are today.

What I can say is that that committee did provide a significant number of recommendations, 19 in all, and it provided for the position where—and I will not go through, and certainly do not have the time to, each and every one of those recommendations—many were picked up by the government in this bill. But I think it is important to look at what the current provisions for questioning and detention are. In short, they enable:

... ASIO to obtain a warrant from an ‘issuing authority’ for a person to appear before a ‘prescribed authority’ for questioning in order to obtain intelligence that is important in relation to a terrorism offence.

Of course, the reasons for that would seem obvious to most. ASIO does have extensive powers but it is also charged with a very important task. ASIO is responsible for protecting Australia and its people from espionage; sabotage; politically motivated violence, including terrorism; and the promotion of communal violence; attacks on Australia’s defence system; and acts of foreign interference. So ASIO does have significant powers under this legislation but it also has significant responsibility to ensure Australia is safe.

This bill deals with the ASIO terrorism related questioning and detention powers. The ASIO Legislation Amendment Bill 2006 includes a number of changes that adopt many of the recommendations of the Parliamentary Joint Committee on Intelligence and Security, which I was just speaking about. This is a significant breakthrough in improving a flawed bill. It also extends the sunset clause to 10 years, for review by legislation on 22 January 2016. I will come to this matter, as it clearly needs to be corrected.

Recommendations 2, 3, 6, 8, 11 and 12 of the Parliamentary Joint Committee on Intelligence and Security have been adopted. I will look at a couple of those. Recommendation 2 states:

The Committee recommends that, in order to provide greater certainty and clarity to the operation of the Act, the legislation be amended to distinguish more clearly between the regimes that apply to a person subject to a questioning-only warrant and that applying to detention.

In other words, it was not clear that there were two regimes. The recommendation seeks to ensure that there is a difference to be brought to bear, depending on whether the person is subject to a questioning-only warrant or detention. Recommendation 3 states:

The Committee recommends that the Act be amended to achieve a clearer understanding of the connection between the period of detention and the allowable period of questioning.

These seem to be fundamental matters that are now being sought to be corrected and agreed to. Recommendation 11 states:

The Committee recommends that:

- a subject of a questioning-only warrant have a clear right of access to the IGIS or the Ombudsman and be provided with reasonable facilities to do so ...

I will not go to every recommendation, but schedule 2 provides certain rights for those being questioned or detained and questioned. Those rights clarify the maximum length in
detention and how long a person may be questioned for and provide some clarification of the involvement of lawyers. The committee’s recommendation of a clearer regime dealing with the period of detention and the allowable period of questioning has been adopted. The joint committee’s recommendation that division 3 of part III of the act be amended to provide clarity between procedural time and questioning time has also been adopted. The recommendations to improve the operation of the act by distinguishing more clearly between the regimes that apply to a person subject to a questioning-only warrant and that applying to a person held under a detention warrant are in this bill.

I think it is clear that Labor has succeeded in achieving an amendment that clearly distinguishes between ASIO warrants for questioning and those for questioning while in detention. The bill also protects client-lawyer privilege in cases involving questioning warrants and in such cases enabling contact between a subject and their lawyer at any time while the subject is before a prescribed authority for questioning. In this amendment there is an explicit right of access to the state ombudsman or other relevant state bodies with jurisdiction to receive information and investigate the conduct of state police officers. It also imposes an obligation on the prescribed authority to advise the subject of this right.

That seems reasonable. You would expect that to occur. The ombudsman would be entitled to investigate state police officers. It is reasonable that the prescribed authority advise the subject of a warrant of their right to complain to relevant state bodies like the ombudsman. Items 5 and 6 of schedule 2 of the bill include amendments that ensure both questioning warrants and warrants for questioning and detention permit the person to contact a single lawyer of their choice at any time that they are appearing for questioning or are in detention. This equates to recommendation 4, in which the committee recommends that ‘a person who is the subject of a questioning-only warrant have a statutory right to consult a lawyer of choice’. If a person is appearing for questioning before a prescribed authority under a questioning warrant and indicates that they want to make a complaint to the Inspector-General of Intelligence and Security or the Commonwealth Ombudsman, then the prescribed authority can defer questioning and the person must be given facilities to make the complaint. This gives effect to recommendation 11, in which the committee recommends that ‘a subject of a questioning-only warrant have a clear right of access to the IGIS or the Ombudsman and be provided with reasonable facilities to do so’.

This bill allows a person who is detained under a detention warrant to make a complaint to the complaints agency of a police service, state or territory. The bill also enables a person’s lawyer to address the prescribed authority during breaks in questioning, which equates closely to recommendation 5. Whilst there are improvements to this legislation, the government has failed in two very important areas. Labor is deeply concerned that the government has not agreed to recommendations 10 and 19. Recommendation 10 states:

The Committee recommends that:

- the supervisory role of the prescribed authority be clearly expressed; and
- ASIO be required to provide a copy of the statement of facts and grounds on which the warrant was issued to the prescribed authority before questioning commences.

In recommendation 19, the committee recommended that the bill have a sunset provision. But, more importantly, the government and the opposition differ on the time. The government has proposed 10 years, which is,
quite frankly, untenable. When the government was in opposition, the Liberals argued on many occasions for sunset clauses of much shorter durations. You can go back and have a look at some of those pieces of legislation, such as the Copyright Amendment Bill 1990. Way back in 1991, the Hon. Andrew Peacock argued for two years in a coalition amendment. You can go back to the Migration Legislation Amendment Bill (No. 4) 1994, for which, surprisingly, Mr Ruddock, while not opposing the bill, looked at three years. Mr David Connolly, for those who might recall, back in 1995 argued in a coalition amendment for two years.

Parliament imposed a three-year sunset clause on the 2002 antiterrorism laws together with an independent review. That was the standard this parliament set in 2002 on similar laws. The United Kingdom’s 2005 antiterrorism laws are subject to a one-year review. I could say a couple of things about the proposed 10-year sunset clause, but it is inconceivable that you could say with a straight face that 10 years is an acceptable period without a review. It would be ridiculous to suggest it if you were not the government, but it seems that the government can say with a straight face that it is reasonable. I do not think it is and nor do the opposition and, I suspect, minor parties and many who made submissions.

The second amendment deals with this government’s arrogant refusal to adopt the committee’s recommendation to require ASIO to provide a copy of the statement of facts and grounds on which the warrant was issued. At 3.59 of the committee report, the committee states:

The Committee believes that, for the prescribed authority to discharge fully their responsibilities, it is important that they have access to relevant information. The prescribed authority is not currently provided with a copy of ASIO’s statement of facts and grounds which support the issuing of the warrant. Access to this information will assist the prescribed authority exercise their supervisory role and a copy of all the relevant documentation should be provided before questioning begins.

It would seem sensible to follow that course. However, this government has demonstrated on many occasions before that it is not and does not wish to be sensible in respect of these matters. Labor will seek to move these amendments and will give the government another opportunity to reconsider its position and support Labor’s amendments. I can fore- shadow that now.

Turning to the substantive debate, we have to recall that this was no ordinary run-of-the-mill legislation that sometimes passes in this house. It was perhaps best described in ASIO’s questioning and detention powers, the parliamentary joint committee report, which indicated that this legislation was one of the most controversial pieces of legislation ever to come here. When you look at the period of time, it was a significant piece of legislation which took a while to get through parliament in a form that was finally acceptable to all to pass.

Now we have the review and the government should be in a position to look at the recommendations that arise out of the review and adopt those recommendations, but we find again that the government has chosen not to do that. That is, as I indicated earlier, a significant disappointment. It is the case that the recommendations would provide greater clarity in the operation of the bill but, without picking up some aspects of those two important amendments, the government con-
tinues down the track of only doing half its job in this matter. The bill will provide greater certainty and clarity in the operation of the act and it will ensure that greater differentiation is applied in respect of the questioning-only warrants and those applying to persons held under detention. And those changes are welcome, as are the other matters. (Time expired)

Senator BARTLETT (Queensland) (7.59 pm)—I seek leave to incorporate Senator Stott Despoja’s speech. She has handled this legislation for the Democrats but is not able to be here during the extended hours tonight.

Leave granted.

Senator STOTT DESPOJA (South Australia) (8.00 pm)—The incorporated speech read as follows—

I rise to speak to the ASIO Legislation Amendment Bill 2006.

The existing laws—and now the re-enactment of these laws—are a violation of the civil liberties of Australians. The laws curb the everyday freedoms of Australians and compromise the integrity of the fundamental institutions that are the foundation of our Government. Worse still, without any official codification of individual rights in this country, we are reduced to simply trusting that the Government knows what constitutes an abuse of its powers. This is simply not good enough.

The legislation gives the Executive the power to detain and question people who are not even suspected of a crime for up to seven days. It gives them the ability to detain and question minors.

These laws undermine the separation of powers doctrine which is the central political convention of this country. This Government is allowing itself to be manipulated by Terrorists to take away the freedoms which we hold dear. If we unjustly strip the freedom of just one person in the name of fighting the terrorist threat, we have already lost not just the battle, but the entire War on Terrorism.

ASIO’s so-called ‘questioning and detention powers’ are extreme measures that are unprecedented in Australia’s history but let’s call them what they really are: interrogation and detention powers. These laws are not proportionate to the supposed threat of terrorism. So far, Australian interests have been attacked by terrorists offshore in Indonesia in 2002 (Bali), 2004 (Australian Embassy Jakarta) and 2005 (Bali). Thankfully, we have no experience with so-called home grown ‘clean skin’ terrorists of the kind that struck at London last year.

When the original legislation was introduced in 2003, the then Attorney-General acknowledged that the measures were extraordinary “We have always said that we recognise that this bill is extraordinary; indeed, I have indicated repeatedly that I hope the powers under the bill never have to be exercised. But this bill is about intelligence gathering in extraordinary circumstances and is subject to significant safeguards.” despite ASIO’s assessment that this country is currently facing a ‘medium level’ threat.

The Government and the Opposition have had time to review and assess the operation of ASIO’s powers of interrogation and detention. The Democrats despite not being directly involved in this committee process have followed it closely and have observed the submissions made to the Parliamentary Joint Committee Inquiry into the interrogation and detention laws.

I note the report produced by the Committee states there was an overwhelming view from the submissions that these powers not be renewed and that all but 3 of the 113 submissions made to the inquiry called for the sunset clause to at least remain in operation.

The Government intends this legislation be in operation for a 10 year period before another parliamentary review and the sunset clause should be activated.

This level of delay is unacceptable and irresponsible.

In order to ensure that laws that dramatically affect the lives of all Australians are not abused, it is crucial that we maintain safeguards to ensure accountability and provide a check on executive power.

The fact that these laws will not be reviewed until 2016 suggests the Government would like to see
them as a permanent part of the legal landscape in this country.

The report published by the Committee states that ASIO, to date, has been judicious in its use of the extended powers, however, it remains that the scope of these powers could potentially allow for them to be abused at some future date by an over-zealous or incompetent Minister. This possibility would undercut the professional ethos of ASIO and any supporting security agency. Furthermore, under these conditions, what recourse do citizens unjustly singled out and victimised by these laws have in making the government accountable for their actions when things go catastrophically wrong?

For example there is nothing in the legislation that requires that anyone must ensure that interrogation stops after a 48 hour period. While, to date, we have not had any incidents of interrogation continuing longer than the 48 hours, there still remains the potential for investigators to go beyond this period of time.

Such actions would be in breach of international conventions but not illegal under domestic legislation.

The ability of such abuses of power to go unnoticed is also possible as the legislation does not contain sufficient methods for an affected person to bring complaints to the attention of a non-governmental party. The secrecy provisions ensure that that this person does not communicate any grievances in a manner which would satisfactorily hold someone accountable for abuse of power.

Furthermore, as a Civil Liberties Australia submission dated November 2005 stated: “The world’s best police and security services with the world’s best laws and regulations will, on historical evidence, undertake surveillance on, detain and control/arrest a minimum of 500-1,000 individuals over that same time frame to achieve conviction of a possible 100. At the very least, twice as many innocent people will be caught up by provisions of the legislation each year as those with any case to answer” (CLA 07/11/05: 1). These types of figures are unacceptable.

Under this legislation, a person who discloses anything without authorisation regarding what transpired during their interrogation or detention within a two year period is liable for imprisonment for up to five years. The International Commission of Jurists stated in their submission that ‘because of the two year ban, there is little public scrutiny of the operation of the questioning powers. We have really no way of knowing what is going on. In this way, Australia’s laws are even more oppressive than those in the US and the UK.’

Australia remains one of the last bastions of Western democracy not to have some form of legislative instrument that encapsulates our basic freedoms and rights as Australian Citizens.

The framers of the Australian Constitution believed at the time of its drafting that the doctrines of Responsible Government, Natural Justice and the Separation of Powers should be enough to protect the freedoms of Australian citizens. They would turn in their graves if they were to bear witness to the events of recent times in these chambers, where we have legislation introduced that has the Executive being given the power to detain innocent people for periods beyond what any reasonable person would consider not to be punitive.

In the absence of a Bill of Rights or a Humans Rights Act, it is essential that the Parliament ensure that appropriate mechanisms are included in legislation to strengthen protections for civil liberties.

The secrecy provisions contain no balance of public interest and national security. As they stand, they operate as a blanket ban on anyone—including the media—from informing the public of any information regardless of whether it is in the public interest. In reference to the secrecy provisions Professor George Williams from UNSW, stated during the inquiry that:

They apply a very strict test in circumstances where such a test is not reasonable. They may catch people in circumstances where people ought not to be caught.

Of great concern was one confidential submission from the lawyer of a witness which claimed that the press may be used to print stories favourable to the Government agenda. In the submission the lawyer stated:
...it appeared material was briefed or leaked to the media to create sensational stories about the matter, often with aspects that appeared favourable to the government agenda... any person who seeks to correct such stories by giving the full information or even a proper explanation to the media would face the serious risk of prosecution under these provisions.

During the inquiry, there was a repeat of classified information being leaked to the media, with the images of the house of the affected person being shown on national television.

The idea that the media may be manipulated to serve a government agenda while the affected person may do nothing to defend themselves contravenes natural justice.

It is actions like these that have led to a strong sentiment of distrust and fear of the Islamic Community. The Islamic Council of New South Wales stated during the inquiry that:

The Australian Muslim community needs to feel protected and involved within the fabric of Australian society. The current ASIO laws and any proposed increase in powers will only act to reinforce anti-Muslim sentiments that are not in the best interests of a harmonious society.

If we are to encourage the existence of a harmonious multi-cultural society it is crucial that legislation promotes this as much as possible and reduces the potential for vilification on the grounds of race.

Not only are these actions creating anti-Muslim sentiment but it is also creating distrust of ASIO and other government agencies within the Islamic community. The Federation of Community Legal Centres stated during the inquiry that the legislation ‘leads to genuine fear in the community’ and that the level of fear within Melbourne’s Muslim Community was such that people would not attend information sessions about ASIO’s powers for fear of showing interest in terrorism.

A critical issue with the interrogation and detention laws is access to effective legal representation. The legislation provides that a person subject to a detention warrant may have access to a lawyer, however; a person subject to a so-called questioning only warrant is not assured of the right to legal representation.

Despite recommendations made by the Parliamentary Joint Committee report to allow for persons subject to a questioning only warrant to have access to a lawyer, the Government has not amended the legislation to allow this.

The reason given for this failure to include the right to legal representation was that such a requirement might delay interrogation in the face of an imminent terrorist attack.

While this reasoning might seem on the face of it to be reasonable, it does not take account of section 34U (5) of the legislation which allows for legal representation to be removed during interrogation where that legal representation is being unduly disruptive.

The fact that the Government would suggest that a lawyer could be disruptive is also surprising when we consider section 34U (4) of the current legislation, section 34ZQ (6) in the amendments, which states that a “legal adviser must not intervene in the interrogation of the subject or address the prescribed authority before whom the subject is being questioned.”

The effect of this section is to make the role of the lawyer completely redundant and ineffective.

The ability of the lawyer to know whether a particular line of interrogation is appropriate or not is also reduced because a person’s legal representation is not informed why their client is being questioned.

In addition to these measures, a person who is being questioned or detained is not guaranteed the right to talk confidentially with their legal representation. The proposed amendments state that the communications are not required to be made in a way that can be monitored. The inference from this statement is that while they may not be required to be made in a way that can be monitored, they may still be monitored.

Lawyers who made submissions during the inquiry stated these restrictions were unfair to clients.

They also stated that they believed that the interrogation powers were being used to supplement general policing powers, made possible by the lack of derivative use immunity and by the presence of police who seemed to be investigating police, on one occasion State police who were
apparently concerned with a non-terrorist related matter.

We have extraordinary powers introduced on the supposition that they will be used to fairly and judiciously fight terrorism yet, we have reports from a lawyer who witnessed an interrogation session and claims that these powers are being used for purposes beyond which they were created.

It is hard to claim that there is no scope for abuse of powers when we already have allegations that such abuses have occurred.

The transcript of these allegations is classified and not having been given the opportunity to participate in the inquiry, I am restricted to calling on the Government to initiate an investigation into these allegations. This is clearly a situation which would suggest that these laws need further and more serious consideration.

Where there is the potential for serious breaches of civil liberties and, in particular, this case where review is not set for another ten years, it is necessary that the legislation contain adequate reporting requirements so that the Parliament can properly consider the success of the laws.

Despite recommendations from the Parliamentary Joint Committee, the Government has not increased any reporting requirements.

Such a move further reduces the agency’s level of accountability.

Australia is constantly being reminded that it is only a matter of time before we suffer from a terrorist attack; that the world on the whole has changed for the worse; and, we must introduce laws that will address this issue.

In 2003 when the ASIO laws were first introduced many concerns were raised by ASIO that the powers were not expansive enough and that the compromises made by the Government operated to weaken the ability of the intelligence agencies.

It was stated that the compromises made the legislation unduly complex.

Yet, during the inquiry on the review of these laws, the Director-General of Security stated that “our concerns were misplaced. We were wrong in worrying about it.”

Admittedly, implementing safeguards can often be more resource-intensive but it is worth the extra strain on ASIO’s massively increased resources in order to keep this highly secretive agency accountable.

In response to the terrorist attacks of September 11, the Prime Minister made the observation that it would be:

... a terrible, tragic, obscene irony if, in responding ... to these terrible, terrorist attacks, we forsok the very things that we believed had been assaulted ...

With a heavy heart I say to the Prime Minister that the Government has terribly, tragically and with obscene irony forsaken the very things that we believed to have been assaulted by the terrorist attacks of September 11.

Senator BARTLETT (Queensland) (8.00 pm)—I move the second reading amendment standing in my name:

At the end of the motion, add:

“But the Senate:

(a) condemns the bill’s 10 year sunset clause;

(b) believes that the legislation fundamentally infringes on the civil rights of Australians by:

(i) undermining the presumption of innocence;

(ii) denying proper legal representation to people who are suspected but not proven to be guilty of planning a terrorist act;

(iii) giving very little protection to innocent people caught up in any anti-terrorist dragnet; and

(iv) having no adequate provision for recompense in cases where people have been wrongly questioned and detained.

(b) calls upon the Government to develop a Bill of Rights to protect Australians’ human rights and civil liberties and to ensure that the Australian people know exactly where
they stand with respect to all of the nation’s laws; and,

c) believes these anti-terrorism laws form a dangerous precedent which leave open the possibility of expansion into other areas by a future ‘security conscious’ Federal Government, especially if coupled with the proposed ‘Access Card’ technology.”

Senator WEBBER (Western Australia) (8.00 pm)—Unexpectedly, it would seem that I too now have the opportunity to speak on the ASIO Legislation Amendment Bill 2006. As Senator Ludwig outlined in his contribution, the bill deals with the ASIO terrorism-related questioning and detention powers. It is claimed that it provides clarity for questioning warrants and also for warrants for questioning whilst people are in detention. It extends the sunset clause for 10 years, with a review of the legislation on 22 January 2016. As Senator Ludwig reminded us in his contribution, for those senators who joined this place at the same time as I did, the initial legislation was one of the first and one of the most controversial bills that we dealt with, and we spent an exhausting amount of time considering it.

It is important to place on record that Labor welcomes the changes to clearly distinguish between ASIO warrants for questioning and those for questioning whilst in detention, and it welcomes the subject’s access to lawyers and to the Inspector General of Intelligence and Security. But, as has been outlined—and as I am sure some of my colleagues who will follow will outline more eloquently—we are concerned that the government has not agreed to recommendations 10 and 19 of the Parliamentary Joint Committee on ASIO, ASIS and DSD.

Senator ROBERT RAY (Victoria) (8.01 pm)—At the outset, let me say that this legislation deals with intelligence gathering pertaining to a potential terrorist act. This is not about law enforcement; it is not about providing criminal sanctions for involvement in terrorism. It has to be said: this is tough legislation, bordering on the draconian. It has caused eyebrows to be raised in the United Kingdom and in the United States. I have been asked by members of the House of Commons and members of the US Congress: how is it possible to bring in legislation that is this tough? Sure, the Patriot Act in the United States is pretty tough legislation, but it basically applies to non-citizens. This particular piece of legislation, especially as it denies the right to silence, is regarded as at the extreme of antiterrorist legislation. Given the many hardline provisions in this ASIO legislation, the crucial thing I stress to these people is that if you have sufficient oversight then some of the more draconian aspects come back into balance.

The joint intelligence committee has, as it was mandated to do, made a detailed study not only of the legislation as it exists but also of how it has operated over the last 2½ years. We say that it is pleasing that only a few people have been subject to questioning warrants and, indeed, no-one has been subject to a detention warrant coming out of this legislation. Overall, one would have to say that the processes have worked fairly well.

There have been some weaknesses identified in the current legislation, and we have made quite a number of recommendations from the joint intelligence committee to the government. In turn, the government has adopted many of those suggestions—all of which, by the way, were unanimous. A few of the recommendations were either accepted in part or were rejected with valid reasons provided by the government, and generally I accept their sincerity on these issues. The reasons for not adopting some of the recommendations seem to me to be well argued and well reasoned. However, two crucial
recommendations have been rejected, and the reasons provided by the government for rejection are insipid at best.

Before I go to those two recommendations, let me remind the Senate of what was in the original bill which was introduced into this parliament in 2002 and which was basically set aside, because it remains, to this day, the worst piece of legislation—by far—ever submitted to this Australian Senate in over 105 years. Let us not forget that those provisions were put into this parliament by former Attorney-General Williams and were concurred with by the Prime Minister of Australia, John Howard. Just remember some of the original provisions, if you will.

According to the legislation as it was then construed, we were able to detain and question non-suspects, on a renewable warrant, forever. There were not proper limitations put in. What is more, these very people who were being questioned could be held incommunicado. There was no provision on legal representation, in fact there was a bar on it, for suspects who were to be questioned or detained. There was no protection from self-incrimination. Given the fact that there was no right to silence, we left these people in a position where they were better off to say nothing and cop five years in jail than to self-incriminate themselves and possibly leave themselves open to 10 to 20 years in jail. Under the original legislation, 10-year-olds could be detained and kept incommunicado. Ten-year-old girls could be strip searched. It was a horrible, horrible piece of legislation. Attorney-General Williams and the Attorney-General’s Department showed no shame. Not even ASIO, I think, were happy with the legislation as it first appeared. It is possible that it was introduced as a negotiating tactic: go to the extreme, then retreat back to the middle. That would be more understandable if the legislation had not been set aside because this Senate would not approve it. And, of course, there was no sunset clause whatsoever in the legislation. It was to go on forever. I have given only a small summary of the horrors that existed in the bill.

Once the bill was set aside, some commonsense started to prevail. An enormous effort was put in by the joint intelligence committee to improve the bill. The Senate References Committee on Legal and Constitutional Affairs did some magnificent work in this area. And I have to say my colleague Senator Faulkner, who was the then shadow minister, put in an enormous effort in terms of negotiation and consideration to see this bill improved. I should not be churlish: let me acknowledge that some Liberal backbenchers also put in hard yards on this particular legislation. What emerged from it was still tough legislation, but it was balanced and it had scrutiny. It had technical errors in it and the reason it had technical areas is that we were all concerned with these big picture items and some things slipped through. Now is the opportunity to correct those technical errors. For the most part, the government has done so and is to be congratulated for picking up those recommendations.

The Labor Party wants to pursue two of the joint intelligence committee’s recommendations that the government has failed to adopt. The first one relates to making the warrant available to the prescribed authority. The problem at the moment is when a lawyer wants to intervene—and their right to intervene will be increased under this legislation—on the question of relevance of the questioning process, the prescribed authority does not know the grounds on which the warrant has been issued; therefore, it is left in the impossible position of not knowing whether those questions are relevant or not or whether it is just a giant fishing expedition, trawling through a whole variety of things that were never relevant to the original warrant. I do not think there is any reason
why the prescribed authority, which, after all, is trusted with some fairly sensitive information, cannot be at least apprised of the fact of what the original warrant was issued for.

The second of the recommendations already mentioned in this debate relates to the sunset clause. In their submissions to the joint intelligence committee, both A-G’s and ASIO argued for no sunset clause, arguing that the current implementation of the legislation had been exemplary. It is possible of course to attribute that exemplary behaviour to the fact that we had a sunset clause in the legislation. It is a pretty good straightener: when you know the legislation is going to expire in three years time, you are not likely to abuse it. That is the value of sunset clauses. There was a time when the Liberal Party were keen on sunset clauses. If you look to the mid-nineties, you would see that every second piece of legislation they were moving a sunset clause to. There were one-year, two-year and, in one case, just a six-month sunset clause—I think that was taxation legislation or something similar.

Senator Faulkner—The Training Guarantee (Administration) Bill.

Senator ROBERT RAY—Yes, as my colleague the senior senator from New South Wales tells me.

Senator Faulkner—I will speak more about that in a moment.

Senator ROBERT RAY—Indeed, I do not want to steal his thunder on that particular point. The Attorney-General, Mr Philip Ruddock, in his second reading speech argued for a much longer sunset clause because reviewing was such an intensive process. Oh, poor old Attorney-General’s Department and poor old ASIO are exhausted because in 5½ years they may have to review this legislation! Frankly, if you cannot hack it, put the cue in the rack. A sunset clause of 5½ years is exceptionally generous. The committee recognised—unanimously, by the way, with a government majority—that three years was a short period of time in terms of security legislation. Why 5½ years? Because it fell perfectly in the electoral cycle—mid stage of an electoral cycle where it could be considered rationally and dispatched well out from an election period.

At one stage, it was argued to us, ‘Oh, we do not want to deal with it in an inflammatory environment.’ For the first lot of legislation, you could not have got a more inflammatory environment—all of which ran the way of Attorney-General’s, the Attorney-General himself and ASIO itself. It really is insulting to us legislators that we may be, in some way, swayed by an inflammatory environment; that we cannot make rational decisions on security legislation. We are so immature, apparently, that that cannot occur. I notice that argument has at least dropped away, and I appreciate that it has.

The argument for a 10-year sunset clause is a total joke. We have not seen many sunset clauses of that length. It is not a sunset clause. We will have probably two directors of ASIO come and go before this legislation ceases. We are all old hacks, I guess, on the joint intelligence committee. Nearly all of us have our careers behind us. We recognise that. We were probably picked for the fact that we do not have a big stake in the future; therefore, we can be more objective. We all joked that with a 5½-year sunset rule, we will not be around for the next review. For heaven’s sake, under this 10-year rule, our successors will probably not be around to review the legislation! In effect, the 10-year sunset clause is no sunset clause at all.

I really believe, irrespective of the government having a majority in this chamber, that this is one occasion on which I would like to see the chamber insist on a reasonable sunset clause—one that serves the nation and
does not reward people not wanting to be scrutinised. This is what it is all about: it is about balance—yes, it is tough legislation—but it is also about scrutiny and as much transparency as the secrecy of these areas allows. From that you get an honest system. No-one doubts at the moment that ASIO and the representatives from the Attorney-General’s Department are acting with full propriety in this regard. All those scare campaigns that were run, all those horrific pictures that were raised about this legislation, have not come to pass. All that crying of wolf was for nothing. But people would be less likely to cry wolf, less likely to raise those scare campaigns if they were convinced that this legislation would expire in 5½ years, not 10 years off into the distance.

I want to leave on one last point. One concern that was raised with the committee, and not with full evidence, is the role of state police in these activities. We must have for a variety of reasons the cooperation of the Federal Police and the state police in these regimes. But one wonders whether the state police have been trying to ask, if you like, the interrogators to ask the suspect or the witness about matters not relating to intelligence matters but to criminal activities. You have to understand that derivative use remains in this particular legislation, and I support that—self-incrimination has gone but derivative use remains. But we cannot have, as alleged by at least one counsel for one of the suspects, a situation where police get questions asked before they can pursue them through other avenues, because if the people do not answer the questions or falsely answer them they could get five years jail.

Why we worry about this is that in certain ASIO raids executing warrants, guess what has happened at the premises where the warrants have been executed? The cameras from television stations are outside. They can only do that if they are tipped off. What we are involved in here is a difference in culture—the difference in culture between law enforcement and intelligence gathering, and the two should not get mixed up. This will require a fair degree of leadership from ASIO to make sure that when people are examined and questioned, it is for the purpose of intelligence gathering and not for the purpose of criminal investigation where derivative use will assist them in their inquiries. I do not allege, by the way, that that has happened. All I say is that the allegation has been made and therefore there is a need for vigilance in this particular area. I am absolutely convinced that the leaking of the location of execution of warrants does not come from ASIO. It is not part of their culture. It is not in their self-interest to do so, but it is a bit of a tradition in various state police forces and it must be avoided at all cost.

In conclusion, this legislation on the whole sees improvements incorporated in the system. I would prefer, however, that our amendment in relation to showing the warrant to the prescribed authority go through, but even more so I think this chamber, if it could, should reinsert the sunset clause of 5½ years. It fits the electoral cycle. It was a unanimous decision of nine members of the joint intelligence committee, and I believe it was sensibly thought through. A 10-year sunset clause is just a throwaway line to say we are not going to have one. It will not in certain circumstances keep ASIO honest in terms of their execution of the legislation.

Senator Faulkner (New South Wales) (8.18 pm)—This bill is intended to respond to the report of the Parliamentary Joint Committee on ASIO, ASIS and DSD: ASIO’s questioning and detention powers—Review of the operation, effectiveness and implications of Division 3 of Part III in the Australian Security Intelligence Organisation Act 1979. It was undertaken by the joint
committee. I am currently a member of the newly re-formed Joint Committee on Intelligence and Security but I was not involved with the committee’s inquiry at the time it was undertaken and reported in November 2005.

It is fair to say that the provisions of the ASIO Act involving questioning and detention powers have always been controversial provisions. They have always in this chamber engendered an enormous amount of debate and engendered real concern in the community. The new powers were originally introduced in the ASIO Legislation Amendment (Terrorism) Bill 2002. That bill was subject to thorough and exhaustive committee consideration from both the old Parliamentary Joint Committee on ASIO, ASIS and DSD as well as the Senate Legal and Constitutional Legislation Committee. Lengthy examinations of the bill were undertaken.

The legislation before us responds to the report of the then Parliamentary Joint Committee on ASIO, ASIS and DSD. That committee made 19 recommendations. All those recommendations were unanimous. The committee, of course, has a government chair and it has a government majority. I think any fair-minded person would say if they examined the report of the committee that it was a thorough inquiry. The committee held private hearings on five days and public hearings on four days into these controversial provisions of the ASIO Act. It was a thorough and exhaustive examination of those provisions.

What was the government’s response to the government chaired and government controlled committee? It agreed to six of the 19 recommendations. It agreed to recommendations Nos 2, 3, 6, 8, 11 and 12. To another six recommendations it agreed only in part. That was to recommendations Nos 4, 5, 7, 10, 13 and 19. To a further six of the 19 recommendations the government did not agree. They were recommendations Nos 1, 9, 15, 16, 17 and 18. The final recommendation, recommendation No. 14, was described in the government response as ‘not agreed at this stage’. In my view, it was a disappointing and inadequate response to a serious inquiry by a serious parliamentary committee.

In this second reading contribution, I wish to refer to just two of those recommendations. I want to highlight those two recommendations because the opposition will be attempting to reflect the recommendations of the joint parliamentary committee in amendments to this bill during the committee stage a little later on. The first is recommendation No. 10. It is a two-part recommendation. I read the recommendation to the Senate:

The Committee recommends that:

- the supervisory role of the prescribed authority be clearly expressed; and
- ASIO be required to provide a copy of the statement of facts and grounds on which the warrant was issued to the prescribed authority before questioning commences.

The government’s failure to act on the second part of this recommendation significantly diminishes the safeguards in the detention regime. Ask yourself the question: what possible negative consequences could flow from a statement of facts and grounds on which a warrant was issued being made available to the prescribed authority? It makes obvious good sense that the prescribed authority should have access to all relevant information and that that information should be available to the prescribed authority before questioning commences. I would suggest that a prescribed authority could not possibly fulfil their crucial obligations if they were hamstrung and kept in the dark. We must have transparency on this matter.
Of course, prescribed authorities, by their nature, are persons of high standing. Their role is important—it is very important. It is essential for accountability under this legislation. How can a prescribed authority determine whether questions are appropriate if they do not know the grounds for the issue of the warrant in the first place? How can they judge the fairness of questioning if they do not know the grounds for the issue of the warrant in the first place? And obviously there can be no national security implications here. The government determines who the prescribed authorities are, and no argument has yet been presented by the government against this very sensible and, one would have thought, straightforward recommendation of the PJC.

The second recommendation of the PJC that I would like to draw attention to—which, as I said, will be the subject of an amendment at a later stage—is recommendation No. 19, in relation to continuation of the legislation. I read that recommendation to the Senate:

The Committee recommends that:

- Section 34Y be maintained in Division 3 Part III of the ASIO Act 1979, but be amended to encompass a sunset clause to come into effect on 22 November 2011; and
- Paragraph 29(1)(bb) of the Intelligence Services Act 2001 be amended to require the Parliamentary Joint Committee on Intelligence and Security to review the operations, effectiveness and implications of the powers in Division 3 Part III and report to the Parliament on 22 June 2011.

In other words, it recommends a review by the committee of the parliament charged with undertaking these reviews, which now has the name of the Parliamentary Joint Committee on Intelligence and Security, and for a sunset clause to come into effect later that year, in late November 2011. The proposition in simple terms, if you like, is a 5½-year sunset clause, as opposed to the government’s proposal, which is a 10-year sunset clause. As Senator Ray said a little earlier in his contribution, a 10-year sunset clause is no sunset clause at all.

It is clear from the statistics that are available that a majority of senators will not even be here in 10 years time. The last available statistics in relation to the length of Senate terms show that the average length of a senator’s term is some seven to eight years, so a majority of the place will have turned over. Of course, it is a similar pattern for the House of Representatives. So this 10-year sunset clause is farcical. There is no point at all in having a 10-year sunset clause. It is a clayton’s sunset clause.

I am also interested in the hypocrisy of the Liberal Party when it comes to this issue of sunset clauses. When the Liberal Party was in opposition, it had a very different view on these matters. In December 1990, Mr Jull, now the Chair of the Parliamentary Joint Committee on Intelligence and Security, proposed a three-year sunset period in a coalition amendment to the Australian Sports Drug Agency Bill. In December 1990, the Hon. Andrew Peacock, well known in the Liberal Party, proposed a two-year sunset clause in a coalition amendment to the Data-matching Program (Assistance and Tax) Bill. In 1991, the aforementioned Andrew Peacock, in a coalition amendment, proposed a two-year sunset clause for the Copyright Amendment Bill. As Senator Ray mentioned, Kevin Andrews, now infamous as the workplace relations minister, proposed a six-month sunset clause in a coalition amendment to the Training Guarantee (Administration) Amendment Bill. We had the Data-matching Program (Assistance and Tax) Amendment Bill in 1992 where David Connolly opposed the removal of a sunset clause and wanted it continued for another year—a sunset period of a year. We had the Migration
Legislation Amendment Bill (No. 4) in 1994, when the shadow minister was Minister Ruddock; he did not oppose a three-year sunset period in that legislation. And we had the Small Superannuation Accounts Bill of 1995 where David Connolly proposed a two-year sunset period in a coalition amendment.

The key point about all that legislation is that none of it was as controversial as this legislation. This is amongst the most controversial legislation ever introduced into the parliament. And one of the reasons, of course, that it was so controversial is that it was so poorly drafted by Mr Daryl Williams QC, MP, the Attorney-General at the time. It was draconian, it was extreme, it was sloppy and it was poorly drafted. Only someone like Mr Daryl Williams could have been responsible for the embarrassing legislation that he brought forward. No wonder Mr Daryl Williams QC, MP, left the parliament with his tail between his legs.

I will never forget the meetings I had with Mr Daryl Williams QC, MP, negotiating with him, as I was then the responsible shadow minister for the opposition, and trying to work through a reasonable regime. It was not a question of getting a straight answer to a straight question: you could not get any answer from Mr Daryl Williams QC, MP, to any question at all. You would ask him a question. He would sit there like a rabbit in the spotlight. He would look to one side to his advisers and then to the other side to his advisers—

**Senator Ellison**—Mr Acting Deputy President, I raise a point of order. There is fair comment allowed in a robust debate, but I think now the senator is reflecting on a former member in a manner which is inappropriate. The comments that Senator Faulkner has been—

**Senator FAULKNER**—Under what standing order is that?—
Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.37 pm)—The ASIO Legislation Amendment Bill 2006 is an important step towards balancing protection measures with appropriate safeguards. As previous senators have outlined, it is in response to a review of the ASIO Act by what is now called the Parliamentary Joint Committee on Intelligence and Security. I can say that the work done by that committee was extensive, and I acknowledge the work done by members of that committee. I also want to acknowledge the comments of Senator Ray, who pointed to some of the positive aspects of this bill, albeit that there were recommendations of the committee that the government is not accepting. Senator Faulkner outlined accurately the recommendations which have been agreed to, those which have been partially agreed to and those which have not been agreed to, and the government has tabled its response outlining the reasons for accepting or not accepting some of those recommendations.

I would like to address some points in relation to the debate. The first one relates to the sunset provision, particularly the length of the provision. The government accepts the parliamentary joint committee’s recommendation for ongoing review and a further sunset period for ASIO’s questioning and detention powers. The length of time, however, is a matter of issue. The government is saying that the period of 5½ years recommended by the parliamentary joint committee is insufficient. The government believes that a 10-year sunset period is more appropriate. A 10-year sunset period is consistent with the sunset period applying to the recently enacted Anti-Terrorism Act (No. 2) 2005 and agreed to by state and territory premiers. The experience of recent statutory reviews has shown that such reviews are resource-intensive and impact on operational priorities. I think that is an important aspect to bear in mind when dealing with an agency such as ASIO.

Given these considerations, and the fact that the government is continuously reviewing the effectiveness of legislation, an earlier review or sunset period is not warranted. The longer period is also consistent with the period the government assesses there is likely to be a need for this legislation. As the Attorney-General has said in the other place, it is important that we do not get lulled into a false sense of security that no terrorist attack will happen in Australia. Just recently we saw the head of ASIO at Senate estimates once again outline, in an opening statement to the committee, the current threat to Australia in relation to terrorist activity. It is important that we ensure, therefore, that powers which have been found to be effective by the parliamentary joint committee continue for a period of time in which it is assessed that they are likely to be required.

The opposition expressed concern about the government’s decision in relation to recommendations 10 and 19, which relate to the provision of information to prescribed authorities and the sunset clause. I notice that the opposition has circulated amendments on these topics and I will deal with those during the committee stage when they arise. Suffice to say the government will not be supporting these amendments, for reasons previously set out by the Attorney-General. I particularly note that the bill imposes not just a sunset clause but a requirement for a detailed review by the parliamentary joint committee. That is an important point to note in this debate. One aspect of the sunset clause which the government rejects is the notion that a shorter period would mean that ASIO is less likely to abuse its powers. In the affluxion of time that has taken place, the review has found that the measures provided by the legislation have worked reasonably well. I think that, having regard to that, one can safely
assume that they will continue to do so. We are not saying that the legislation should continue without a review; however, a 10-year period is a much more appropriate period to adopt.

The bill has many positive aspects which are very important for the security of Australia. I have acknowledged the work done by the parliamentary joint committee. It is the case with legislation, when it is reviewed by a committee, that the government of the day does not necessarily accept all the recommendations made by that committee. That does not necessarily mean that the committee did not carry out extensive work or that the work was not thoroughly done; it is a question of policy and accepting what is relevant and appropriate for the needs of the day. I think that the government has approached this in a rational manner in determining which of those recommendations should be agreed to. I therefore commend the bill to the Senate.

Question negatived.
Original question agreed to.
Bill read a second time.

In Committee
Bill—by leave—taken as a whole.

Senator LUDWIG (Queensland) (8.44 pm)—by leave—I move opposition amendments (1), (2), (3) and (4) on running sheet 4945:

(1) Schedule 1, item 2, page 5 (after line 23), at the end of section 34D, add:
Statement of facts and grounds to be provided

(7) If the Director-General gives an issuing authority a request under subsection (6), the Director-General must give the prescribed authority a copy of the statement given to the Minister under paragraph (3)(b).

(2) Schedule 1, item 2, page 5 (line 29), after “subsection 34D(6)”, insert “and provided a statement in accordance with subsection 34D(7)”.

(3) Schedule 1, item 2, page 9 (after line 7), at the end of section 34F, add:
Statement of facts and grounds to be provided

(8) If the Director-General gives an issuing authority a request under subsection (7), the Director-General must give the prescribed authority a copy of the statement given to the Minister under paragraph (3)(b).

(4) Schedule 1, item 2, page 9 (line 13), after “subsection 34F(7)”, insert “and provided a statement in accordance with subsection 34F(8)”.

The government has looked at ASIO’s questioning and detention powers and has obviously taken the time to look at the report of the Parliamentary Joint Committee on ASIO, ASIS and DSD, but it has failed to seriously consider all of the recommendations that were put forward. When you examine the report, you will notice that it goes to a significant issue which the government has not agreed with. Having picked up a number of recommendations out of the parliamentary joint committee report, the government has not picked up and put into this bill the issue of the statement of facts and grounds to be provided.

The opposition thinks the committee’s recommendation on this issue is sound. It was an all-party committee that came to accept these recommendations and put them before parliament. Judging by the size of the report, the committee took significant time to look at and consider all of those matters in some significant detail. It is worth taking the opportunity to go into detail in considering recommendation 10, which states:

The Committee recommends that:
- the supervisory role of the prescribed authority be clearly expressed; and
- ASIO be required to provide a copy of the statement of facts and grounds on which the warrant was issued to the prescribed authority before questioning commences.

I encourage those who are able to to look at page 59 of the report in more detail—in particular, paragraph 3.59, which states:

The Committee believes that, for the prescribed authority to discharge fully their responsibilities, it is important that they have access to relevant information. The prescribed authority is not currently provided with a copy of ASIO’s statement of facts and grounds which support the issuing of the warrant. Access to this information will assist the prescribed authority exercise their supervisory role and a copy of all the relevant documentation should be provided before questioning begins.

It would seem not only sensible but also a course of action that can be followed.

There might be an argument from the government that the information would be secret or should not be provided but I think that, when you look at the seriousness of the issues involved, when you look at the overall regime that is being put in place and when you look at the parliamentary joint committee’s recommendations, you will see that the government has not adequately dealt with this particular issue. Although the process and the regime have not been used significantly, this is an area that the government should get right. It seems to be one of those basic rights that you should be able to have access to relevant information. Without that access, you are faced with the position of the prescribed authority not having and not being able to fulfil their proper supervisory role. They certainly will not have all the copies of relevant documentation, which they should have before questioning begins.

The government has chosen not to adopt this particular recommendation. It will be interesting to hear the government’s defence of that decision. If the defence is about secrecy, I do not think it washes in this regime.

The defence can only be about not ensuring that there is the ability for the supervisory authority to have documentation relevant to the issues before them. But I will wait for the government to outline its position, and we can make up our minds from there.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (8.51 pm)—The Greens will be supporting the amendments. I want to ask the minister a couple of questions about the sections that Senator Ludwig was talking about and others. On page 61, section 34ZY says instruments are not legislative instruments. What does that mean?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.52 pm)—While we find that, I will address the points made by Senator Ludwig. I will return to Senator Brown’s question in a moment.

We have to look at the difference between a prescribed authority and an issuing authority. An issuing authority is a judicial figure who issues the warrant. The prescribed authority is a retired member of the judiciary who oversees the questioning and has a supervisory role, if you like. You have to remember that they are two different roles.

The issuing authority gets a copy of the warrant with a statement of the facts which form the basis of the request for the warrant to be issued. Of course you would want the facts to be disclosed to the person who issues the warrant; you would not want a warrant issued capriciously or in inappropriate circumstances. You have to fully inform that person of the situation so that they can make an informed decision.

The situation with the prescribed authority is somewhat different. They get a copy of the warrant before the questioning commences. However, they do not have the statement of facts which the issuing authority has—and appropriately so. There is no aspect of it
which would aid them in their role; their role is quite different. It is more of a supervisory role. That is why the government is of the view that it is simply not necessary and it does not see how it advances the situation at all.

Senator Brown’s question dealt with section 34ZY. That section declares that instruments made under the bill are not legislative instruments. The section is intended to merely restate the position in the current act—that is, to be declaratory of the law. It was included to clarify that instruments created under division 3, other than the ASIO protocol, are not legislative instruments. There are a number of written instruments that can be made under division 3 of part III of the act, as proposed to be amended by the bill. Those instruments are not of a legislative character.

Section 34ZX allows the minister to make guidelines relating to financial assistance. Those guidelines are intended to be made under subsection (4) of that section and are not expected to be legislative in character. They are expected to cover procedural issues, such as the process for lodging a financial assistance application and the level of fees available to barristers and solicitors representing the person who is questioned or detained. As the guidelines would not affect a person’s right to apply for financial assistance, they are expected to be administrative in character.

Section 34ZY therefore serves a declaratory function. There is no policy intention to exempt any instrument that is legislative in character. That distinguishes the various instruments that I have referred to. If Senator Brown has any further questions, we can accommodate him.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (8.56 pm)—I do. I ask the minister about section 34ZO, which limits contact with a lawyer of choice. It says in subsection (1):

(1) The person (the subject) specified in a warrant issued under section 34G may be prevented from contacting a particular lawyer of the subject’s choice if the prescribed authority—
the retired judge—before whom the subject appears for questioning
… so directs.

Section 34ZO goes on to say that the retired judge:

… may so direct only if the authority is satisfied, on the basis of circumstances relating to that lawyer, that, if the subject is permitted to contact the lawyer—

that is, if the person is going to ring up their lawyer—somebody else might be tipped off about a terrorism offence that is being investigated or some record might be destroyed. In other words, the lawyer is a security risk who is going to tip off people who might be terrorists. All that the section says is that the authority must be satisfied ‘on the basis of circumstances relating to the lawyer’ before the lawyer should be effectively struck off for this matter. Could the minister give the Senate, with some definition, an explanation of what the term ‘on the basis of circumstances relating to that lawyer’ means? What is it that disqualifies a lawyer? What did the minister have in mind when he wrote that clause?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.58 pm)—I will take that question on notice for the time being and see what we can get for Senator Brown in relation to that. I am not so sure that it is prescribed as such but, as to the intent behind it, we will see what we can find on that and get back to him. In the meantime, if there is another question, we can deal with that and hopefully have the answer for this question at the conclusion of that one.
Senator LUDWIG (Queensland) (8.59 pm)—We have heard from Minister Ellison—and it was an answer that I thought I might get from him—that there is a difference between an issuing authority and a prescribed authority. It seems relevant for the issuing authority to have the statement of facts but not so relevant for the prescribed authority to have it. It is really a handy and neat little trick.

The role of the issuing authority is clearly different to that of the prescribed authority but it is no less important to the process to ensure that there is fairness and due process. The prescribed authority—that is, the person that the minister by writing appointed a prescribed authority, who has served as a judge in one or more superior courts for a period of five years and no longer holds a commission as a judge of a superior court—should not be excluded from having that information before them. The minister may by writing appoint as an issuing authority a person who is a federal magistrate or a judge. Of course, the authorities do have differing roles but they are both significant and important in the overall process of the powers that are going to be exercised under this legislation.

The prescribed authorities are people who in the view of the minister, as in the act, play an important role, and they are appointed from a very limited class. In fact, division 3, part III, section 34B, the ASIO Act 1979 states:

(2) If the minister is of the view that there is an insufficient number of people to act as a prescribed authority under subsection (1), the minister may, by writing, appoint as a prescribed authority a person who is currently serving as a judge in a State or Territory Supreme Court or District Court (or an equivalent) and has done so for a period of at least 5 years.

Looking at their role in the proceedings, 34E states:

(1) When the person first appears before a prescribed authority for questioning under the warrant, the prescribed authority must inform the person of the following:

(a) whether the warrant authorises detention of the person by a police officer and, if it does, the period for which the warrant authorises detention of the person;
(b) what the warrant authorises the Organisation to do;
(c) the effect of section 34G—which I might come to shortly—
   (including the fact that the section creates offences);
(d) the period for which the warrant is in force;
(e) the person's right to make a complaint orally or in writing—
   to various persons, including—
   (i) to the Inspector-General of Intelligence and Security ...
might be on the warrant. The statement that is contained within the warrant might be quite limited and the prescribed authority could miss the contextual setting, the matrix of facts and circumstances that underpin the warrant, that they need to be aware of to be able to exercise their role in accordance with legislation. It would seem logical to me and of no great impost for that information to be provided.

I was hoping the minister might have tried the secrecy line. There are provisions that ensure that matters are kept secret. But the minister chose to use the line that they are a different body and therefore we can treat them differently. The parliamentary joint committee had a look at the matter and came to the conclusion that they should have the facts and information on the circumstances. It seems to me that they came to a decision which was quite sensible. They understood, as I suspect the minister also did but failed to acknowledge, that you do have to take into consideration the contextualisation of the issues to be able to fulfil your duties properly and appropriately under the legislation.

It seems to me that I can argue this point but the minister is not going to concede it. He is not going to see the proper course nor amend the legislation to accord with the proper view which the parliamentary joint committee came to and which this government should also come to. I will not take up a significant amount of the chamber’s time on this issue. I will leave that to the second amendment.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.06 pm)—I note that there has been a change in the government representation. It is a little rude of the government not to give the answer that Senator Ellison committed to giving to my submission before he left and was replaced by Senator Abetz. I would like to have that answer, thank you.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.06 pm)—If we are going to talk about rudeness I note that when I looked over, thinking whether I should answer the particular question, the honourable senator who complains of rudeness was, in fact, on the telephone and therefore I thought he was otherwise engaged and would not be able to listen to the answer. Now that he is off the telephone, we as a government of course are more than happy to oblige the honourable senator with the answer.

Senator Bob Brown interjecting—

Senator ABETZ—Senator Brown can laugh, but there is no doubt—and I am sure even the TV monitor might show—that he was on the telephone. The question that Senator Brown asked, as I am advised, is: what does it mean on the basis of circumstances relating to that lawyer in clause 34ZO(2)? I understand that was Senator Brown’s request. What I would invite him to do is to read the whole clause and then it will become apparent to him.

The heading on 34ZO is ‘Limit on contact of lawyer of choice’. Subclause (1) says:

The person (the subject) specified in a warrant ...

Subclause (2) says:

The prescribed authority may so direct only if the authority is satisfied, on the basis of circumstances relating to that lawyer, that, if the subject is permitted to contact the lawyer:

(a) a person involved in a terrorism offence may be alerted that the offence is being investigated; or
(b) a record or thing that the person may be requested in accordance with the warrant to produce may be destroyed, damaged or altered.

It is in relation to those two specific paragraphs, (a) and (b), that the circumstances relating to that particular lawyer relate. So Senator Brown’s question can be very easily answered by looking at the paragraphs (a) and (b) of subclause (2). They are the circumstances in which the prescribed authority can so direct, but they can only do so if they are satisfied. The prescribed authority, as I understand it, is any retired judge, so it is a person who has knowledge of the law and has an understanding of the onus of proof, and he or she would need to be satisfied that there was a risk in relation to the matters that I have outlined.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.10 pm)—This is going to be hard, Temporary Chair. Can’t we get Senator Ellison back?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.10 pm)—How droll! This is schoolboy debating style.

The TEMPORARY CHAIRMAN (Senator Crossin)—I think it is time to move on.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.10 pm)—Oh dear! Never mind. I will have one go. I am not going to be complicit in wasting the chamber’s time too much. Senator Abetz says that paragraphs (a) and (b)—which I read out before he came in, belatedly, to the Senate chamber—describe the circumstances relating to a lawyer which would have the lawyer prevented from seeing the client. Well, they do not describe any such circumstances at all. Paragraphs (a) and (b) indicate what it is about a lawyer that may make the lawyer suspect, but they do not give the outline of how it is that you get to a situation of being able to be convinced through some previous behaviour of the lawyer—which would need, of course, to be grounded in fact—that made them suspect under (a) and (b). I was going to ask Senator Ellison about that but I think I am snookered by his absence from the chamber. I will not press this at all with Senator Abetz. We will have to proceed without having the question answered.

I did want to ask some other questions relating to the ways in which the legislation circumscribes the minister’s power to ban organisations. Maybe Senator Abetz could tell the committee how this legislation does that.

The TEMPORARY CHAIRMAN—Senator Brown, I think the minister is asking you to repeat your question.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.13 pm)—I think I understand the question, so allow me to try to repeat it and if I misheard I am sure Senator Brown will correct me. I understand Senator Brown was asking how this legislation deals with banning particular organisations. Is that correct?

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.13 pm)—No.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.13 pm)—All right. Repeat your question. I did not hear it correctly.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.13 pm)—The committee thought that the powers of the minister were too free in banning, in deciding to prohibit certain organisations. I was wondering if the minister could tell us how this legislation meets that concern of the committee?
Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.14 pm)—Clearly, I did hear the question correctly. I used the word ‘ban’. Senator Brown, on his second attempt, substituted the word ‘prohibit’ an organisation. What is the difference? I would be interested in seeing what the Hansard said in relation to Senator Brown’s first attempt at asking the question because I am sure I distinctly heard the word ‘ban’, but I am willing to stand corrected. We will play these tactics of not wasting time, according to Senator Brown, but I am not sure what the difference between ban and prohibit an organisation is.

As I understand it, this legislation does not deal with the banning or prohibiting of organisations. That is in the Criminal Code, which is another piece of legislation. Senator Brown says, ‘It is going to be difficult,’ because I am now taking forward this legislation for the government. I can understand why it is going to be difficult for him, because he is asking about bits and pieces that do not even relate to this particular bill. So I can understand why he now has indicated his desire to raise the white flag on other matters as well.

In relation to the first point that he raised, saying that questions were not being answered, yes, the question was answered. It was answered in a way that exposed Senator Brown’s inability to read the legislation properly, so all he does is repeat the assertion as though somehow, by repeating a false assertion, all of a sudden it clothes itself in truth and gets some gravitas behind it. Mere repetition does not make an assertion a fact. What I have indicated in my previous answer remains.

Can I add—for the further edification if not of Senator Brown then at least of other senators in this place, such as Senator Marshall, who I know takes a very keen interest in this legislation—that it will have to be determined on a case-by-case basis and of course will be assisted by advice from time to time from relevant agencies such as, I would imagine, ASIO. The prescribed authority would need to satisfy itself that that information was sufficient to warrant the particular action foreshadowed in clause 34ZO being taken by the prescribed authority. So the discretion remains with the prescribed authority and the issue is very clearly and squarely directed at addressing potential security concerns.

With great respect to the honourable senator, we know that he does not support this legislation or this type of legislation. That is an important philosophical difference between us, and I accept that. I am willing to say that there is a parting of the ways—if there was ever a meeting of the ways—and that is to a certain extent irresolvable. But to come into this place and ask questions about how certain organisations might be banned or prohibited or to deliberately seek not to understand 34ZO(2) does him and the chamber no justice. Let us have the philosophical debate on whether we need to address some of the issues at stake in this legislation. I invite honourable senators to play a more constructive role in the consideration of these matters.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.18 pm)—Isn’t he just so wonderful! By the way, Senator Abetz was not here when I explained that the Greens support the legislation. He got that wrong, too. The problem with the legislation that this seeks to amend is that it strips away basic rights under Australian law, which concerns people far more learned in the law than I am—though they may not be more learned than Senator Abetz. A former Liberal Prime Minister said, of the basic laws we are dealing with here, that other countries have not found that they need these
sorts of powers and other countries have been under much greater terrorist threat and greater threat of attack than Australia. Justice Ron Merkel told the *Age*:

The move to granting ever-expanding coercive power to the executive arms of state and federal governments, to be exercised behind closed doors and without public scrutiny, carries with it grave risks to the democratic values we are trying to defend ... One must have serious concern as to whether the political hierarchy is deserving of the kind of trust and integrity that the public are entitled to expect of them in administering that power.

One of the things that have failed to happen with this legislation is the adequate protection of the rights of people taken off the streets in secrecy to be questioned by ASIO. I asked a question of Senator Ellison about the ability of ASIO to effectively deny a lawyer to somebody they are about to question through the authority that decides these matters. There is no basis of evidence as to why a lawyer should not be brought in to advise a person held under those extraordinary circumstances. It is simply left to ASIO to convince the judge that they do not trust the lawyer and therefore do not want the lawyer in there. The lawyer will not know about it. The client will not know the argument. There is no opportunity to argue that out. Moreover, while this amendment says, ‘In those circumstances the person could ask for another lawyer,’ they are not told that. They are not necessarily given that opportunity. In fact, this legislation can be used by ASIO to deny a person a lawyer no matter who they ask for—and that is that. That is a very grievous departure from the standards of behaviour the people I have just quoted would expect in the Australia they value.

There is so much more here. You can have your passport taken off you while a warrant is being considered, but if the warrant is not issued there is no provision for your passport to be given back. There are all sorts of mechanisms here for inappropriately treating Australian citizens, because they are under suspicion, without them having proper recourse under those circumstances to the usual checks and balances of the law. The reason the Greens are supporting this legislation is that it is a very weak response to a committee that said these laws, as they stood on the books, ought to be curbed. But this legislation has done very little to address the wrongs of the laws that have passed in the name of fighting terrorism but that effectively have done what terrorists would wish to see—that is, dismantle a little of the liberties and freedoms which we in our country hold so strongly as being part of the ethos of our community and which make us the envy of many people around the world.

It is fair enough to debate the matter here and to ask questions about it, and one would expect to get answers to the questions, but I know there is no answer to the question of why a lawyer should not be brought in to represent a person under these secret circumstances, out of the view of the public, the media, loved ones—anybody. It is because the intelligence agencies in these circumstances simply want to circumvent the law as we know it, and that is effectively what recent legislation has done. The government supports that; the Greens do not. I agree with Senator Abetz that there is a difference in the approach, and I maintain very strongly that before this recent legislation we had enormous powers for surveillance, interdiction, arrest, bringing to justice and putting out of action any would-be terrorist in Australia. It is curious that the Greens have such a strong position of supporting the norms of Australian delivery of law to citizens and the checks and balances that are there while the coalition has stripped some of those away, we think quite unnecessarily.
Senator Abetz (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.24 pm)—I confess to some confusion in relation to the Greens’ position on this. Not having given a speech in the second reading debate on this matter, Senator Brown now, as is his right, involves himself in the committee stage and has made negative comment after negative comment about the legislation but then says that he supports legislation which, in his words, is a grievous departure from the standards we expect, is inappropriate treatment of Australians without the usual checks and balances and is dismantling the liberty and freedoms that we enjoy in this country. With all those comments, he now tells us that he is going to support the bill. If he is going to support the bill, I invite him and all honourable senators to continue with the debate to get through this bill if there is such a degree of support, which I applaud.

Senator Bob Brown (Tasmania—Leader of the Australian Greens) (9.25 pm)—Madam Temporary Chairman, just to help you, because I know that Senator Abetz is not within that range of reach, this is amending legislation, as you know, and we are amending legislation which we absolutely oppose. What I was explaining to the chamber was that the amendments do not go anywhere near far enough. That is a position that the Greens have a right to put here in the chamber and we stand by it strongly.

Senator Abetz—It is like having a register of religious organisations.

Senator Bob Brown—Senator Abetz is saying something about a register of religious organisations. I do not see that in the legislation, but well may he ramble.

Senator Ludwig (Queensland) (9.26 pm)—Thank you, Senator Brown; that has given me an opportunity to raise a couple more matters with this bill. I sought an answer earlier to explain in more detail why the government say that the prescribed authority should not have those documents that this amendment will provide to them. One of the arguments that I guess I have been putting on behalf of the government, for the government are unwilling to engage, is secrecy. The government did not answer that one, although I could perhaps answer it myself. I think there are sufficient protections in the bill such that the prescribed authority cannot range too far in discussing what might go on in the questioning under the warrant without falling foul of the legislation. Another reason is that they might perform a task which is unrelated to the warrant, or to the factual matrix of circumstances that makes up the warrant, to be more precise. They might, in fact, provide more easily discernible tasks. Perhaps, by explanation, you can see how that could be arrived at by looking at section 34HB of the existing legislation, which says:

Anyone exercising authority under the warrant may request the prescribed authority to permit the questioning to continue for the purposes of subsection (1) or (2). The request may be made in the absence of:

(a) the person being questioned; and
(b) a legal adviser to that person ...

So they perform this task under the request of the person or persons doing the questioning. 34HB(1) says:

Anyone exercising authority under a warrant issued under section 34D must not question a person under the warrant if the person has been questioned under the warrant for a total of 8 hours ...

It might be seen that they only need the warrant and can then say, ‘Eight hours are up,’ if they have a stopwatch, and then they are required to look at that issue. 34HB(2) says:

Anyone exercising authority under a warrant issued under section 34D must not question a person under the warrant if the person has been questioned under the warrant for a total of 16 hours ...

Once more, you get a period where it might be argued—although the government has not
argued it—that they do not require the circumstances that these amendments sets out to be able to determine those things. They have a watch, so they can see when eight hours are up or when 16 hours are up. They can then consider the legislation in that light perhaps without considering the factual matrix.

But when you look at (4), I am not convinced—perhaps the government can shed light on it—whether or not they are, in the language that lawyers like to use, cutting off their nose to spite their face. It says:

The prescribed authority may permit the questioning to continue for the purposes of subsection (1) or (2)—

so it might be relatively easy to ascertain (1) or (2), as I have indicated—

but only if he or she is satisfied that:

Now here is the nub:

(a) there are reasonable grounds for believing that permitting the continuation will substantially assist the collection of intelligence that is important in relation to a terrorism offence;

Now hold that; they will have to then look at the circumstances, look at the questioning that is under way, look at the face of the warrant—not the facts and circumstances that underpin it but only the face of the warrant—and, under that scenario, they would have to conclude whether there are reasonable grounds for believing that permitting the continuation would substantially assist the collection of intelligence. In fact, what you might find is that you have left yourself short, because on the face of the warrant itself it may not be sufficient to assist the prescribed authority to come to the conclusion that there are reasonable grounds for believing, and therefore they do not allow the questioning to continue.

If the broader information, as this amendment seeks to put, is put before them and they understand the contextual setting—the questions that are being asked in that contextual setting of the facts and issues that support the warrant—then they might come to reasonable grounds. Be that as it may, it seems that you are asking the prescribed authority not just to make a decision about times and about functions in terms of what their job is but also to look a little further and to permit important issues in relation to a terrorist offence, and to make that decision. So you are now asking the prescribed authority to do more than just a perfunctory role—notwithstanding how important that is—you are now asking them to look a little deeper at what is going on in the setting. If you look at (b), it says:

(b) persons exercising authority under the warrant conducted the questioning of the person properly and without delay in the period mentioned in that subsection.

And (5) states:

(5) The prescribed authority may revoke the permission. Revocation of the permission does not affect the legality ...

So what we really have, tied up with their role, is the discretion, and they have to exercise that discretion on reasonable grounds, for believing that permitting the continuation would substantially assist the collection of intelligence. That may not be apparent from the line of questioning from the questioners. But it might be apparent if the facts and statements that underpin the warrant were available to the prescribed authority. Without that, you might be leaving yourself short—where a prescribed authority might come to the conclusion that the line of questioning is not getting anywhere. It might seem irrelevant to the warrant; it might seem irrelevant more broadly. Without that information that is currently before the issuing authority, the questioning might end, because the prescribed authority may not come on reasonable grounds for believing that it should con-
Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.34 pm)—Basically two issues have been raised by the honourable senator opposite. With respect to the first one, I understand that Senator Ellison had already given quite an extensive answer to it. I remind the honourable senator that the government does not consider it appropriate for ASIO to give the prescribed authority a copy of the full statement of facts and grounds on which the warrant is based. The prescribed authority does receive a copy of the warrant prior to questioning commencing. Combined with his or her role in overseeing questioning, this is sufficient for the prescribed authority to fulfill its role in supervising the proceedings, including determining whether the continuation of questioning is appropriate.

I indicate to Senator Ludwig that the role of the prescribed authority is not a 'perfunctory' role, as I think Senator Ludwig described it. It is a very serious and important role in that it needs to ensure that all the legislative safeguards have been met and it has to indicate to the subject the effect of the warrant and the rights et cetera. To describe it as a perfunctory role is, I think, to do the role of the prescribed authority a disservice.

Senator LUDWIG (Queensland) (9.35 pm)—That did not answer my question, though. I was referring to the role very guardedly. We can call it 'process driven'. If you had heard my speech on the second reading, and if you had been here when Senator Ellison was here, you would have understood that I have indicated that they are very important roles—both of them. I was simply trying to reduce the argument down so that you might be able to understand it, but it seems that you are stuck on words and fail to understand the argument that I am putting. I will go back to the particular points. It might seem at first blush that the role of the prescribed authority is, as you have indicated, an important role to make sure that all of those safeguards are in place and that they might be reasonably identifiable. But they relate to the operation of the legislation vis-a-vis the person being questioned, vis-a-vis the questioners, and how that proceeds. They are process matters.

What I am arguing is one step further than that. You may have an argument, Senator Abetz, that at that point the prescribed authority does not require any more than simply the warrant to undertake those duties. That would be the sensible position, except for subsection (4) under 34HB, which gives a very broad discretion. It seems that this is what you are doing and, if that is so, I am happy for you to state it. You are saying that, in respect of the prescribed authority, they will only have the warrant—and of course listening to the questions that might be asked which may in fact be a line of questioning where it is not easy to discern whether it would provide or substantially assist the collection of intelligence that is important in relation to a terrorism offence, or they only have to rely on the questioner to tell them that it is important. That will not in itself allow the prescribed authority to come to the conclusion that there are reasonable grounds for believing that permitting the continuation would substantially assist. That is an independent exercise of their ability to not only read the warrant and listen to the questioning but also understand the underpinning of that warrant—in other words, the statement of facts and issues that make up that warrant. In that way, they may be able to discern whether there are reasonable grounds. If that is not the ability you want to give to the prescribed authority, then say so and I will hold my tongue. I am simply pointing out that, if you think the prescribed authority does not
have a discretion where the facts and circumstances may assist, say that.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.39 pm)—The prescribed authority has a very broad discretion in relation to how it will inform itself on this and it can seek advice as to whether or not questioning should be continued after the eight hours. How that judgment call will be made in any particular circumstance is going to be based on the judgment call of the prescribed authority at the time. That is why we appoint these people to make those judgment calls—people who are trained judicially, who hopefully have a good judicial background. We clothe that person with the authority to make these judgment calls rather than trying to prescribe all potential circumstances in legislation. That is why we have people such as prescribed authorities to make these decisions and calls. At the end of the day, we trust the prescribed authority’s capacity to make such a judgment.

Senator LUDWIG (Queensland) (9.41 pm)—So I am right in saying that you are not going to give them the facts and circumstances to determine how they would exercise their judgment based on their experience. If that is the position, then that really ends the debate. That is what you have decided that they will not have. Bear in mind that—and this is the point I made right at the beginning—it might mean, on the information that is provided independently to the judge, who can make up their own mind about these things, that they come to the conclusion on reasonable grounds, without the statement of facts and issues, that they cannot form a view for believing that permitting the continuation would substantially assist the collection of intelligence that is important in relation to a terrorism offence. Therefore, the questioning has ended and you have lost the ability for questioning that person under that warrant.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.42 pm)—I think there is basic agreement with what Senator Ludwig was putting. As I understand it, the prescribed authority will be able to hear arguments put by ASIO as to whether the questioning should be continued. In relation to the statement of facts, as outlined by Senator Ludwig, that is in fact the government’s position.

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

The Senate divided. [9.47 pm]
(The Deputy President—Senator JJ Hogg)

Ayes………..

31

Noes………..

36

Majority………

5

AYES

Allison, L.F. 
Bishop, T.M. 
Brown, C.L. 
Carr, K.J. 
Evans, C.V. 
Hogg, J.J. 
Hutchins, S.P. 
Ludwig, J.W. 
McEwen, A. 
Milne, C. 
Murray, A.J.M. 
O’Brien, K.W.K. 
Ray, R.F. 
Stephens, U. 
Webber, R. 
Wortley, D. 

Bartlett, A.J.J. 
Brown, B.J. 
Campbell, G. * 
Crossin, P.M. 
Faulkner, J.P. 
Hurley, A. 
Kirk, L. 
Marshall, G. 
McLucas, J.E. 
Moore, C. 
Nettle, K. 
Polley, H. 
Siewert, R. 
Sterle, G. 
Wong, P. 

NOES

Abetz, E. 
Barnett, G. 
Boswell, R.L.D. 
Calvert, P.H. 
Chapman, H.G.P. 
Coonan, H.L. 
Ellison, C.M. 
Ferris, J.M. 
Fierravanti-Wells, 
Heffernan, W. 

Adams, J. 
Bernardi, C. 
Brandis, G.H. 
Campbell, I.G. 
Colbeck, R. 
Eggleston, A. 
Ferguson, A.B. 
Fielding, S. 
Fifield, M.P. 
Humphries, G.
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Johnston, D.  Joyce, B.
Kemp, C.R.  Lightfoot, P.R.
Macdonald, I.  Mason, B.J.
McGauran, J.J.  Minchin, N.H.
Nash, F.  Parry, S.
Patterson, K.C.  Payne, M.A.
Scullion, N.G.  * Troeth, J.M.
Trood, R.  Watson, J.O.W.

PAIRS
Conroy, S.M.  Vanstone, A.E.
Forshaw, M.G.  Macdonald, J.A.L.
Lundy, K.A.  Ronaldson, M.
Sherry, N.J.  Santoro, S.

* denotes teller

Question negatived.

Senator LUDWIG (Queensland) (9.51 pm)—by leave—I move the remaining amendments (5) and (6) on the opposition’s sheet in my name:

(5) Schedule 2, item 32, page 61 (line 30), omit “22 July 2016”, substitute “22 November 2011”.


I do not intend to take a long time on this debate, particularly in that I made Labor’s position clear during the second reading debate. The Parliamentary Joint Committee on ASIO, ASIS and DSD similarly provided a view that it is really untenable for this government to argue for a sunset provision of a duration which would put it really beyond the pale. It is a sunset provision where, even if you were in the Northern Hemisphere in Alaska or in the Southern Hemisphere in Antarctica, you would say they have endless summers but also endless winters. But this sunset clause is beyond the pale.

Three of the 113 submissions put to the committee argued that a sunset clause should be removed from the legislation. I think that that in truth belies what the government’s motive is in making a sunset provision of this length. Of course, for those who might not know who those three are or who could not guess, they include ASIO, the Attorney-General’s Department and the Australian Federal Police. The argument which the committee concluded in recommendation No. 19 was for a sunset clause of 22 June 2011. I will give the government an opportunity once more to reconsider that. It is a matter that the opposition feels quite strongly about and that the government should in fact pick up. I know they will not, but I will give them the opportunity to test the numbers one last time before this bill is finalised.

It is not only a matter of principle. When you look at the period that they are seeking to have imposed on this, I know where the numbers are going to lie—the government will have the numbers—but it is worth ensuring that they can marshal their forces rather than let this slide, because it is important. When you look at legislation that has come before this parliament where we have, as committees, recommended provisions for them to be reviewed, to be looked at, to be sunsetted, these are matters that committees do not suggest lightly. They consider them in detail and attach them to reports for governments to pick up. I have to say that the history of this government, although I might complain about it on a range of other matters, is that it has picked up many sunset provisions or reviews that have been recommended in the past by various committees.

But in this instance they remain obstinate. They do not want to pick up a reasonable sunset provision because, in truth, their position is one where they do not want a sunset provision at all. This puts it in that frame—the frame of 2016. If you look at the extent and nature of the powers and the secret nature of their use, scrutiny of the most rigorous kind must remain in place. It must be there, sitting on their shoulder, overseeing their work so that they know at some point
their work will come to be scrutinised. As the committee said at paragraph 6.46:

As they should not be permanent and should be scrutinised as thoroughly as possible, it is the Committee’s view that the sunset clause must remain.

The committee did acknowledge that a period of three years is brief, and that is why the committee made recommendation No. 19. But it looks like this government is not going to wear that; it looks like this government is going to remain and turn what could only be called an insensible ear to the really powerful arguments that were provided by the joint committee, which for those who are following this debate are in paragraph 6.23 of their report. But there are other bills to get through, so I will not delay this any further. I commend the amendments to the Senate.

Senator ROBERT RAY (Victoria) (9.56 pm)—Minister Ellison, in the closing of the second reading debate, indicated that it was not mandatory for a government to accept the unanimous report of a committee that contained its own members. I must say I agree with that. But on this particular occasion we made 19 recommendations, some of which the government has rejected and we have accepted their reasons for rejecting them. But I do not think any member of the joint intelligence committee has found the reasons for rejecting our 5½-year sunset clause at all convincing. We did not just say, ‘Oh well, we’ll put this recommendation in because it’ll juice up the report or something.’ We gave this considerable attention. We considered it in detail before we recommended 5½ years. I noticed that the 10 years, if we follow the normal three-year election cycle, will mean that this bill expires around the time of the federal election in 10 years time. Someone has not thought that through too well. We thought it through. We had the bill expiring halfway through a term.

Minister Ellison earlier on gave two reasons for the government rejecting this, without backing up either reason. The first is that he says it is resource intensive to have these reviews and sunset clause. How resource intensive is it? I would like that quantified. I would like to know. What expense are we going to go to to have this very, very strict and robust legislation reviewed every 5½ years? At what cost? Just remember: ASIO is growing in size from 600 to 1,800 in a three- or four-year period—a massive increase in funding. By the way, ASIO can find $320 million to build a new building in the next two years—but it cannot find $50,000 or $100,000 to devote to a review of this crucial legislation. This ‘resource intensive’ argument is absolute, arrant nonsense. It is as if they cannot chew gum and walk at the same time.

It is a responsibility of a great institution like ASIO to be able to come forth to parliamentary committees and be scrutinised and to justify their actions. Most people know that we do not cross-examine ASIO in any depth at estimates committees, that the joint intelligence committee, on behalf of the parliament, carries out these duties, usually behind closed doors. They are offered these privileges, but one of their responsibilities should be to justify themselves in front of this parliament when necessary. Every 5½ years is hardly onerous. So, when we get the ‘resource intensive’ argument run, we know it is just bilge and garbage.

Sure, triple the size of ASIO! How much is that costing? I am not opposing it. But, over a three- or four-year period, it is costing a motser. We get approval to extend the ASIO building and then suddenly, in the last budget, we scrap it: ‘Oh no, we won’t extend it. We’ll build a purpose-built $320 million building.’ Again, I can see some sense in that. But, when the resource-intensive argument is used, it is absolute nonsense.
Then there is the second reason: ‘This interferes with operational priorities.’ Well, when and where has it interfered with operational priorities? Is this meant to imply that, because the parliament scrutinises ASIO, ASIO cannot fully do its job? And, therefore, if there is a terrorist incident, oh no, guess who is guilty? We are, for reviewing their legislation every 5½ years and distracting them from their job! It is patent, absolute nonsense.

Now, it is the case that not every piece of legislation should attract a sunset clause and, at times, a sunset clause has been used as a device to get people off the hook. This is not one of those pieces of legislation. This is legislation that says citizens of this country not suspected of a crime forfeit their right to silence. Modern times demand that this power be ascribed to ASIO and the Federal Police at the moment; we do not object to that. This legislation says that you could face a five-year jail term if in fact you refuse to answer questions. It says that you could be detained for seven days and questioned for 24 hours—far more than anything that is reflected in the Criminal Code. You can do all that, but don’t be scrutinised!

Of course, a sunset clause has a salutary effect on the behaviour of the organisation it applies to. ASIO will know to continue its so-far exemplary performance in the execution of this legislation when it knows that at some stage not too far into the future—5½ years away—this legislation will cease to exist unless the parliament restores it. A 10-year sunset clause is basically nonsense. It is not unique: it is applied to other legislation and it is equally objectionable there.

The real problem here is not just that the unanimous and considered decision of a parliamentary committee has been rejected but also that the reasons for doing so are so in- ept, so unconvincing. If there were solid and reasonable grounds, we would at least consider them, as we always have in this regard—but not the reasons you came up with. Firstly, you say it is resource-intensive for poor old ASIO—sloshing with money, massi- sively increasing its staff, getting a shiny new building worth $320 million. I do not find that at all convincing. Secondly, you say it may interfere with operational priorities. What does that mean? I do not expect the minister at the table to come out and say, ‘We’ve got this or that operation going and it may interfere with that.’ What it really says is that ASIO must be a very fragile organisation if it cannot respond to one committee inquiry every 5½ years.

Senator Faulkner (New South Wales) (10.03 pm)—What is at issue here is the fact that, under the government’s proposal, this legislation will be reviewed by 22 January 2016. The provisions in division 3 of the ASIO Act will also, of course, cease operation in 2016—in fact, by 22 July 2016. There will be no effective scrutiny of these ASIO powers before that time. There will be no effective review of these ASIO powers before 2016. There will be no accountability in relation to these ASIO powers before 2016. And there will be no public transpar- ency in relation to the use of these powers before 2016.

The question that the minister at the table is unable to answer, the question that Mr Ruddock as the responsible minister is unable to answer, is: what is the justification for a 10-year sunset clause? In fact, why have a sunset clause at all? I remind the committee that the PJC itself said in relation to these powers:

… the powers should not be seen as a perma- nent part of the Australian legal landscape.

The truth is that, without review, without accountability, without transparency and
without scrutiny, that is precisely what will happen.

Some of these powers, particularly the power to detain, have not actually been subject to any review at all because they had not been used at the time of the PJC review in 2005. They had not been used. So we will go from 2005 to 2016 without any examination or review of these powers. Can anyone seriously say to this committee or to the Australian community that that is a satisfactory situation? Of course it is not. It is a Clayton’s sunset clause. It is the sunset clause you have when you do not have a sunset clause at all. It is absolutely indefensible, and the amendments that Senator Ludwig has moved on behalf of the opposition ought to be agreed to by this committee. They are moderate and they are responsible. They are a minimum in the circumstances, for a minimum amount of scrutiny of the operations of these very serious, very extensive new powers that ASIO has.

Senator BARTLETT (Queensland) (10.07 pm)—I want to put on the record the Democrats’ strong support for these amendments. I agree with virtually all that Senator Faulkner and Senator Ray have said. Perhaps the only bit on which I would differ is this. Senator Ray said that all of these very serious, very strong powers—as he rightly described them—are necessary in the current age, but of course the Democrats do not believe that these powers are necessary. That is why we did not support the initial legislation when it was passed by this Senate, although I do acknowledge the very significant improvements that were made to the historically bad, as Senator Ray described it, legislation that was initially put forward. It is a good reminder to this chamber, when considering this amendment, of the very significant value of actually looking at legislation. Even though the Democrats did not support the final product, we did support the significant improvements that were made to the initial product.

It is a reminder of what has been lost and what will continue to be lost if government senators do not think seriously about the opportunities for improvement with amendments such as these. This is a very simple but very important improvement, an improvement in the legislation itself. It is also an important mechanism to enable the government and the parliament to make necessary improvements in five or six years time rather than in 10 or 11 years time. So even though the Democrats do not support extending the existing powers, because we did not support the initial legislation—our position is consistent with regard to that—we still certainly believe that, if they are to be there, they should be reviewed sooner. Indeed I suggest that five or 5½ years is still a pretty fair distance away for such very major powers.

I imagine the committee, which Senator Ray is a member of, landed at 5½ years as some sort of middle ground—he explained the reasons in his earlier contribution. It is a reasonable position which even the most gung-ho member of the government should be able to comfortably support. It was not an ambit claim; it was not something that pushed things to the outer limit of what should be expected. It was a very moderate recommendation supported by all members of the committee. For those reasons it is particularly appealing and galling that the government rejected it for such flimsy reasons. It would be equally appalling and galling if not a single member of the coalition in the Senate acknowledged that and voted in support of this very moderate amendment.

I think it was in Senator Ludwig’s initial contribution, possibly way back in the second reading debate, where he gave examples of other sunset clauses in various types of legislation. If I remember rightly he said
there is a similar sort of sunset clause in the British legislation, which is much shorter again—a year springs to mind. I hope I am not misquoting him on that.

Senator Robert Ray—One year.

Senator BARTLETT—One year. So, as I understand it, the UK legislation, which, broadly speaking, is in most respects less hardline across the board than the Australian legislation, has a sunset clause of one year. Here we have the government trying to insist on a sunset clause of 10 years. It is a pretty significant difference for what, as all Labor speakers have said—and I expect most government speakers would acknowledge—is very hardline legislation.

Senator Abetz interjecting—

Senator BARTLETT—I take Senator Abetz’s interjection about how terrible it is that people would be ventriloquists’ dummies—

The TEMPORARY CHAIRMAN (Senator Lightfoot)—I think there should only be one person talking, and that is the speaker on his feet.

Senator BARTLETT—I would hope that government senators themselves are able to prove they are not ventriloquists’ dummies by showing some capability for reason and individual thought in relation to this amendment. They would be following the advice of their own Liberal members on the Parliamentary Joint Committee on Intelligence and Security in supporting this amendment, which is totally consistent with the extremely moderate recommendation put forward by the committee.

To reaffirm the Democrats’ support for this amendment I will make one further point. Senator Ray certainly knows—I have mentioned it a number of times—that the committee that oversees ASIO, the intelligence committee, does not have representation from the crossbenches. He has explained his view about why that is reasonable, and he has a fair point: it is in the legislation. That certainly explains why it is there but not why it is justifiably in the legislation or elsewhere. He has put forward a view, and he has a reasonable point, a defensible position, with regard to that. Nonetheless, it is appropriate to point out that it is a committee that does not have non-major-party representation.

As was pointed out, ASIO in effect cannot really be scrutinised to any great degree by any of the other committees. I have been on one or two committees where we have had ASIO before us for various matters and, really, it is not worth the bother. Basically they just sit there and say, ‘We cannot comment on that for operational reasons’. You ask 20 questions and you get that answer. It pretty much wastes everybody’s time and everyone feels frustrated and irritated. So that is the only committee that can really scrutinise ASIO in any significant way. I have to take them on faith that they do it in a significant way because we do not know as we are not on it and most of what they do when they scrutinise is behind closed doors—but I am sure they do a good job with regard to that.

Senator Faulkner—But you can read their committee reports, can’t you?

Senator BARTLETT—Yes, we can read the reports. They are usually quite well-argued reports, I might say. In fact, every one I have read has been fairly well argued, even when I have disagreed with it. Nonetheless, that does not substitute for being on the committee itself. I simply wanted to emphasise that point. I did not want to divert to having a big whinge about it but I wanted to indicate that the mechanisms for scrutiny of ASIO that are there do have significant limitations. Again, as all senators would know
from any committee they have been on, when you take evidence in camera, that in itself immediately puts a very problematic limitation on what you can do with that evidence.

This parliament has basically given ASIO that privileged position for many years. I am not suggesting that should be changed, but it is an extra reason why giving them carte blanche for a decade in relation to powers which are very extreme and without review is simply extraordinary. In my view, it is unjustified but, obviously, it is justified in the view of the majority of this place. Again, I ask government senators to recognise that even their own members on that committee recognised that and put forward a very moderate—and I think too moderate—recommendation for a shortened sunset clause of 5½ years. To reject even that shows that, once again, this government has no commitment to accountability, no commitment to transparency and no commitment to some of those fundamental building blocks of what used to be called liberalism. It is still called liberalism except in Australia, where you cannot use the word because people think you support legislation like this if you call yourself a liberal. I read from time to time that there are meant to be one or two liberals still left in the Liberal Party. This is an opportunity for them to demonstrate that.

**Senator Abetz**—More than there are democrats in the Democrats.

**Senator BARTLETT**—If there are more than four liberals in the Liberal Party, I look forward to seeing five of them or more crossing the floor and voting for this moderate amendment. It is a very serious issue. In all seriousness, these are incredibly serious and enormous powers that apply to everybody in Australia. It is a circumstance that anybody in this country can inadvertently find themselves caught up in for all sorts of unexpected reasons. It is very easy to think, ‘It is not going to apply to me because I do not get involved in dodgy activities with terrorists,’ but any of us who have bothered to look at the legislation even in the smallest degree know that any sort of association with somebody else who might have information that ASIO might want to get—even if it is just attending the same function as them—could be a trigger for somebody to be caught up by this sort of legislation, because it applies to everybody, including people who are not suspects. That sort of situation is something that needs to be scrutinised with the greatest degree of precision, and the overall examination of how those powers are used as a whole needs to be undertaken very frequently and the system must be continually assessed to see whether it is operating appropriately. I think it is a gross dereliction of duty by this government to simply put any sort of review or sunset clause out into the never-never.

I think it is a fair bet that, because of the length of time senators serve in the Senate these days, probably close to half the senators currently serving here in the Senate will not be here in 10 years time. To expect the Senate of that day, which will have very little institutional memory left of the rationale behind the putting in place of this legislation in the first place, to be considering a review is really devaluing the whole purpose of having sunset clauses, because the continuity of the people who were involved in it at the time will be lost. I doubt very much whether most of those participating in this debate will be here in 10 years time. I do not expect I will be, although I am looking forward to the people of Queensland showing good sense and giving me another term at the next election, along with Senator Moore, whom I noticed got preselected at the weekend, so there will be a few of us there.

**Senator Faulkner**—Do you want to put money on it?


Senator Robert Ray—Three to one and we will give you our preferences!

Senator Bartlett—It would be an inside bet, and we cannot have that. Even if I did get re-elected, I do not think I would go for another shot and be back here in 10 years time. It is an incredibly long period of time in a political context and in a legislative context. I do not know if it is a record for a sunset clause, but I think it probably is. I do not know if anyone has mentioned that. I could not think of many other examples where there has been a sunset clause of more than 10 years. Why would you bother? That is another fairly damning indictment of this—that is, to have what is probably the longest sunset clause ever on a piece of legislation that is probably one of the most serious ever in the restrictions it places on the freedoms of Australians. It is a very poor match in terms of historically draconian legislation and a historically long sunset clause. It is a poor situation. I urge once again that at least one coalition senator, if not more, recognise that situation and support the amendment.

Senator Robert Ray (Victoria) (10.20 pm)—Through you, Temporary Chairman: you are probably right, Senator Bartlett, that most of us will not be here. Of course, I do not mean you, Temporary Chairman Lightfoot. You may well be here then.

The TEMPORARY CHAIRMAN (Senator Lightfoot)—Thank you for that assurance, Senator Ray.

Senator Robert Ray—That is all it is. I cannot deliver anything else. In an otherwise splendid contribution from Senator Bartlett, he repeated one piece of nonsense that really has to be addressed. He indicated that someone may be at a function and may know something even though they are innocent and may be subject to one of these warrants. I have to say to you, Senator Bartlett: read the legislation. It is only when all other alternative methods of collection have been expended that these warrants kick in. What would happen in the circumstances you have described is that ASIO would come knocking on the person’s door, have a cup of tea with them and have a discussion. It is only when they suspect the information has deliberately not been divulged that a warrant would be issued. It simply does not happen that way that, just because someone has some information by being at the same function, they are suddenly subject to a warrant. You have to convince the Director-General of ASIO, the Attorney-General and the issuing authority that all other methods that could be used have been used. In those circumstances that you outlined, it certainly would not have occurred.

Senator Faulkner—That is now. It was not the case when Daryl Williams QC was the Attorney-General.

Senator Robert Ray—It was not in the original bill, you are right there, but we have traversed that ground once today. I think that is enough. You traversed it so well; what else could I say?

Senator Faulkner—I rest my case.

Senator Robert Ray—To assist the committee, my specific questions are: firstly, what resources were involved in the joint intelligence committee review by ASIO, Attorney-General’s and the Federal Police? If the ‘resource intensive’ argument is to be sustained, this committee at least deserves to know what it cost. So tell us what it cost in money, staff hours, intellectual capacity, psychic’s salary or whatever else you like. I would like to know. Secondly, with regard to the argument that it could interfere with operational priorities: has this occurred? I am not asking for the specifics, but has it occurred? Who has asked the question and who has checked whether this is not just some
bogus, silly argument put forward and that it does exist in reality?

Thirdly, why was it good enough three years ago to have a sunset clause of three years but now it is 10 years? What has changed in the three years? Was it mere opportunism and lack of principle that meant that three years ago the current government adopted three years, or is it that with a Senate majority and the hubris that follows they believe they can do whatever they like and the principles that they stood for before are no longer extant, as they say in the classics? Do they no longer exist because the government say, ‘We do not actually want a sunset clause, so we will chuck in 10 years and that is off our plate for 10 years’? I hope that is not the case. I hope the commitment to a sunset clause three years ago by the coalition government was genuinely held and was offered and accepted in negotiations on the basis that it was a sound principle. If that was the case, why does the sound principle no longer apply?

Senator Faulkner made a very valid point. We have reviewed the questioning regime. We have affirmed that we believe it is in accord with the legislation—not just the letter of the legislation but the spirit of the legislation. We have had no chance yet to assess whether the detention regime will work, and will work properly, because, fortunately, no one has been detained. But if in the next few years people have been, to say that we will only review that regime 10 years hence does not seem to be very sensible to me.

Senator Faulkner—It could be in place for 13 years.

Senator ROBERT RAY—As you say, Senator Faulkner, it would have been in place for 13 years without that aspect being reviewed. It is probably the one that has generated the most heat. The ability to detain someone who is not necessarily suspected of a crime for seven days, question them over 24 hours and almost keep them incommunicado is a pretty drastic step in the way we construct our legal system. When you look at the treatment of people suspected of serious criminal offences, you see there are far more protections than there are in this detention regime. If, for some reason, a new Director-General or a new Attorney-General were to really get the bit between their teeth and decide that the detention regime is the way to go, there would be no review or assessment for 10 years.

We do have protections. The Inspector-General of Intelligence and Security has been written into the legislation. That will be helpful, no doubt, in any of these particular processes. But, ultimately, you cannot beat parliamentary scrutiny. For all the foibles and faults of parliamentarians, for all the egotistical trips that they go on and for all the political opportunism that exists, it is still one of the safest and best methods of scrutiny. In an adversarial political system, it promotes transparency and it promotes honesty. To, if you like, delegate that away to an Inspector-General, Attorney-General or somewhere else away from the parliament is not wise. I have to say that nature abhors a vacuum. If you create a vacuum in this area then those very questions that are not asked in open committees and estimates committees will now be asked there, rather than in the more conducive and constructive area of the joint intelligence committee. That will inevitably happen because public scrutiny will be regarded as having been reduced. I think that is a major pity in these particular circumstances.

We are not here alleging abuse and misuse of powers by ASIO. We are not alleging that, but if we do not take into account the potentiality of abuse and we do not put systems in place to scrutinise it and deter it, it may well occur into the future. This sort of legislation
has created enormous ripples in our community. You can just start to detect now that people are becoming more comfortable with it, that the scare campaigns around it are starting to slide off and that people have moved their attention to other areas. It is such a pity that we are dealing with such an intractable government on this one issue, when we could see off this legislation. We accept our defeat on the last amendment. We do not agree with it but we accept it. What a pity we have to send this legislation on to the statute books with this massive weakness in it.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (10.28 pm)—I will try to be brief in indicating that the government opposes the amendments for the reasons that were outlined by the Attorney-General in the other place and by Senator Ellison in his summing-up speech. Suffice to say that Mr Ruddock, on 11 May 2006 in the other place, indicated that 10 years was chosen as a compromise—

Senator Faulkner—Between what?

Senator ABETZ—Senator Faulkner, I take your interjection. I accept that the Labor Party spoke on this with some commitment, as did Senator Bartlett. It is interesting to see that it is the Labor Party and the Democrats who are genuine about this debate and do the long hard yards in relation to these issues. Another minor party that always trumpets itself as being so very concerned about these issues once again is absent from the chamber. Having said that, I take Senator Faulkner’s interjection. The 10 years was a compromise. The agencies were of a view that there should be no sunset clause. The committee considered 5½ years as an appropriate sunset clause period.

Just to correct the record, as I understand it the UK does have a one-year sunset clause, but that is specifically and only related to the control order regime. It is the only sunset period in the UK counter-terrorism legislation. It is very limited. So the assertions being made by Senator Bartlett, egged on by Senator Faulkner, do not necessarily withstand a great degree of scrutiny. Nevertheless, I accept that the Labor Party have very strong views on this, which they expressed in the other place and also in this place. I think the UK situation is in fact more open-ended as a result.

Senator Faulkner—Our amendment applies to division 3, part III. You know that.

Senator ABETZ—I know what your amendment applies to. I am told that the one-year sunset clause only applies to the control order regime in the United Kingdom. Honourable senators would be aware that our other counter-terrorism legislation has 10-year sunset clauses. We have had debate about the 10-year sunset clauses before. I fully accept that the opposition have a strong point of view on this, but the Attorney-General and the Minister for Justice have indicated that the government strongly but respectfully disagree. As Senator Ludwig indicated, there will undoubtedly be a vote on this matter. I suggest that that vote be taken as all the relevant issues have been canvassed.

Senator Faulkner—Are you going to answer Senator Ray’s question?

Senator ABETZ—Resourcing clearly is one of the myriad of issues that are taken into account. At the end of the day it is ultimately the compromise position that, if we had gone for 5½ years, it clearly would have been against the advice of the agencies involved. Going for 10 years, we of course are still going against the advice of the agencies and against the suggestion of the parliamentary committee. That is what so often happens when a government confronted with the reality of government has to strike compro-
On this occasion, clearly the agencies and the opposition are not happy with our compromise. They would argue that no sunset clause is required, and the argument on the other hand is that the sunset clause ought to be for a shorter period of time. I can understand all the arguments and, for better or worse, the government has struck on a compromise of 10 years. That is the government’s position. I do not think the Attorney or the government will be changing their views in relation to that, given that the 10-year sunset clause regime has found its way into other parts of our counter-terrorism legislation.

**Question put:**

That the amendments *(Senator Ludwig’s)* be agreed to.

The committee divided.  

[10.38 pm]  

(The Chairman—Senator JJ Hogg)

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**AYES**  
Allison, L.F.  
Bishop, T.M.  
Brown, C.L.  
Carr, K.J.  
Crossin, P.M.  
Forshaw, M.G.  
Hurley, A.  
Kirk, L. *  
Marshall, G.  
McLucas, J.E.  
Moore, C.  
Nettle, K.  
Polley, H.  
Siewert, R.  
Stott Despoja, N.  
Wong, P.  

**NOES**  
Abetz, E.  
Barnett, G.  
Boswell, R.L.D.  
Calvert, P.H.  
Chapman, H.G.P.  
Cooman, H.L.  
Ellison, C.M.  
Ferris, J.M. *  
 Fifield, M.P. 
Humphries, G.  
Joyce, B.  
Lightfoot, P.R.  
Mason, B.J.  
Minchin, N.H.  
Parry, S.  
Payne, M.A.  
Troeth, J.M.  
Watson, J.O.W.  
Colbeck, R.  
Eggleston, A.  
Ferguson, A.B.  
Fierravanti-Wells, C.  
Heffernan, W.  
Johnston, D.  
Kemp, C.R.  
Macdonald, I.  
McGauran, J.J.J.  
Nash, F.  
Patterson, K.C.  
Scullion, N.G.  
Trood, R.  

**PAIRS**  
Evans, C.V.  
Lundy, K.A.  
Sherry, N.J.  
Stephens, U.  

* denotes teller  

**Question negatived.**

**Bill agreed to.**

**Bill reported without amendment; report adopted.**

**Third Reading**

**Senator ELLISON** (Western Australia—Minister for Justice and Customs) (10.42 pm)—I move:

That this bill be now read a third time.

**Question agreed to.**

**Bill read a third time.**

**Senator BARTLETT** (Queensland) (10.43 pm)—I seek leave to have the Democrats’ sole voice in opposition to the ASIO Legislation Amendment Bill 2006 recorded.

**Leave granted.**

**TAX LAWS AMENDMENT (PERSONAL TAX REDUCTION AND IMPROVED DEPRECIATION ARRANGEMENTS) BILL 2006**

**Second Reading**

Debate resumed.
Senator STEPHENS (New South Wales) (10.43 pm)—I rise this evening to speak on the Tax Laws Amendment (Personal Tax Reduction and Improved Depreciation Arrangements) Bill 2006. This bill gives effect to tax changes announced in the 2006-07 budget by amending the tax laws and the Medicare Levy Act 1986 to change personal income tax rates and thresholds, the low-income tax offset, the Medicare levy phase-in rate and the fringe benefits tax rate. This bill also increases deductions for the decline in value of depreciating assets under the diminishing value method and project pools.

Whilst not indicating opposition to these measures, I wish to highlight the problems in the government’s approach to taxation. Prior to the budget the case for wholesale reform of Australia’s taxation system was absolutely compelling. Our system lacks both vertical and horizontal equity, is excessively complex and no doubt is a brake on economic growth. Individual taxpayers were paying too much, ridiculous compliance burdens were killing small business, and poor interaction between individual, company and capital gains tax systems posed a serious threat to our future prosperity.

At the coalface, serious questions were being raised about the way the Australian Taxation Office deals with individual taxpayers and some small business entities. People were calling for regulations to be simplified and radically reduced, not just pruned at the edges. There is no doubt that our tax system is a cumbersome giant tripping over its own heels. Were any of those issues dealt with in this budget tax cut measure? Unfortunately not.

The first priority for the repair and redesign of the personal tax area is critical. The way that rates and thresholds are structured results in the tax burden on the average employee being unjustifiably high. The economy-wide effects of a high tax burden on labour are very significant. The first effect is the disincentive for labour market participation. The second effect is that the incentive for labour productivity growth is curtailed. Labour productivity ultimately flows through into higher wages, but if they are too highly taxed then the rewards for innovation and better workplace outcomes are weakened. The third effect is a reduction in our competitiveness. High rates tend to reduce Australia’s capacity to compete for skilled labour. This will ultimately reduce productivity and, of course, has also led to the regime this government now has in place to import labour from other countries rather than giving Australians an opportunity.

One aspect of the tax debate which is misguided is the assumption that the majority of these economic benefits will necessarily flow from tax reform at the top end of the income scale. Indeed, the combination of tax cuts and family payment systems has become a potpourri of disincentives. The burden of these disincentive traps falls most unfairly on low-income earners, especially sole parents, who are lucky to retain $1 in every $4 from a wage increase. This is the prime reason why Australia’s labour market participation rates lag behind those of our international competitors, especially the United States.

The personal tax system remains too complex. Growth in deductions is rapidly outpacing growth in revenue. How is this explained? This is further evidence that the review of aspects of the personal work related deduction system is long overdue. Tax returns are far too onerous. The government should consider a tick-the-box type of approach so that taxpayers can be freed from the complexity of the current system. Major problems also exist outside the personal tax area. The small business sector continues to face crippling compliance burdens, which eat into its capacity to innovate. Differential
rates in company, personal and capital gains tax distort economic incentives. Treatment of tax losses discourages investment in exploration and venture capital.

Tax legislation and administrative practice have been poor in recent years. At least 13 flawed tax measures were introduced into the parliament during 2005 alone. Treasury’s record in providing regulatory impact statements is notoriously bad, as the Productivity Commission has pointed out. Where explanations of new law are provided, they are not in plain English and are often inaccurately costed.

Simplification is a major challenge and cannot be properly tackled with half-baked measures. The lesson of history is that such attempts to simplify tax law tend to have the perverse effect of increasing complexity. Now that the legislation has exploded to 9,000 pages, the plan to cut 2,000 redundant pages looks a little bit less than ambitious. The government must begin a serious program of simplifying and consolidating operative provisions. Perhaps they should look to the UK system of targeted reductions in business regulation.

The ATO is performing below par. For example, the overly aggressive approach to the handling of small business tax debts is a real worry. This approach led to more than 2,000 small business bankruptcies last year alone. The tax inspector’s call for a more case-by-case approach is well justified and I support it. It may be time to look at a US-style loans guarantee program for small business.

The tax system is the primary driver of incentives in our economy. When it does not fit together neatly, harmoniously and simply, consumers and investors face increased uncertainty and high transaction costs. This is a brake on economic growth. Genuine tax reform is needed to lift workforce participation and productivity to the levels of our competitors. This will lead to increases in growth and per capita GDP. We need to realise that Australia will not bridge the gap between Australia and US GDP per capita with the current tax system.

Did the budget address these concerns? The overwhelming answer has to be no. The Treasurer does not seem to understand that there is a difference between tax cuts and tax reform. The Treasurer consistently says in public that there is no difference. Tax reform improves the efficiency of the tax system. It restores vertical and horizontal equity to the tax system. It reduces the compliance impact of the tax system. But we saw none of that in this budget, and there is none of that in the bill before the Senate this evening.

I turn to the second point I want to make—that is, how this package is funded. This takes me to the issue of forecasting. Senators may have been reading the Australian Financial Review with some interest recently because, in the Senate estimates process, Labor senators tried some teasing-out of their own to try to determine what is going on in this area of revenue forecasting. Something very strange is happening. While there was no increase in the company tax rate, for example, in the budget, the effective tax rate on companies is actually increasing. Mr Chris Richardson from Access Economics made the point that something strange is happening when company revenue is growing at 18 per cent and company profits are growing at 12 per cent.

We challenge the minister when summing up this debate to tell us the basis on which his projections of company tax revenue are made. It is pretty simple. These increases in company tax receipts are critical to funding the tax cuts, and I think it is appropriate for the Treasurer, given the uncertainty that was raised in the budget estimates period, to tell us exactly what is happening. He should tell
us specifically why it is that the budget is getting an 18 per cent increase in company tax receipts while company profits are growing by only 12 per cent. He might come in here and say: ‘This is very easy to explain. Companies, particularly mining companies, over the last year or so have been investing heavily in additional capacity to try to catch up with demand, particularly in China.’ That would explain why there would be a disparity in the figures.

But nowhere in the budget papers are we given any such explanation, so the minister, in closing the debate, should perhaps explain why it is that we have company receipts growing at 18 per cent and company profits growing at 12 per cent. As I said, if it is the result of heavier deductions which flow from the additional investment in productive capacity, we would be satisfied with that answer, but if the minister says, ‘No, that’s not what it’s all about,’ can he tell us what it is about? It is a new phenomenon, one we have not been familiar with in the past, and I think the Australian people deserve an explanation.

These revenue forecasts are so important, and of course we all know that revenue forecasting can be manipulated for political gain. Senator Watson in the Senate estimates hearings made the point that it is possible that real and meaningful wholesale tax reform might have been overlooked because of conservative revenue forecasts. Maybe it is time to learn from international practice, perhaps by taking a US-style approach and having an independent agency to do the forecasting on behalf of the government or by looking at the UK model of having, in parallel, an institute funded by the government also measuring the forecasts to keep the government of the day honest.

I wish to conclude by highlighting a little hypocrisy of the Treasurer. He was bragging to the G8 meeting that Australia leads the world in transparency of budget processes. I do not think so. The hopeless performance of Treasury in revenue forecasting is surely proof against this. Moreover, the Treasurer will not open up his forecasting assumptions and explain the enormous upgrading in estimates by over $40 billion since MYEFO in December last year. Where is the transparency in this? Poor forecasting records hamper tax reform, as it makes it impossible to construct good policy. Perhaps this explains why all we get from the Treasurer is tax breaks and not real tax reform.

**Senator MURRAY** (Western Australia) (10.54 pm)—Schedules 1 to 4 of the Tax Laws Amendment (Personal Tax Reduction and Improved Depreciation Arrangements) Bill 2006 amend the tax laws and the Medicare Levy Act 1986 to provide changes to personal income tax rates and thresholds, the low-income tax offset, the Medicare levy phase-in rate and the fringe benefits tax rate. Schedules 1 to 4 will cost $10.6 billion over four years.

Schedule 1 increases the 30 per cent tax threshold from $21,601 to $25,001. It reduces the second highest marginal tax rate from 42 per cent to 40 per cent and increases the threshold for that rate to $75,001. It reduces the highest marginal tax rate from 47 per cent to 45 per cent and increases the highest tax threshold to $150,001. Schedule 1 also makes a range of consequential amendments resulting from the reduction in the top marginal tax rate.

Schedule 2 reduces the fringe benefits tax rate from 48½ per cent to 46½ per cent from 1 April 2006. Schedule 3 amends the Income Tax Assessment Act 1936 to increase the low-income tax offset from $235 to $600 and increases the income threshold from which the tax offset begins to phase out from $21,600 to $25,000. Schedule 4 amends the Medicare Levy Act 1986 to increase the in-
come threshold that applies to taxpayers who are eligible for the senior Australians tax offset and reduces the Medicare levy phase-in rate from 20 per cent to 10 per cent.

Schedule 5 amends the Income Tax Assessment Act 1997 to increase deductions for the decline in value of depreciable assets under the diminishing value method and project pools. This schedule costs an astonishing $1.2 billion over four years.

The government changes to the personal income tax scales will take effect from 1 July 2006. These changes come on top of changes already due to take effect from 1 July passed following the announcement by the government in last year’s budget. The changes to personal income tax scales already passed in 2005 were to lift the top threshold for the 30 per cent band from $63,000 to $70,000, but that will now be $75,000. The changes to personal income tax scales already passed in 2005 were to lift the top threshold for the 42 per cent band from $95,000 to $125,000, but that will now be $150,000. And, of course, the changes to personal income tax scales now drop the top rate of 47 per cent, presently applying above $95,000, to 45 per cent applying above $150,000.

In addition, the government announced a large increase in the low-income tax offset from its present level of $235 to $600 from 1 July, and the threshold at which the offset begins to phase out will also rise, from $21,600 to $25,000.

The impacts at different income levels of the cumulative changes and tax arrangements vary. The Democrats have long advocated a tax-free threshold of $10,000, and this tax cuts package does deliver an effective $10,000 tax-free threshold. The budget papers indicate that, once the proposed low-income rebate has been taken into account, a person whose income is below $25,000 per annum has an effective tax-free amount of $10,000 per year excluding Medicare. Under the proposed Medicare levy rates, no Medicare levy is payable until a person’s income exceeds $16,772 per annum in 2006-07. A reduced rate of levy is paid until a person’s income reaches $19,332. This bill before us raises the disposable income of persons earning $10,000 by 3.8 per cent and persons earning $25,000 by 4.6 per cent.

The budget also delivers additional family tax benefits, and for that you must see other legislation that increases the real income of low- and middle-income Australians. None of this justifies an estimated 5.4 per cent increase in disposable income for those earning $125,000 and 6.5 per cent for those earning $150,000 when lower and middle-income Australians still suffer such high effective marginal tax rates.

Debate interrupted.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Order! It being 11pm, I propose the question:

That the Senate do now adjourn.

Mr Roy Edward Bullock OBE

Senator WATSON (Tasmania) (11.00 pm)—Tonight I rise to honour a man who served the Senate for most of his working life. I refer to Mr Roy Edward Bullock OBE who passed away recently. Roy Bullock was Clerk of the Senate in 1979 and 1980 prior to his retirement due to ill health, and I honestly believe that I am the only serving senator who worked with Mr Bullock in those years prior to his retirement. His retirement in 1980 ended a dedicated and long term of service to the Senate, dating back to 1946.

Roy Bullock was born in Wagga in 1916 and went on to earn an honours degree in arts from the University of Sydney and a degree in commerce from the University of Melbourne. He worked briefly on the staff of
Trinity Grammar School in Sydney in 1939 and worked with the Commonwealth Treasury between 1939 and 1946.

He began his work for the Commonwealth parliament in 1946 and married his wife of nearly 60 years, Phyllis, in 1948. Although it is sometimes an overused and misapplied description, Roy Bullock was definitely a true gentleman of the old school. Commencing his parliamentary service as Clerk of Papers and Accountant in 1946, Roy Bullock became chamber officer in 1954 when he was promoted to the position of Usher of the Black Rod. From 1965 he served as Deputy Clerk and was promoted to be the ninth Clerk of the Senate on 9 August 1979.

During his years with the Senate, Mr Bullock served on a number of delegations to the Interparliamentary Union and acted as secretary to the Senate Select Committee on the Development of Canberra, the Parliamentary Joint Committee on Foreign Affairs, and the Senate Regulations and Ordinances Committee. In 1969, he was awarded the Order of the British Empire for his service to the parliament.

When he retired due to ill health in 1980, Roy Bullock received accolades from the President at the time, Senator Sir Condor Laucke, as well as senators from government, opposition and crossbenches paying tribute to his great experience, his store of knowledge and his service to the parliament. The President, Sir Condor Laucke, paid the following tribute:

He has been a dedicated Senate Officer and has always been available and ready to advise when needed.

He went on:

The many articles that he wrote for publication in overseas parliamentary journals on the activities of the Senate and its committees are testimony to his expert knowledge and dedication. I am sure that all honourable senators join with me in the hope that time will restore his health and enable him to enjoy a long and happy retirement with his wife and family.

As indeed he did.

Other accolades followed from Senators Chaney, Button, Chipp, Young, O’Byrne, Davidson, McLaren, Georges, Collard, Harradine, Bishop from South Australia and Evans from Victoria. I note from the Hansard of that day, 26 November 1980, that note was made of the promotion of one Mr H Evans to the position of Principal Parliamentary Officer, Special Projects, so I am not the only person here who knew Roy Bullock and his work, as the current Clerk also does.

It must be remembered by younger and newer senators here tonight that Roy Bullock’s career in the parliament was served in the Old Parliament House, where regular contact between senators and those who worked in the building was very different from the current situation in this spacious and at times very impersonal building. It was a place where you got to know your colleagues and other workers much better because necessity drove us to be working much more closely than we do here, certainly in a physical sense.

Sir Condor Laucke’s wishes that Roy Bullock’s health would improve to allow him a long and happy retirement turned out to be fulfilled, as he passed away at the noble age of 89, hopefully after many opportunities to enjoy his favourite recreations of gardening and photography in this city he loved so much, Canberra. I pass on to his wife, Phyllis, and to his family my sincere condolences at their sad loss. Mr Roy Bullock was a true and faithful servant of this house, and his work will be remembered as a valued part of the history and traditions of the Senate.
Mr Michael Ferguson MP

Senator O’BRIEN (Tasmania) (11.05 pm)—I want to talk about a speech presented in the other place and some other matters tonight. On 28 March this year the member for Bass, Mr Michael Ferguson, rose during the adjournment debate and spoke about honesty in politics. In what someone described to me as his ‘boohoo’ style, Mr Ferguson moaned about an advertisement published in the Launceston Examiner. This advertisement was published on 27 March, the day most elements of the Howard government’s extreme industrial relations legislation commenced. It drew the attention of Examiner readers to Mr Ferguson’s complicity in the government’s extreme industrial relations agenda. It also detailed the pay and conditions enjoyed by Mr Ferguson as a member of parliament—pay and conditions which, it goes without saying, remain unaffected by the Work Choices legislation.

Most people who make it to parliament have got a bit of intestinal fortitude; the ability to cop criticism on the chin; skin thick enough to withstand more than glancing blows from opponents—not Mr Ferguson. The Liberal member for Bass has got skin that is about as thick as—well, use your own imagination. Like most people, I do not pay a lot of attention to what Mr Ferguson has to say, but others have drawn certain things to my attention.

For that reason I paid attention to the speech he delivered on 28 March, because it revealed a few things about Mr Ferguson that I do not think do him much credit. First, he cannot cop criticism. Mr Ferguson did not respond to the advertisement in the Examiner on 27 March by methodically rebutting it. Instead, he labelled it part of a ‘dishonest campaign’ involving ‘dishonest tactics’. He said the people of Bass were being ‘lied to’ as part of a personal ‘smear campaign’. It was an emotional and petty response that says more about Mr Ferguson than he might wish.

Second, the speech revealed that Mr Ferguson likes to avoid facts he finds inconvenient. He told the other place: ‘I am unable to tell you who wrote the ad, who paid for it or who placed it.’ Perhaps his office fax machine was low on toner that week, because the advertisement clearly displayed the Your Rights at Work campaign logo. The Your Rights at Work website, www.rightsatwork.com.au, says:

Your Rights at Work is a community campaign run by the ACTU. The campaign brings together the hundreds of thousands of hard working Australians who want to protect their rights and conditions in the face of a massive attack by the Coalition Government.

There was no mystery about the advertisement that ran in the Examiner on 27 March. Heaven help Mr Ferguson’s constituents if it is beyond his wit to identify the Your Rights at Work campaign logo when it is published in his local newspaper. In any event, I am pleased to fill him in tonight, because he will see a lot more of the logo and the campaign between now and the next federal election—I can assure him of that.

The third thing Mr Ferguson’s speech revealed is that he does not apply the same standard to himself that he asks of others. He protests about the honesty of others, he condemns their failure to tell the ‘whole truth’ and he challenges the Labor Party and the union movement to focus on moral character and honesty in our campaign to unseat him. I want to do just that in the few minutes that remain.

In the dying days of the last election campaign it was revealed that a company of which Mr Ferguson was a director was in serious breach of section 205B of the Corporations Act 2001. That section requires noti-
fication to the Australian Securities and Investments Commission of the name and address of company directors within 28 days of appointment and resignation. Section 205A of the act explicitly provides that a director may notify ASIC of a resignation. Mr Ferguson was a director of Studio 19 Imports (Australia) Pty Ltd from 8 May 2002 to 17 June 2004. ASIC was not informed of Mr Ferguson’s directorship during this period. In fact, ASIC was not notified of Mr Ferguson’s appointment and resignation until September 2004—three months after his resignation and 28 months after his appointment. According to a Mercury newspaper report on 2 October 2004, Mr Ferguson blames the company’s auditor for the breach of the Corporations Act. The auditor pointed out that it was his—that is, Mr Ferguson’s—responsibility and not theirs. Not good enough, Mr Ferguson. So much for the ‘whole truth’.

A further matter I want to raise tonight does not concern a breach of the law—at least as far as I know. It does concern a breach of trust. A biography currently published on the website of the Tasmanian Division of the Liberal Party and on Mr Ferguson’s personal website makes a claim about Mr Ferguson that I do not believe can be substantiated. The claim is:

Michael was awarded the Order of the British Empire award for community service in 2000 …

The best that can be said about this statement is that it does not bear any relationship to the truth. The Order of the British Empire is a British order of chivalry established in 1917. Many Australians have been honoured with membership of this order in various ranks. Many of those have received that honour for outstanding community service. I do not believe Mr Ferguson has received such an honour.

Australian governments agreed to cease making recommendations for British honours in 1992, the year Mr Ferguson turned 18. When he was an electorate officer for Senator Guy Barnett, and simply the Liberal candidate for Bass, Mr Ferguson made another version of his biography available to voters. This revealed what was probably the truth in this matter. It said that Mr Ferguson was the recipient of the 2001 Order of the British Empire Association award for service to the community. The year of award, as I said, does not match his current biography—but good on him nonetheless.

It is not the award I have a problem with; it is the transition of the award into what appears to be an honour Mr Ferguson has no right to claim. An award given by OBE holders is not what Mr Ferguson claims to possess today. He claims possession of an ‘Order of the British Empire award’. Obviously, when Mr Ferguson’s status was upgraded from candidate to member of parliament he thought his biography deserved an upgrade as well. But, instead of earning the honour that he implies he has, he has appropriated it.

The words ‘morality’, ‘honesty’ and ‘truthfulness’ roll off Mr Ferguson’s tongue quite well. I ask the question: are these standards demanded of others or is Mr Ferguson prepared to apply them to himself? Tonight I call on Mr Ferguson to accept responsibility for, and to explain why, his directorship of Studio 19 Imports was not notified to ASIC in compliance with the Corporations Act—an act of this parliament. I call on the Tasmanian Division of the Liberal Party to remove Mr Ferguson’s claimed honour from its website. I also call on Mr Ferguson to remove the OBE claim from his website and provide an explanation for his actions. I do believe that Mr Ferguson owes the people of Bass an apology and he also owes an apology to genuine recipients of Order of the British Empire awards.
Parliamentary Delegation to Denmark
and Sweden

Senator MURRAY (Western Australia) (11.13 pm)—In October last year I had the good fortune to be part of the Australian parliamentary delegation to Denmark and Sweden. The report of this visit was tabled in the Senate during the last parliamentary sitting on 11 May. At the outset, the report rightly notes that Australia has enjoyed good relations with these Scandinavian countries in the area of trade and tourism. However, parliamentary contacts have not progressed to the same extent. No longer is this the case. In the past two years, stronger relations between our parliaments have developed as a result of a parliamentary delegation visit from Finland and the parliamentary delegation visit to Denmark and Sweden. Later this year, the Australian parliament will host a return visit from Denmark and an Australian delegation will visit Norway.

I cannot stress enough the importance of such visits. Apart from the warm hospitality delegate members enjoy, new perspectives on key issues are gained. Certainly, more regular ministerial visits are recommended as the knowledge acquired is vital for informing policy debates in our Australian government. Take the case of industrial relations. The coalition government’s recent industrial relations changes would have been far better designed had they been informed by the labour market regulations in Denmark and Sweden. Instead, endless propaganda was trotted out about selected comparisons with the United Kingdom, the United States and New Zealand. Time and again the Democrats recommended they look also at the Scandinavian countries. Why? Because those countries are actually out-performing the UK, the US and New Zealand. They are better at creating jobs, are more productive and are wealthier than we are. The World Economic Forum’s 2005 global competitiveness rank-
executive. Parliament is funded by the government of the day. This is despite parliament’s theoretical position as the supreme arm of our system of democracy. The Western Australian commission into government warned that this financial tie blunts the capacity of parliament to perform its watchdog role over the government. Parliament must be properly equipped to fulfil its accountability responsibilities in a manner consistent with its constitutional and sovereign independence. Parliamentary financial independence is important, because a financially hamstrung parliament cannot adequately scrutinise the actions of the executive and, where the executive has acted inappropriately, it can use its financial control to hamper the parliament from exposing that activity, for instance, through limiting funds to committees.

Whilst the federal parliament has its own separate appropriation bill, the executive does maintain a tight rein over the amounts included within it. The Democrats believe that there should be a joint standing committee of both houses of the federal parliament responsible for planning the budget of the parliament and that the government should not be able to hold a majority on that committee. The government should be obliged to accept the recommendations of the committee with respect to funding, unless there are pressing reasons in the national interest that they be rejected. In that case, the government should publish full reasons as to why the budget recommendations should not be accepted. This places political constraints on the government without removing from them their ultimate powers. Where the recommendations are accepted, the government should not be politically answerable for the amounts appropriated. Parliament must be audited and fully subjected to the Auditor-General’s normal accountability measures.

Another and associated point of interest for the delegation was the strength of parliamentary committees in both Denmark and Sweden. They play a vital role in the budget approval process. Draft budgets are first considered by committees and then approved by the full legislatures. Both parliaments have unicameral systems but, instead of the executive bulldozing the parliament as a result, politicians from all parties jealously guard their independence and much of the consultation and negotiation occurs through committees. Accordingly, they assume an active role and are very influential in administrative and policy issues. Some of those Australian politicians who are exemplars of cowardly obeisance to the executive could learn a thing or two from them. Additionally, national environment objectives are regularly reviewed by committees such as the environment committee. In our meeting with the parliamentary environment committee in Sweden, we learnt how climate change is one of the major concerns, as is the protection of the Baltic Sea.

While on the subject of parliamentary matters, it was pleasing to learn that the Swedish parliament operates a child-care centre. Child-care staff are employees of the parliament, and currently around 35 members of parliament use the facility. Without doubt, such a service would be welcome here in our parliament. In Denmark, as a large percentage of women return to work after having children and as the percentage of female participation in the workforce is almost as high as males, child care is rightly given considerable attention. Significant investment is being made over four years to increase the quality of day care centres there. This includes improving the services available to disadvantaged children. I have been startled at how so many Australians view child care, like aged care, as a low-wage, low-skill occupation. It should be regarded
as a high-wage, high-skill area. Who can possibly be more important than our child or our granny?

A recent article by Catherine Fox in the Australian Financial Review on 16 May this year argues that it is time to take a look at the Swedish model. If only we would. Instead, we seem to continually defer to and try to copy the United States. Fox tells of how Sweden has maternity leave and the United States does not; how Sweden allows for a six-hour working day for parents until children are eight years old and the United States does not; how parents in Sweden are allowed 60 paid days leave care for sick children and parents in the United States are not; how child care is more affordable in Sweden than in the United States and how child-care workers in Sweden are paid four times more than equivalent workers in the United States. The costs of these provisions are partly offset through payroll taxes and social security, but the Swedish economy has not been damaged by these caring policies—quite the opposite.

The upshot of all this is that these measures have, in Fox’s words:

... made a significant difference to the fertility rate, women’s participation in paid work and overall economic productivity.

We have much to learn from the family friendly provisions and public subsidies Sweden offers. They make for more happy workers, more harmonious workplaces and higher productivity. In some areas the Swedes have much more to boast about than Australians. They have at least nine companies that are genuine world multinationals; we have none. Their research and development programs, scientific endeavours and higher education commitment are astonishing. And there is nowhere more competitively engaged with world trade. They are a high-wage, high-skill, high-standard, caring country that we can learn from.

There are many contrasts I could pick on, but our miserable new unfair and un-Australian Work Choices act is indicative of a mean and nasty general sense of negative ideology that is not mirrored in the Swedish system. The Democrats have consistently urged this government to be more rigorous when making overseas comparisons. After this parliamentary delegation visit I am even more convinced that the policies of the Scandinavian countries should not be ignored and that some of them should certainly be copied.

Black Hawk Accident: 10th Anniversary
Mater Misericordiae Hospital Townsville
Queensland Health System

Senator IAN MACDONALD (Queensland) (11.23 pm)—Tonight, the Tuesday immediately following the Queen’s Birthday weekend, is the 10th anniversary of two events, one of fairly great significance to our nation and the other not quite so important except to those who were directly involved. The first event is the crash of the Black Hawk helicopters outside Townsville this night 10 years ago, when a number of Australia’s finest serving men lost their lives. Those men gave their lives working for Australia. Some of their relatives and close associates, I understand, have not been dealt with quite as well as perhaps we have come to expect of our government. I hope that is addressed at some time in the future. Those men certainly died on active service in the defence of their country.

Not all that long before, I had in an interview with 60 Minutes, as I recall, criticised the then Labor government for their poor maintenance of those Black Hawk helicopters. Work was done on them in the months immediately following the Howard government’s election to power in early 1996. I am not quite sure what the military inquiry eventually determined—whether it was a problem
with the helicopters or a problem with the
two helicopters travelling very closely to-
gether. However, it was a great catastrophi
e and very sad. It is an event which is remem-
bered in Townsville. There is a memorial to
the Black Hawk helicopter crash, to those
who died and those who survived, at the
Palmetum in Townsville. I think it is impor-
tant that we pause on this 10th anniversary
and recognise the sacrifice of those men.

The other event that happened 10 years
ago was of importance only, as I say, to those
directly involved. That was the night before
my heart operation in the Mater Miseri-
cordiae Hospital in Townsville. I had had a
leaking valve in my heart for most of my
life. The doctors determined, last Friday 10
years ago, that it very quickly needed to be
operated on and they inserted an artificial
valve. That operation happened 10 years ago
tomorrow. I mention that to record the great
care I was given not only by my doctors, Dr
David Thoreau, the cardiologist, and Dr
Tony Xabregas, the surgeon, but also by the
staff at the Mater hospital who looked after
me so very well for that six-week period, I
think it was, in my life immediately follow-
ing the heart operation.

The Mater hospital in Townsville is a
great hospital. The medical staff who work
there have been of a consistently high stan-
dard over a great number of years. My stay
at the Mater hospital in Townsville 10 years
ago was my only ever experience of a hospi-
tal. I was particularly impressed—and I think
this applies to nursing staff throughout Aus-
tralia—with the quality of the staff, their
care, their ability, the way they dealt with all
of their patients and the way they made those
of us who had had rather major surgery, such
as myself, feel so much better and made it so
much easier to recover.

That leads me to the point I really wanted
to make tonight about nursing and the health
system in Queensland. I think it is now leg-
end that the health system in Queensland has
suffered horribly under the mismanagement
of Mr Beattie’s Labor government. Books
will be able to be written about how Mr
Beattie and his succession of health ministers
have criminally mismanaged the whole
health system in the state of Queensland to
bring what was once a very great system prac-
tically to its knees. I suspect what Mr
Beattie did, as Labor governments normally
do, was use all the money that should have
been put into medical and hospital resources
to build up the public service, bureaucrats,
pen pushers, clerks and sinecures for Labor
people who could not get a job anywhere
else, and as a result the whole system
cranked down to the disastrous state it is in
now.

In an attempt to get nursing staff back into
the hospitals in Queensland, the Queensland
government has offered a wage increase to
those nurses of 25.3 per cent compounding,
covering the period October 2005 to 2009. In
order to maintain required staff levels at an
absolute minimum, private hospitals in
Queensland will now have to match those
huge wage increases. To keep people in and
to get nursing staff back into the public hos-
pital system, because nursing staff like medi-
cal staff had left the Queensland hospital
system in droves and gone elsewhere—
overseas, interstate and into the private sec-
tor—this enormous wage increase has been
offered to nurses. Quite clearly, that will at-
tract people back into the Queensland hospi-
tal system. But what will it do to the many
private hospitals, such as the Mater hospital,
which was so good to me 10 years ago?
Forty-six per cent of total hospital separa-
tions in Queensland are accounted for
through private hospitals. To maintain their
nursing staff, those private hospitals will
have to increase their salaries commensurate
with what the Queensland government has
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offered. Hospital systems in other states will quickly feel the drain into Queensland if those sorts of wage increases are not matched by the states. In Victoria, for example, you can bet your last dollar that very soon the Victorian government will be forced to offer that sort of increase in wages to maintain the nurses in that state.

My point is that the private hospitals in Queensland, particularly those in rural and regional Queensland, are going to find it very difficult to match those wage increases given the way their finances are currently set up. Most of them are funded through the private system. The private health funds—the Medical Benefits Fund, Medibank Private, HCF and so on—all have their budgets. They work out the premiums and what they have to allocate to various areas to make their bottom lines pay. Of course, they cannot overnight suddenly increase the payments to the private hospitals, because they simply would go broke themselves. The private hospitals in Queensland are caught in the situation where they will have to match the huge wage increases being paid by the Queensland government if they are to maintain their services. Mind you, if they do not do that and they have to shut down a lot of their wards in the private hospital system, it will mean that more and more people will go into the public hospital system, which has never been able to cope in Queensland. This situation is going nowhere and is getting worse. It is not just impacting upon the public health system in Queensland; it is also impacting on the private hospital system.

For the private hospitals to match the wage increases, they will have to look to the private health funds for increases. The private health funds cannot do it unless they get a premium increase. I think, regretfully, our government will have to start looking at some sort of a premium increase for the private health funds so the private health funds can pay the private hospitals, which will allow them to meet the huge increases in wages being offered by the Beattie government in Queensland. All this will mean that we will go nowhere: prices will go up right across the whole health system and the Queensland health system will still be no further ahead than it is. (Time expired)

National Electric Wheelchair Sports

Qantas: Wheelchair Policy

Senator McEWEN (South Australia) (11.33 pm)—I would like to bring to the Senate’s attention the efforts of a group of determined, talented and disabled South Australian sporting stars, who recently had to confront discriminatory treatment at the hands of Australia’s major airline. This year, between 17 and 22 April, the National Electric Wheelchair Sports championships were held in Western Australia. It is, I believe, the 20th year of this sporting competition—the only national competition specifically for people who have a neuromuscular disorder and who are required to use electric wheelchairs for their everyday mobility.

Sports played at the games include wheelchair hockey, balloon soccer and rugby league. The championships are a showcase for electric wheelchair sports in Australia and are a unique opportunity for people to compete on equal terms and to demonstrate their considerable skills in deftly manoeuvring wheelchairs to gain competitive advantage. All competitors in the games are assisted by the muscular dystrophy associations of Australia. It was Mr Roger Melnyk, a well-known and much-respected advocate for people with disabilities and a former executive officer of the Muscular Dystrophy Association of Victoria, who first had the idea for a national electric wheelchair sports competition.

Nowadays, most states and territories participate in the games, and the standard of
competition improves every year. In the finest tradition of Australian sport, there is great rivalry between the competing states and territories and all teams proudly wear their state colours. My own state of South Australia was represented at the 2006 games by the state team, the Scorpions, which was made up of six, mostly young, athletes and their carers and officials—a total contingent of just 13 people. In 2006 the South Australian team members were the captain, Clinton Woodman, the vice captain, Callum Rowe, and team members Ben Galvin, Tim Holman, Chris Spencer and Matthew Clarke.

As is the case for most amateur sports, securing funding for attendance at the national titles is a precarious adventure. In South Australia, the team and their supporters, friends and families worked extremely hard to raise enough money to travel to Western Australia. They spent many weekends organising and staffing sausage sizzles, selling raffle tickets and undertaking fundraising ventures and seeking corporate sponsorship. I am sure no-one begrudges the large amounts of corporate and government sponsorship provided to more high-profile sportspeople. While the nation is deservedly still basking in our Socceroos glory, we should not forget that for many Australians who want to participate in their chosen sport, it is a day-by-day proposition whether they will be able to find the money to do so.

Having raised the funding to attend the national competition, the South Australian team booked their flights to Perth through a travel agent and ensured that the Qantas group bookings office was given details of all those travelling and the dimensions and weight of the six electric wheelchairs that the athletes needed to travel with. It was assumed that, as had happened in the past when the team travelled interstate for the national games, provided sufficient information and time was given to the airline to make arrangements, there would be no problem with the team travelling together with their carers and, just as importantly, with their wheelchairs. At no stage during the initial discussions or bookings was the team made aware there would be problems. It was not until just one month before the team was due to depart Adelaide for Perth that Qantas advised it would be able to take only one electric wheelchair and one manual wheelchair per flight to Perth. In previous years, the airline had accommodated the whole team and their equipment on a single flight.

I would also bring to your attention, Mr President, that it was an important part of the whole experience for the Scorpions to fly together. Indeed, travelling together for any sporting team is an important part of preparation and competition. We are all familiar with the television footage of sporting teams of all descriptions arriving or departing from airline terminals to the welcome or farewell of the host state. In a country as big as this one, it is only by airline travel that sporting teams can participate in national sporting events. Why should disabled athletes, wheelchair-dependent men and women, not be given the same opportunity as their able-bodied counterparts?

As we now know, the reason for Qantas’s refusal to accommodate the team and their chairs on one flight arose because of a change in the airline’s wheelchair policy, following a review of its services for customers with disabilities. According to information provided by Qantas, certain wheelchairs now do not meet the cargo height restrictions of the narrow-bodied aircraft types that Qantas uses on some routes. As users of the wheelchairs advised the airline, most of the electric wheelchairs have removable backs or fold down and should be able to be accommodated as cargo. The Scorpions asked the airline why the policy had changed when, indeed, neither the wheelchairs nor the
size of the aircraft had changed. Reasons provided by the airline for the last-minute change of heart included safety issues for its staff who are required to load the wheelchairs as cargo. There is no suggestion that anybody’s workplace safety should be compromised. However, the point is that, in a country like Australia where all of us, able and disabled, rely on air transport to get around, airlines should build and fit their aircraft to accommodate wheelchairs in a way that is safe for their own staff.

In a nation where already one in five people has a disability and where an ageing population means that the number of people with a disability impeding their mobility will only increase, we seem to be going backwards in terms of providing equitable access to basic services for people with disabilities. It is not good enough to have Qantas now saying that they will be working with wheelchair manufacturers to ensure that the manufacturers are aware of the airline’s cargo restrictions, with a view to the manufacturers modifying their wheelchair design to suit the airline’s policy. Who knows what the airline’s policy will be next year? The vagaries of airline policy should not be the determinant of whether or not persons confined to wheelchairs can travel.

I am pleased to say that in the end the South Australian Scorpions did get to fly to Perth, but only by splitting the team up and taking different flights on different airlines on different days and with some additional cost to the team for accommodation. It was not a particularly satisfactory outcome. I am sure that, given the recent unflattering publicity that both Qantas and Virgin Blue have suffered as a result of their proposed or actual discriminatory treatment of disabled persons, the airlines will continue discussions with advocates and representatives of disabled Australians to ensure that all Australians are afforded equitable access to transport. I am aware that the Minister for Transport and Regional Services, Mr Truss, has been asked by the Western Australian Minister for Disability Services to speedily conclude the required five-year review of the federal government’s Disability Standards for Accessible Public Transport. I am unsure if the minister has responded to that request yet. For the sake of disabled Australians, we hope that the review will be concluded sooner rather than later and that the outcome of that review will be good news for teams which participate in sporting events for disabled Australians.

I note that, while the South Australian Scorpions did not win any of their finals, our team certainly did us proud. The newest and youngest member of the team, 11-year-old Matthew Clarke, scored goals in the hockey competition. The second youngest member of the team, Tim Holman, scored two rugby tries. Chris Spencer won the best and fairest trophy for the second year in a row. Not only did the Scorpions represent their state with enthusiasm and success, they dealt with the discrimination they faced with great dignity and refused to let their travel woes interfere with their enjoyment of the national titles and their pursuit of sporting excellence. In closing, I would like to take this opportunity to congratulate the members of the Scorpions and all the state and territory teams who competed in the 2006 National Electric Wheelchair Sports competition. We can only hope that next year’s teams will be afforded better treatment by Australia’s airlines, just as we hope that all disabled Australians are more successful in their quest to live their lives free of discrimination.

Mr Michael Ferguson MP
Queen’s Birthday Holiday

Senator BARNETT (Tasmania) (11.42 pm)—I rise tonight initially to respond to the allegations made by Senator Kerry O’Brien
in this chamber just a few moments ago during the adjournment debate, in an effort to besmirch the good reputation and credibility of the federal member for Bass, Michael Ferguson. Senator O’Brien’s effort is part of a longstanding campaign of muckraking and destabilising the future prospects for Michael Ferguson as the federal Liberal member for Bass. Senator O’Brien referred to Michael Ferguson as a person who worked on my staff. In that respect, he is correct. I know Michael Ferguson as an open, honest and honourable man. Michael Ferguson has been judged on his performance and as a former teacher, a husband, a father, a family man and a man with strong values that are recognised throughout the community. He was judged on his performance at the last federal election, where he was successful in defeating the then Labor member for Bass, Michelle O’Byrne. He will be judged likewise at the next federal election, notwithstanding the efforts by Senator O’Brien to besmirch his good reputation. Senator O’Brien has taken the view that if you throw mud then some of it will stick. For that I am most disappointed in Senator O’Brien’s efforts tonight.

Senator O’Brien said that he had called on Michael Ferguson to respond to the allegations made by him, but Mr Ferguson has not received any advice from Senator O’Brien to that effect. Senator O’Brien has done this in the chamber without notification to the other party, and I know that he has not advised Mr Ferguson of these allegations. He simply made them under parliamentary privilege, and I consider such efforts to be bordering on the scurrilous. I know that these allegations will be seen for what they are: an effort to undermine and besmirch Mr Ferguson’s good reputation as the federal member for Bass. That will be borne out in due course.

I would like to speak in support of the holding of an inquiry into the merit of replacing the Queen’s birthday holiday and the granting of honours that currently occur on that day. I believe it is time to replace the June Queen’s birthday holiday with an alternative day with more relevance to Australia’s heritage and more significance for the Australian people, especially our young people. This long weekend holiday has little relevance to the Queen’s birthday, let alone significant relevance to any Australian historical context. I also support the withdrawal of the Queen’s birthday honours tradition on this day and replacing it with a new system whereby we could announce civilian awards and the like on Australia Day in January and bravery and military awards on Anzac Day or, at least, in the week of Anzac Day.

I know my monarchist friends have dismissed this as more tom-tom noises from the republican drum. Yes, I am a republican, but in no way am I banging the republican drum. My aim is to strengthen our great institutions and traditions, such as Australia Day and Anzac Day, rather than fritter away the tradition on a day that has little relevance for Her Majesty, let alone Australians. I am sure we would all want to ensure that Australian honours were being bestowed on deserving Australians—those unsung heroes among our volunteers and others from everyday life in the outer suburbs and rural and regional areas, not just those in metropolitan elite positions of power and influence. Hence, an inquiry into all aspects of our honours system, including the decision-making process, would have great merit.

I believe everyone felt the Anzac spirit in the great mining rescue at Beaconsfield in May following the mine collapse on 25 April. The rescue brought the spirit of Anzac alive in the minds of many Australians, highlighting the characteristics of bravery and mateship. It provided an answer to questions about the mystique of Anzac Day. That is why I believe there is scope for celebrating
at least some bravery and military awards on Anzac Day or in Anzac week. Anzac Day is now so instrumental in moulding and shaping our culture and national psyche that the celebration of valour and bravery in 21st century Australia sits quite appropriately in that week.

The Queen’s birthday holiday, which we have just celebrated, is simply at the wrong time and has little meaning for Australians. This is not a protest against Her Majesty the Queen, who I believe has been a fantastic beacon and force of stability for the Commonwealth of nations and indeed the world. I had the honour of hearing her address in the Australian parliament on her recent visit, and I believe it was one of the best I have heard—a class act. It was noted during her visit that during her reign more than 10 prime ministers from both Australia and the UK have come and gone. Her Majesty’s perspective on history is supreme.

Queen Elizabeth II was actually born on 21 April 1926, which means that for almost 70 years we have celebrated her birthday on the wrong day and in the wrong month. Most people in the United Kingdom do not celebrate the Queen’s birthday with a public holiday, but we in Australia do. Why is this so? I question this attachment between Australians and the Queen’s birthday. In 1936, most states decided to proclaim a holiday in June, close to the birthday of King George V, and we have been stuck with this embarrassing anomaly of having a birthday holiday for the wrong monarch, in the wrong month and on the wrong day ever since. I have the deepest respect for Her Majesty, but my hope is to Australianise our institutions and honours system and help make them relevant in 21st century Australia.

I am also not trying to rob Australians of a public holiday. We could replace this public holiday with a holiday to celebrate the mammoth effort of the nation’s volunteers. Our volunteer numbers have doubled, from 3.2 million in 1995 to 6.3 million a decade later, yet they are underrecognised. They contribute 836 million hours each year to Australia, conservatively valued at $30 billion or $82 million a day. We could replace the June long weekend holiday with a holiday to honour our volunteers in National Volunteers Week in May, in September on National Wattle Day or on some other suitable day. Alternatively, a day could be set aside to honour those who lived in Australia prior to white settlement, Indigenous Australians. Public discussions about these ideas may give rise to other days worthy of replacing the June long weekend holiday. I would welcome feedback and hope for further debate.

My other related suggestion is moving the awarding of the Queen’s birthday honours to Australia Day or Anzac Day, so that public service and civil awards are announced on Australia Day, 26 January, with military and bravery awards announced on Anzac Day or in Anzac week. I suggest this because we have been missing superb and historic opportunities to enhance Anzac Day and Australia Day as the profound statements of Australian nationalism that they deserve to be. The solution is not overly challenging, but it does require an act of will. Why not combine the Queen’s birthday and Australia Day honours and ensure bravery awards and medals of a military nature are announced on Anzac Day? Both moves would enhance the significance of the two days.

In the case of Anzac Day, we could broaden its nature and construction to formally honour and commemorate those deserving a bravery award, the brave and meritorious service of our Defence Force personnel and veterans with the appropriate accolades. My own grandfather was a World War I veteran and, like so many other Australians,
I am immensely proud. The growing number of Australians, particularly young Australians, in Anzac Day services here, at Gallipoli and elsewhere is heartening. We can build on that. This week I have read that former Australian prime ministers Malcolm Fraser and Gough Whitlam support changes to the way the Queen’s birthday awards are administered, along with a change to the date of their announcement. That is why I support an inquiry into this issue.

An inquiry could have the terms of reference to investigate the current arrangements and identify the impediments and advantages of changing both the holiday and the arrangements for the granting of the awards. The public holiday is ultimately a matter for the state governments. Last year I wrote to each Premier seeking their views on my recommendations. Their response—without detailing private correspondence—was a reluctant agreement to the status quo but also an openness to consider the merits of change, particularly where there is community support.

What does the community think? Let us have a debate and learn. I am currently aware of some angst about the appropriateness of some of the awards and the fact that those in rural and regional Australia seem to be missing out. In addition, I would suggest the level of understanding of the honours system and the different honours awarded is very low indeed. A new education and information effort and public awareness campaign, at minimum, are required to ensure these important Australian initiatives are relevant and meaningful now and into the future.

As a final note, I ask the question: would we as a nation continue these traditions under a new monarch? I suggest the relevance and meaning in the awards and public holiday would be minimal and certainly considerably less than they are today, which is already very low. The 1995 report of the review of Australian honours and awards supported these recommendations. My desire is to enhance our comparatively young but clearly strong and unique Australian character, our traditions and our history. Australia’s history encompasses our European heritage, our Australian Indigenous culture and the brilliant tapestry and mix of migrants who have called Australia home. (Time expired)

**Workplace Relations**

**Senator WORTLEY** (South Australia) (11.53 pm)—It is just over 10 weeks since the Howard government’s extreme industrial relations laws were introduced. And, from week one, we have seen the truth of the Prime Minister’s plan exposed. In this relatively short period of time, we have seen many examples of how the new industrial agenda of this coalition government has severely impacted on the lives of working men and women. Time and time again, we see senators opposite scoff at these claims. They simply pass them off as rhetoric and point scoring. This is not about points or rhetoric. It is about what is fair and reasonable for Australian workers and their families. For those who wish to subscribe to that view, I impart to them the plight of people in South Australia who are contacting my office expressing their concern and anguish at the effects of the government’s WorkChoices legislation. They tell me about what is happening in their workplaces: about employers who have taken a fairway wood to their rights at work—just because they can.

Across the Work Choices propaganda banners featured in advertisements on our televisions and the large display ads in the newspapers, we see a red stamp that reads ‘protected by law’. We are led to believe that this slogan is aimed at workers, yet there are employers out there who take it to mean that as an employer they can do as they like. Un-
Fortunately, there are some employers—and I stress, some employers, not all—that are doing just that: doing away with rates of pay and conditions that workers had up until the introduction of the new IR legislation. Included in these are penalty rates, overtime pay, annual leave loading payments, incentive based payments and bonuses, and rest breaks. This is happening right now at workplaces in Australia, including in suburban Adelaide and in regional South Australia, because the reality is that under this government’s industrial relations laws, those employers who choose to are able to make these changes—and they are making them.

In the electorate of Hindmarsh, a 19-year-old university student receives a flat rate of $10.60 per hour even though she starts at 4.30 am. She is on an individual contract and is frightened that, if she protests, she will be sacked. That is what this government’s legislation allows—the right of an employer to sack a worker unfairly and without any real recourse. In the electorate of Adelaide, a 47-year-old man with a family to support was sacked less than 48 hours after the IR changes came into effect. That person was given no reason for his dismissal. And just over a week ago, in the electorate of Barker, a woman was sacked. The reason given to that employee of four years was that she had refused a work directive, yet she was given no prior warning. The workplace had fewer than 100 employees and, therefore, she was fair game as a result of the government’s removal of unfair dismissal rights. What is ‘protected by law’? It is not the worker.

Again, in the electorate of Hindmarsh, a young woman contacted me about having her hours significantly reduced because she chose not to sign an AWA, an Australian workplace agreement. Where is the ‘choice’ that the government showcased as part of the IR changes? There is no choice, and the reality of this is now coming to light, with the many examples of workers who are losing out that we are now learning about. In the electorate of Sturt, a young man was sacked because he needed a day off to have immediate root canal dental surgery. He needed one day for a legitimate medical reason. That young man did the right thing: he went and obtained a medical certificate, showed his boss and explained the seriousness of the situation. The day after the surgery, he was sacked. He was given no previous indicator about his performance, and until then he had not taken a sick day. Again, it was not the worker who was protected by law but the employer’s actions.

This is not some nightmare for workers from which they will wake tomorrow morning. This is happening every day in workplaces all around the country. Another reality that is beginning to hit people is their rapidly declining overtime pay. In a recent survey by the Office of the Employment Advocate an alarming statistic was uncovered. Out of 250 surveyed employers, 63 per cent said their new work agreements had no penalty rates included in them, and approximately the same number had removed leave loading—and it does not end there. There are many more workers who have been exposed to and have felt the wrath of the Work Choices legislation in recent weeks.

The situation that Spotlight employees are facing has received some attention from the press. However, I would like to expand on the situation a little and provide members of this place the opportunity to reflect on whether or not the terms of the Spotlight AWA are something that they deem to be fair and just for hardworking men and women and whether or not they would want their son or daughter, their brother or sister, being employed under this employer’s proposal. As I understand it, the Spotlight AWA removes maximum and minimum shift lengths, and does away with caps on the number of con-
secutive days, minimum breaks between shifts, rest pauses, rostered days off, incentive based payments, bonuses and annual leave loading. It also gives the workplace power to require staff to work extra hours at any time.

In addition to these reductions in pay and conditions, Spotlight has directly attacked the bottom line by not providing in the agreement a wage increase over its five-year life. So the price of a litre of milk will have risen. So too will a loaf of bread, the cost of electricity and gas, council rates, car registration, school fees and movie tickets. But what of the wages of Spotlight’s employees under these proposed AWAs? The Spotlight example, where workers can lose up to $90 per week as a result of the government’s Work Choices legislation, sends out a clear message: this government is on the side of employers and profits, regardless of the costs to working families. There is no real bargaining and no protection for established conditions.

This workplace debate is not about pitting employers against employees; it is simply about what is fair to ordinary, honest, hard-working Australian men and women. The reality is that the Howard government’s industrial relations laws are not fair and not just and Australian workers do not deserve to be treated in this way, and nor do their families. The Senate majority has enabled the Howard coalition government to introduce laws that allow employers to pay workers well below what they could previously have expected and to reduce their conditions of employment. The government has introduced laws that go some way to preventing workers from being organised in their workplace and working towards a collective goal. It has introduced laws that replace what was, in many cases, fair and reasonable with reduced rights and reduced incentives.

How many more Australian workers will have to go through the anguish that many of these workers have had to endure over recent weeks? How many more families will have to suffer under this draconian legislation? One has to ask the question: if it is not good for workers and their families, how then is it good for Australia?

Qantas: Western Australia

Senator WEBBER (Western Australia) (12.01 am)—From time to time in this place, all of us have come to boast of the uniqueness of our various states and territories. Those of us from Western Australia take particular pride in the unique contribution that we make, particularly these days the significant contribution we are making to Australia’s economy. Perhaps it is to do with the isolation that those in Western Australia, particularly those in Perth, associate with, but we do like to proudly boast, sometimes to the point of being accused of being parochial.

The Western Australian economy and those who live in Western Australia are unique in several ways, one of which is our more outward focus on the rest of the region rather than on other parts of Australia. Indeed, our economy, tourism and a lot of our population is focused on the Asian region. We often talk about the fact that it is easier for us to do business with Asia, being in the same time zone, than it is to do business with Sydney. When trying to explain to those from overseas the isolation that we face when we live in Perth, I will often use the example of Indonesia. It was interesting to note that a delegation from Indonesia was in the parliament today. I will often explain to our guests from overseas that, living in Perth, it is easier for me to get to most parts of Indonesia than it is to get to Canberra. It is easier because we are in the same time zone and because it is closer. It is also easier because of the treatment that is meted out to some of
our regional centres by the nation’s major airline, Qantas. Indeed, judging by the comments that Senator McEwen made earlier, Qantas is not having a good night tonight.

As part of my duties as a senator from Western Australia, I have cause to visit the township of Port Hedland on a regular basis—a town that I know Senator Eggleston is particularly proud of. Port Hedland is making a substantial contribution to the economic growth and development not only of the Pilbara region and Western Australia but of all of Australia. Port Hedland is not seen as a tourist destination as such, but people commuting to Port Hedland usually do so for some form of business, so airline schedules are built around the standard business day. It is easy to commute there, leaving Perth at what I regard as an unseemly hour of the morning—but then I am not a morning person—and returning on the same day.

Unfortunately, two out of the last three times that I have had cause to visit Port Hedland, I have been stranded there because Qantas have not turned up to take me home. They are never straightforward and honest with those who are stuck at the Port Hedland airport, which, I have to say, after five hours has limited attraction. It is always a delay for another hour and another hour and then you find that you are stuck there overnight. Whilst I do not in any way begrudge being in Port Hedland overnight, you probably like to get notice before 11 pm that that is what you are doing.

As I said, two out of the last three times this has happened. When I have mentioned this to the residents of Port Hedland who I deal with, they have said to me, ‘At least this time it’s happened to a politician, so someone might actually do something about it.’ I have spoken to people in the airline industry who assure me that the planes that Qantas uses to fly to Port Hedland are serviceable, if not old. I do not claim to know much about aircraft. Therefore, the problem must be maintenance—not maintenance of the aircraft as much as their expenditure on maintenance and their employment of local maintenance staff. Perhaps they are stretched to the limit, so they do not have the capacity to adjust quickly and repair.

On Tuesday last week, when I was reading the Financial Review, I was struck by a front-page article that talked about Qantas trying to do a deal with Air New Zealand where they would jointly decide what services they run between Australia and New Zealand. This has apparently prompted warnings to the competition regulator of the prospect of fewer flights and higher fares. If the experience in Western Australia is anything to go by, that is exactly what will happen. One of the reasons Qantas can treat the Port Hedland route with the cavalier approach that it does, like it does with lots of regional services, is that it is essentially a monopoly these days. With the collapse of Ansett it lost its only competitor, and Skywest, although it is doing a valiant job, does not offer the same regular service and is therefore not able to offer adequate competition.

I want to place on record my concerns about the lack of competition in the airline industry and the complete disregard with which Qantas treats its Australian customers and Australian businesses. The route to Port Hedland and Karratha and the like would be one of the most successful and profitable routes of all that Qantas has in Western Australia. I want to place on record my concern that if the way Qantas treats regional places in Western Australia is anything to go by then we have to be wary of any proposed joint venture between Qantas and Air New Zealand on this side of the country. In fact, perhaps what we need to do is look at opening up the whole show.
Cricket: Ashes Tour

Senator FAULKNER (New South Wales) (12.07 am)—Sports tourism is a massively expanding area. Cricket tourism is no exception. Spearheaded by British fans, a Barbados test match featuring England is like a home game now with at least 70 per cent of the fans attending coming from England. Whilst a real boost to local economies, sports tourism can be the cause of resentment, especially if it is regarded as being driven by the relative economic wellbeing of one country over another.

Usually, a home cricket series for Australia sees nearly all local fans being accommodated, partly owing to the size of the grounds but also to the relative geographic isolation of Australia from the rest of the world. The large number of English fans who joined us in Australia for the 2001-02 Ashes series were accommodated with relative ease. The upcoming Ashes cricket series, however, has driven an unprecedented demand for tickets both locally and internationally.

Looking to the long term, Cricket Australia wants to give preference to local fans, especially as many Australian fans were ‘duded’ in the recent Ashes tour of England. The decision to set up the Australian Cricket Family recognised the need to look after Australian fans, not just for this series but for those future series where ticket demand would not be as high.

Cricket Australia should be commended on its intentions but criticised for the incompetent way they were executed. The first problem was that Cricket Australia seriously underestimated the demand for tickets. This was exacerbated by its failure to prevent potential infiltration of the Australian Cricket Family by overseas fans. The second problem was the daily limitation on ticket purchases of eight to 10 tickets at certain venues, which of course was a godsend to scalpers. At the very least, some arrangement should have been entered into with eBay, as occurred with Melbourne Commonwealth Games tickets.

The third problem was that selling all the tickets on the one day proved to be disastrous. Incredibly, the same booking phone number was used for venues in four states. The computer system crashed; it melted down in no time at all, and having fans ringing non-stop for 12 hours was hardly the PR coup of the year. Redialling 10 times a minute meant 600 times per hour and 7,200 times in one day. So, when the chief executive officer of Cricket Australia says, as he did today, ‘Perhaps some of the systems didn’t cope as well as we would have ideally liked,’ it is certainly the understatement of the year.

Cricket Australia has apologised for the problems, but it would be better placed instituting a policy of full transparency as to where tickets were allocated—members, sponsors, corporates and tour groups, as well as the allocation to the general public. I believe there is a place for tour groups in all of this, and many Australians are themselves beneficiaries of arrangements with tour organisers. Many national sporting organisations have been criticised for problems with the distribution of tickets. Often, secrecy is one of the great causes of aggravation, so let us have total transparency. This sort of transparency is something with which cricket could take the lead. I hope some football codes would follow such an example.

The cost of tickets to the cricket has raced ahead of inflation, although general admission tickets remain more family friendly. Cricket can only survive through revenue generated by tests and one-day internationals. Cricket outside the international arena depends on those revenues, so maximising the return is justified. Equipment, grounds,
junior development, umpires, administration and so forth all need to be funded or supported.

I ask whether it is possible in Australia to enact antiscalping legislation or regulations that are workable. The English experience on this is hardly inspiring. Before the Lords test last year, the going rate for scalped tickets was at least 10 times the face value of the ticket, so the incentive for scalpers to weasel their way around any such rules cannot be underestimated.

In all the hullabaloo about the recent issue of Ashes cricket tickets, I am yet to see any firm evidence that the system was massively infiltrated by overseas fans. I remain unconvinced by the odd anecdote, a newspaper reference here and there or something mentioned on talkback radio. It may be true, but the hard evidence just is not in. Overseas fans got buried in the same morass as local fans. As such, though perhaps inadvertently, Cricket Australia probably did manage to maximise the participation of Australian fans.

It is unlikely that such a high demand for cricket tickets will reoccur in the near future but, when it does, Cricket Australia should take advice from the experts—that is, the rock concert promoters, the major football code administrators and major event organisers. Once the cricket ticket fiasco is solved, the challenge for Cricket Australia as well as for the state cricket associations and for the ground administrators will be to ensure that cricket fans inside the ground are looked after. This involves issues like providing comfortable seats, good and affordable catering, decent ground announcements and ground administrators treating cricket fans with respect rather than indifference. All these things can improve, and I sincerely hope that Cricket Australia will do all it can to make that happen for those Australians who love nothing more than a day at the cricket.

Howard Government: Ministerial Staff

Senator ROBERT RAY (Victoria) (12.16 am)—I seek leave to speak for 20 minutes.

Leave granted.

Senator ROBERT RAY—One of the things I have followed over the life of the coalition government is the way that it staffs its ministerial offices. I well remember noting at the time of the election of the coalition government the fanfare around their announcement that they were taking less ministerial staff than the previous government. This immediately made me suspicious, and I have consistently checked the figures.

On 30 September 1996, government staff numbers, which were given as evidence at estimates committees, were 281 in all. They are now at a staggering 444.6, which is an increase of 163.6 staff. DLOs, or departmental liaison officers, have jumped to a record 71. That is 12 above standard allocation. The salaries and on-costs of DLOs alone go beyond $7 million. The salaries and on-costs of ministerial staffers are difficult to calculate. My best guesstimate is at least $45 million, making a $52 million payroll overall.

Apart from this massive and uncontrolled increase in staff, the second trend is that ministerial staffing has become very top heavy. People are being moved out of the more junior positions and into more senior positions, thus increasing the cost massively. What do we have now? We have five principal advisers, a staggering 79 senior advisers, 34 media advisers, 127 advisers, 92 assistant advisers, 58 office managers and 42 secretary-administrative assistants. I note those 42, as they come from the one area in the life of this government to decline—that is, the very bottom pay scale. In addition to this massive, top-heavy staff, we now have 36 staffers on the government side with personal classifica-
tions, 35 of whom are being paid above their normal classification into a new classification, and one poor soul—who I will never try to identify—is being paid below what they should be paid in a lower classification.

A unique category has also been created of special adviser, which is something that has never existed before. Again, it is paid at a much higher rate than a normal adviser would be paid at. As well as this, we now discover that there are 11 ministerial staffers being paid outside the salary band. We have always had salary bands. Mr President, you would know that your electoral staff always get paid within a salary band but, no, in 11 senior cases, people are paid above the salary band. This is a band that the Prime Minister approves every year and increases every year, but 11 have already galloped above that. We have a massive staff increase, which is top heavy. We have 36 people on personal classifications, 35 of whom are above what they would normally get, and another 11 being paid above the band that would normally constrain their salary.

Let us have a look at the disparity between government and opposition staffing. In 1996, there were 281 government staff and 56 opposition staff, so the gap between the government and the opposition was 225. In 2006, you have 444 government staff and 90 opposition staff. The gap between the government and the opposition is now 354. In other words, it has gone up by a further 129 in the gap between resources allocated to government and allocated to the opposition.

What do we find at some of the more senior positions? The government has 79 senior advisers. Prior to the most recent formula, the opposition had five senior advisers. That is not a ratio of 21 per cent like staffing; that is a 15 to one government advantage. It is a staggering advantage. In other words, we get about six per cent of what the government gets.

There are 34 government media advisers. Remember, media advisers are a very well remunerated position. The opposition gets five. With regard to the government whips office, which basically has the same workload as the opposition whips office, the government have eight staff, the opposition have two staff, yet we are expected to contribute and help run this chamber on an equal basis. This is absolute nonsense. This can be rectified. I do believe that the staffing of the whips office should be excised out of the government and opposition numbers and funded and staffed separately. It would certainly make the government figures look better, but it would also bring a degree of equality into the chamber.

In addition to all this, we have the long notorious government members secretariat. We know all the equipment and services are provided by DOFA. But the staff now work for the chief whip of the House of Representatives, transferred out of ministerial control and away from scrutiny by the Senate estimates committee. This unit consists of 12 staff, mostly at a senior level. The reality is they are just an adjunct to the Liberal Party. They are just a secret campaign unit for the Liberal Party that are not responsible to this parliament, not scrutinized and never checked. They are hidden over in the House of Representatives.

In addition to that, some years ago we discovered the secret media monitoring. We wondered why an extra media adviser was sometimes allocated to junior ministers. Then we discovered in each state there was one extra media adviser and one extra staff assistant for those media advisers. When we asked Senator Hill and other ministers we got all the weasel words in the world. Then one sunny day Senator Parer breezed in as minister representing another minister. We asked him and he blurted out the whole truth. He told us that they were media monitors
and was delighted to assist. He is president of the Queensland Liberal Party prior to the merger. He was delighted to tell us about it. It was most open and most gracious of him. He blew the whistle on all his colleagues that had obstructed the inquisitive process of the estimates committee. All this of course was done by stealth. There was no public announcement. This government had previously criticised the National Media Liaison Service. So rather than just replicate it in public they did it in private. They did it behind closed doors, all funded by the taxpayer.

Then of course we have the cabinet policy unit. This was initially listed under prime ministerial staff but it is now listed separately. You might ask why. It was because, if it was listed where it should be—the Prime Minister signs their contracts—the Prime Minister would have 47.3 staff. We could not have that appearing, because it is about 10 or 12 staffers beyond what Prime Minister Keating had. Therefore these six staffers are excised out, even though they are working directly for the Prime Minister, and put in a separate category.

As implied by its title, the cabinet policy unit should deal with cabinet issues. So I ask this question: why recently have two media advisers been appointed to the cabinet policy unit? This is not a group that seeks publicity. These are two very senior media advisers at cabinet media level appointment, so they are very expensive.

Senator Faulkner—And suspicious.

Senator ROBERT RAY—And suspicious. I do not know what they do. It may have an innocent outcome; it may not. But I would like to know why they have suddenly appointed, after 10 years, two senior media advisers.

Then we come to probably one of the more interesting changes of late. That is what I call the Boswell rort. In July last year the Prime Minister approved a staffing establishment for Senator Boswell of 10 staff. This does not include his three electorate staff or his relief budget. Senator Boswell gets 10 extra staff. He gets one senior adviser, three advisers, five assistant advisers and one secretary. I wonder what in heaven’s name these people do. Surely they do not prepare speeches for Senator Boswell—those meandering dirges that slide uphill and downhill in this chamber. You could not find these 10 people responsible for that. Are they de facto National Party campaign workers? I do not know because there has never been an explanation. Are they working full time on Senator Boswell’s preselection? I have no idea. I do not know what they do. We deserve an explanation.

Look at the relativities. You have five Nationals in this chamber and four Democrats. The four Democrats get five assistant advisers; Senator Boswell gets five assistant advisers. The Democrats do not get a senior adviser; Senator Boswell does. The Democrats do not get an adviser; Senator Boswell gets three. The Democrats do not get a secretary; Senator Boswell does. Where is the justice and relativity there? The Greens get five assistant advisers; Senator Boswell gets five assistant advisers. The Greens do not get a senior adviser; Senator Boswell does. Senator Boswell gets three advisers; the Greens get none. Senator Boswell gets a secretary; the Greens get none. In other words, he is doubly staffed compared with the two largest minority opposition parties in this Senate.

Where is the justice in that? Why was the decision made to give the Nationals an extra 10 staff seven days after the coalition got the majority in this chamber? It does not compute. At the very time Senator Joyce is threatening to rat on this and that piece of legislation and there are rumblings from the National Party, suddenly they get these 10...
staff members. I say it is very suspicious. I do not see where the output and the justice are here. I hope those 10 staffers are not assisting the National Party to torpedo their Liberal colleagues in Queensland. I do not think that would be a very fair reward to the Prime Minister, who allocated those extra 10 staff.

Then you have the rather strange case of Mr Andrew Robb, a parliamentary secretary. I look to his staffing situation. As a parliamentary secretary he gets two DLOs, two senior advisers, three advisers, one assistant adviser, one office manager, one secretary/admin officer plus three electorate staff. That is better staffing than I had as Minister for Defence for six years with a budget of $10 billion a year. I only ever had one senior adviser and one DLO.

Why is it? My first suspicion is there is yet another secret campaign unit being set up, but the minister at least said, no, he thought the explanation was that Mr Robb was doing a minister’s job. Why not make him a minister? The contrast between the staffing of Mr Andrew Robb and that of every other parliamentary secretary is stark. There is an absolutely amazing difference in the staffing levels. If he is expected to do a ministerial job, remove one of the logs here and put him in. But do not have a parliamentary secretary being a de facto minister with such massive staffing if the explanation that the minister has given is honest.

Look at the staff costs, Mr President: well over $1 million a year on Mr Robb’s staff—a parliamentary secretary’s staff. It is unheard of. It is more staff than anyone on the opposition side has other than the Leader of the Opposition, far more than in Senator Evans’s office, and all for a parliamentary secretary. You do not get equality in politics if you fund in that particular way.

The person who has to take responsibility for these massive staff number blow-outs is the Prime Minister. I cannot understand why sole responsibility for these staff increases is left with the Prime Minister. He must approve all extra staff and their allocation. He has to approve all payments outside the band. He has to approve all new personal classifications. It is very hard for a Prime Minister to personally supervise these particular areas. But if anything goes wrong he is held responsible. Basically, we are now paying at least an extra $15 million a year for these extra staffers over and above those reported in September 1996. Between the estimates committee hearings on 13 February and 1 May we had a new government staffer appointed every five days. Is that going to continue for the next two years? That is about $1.5 million in extra staff costs, not just salaries but also the on-costs that go with them, in just that brief period.

What I find amazing is this: why does Senator Abetz get an extra 3.6 staff when he is doing exactly the same job as Senator Ian Macdonald before him? Is Senator Macdonald so intellectually superior that he did not require those staff or do the extra staff just happen to be doing some other duties in Tasmania? There is no explanation as to why Senator Abetz gets an extra 3.6 staff over and above his predecessor’s staff for doing exactly the same job. We do not know why there are two extra media advisers in the cabinet policy unit. We deserve an explanation.

I personally think that, if you pointed to any other area of government with such a massive staff blow-out with such massive costs, the Auditor-General would need to know why, and I would urge the Auditor-General to look at this particular area. I think we have to change the framework institutionally. I do not think it is good enough for
sole responsibility to lie with the Prime Minister. He could not possibly supervise this.

It has been a long while since I read Franz Kafka’s *Amerika*, but I still remember that perceptive chapter he wrote about the ever-increasing circus that just grows and grows. Having read it 30 or 40 years ago, I am now suffering from a sense of déjà vu about ministerial staff that just grows and grows. Every time I think of the government staffing situation, I think: very Kafkaesque indeed.

**Howard Government: Ministerial Staff**

**Senator IAN CAMPBELL** (Western Australia—Minister for the Environment and Heritage) (12.33 am)—I think just two points need to be made in response to Senator Ray’s comments. Firstly, clearly the staffing arrangements are incredibly transparent and allow this true, open public analysis. In response to the figures that Senator Ray mentioned, when it suits him he mentions the raw figures; when it does not suit him, he refuses to mention percentages. I took the opportunity of analysing very briefly the ratio of opposition staff to government staff back in 1996, as I recall him mentioning. The ratio shows that in 1996—which seems to be the first year of Senator Ray’s statistics—there was a 19.93, or just under 20 per cent, ratio of opposition staff to government staff—

**Senator Robert Ray**—It’s supposed to be 21.

**Senator IAN CAMPBELL**—and, based on the figures that he provided to the Senate—I am happy to be contradicted—in 2006 the ratio is now 20.32. So in fact the ratio of opposition staff to government staff has in fact increased over the past 10 years.

**Senator Robert Ray**—That’s because you apologised for understaffing us in 1996. That’s why.

**Senator IAN CAMPBELL**—By interjection, he agrees that the ratio has stayed the same. Yes, general staff numbers have increased, but I think even Senator Ray in his most partisan moment would respect the fact that there have been massive increases in the demands on the government and the opposition, and that is why the staffing has increased. At the opening of Senator Ray’s contribution to the debate tonight, he had a go at DLO salary levels.

**Senator Robert Ray**—No, I didn’t. I just said how much they cost.

**Senator IAN CAMPBELL**—He said, ‘Oh, they’ve increased; they’ve expanded by millions of dollars,’ these DLOs—these ravenous characters who have their snouts in the government trough, if you listen to Senator Ray. He had a go at DLOs. Now, those poor unfortunate people who dare to sit up at night and listen to the Senate need to understand what job DLOs do. Senator Ray understands fully what they do. He would know because he had one seconded to his office during his time as Minister for Defence, when we know the disastrous Collins class submarine project was conceived and badly managed, and a range of other absolutely disastrous defence policies were implemented. Perhaps Senator Ray could have in fact improved his performance as defence minister if he had had another DLO.

What is a DLO? A DLO is a departmental liaison officer, for those who live outside the beltway. These are people who come out of the department, so they are departmental officers working for the Australian Public Service. I suspect they have their salaries negotiated through processes generally negotiated by the Community and Public Sector Union and approved through processes that have absolutely nothing to do with the Prime Minister of Australia. They are departmental officers working for the Australian Public
Service who go through all of the selection processes that every single person who works for this Public Service goes through and get seconded to work in Parliament House in a ministerial office. What is their job? It is to prepare all of the correspondence, all of the advice, and make sure that you get a flow of information, of correspondence between the ministry, the department and the ministerial office—an absolutely vital role in government that Senator Ray and even Senator Faulkner would remember from their dim, distant past when they were ministers. Yet this bloke comes in here and attacks the departmental liaison officers and says they are getting overpaid. He walks in here and attacks DLOs who do—

Senator Robert Ray—No, I didn’t.

Senator IAN CAMPBELL—Of course you did. He walks in here and says: ‘Look, these DLOs are getting paid too much. There’s too many of them, and they get paid too much.’ He attacks the DLOs. He will not get away from it. He can walk into this place and attack them. Furthermore, he comes in and attacks DLOs and then he says, ‘We have had this blow-out in staff,’ yet I have just revealed to you by a short calculation on a calculator that in fact the allocation for the opposition has gone up under this government on a ratio basis, which is the only fair way to deal with it.

The other thing he needs to answer is: did he have the guts or abide by any normal terms of civility and advise Senator Boswell that he was going to drop a bucket on his staffing allocation before he did so tonight? Did Senator Ray do what any person should do in this place following long practice and protocol? If he is going to drop a bucket on Ron Boswell, did he do the decent thing, the honest thing and the thing that any man would do in this place and ring Senator Boswell before he walked in here and dropped a bucket on him and Senator Boswell’s staff? The answer is no because, as usual, he is full of bluster and very good at taking people out, coming in here and attacking female members of the parliament, attacking the colour of their hair and attacking their weight, but when someone gives it back, he cannot take it.

One again, we have got another example of Senator Ray going over the top attacking people under parliamentary privilege, attacking staff and attacking members of the Australian Public Service. He should be ashamed of himself.

The PRESIDENT—Order! I have pleasure in saying that the Senate stands adjourned until today.

Senate adjourned at 12.40 am

DOCUMENTS
Tabling

The following government documents were tabled:

Human Rights and Equal Opportunity Commission—Report—No. 32—Report of an inquiry into a complaint made on behalf of federal prisoners detained in New South Wales correctional centres that their human
rights were breached by the decision to ban distribution of the magazine ‘Framed’.


Migration Act 1958—Reports for the period 1 November 2005 to 28 February 2006—
   Section 91Y—Protection visa processing taking more than 90 days.
   Section 440A—Conduct of Refugee Review Tribunal (RRT) reviews not completed within 90 days.


Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]

Aged Care Act—User Rights Amendment Principles 2006 (No. 1) [F2006L01469]*.

Agricultural and Veterinary Chemical Products (Collection of Levy) Act—Select Legislative Instrument 2006 No. 106—Agricultural and Veterinary Chemical Products (Collection of Levy) Amendment Regulations 2006 (No. 1) [F2006L01711]*.

Agricultural and Veterinary Chemicals (Administration) Act—Select Legislative Instrument 2006 No. 89—Agricultural and Veterinary Chemicals (Administration) Amendment Regulations 2006 (No. 1) [F2006L01437]*.

Air Services Act—Air Services Regulations—Instruments Nos—
   AERU-06-017—Flight Information Regions
   [F2006L01622]*.
   AERU-06-018—Flight Information Areas
   [F2006L01638]*.
   AERU-06-019—Class A Airspace
   [F2006L01639]*.
   AERU-06-020—Class C Airspace
   [F2006L01640]*.
   AERU-06-021—Class C Control Zones
   [F2006L01641]*.
   AERU-06-022—Class D Airspace
   [F2006L01642]*.
   AERU-06-023—Class D Control Zones
   [F2006L01643]*.
   AERU-06-024—Class E Airspace
   [F2006L01644]*.
   AERU-06-025—Class G Airspace
   [F2006L01645]*.
   AERU-06-026—General Aviation Aerodrome Procedures (GAAP) Control Zones [F2006L01646]*.
   AERU-06-030—Controlled Aerodromes [F2006L01647]*.

Appropriation Act (No. 1) 2004-2005—Determination to Reduce Appropriation Upon Request—Determination No. 5 of 2005-2006 [F2006L01720]*.

Appropriation Act (No. 1) 2005-2006—Advances to the Finance Minister—Determinations Nos—
   13 of 2005-2006 [F2006L01706]*.
14 of 2005-2006 [F2006L01696]*.
Determination to Reduce Appropriation
Upon Request—Determination No. 6 of
2005-2006 [F2006L01723]*.

Appropriation Act (No. 1) 2005-2006
and
Appropriation Act (No. 2) 2005-2006—
Determination to Reduce Appropriation
Upon Request—Determination No. 4 of
2005-2006 [F2006L01722]*.

Appropriation Act (No. 2) 2005-2006—
Advance to the Finance Minister—
Determination No. 12 of 2005-2006
[F2006L01682]*.

AusLink (National Land Transport) Act—
Variation of AusLink Roads to Recovery
List Instrument No. 2006/1
[F2006L01556]*.

Australian Bureau of Statistics Act—
Proposal No. 4 of 2006—Retail and
Wholesale Industries Survey.

Australian Crime Commission Act—Select
Legislative Instrument 2006 No. 114—
Australian Crime Commission Amendment
Regulations 2006 (No. 2)
[F2006L01692]*.

Australian National University Act—
Discipline Statute 2005—Discipline
Rules (No. 2) 2006 [F2006L01774]*.
Fees Statute 2006 [F2006L01770]*.

Programs and Awards Statute 2006—
Honorary Degrees Rules 2006
[F2006L01780]*.

Australian Prudential Regulation Authority
Act—

Australian Prudential Regulation Authority
(Confidentiality) Determination No. 7 of 2006—Information provided
by locally-incorporated banks and foreign
ADIs under Reporting Standard
ARS 320.0 (2005) [F2006L01571]*.

Australian Prudential Regulation Authority
Instrument Fixing Charges No. 2 of 2006—Models-based capital ade-
quacy requirements for ADIs: 2005-06
[F2006L01620]*.

Australian Securities and Investments
Commission Act—Select Legislative In-
strument 2006 No. 101—Australian Secu-
rities and Investments Commission
Amendment Regulations 2006 (No. 1)
[F2006L01443]*.

Aviation Transport Security Act—Select
Legislative Instrument 2006 No. 100—
Aviation Transport Security Amendment
Regulations 2006 (No. 3)
[F2006L01457]*.

Banking Act—Banking (Prudential Stan-
dard) Determinations Nos—

3 of 2006—Prudential standard APS
110—Capital Adequacy
[F2006L01708]*.

4 of 2006—Prudential standard APS
111—Capital Adequacy: Measurement
of Capital [F2006L01709]*.

5 of 2006—Prudential standard APS
112—Capital Adequacy: Credit Risk
[F2006L01710]*.

6 of 2006—Prudential standard APS
120—Funds Management and Securiti-
sation [F2006L01712]*.

7 of 2006—Prudential standard APS
220—Credit Quality [F2006L01713]*.

8 of 2006—Prudential standard APS
221—Large Exposures
[F2006L01714]*.

Banking Act and Financial Sector Reform
(Amendments and Transitional Provisions)
Regulation—Banking (Prudential Stan-
dard) Determination No. 2 of 2006—
Prudential Standard APS 510 Governance;
Prudential Standard APS 310 Audit & Re-
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Census and Statistics Act—Proclamation appointing Census day for 2006 [F2006L01731]*.
Cheques Act—Select Legislative Instrument 2006 No. 125—Cheques Amendment Regulations 2006 (No. 1) [F2006L01655]*.
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Civil Aviation Order 40.2.1 Amendment Order (No. 2) 2006 [F2006L01562]*.
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Civil Aviation Order 95.12.1 Amendment Order (No. 4) 2006 [F2006L01633]*.
Civil Aviation Order 95.32 Amendment Order (No. 1) 2006 [F2006L01634]*.
Civil Aviation Order 95.54 Amendment Order (No. 1) 2006 [F2006L01635]*.
Civil Aviation Order 95.55 Amendment Order (No. 1) 2006 [F2006L01636]*.

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CASA EX17/06—Exemption—powered weight shift controlled aircraft [F2006L01547]*.
CASA EX19/06—Exemption—carriage of life rafts [F2006L01561]*.
CASA EX20/06—Exemption—take-off with residual traces of frost and ice [F2006L01577]*.
CASA EX23/06—Exemption—refuelling with passengers on board [F2006L01657]*.

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AD/AT/27 Amdt 1—Wing Lower Spar Cap [F2006L01675]*.
AD/B727/203—Mid-Cabin Galley Doorway Upper and Lower Hinge Cutouts [F2006L01674]*.
AD/B737/31—Fuselage—Longitudinal Lap Joint Lower Skin at Left and Right Stringer 14 [F2006L01672]*.
AD/B737/281 Amdt 1—Fuselage Stringer 14 Lap Joint at Body Station 727 [F2006L01671]*.
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AD/B747/294 Amdt 1—Horizontal Stabiliser Outboard
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AD/B767/222—Station 1725.5 Area Cracking [F2006L01666]*.  
AD/B767/223—Electrical Bonding—Engine Fuel Feed Tube [F2006L01694]*.  
AD/DAUPHIN/85—CPT 609 Crash Position Transmitter Beacon Antenna [F2006L01588]*.  
AD/DHC-8/120—Power Transfer Unit Overspeed [F2006L01566]*.  
AD/DHC-8/121—Landing Gear Alternate Release Handles [F2006L01690]*.  
AD/DHC-8/122—Engine Exhaust Shroud V-band Coupling [F2006L01688]*.  
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AD/DO 328/63—Wing—Rib 21 Fuel Leaks [F2006L01687]*.  
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AD/CF34/11—Lufthansa A.E.R.O.—Undertorqued LP Turbine Rotors [F2006L01693]*.  
AD/CFM56/9 Amdt 1—HPTR Fan Disk Inspection [F2006L01691]*.  
AD/LYC/116—ECi Connecting Rods [F2006L01606]*.  
AD/MAKILA/8—Engine & Fuel Control—Engine Control Unit [F2006L01680]*.  
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AD/AIRCON/14—Zonal Drying System Regeneration Air Duct Overheat [F2006L01550]*.  
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[CO 06/267] [F2006L01613]*.


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ASA 210—Terms of Audit Engagements [F2006L01364]*.

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ASA 230—Audit Documentation [F2006L01366]*.


ASA 260—Communication of Audit Matters with Those Charged with Governance [F2006L01370]*.

ASA 300—Planning an Audit of a Financial Report [F2006L01371]*.

ASA 315—Understanding the Entity and Its Environment and Assessing the Risks of Material Misstatement [F2006L01372]*.

ASA 320—Materiality and Audit Adjustments [F2006L01375]*.

ASA 330—the Auditor’s Procedures in Response to Assessed Risks [F2006L01378]*.

ASA 402—Audit Considerations Relating to Entities Using Service Organisations [F2006L01379]*.

ASA 500—Audit Evidence [F2006L01380]*.

ASA 501—Existence and Valuation of Inventory [F2006L01381]*.

ASA 505—External Confirmations [F2006L01382]*.

ASA 508—Enquiry Regarding Litigation and Claims [F2006L01384]*.

ASA 510—Initial Engagements—Opening Balances [F2006L01385]*.

ASA 520—Analytical Procedures [F2006L01387]*.

ASA 530—Audit Sampling and Other Means of Testing [F2006L01389]*.

ASA 540—Audit of Accounting Estimates [F2006L01390]*.

ASA 545—Auditing Fair Value Measurements and Disclosures [F2006L01395]*.

ASA 550—Related Parties [F2006L01394]*.

ASA 560—Subsequent Events [F2006L01396]*.

ASA 570—Going Concern [F2006L01397]*.

ASA 580—Management Representations [F2006L01398]*.

ASA 600—Using the Work of Another Auditor [F2006L01399]*.

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CEO Instruments of Approval Nos—
1 of 2006 [F2006L01589]*.
2 of 2006 [F2006L01599]*.
3 of 2006 [F2006L01602]*.
4 of 2006 [F2006L01603]*.
5 of 2006 [F2006L01605]*.
6 of 2006 [F2006L01607]*.

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0602954 [F2006L01471]*.
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0603531 [F2006L01744]*.
0603533 [F2006L01494]*.
0603539 [F2006L01495]*.
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0603544 [F2006L01472]*.
0603547 [F2006L01473]*.
0603566 [F2006L01419]*.
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0604258 [F2006L01477]*.
0604319 [F2006L01479]*.
0604320 [F2006L01529]*.
0604321 [F2006L01499]*.
0604322 [F2006L01698]*.
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0604622 [F2006L01581]*.
0604623 [F2006L01531]*.
0604624 [F2006L01536]*.
0604625 [F2006L01600]*.
0604626 [F2006L01535]*.
0604649 [F2006L01501]*.
0604650 [F2006L01503]*.
0604651 [F2006L01504]*.
0604657 [F2006L01480]*.
0604678 [F2006L01527]*.
0604679 [F2006L01719]*.
Tariff Concession Revocation Instruments—

0604919 [F2006L01750]∗.
0605047 [F2006L01699]∗.
0605154 [F2006L01736]∗.
0605340 [F2006L01739]∗.
0605441 [F2006L01701]∗.


Defence Act—Determinations under sections—

58B—Defence Determinations—
2006/21—Overseas conditions of service—post indexes.
2006/22—Parental leave and vehicle allowance.

58H—Defence Force Remuneration Tribunal Determinations Nos—
2 of 2006—Army Reserve Light Cavalry Scout.
3 of 2006—Remuneration Reform Project—Officer and Warrant Officer Salaries.
5 of 2006—Army Reserve Light Cavalry Scout—Salary Non-Reduction.
6 of 2006—Multimedia Technician Trade.


Diplomatic Privileges and Immunities Act—Diplomatic Privileges and Immunities (Indirect Tax Concession Scheme) Amendment Determination 2006 (No. 1) [F2006L01524]∗.

Environment Protection and Biodiversity Conservation Act—

Amendments of lists of—

Exempt native specimens, dated—


Export Control Act—Export Control (Orders) Regulations—
Export Control (Fish and Fish Products) Amendment Orders 2006 (No. 1) [F2006L01747]*.
Export Control (Meat and Meat Products) Amendment Orders 2006 (No. 1) [F2006L01737]*.
Export Control (Milk and Milk Products) Amendment Orders 2006 (No. 1) [F2006L01745]*.


Financial Management and Accountability Act—
Financial Management and Accountability Determinations—
2006/01—Royal Australian Mint and Coinage Account Variation and Abolition 2006 [F2006L01468]*.
2006/02—Minting and Coinage Special Account Establishment 2006 [F2006L01487]*.
2006/03—Other Trust Moneys—Federal Magistrates Court Special Account Establishment 2006 [F2006L01502]*.
2006/04—Other Trust Moneys—CrimTrac Agency Special Account Establishment 2006 [F2006L01506]*.
2006/05—Other Trust Moneys—Australian Sports Anti-Doping Authority Special Account Establishment 2006 [F2006L01513]*.
2006/06—CrimTrac Account Variation and Abolition 2006 [F2006L01488]*.

2006/07—National Policing Information Systems and Services Special Account Establishment 2006 [F2006L01509]*.
2006/08—Regional Telecommunications Infrastructure Account Abolition 2006 [F2006L01511]*.
2006/10—Australia New Zealand Land Information Special Account Variation 2006 [F2006L01514]*.
2006/11—Christmas Island Phosphate Mining Rehabilitation Special Account Establishment 2006 [F2006L01789]*.
2006/12—Other Trust Moneys—Future Fund Management Agency Special Account Establishment 2006 [F2006L01734]*.


Fisheries Management Act—
Heard Island and McDonald Islands Fishery Management Plan 2002—Heard Island and McDonald Islands Fishery Management Plan Amendment 2006 (No. 1) [F2006L01608]*.
Northern Prawn Fishery Management Plan 1995—NPF Direction No. 95—First Season Closures [F2006L01560]*.
Select Legislative Instrument 2006 No. 91—Fisheries Management (Southern Squid Jig Fishery) Regulations 2006 [F2006L00237]*.
Food Standards Australia New Zealand Act—Australia New Zealand Food Standards Code—Amendment No. 86—2006 [F2006L01578]*.
Health Insurance Act—Health Insurance (Accredited Pathology Laboratories—Approval) Amendment Principles 2006 (No. 2) [F2006L01721]*.

Higher Education Support Act—
Higher Education Provider Approval (No. 5 of 2006)—Billy Blue College Pty Limited [F2006L01520]*.

Other Grants Guidelines—Amendment No. 7 [F2006L01548]*.


Judiciary Act—Select Legislative Instrument 2006 No. 105—High Court Amendment Rules 2006 (No. 1) [F2006L01555]*.


Migration Act—
Instruments—

Migration Agents Regulations—
MARA Notices—
MN19-06b of 2006—Migration Agents (Continuing Professional Development—Private Study of Audio, Video or Written Material) [F2006L01518]*.

MARA Notices—
MN19-06c of 2006—Migration Agents (Continuing Professional Development—Attendance at a Seminar, Workshop, Conference or Lecture) [F2006L01519]*.

MARA Notices—
MN 19-06f of 2006—Migration Agents (Continuing Professional Development—Miscellaneous Activities) [F2006L01516]*.

Prescribed Course Notice, dated 11 May 2006 [F2006L01552]*.

Prescribed Exam Notice, dated 31 May 2006 [F2006L01707]*.

Migration Regulations—Instrument IMMI 06/018—Post Office Box and Courier Addresses for Certain Visa Applications [F2006L01637]*.

Select Legislative Instrument 2006 No. 123—Migration Amendment Regulations 2006 (No. 2) [F2006L01648]*.

Motor Vehicle Standards Act—
Vehicle Standard (Australian Design Rule 2/00—Side Door Latches and Hinges) 2006 [F2006L01318]*.
Vehicle Standard (Australian Design Rule 2/01—Side Door Latches and Hinges) 2006 [F2006L01362]*.
Vehicle Standard (Australian Design Rule 18/03—Instrumentation) 2006 [F2006L01392]*.
Vehicle Standard (Australian Design Rule 21/00—Instrument Panel) 2006 [F2006L01786]*.
Vehicle Standard (Australian Design Rule 22/00—Head Restraints) 2006 [F2006L01410]*.
Vehicle Standard (Australian Design Rule 22/00—Head Restraints) 2006 Amendment 1 [F2006L01414]*.
Vehicle Standard (Australian Design Rule 29/00—Side Door Strength) 2006 [F2006L01429]*.
Vehicle Standard (Australian Design Rule 30/01—Smoke Emission Control for Diesel Vehicles) 2006 [F2006L01280]*.
Vehicle Standard (Australian Design Rule 44/02—Specific Purpose Vehicle Requirements) 2006 [F2006L01431]*.
Vehicle Standard (Australian Design Rule 45/01—Lighting and Lighting Devices not Covered by ECE Regulations) 2006 [F2006L01433]*.
Vehicle Standard (Australian Design Rule 47/00—Retroreflectors) 2006 [F2006L01440]*.
Vehicle Standard (Australian Design Rule 48/00—Devices for Illumination of Rear Registration Plates) 2006 [F2006L01442]*.
Vehicle Standard (Australian Design Rule 49/00—Omnibus Rollover Strength) 2006 [F2006L01451]*.
Vehicle Standard (Australian Design Rule 68/00—Occupant Protection in Buses) 2006 [F2006L01454]*.

National Health Act—
Determination No. PB 24 of 2006 [F2006L01619]*.
Private Patients' Hospital Charter, dated 14 April 2006 [F2006L01224]*.
Select Legislative Instrument 2006 No. 121—National Health (Pharmaceutical Benefits) Amendment Regulations 2006 (No. 1) [F2006L01614]*.

Navigation Act—Marine Orders Nos—
1 of 2006—Equipment—Life-saving [F2006L01762]*.
2 of 2006—Additional safety measures for bulk carriers [F2006L01660]*.
3 of 2006—Liquefied gas carriers and chemical tankers [F2006L01659]*.
4 of 2006—Radio equipment [F2006L01662]*.
5 of 2006—Safety of navigation and emergency procedures [F2006L01765]*.

Occupational Health and Safety (Commonwealth Employment) Act—
Occupational Health and Safety (Definition of Employee) Notice 2006 (2) [F2006L01490]*.
Parliamentary Entitlements Act—
Parliamentary Entitlements Regulations—Advice of decision to pay assistance under Part 3, dated 29 March 2006.

Primary Industries (Customs) Charges Act—Select Legislative Instruments 2006 Nos—
107—Primary Industries (Customs) Charges Amendment Regulations 2006 (No. 2) [F2006L01575]*.
108—Primary Industries (Customs) Charges Amendment Regulations 2006 (No. 3) [F2006L01569]*.
Primary Industries (Excise) Levies Act—
Select Legislative Instruments 2006 Nos—
109—Primary Industries (Excise) Levies Amendment Regulations 2006 (No. 1) [F2006L01567]*.
110—Primary Industries (Excise) Levies Amendment Regulations 2006 (No. 2) [F2006L01574]*.
Primary Industries Levies and Charges Collection Act—Select Legislative Instruments 2006 Nos—

111—Primary Industries Levies and Charges Collection Amendment Regulations 2006 (No. 2) [F2006L01570]*.
112—Primary Industries Levies and Charges Collection Amendment Regulations 2006 (No. 3) [F2006L01591]*.
113—Primary Industries Levies and Charges (National Residue Survey Levies) Amendment Regulations 2006 (No. 2) [F2006L01593]*.

Product Rulings—
Addenda—
PR 2006/3 and PR 2006/23.
Notices of Withdrawal—
PR 2005/22.
PR 2006/47.

Quarantine Act—
Quarantine Amendment Proclamation 2006 (No. 3) [F2006L01293]*.
Quarantine (Christmas Island) Amendment Proclamation 2006 (No. 1) [F2006L01295]*.
Quarantine (Cocos Islands) Amendment Proclamation 2006 (No. 1) [F2006L01296]*.

Radiocommunications Act—
Radiocommunications (Foreign Space Objects) Amendment Determination 2006 (No. 1) [F2006L01629]*.
Radiocommunications (Prohibited Devices) (AFP testing of mobile telephone jamming devices) Exemption Determination 2006 [F2006L01517]*.

Remuneration Tribunal Act—
Determinations—
2006/03: Remuneration and Allowances for Holders of Public Office [F2006L01484]*.
2006/04: Remuneration and Allowances for Holders of Public Office [F2006L01485]*.
2006/05: Specific Statutory Officers—Remuneration and Allowances [F2006L01611]*.
2006/06: Remuneration and Allowances for Holders of Full-time Public Office [F2006L01612]*.
2006/07: Remuneration and Allowances for Holders of Part-time Public Office [F2006L01616]*.
2006/08: Remuneration and Allowances for Members of Parliament and Holders of Public Office [F2006L01610]*.

Renewable Energy (Electricity) Act—
Select Legislative Instrument 2006 No. 120—Renewable Energy (Electricity) Amendment Regulations 2006 (No. 1) [F2006L01653]*.

Statutory Declarations Act—Select Legislative Instrument 2006 No. 97—Statutory Declarations Amendment Regulations 2006 (No. 1) [F2006L01294]*.
Stevedoring Levy (Collection) Act—
Stevedoring Levy Notice of Final Levy Month [F2006L01654]*.
Superannuation Guarantee Determination SGD 2006/1.
Sydney Airport Curfew Act—Dispensation Report 04/06 [6 dispensations].
Taxation Administration Act—Taxation Administration Act Withholding Schedules 2006 [F2006L01652]*.

Taxation Determinations—
Notice of Withdrawal—TD 93/189.
TD 2006/31-TD 2006/42.
Taxation Rulings—
Old Series—Notices of Withdrawal—IT 60, IT 121-IT 123, IT 135, IT 136, IT 182-IT 185, IT 275, IT 334, IT 2022, IT 2023, IT 2027, IT 2030, IT 2037, IT 2046, IT 2059, IT 2082, IT 2102, IT 2106, IT 2126, IT 2127, IT 2143, IT 2174, IT 2176, IT 2179, IT 2188, IT 2189, IT 2225, IT 2252, IT 2253, IT 2267, IT 2311, IT 2332, IT 2335, IT 2351, IT 2366, IT 2377, IT 2400, IT 2421, IT 2564 and IT 2628.

TR 2006/3.

Telecommunications Act—Telecommunications Numbering Plan Variation 2006 (No. 1) [F2006L01628]*.

Telecommunications (Carrier Licence Charges) Act—Telecommunications (Carrier Licence Charges) Determinations Nos—
1 of 2006 (2004-05 Financial Year) [F2006L01601]*.
2 of 2006 (2005-06 Financial Year) [F2006L01604]*.

Telecommunications (Consumer Protection and Service Standards) Act—Special Digital Data Service Provider Determination Revocation 2006 (No. 1) [F2006L01558]*.


Therapeutic Goods Act—

Select Legislative Instrument 2006 No. 122—Therapeutic Goods Amendment Regulations 2006 (No. 1) [F2006L01615]*.


Workplace Relations Act and Workplace Relations Amendment (Work Choices) Act—Select Legislative Instrument 2006 No. 118—Workplace Relations Amendment Regulations 2006 (No. 2) [F2006L01658]*.

Workplace Relations Amendment (Work Choices) Act and Public Service Act—Select Legislative Instrument 2006 No. 119—Workplace Relations Amendment (Work Choices) (Consequential Amendments) Amendment Regulations 2006 (No. 1) [F2006L01673]*.

Governor-General’s Proclamations—Commencement of Provisions of Acts


Telecommunications (Interception) Amendment Act 2006—Schedules 1 to 3—13 June 2006 [F2006L01623]*.

* Explanatory statement tabled with legislative instrument.

Indexed Lists of Files

The following document was 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—Statement of compliance—Australian Agency for International Development (AusAID).
QUESTIONs ON NOTICE

The following answers to questions were circulated:

Communications, Information Technology and the Arts: Consultants
(Question Nos 600 and 604)

Senator Chris Evans asked the Minister for Communications, Information Technology and the Arts and the Minister for the Arts and Sport, upon notice, on 4 May 2005:

(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 Coonan—The answer to the honourable senator’s questions is as follows:

The question is being answered in relation to the core Department in its current structure as at the end of June 2005. The former Departmental agency, Screensound Australia was integrated with the Australian Film Commission on 1 July 2003 and the former Departmental agency, the National Science and Technology Centre became part of the Education, Science and Training portfolio on 1 July 2003.

(1)

<table>
<thead>
<tr>
<th>Description</th>
<th>Supplier</th>
<th>Cost (ex GST)</th>
<th>Tender</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exit surveys with visitors to Old Parliament House (OPH), Aug/Sept 2000</td>
<td>Environmetrics</td>
<td>$4,764</td>
<td>Select tender</td>
</tr>
<tr>
<td>12 month report on exit surveys (OPH)</td>
<td>Environmetrics</td>
<td>$4,363 (50%)</td>
<td>Select tender</td>
</tr>
<tr>
<td>Evaluation of Dismissed exhibition (OPH)</td>
<td>Market Attitude Research Services</td>
<td>$5,090 (60%)</td>
<td>Consultancy commission 2001/2021 Select tender</td>
</tr>
<tr>
<td>OPH Graphic design evaluation</td>
<td>Market Attitude Research Services</td>
<td>$2727</td>
<td>Consultancy commission 2001/2021 Select tender</td>
</tr>
<tr>
<td>Reanalysis of 99/00 exit survey data (OPH)</td>
<td>Environmetrics</td>
<td>$2,272</td>
<td>Based on research conducted by Environmetrics in 2000/2001 Select tender</td>
</tr>
<tr>
<td>Exit surveys with visitors to OPH and the OPH café - interviewing</td>
<td>Shaaron Glynn</td>
<td>$5,073</td>
<td>Quote sought. Research carried out during development of new tender</td>
</tr>
</tbody>
</table>
Description | Supplier | Cost (ex GST) | Tender
--- | --- | --- | ---
Exit surveys with visitors to OPH and the OPH café – analysis and reporting 2003/2004 | Environmetrics | $10,001 | Quote sought. Research carried out during development of new tender
Exit surveys with visitors to OPH - interviewing | Shaaron Glynn | $3,482 | Quotes sought. Specialised expertise.
Exit surveys with visitors to OPH – analysis and reporting | Environmetrics | $7,264 | DCON/03/118 Select tender
Research into OPH TV commercial Awareness of OPH in Sydney | Marketing Attitude Research Services | $8,550 | Quotes sought.
Evaluation of OPH interpretation | Environmetrics | $17,505 | DCON/03/118 Select tender
Client Service Annual Survey 2004/2005 | Wallis Consulting Group Pty Ltd | $31,955 | Open tender process
Exit surveys with visitors to OPH – interviewing, analysis and reporting | Environmetrics | $15,197 | DCON/03/118 Select tender
Exit surveys with cafe patrons at OPH's cafe – interviewing, analysis and reporting | Shaaron Glynn | $450.53 | Not selected by tender as value less than $2,000
Open Day surveying (OPH) | Environmetrics | $690.91 | Not selected by tender as value less than $2,000
Client Service Annual Survey | Wallis Consulting Group Pty Ltd | $31,955 | Open tender process

(2) No surveys in relation to Old Parliament House were released publicly. All research was done for the purposes of internal performance reporting.

Client Service Annual Survey - The results of the Client Service Survey are reported in the Department’s Annual Report, under the Management and Accountability Chapter. The Department’s Client Service Charter can be found on the Department’s website at www.dcita.gov.au.

**Human Services: Staffing**  
(Question No. 667)

Senator Chris Evans asked the Minister representing the Minister for Human Services, upon notice, on 4 May 2005:

For each of the financial years 2000-01 to 2004-05 to date, can the following information be provided for the department and/or its agencies:
(1) What were the base and top level salaries of Australian Public Service (APS) level 1 to 6 officers and equivalent staff employed.

(2) What were the base and top level salaries of APS Executive level and Senior Executive Service officers and equivalent staff employed.

(3) Are APS officers eligible for performance or other bonuses; if so: (a) to what levels are these bonuses applied; (b) are these applied on an annual basis; (c) what conditions are placed on the qualification for these bonuses; and (d) how many bonuses were paid at each level, and what was their dollar value for the periods specified above.

(4) (a) How many senior officers have been supplied with motor vehicles; and (b) what has been the cost to date.

(5) (a) How many senior officers have been supplied with mobile phones; and (b) what has been the cost to date.

(6) How many management retreats or training programs have staff attended.

(7) How many management retreats or training programs have been held off-site.

(8) In the case of each off-site management retreat or training program: (a) where was the event held; and (b) what was the cost of: (i) accommodation, (ii) food, (iii) alcohol, (iv) transport, and (v) other costs incurred.

(9) How many official domestic trips have been undertaken by staff and what was the cost of this domestic travel, and in each case: (a) what was the destination; (b) what was the purpose of the travel; and (c) what was the cost of the travel, including a breakdown of: (i) accommodation, (ii) food, (iii) alcohol, (iv) transport, and (v) other costs incurred.

(10) How many official overseas trips have been undertaken by staff and what was the cost of this travel, and in each case: (a) what was the destination; (b) what was the purpose of the travel; and (c) what was the cost of the travel, including a breakdown of: (i) accommodation, (ii) food, (iii) alcohol, (iv) transport, and (v) other costs incurred.

(11) (a) What was the total cost of air charters used; and (b) on how many occasions was aircraft chartered, and in each case, what was the name of the charter company that provided the service and the respective costs.

Senator Kemp—The Minister for Human Services has provided the following answer to the honourable senator’s question:

Parts (1) to (3) and (6) to (10) were answered by Senator Abetz on behalf of all Ministers.

The Department of Human Services was established on 26 October 2004.

Core Department

(4) At 30 June 2005, five Senior Executive Service officers were supplied with vehicles as part of their remuneration. However, this figure was not constant throughout the period due to recruitment processes and movement in staff numbers during the period. The amount for the period from 26 October 2004 to 30 June 2005 is an average of $1,565 per person per month, or $48,515 for the period.

(5) At 30 June 2005, there were ten mobile phones issued to Senior Executive Service officers, the cost can only be provided as an average, as these phones have not been issued for the entire period, but rather for the time that the senior officers have been employed by the Core Department. The average mobile phone bill for senior officers is $177 per month.

(11) Nil.
Child Support Agency

(4) For the period 26 October 2004 to 30 June 2005, five motor vehicles were supplied to Senior Executive Service officers in the Child Support Agency at a total cost of $48,465.42.

(5) For the period 26 October 2004 to 30 June 2005, 10 mobile phones were supplied to Senior Executive Service officers in the Child Support Agency at a cost of $7923.87.

(11) Nil.

CRS Australia

(4) For the period 26 October 2004 to 30 June 2005, three Senior Executive Service officers were supplied with motor vehicles at a total cost of $22,973.

(5) For the period 26 October 2004 to 30 June 2005, 4 Senior Executive Service officers were supplied with mobile phones at a cost of $829. (This figure is based on the average phone charge across the fleet multiplied by the number of Senior Executive Services officer identified in the fleet list)

(11) Nil

Centrelink

(4) For the period 26 October 2004 to 30 June 2005, 51 motor vehicles were supplied to Senior Executive Service officers in Centrelink at a total cost of $491,176.

(5) A breakdown of the classification of Centrelink staff that have access to a mobile phone is not available as Centrelink mobile phones are allocated on the basis of accepted business need rather that the classification of staff members.

(11) (a) Data systems used by Centrelink’s outsourced Travel Service Provider report the following domestic air charter costs for Centrelink for the period 1 November 2004 to 30 June 2005. Centrelink has spent $1,821,605 on student (ABSTUDY) and staff domestic air charters for this period. Of this total, 95.7 per cent or $1,743,835 relates to domestic air charters for students living in remote localities.

(b) No information is readily available of the number of occasions an aircraft was chartered, as domestic air charter trip data is recorded by passenger name against an individual charter company and an individual trip cost. However, the names of the domestic charter companies that have provided service to Centrelink for the period 26 October 2004 to 30 June 3005:

Aerotropics
Air Ngukarr
Barrier Air Service
Big Sky Express
Domair Charter
Golden Eagle Charter
Gunbalanya Air Charter
Inland Pacific
Janami Air
Macair
Murin Air
Regional Pacific
Sharpe Aviation
Skippers
For the period 26 October 2004 to 30 June 2005, 48 Senior Executive Service officers were supplied with motor vehicles at a total cost of $403,507.

For the period 26 October 2004 to 30 June 2005, 80 Senior Executive Service or Senior Executive Service equivalent officers and 7 Commissioners have been supplied with mobile phones at a total cost of $99,888.

Nil.

As at 30 June 2005, 22 Senior Executive Service staff were provided with motor vehicles at a total cost of $196,477.

As at 30 June 2005, 69 Senior Executive Service staff were supplied with mobile phones at a total cost of $34,675.

For the period 26 October 2004 to 30 June 2005, there were 8 air charters made at a total cost $6,279.08. The following companies provided air charter services:
- Airnorth Regional
- Launceston Flying School
- MAF North Australia
- Air Ngukurr

For the period 26 October 2004 to 30 June 2005, there were 16 motor vehicles supplied to Senior executives at a total cost of $264,000.

For the period 26 October 2004 to 30 June 2005, there were 16 mobile phones supplied to Senior executives. Costs for mobile phones are not available as they are included in total billings covering mobiles and land lines.

For the period 26 October 2004 to 30 June 2005, there were 12 air charters made at a total cost of $18,480. All air charters were with Independent Aviation Ltd.

The time taken to prepare the answer to this question has taken approximately 44 hours and 50 minutes at an estimated cost of $1,984.

For each financial year from 2000-01 to 2002-03 can the following information with regards to advertising be provided:

(a) What advertising campaigns were commenced; and (b) for what programs.

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 Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) (a) and (b), (4) (a) and (b), (5) (a), (6) (a) (b) (c) and (d) See attached tables.

(2) (a) (i) to (v) and (b) The department does not have the resources to retrieve the level of detail requested in all parts of this question and has provided what is readily available in the attached tables.

(3) (a) (b) and (c) Detailed records of television stations, radio stations and newspapers, and the breakdown of costs for each, are held centrally by the Government Communications Unit (GCU), in the Department of the Prime Minister and Cabinet. The GCU manages the master media placement agency contract which is responsible for all media buying for campaign advertising.

(7) (a) and (b) No. The Minister for Finance and Administration has delegated his power to issue drawing rights under the Financial Management and Accountability Act 1997 to the Chief Executive Officer of an agency. In the case of the Department of Health and Ageing, the Chief Executive Officer has further delegated this power to officials in the department for relevant appropriations.

(8) No (see response to (7) above).

(9) No (see response to (7) above).
## QUESTIONS ON NOTICE

### Advertising campaigns in 2000-01

<table>
<thead>
<tr>
<th>(1)</th>
<th>(2)</th>
<th>(3)</th>
<th>(4)</th>
<th>(5)</th>
<th>(6)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Closing the Gap advertising campaign</td>
<td>(a) $10.856 m</td>
<td>(i) $5.700 m</td>
<td>(a) Whybin TBWA and Partners</td>
<td>(a) Nil</td>
<td>(a) In the 2000-01 Budget, $16.4 million was allocated for four years for ‘simplified billing for no or known gaps’. In 2000, the Government approved a communications strategy to promote the existence and availability of gap cover and decided to refocus the Budget allocation on the direct promotion of no or known gap cover products. The Minister for Finance and Administration approved the re-phasing of the allocation to bring forward funds allocated for expenditure in 2002-03 and 2003-04 into 2000-01 and 2001-02 to provide funds for the communication campaign.</td>
</tr>
<tr>
<td>(b) Private Health Insurance/No Known Gaps</td>
<td>(b) $1.961 m</td>
<td>(iii) $1.961 m</td>
<td>(b) Quantum Market Research</td>
<td>(b) Nil</td>
<td></td>
</tr>
<tr>
<td>(i) Nil</td>
<td>(ii) Nil</td>
<td>(iv) Nil</td>
<td>(v) $430,893</td>
<td>(a) 2000-01 and 2001-02</td>
<td>(c) Administered item</td>
</tr>
<tr>
<td>(a) BreastScreen Australia Campaign – Phase 2</td>
<td>(a) $1.825 m</td>
<td>(i) *</td>
<td>(a) DDB Needham Advertising</td>
<td>(a) Nil</td>
<td>(d) The original Budget appropriation for the measure ‘simplified billing for no or known gaps’ is shown under Appropriation Bill No.1 on page 215 of the 2000-01 Portfolio Budget Statements. The appropriations for the gaps communication campaign are shown under Appropriation Bill No. 3 on page 89 of the 2000-01 Portfolio Additional estimates Statements, Appropriation Bill No. 1 on page 206 of the 2001-02 Portfolio Budget Statements and Appropriation Bill No. 3 on page 97 of the 2001-02 Portfolio Additional Estimates Statement.</td>
</tr>
<tr>
<td>(b) BreastScreen Australia Program</td>
<td>(b) $172,000</td>
<td>(ii) Nil</td>
<td>- Cultural Perspectives</td>
<td>(b) Woolcott Research</td>
<td></td>
</tr>
<tr>
<td>(i) *</td>
<td>(iii) Nil</td>
<td>(iv) Nil</td>
<td>(v) $172,000</td>
<td>(a) Outcome 1 – Population Health &amp; Safety, Administered Item 1</td>
<td>(Population Health), Bill 1</td>
</tr>
<tr>
<td>(a) National Alcohol Campaign</td>
<td>(a) $2.161 m</td>
<td>(i) *</td>
<td>(a) Batey Kazoo Communications</td>
<td>(a) Nil</td>
<td>(b) 2000-01</td>
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<tr>
<td>(b) National Drug Strategy</td>
<td>(i) *</td>
<td>(ii) *</td>
<td>(b) - NCS Pty Ltd</td>
<td>(b) - Newpoll</td>
<td>(c) Administered item</td>
</tr>
<tr>
<td>(iv) Nil</td>
<td>(iv) Nil</td>
<td>- Elliott &amp; Shanahan Research</td>
<td>(v) $200,026</td>
<td>(d) Outcome 1 – Population Health &amp; Safety, Administered Item 1</td>
<td>(Population Health), Bill 1</td>
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### QUESTIONS ON NOTICE

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<tr>
<td>(a) National Tobacco Campaign</td>
<td>(a) $2.700 million</td>
<td>(a) - Brown Melhu-</td>
<td>(a) Nil</td>
<td>(a) Outcome 1 – Population Health &amp; Safety, Administered Item 1 (Population Health), Bill 1</td>
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<tr>
<td>(b) National Tobacco Strategy</td>
<td>(ii) *</td>
<td>(b) - Roy Morgan Research Pty Ltd</td>
<td>(b) 2000-01</td>
<td>(c) Administered item</td>
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<tr>
<td>(i) *</td>
<td>(iii) *</td>
<td>- Wallis Consulting Group</td>
<td>(d) Outcome 1 – Population Health &amp; Safety, Administered Item 1 (Population Health), Bill 1</td>
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<tr>
<td>(iv) Nil</td>
<td>(v) $267,742</td>
<td>- Woolcott Research</td>
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<tr>
<td>(a) National Illicit Drugs Campaign</td>
<td>(a) $13.116 million</td>
<td>(a) - Batey Kazoo Communications</td>
<td>(a) Nil</td>
<td>(a) Outcome 1 – Population Health &amp; Safety, Administered Item 1 (Population Health), Bill 1</td>
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<tr>
<td>(b) National Illicit Drug Strategy</td>
<td>(i) *</td>
<td>(b) - T&amp;L Advertising</td>
<td>(b) 2000-01</td>
<td>(c) Administered item</td>
</tr>
<tr>
<td>(ii) *</td>
<td>(iii) *</td>
<td>- Stancombe Research</td>
<td>(d) Outcome 1 – Population Health &amp; Safety, Administered Item 1 (Population Health), Bill 1</td>
<td></td>
</tr>
<tr>
<td>(iv) Nil</td>
<td>(v) $523,856</td>
<td>- Wallis Research</td>
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### Advertising campaigns in 2001-02

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<th>(2)</th>
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<tbody>
<tr>
<td>(a) Improved Monitoring of Entitlements (IME)</td>
<td>(a) $2.825 million</td>
<td>(a) – Bates Healthworld</td>
<td>(a) Other – DoHA list of General Practitioners, Aboriginal Medical Services</td>
<td>(a) Outcome 2 – Access to Medicare, Administered Item 1 (National Health Act 1953 (PBS) and Health Insurance Act 1973 (MBS))</td>
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<tr>
<td>(b) Better Medication Management System</td>
<td>(i) $1,164</td>
<td>(b) - Albert Research</td>
<td>(b) 2000-01</td>
<td>(c) Administered item</td>
</tr>
<tr>
<td>(ii) million</td>
<td>(iii) *</td>
<td>- Taylor Nelson Sofres</td>
<td>(d) Outcome 2 – Access to Medicare, Administered Item 1 (National Health Act 1953 (PBS) and Health Insurance Act 1973 (MBS))</td>
<td></td>
</tr>
<tr>
<td>(iv) $13,734</td>
<td>(v) $14,133</td>
<td>- Wendy Bloom and Associates</td>
<td></td>
<td></td>
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<tr>
<td>(a) National Tobacco Campaign</td>
<td>(a) $2.800 million</td>
<td>(a) - Brown Melhu-</td>
<td>(a) Nil</td>
<td>(a) Outcome 1 – Population Health &amp; Safety, Administered Item 1 (Population Health), Bill 1</td>
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<tr>
<td>(b) National Tobacco Strategy</td>
<td>(i) *</td>
<td>(b) - Roy Morgan Research Pty Ltd</td>
<td>(b) 2001-02</td>
<td>(c) Administered item</td>
</tr>
<tr>
<td>(ii) *</td>
<td>(iii) *</td>
<td>- Wallis Consulting Group</td>
<td>(d) Outcome 1 – Population Health &amp; Safety, Administered Item 1 (Population Health), Bill 1</td>
<td></td>
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<tr>
<td>(iv) Nil</td>
<td>(v) $77,866</td>
<td>- Woolcott Research</td>
<td></td>
<td></td>
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<tr>
<td>(a) National Alcohol Campaign</td>
<td>(a) $2.528 million</td>
<td>(a) - Batey Kazoo Communications</td>
<td>(a) Nil</td>
<td>(a) Outcome 1 – Population Health &amp; Safety, Administered Item 1 (Population Health), Bill 1</td>
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<tr>
<td>(b) National Drug Strategy</td>
<td>(i) *</td>
<td>(b) - Elliott &amp; Shanahan Research</td>
<td>(b) 2001-02</td>
<td>(c) Administered item</td>
</tr>
<tr>
<td>(ii) Nil</td>
<td>(iii) *</td>
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<td>(d) Outcome 1 – Population Health &amp; Safety, Administered Item 1 (Population Health), Bill 1</td>
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<tr>
<td>(iv) Nil</td>
<td>(v) $29,300</td>
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### Advertising campaigns in 2002-03

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<th>(2)</th>
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<th>(5)</th>
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<tr>
<td>(a) National Meningococcal C</td>
<td>(a) $2.267 million</td>
<td>(a) - Curtis Jones &amp; Brown</td>
<td>(a) Nil</td>
<td>(a) Outcome 1 – Population Health &amp; Safety, Administered</td>
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<tr>
<td>Vaccination Campaign</td>
<td>(i) Nil</td>
<td>(b) - Blue Moon Research &amp; Planning</td>
<td>(ii) Nil</td>
<td>Item 1 (Population Health), Bill 1</td>
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<tr>
<td>(b) Immunise Australia Program</td>
<td>(iii) *</td>
<td></td>
<td>(iv) *</td>
<td>(b) 2002-03</td>
</tr>
<tr>
<td></td>
<td>(v) $133,550</td>
<td></td>
<td></td>
<td>(c) Administered item</td>
</tr>
</tbody>
</table>

| (a) National Alcohol Campaign | (a) $878,465 | (a) - Batey Kazoo Communications | (a) Nil | (a) Outcome 1 – Population Health & Safety, Administered |
| (b) National Drug Strategy | (i) * | | | Item 1 (Population Health), Bill 1 |
| | (ii) Nil | (b) - Elliott & Shanahan Research | | (b) 2002-03 |
| | (iii) * | - NCS Pearson | | (c) Administered item |
| | (iv) Nil | - Newspoll | | (d) Outcome 1 – Population Health & Safety, Administered |
| | (v) $138,195 | | | Item 1 (Population Health), Bill 1 |

| (a) National Tobacco Campaign | (a) $1.800 million | (a) - Brown, Melhuish & Fishlock | (a) Nil | (a) Outcome 1 – Population Health & Safety, Administered |
| (b) National Tobacco Strategy | (i) * | | | Item 1 (Population Health), Bill 1 |
| | (ii) * | (b) - Social Research Centre | | (b) 2002-03 |
| | (iii) * | - Centre for Behavioural Research in Cancer | | (c) Administered item |
| | (iv) Nil | | | (d) Outcome 1 – Population Health & Safety, Administered |
| | (v) $142,356 | | | Item 1 (Population Health), Bill 1 |

### Advertising Campaigns

**Question No. 752**

**Senator Chris Evans** asked the Minister representing the Minister for Education, Science and Training, 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. (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 adminis-
tered 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 Vanstone—The Minister for Education, Science and Training has provided the following answer to the honourable senator’s question:

(1) (a) New Apprenticeships Campaign; (b) New Apprenticeships Programme.

(2) (a) In relation to each New Apprenticeships advertising campaign, the total cost was $11.8m in 2000-01, $4.2m in 2001-02 and $2.8m in 2002-03. Due to the change of contractor for the Government’s central media buying agency in December 2002, it is not possible to provide a breakdown of this information for the 2000-01 and 2001-02 campaigns. Information relating to the 2002-03 campaign (January to June 2003 only) is provided at Attachment A. (b) The 2002-03 campaign placement commenced in June 2003 and ceased in August 2003.

(3) Information about where the campaign featured for the 2002-03 campaign (January to June 2003 only) is provided at Attachment B. Due to the change of contractor for the Government’s central media buying agency in December 2002, it is not possible to provide this information for the 2000-01 and 2001-02 campaigns.

(4) (a) Batey Kazoo Communications; (b) Worthington Di Marzio.

(5) Not applicable.

(6) (a) Appropriations are not used to authorise payments, they are the source of funding to make payments.

(b) (c) and (d) 2000-01

Departmental – 2000-01 PBS Page 53 Output group 2.2 New Apprenticeships
Administered – 2000-01 PBS Page 53 New Apprenticeships

2001-02

Departmental – 2001-02 PBS Page 64 Output group 2.2 New Apprenticeships

2002-03

Departmental – 2002-03 PBS Page 51 Output group 2.2 Assistance for New Apprenticeships

There may be instances where payments are made the year following the appropriation, but this usually relates to the payment of accounts rendered in one year, and paid in the following.

(7) No.

(8) No. For 2000-01 to 2002-03 all the New Apprenticeships marketing money was drawn from funds available through drawing rights issued within the Department.

(9) No.
Attachment A

2002-03 New Apprenticeships Campaign
(January to June 2003)

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>Television</td>
<td>$301,323.00</td>
</tr>
<tr>
<td>Press</td>
<td>$5,649.50</td>
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<tr>
<td>TOTAL</td>
<td>$306,972.50</td>
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Attachment B

(a) Television Stations

<table>
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<tr>
<th>Station</th>
<th>Program</th>
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<tbody>
<tr>
<td>ADS-10 Adelaide</td>
<td>ATN-7 Sydney</td>
</tr>
<tr>
<td>BTQ-7 Brisbane</td>
<td>Capital TV Southern NSW</td>
</tr>
<tr>
<td>Channel V</td>
<td>Comedy Channel</td>
</tr>
<tr>
<td>FOX 8</td>
<td>FOX Sport</td>
</tr>
<tr>
<td>GWN Golden West Network</td>
<td>HSV-7 Melbourne</td>
</tr>
<tr>
<td>Movie One</td>
<td>MTV</td>
</tr>
<tr>
<td>NEW-10 Perth</td>
<td>NTD-8 Darwin</td>
</tr>
<tr>
<td>Ovation</td>
<td>Prime Mildura 7</td>
</tr>
<tr>
<td>Prime Southern NSW 7</td>
<td>Prime Victoria Aggregated 7</td>
</tr>
<tr>
<td>SAS-7 Adelaide</td>
<td>Seven Darwin</td>
</tr>
<tr>
<td>Sky TV</td>
<td>Sthn Cross Tasmania Agg. 10</td>
</tr>
<tr>
<td>TCN-9 Sydney</td>
<td>TEN Northern NSW</td>
</tr>
<tr>
<td>TEN Victoria Aggregated 10</td>
<td>TEN-10 Sydney</td>
</tr>
<tr>
<td>TVQ-10 Brisbane</td>
<td>TVW-7 Perth</td>
</tr>
<tr>
<td>WIN TV Griffith 9</td>
<td>WIN TV Mildura 9</td>
</tr>
<tr>
<td>WIN TV Southern NSW 9</td>
<td>WIN TV Tasmania 9</td>
</tr>
<tr>
<td>WIN TV WA 9</td>
<td></td>
</tr>
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</table>

(b) Nil

(c) Newspapers

<table>
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<th>Newspaper</th>
<th>Publication Language</th>
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<tbody>
<tr>
<td>An Nahar</td>
<td>Arafura Times</td>
</tr>
<tr>
<td>Chieu Duong</td>
<td>El Espanol</td>
</tr>
<tr>
<td>Koori Mail</td>
<td>Macedonian Weekly</td>
</tr>
<tr>
<td>Nam Uc Tuan Bao</td>
<td>TiVi Tuan-San</td>
</tr>
<tr>
<td>Yamaji News</td>
<td>Bulletin Indonesia</td>
</tr>
<tr>
<td></td>
<td>Jaburu Rag</td>
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<td></td>
<td>Middle Eastern Herald</td>
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<td>Vietnam Thoi Nay</td>
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Advertising Campaigns

(Question Nos 756 and 760)

Senator Chris Evans asked the Minister for Communications, Information Technology and the Arts, 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 Coonan—The answer to the honourable senator’s question is as follows:

TSI Community Awareness Campaign

(1) (a) The community information campaign in response to the Telecommunications Service Inquiry.

(b) Regional Telecommunications.

(2) (a) $1 499 233.

   (i) $557 182 (exl GST); (ii) $548 007 (exl GST); (iii) $287 869; (iv) N/A; and (v) $106 175.


(3) (a) All regional television networks.

(b) All regional radio stations.

(c) All regional newspapers as per the central advertising schedule:

   Albury Border Mail.

   Newcastle Herald.

   Illawarra Mercury.

   Geelong Advertiser.

   Cairns Post.

   Gold Coast Bulletin.

   Toowoomba Chronicle.

   Townsville Bulletin.

   Sunday Tasmanian.
The Land.
The Weekly Times.
Stock & Land.
North Queensland Register.
Queensland Country Life.
Stock Journal.
Farm Weekly.
Countryman.
Tasmanian Country.
Koori Mail.
Arafura Times.
Yamaji News.
Jabiru Rag.

(4) (a) Clemenger BBDO.
     (b) Quantum Market Research.

(5) Not applicable.

(6) (a) The Department used Annual Appropriation DCITA Administered Outcome 2.
     (b) 2001-2002.
     (c) Administered.
     (d) See Portfolio Budget Statements (PBS) 2001-02 p23 for the summary financial statement of measures and p47 for a description of the measure. The administered resourcing is included in the Outcome 2 – Resourcing table as part of annual Administered appropriations – Telecommunications Service Inquiry response PBS p50.

(7) The Finance Minister has delegated to the Department full drawing rights to the limits of our appropriations. The Department does not request drawing rights for appropriations individually.

(8) See response to part (7).

(9) Yes.

Centenary of Federation

(1) (a) Public awareness campaign for the Centenary of Federation.
     (b) Centenary of Federation.

(2) (a) 2000-01 – $6 477 436.
     2000-01 – (i) (ii) (iii) – The total cost of media placements was $3 174 000. The breakdown of costs relating to television, radio and newspaper placements is not available.
     2000-01 – (iv) – $0.
     2000-01 – (v) – The total cost of research on advertising was $220 436. The breakdown of costs relating to research on advertising is not available.
     (b) Information not available.
     (a) 2001-02 – $1 736 777.
     2001-02 – (i) (ii) (iii) – the total cost of media placements was $1 640 482. The breakdown of costs relating to television, radio and newspaper placements is not available.
     2001-02 – (iv) – $0.
2001-02 – (v) – $0.
(b) Information not available.
(3) (a) Information not available.
(b) Information not available.
(c) Information not available.
(4) (a) Grey Advertising and Gavin Jones Communications.
(b) Elliot and Shanahan.
(5) Not applicable.
(6) (a) Departmental annual appropriation.
(b) 2000-2001.
(c) Departmental.
(d) Pages 17 and 25 of 2000-01 PBS and pages 21 and 28 of 2000-01 PAES.
(7) The Finance Minister has delegated to the Department full drawing rights to the limits of our appropriations. The Department does not request drawing rights for appropriations individually.
(8) See response to part (7).
(9) Yes.

Federation Fund

(1) (a) Federation Fund Community Information Campaign.
(b) Federation Fund.
(2) (a) $341 827 (i) $0, (ii) $0, (iii) $341 827, (iv) $0, (v) $0.
(b) October to December 2001.
(3) (a) Not applicable.
(b) Not applicable.
(4) (a) Mitchell Media Partners.
(b) Not applicable.
(5) Not applicable.
(6) (a) Departmental annual appropriation.
(b) 2001-02.
(c) Departmental.
(d) Page 32 of Communications, Information Technology and the Arts PBS.
(7) The Finance Minister has delegated to the Department full drawing rights to the limits of our appropriations. The Department does not request drawing rights for appropriations individually.
(8) See response to part (7).
(9) Yes.

Advertising Campaigns

(Question No. 761)

Senator Chris Evans asked the Minister representing the Minister for Human Services, 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 Kemp—The Minister for Human Services has provided the following answer to the honourable senator’s question:
The Department of Human Services was established on 26 October 2004. Therefore, we are unable to provide an answer to this question.

Minister for Health and Ageing: Sponsored Travel
(Question No. 874)

Senator Chris Evans asked the Minister representing the Minister for Health and Ageing, upon notice, on 6 May 2005:

(1) For each of the financial years 2000-01, 2001-02, 2002-03, 2003-04 and 2004-05 to date, can details be provided of all privately or commercially sponsored travel, including cost and sponsor, for: (a) the Minister; (b) the Minister’s family; (c) the Minister’s personal staff; and (d) officers of the Minister’s department.

Senator Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) (a) and (b) The Special Minister of State has responded to these parts of the question on behalf of all Ministers.
(c) The Special Minister of State has answered on behalf of all Ministers insofar as the question relates to any sponsored travel associated with the Australian Political Exchange Council. In terms of any other travel undertaken by my personal staff, none was privately or commercially sponsored. This response relates to the period from October 2003, when I took up office, to the end of the 2004-05 financial year.

(d) Table 1 provides details of privately or commercially sponsored international travel undertaken by officers of my department for 2003-04 and 2004-05.

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Date of Travel</th>
<th>Destination</th>
<th>Sponsor</th>
<th>Traveler</th>
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<tr>
<td>2004-05</td>
<td>Nov-04</td>
<td>Netherlands</td>
<td>European Plasma Fractionation Association</td>
<td>Principal Scientific Advisor</td>
</tr>
<tr>
<td>2004-05</td>
<td>Dec-04</td>
<td>Hong Kong</td>
<td>Asia Pacific Tissue Banking Forum (APTBF)</td>
<td>Principal Scientific Advisor</td>
</tr>
<tr>
<td>2004-05</td>
<td>Dec-04</td>
<td>United Kingdom</td>
<td>Centre for Medicines Research (CMR)</td>
<td>Assistant Secretary</td>
</tr>
<tr>
<td>2003-04</td>
<td>Jun-04</td>
<td>USA</td>
<td>USA Academy Health Conference</td>
<td>Deputy Secretary</td>
</tr>
<tr>
<td>2003-04</td>
<td>Oct-03</td>
<td>USA</td>
<td>American Association</td>
<td>Deputy Secretary</td>
</tr>
<tr>
<td>2003-04</td>
<td>Mar-04</td>
<td>China</td>
<td>Acumen Consulting Pty Ltd</td>
<td>Assistant Secretary (BG)</td>
</tr>
<tr>
<td>2003-04</td>
<td>Sep-03</td>
<td>New Zealand</td>
<td>New Zealand Self Medication Industry (Biannual meeting)</td>
<td>Principal Scientific Advisor</td>
</tr>
<tr>
<td>2003-04</td>
<td>Sep-03</td>
<td>New Zealand</td>
<td>Cambridge Healthtech Institute</td>
<td>Principal Scientific Advisor</td>
</tr>
<tr>
<td>2003-04</td>
<td>Sep-03</td>
<td>New Zealand</td>
<td>Centre for Medicines Research (CMR)</td>
<td>Assistant Secretary (TGA)</td>
</tr>
</tbody>
</table>

Please note:
1. As a result of the resource intensive nature of obtaining the data, I am not prepared to authorise the diversion of resources required to collect this information for the financial years preceding 2003-04.
2. The department does not retain information in relation to sponsored domestic travel.
3. The sponsors’ costs are not available. The department’s corporate systems do not record this information.

**Minister for Ageing: Sponsored Travel**  
(Question No. 893)

**Senator Chris Evans** asked the Minister representing the Minister for Ageing, upon notice, on 6 May 2005:

(1) For each of the financial years 2000-01, 2001-02, 2002-03, 2003-04 and 2004-05 to date, can details be provided of all privately or commercially sponsored travel, including cost and sponsor, for: (a) the Minister; (b) the Minister’s family; (c) the Minister’s personal staff; and (d) officers of the Minister’s department.

**Senator Santoro**—The answer to the honourable senator’s question is as follows:

(1) (a) and (b) The Special Minister of State has responded to these questions on behalf of all Ministers.

(c) The Special Minister of State has answered on behalf of all Ministers insofar as the question relates to any sponsored travel associated with the Australian Political Exchange Council. Re-
records of other privately or commercially sponsored travel that may have been undertaken by
staff of former Ministers from 2000-01 to 2004-05 are not readily available. To compile a re-
sponse to this part of the question would require a significant diversion of resources which I
am not prepared to authorise.

(d) The Minister for Health and Ageing is providing a detailed answer in relation to the portfolio
as a whole in his response to question 874.

Aviation: North Queensland
(Question No. 1069)

Senator McLucas asked the Minister representing the Minister for Transport and Regional
Services, upon notice, on 9 August 2005:

(1) Is the Minister satisfied with the quality and level of monitoring and surveillance of the aviation
industry in North Queensland, in particular with regard to safety, and the performance of those
charged with air transport safety.

(2) Can the Minister detail any changes in personnel, or positions, in the North Queensland CASA
office in the 3 months ending 9 August 2005.

(3) What action, if any, has the department, or any statutory authorities for which the Minister is re-
sponsible, taken to reduce North Queensland’s tragic record of 52 aviation fatalities in the past 5
years.

(4) Has the Minister, or his predecessor, requested any report, analysis, study or other information that
might help to explain North Queensland’s aircraft fatality record; if so, can details be provided.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided
the following answer to the senator’s question:

(1) The frequency and depth of surveillance by the Civil Aviation Safety Authority (CASA) of the
aviation industry in North Queensland is determined by CASA. CASA surveillance priorities place
an emphasis on protection of the fare paying passenger. CASA has recently introduced new surveil-
lance tools and a planning matrix. I am advised that CASA also uses basic risk identification and
analysis processes for civil air operations throughout Australia. These processes serve to highlight
areas of risk and to target those areas with increased resources or different tools to suit the opera-
tion.

(2) I am advised that during the period 9 May 2005 to 9 August 2005 the CASA North Queensland
General Aviation Field Office had the following personnel and position changes:
- The Team Leader Airworthiness resigned on 2 August 2005. Prior to his resignation, he was on
  Long Service leave from 1 June until 17 July 2005. During the period of leave, the position was
  backfilled by an Airworthiness Inspector;
- Another Airworthiness Inspector was on leave from 22 July 2005 to 28 August 2005;
- One Flying Operations Inspector was absent on extended sick leave;
- The Team Leader Flying Operations was on Long Service leave from 1 August to 14 August
  2005. The position was backfilled by a Brisbane Service Centre staff member;
- One Flying Operations Inspector position was vacant during the subject period;
- One Flying Operations Inspector was relocated from Townsville to Cairns on 1 August 2005; and
- One Administration Officer was on Long Service leave from 1 July until after the period in ques-
tion. This position was backfilled by a temporary contract employee.

(3) CASA aims to identify and address the most significant safety related trends and risk factors in the
system of civil aviation safety Australia-wide.
The Australian Transport Safety Bureau (ATSB) undertakes its aviation investigations under the Transport Safety Investigation Act 2003 and conducts independent 'no blame' investigations of civil aviation accidents, incidents and safety deficiencies. The ATSB selectively investigates the occurrences it believes will yield the most benefit in preventing the occurrence of future incidents and accidents anywhere in Australia or involving Australian registered aircraft operating overseas.

(4) In June 2005, the ATSB commenced a research paper on Queensland fatality data, with particular focus on Far North Queensland (FNQ). The paper looks at fatal accidents and fatalities and examines both groups by number and, where possible, by rate*. The data is restricted to aircraft with a Maximum Take-off Weight (MTOW) of 11,000 kg or below.

Further analysis is currently being undertaken by the ATSB comparing regions within Queensland with other regions of Australia.

There are numerous factors associated with each fatal aircraft accident including the aircraft type, type of operation, pilot training and experience, environmental conditions, and origin of the aircraft, which make it difficult to draw conclusions from statistics. The overall number of fatal accidents is relatively low, so a particular accident involving a high number of fatalities will significantly affect the fatality rate.

* Due to lack of recent exposure data, the latest year that rates could be calculated for was 2004

**Marine Parks and Reserves**

(Question No. 1263)

Senator Siewert asked the Minister for the Environment and Heritage, upon notice, on 29 September 2005:

(a) How many marine parks and marine reserves have been declared since 1996 in (i) Commonwealth waters; and (ii) state waters; and (b) can a list be provided of the marine parks and reserves declared in Commonwealth waters since 1996.

Senator Ian Campbell—The answer to the honourable senator’s question is as follows:

(a) (i) Six new marine protected areas have been declared in Commonwealth waters since 1996. (ii) States and Territories have not recently provided information to the Commonwealth on the declaration of marine protected areas in state/territory waters. A report on progress with the implementation of the National Representative System of Marine Protected Areas is currently being prepared by a Commonwealth/State working group. That report will contain comprehensive information on the current status of marine reserves in all jurisdictions.

(b) The marine protected areas declared in Commonwealth waters since 1996 are:

- Tasmanian Seamounts Marine Reserve (1999)
- Macquarie Island Marine Park (1999)
- Cartier Island Marine Reserve (2000)
- Heard Island and McDonald Islands Marine Reserve (2002)

The Australian Government recently announced another 13 Marine Protected Areas covering a total of 226 000 square kilometres to be established in Commonwealth waters in the South-east Marine Region and declared by the end of 2006. The South-east network raises the Australian MPA estate by 30 per cent to around 982 492 square kilometres of which 845 945 square kilometres is in Commonwealth waters.
Senator Ludwig asked the Minister for Justice and Customs, upon notice, on 5 October 2005

With reference to the Australian Transaction Reports and Analysis Centre Privacy Consultative Committee:

1. (a) Can the dates of committee meetings held in the financial years 2001-02 to 2004-05 be provided, together with a list of the organisations that attended each meeting?
   (b) what was the duration of each meeting?
   (c) what are the functions, powers and duties of the committee?
   (d) can minutes for each meeting be provided; if not, why not; and
   (e) can any outcomes or recommendations arising from the meetings be provided.

2. If there were any recommendations arising out of the meetings:
   (a) what has been done to implement those recommendations;
   (b) what is the cost of implementation; and
   (c) what is the status of the implementation of the recommendations.

Senator Ellison—The answer to the honourable senator’s question is as follows:

With reference to the Australian Transaction Reports and Analysis Centre Privacy Consultative Committee:

1. (a) The dates of formal committee meetings held in the financial years 2001-02 to 2004-05 together with a list of the organisations that attended each meeting; is as follows:

   11 October 2001 – attendees included representatives from:
   National Crime Authority
   Victorian Council for Civil Liberties
   Australian Privacy Charter Council
   Australian Taxation Office
   AUSTRAC
   28 March 2002 – attendees included representatives from:
   National Crime Authority
   Victorian Council for Civil Liberties
   Australian Federal Police
   Office of the Federal Privacy Commission
   AUSTRAC
   20 September 2002 – attendees included representatives from:
   National Crime Authority
   Australian Consumers Association
   Australian Privacy Charter Council
   Australian Federal Police
   AUSTRAC
20 March 2003 – attendees included representatives from:
Australian Crime Commission
Australian Consumers Association
Australian Privacy Charter Council
Australian Federal Police
Australian Taxation Office
Office of the Federal Privacy Commission
Victorian Council for Civil Liberties
AUSTRAC

12 August 2003 – attendees included representatives from:
Australian Consumers Association
Australian Privacy Charter Council
Australian Federal Police
Office of the Federal Privacy Commission
Victorian Council for Civil Liberties
AUSTRAC

20 November 2003 – attendees included representatives from:
Australian Crime Commission
Australian Consumers Association
Australian Privacy Charter Council
Australian Federal Police
Australian Taxation Office
Office of the Federal Privacy Commission
Victorian Council for Civil Liberties
AUSTRAC

Numerous discussions were held out of session. The number and dates of these discussions are unavailable as they were held on an informal, as needs basis.

(b) The duration of each formal meeting is approximately two hours.

(c) The functions, powers and duties of the committee, as detailed in the terms of Reference are listed below.

The AUSTRAC Privacy Consultative Committee is an advisory committee to the Director of AUSTRAC. Its role is:

- to bring together revenue, law enforcement, privacy and civil liberties representatives to promote understanding of issues and develop positions that as far as possible take into account all relevant interests
- to advise the Director on privacy and civil liberties matters associated with the collection and usage of FTR information including AUSTRAC practices and procedures, taking account of revenue and law enforcement objectives
- to initiate and discuss privacy matters associated with the collection and usage of FTR information or broader privacy issues arising in the operation of AUSTRAC and the FTR Act, and to consider the associated law enforcement or revenue protection issues
where appropriate, to monitor any of the above issues for their impact on privacy and make recommendations to the Director

- as appropriate, to increase public awareness of the role and functions of AUSTRAC.

(d) No, the minutes for each meeting are unavailable as they outline discussions regarding sensitive operational and policy matters.

(e) Yes the action items arising from the meetings are available and are attached. See Attachment A, Privacy Consultative Committee Outcomes 2001 – 2002 to 2004 - 2005 for a listing of those action items.

(2) If there were any recommendations arising out of the meetings:

(a) AUSTRAC reviews the outcomes from each meeting and where possible actions and implements the Privacy Consultative Committee recommendations.

(b) The estimated cost of implementing recommendations from the PCC is approximately $35,078.00 and is made up of salary and other associated on costs. These costs are absorbed into AUSTRAC’s day-to-day operational expenditure.

(c) Where practicable those PCC recommendations that are able to be implemented have been completed or actioned for further consideration by the PCC. See Attachment A for those items that have been actioned and completed

Attachment A
Privacy Consultative Committee Outcomes 2001 – 2002 to 2004 - 2005

<table>
<thead>
<tr>
<th>Meeting Date</th>
<th>Action Item</th>
<th>Action Implemented</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 November 2003</td>
<td>Progress discussion on International MOUs and sanctions against countries that break MOUs and representative from Victorian Council for Civil Liberties prepare report. Distribute a hard copy of SIRCA. Identity Fraud Report to the Committee members. Distribute electronic links to the California Public Interest Research Group (CALPIRG) and University of Melbourne to the Committee members. Draft information circular regarding amendments to the FTR Act resulting from measures to combat Serious and Organised Crime Bill, Controlled Operations Bill, financial Services Bill and the amendments to the Crime Commission Act. Raise Community awareness of the requirements of the FTR Act and levels of reporting at the Identity Fraud Taskforce meeting. Request Committee members be included in press clippings regarding significant articles regarding AUSTRAC and its role.</td>
<td>Actioned – further discussions held December 2003 Actioned Actioned</td>
<td>Completed Completed Completed</td>
</tr>
</tbody>
</table>

| ACTIONED | Actioned - specific press clippings distributed 28.11.03. Actioned – Copyright issues associated with distribution outside agency. Unable to complete due to external dependencies |

| QUESTIONING ON NOTICE |
Tuesday, 13 June 2006

<table>
<thead>
<tr>
<th>Meeting Date</th>
<th>Action Item</th>
<th>Action Implemented</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>12 August 2003</td>
<td>No action items</td>
<td></td>
<td>Not applicable</td>
</tr>
<tr>
<td>20 March 2003</td>
<td>Meet out of session to discuss International MOUs and sanctions against</td>
<td>Actioned</td>
<td>Ongoing</td>
</tr>
<tr>
<td></td>
<td>countries that break MOUs and representative from Victorian Council for Civil</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Liberties prepare report.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Arrange researcher from SIRCA to attend next meeting to talk about their</td>
<td>Actioned</td>
<td>Completed</td>
</tr>
<tr>
<td></td>
<td>results regarding POI.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Draft information circular relating to recent amendments to FTR Act</td>
<td>Actioned</td>
<td>Completed</td>
</tr>
<tr>
<td></td>
<td>resulting from measures to combat Serious &amp; Organised Crime Bill, Controlled</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Operations Bill, Financial Services Bill and the amendments to the NCA Act.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Request the POI Committee to make available the minutes/action items of the</td>
<td>Actioned</td>
<td>Completed</td>
</tr>
<tr>
<td></td>
<td>POI Committee on a Confidential basis</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Follow up with HREOC the issue of privacy re ‘free text’ fields in SUSTRs</td>
<td>Actioned</td>
<td>Completed</td>
</tr>
<tr>
<td></td>
<td>Discuss privacy issues with HREOC before Guideline No.1 is finalised out of</td>
<td>Actioned - consulta-</td>
<td>Completed</td>
</tr>
<tr>
<td></td>
<td>session.</td>
<td>tion occurred and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Follow through in providing the full Minutes of the POI Meetings to the</td>
<td>Actioned</td>
<td>Completed</td>
</tr>
<tr>
<td></td>
<td>Committee</td>
<td></td>
<td></td>
</tr>
<tr>
<td>20 September 2002</td>
<td>Prepare a paper on what AUSTRAC thinks about other court systems ie</td>
<td>Actioned</td>
<td>Ongoing</td>
</tr>
<tr>
<td></td>
<td>International Court and what happens if countries break MOUs.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

QUESTIONS ON NOTICE
<table>
<thead>
<tr>
<th>Meeting Date</th>
<th>Action Item</th>
<th>Action Implemented</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>28 March 2002</td>
<td>Prepare paper on international MOUs sanctions against countries breaking MOUs.</td>
<td>Actioned</td>
<td>Ongoing</td>
</tr>
<tr>
<td></td>
<td>Invite AUSTRAC Deputy Director IT to speak about AUSTRAC’s security and privacy arrangements in relation to electronic reporting</td>
<td>Actioned - invitation accepted and talk given at March 2003 meeting</td>
<td>Completed</td>
</tr>
<tr>
<td></td>
<td>Discuss with the ABA the option of piggybacking on their work to determine community awareness of requirements re FTR Act and level of reporting.</td>
<td>Actioned - ABA survey did not occur and AUSTRAC was unable to use this as a vehicle for community awareness</td>
<td>Unable to complete due to external dependencies</td>
</tr>
<tr>
<td></td>
<td>Invite one of the POI Committee’s members at next POI meeting to speak to OCC regarding work done on POI.</td>
<td>Actioned</td>
<td>Completed</td>
</tr>
<tr>
<td></td>
<td>Draft information circular relating to recent amendments to FTR Act resulting from measures to combat Serious &amp; Organised Crime.</td>
<td>Actioned</td>
<td>Completed</td>
</tr>
<tr>
<td></td>
<td>Speak to Privacy Commission representative about general privacy statement for all circulars and guidelines.</td>
<td>Actioned - agreed statement included on all circulars and guidelines</td>
<td>Completed</td>
</tr>
<tr>
<td></td>
<td>28 March 2002</td>
<td>Arrange POI briefing by government and private sector representatives for next Privacy Meeting.</td>
<td>Actioned</td>
</tr>
<tr>
<td></td>
<td>Draft out of session information circular relating to recent amendments to FTR Act resulting from Measures to Combat Serious and Organised Crime Bill, Controlled Operations Bill, Financial Services Bill and the amendments to the NCA Act and update at the next Privacy meeting.</td>
<td>Actioned</td>
<td>Ongoing</td>
</tr>
<tr>
<td></td>
<td>Consult with RBA re Circular 15 and cross reference Circular 15 to DFAT initiatives</td>
<td>Actioned</td>
<td>Completed</td>
</tr>
<tr>
<td></td>
<td>Provide draft minutes of PCC meeting to assist preparation of report to the Privacy Constituency members. Note report to the privacy constituency members must be approved by AUSTRAC before being sent to privacy constituency members.</td>
<td>Actioned</td>
<td>Ongoing</td>
</tr>
</tbody>
</table>
Asylum Seekers

(Question No. 1343)

Senator Bob Brown asked the Minister for Immigration and Multicultural Affairs, upon notice, on 3 November 2005:
Over the past 5 years: (a) how many asylum seekers have been in detention for more than 3 months; (b) what has been the total cost to Australian taxpayers of detaining asylum seekers; and (c) what percentage of the total number of asylum seekers has been accepted as genuine refugees.

Senator Vanstone—The answer to the honourable senator’s question is as follows:

(a) Between 1 July 2001 and 4 November 2005, departmental records indicate that 4,758 people had applied for a protection visa and were detained for more than three months.

(b) For the purpose of identifying the cost of immigration detention, the Department does not differentiate between detainees who apply for protection and those who do not.

(c) In the five year period from 1 July 2000 to 30 June 2005, 33,720 initial protection visa applications were lodged. In 26 per cent of these applications the applicant was found to be a refugee and was granted a protection visa.

Welfare to Work
(Question No. 1418)

Senator Chris Evans asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 5 December 2005:

(1) In relation to the funding provided for the Welfare to Work package, shown on pages 133-134 of Budget Paper No 2: (a) how do those figures relate to the figures provided by the Department in response to written questions W156, W157, W158 and W159 provided to the Employment, Workplace Relations and Education Legislation Committee during estimates hearings in June 2005; and (b) how do the program and payment cost figures provided in the answers relate to the Department of Employment and Workplace Relations funding figures in the budget paper for the following initiatives: (i) increasing participation of parents, (ii) increasing participation of people with a disability, (iii) increasing participation of the very long term unemployed, and (iv) increasing participation of the mature aged.

(2) Can the Minister confirm that the response to W156, relating to the initiative entitled, ‘Increasing participation of people with a disability’, the department has provided figures showing net additional estimated program costs that total $302 million over the 3 financial years to 2008-09.

(3) Can the Minister confirm that in response to W156, the department has provided figures showing net estimated payment savings that total $590.5 million over the 3 financial years to 2008-09.

(4) Can the Minister confirm that the budget paper shows a net additional cost of $481.9 million over the 4 financial years to 2008-09, or $449.3 million over the 3 financial years to 2008-09.

(5) Can the Minister explain the discrepancy between the figures provided in W156, which show a net saving of $288.5 million (total of (2) and (3) above) in relation to the initiative entitled, ‘Increasing participation of people with a disability’ for the 3 financial years to 2008-09 and the $449.3 million net additional cost as provided in the budget paper over the same period.

(6) Do the funding figures in the budget paper include other funding items beyond those identified in W156; if so, can these be identified, along with the value of each of these items for each financial year from 2005-06 to 2008-09.

(7) Can the Minister confirm that in response to W157, relating to the initiative, ‘Increasing participation of parents’ the department has provided figures showing net additional estimated program costs that total $386.3 million over the 3 financial years to 2008-09.

(8) Can the Minister confirm that in response to W157, the department has provided figures showing estimated net payment savings that total $424.5 million over the 3 financial years to 2008-09.

(9) Can the Minister confirm that the budget paper shows a net additional cost of $282.4 million over the 4 financial years to 2008-09, or $255.9 million over the 3 financial years to 2008-09.
Tuesday, 13 June 2006

QUESTIONS ON NOTICE

(10) Can the Minister explain the discrepancy in the figures provided in W157, which show a net saving of $38.2 million (total of (6) and (7) above) in relation to the initiative entitled ‘Increasing participation of parents’ for the 3 financial years to 2008-09 and the $255.9 million net additional cost as provided in the budget paper over the same period.

(11) Do the funding figures in the budget paper include other funding items beyond those identified in W157; if so: (a) can these figures be identified; and (b) what is the value of each of these items for each financial year from 2005-06 to 2008-09.

(12) Can the Minister explain why the funding for the initiative entitled, ‘Increasing participation of parents’ increases each financial year to $163 million in 2007-08 and then falls to just 2.2 million in 2008-09; and (b) what are the reasons for such a dramatic drop in funding for this initiative in 2008-09.

(13) Can the Minister confirm that in response to W158, relating to the initiative entitled, ‘Increasing participation of the mature aged’, the department had provided figures showing net additional estimated program costs that total $71.3 million over the three financial years to 2008-09.

(14) Can the Minister confirm that in response to W158, the department has provided figures showing estimated net payment savings that total $18.6 million over the 3 financial years to 2008-09.

(15) Can the Minister confirm that the budget paper shows a net additional saving of $5.6 million over the 4 financial years to 2008-09, or a saving of $1.5 million over the 3 financial years to 2008-09.

(16) Can the Minister explain the discrepancy between the figures provided in W158, which show a net cost of $52.7 million (total of (13) and (14) above) in relation to the initiative entitled, ‘Increasing the participation of the mature aged’ for the 3 financial years to 2008-09 and the net savings of $1.5 million as provided in the budget paper over the same period.

(17) Do the funding figures in the budget paper include other funding items beyond those identified in W158; if so: (a) can these be identified; and (b) what is the value of each of these items in each financial year from 2005-06 to 2008-09.

(18) Can the Minister confirm that in response to W159, relating to the initiative, “Increasing the participation of the very long term unemployed” the department has provided figures showing net additional estimated program costs that total $310.6 million over the 3 financial years to 2008-09.

(19) Can the Minister confirm that in response to W159, the department has provided figures showing estimated net additional costs that total $34.7 million over the 3 financial years to 2008-09.

(20) Can the Minister confirm that the budget paper shows a net additional saving of $359.9 million over the 4 financial years to 2008-09, or a saving of $355.2 million over the 3 financial years to 2008-09.

(21) Can the Minister explain the discrepancy between the figures provided in W159, which show a net cost of $345.3 million (total of (18) and (19) above) in relation to the initiative entitled, ‘Increasing the participation of the very long term unemployed’ for the 3 financial years to 2008-09 and the net savings of $355.2 million as provided in the budget paper over the same period.

(22) Do the funding figures in the budget paper include other funding items beyond those identified in W159; if so: (a) can these be identified; and (b) what is the value of each of the items for each financial year from 2005-06 to 2008-09.

Senator Abetz—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator’s question:

(1) (a) Budget Paper 2 provides the total net financial impact of the Welfare to Work measures, comprising annual administered services, administered income support payments and departmental expenses. The response to W156 separately identified each of these elements of the measure.
However, the responses to W157, W158 and W159 only identified the impact on the administered services and income support payments (in answer to the questions asked).

(b) The Department annual administered services and administered income support costs identified in the responses to W156, W157, W158 and W159 relate to the funding figures in Budget paper 2 as follows:

(i) for the initiative ‘Increasing participation of parents’, the response included the impact on administered payments across the three years to 2008-09 for the measure, and the administered costs for the parents component of the employment preparation measure (which was reported under the Employment Preparation measure in Budget Paper 2). The response did not include the departmental costs of the measure.

(ii) for the initiative ‘Increasing participation of people with a disability’ the response separately identified all components of the measure as reported in Budget Paper 2.

(iii) for the initiative ‘Increasing participation of the very long term unemployed’, the response included only the administered services and administered income support costs. It did not include the departmental costs of the measure.

(iv) for the initiative ‘Increasing participation of the mature aged’, the response included the impact on administered payments across the three years to 2008-09 for the measure, and the administered costs for the mature aged component of the employment preparation measure (which was reported under the Employment Preparation measure in Budget Paper 2). The response did not include the departmental costs of the measure.

(2) In the response in W156 relating to the initiative entitled ‘Increasing participation of people with a disability’ there is an additional cost of $302.3 million over the three financial years to 2008-09 for annual administered employment services for the Department of Employment and Workplace Relations.

(3) In the response in W156 relating to the initiative entitled ‘Increasing participation of people with a disability’, there is a net saving of $590.5 million over the three financial years to 2008-09 for the administered income support payments that fall within the responsibility of the Department of Employment and Workplace Relations.

The income support savings are due to fewer people receiving the Disability Support Pension as people will instead be claiming Newstart or Youth Allowance due to their assessed capacity to undertake part-time work, and some people will be coming off income support reflecting the greater emphasis on employment focussed participation for people with disabilities.

(4) Yes.

(5) The net administered savings of $288.5 million referred to by Senator Evans reflects the impact of the Welfare to Work disability measure on administered payments across the three years to 2008-09. The amount is actually $288.2 million.

However, the total net additional cost for the measure referred to in Budget Paper 2 for the same period ($449.3 million) also includes both the increase in departmental expenses related to the disability measure ($76.9 million) and the overall impact of the reversal of the previously announced DSP Reform Bill measure (a reversal of savings of $660.6 million). Details of these expenses were provided in the previous response to W156.

(6) There are no other expense items in Budget Paper 2 other than those referred to in response W156 (refer to response to Q.5 above). The total net costs of the ‘Increasing participation of people with a disability’ measure, which make up the numbers presented in Budget Paper 2, are summarised below:
Increasing participation of people with a disability

<table>
<thead>
<tr>
<th></th>
<th>2006-07</th>
<th>2007-08</th>
<th>2008-09</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual administered services</td>
<td>$107.0</td>
<td>$102.7</td>
<td>$92.6</td>
<td>$302.3</td>
</tr>
<tr>
<td>Income support payments (administered)</td>
<td>-$84.8</td>
<td>-$197.3</td>
<td>-$308.4</td>
<td>-$590.5</td>
</tr>
<tr>
<td>Departmental expenses</td>
<td>$34.6</td>
<td>$17.7</td>
<td>$24.6</td>
<td>$76.9</td>
</tr>
<tr>
<td>Reversal of DSP Reform Bill (administered)</td>
<td>$114.2</td>
<td>$258.2</td>
<td>$409.8</td>
<td>$782.2</td>
</tr>
<tr>
<td>Reversal of DSP Reform Bill (departmental)</td>
<td>-$30.8</td>
<td>-$45.4</td>
<td>-$45.4</td>
<td>-$121.6</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$140.2</td>
<td>$135.9</td>
<td>$173.2</td>
<td>$449.3</td>
</tr>
</tbody>
</table>

Note: The departmental expenses referred to in Budget Paper 2 and the above table are presented on a fiscal balance basis (which excludes depreciation). For details of total expenses (including depreciation) please refer to page 22 of the Employment and Workplace Relations 2005-06 Portfolio Budget Statements.

(7) The $386.3 million referred to in the response to W157 reflected all additional administered employment services to provide assistance for parents to increase their participation. However, the net annual administered services cost for the ‘Increasing participation of parents’ measure is $343.2 million over the three years to 2008-09. The difference is due to the fact that the previous response also included $43.2 million for employment preparation services, which was reported under the ‘Employment Preparation’ measure in Budget Paper 2.

(8) In the response in W157 relating to the initiative entitled ‘Increasing participation of parents’, there is a net saving of $424.5 million over the three financial years to 2008-09 for the administered income support payments that fall within the responsibility of the Department of Employment and Workplace Relations.

However, there will be additional expenditure on services to assist parents into the workforce, resulting in net expenditure for the measure.

(9) Yes.

(10) The net savings of $38.2 million referred to by Senator Evans reflects the impact on administered payments across the three years to 2008-09 for the ‘Increasing participation of parents’ measure, and the administered costs for the parents component of the employment preparation measure.

The net additional cost referred to in Budget Paper 2 for the same period ($255.9 million) comprises a net saving for the administered services and income support payments ($81.3 million) offset by increased departmental outlays ($337.2 million).

(11) The other expense items in Budget Paper 2 other than those referred to in response W157 are the departmental costs. The total net costs of the ‘Increasing participation of parents’ measure, which make up the numbers presented in Budget Paper 2, are summarised below:

<table>
<thead>
<tr>
<th></th>
<th>2006-07</th>
<th>2007-08</th>
<th>2008-09</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual administered services</td>
<td>$73.6</td>
<td>$156.5</td>
<td>$113.1</td>
<td>$343.2</td>
</tr>
<tr>
<td>Income support payments (administered)</td>
<td>-$36.8</td>
<td>-$129.6</td>
<td>-$258.1</td>
<td>-$424.5</td>
</tr>
<tr>
<td>Departmental Expenses</td>
<td>$53.9</td>
<td>$136.1</td>
<td>$147.2</td>
<td>$337.2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$90.7</td>
<td>$163.0</td>
<td>$2.2</td>
<td>$255.9</td>
</tr>
</tbody>
</table>

Note: The departmental expenses referred to in Budget Paper 2 and the above table are presented on a fiscal balance basis (which excludes depreciation). For details of total expenses (including depreciation) please refer to page 22 of the Employment and Workplace Relations 2005-06 Portfolio Budget Statements.

(12) Funding for the initiative increases each financial year to 2007-08 due to the expected additional demand for employment related services from parents claiming income support payments who become subject to work requirements from 1 July 2006. From 2008-09 the overall cost of this meas-
ure drops due to a combination of demand for extra services by this group stabilising and expenditure on income support payments reducing as some parents become eligible for Newstart Allowance rather than a pension-type payment (Parenting Payment Single). Nonetheless funding for employment services for parents is expected to remain considerably higher than before the measure was introduced. Access to these services are expected to improve parents’ skills and work readiness and better enable them to take advantage of opportunities to gain or increase their prospects of paid work and higher levels of overall income while reducing their reliance on income support.

(13) The $71.3 million referred to in the response to W158 reflected all additional administered employment services to provide assistance for the mature aged. However, the net annual administered services cost for the ‘Increasing participation of mature aged’ measure is $66.8 million over the three years to 2008-09. The difference is due to the fact that the previous response also included $4.6 million for employment preparation services, which was reported under the ‘Employment Preparation’ measure in Budget Paper 2.

(14) In the response in W158 relating to the initiative entitled ‘Increasing participation of mature aged’, there is a net saving of $18.6 million over the three financial years to 2008-09 for the administered income support payments that fall within the responsibility of the Department of Employment and Workplace Relations.

(15) There will be a total net decrease in outlays for the ‘Increasing participation of mature aged’ measure of $1.5 million over three years to 2008-09. However, despite there being a net decrease in outlays, an additional $71.3 million is being spent on employment assistance. The net decrease in outlays is due to the increased expenditure on employment assistance being offset by savings in income support payments and departmental outlays. The estimated reduction in income support outlays reflects the greater emphasis on employment focussed participation for people of mature age, including the provision of substantially more employment related assistance.

Enhanced access to employment services is expected to improve the employment prospects of the mature aged and better enable them to take advantage of opportunities to retain, gain or increase their attachment to paid work while reducing their reliance on income support.

Savings in departmental outlays are primarily savings from changed Centrelink servicing arrangements and reduced number of customers (see response to Question 16 below).

(16) The net cost of $52.7 million referred to by Senator Evans reflects the impact of the mature aged measure on administered payments across the three years to 2008-09, and the administered costs for the employment preparation measure.

The net saving (over three years to 2008-09) for the ‘Increasing participation of mature aged’ measure referred to in Budget Paper 2 for the same period (§1.5 million) comprises additional costs for the administered services ($66.8 million), offset by net savings in income support payments ($18.6 million) and departmental outlays ($49.7 million). The additional administered services comprise increased employment services provided to mature age job seekers, principally in Job Network.

(17) The other expense items in Budget Paper 2 other than those referred to in response W158 are the departmental costs. The total net costs of the ‘Increasing participation of mature aged’ measure, which make up the numbers presented in Budget Paper 2, are summarised below:

<table>
<thead>
<tr>
<th>Increasing participation of mature aged</th>
<th>2006-07 $m</th>
<th>2007-08 $m</th>
<th>2008-09 $m</th>
<th>Total $m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual administered services</td>
<td>20.5</td>
<td>25.2</td>
<td>21.1</td>
<td>66.8</td>
</tr>
<tr>
<td>Income support payments (administered)</td>
<td>-3.7</td>
<td>-6.3</td>
<td>-8.6</td>
<td>-18.6</td>
</tr>
</tbody>
</table>
(18) In the response in W159 relating to the initiative entitled ‘Increasing participation of very long term unemployed’, the figure $310.6 million over the three financial years to 2008-09 is the additional costs for annual administered employment services for the Department of Employment and Workplace Relations, excluding WageAssist.

(19) In the response in W159 relating to the initiative entitled ‘Increasing participation of the very long term unemployed’, the figures provided in the second table showed a net cost of $34.7 million over the three financial years to 2008-09 for the administered income support payments that fall within the responsibility of the Department of Employment and Workplace Relations. However, the second table provided in response to W159 included WageAssist which is not an income support payment but a separate administered item that will be delivered through the Job Network. The expenditure estimates provided in response to W159 reflected the position at Budget. However, since Budget the cost of WageAssist over the three financial years to 2008-09 has been revised downward to $34.5 million while the income support savings estimates have been revised upward to $5.8m, correcting the original estimate. These corrections are included in the revised expenditure figures provided in the Portfolio Additional Estimates Statements.

(20) No. Budget Paper 2 shows net additional cost (not saving) of $359.9 million over the four financial years to 2008-09, or a cost of $355.2 million over the three financial years to 2008-09.

(21) The net administered cost of $345.3 million referred to by Senator Evans reflects the impact of the measure on administered payments, across the three years to 2008-09. The total net additional cost for the very long term unemployed measure referred to in Budget Paper 2 for the same period ($355.2 million) includes administered services costs ($310.6 million), income support savings (estimated at Budget as $60.1 million), WageAssist (estimated at Budget as $94.8 million), and departmental costs of $9.8 million.

(22) The other expense items in Budget Paper 2, other than those referred to in response W159, are the departmental costs. The total net costs of the ‘Increasing participation of the very long term unemployed’ measure, which made up the numbers presented in Budget Paper 2, are summarised below:

<table>
<thead>
<tr>
<th>Increasing participation of the very long term unemployed</th>
<th>2006-07</th>
<th>2007-08</th>
<th>2008-09</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual administered services</td>
<td>90.9</td>
<td>103.3</td>
<td>116.4</td>
<td>310.6</td>
</tr>
<tr>
<td>Wage Assist*</td>
<td>7.4</td>
<td>27.8</td>
<td>59.6</td>
<td>94.8</td>
</tr>
<tr>
<td>Income support payments (DEWR)*</td>
<td>-2.1</td>
<td>-17.0</td>
<td>-41.0</td>
<td>-60.1</td>
</tr>
<tr>
<td>Departmental Expenses</td>
<td>3.7</td>
<td>3.0</td>
<td>3.1</td>
<td>9.8</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>100.0</td>
<td>117.1</td>
<td>138.1</td>
<td>355.2</td>
</tr>
</tbody>
</table>

Note: The departmental expenses referred to in Budget Paper 2 and the above table are presented on a fiscal balance basis (which excludes depreciation). For details of total expenses (including depreciation) please refer to page 22 of the Employment and Workplace Relations 2005-06 Portfolio Budget Statements.

Slight discrepancies may occur between the sum of the three years and the total figure due to rounding.
* The estimated cost of WageAssist over the three financial years to 2008-09 at Budget has been revised down to $34.5 million while the income support savings estimates have been revised upward to $5.8m, correcting the original estimate. These variations are included in the revised expenditure figures provided in the Portfolio Additional Estimates Statements.

**Transair**

(Question No. 1470)

*Senator O’Brien* asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 17 January 2006:

(1) Since 2002-03, on how many occasions has action been proposed or taken by the Civil Aviation Safety Authority (CASA) against Transair Pty Ltd or any related company.

(2) In each case, how and when was this action, or proposed action, communicated to Transair or related companies.

(3) Did the Minister, or the former Minister, receive advice relating to this action, or proposed action; if so, in each case: (a) what action did CASA take or propose to take; (b) when was the advice provided to the ministers or their offices; (c) what action was taken by the ministers or their offices in response to this advice; and (d) did CASA amend its action or proposed action against Transair or related companies.

*Senator Ian Campbell*—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) (2), (3) No enforcement action has been taken by CASA against Lessbrook Pty Ltd (trading as Transair) since the beginning of FY 2002-2003.

Note: Transair is the trading name used by the registered company Lessbrook Pty Ltd, which is the holder of the Air Operator’s Certificate.

**Civil Aviation Safety Authority: Office of the Chief Executive Officer**

(Question No. 1473)

*Senator O’Brien* asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 17 January 2006:

(1) (a) When was the Office of the Chief Executive Officer in the Civil Aviation Safety Authority (CASA) established; and (b) what was the initial staff allocation and annual budget for the office.

(2) (a) What financial and staffing resources have been transferred from other areas of CASA into the Office of the Chief Executive Officer; and (b) in each case, when were these financial and staff resources transferred.

(3) For each year since the establishment of the Office of the Chief Executive Officer: (a) what was the office’s annual budget, establishment staffing level and actual staffing level; (b) what was the Chief Executive Officer’s travel, accommodation and other expenses; (c) what variations were made to the office budget including the cost category, the initial allocation and the revised allocation; and (d) what salaries were paid to, and travel, accommodation and other expenses incurred by officers other than the Chief Executive Officer, by category, and any variations to the level of funding for these cost categories.

*Senator Ian Campbell*—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) (a) The Office of the Chief Executive Officer (CEO) in the Civil Aviation Safety Authority (CASA) was established on 3 February 2004, following the abolition of the Board in 2003.
(b) The initial staff allocation for the Office of the CEO was nine positions of which seven were filled. The budget allocated for the period 3 February to 30 June 2004 was $610,000, equating to an annualised budget of $1,464,000.

(2) (a) and (b) At the time of establishment of the Office of the CEO in February 2004, four of the seven positions filled were transferred from other areas of CASA into the Office of the CEO, together with associated funding for those four positions. Since that time, a number of adjustments have been made as required to the actual staffing of the positions.

In August 2004, an additional position and associated funding was transferred into the Office of the CEO from another area of CASA.

In December 2005, an additional position and associated funding was transferred into the Office of the CEO from another area of CASA.

Overall, the establishment was increased by one position in 2004-05 and decreased by two positions in 2005-06. Current establishment is eight positions, of which seven are currently filled.

Note: These numbers exclude the Change Implementation Team (CIT) which was part of the Office of the CEO for some of 2005 but was established as a separate business area in October 2005.

(3) For each year since the establishment of the Office of the CEO:

(a) Annual budget, establishment staffing level and actual staffing level of the Office of the CEO:

<table>
<thead>
<tr>
<th>Year</th>
<th>Annual Budget (Feb-June)</th>
<th>Establishment Staffing Level</th>
<th>Actual Staffing Level</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003-04</td>
<td>$610,000</td>
<td>9</td>
<td>7</td>
</tr>
<tr>
<td>2004-05</td>
<td>$1,793,000</td>
<td>10</td>
<td>8</td>
</tr>
<tr>
<td>2005-06</td>
<td>$1,802,000</td>
<td>8</td>
<td>7</td>
</tr>
</tbody>
</table>

(b) CEO’s travel, accommodation and other expenses:

<table>
<thead>
<tr>
<th>Year</th>
<th>Travel (Feb-June)</th>
<th>Accommodation (Feb-June)</th>
<th>Other travel related expenses (Feb-June)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003-04</td>
<td>$15,654</td>
<td>$6,530</td>
<td>$4,170</td>
</tr>
<tr>
<td>2004-05</td>
<td>$47,603</td>
<td>$27,419</td>
<td>$32,751</td>
</tr>
<tr>
<td>2005-06</td>
<td>$15,794</td>
<td>$8,646</td>
<td>$15,669</td>
</tr>
</tbody>
</table>

(c) Variations to the office budget of the Office of the CEO:

<table>
<thead>
<tr>
<th>Year</th>
<th>Initial Allocation (Feb-June)</th>
<th>Variations: Salaries (Feb-June)</th>
<th>Variations: Controllable expenses (Feb-June)</th>
<th>Revised Allocation (Feb-June)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003-04</td>
<td>$610,000</td>
<td>Nil</td>
<td>Nil</td>
<td>$610,000</td>
</tr>
<tr>
<td>2004-05</td>
<td>$1,773,000</td>
<td>+$92,000</td>
<td>-$72,000</td>
<td>$1,802,000</td>
</tr>
<tr>
<td>2005-06</td>
<td>$1,727,000</td>
<td>+$13,000</td>
<td>+$62,000</td>
<td></td>
</tr>
</tbody>
</table>

(d) Salaries, travel, accommodation and other expenses incurred by officers other than the CEO:

<table>
<thead>
<tr>
<th>Year</th>
<th>Salaries (Feb-June)</th>
<th>Travel (Feb-June)</th>
<th>Accommodation (Feb-June)</th>
<th>Other travel related expenses (Feb-June)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003-04</td>
<td>$231,000</td>
<td>$12,000</td>
<td>$6,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>2004-05</td>
<td>$1,054,000</td>
<td>$13,000</td>
<td>$6,000</td>
<td>$5,000</td>
</tr>
<tr>
<td>2005-06</td>
<td>$513,000</td>
<td>$18,000</td>
<td>$7,000</td>
<td>$3,000</td>
</tr>
</tbody>
</table>
Transair Pty Ltd
(Question No. 1479)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 17 January 2006:
Did any meetings take place involving the former Minister, a member of the then Minister’s staff, the Member for Leichhardt and a representative of Aero Tropics and/or Transair Pty Ltd in the then Minister’s office in 2004 and/or 2005; if so: (a) for each meeting: (i) when did the meeting take place and who was in attendance, including officers from the Civil Aviation Safety Authority (CASA) and/or the department, and (ii) was the matter of action taken, or proposed to be taken, by CASA against Transair or any related company discussed; and (b) what action was taken by the then Minister, his staff, CASA or officers from the department following any of these meetings.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:
I am advised that no such meetings took place.

Prime Minister and Cabinet: Grants
(Question No. 1487)

Senator O’Brien asked the Minister representing the Prime Minister in the Senate and Other Ministers on 18 January 2006:
(1) What programs and/or grants administered by the Department provide assistance to the people living in the federal electorate of Bass.
(2) When did the delivery of these programs and/or grants commence.
(3) For each of the financial years 2002-03, 2003-04 and 2004-05, what funding was provided through these programs and/or grants for the people of Bass.
(4) For the 2005-06 financial year, what funding has been appropriate for these programs and/or grants.
(5) For the 2005-06 financial year, what funding has been approved under these programs and/or grants to assist organisations and individuals in the electorate of Bass.

Senator Minchin—The Prime Minister has provided the following answer to the honourable senator’s question:
I am advised that:
(1) The Department has no records of programmes and/or grants administered by the department which directly provide assistance to the people living in the federal electorate of Bass.
(2) Not applicable.
(3) As advised in response to question (1) above, my department does not fund any programmes in the electorate of Bass.
(4) Not applicable.
(5) Not applicable.

Immigration and Multicultural Affairs: Grants
(Question Nos 1496 and 1515)

Senator O’Brien asked the Minister for Immigration and Multicultural Affairs and the Minister representing the Minister for Citizenship and Multicultural Affairs, upon notice, on 18 January 2006:
(1) What programs and/or grants administered by the department provide assistance to the people living in the federal electorate of Bass.

(2) When did the delivery of these programs and/or grants commence.

(3) For each of the financial years 2002-03, 2003-04 and 2004-05, what funding was provided through these programs and/or grants for the people of Bass.

(4) For the 2005-06 financial year, what funding has been appropriated for these programs and/or grants.

(5) For the 2005-06 financial year, what funding has been approved under these programs/or grants to assist organisations and individuals in the electorate of Bass.”

Senator Vanstone—The answer to the honourable senator’s question is as follows:

(1) The following programs and/or grants administered by the department provide assistance to the people living in the federal electorate of Bass:

   (a) Migrant Resource Centre/Migrant Service Agency (MRC/MSA) grants.
   (b) Community Settlement Services Scheme (CSSS) grants.
   (c) Living in Harmony (LIH).
   (d) Immigration Advice and Application Assistance Scheme (IAAAS).
   (e) The Asylum Seeker Assistance Scheme (ASAS).

(2) The delivery of these programs and/or grants commenced on:

   (a) MRC/MSA, July 2002.
   (b) CSSS, October 2000.
   (c) LIH, 1999.
   (d) IAAAS, May 1997.
   (e) ASAS, January 1993.

(3) The funding provided to the people of Bass through these programs and/or grants is as follows:

   (a) MRC/MSA.
      Financial year 2002-03, $183,162.
      Financial year 2003-04, $198,000.
      Financial year 2004-05, $201,960.
   (b) CSSS.
      Financial year 2002-03, $38,000.
      Financial year 2003-04, $36,070.
      Financial year 2004-05, $97,055.
   (c) LIH.
      Financial year 2002-03, $49,300.
      Financial year 2003-04, $50,000.
      Financial year 2004-05, Nil.
   (d) IAAAS (funding allocated across the whole of Tasmania)\(^1\)
      Financial year 2002-03, $15,000.
      Financial year 2003-04, $32,913.
(e) ASAS (funding allocated across the whole of Tasmania)
   Financial year 2002-03, Nil.
   Financial year 2003-04, Nil.
   Financial year 2004-05, $8,667.

(4) The following funding was appropriated nationally during 2005-06 for these programs and/or grants:
   (a) and (b) MRC/MSA and CSSS, $29.793 million.
   (c) LIH, $ 1.843 million\(^2\)
   (d) IAAAS, $ 1.880 million.
   (e) ASA, $ 3.631 million.

(5) For the 2005-06 financial year, the following funding has been approved under these programs:
   (a) MRC/MSA, $206,000.
   (b) CSSS, $105,960.
   (c) LIH, $ 49,185.
   (d) IAAAS (funding approved across whole of Tasmania)\(^1\), $ 35,328.
   (e) ASAS (funding approved across whole of Tasmania)\(^1\), $ 16,184.

\(^1\) The detail of funding allocated and spent in the federal electorate of Bass under programs IAAAS and ASAS is not readily available and it is too time consuming to research the breakdown of addresses of recipients.

\(^2\) Out of this amount, $1.500 million was appropriated for new grants awarded in 2005-06 and $0.343 million was rephased from previous financial year to cover existing commitments.

Families, Community Services and Indigenous Affairs: Grants
(Question No. 1498)

Senator O’Brien asked the Minister representing the Minister for Families, Community Services and Indigenous Affairs, upon notice, on 18 January 2006:

(1) What programs and/or grants administered by the department provide assistance to the people living in the federal electorate of Bass.
(2) When did the delivery of these programs and/or grants commence.
(3) For each of the financial years 2002-03, 2003-04 and 2004-05, what funding was provided through these programs and/or grants for the people of Bass.
(4) For the 2005-06 financial year, what funding has been appropriated for these programs and/or grants.
(5) For the 2005-06 financial year, what funding has been approved under these programs and/or grants to assist organisations and individuals in the electorate of Bass.

Senator Kemp—The Minister for Families, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:
FaCSIA administers a broad range of assistance to the community including the electorate of Bass. Programs are not unique to any one electorate and figures are often only available to state level.
Agriculture, Fisheries and Forestry: Grants
(Question No. 1503)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 18 January 2006:

1. What programmes and/or grants administered by the department provide assistance to the people living in the federal electorate of Bass.
2. When did the delivery of these programmes and/or grants commence.
3. For each of the financial years 2002-03, 2003-04 and 2004-05, what funding was provided through these programmes and/or grants for the people of Bass.
4. For the 2005-06 financial year, what funding has been appropriated for these programmes and/or grants
5. For the 2005-06 financial year, what funding has been approved under these programmes and/or grants to assist organisations and individuals in the electorate of Bass.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

ATTACHMENT A

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Farm Help – Supporting Families through Change</td>
<td>December 1997</td>
<td>$0.012m</td>
<td>$0.1m</td>
<td>$0.016m</td>
<td>$15m</td>
<td>$0.007m</td>
</tr>
<tr>
<td>Rural Financial Counselling Service¹</td>
<td>July 1986</td>
<td>$0.007m²</td>
<td>$0.007m</td>
<td>$0.007m</td>
<td>$5.656m³</td>
<td>-</td>
</tr>
<tr>
<td>AAA FarmBis ⁴</td>
<td>July 1998</td>
<td>$0.398m</td>
<td>$0.489m</td>
<td>$0.111m</td>
<td>$14.2m</td>
<td>$0.374m</td>
</tr>
<tr>
<td>Industry Partnerships – Capacity Building initiatives (formally Industry Leadership)</td>
<td>July 2001</td>
<td>$0.010m</td>
<td>$0.028m</td>
<td>$0.010m</td>
<td>$1.0m ($4.5m for entire programme)</td>
<td>$0.006m</td>
</tr>
<tr>
<td>Aquaculture Tasmania - Pilot Commercialisation Projects</td>
<td>August 2001</td>
<td>$0.043m</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Westhaven Dairy - Pilot Commercialisation Projects</td>
<td>August 2001</td>
<td>$0.0421m</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Organic Dry Baby Food - Pilot Commercialisation Projects</td>
<td>November 2003</td>
<td>-</td>
<td>$0.09m</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Flash Fish – In Market Experience Scholarship</td>
<td>December 2005</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Lenah Game Meats - In Market Experience Scholarship</td>
<td>September 2002</td>
<td>$0.01m</td>
<td>$0.0095m</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Food Processing in Regional Australia Programme</td>
<td>2005-2006</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>$4.066m</td>
<td>$0 (So far) – several applications in current round</td>
</tr>
</tbody>
</table>
Agriculture, Fisheries and Forestry: Grants
(Question No. 1505)

Senator O’Brien asked the Minister for Fisheries, Forestry and Conservation, upon notice, on 18 January 2006:

(1) What programmes and/or grants administered by the department provide assistance to the people living in the federal electorate of Bass.

(2) When did the delivery of these programmes and/or grants commence.
(3) For each of the financial years 2002-03, 2003-04 and 2004-05, what funding was provided through these programmes and/or grants for the people of Bass.

(4) For the 2005-06 financial year, what funding has been appropriated for these programmes and/or grants

(5) For the 2005-06 financial year, what funding has been approved under these programmes and/or grants to assist organisations and individuals in the electorate of Bass.

Senator Abetz—The answer to the honourable senator’s question is as follows.

See response to Senate Question on Notice number 1503.

Prime Minister and Cabinet: Grants

(Question No. 1517)

Senator O’Brien asked the Minister representing the Prime Minister in the Senate and Other Ministers, upon notice, on 18 January 2006:

For each financial year since 2001-02, what grants or payments has the Minister’s department, or have agencies for which the Minister is responsible, made to City View Christian Church Inc. (formerly known as Crusade Centre Inc.) based in Launceston, Tasmania.

Senator Minchin—The Prime Minister has provided the following answer to the honourable senator’s question:

I am advised that:

The Department of the Prime Minister and Cabinet and its portfolio agencies have no records of any grants or payments made to the City View Christian Church Inc. or its predecessor Crusade Centre Inc. based in Launceston, Tasmania, in the financial years 2001-02 to 2004-05.

Immigration and Multicultural Affairs: Grants

(Question Nos 1526 and 1545)

Senator O’Brien asked the Minister for Immigration and Multicultural Affairs and the Minister representing the Minister for Citizenship and Multicultural Affairs, upon notice, on 18 January 2006:

For each financial year since 2001-02, what grants or payments has the Minister’s department, or have agencies for which the Minister is responsible, made to City View Christian Church Inc. (formerly known as Crusade Centre Inc.) based in Launceston, Tasmania.

Senator Vanstone—The answer to the honourable senator’s question is as follows:

No grant or any other payment has been made to City View Christian Church Inc. (formerly known as Crusade Centre Inc.) in any financial year since 2001-02 by the Department of Immigration and Multicultural Affairs or any agency in my portfolio.

Communications, Information Technology and the Arts: Grants

(Question Nos 1531 and 1536)

Senator O’Brien asked the Minister for Communications, Information Technology and the Arts and the Minister for the Arts and Sport, upon notice, on 18 January 2006:

For each financial year since 2001-02, what grants or payments has the Minister’s department, or have agencies for which the Minister is responsible, made to City View Christian Church Inc. (formerly known as Crusade Centre Inc.) based in Launceston, Tasmania.

Senator Coonan—The answer to the honourable senator’s question is as follows:
Neither the Department of Communications, Information Technology and the Arts nor any of the portfolio agencies for which I have responsibility has any record of having made any grants or other payments to the Launceston based City View Christian Church Inc. (formerly known as Crusade Centre Inc.) based in Launceston, Tasmania.

**Immigration Cases: Costs**

(Question No. 1547)

Senator Nettle asked the Minister for Immigration and Multicultural Affairs, upon notice, on 18 January 2006:

1. What has been the total itemised cost (including, but not limited to, legal fees, expert and consultant reports, translation, accommodation and transport expenses, miscellaneous fees and administration costs) incurred to date in support of the litigation involving:
   (a) Robert Jovicic;
   (b) Ali Tastan;
   (c) Fatiah Tuncock; and
   (d) Shayan Badraie.

Senator Vanstone—The answer to the honourable senator’s question is as follows:

1. The total itemised cost incurred to date in support of the litigation for the four matters cited is as follows:

   (a) As at 7 February 2006 the total cost incurred in support of the litigation involving Robert Jovicic was $11,775.22.

<table>
<thead>
<tr>
<th>Itemised total cost:</th>
<th>$11,775.22</th>
</tr>
</thead>
<tbody>
<tr>
<td>External Legal fees:</td>
<td>$10,202.50</td>
</tr>
<tr>
<td>Administration fees:</td>
<td>$ 691.64</td>
</tr>
<tr>
<td>DIMA travel costs:</td>
<td>$ 881.08</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$11,775.22</td>
</tr>
</tbody>
</table>

   (b) As at 7 February 2006 the total cost incurred in support of the litigation involving Ali Tastan was $6,453.96.

<table>
<thead>
<tr>
<th>Itemised total cost:</th>
<th>$6,453.96</th>
</tr>
</thead>
<tbody>
<tr>
<td>External Legal Fees:</td>
<td>$ 5,082.00</td>
</tr>
<tr>
<td>Administration fees:</td>
<td>$ 1,371.96</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$6,453.96</td>
</tr>
</tbody>
</table>

   (c) As at 7 February 2006 the total cost incurred in support of the litigation involving Fatiah Tuncock was $3,241.33.

<table>
<thead>
<tr>
<th>Itemised total cost:</th>
<th>$3,241.33</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal fees:</td>
<td>$ 2,940.50</td>
</tr>
<tr>
<td>Administration fees:</td>
<td>$ 261.75</td>
</tr>
<tr>
<td>Courier fees:</td>
<td>$ 39.08</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$3,241.33</td>
</tr>
</tbody>
</table>

   (d) As at 7 March 2006 the total cost incurred in support of the litigation involving Shayan Badraie was $1,553,562.71.

<table>
<thead>
<tr>
<th>Itemised total cost:</th>
<th>$1,553,562.71</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal fees:</td>
<td>$1,390,661.07</td>
</tr>
<tr>
<td>Medical Reports:</td>
<td>$ 86,964.70</td>
</tr>
</tbody>
</table>

QUESTIONS ON NOTICE
QUESTIONS ON NOTICE

Itemised total cost:

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Other Sundry</td>
<td>$67,495.51</td>
</tr>
<tr>
<td>DIMA travel costs:</td>
<td>$4,181.43</td>
</tr>
<tr>
<td>DIMA accommodation costs:</td>
<td>$4,260.00</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$1,553,562.71</strong></td>
</tr>
</tbody>
</table>

**Immigration Cases: Costs**

(Question No. 1548)

*Senator Nettle* asked the Minister for Immigration and Multicultural Affairs, upon notice, on 18 January 2006:

1. What has been the total cost of accommodation, medical and other expenses for Robert Jovicic in Belgrade.
2. What has been the total cost of accommodation, medical and all other expenses for Ali Tastan, including all related travel.
3. What has been the total cost of legal opinions regarding the Nystrom case and its consequences for those in detention and those already deported.
4. What has been the total itemised cost (including, but not limited to, legal fees, expert and consultant reports, translation, accommodation and transport expenses, miscellaneous fees and administration costs) incurred to date in support of the litigation involving Mr Nystrom.

*Senator Vanstone*—The answer to the honourable senator’s question is as follows:

1. The total cost of accommodation, medical and other expenses for Robert Jovicic in Belgrade will not be known until his case is finalised.
2. The total cost of accommodation, medical and all other expenses including all related travel for Ali Tastan will not be known until his case is finalised.
3. As at 9 February 2006 the total cost incurred for receipt of legal opinions regarding the Nystrom case and its consequences for those in detention and those already deported is $23,389.28.
4. As at 9 February 2006 the total cost incurred in support of the litigation involving Mr Nystrom is $99,875.27.

Itemised total cost:

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>External Legal fees</td>
<td>$88,289.51</td>
</tr>
<tr>
<td>Administration fees</td>
<td>$11,585.76</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$99,875.27</strong></td>
</tr>
</tbody>
</table>

**Temporary Protection Visas**

(Question No. 1549)

*Senator Nettle* asked the Minister for Immigration and Multicultural Affairs, upon notice, on 18 January 2006:

1. Can a list be provided of the number of Temporary Protection Visa (TPV) holders in Australia, including a breakdown by state, local government area, gender, nationality and age; and
2. Can a list be provided of the number of TPV holders who have been refused a permanent visa after their original TPV has expired.

*Senator Vanstone*—The answer to the honourable senator’s question is as follows:
QUESTIONS ON NOTICE

(1) DIMA records as at 20 January 2006 indicate that there were some 1966 temporary protection visa (TPV) and offshore temporary humanitarian visa (THV) holders in Australia. The breakdown of the 1966 TPV and THV holders in Australia (including those who have not yet lodged a further protection visa application, those who are awaiting a primary decision on a further protection visa, and those who have been refused and have either not yet lodged a request for review, or have lodged a review request but are awaiting a review decision) is as follows:

<table>
<thead>
<tr>
<th>Gender</th>
<th>Male</th>
<th>Female</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1499</td>
<td>467</td>
<td>1966</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Nationality</th>
<th>Number of Holders</th>
</tr>
</thead>
<tbody>
<tr>
<td>IRAQ</td>
<td>892</td>
</tr>
<tr>
<td>AFGHANISTAN</td>
<td>536</td>
</tr>
<tr>
<td>IRAN</td>
<td>196</td>
</tr>
<tr>
<td>VIETNAM</td>
<td>56</td>
</tr>
<tr>
<td>PALESTINIAN AUTHORITY</td>
<td>42</td>
</tr>
<tr>
<td>CHINA, PEOPLES REPUBLIC OF</td>
<td>37</td>
</tr>
<tr>
<td>STATELESS</td>
<td>25</td>
</tr>
<tr>
<td>BURMA</td>
<td>15</td>
</tr>
<tr>
<td>TURKEY</td>
<td>14</td>
</tr>
<tr>
<td>INDONESIA</td>
<td>12</td>
</tr>
<tr>
<td>SRI LANKA</td>
<td>11</td>
</tr>
<tr>
<td>OTHER* (51)</td>
<td>130</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>1966</strong></td>
</tr>
</tbody>
</table>

*Nationalities of visa holders are aggregated where the estimated number of any nationality is fewer than ten and the number of countries so treated is shown in brackets.

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Number of Holders</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 5</td>
<td>121</td>
</tr>
<tr>
<td>6 to 10</td>
<td>128</td>
</tr>
<tr>
<td>11 to 17</td>
<td>154</td>
</tr>
<tr>
<td>18 to 25</td>
<td>344</td>
</tr>
<tr>
<td>26 to 45</td>
<td>1055</td>
</tr>
<tr>
<td>46 to 60</td>
<td>137</td>
</tr>
<tr>
<td>&gt;60</td>
<td>27</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1966</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Region</th>
<th>State</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>BARWON</td>
<td>VIC</td>
<td>&lt;1%</td>
</tr>
<tr>
<td>DARWIN</td>
<td>NT</td>
<td>&lt;1%</td>
</tr>
<tr>
<td>KIMBERLEY</td>
<td>WA</td>
<td>&lt;1%</td>
</tr>
<tr>
<td>MIDLANDS</td>
<td>WA</td>
<td>&lt;1%</td>
</tr>
<tr>
<td>MURRAY</td>
<td>NSW</td>
<td>&lt;1%</td>
</tr>
<tr>
<td>MURRUMBIDGEE</td>
<td>NSW</td>
<td>&lt;1%</td>
</tr>
<tr>
<td>OUTER ADELAIDE</td>
<td>SA</td>
<td>&lt;1%</td>
</tr>
<tr>
<td>DARLING DOWNS</td>
<td>QLD</td>
<td>&lt;1%</td>
</tr>
<tr>
<td>Region</td>
<td>State</td>
<td>Percentage</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>-------</td>
<td>------------</td>
</tr>
<tr>
<td>NORTHERN TERRITORY - BAL</td>
<td>NT</td>
<td>&lt;1%</td>
</tr>
<tr>
<td>PILBARA</td>
<td>WA</td>
<td>&lt;1%</td>
</tr>
<tr>
<td>HUNTER</td>
<td>NSW</td>
<td>&lt;1%</td>
</tr>
<tr>
<td>NORTHERN - SA</td>
<td>SA</td>
<td>&lt;1%</td>
</tr>
<tr>
<td>OTHER TERRITORIES</td>
<td>WA</td>
<td>&lt;1%</td>
</tr>
<tr>
<td>SOUTH WEST - WA</td>
<td>WA</td>
<td>&lt;1%</td>
</tr>
<tr>
<td>MID-NORTH COAST</td>
<td>NSW</td>
<td>&lt;1%</td>
</tr>
<tr>
<td>LOWER GREAT SOUTHERN</td>
<td>WA</td>
<td>&lt;1%</td>
</tr>
<tr>
<td>MORETON</td>
<td>QLD</td>
<td>&lt;1%</td>
</tr>
<tr>
<td>MURRAY LANDS</td>
<td>SA</td>
<td>&lt;1%</td>
</tr>
<tr>
<td>MALLEE</td>
<td>VIC</td>
<td>&lt;2%</td>
</tr>
<tr>
<td>CANBERRA</td>
<td>ACT</td>
<td>&lt;2%</td>
</tr>
<tr>
<td>GOULBURN</td>
<td>VIC</td>
<td>&lt;2%</td>
</tr>
<tr>
<td>BRISBANE</td>
<td>QLD</td>
<td>&lt;3%</td>
</tr>
<tr>
<td>ADELAIDE</td>
<td>SA</td>
<td>&lt;7%</td>
</tr>
<tr>
<td>MELBOURNE</td>
<td>VIC</td>
<td>16%</td>
</tr>
<tr>
<td>PERTH</td>
<td>WA</td>
<td>20%</td>
</tr>
<tr>
<td>SYDNEY</td>
<td>NSW</td>
<td>45%</td>
</tr>
</tbody>
</table>

*This percentage is based on a sample of available postcodes for TPV and THV applicants as a postcode for all applicants is not available.

(2) As at 20 January 2006, 111 persons who were TPV/THV holders who have been found to require further protection have been granted further temporary, rather than permanent, visas.

State Funerals

(Question No. 1555)

Senator Bob Brown asked the Minister representing the Prime Minister, upon notice, on 23 January 2006:

With reference to the granting of a state funeral:

(1) What are the criteria for awarding a state funeral or memorial service.

(2) What was the process, if any, that led to the assessment that Mr Kerry Packer met these criteria.

(3) What is the estimated cost of the state service for Mr Packer.

Senator Minchin—The Prime Minister has provided the following answer to the honourable senator’s question:

(1) and (2) It has been the policy of successive Australian Governments to offer State Funerals and/or State Memorial Services to distinguished Australians from a wide range of backgrounds and professions who have made a significant contribution to Australia. Such services are offered both as a mark of respect for the recipient and in recognition of the particular contribution they have made. In addition to holders of relevant public office, such acknowledgment has been offered in the past to scientists, entertainers, sports people, members of the medical professions, indigenous leaders and members of the military services.

(3) The State Memorial Service for the late Mr Kerry Packer AC, which was offered and was conducted in accordance with both past practice and the relevant guidelines, cost the Department of the Prime Minister and Cabinet $73,223.63.
Digital Spectrum
(Question No. 1563)

Senator Conroy asked the Minister for Communications, Information Technology and the Arts, upon notice, on 25 January 2006:

(1) Can the Minister confirm that the Department of Communications, Information Technology and the Arts commissioned a report by the Allen Consulting Group on the economic impact of the provisions of multi-channelling and other services in the digital terrestrial spectrum.

(2) What was the cost of this consultancy.

(3) Will the Minister table in the Senate a copy of the report by Allen Consulting; if not, can the Minister explain why it will not be disclosed.

Senator Coonan—The answer to the honourable senator’s question is as follows:

(1) Yes.

(2) The cost of this consultancy was $160,000 including GST.

(3) An executive summary of the report is provided as an attachment to the report of the review of the provision of services other than simulcasting by free-to-air broadcasters on digital spectrum. This report was tabled out of session on 23 March 2006. The full report from the Allen Consulting Group is available from the website of the Department of Communications, Information Technology and the Arts.

Civil Aviation Safety Authority: Chief Executive Officer
(Question No. 1565)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 25 January 2006:

(1) Does the Chief Financial Officer of the Civil Aviation Safety Authority (CASA) provide CASA’s monthly executive meeting with a list of staff who have failed to properly acquit their travel allowances and associated payments.

(2) What action is taken against officers who fail to properly acquit allowances and associated payments.

(3) Has CASA’s Chief Executive Officer (CEO) been named in these reports for failing to properly acquit travel allowances and associated payments; if so, can details be provided of: (a) the date of the report; (b) the nature of the CEO’s failure to properly acquit expenditure; (c) the date or dates of travel; (d) the places of travel; and (e) the cost of travel including; (i) airfares, (ii) accommodation, and (iii) other expenses by category.

(4) For each occasion on which the CEO has been named, can details be provided of: (a) action taken to ensure travel was acquitted; and (b) the date travel was properly acquitted.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) Yes, the Finance report for the monthly Chief Executive Officer (CEO) Planning and Reporting meeting includes this as an attachment.

(2) CASA’s credit card policy requires acquittal within 30 days of receipt of statement. Officers are named in the report given to the executive if the statement is not acquitted after 60 days. The follow-up procedure is to contact the officer by telephone and email. If the officer does not acquit the card or provide a legitimate reason why the travel cannot be acquitted within the given deadline, the offending officer’s corporate credit card is cancelled.

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(3) The CEO was named in the report on one occasion, following an overseas trip.
   (b) Delay in the acquittal of the May 2005 credit card statement due to outstanding reconciliation of overseas trip costs, due to some items not yet appearing on the credit card statement.
   (c) The May 2005 credit statement included charges for:
       (i) Domestic travel in May 2005.
       (ii) Overseas travel that commenced 16 May 2005 and was completed on 15 June 2005.
   (d) Melbourne, Canberra, Newcastle, United Kingdom and Europe.
   (e) Cost of travel:
       (i) Airfares, $ 9,903.53
       (ii) Accommodation, $ 4,481.24
       (iii) The cost of meals and other expenses (conference fees, car rental, taxis, petrol, parking, tolls, maps, internet) incurred by Mr Byron was $8,160.97.

(4) (a) The CEO was named in the report on one occasion and this was followed up by a telephone call to the CEO’s administrative officer from CASA’s Finance Branch. No further action was required as the CEO’s card was then acquitted.
   (b) 18th October 2005.

**Nuclear Waste**

*(Question No. 1596)*

**Senator Allison** asked the Minister representing the Minister for Education, Science and Training, upon notice, on 24 February 2006:

(1) What are the implications of the ruling of 8 December 2005 by the final Court of Appeal in France with regard to the illegality of storing spent nuclear fuel from the Lucas Heights nuclear reactor.

(2) Does this have any impact on the decision to proceed with the new research reactor at Lucas Heights.

(3) How soon does the Government expect the subject waste to be returned to Australia.

(4) Where and how will it be stored when it arrives.

**Senator Vanstone**—The Minister for Education, Science and Training has provided the following answer to the honourable senator’s question:

(1) No impact.

(2) No.

(3) The Government expects that waste arising from the reprocessing of the spent fuel will be returned to Australia from 2011.

(4) The waste will be stored at the Commonwealth Radioactive Waste Management Facility in the Northern Territory.

**Terrain Awareness and Warning System**

*(Question No. 1604)*

**Senator Bob Brown** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 27 February 2006:

(1) (a) Why is it not mandatory that planes, particularly charter flights carrying six or more passengers, be equipped with an approved terrain awareness and warning system;
(b) Who made this decision and when; and
(c) Is there a requirement for planes carrying more than six passengers in the United States to be so equipped.

(2) In relation to the plane crash carrying five people near Benalla in 2004:
   (a) Was this plane equipped with an approved terrain awareness and warning system; if not, could the plane crash have been avoided with such equipment aboard; and
   (b) Did the Melbourne control tower receive (five times) an alarm triggered by the plane before it crashed; if so:
      (i) Why was the alarm not heeded,
      (ii) What response did the alarm evoke on each occasion,
      (iii) What action has been taken about the failure to heed the alarm, and
      (iv) What action has been taken to ensure such alarms are heeded in the future.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) (a) Civil Aviation Safety Authority (CASA) requirements with regard to terrain awareness and warning systems are in line with the requirements outlined in International Civil Aviation Organization (ICAO) Annex 6 to the Convention on International Civil Aviation, Operation of Aircraft, which states:

6.15.1 All turbine-engined aeroplanes of a maximum certificated take-off mass in excess of 5,700 kg or authorised to carry more than nine passengers shall be equipped with a ground proximity warning system.

And recommends the following:

6.15.6 Recommendation. - All turbine-engined aeroplanes of a maximum certificated take-off mass of 5,700 kg or less and authorised to carry more than nine passengers shall be equipped with a ground proximity warning system which provides the warnings in 6.15.9(a) and (c), warning of unsafe terrain clearance and a forward looking terrain avoidance function.

(b) See (1) (a). This requirement was first gazetted on 8 December 1982.

(c) The United States Federal Aviation Administration requires all turbine-engined aeroplanes configured with six passenger seats to be equipped with terrain awareness and warning system (ground proximity warning system).

(2) (a) No. However, the aircraft was equipped with a radio altimeter that indicated height above terrain directly below the aircraft that was capable of alerting the pilot at a pre-set height.

(b) The air traffic control system at Melbourne Centre received three alerts in relation to deviations from the flight path of the aircraft involved in the accident at Benalla in July 2004. The alarms were of a type known as a Route Adherence Monitoring (RAM) alerts and are triggered when an aircraft within the coverage of radar deviates laterally by more than 7.5 nautical miles from the route clearance provided by air traffic control.

(i) The first alert was responded to and appropriately actioned by a controller. The second and third alerts were acknowledged by a different controller while the aircraft was en route between the Moruya area and Benalla, who did not inform the pilot of the deviation as required by procedures.

The Airservices Australia investigation team concluded that the controller did not provide the advice as required as they had knowledge of the pilot’s regular flights to Benalla and that the controller perceived the pilot to be highly professional. The controller therefore perceived that

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the pilot was effectively managing the navigation of the aircraft. This knowledge seemed to
have led the controller to assume that the pilot of the aircraft knew where he was and what he
was doing. The Australian Transport Safety Bureau (ATSB) investigation also reached the
same conclusions.

(ii) The first RAM alert presented to the Wollongong controller. Analysis of that controller’s
actions shows that the alert was promptly acknowledged and prompted an exchange with the
pilot concerning his tracking intentions. The controller’s actions were a valid reaction to re-
cceipt of a RAM alert in such a circumstance and had no further relevance on the flight.

The second RAM alert occurred while the aircraft was being handed over from one sector con-
troller to another while the aircraft was en route from the coast to Benalla. That alert was dis-
played on each of those controller’s air situation displays. Following the RAM alert, one con-
troller assessed the track of the aircraft and did not notice anything unusual in that respect. The
other controller also undertook a visual assessment of the aircraft’s track and determined that
the aircraft was tracking as expected to the most northerly of the three waypoints at which the
aircraft could commence an approach to Benalla. The pilot was not informed of the RAM
alert.

The third RAM alert occurred while the aircraft was on descent to commence an approach to
Benalla from what appeared to be the most southerly waypoint available for the approach. The
controller used on-screen tools to assess the track of the aircraft. This confirmed in his mind
that the aircraft was heading towards the southerly waypoint and not the northern waypoint as
previously understood. On this basis the controller took action that cancelled the RAM alert.
The controller did not provide tracking advice to the pilot.

(iii) Immediately following that accident, the controller oversighting the aircraft’s track at the
time of the second and third RAM was removed from operational duty. The Controller has not
been returned to operational duty.

Airservices Australia promptly initiated a formal internal investigation in accordance with its
safety management system requirements. The investigation made a number of recommendations
that identified actions required that should reduce the likelihood of RAM alerts being un-
heeded in the future. These recommendations were as follows:

i. Training focused on existing and new controllers must be developed as a matter of priority
that specifically addresses TAAATS alerts and alarms, and their management.

ii. Information and training should be provided to controllers relating to the influence of hu-
man factors issues such as confirmation bias and processing of visual data.

iii. Develop and implement a specific TAAATS graphic tool that readily displays on the air
situation display an aircraft’s cleared route as recorded in the flight data record.

iv. The Manual of Air Traffic Services (MATS), which provides procedural requirements for
controllers, was reviewed to determine whether the relevant provisions relating to RAM alerts
and general radar surveillance in circumstances where an aircraft deviates from cleared route,
could be improved.

v. Consider the inclusion in MATS of controller responsibilities in relation to the use of route
(RTE) function and velocity vector specifically where these two functions are used simultane-
ously to determine track keeping.

vi. Review the availability and knowledge of pilot track keeping requirements and deviations
and consider inclusion of such information in annual rating papers.

vii. In conjunction with the Civil Aviation Safety Authority (CASA), consider the development
of specific phraseology to be used by pilots as they commence a Global Positioning System

QUESTIONS ON NOTICE
(GPS) Non-Precision Approach (NPA), such as that used Benalla, which includes notification of the waypoint at which the aircraft is located.

The above recommendations were implemented, with the exception of recommendation vii which, after consultation with CASA, was rejected by Airservices Australia. In addition to the recommendations from the Airservices Australia internal investigation, the organisation undertook a review of ATC’s attitudes and response to alerts and alarms which concluded no systemic problem existed in relation to compliance with procedures relating to alerting pilots of track deviations. At the time of the accident, the organisation was upgrading its alert suite. This upgrade has now been implemented and aims to further enhance controller awareness and performance.

The ATSB investigation report made no additional recommendations to Airservices Australia.

Snowy River

(Question No. 1606)

Senator Allison asked the Minister for the Environment and Heritage, upon notice, on 28 February 2006:

(1) Given that the Victorian and New South Wales (NSW) governments have committed $50 million from the proceeds of the sale to returning water to the Snowy River, and $10 million to maximising environmental outcomes, what money will the Commonwealth contribute to the ongoing health and viability of the Snowy River.

(2) (a) Will the Commonwealth Government commit to ensuring the Snowy River flows at a minimum of 28 per cent of its original flow, prior to the proposed sale; and (b) will the Commonwealth hold the NSW Government to its previous commitments to establish the Snowy Scientific Committee to ensure environmental flows have the greatest possible ecological benefit.

(3) Given the Minister’s strong interest in Alpine Heritage: (a) does he fully support privatisation of such an important and iconic piece of infrastructure; and (b) has he assessed the environmental and heritage impacts of the sale.

Senator Ian Campbell—The answer to the honourable senator’s question is as follows:

(1) The Australian Government remains committed to the arrangements agreed by the three governments at corporatisation, including those aimed at improving the health of the Snowy and other rivers. The Government has also made other significant commitments to river health in Australia, particularly through the Natural Heritage Trust Programme, the National Water Initiative and the Living Murray Initiative. It is within this context that we are currently considering the Victorian Government’s request to further strengthen commitments in relation to the Snowy River.

(2) (a) As already stated, the Australian Government remains committed to the arrangements agreed at corporatisation with the New South Wales (NSW) and Victorian Governments, which set 10-year targets for restoring 212 Gigalitres (GL) of flows to the Snowy River to achieve 21 per cent average natural flows, together with achieving an average 70 GL of additional environmental flows for the Murray River, and additional montane river flows. The arrangements agreed at corporatisation also provide an option for governments to agree to participate in further increases in environmental flows in the Snowy River after 2012, up to a total of 28 per cent of annual natural flows, subject to government and private sector participants agreeing to a capital works programme to achieve the offsetting water savings in all or any of the Lower Darling, Goulburn, Murray and Murrumbidgee river systems, and the NSW and Victorian governments agreeing to compensate Snowy Hydro for net foregone revenue resulting from any further increase in Snowy River flows above 212 GL.
(b) I am aware that the NSW Government has a commitment under its Snowy Corporatisation Act 1997 to establish a Snowy Scientific Committee to provide advice on matters related to the regime for the release of water for environmental reasons under the Snowy water licence. The Australian Government has indicated its support for the establishment of this committee to NSW. I understand that the responsible NSW Minister, the Hon John Della Bosca MP, has committed to establishing the Scientific Committee and has commenced the process to do so.

(3) (a) Yes. (b) No, the sale does not constitute an action under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) and therefore does not require environment assessment and approval. I have initiated an assessment for Australia's alpine heritage for consideration for the National Heritage List. The assessment will include those parts of the Snowy Hydro Scheme which are within national park boundaries. I have yet to receive the assessment and yet to decide whether the area has any heritage values that warrant its inclusion in the National Heritage List.

**Tobacco Products**

*(Question No. 1612)*

Senator Allison asked the Minister representing the Treasurer, upon notice, on 9 March 2006:

(1) Is the Government aware of a new retail promotion for Peter Stuyvesant cigarettes on offer in a number of capital cities, including Sydney, Perth and Melbourne, that consists of 20 cigarettes inside a tin container which has peel off health warnings on the outside of the tin.


(3) Is the Government or the Australian Competition and Consumer Commission aware that retailers are informing customers that these cigarettes are ‘light’, as indicated by the blue and white colour coded sticker; if not, will an investigation be conducted into this claim.

(4) Is it the case that cigarette retailers stockpiled the pre-graphic warning products to delay the necessity to sell packs with the graphic warnings, which came into effect on 1 March 2006.

(5) What, if any, action will be taken against manufacturers or retailers if significant stockpiling has taken place.

Senator Minchin—The Treasurer has provided the following answer to the honourable senator’s question:

(1) The supplier of the cigarettes which has been the subject of media reports has advised the ACCC that the new graphic health warnings which are being applied to cigarette packages, manufactured or imported after 1 March 2006, are all printed onto the packages. The use of adhesive labels has been discontinued.

(2) The ACCC is unable to comment on conduct that is the subject of an ongoing investigation.

(3) The ACCC until now has not been provided with any information concerning such allegations, however should it receive specific details of such conduct it would consider this matter.

(4) The ACCC is not aware of any evidence that retailers increased levels of stock holdings not bearing the graphic warnings prior to 1 March 2006.

(5) The ACCC refers to its answer to (4) above. The ageing of tobacco products and the costs associated with stockpiling would act as deterrents against such practices.
Youth Smoking
(Question No. 1614)

Senator Allison asked the Minister representing the Minister for Health and Ageing, upon notice, on 14 March 2006:

With reference to the article ‘Exposure to movie smoking: Its relation to smoking initiation among US adolescents’, in Paediatrics, Volume 116(5), pp 1183-1191, which found that exposure to smoking in movies was a primary risk factor for smoking initiation in adolescents:

(1) Has any comparable Australian research been conducted that examines the relationship between exposure to smoking in movies and smoking initiation in Australian young people; if so, what are the findings of this research.

(2) Has the Government funded any research into this issue; if so, what are the details of this funding and research; if not, why not.

(3) Does the Government agree that exposure of young people to smoking in movies increases the likelihood that young people will commence smoking.

(4) What initiatives has the Government put in place to combat the effect of exposure of young people to smoking in movies.

(5) Has the Government investigated any of the following evidence-based approaches to reducing the impact of smoking in movies on young people:
   (a) applying the ‘R’ rating to any film that shows tobacco use;
   (b) showing anti-smoking ads or public service announcements prior to movies with smoking;
   (c) requiring movie producers to post a certificate in the credits at the end of the movie declaring that no-one on the production received anything of value (money, free cigarettes or other gifts, free publicity, interest-free loans, or anything else) from anyone in exchange for using or displaying tobacco; or
   (d) banning tobacco brand identification and the presence of tobacco brand imagery (such as billboards) in the background of any movie scene.

(6) Does the Government support the development of an industry code of conduct for the depiction of smoking in films.

Senator Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) and (2) The Australian Government sponsored a study in 2001/2002 titled ‘Incidental Smoking in the Media’. This study identified the frequency and characteristics of smoking incidence in the media, including print media, internet, movies and television. The media samples investigated were those identified as popular with the 18 – 30 years age group. The full report on this study can be found at http://www.cbrcc.curtin.edu.au/reports/030324.pdf.

(3) The study referred to (‘Exposure to movie smoking: Its relation to smoking initiation among US adolescents’), points to smoking in movies being a risk factor for smoking initiation among young people.

(4) In 2005, the Australian Government commissioned research to undertake an analytical literature review and qualitative-based research on youth smoking behaviours and attitudes. The research targeted young people aged 12-24 years. The behavioural research will assist in better understanding the processes of tobacco uptake, addiction and cessation among young people. The results of the research can be used by all governments to assist in the development of improved policy frameworks for appropriate youth interventions in overall tobacco control strategies.
The Australian Government announced in the 2005-06 budget that $25 million over four years would be allocated to a National Tobacco Campaign focusing on young people. The government is aiming to reduce the number of young people taking up smoking and to assist those already smoking to quit.

From 1 March 2006, all tobacco products imported and manufactured for retail in Australia are required to bear new graphic health warnings and explanatory messages, which provide strong and confronting messages to smokers about the harmful health consequences of smoking tobacco products. The Australian Government also developed an advertising campaign to support its introduction with a particular emphasis on youth.

(5) The Australian Government Department of Health and Ageing has not investigated the options referred to in 5(a), (b), (c) or (d).

(6) While the Australian film industry is required to comply with Australian regulatory requirements, the majority of films are made overseas, making this an international issue. Australia supports international endeavours in tobacco control as a signatory to the Framework Convention on Tobacco Control and would consider any proposals in that context.

Chen Long and Pong Su
(Question No. 1619)

Senator Ludwig asked the Minister for Immigration and Multicultural Affairs, upon notice, on 14 March 2006:

(1) Have any of the crew of the Chen Long claimed protection or other types of visas; if so, can details be provided of numbers and class of visa application.

(2) Have any of the crew of the Pong Su claimed protection or another type of visa; if so, can details be provided of numbers and class of visa application.

Senator Vanstone—The answer to the honourable senator’s question is as follows:

(1) None of the 18 crew members of the Chen Long applied for protection or any other visa categories whilst they were in immigration detention in Australia.

(2) None of the 30 crew members of the Pong Su applied for protection or any other visa categories whilst they were in immigration detention in Australia.

Chen Long
(Question No. 1620)

Senator Ludwig asked the Minister for Justice and Customs, upon notice, on 14 March 2006:

(1) What were the grounds and reasons for not prosecuting the captain and crew of the Chinese freighter Chen Long (if the evidence was insufficient, specify why; if the investigation process was deficient, specify in what areas).

(2) In what area was the law inadequate to prosecute the captain and crew of the Chen Long.

Senator Ellison—The answer to the honourable senator’s question is as follows:

(1) The evidence did not disclose an offence against the laws of the Commonwealth.

(2) See (1).
Port Arthur
(Question No. 1627)

Senator George Campbell asked the Minister representing the Minister for Human Services, upon notice, on 21 March 2006:
With reference to the victims of the Port Arthur massacre:
(1) What programs has the Government put in place to provide ongoing assistance to survivors of the massacre.
(2) Is there a special fund or scheme in place to which survivors can apply for assistance with pharmaceutical, medical and related costs.

Senator Kemp—The Minister for Human Services has provided the following answer to the honourable senator’s question:
(1) The Human Services Agencies and the Department of Human Services are not involved in any specific Commonwealth programs to provide ongoing assistance to the survivors of the massacre.
(2) The Human Services Agencies and the Department of Human Services do not have in place any special fund or scheme to which survivors can apply for assistance with pharmaceutical, medical and related costs.

To prepare this response it has taken approximately 9 hours and 40 minutes at an estimated cost of $445.

Port Arthur
(Question No. 1628)

Senator George Campbell asked the Minister representing the Attorney-General, upon notice, on 21 March 2006:
With reference to the victims of the Port Arthur massacre and the recommendations made by the Auditor-General, Mr Doyle, in 1997:
(1) Have the Auditor-General’s recommendations been implemented; if not, why not; if so, what department is responsible for implementing the recommendations, particularly those regarding the massacre survivors.
(2) Who was the public liability underwriter of the Port Arthur site.
(3) Who currently provides public liability cover for the site.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator’s question:
(1) (2) and (3) These matters are the responsibility of the Tasmanian Government.

Live Animal Exports
(Question No. 1637)

Senator Webber asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 21 March 2006:
Why does Australia not provide abattoir facilities, within Australia, where animals can be slaughtered as humanely as possible to facilitate compliance with the religious requirements of overseas markets.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:
Australia does provide abattoir facilities that comply with the religious requirements of overseas markets.

**Extradition**

(Question No. 1642)

**Senator Ludwig** asked the Minister for Justice and Customs, upon notice, on 22 March 2006:

With reference to the article ‘Australians chased by anti-Mafia investigators’, in the Age of 22 March 2006, that four Australians are allegedly under investigation by Italian authorities for organised crime-related activities:

1. Has the Attorney-General’s Department (AGD) received an extradition request from the Italian Government or Italian authorities in respect of the four individuals named; if not: (a) can the department indicate whether there has been any contact between the Italian authorities and the AGD in respect of an extradition warrant; and (b) what is the status of any extradition warrant in respect of those individuals.

2. If an extradition request has been made by the Italian authorities to the department, has it been passed to the Minister’s office or the Commonwealth Director of Public Prosecutions (CDPP); if so: (a) what action has either the Minister or the CDPP taken in respect of this matter; (b) on what date was it referred to the CDPP; and (c) can details be provided as to what action has been taken.

**Senator Ellison**—The answer to the honourable senator’s question is as follows:

1. The Australian Government does not disclose whether it has received an extradition request before an arrest is made to avoid giving the person who is the subject of the request an opportunity to flee the jurisdiction. The receipt of an extradition request becomes public at the time of arrest or subsequent extradition proceedings before a magistrate. The Australian Government does not disclose whether there has been contact between law enforcement agencies on a particular case where the matter is not subject to, or not yet subject to, public judicial or administrative proceedings.

2. The Australian Government does not disclose whether it has received an extradition request before arrest to avoid giving the person who is the subject of the request an opportunity to flee the jurisdiction. The receipt of an extradition request becomes public at the time of arrest or subsequent extradition proceedings before a magistrate.

**Chief Scientist**

(Question No. 1644)

**Senator Siewert** asked the Minister representing the Minister for Education, Science and Training, upon notice, on 24 March 2006:

With reference to the appointment of Australia’s Chief Scientist, Dr Jim Peacock:

1. Is the Minister aware that Dr Peacock has a stake in patents on some aspects of crop control and sterility technology.

2. Will the Minister table details of any such patents; if not, why not.

3. Is the Minister concerned about the appearance or reality of a conflict of interest in the Chief Scientist having a commercial stake in some of the policy areas in which he is responsible for advising the Government; if not, why not.

**Senator Vanstone**—The Minister for Education, Science and Training has provided the following answer to the honourable senator’s question:

1. Yes.
(2) CSIRO patents are public information which can be researched by any IP attorney.

(3) No. The Chief Scientist’s engagement under the Deed of Appointment is subject to, and requires compliance with strict guidelines on the management of conflict of interest. It requires him to lodge annually with the Department a Record of Private Interest Statement of his pecuniary (and other personal) interests and to keep that information updated in the interim.

Aged Care Standards and Accreditation Agency

(Question No. 1650)

Senator McLucas asked the Minister for Ageing, upon notice, on 27 March 2006:

With reference to the 2002-03, 2003-04 and 2004-05 Annual Reports of the Aged Care Standards and Accreditation Agency and their respective reporting on the numbers of ‘spot checks’:

(1) For each year listed above, and for 2005-06 to date, how many of these ‘spot checks’ were: (a) review audits with notice; (b) unannounced review audits; (c) support contacts with notice; and (d) unannounced support contacts.

(2) How much notice is given for: (a) unannounced review audits; and (b) unannounced support contacts.

(3) Which of ‘unannounced review audits’ or ‘unannounced support contacts’ would be considered to be a ‘spot check’.

Senator Santoro—The answer to the honourable senator’s question is as follows:

(1) (a) and (c) None. All ‘spot checks’ are considered ‘unannounced’. An unannounced visit is a visit conducted with less than 30 minutes notice. The Agency does not record the actual period of notice when less than 30 minutes notice is given. The Accountability Principles 1998 s1.7 requires written notice must be given to the approved provider.

(b) and (d) Number of spot checks

<table>
<thead>
<tr>
<th>Year</th>
<th>(b) Unannounced review audit</th>
<th>(d) Unannounced support contact</th>
<th>Year Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002-03</td>
<td>*</td>
<td>*</td>
<td>242</td>
</tr>
<tr>
<td>2003-04</td>
<td>*</td>
<td>*</td>
<td>553</td>
</tr>
<tr>
<td>2004-05</td>
<td>24</td>
<td>539</td>
<td>563</td>
</tr>
<tr>
<td>2005-06 (to end December)</td>
<td>14</td>
<td>326</td>
<td>340</td>
</tr>
</tbody>
</table>

Note: * For 2002-03 and 2003-04, unannounced review audits and unannounced support contacts were recorded collectively. A breakdown is not available.

(2) (a) and (b) Less than 30 minutes notice. The Accountability Principles 1998 s1.7 requires written notice must be given to the approved provider.

(3) Both are considered to be spot checks.

Business Ethics

(Question No. 1651)

Senator Murray asked the Minister representing the Treasurer, upon notice, on 27 March 2006:

With reference to a report released by the Centre for Australian Ethical Research (CAER) in March 2006, Just how business is done. A review of Australian business’ approach to Bribery and Corruption:

(1) The CAER report notes sanctions in the United States of America (US) and the United Kingdom (UK) are more severe for companies and individuals engaging in bribery than those in Australia:

(a) is this just a reflection of the generally weaker approach taken on this issue by the Australian
Government; and (b) will the Government increase sanctions for bribery to match those of the US and UK.

(2) The CAER report notes that of the top 100 companies by market capitalisation in the UK, 92 per cent have explicitly prohibited giving and receiving bribes, in the US it is 80 per cent, in Europe it is 91 per cent, but in Australia it is approximately 50 per cent: what is the Government doing to bring Australian listed companies up to the standards of the UK, US and Europe.

(3) The CAER report notes that out of the S&P/ASX 100, 51 companies have explicitly prohibited their employees from giving and receiving bribes; only 18 companies have a policy prohibiting bribery and an appropriate system; and, only 5 companies have a policy prohibiting facilitation payments supported by an adequate system: (a) what is the Government doing to ensure all S&P/ASX 100 Australian companies take bribery and corruption seriously and have appropriate systems in place; and (b) what is the Government planning to do about bribery and corruption policies and systems in non-S&P/ASX 100 companies.

(4) The CAER report notes that the ASX does not currently suggest corruption as an issue for inclusion in business ethics codes: what is the Government doing to ensure the ASX takes more specific action on bribery and corruption in its codes.

(5) The CAER report notes that the Organisation for Economic Co-operation and Development Working Group on Bribery recently released a report on Australia’s application of international bribery conventions and that the report made a number of recommendations and highlighted a number of inconsistencies, including the inconsistent and vague way in which Australian law treats facilitation payments, in the way Australia approaches enforcing anti-corruption mandates: (a) what is the Government doing to ensure that Australia is seen to take bribery and corruption seriously; and (b) when will these recommendations and inconsistencies be dealt with.

Senator Minchin—The Treasurer has provided the following answer to the honourable senator’s question:

(1) to (5) I refer the honourable senator to the answers to the same questions provided by the Minister for Justice and Customs in response to Senate Question on Notice No. 1652.

**Business Ethics**

*(Question No. 1652)*

Senator Murray asked the Minister for Justice and Customs, upon notice, on 27 March 2006:

With reference to a report released by the Centre for Australian Ethical Research (CAER) in March 2006, Just how business is done. A review of Australian business’ approach to Bribery and Corruption:

(1) The CAER report notes sanctions in the United States of America (US) and the United Kingdom (UK) are more severe for companies and individuals engaging in bribery than those in Australia: (a) is this just a reflection of the generally weaker approach taken on this issue by the Australian Government; and (b) will the Government increase sanctions for bribery to match those of the US and UK.

(2) The CAER report notes that of the top 100 companies by market capitalisation in the UK, 92 per cent have explicitly prohibited giving and receiving bribes, in the US it is 80 per cent, in Europe it is 91 per cent, but in Australia it is approximately 50 per cent: what is the Government doing to bring Australian listed companies up to the standards of the UK, US and Europe.

(3) The CAER report notes that out of the S&P/ASX 100, 51 companies have explicitly prohibited their employees from giving and receiving bribes; only 18 companies have a policy prohibiting bribery and an appropriate system; and, only 5 companies have a policy prohibiting facilitation payments supported by an adequate system: (a) what is the Government doing to ensure all
S&P/ASX 100 Australian companies take bribery and corruption seriously and have appropriate systems in place; and (b) what is the Government planning to do about bribery and corruption policies and systems in non-S&P/ASX 100 companies.

(4) The CAER report notes that the ASX does not currently suggest corruption as an issue for inclusion in business ethics codes: what is the Government doing to ensure the ASX takes more specific action on bribery and corruption in its codes.

(5) The CAER report notes that the Organisation for Economic Co-operation and Development Working Group on Bribery recently released a report on Australia’s application of international bribery conventions and that the report made a number of recommendations and highlighted a number of inconsistencies, including the inconsistent and vague way in which Australian law treats facilitation payments, in the way Australia approaches enforcing anti-corruption mandates: (a) what is the Government doing to ensure that Australia is seen to take bribery and corruption seriously; and (b) when will these recommendations and inconsistencies be dealt with.

Senator Ellison—The answer to the honourable senator’s question is as follows:

(1) (a) This Government is committed to combating all forms of corruption, including foreign bribery. Foreign bribery was not an offence until 1999, when this Government introduced amendments to the Criminal Code. The offence is punishable by up to 10 years imprisonment and/or a fine of up to $330,000.

(b) The Government is currently undertaking a review of penalties for Commonwealth criminal offences, which will include reviewing the penalty for the foreign bribery offence.

(2) See answers to questions (3) and (4) below.

(3) (a) The Government has undertaken a targeted awareness campaign on the foreign bribery offence. The campaign has been directed towards Australian Government agencies and officials, as well as private businesses and business people with interests overseas. As part of this awareness campaign, I wrote to the CEO’s of Australia’s Top 100 companies informing them about the foreign bribery offence and asking for their assistance in raising awareness about foreign bribery. The Attorney-General’s Department has written follow up letters to the Top 100 companies, and has also written to a number of key industry bodies, including mining and forestry groups, and law firms and accounting firms.

(b) The Government’s awareness raising campaign is continuing, and will be extended to small and medium enterprises during the second half of 2006.

(4) The Principles of Good Corporate Governance and Best Practice Recommendations (the Principles) of the ASX Corporate Governance Council (the Council) include suggestions for the content of company codes of conduct. I am advised that the recommendation in the CAER report that the suggestions in the Principles should be expanded is being considered in the context of the Council’s current review of the Principles.

(5) (a) The Report by the OECD Working Group on Bribery commends Australia for demonstrating a ‘strong commitment to combating foreign bribery’. The Government is continuing with its targeted awareness campaign on the foreign bribery offence and the Attorney-General’s Department is working to assist government and non-government organisations in raising awareness about the offence.

(b) The Government is currently considering the recommendations in the report.
Child Support Agency
(Question No. 1653)

Senator Fielding asked the Minister representing the Minister for Human Services, upon notice, on 29 March 2006:

(1) Who is the Registrar of the Child Support Agency.
(2) If there is an individual holding the position of Registrar, who appointed this person.
(3) (a) Which statutory instrument was used for this appointment; and (b) can a true and certified copy of the statutory instrument be provided; if not, why not.

Senator Kemp—The Minister for Human Services has provided the following answer to the honourable senator’s question:

(1) The Registrar of the Child Support Agency is the person who holds the position of General Manager Child Support Agency - Mr Matthew Miller
(2) The ‘Secretary of the Department of Human Services’ appointed the General Manager under Section 22 of the Public Service Act 1999.
(3) No Statutory instrument was used to appoint the General Manager. The position of General Manager – Child Support Agency was advertised in the Commonwealth of Australia Gazette No.PS02 on the 13/01/2005 and the engagement notice was published in the Commonwealth of Australia Gazette No. PS14, on the 7 April 2005
To prepare this answer, it has taken approximately 8 hours at an estimated cost of $360.

Philippines
(Question No. 1662)

Senator Allison asked the Minister representing the Minister for Foreign Affairs, upon notice, on 27 March 2006:

(1) What knowledge does the Australian Government have on Philippine President Gloria Macapagal-Arroyo’s proclamation of a state of national emergency on 25 February 2006 and the holding of five members of the Philippine House of Representatives (Satur Ocampo, Teodoro Casino, Joel Vi- rador, Liza Maza and Rafael Mariano) under threat of arrest.
(2) (a) What representations has the Australian Government made to the Philippine Government in relation to this matter; and (b) if no representations have been made, why not.
(3) Has the Australian Government expressed concern over the holding of these democratically-elected members of parliament in the Philippines; if not, why not.

Senator Coonan—The following answer has been provided by the Minister for Foreign Affairs to the honourable senator’s question:

(1) The Australian Government is aware of the proclamation, and its subsequent lifting on 3 March 2006. The five named members of the House of Representatives have elected to remain in the Congress compound.
(2) (a) None, (b) The issue is subject to ongoing legal proceedings.
(3) (a) No, (b) The five individuals remain voluntarily in the Congress compound.