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SITTING DAYS—2006

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RADIO BROADCASTS

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- **NEWCASTLE** 1458 AM
- **GOSFORD** 98.1 FM
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- **GOLD COAST** 95.7 FM
- **MELBOURNE** 1026 AM
- **ADELAIDE** 972 AM
- **PERTH** 585 AM
- **HOBART** 747 AM
- **NORTHERN TASMANIA** 92.5 FM
- **DARWIN** 102.5 FM
FORTY-FIRST PARLIAMENT
FIRST SESSION—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

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

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

(The above ministers constitute the cabinet)
**HOWARD MINISTRY—continued**

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<td>Minister for the Arts and Sport</td>
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<td>Minister for Human Services</td>
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<td>Minister for Community Affairs</td>
<td>The Hon. John Kenneth Cobb MP</td>
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<td>Minister for Revenue and Assistant Treasurer</td>
<td>The Hon. Peter Craig Dutton MP</td>
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<td>Special Minister of State</td>
<td>The Hon. Gary Roy Nairn MP</td>
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<td>Minister for Vocational and Technical Education and Minister Assisting the Prime Minister</td>
<td>The Hon. Gary Douglas Hardgrave MP</td>
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<td>Minister for Ageing</td>
<td>Senator the Hon. Santo Santoro</td>
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<td>Minister for Small Business and Tourism</td>
<td>The Hon. Frances Esther Bailey MP</td>
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<td>Minister for Local Government, Territories and Roads</td>
<td>The Hon. James Eric Lloyd MP</td>
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<tr>
<td>Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence</td>
<td>The Hon. Bruce Frederick Billson MP</td>
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<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>Shadow Minister for Housing, Shadow Minister for Urban Development and Shadow Minister for Local Government and Territories</td>
<td>Senator Kim John Carr</td>
</tr>
<tr>
<td>Shadow Minister for Public Accountability and Shadow Minister for Human Services</td>
<td>Kelvin John Thomson MP</td>
</tr>
<tr>
<td>Shadow Minister for Finance</td>
<td>Lindsay James Tanner MP</td>
</tr>
<tr>
<td>Shadow Minister for Superannuation and Intergenerational Finance and Shadow Minister for Banking and Financial Services</td>
<td>Senator the Hon. Nicholas John Sherry</td>
</tr>
<tr>
<td>Shadow Minister for Child Care, Shadow Minister for Youth and Shadow Minister for Women</td>
<td>Tanya Joan Plibersek MP</td>
</tr>
<tr>
<td>Shadow Minister for Employment and Workforce Participation and Shadow Minister for Corporate Governance and Responsibility</td>
<td>Senator Penelope Ying Yen Wong</td>
</tr>
</tbody>
</table>

(The above are shadow cabinet ministers)
| Shadow Minister for Consumer Affairs and Shadow Minister for Population Health and Health Regulation | Laurie Donald Thomas Ferguson MP |
| Shadow Minister for Agriculture and Fisheries 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 Livermore MP |
| Shadow Parliamentary Secretary for Environment and Heritage | Jennie George MP |
| Shadow Parliamentary Secretary for Industry, Infrastructure and Industrial Relations | Bernard Fernando Ripoll MP |
| Shadow Parliamentary Secretary for Immigration | Ann Kathleen Corcoran MP |
| Shadow Parliamentary Secretary for Treasury | Catherine Fiona King MP |
| Shadow Parliamentary Secretary for Science and Water | Senator Ursula Mary Stephens |
| Shadow Parliamentary Secretary for Northern Australia and Indigenous Affairs | The Hon. Warren Edward Snowdon MP |
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**MONDAY, 19 JUNE**

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LEAVE OF ABSENCE

Senator WEBBER (Western Australia) (12.31 pm)—by leave—I move:

That leave of absence be granted to the following senators:

(a) Senator Conroy for the period 19 June to 23 June 2006, on account of parliamentary business overseas;

(b) Senator Lundy for 19 June and 20 June 2006, on account of parliamentary business overseas;

(c) Senator Bishop for 19 June and 20 June 2006, on account of ill health; and

(d) Senator Sherry for the period 19 June to 23 June 2006, on account of personal reasons.

Question agreed to.

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

Second Reading

Debate resumed from 16 June, on motion by Senator Kemp:

That these bills be now read a second time.

Senator WEBBER (Western Australia) (12.32 pm)—I would like to make some brief remarks on the Excise Laws Amendment (Fuel Tax Reform and Other Measures) Bill 2006, the Excise Tariff Amendment (Fuel Tax Reform and Other Measures) Bill 2006 and the Customs Amendment (Fuel Tax Reform and Other Measures) Bill 2006. As a member of the Senate Economics Legislation Committee I participated in the committee’s inquiries into the excise bills. I initially place on record my thanks to the committee secretariat for the enormous effort they put into not only organising a public hearing but also producing a report in record time. I also thank the other members of the committee. The Senate Economics Legislation Committee, as is often the case at this time of year, found itself inquiring into these excise bills, the fuel tax bills and some others, which we will deal with this afternoon. The committee was under enormous pressure, having had a series of bills referred to it in one week which were to be reported on in the following week so that they could make their way through this chamber. Given the pressure that the committee found itself under, particular thanks need to made to the committee secretariat and to those whom we borrow from other committees.

When the committee inquired into the excise bills, we looked solely at the sections of those bills that deal with excise on alcohol. Since I have been in this place, the debate about excise on alcohol is something that has occurred every year or so. It is something that I knew very little, if anything, about until I joined the economics committee. I must say that, thanks particularly to the endeavours of Senator Murray, I now find I know a bit more about it. But I still see it as being an incredibly complicated regime. I must admit that I think I am much better at consuming alcohol than at understanding its taxation regime! Having said that, we focused purely on the parts of this regime that deal with alcohol. As is often the case when our commit-
tee in particular considers these matters, we agreed on a very important point of public policy and made some recommendations accordingly. They were recommendations that, having listened to Radio National this morning, I think will go down fairly well in the wider community.

There was a debate on the Health Report about funding by industry of public education campaigns and the like, and about different organisations that are formed to combat excessive alcohol consumption in our community. One of the concerns that was raised in that program this morning was that, when those bodies are funded largely by industry, their efforts seem to be focused more around public education than the need, if we are trying to change behaviour within our community, to change public policy and our approach. There was great noise made about the need to look at changing things like taxation regimes because, if we are concerned about the growing consumption, and binge consumption, by young people of things like alcohol, and the health effects that alcohol and tobacco have, there does now seem to be a body of work that says that, rather than solely relying on public education, there is a degree of price sensitivity when it comes to the consumption of those things. Therefore, perhaps we need to look at our models of taxation instead.

When the committee considered that very issue, we talked about the study of alcohol consumption and taxation. It would seem that there is now growing interest, not just amongst community activists but also amongst economists and policy makers. There are taxes on alcoholic beverages that are specific and complex, and they can be a major source of taxation revenue. We also think that such taxes—and we have a greater understanding now—can lead to providing a means of curbing excessive consumption of alcoholic beverages and some associated negative behaviour. Therefore, I think the organisations that appeared before us and those of us on the committee are of the view that there needs to be greater understanding of how price changes can bring about an effective change in behaviour.

It was mentioned on the Health Report this morning and in the evidence that the committee heard that, when you look at the differential taxation regimes between, say, low-alcohol beer and full-strength beer and the effect that that has had on changed behaviour and couple that with state laws about drinking and driving, it would seem that that is one of the things that perhaps leads to changed behaviour rather than public campaigns that tell you not to drink. I think you only have to look at tobacco to see that in fact it is a change of law and a change of price that will lead more effectively to a change of behaviour than just advertising and telling people not to smoke.

I think the committee went through a useful process in examining these things. The committee, in its report, which I am sure has been highlighted by others, has recommended that the bills be passed. But it has also gone out of its way to mention:

In terms of reform of the alcohol taxation regime, the Committee considers that in principle a volumetric tax for all alcohol products should in the long term be adopted. It considers that planning, research and consultation directed towards this goal should start soon. Any review of the taxation regime for alcohol needs to take into account complementary strategies to address alcohol-related problems.

So it needs to be complementary rather than stand-alone, as it is at the moment. The report continues:

These strategies include education, treatment and rehabilitation, licensing and sales, enforcement and policing.

The report goes on to say:
In the meantime, the Committee considers that some immediate benefits can be achieved by way of incremental reform to the tax treatment of low and mid strength RTDs.

That is, ready-to-drinks. It continues:

These products should be placed on the same tax footing as comparable strength beers. Realigning the excise regime for lower strength RTDs promises to lower the relative price of these drinks, increase consumption of these products and reduce harmful drinking behaviour and related health and social costs. This would be an incremental low-risk step with minimal revenue implications.

This is step that has been called for by numerous community based bodies and academics who have spent a lifetime studying the linkages between price and altering behaviour. It is, in my mind, a recommendation that the government needs to take seriously if we are serious about intervening in the issues of binge drinking and increased alcohol consumption, particularly amongst young people. It is something I urge the government to consider.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (12.40 pm)—I would like to thank all senators who have taken part in the debate on these bills: the Excise Laws Amendment (Fuel Tax Reform and Other Measures) Bill 2006, the Excise Tariff Amendment (Fuel Tax Reform and Other Measures) Bill 2006, the Customs Tariff Amendment (Fuel Tax Reform and Other Measures) Bill 2006 and the Customs Amendment (Fuel Tax Reform and Other Measures) Bill 2006. These bills, along with the Fuel Tax Bill 2006 and the Fuel Tax (Consequential and Transitional Provisions) Bill 2006, give effect to the government’s announcement in its energy white paper Securing Australia’s future, of 15 June 2004, that the current complex system of fuel tax concessions will be replaced by a single fuel tax credit system from 1 July 2006.

The Excise Laws Amendment (Fuel Tax Reform and Other Measures) Bill 2006 amends the Excise Act 1901 and makes consequential amendments to a number of other acts from 1 July 2006, implementing a number of measures to streamline existing excise arrangements, protect the revenue and promote best-practice regulation. It also amends the Energy Grants (Cleaner Fuels) Scheme Act 2004 so that fuel manufactured through a process of hydrogenating vegetable oils or animal fats receives the same tax treatment as biodiesel. The Excise Laws Amendment (Fuel Tax Reform and Other Measures) Bill 2006 also repeals a number of acts which are no longer required under the new system for providing fuel tax relief.

The Excise Tariff Amendment (Fuel Tax Reform and Other Measures) Bill 2006 amends the Excise Tariff Act 1921 to provide a mechanism of fuel tax relief for eligible users through the fuel tax credit system legislated through the Fuel Tax Bill rather than through the concessions within the excise system and amends the fuel items in the schedule to the Excise Tariff Act 1921 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 fuel. This measure applies from 1 July 2006, but three items in schedule 1 relating to the validation of excise tariff proposals apply from 1 November 2005.

Presently fuel tax relief is provided in the form of remissions, refunds and rebates under the Excise Act 1901 and the Customs Act 1901 and energy grants under the Energy Grants (Credits) Scheme. These schemes
have restrictive and complex eligibility criteria and apply to different fuels and fuel uses in different ways. The changes will lower compliance costs, reduce tax on business and remove fuel tax for thousands of businesses and households. When the fuel tax credit system is fully implemented, fuel tax will be effectively applied only to fuel used in private vehicles and for other certain private purposes, fuel used on road in light vehicles for business purposes and aviation fuels where tax is imposed for cost-recovery reasons.

The Customs Amendment (Fuel Tax Reform and Other Measures) Bill 2006 and the Customs Tariff Amendment (Fuel Tax Reform and Other Measures) Bill 2006 make amendments to strengthen customs control over certain imported goods that are used in the manufacture of excisable goods; ensure that excise equivalent goods, certain alcohol, tobacco and petroleum products are subject to the same duty when imported as is applied under the Excise Tariff Act 1921 for the same products when manufactured or produced in Australia; repeal customs related provisions of the fuel penalty surcharge legislation; and replicate certain provisions of the Spirits Act 1906, which is to be repealed.

I would like to address an amendment the government wishes to move, which relates to amendments to expiry dates for excise licences. The government is amending the bill to change the date for when excise licences will expire. The bill currently provides that excise licences will have a common period of validity of three years. The common expiry date is 31 March. The initial period for a new licence will be two years after 31 March following the initial approval, so it could be for a period of less than three years. All existing licences will expire on 31 March 2007. The validity period will remain three years with a common expiry date of 30 September.

The initial period for a new licence will be two years after 30 September following the initial approval, so it could be for a period of less than three years. All existing licences will expire on 30 September 2006. This will provide an earlier opportunity for the Australian tax office to ensure that all parties in the excise system that are licensed can be formally assessed against the legislated criteria for holding such a licence. This is designed to encourage compliance and protect the revenue. This change ensures that the renewal process occurs during a period of lower activity for certain licence holders, particularly tobacco growers.

I would also like to address a couple of questions that were raised during the debate by Senator Stephens. The first question was: what is the cost of the reduction in excise and customs rates on aviation fuels? This amendment relates to a measure announced in the 2004-05 budget. Excise and customs duty were directed to funding a subsidy for location-specific pricing until 31 October 2005. This bill lowers the aviation rates as the subsidy is no longer required. As shown in the 2004-05 budget figures, the fact that this revenue is no longer expected means that in terms of the forward revenue estimates there is no further cost; it is already accounted for. The second question related to the definition of biodiesel. Biodiesel is already defined as a mono-alkyl ester derived from animal fats or vegetable oils. This is a technical change that removes the requirement that it be for use in an internal combustion engine. Biodiesel is highly unlikely to be used for other purposes, but, if it were, the provisions for fuel tax credits for use other than as fuel, to be legislated by the Fuel Tax Bill 2006, would apply. This change will not bring producers into the excise licensing system that were not already required to be licensed.
The third question was: what are the long-term excise and customs duty rates for biofuels? The current excise and customs duty rates for fuel, ethanol and biodiesel are 38.143c per litre. These bills do not change that. Long-term effective tax rates are delivered obviously by other mechanisms. I am informed that the minister, Mr Dutton, has written to Mr Fitzgibbon advising him of the government’s policy on effective rates. In conclusion, I suggest that the measures proposed in these bills contain positive improvements to the system for providing fuel tax relief and will modernise and simplify the fuel tax system. For these reasons and others outlined here I commend the bill to the chamber.

Question agreed to.

Bills read a second time.

In Committee

EXCISE LAWS AMENDMENT (FUEL TAX REFORM AND OTHER MEASURES) BILL 2006

Bill—by leave—taken as a whole.

The CHAIRMAN—There are four bills before the chair at this stage. It is the intention that, as there are amendments to the Excise Laws Amendment (Fuel Tax Reform and Other Measures) Bill 2006 and the other bills are requests, we will be dealing with the bills separately. In other words, the other bills will be dealt with quite separately. So the first bill to be dealt with is the Excise Laws Amendment (Fuel Tax Reform and Other Measures) Bill 2006.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (12.50 pm)—I would like clarification with regard to the 38c investment grant envisaged in a future bill that will be taken as a tax offset. Is that in any way dealt with in this bill? Obviously, there have been a number of queries brought to us, especially by people in the biodiesel industry who are collecting the investment grant. After 1 July this investment grant will be deemed as a tax offset; therefore, the people who purchase it off them will not be able to claim the diesel fuel rebate. I am pretty sure that it is not in this bill, but I just want to clarify that for the record so that I can get back to those people.

Senator JOYCE (Queensland) (12.50 pm)—I would like clarification with regard to the 38c investment grant envisaged in a future bill that will be taken as a tax offset. Is that in any way dealt with in this bill? Obviously, there have been a number of queries brought to us, especially by people in the biodiesel industry who are collecting the investment grant. After 1 July this investment grant will be deemed as a tax offset; therefore, the people who purchase it off them will not be able to claim the diesel fuel rebate. I am pretty sure that it is not in this bill, but I just want to clarify that for the record so that I can get back to those people.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (12.51 pm)—That is dealt with in the other bill which will be dealt with later in the week.

The CHAIRMAN—We will move now to the government amendments.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (12.52 pm)—by leave—I move government amendments (1) to (14) on sheet PF374:

(1) Schedule 1, item 37, page 8 (line 15), omit “31 March”, substitute “30 September”.
(2) Schedule 1, item 37, page 8 (line 17), omit “15 April”, substitute “15 October”.
(3) Schedule 1, item 37, page 8 (line 17), omit “31 March”, substitute “30 September”.
(4) Schedule 1, item 37, page 8 (line 18), omit “15 March”, substitute “15 September”.
(5) Schedule 1, item 37, page 8 (line 18), omit “31 March”, substitute “30 September”.
(6) Schedule 1, item 40, page 9 (line 5), omit “31 March”, substitute “30 September”.
(7) Schedule 1, item 40, page 9 (line 6), omit “1 March”, substitute “1 September”.
(8) Schedule 1, item 40, page 9 (line 7), omit “31 March”, substitute “30 September”.

---

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(4) Schedule 1, item 37, page 8 (line 18), omit “15 March”, substitute “15 September”.
(5) Schedule 1, item 37, page 8 (line 18), omit “31 March”, substitute “30 September”.
(6) Schedule 1, item 40, page 9 (line 5), omit “31 March”, substitute “30 September”.
(7) Schedule 1, item 40, page 9 (line 6), omit “1 March”, substitute “1 September”.
(8) Schedule 1, item 40, page 9 (line 7), omit “31 March”, substitute “30 September”.

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(3) Schedule 1, item 37, page 8 (line 17), omit “31 March”, substitute “30 September”.
(4) Schedule 1, item 37, page 8 (line 18), omit “15 March”, substitute “15 September”.
(5) Schedule 1, item 37, page 8 (line 18), omit “31 March”, substitute “30 September”.
(6) Schedule 1, item 40, page 9 (line 5), omit “31 March”, substitute “30 September”.
(7) Schedule 1, item 40, page 9 (line 6), omit “1 March”, substitute “1 September”.
(8) Schedule 1, item 40, page 9 (line 7), omit “31 March”, substitute “30 September”.

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(9) Schedule 1, item 40, page 9 (line 9), omit “31 March”, substitute “30 September”.
(10) Schedule 1, item 40, page 9 (line 11), omit “15 April”, substitute “15 October”.
(11) Schedule 1, item 40, page 9 (line 12), omit “1 April”, substitute “1 October”.
(12) Schedule 1, item 40, page 9 (line 17), omit “31 March”, substitute “30 September”.
(13) Schedule 1, item 102, page 27 (line 22), omit “31 March 2007”, substitute “30 September 2006”.
(14) Schedule 1, item 102, page 27 (lines 24 and 25), omit “is taken to continue in force under that Part until the end of 31 March 2007”, substitute “ceases to be in force at the end of 30 September 2006”.

The CHAIRMAN—The question is that government amendments (1) to (14) be agreed to.

Question agreed to.

Bill, as amended, agreed to.

EXCISE TARIFF AMENDMENT (FUEL TAX REFORM AND OTHER MEASURES) BILL 2006

In Committee

Bill—by leave—taken as a whole.

Senator MURRAY (Western Australia) (12.55 pm)—by leave—I move Democrats amendments (1) to (4) on sheet 4949 revised, and the request sheet:

(1) Schedule 1, item 30, page 6 (lines 12 to 16), omit the item, substitute:

30 The Schedule (definition of Brandy)

Repeal the definition.

(2) Schedule 1, item 32, page 6 (lines 19 to 22), omit the item.

(3) Schedule 1, item 35, page 7 (lines 7 to 13), omit the item, substitute:

35 The Schedule (definition of Other Excisable Beverage)

Repeal the definition, substitute:

other excisable beverage means any beverage containing more than 1.15% alcohol by volume, but does not include:

(a) beer; or
(b) wine.

(4) Schedule 1, item 45, page 8 (line 12) to page 15 (before line 1), omit the item, substitute:

45 The Schedule (table)

Repeal the table, substitute:

<table>
<thead>
<tr>
<th>Excise duties</th>
<th>Item</th>
<th>Subitem</th>
<th>Description of goods</th>
<th>Rate of Duty</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1.1</td>
<td>Beer</td>
<td>Beer not exceeding 3% by volume of alcohol packaged in an individual container not exceeding 48 litres</td>
<td>$31.73 per litre of alcohol calculated on that alcohol content by which the percentage by volume of alcohol of the goods exceeds 1.15</td>
</tr>
<tr>
<td></td>
<td>1.2</td>
<td>Beer</td>
<td>Beer not exceeding 3% by volume of alcohol packaged in an individual container exceeding 48 litres</td>
<td>$6.33 per litre of alcohol calculated on that alcohol content by which the percentage by volume of alcohol of the goods exceeds 1.15</td>
</tr>
<tr>
<td></td>
<td>1.5</td>
<td>Beer</td>
<td>Beer exceeding 3% but not exceeding 3.5% by volume of alcohol packaged in an individual container not exceeding 48 litres</td>
<td>$36.98 per litre of alcohol calculated on that alcohol content by which the percentage by volume of alcohol of the goods exceeds 1.15</td>
</tr>
<tr>
<td></td>
<td>1.6</td>
<td>Beer</td>
<td>Beer exceeding 3% but not exceeding 3.5% by volume of alcohol packaged in an individual container exceeding 48 litres</td>
<td>$19.89 per litre of alcohol calculated on that alcohol content by which the percentage by volume of alcohol of the goods exceeds 1.15</td>
</tr>
<tr>
<td>Item</td>
<td>Subitem</td>
<td>Description of goods</td>
<td>Rate of Duty</td>
<td></td>
</tr>
<tr>
<td>------</td>
<td>---------</td>
<td>---------------------------------------------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>1.10</td>
<td>Beer exceeding 3.5% by volume of alcohol packaged in an individual container not exceeding 48 litres</td>
<td>$36.98 per litre of alcohol calculated on that alcohol content by which the percentage by volume of alcohol of the goods exceeds 1.15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.11</td>
<td>Beer exceeding 3.5% by volume of alcohol packaged in an individual container exceeding 48 litres</td>
<td>$26.03 per litre of alcohol calculated on that alcohol content by which the percentage by volume of alcohol of the goods exceeds 1.15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.15</td>
<td>Beer not exceeding 3% by volume of alcohol produced for non-commercial purposes using commercial facilities or equipment</td>
<td>$2.22 per litre of alcohol calculated on that alcohol content by which the percentage by volume of alcohol of the goods exceeds 1.15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.16</td>
<td>Beer exceeding 3% by volume of alcohol produced for non-commercial purposes using commercial facilities or equipment</td>
<td>$2.58 per litre of alcohol calculated on that alcohol content by which the percentage by volume of alcohol of the goods exceeds 1.15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Other excisable beverages not exceeding 10% by volume of alcohol</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.1</td>
<td>Other excisable beverages not exceeding 3% by volume of alcohol packaged in an individual container not exceeding 48 litres</td>
<td>$31.73 per litre of alcohol calculated on that alcohol content by which the percentage by volume of alcohol of the goods exceeds 1.15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.5</td>
<td>Other excisable beverages exceeding 3% but not exceeding 3.5% by volume of alcohol packaged in an individual container not exceeding 48 litres</td>
<td>$36.98 per litre of alcohol calculated on that alcohol content by which the percentage by volume of alcohol of the goods exceeds 1.15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.21</td>
<td>Other excisable beverages not elsewhere included not exceeding 10% by volume of alcohol</td>
<td>$36.98 per litre of alcohol</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Spirits; Other excisable beverages exceeding 10% by volume of alcohol</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.1</td>
<td>Other excisable beverages exceeding 10% by volume of alcohol</td>
<td>$62.64 per litre of alcohol</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.5</td>
<td>Spirit that: (a) a person has an approval, under section 77FD of the <em>Excise Act 1901</em>, to use for fortifying Australian wine or Australian grape must; and (b) is otherwise covered by the approval</td>
<td>Free</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.6</td>
<td>Spirit that: (a) is for use by a person who is included in a class of persons determined under section 77FE of the <em>Excise Act 1901</em>; and (b) if a quantity is specified in a determination under that section in rela-</td>
<td>Free</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Excise duties

<table>
<thead>
<tr>
<th>Item</th>
<th>Subitem</th>
<th>Description of goods</th>
<th>Rate of Duty</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.7</td>
<td>Spirit that: (a) a person has an approval, under section 77FF of the <em>Excise Act 1901</em>, to use for an industrial, manufacturing, scientific, medical, veterinary or educational purpose; and (b) is otherwise covered by the approval.</td>
<td>Free</td>
<td></td>
</tr>
<tr>
<td>3.8</td>
<td>Spirit denatured according to a formula determined under section 77FG of the <em>Excise Act 1901</em>, other than spirit for use as fuel in an internal combustion engine</td>
<td>Free</td>
<td></td>
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<td>3.10</td>
<td>Spirits not elsewhere included</td>
<td>$62.64 per litre of alcohol</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Tobacco, cigars, cigarettes and snuff</td>
<td>$0.23259 per stick</td>
<td></td>
</tr>
<tr>
<td>5.1</td>
<td>In stick form not exceeding in weight 0.8 grams per stick actual tobacco content</td>
<td>$290.74 per kilogram of tobacco content</td>
<td></td>
</tr>
<tr>
<td>5.5</td>
<td>Other</td>
<td></td>
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## Excise duties

<table>
<thead>
<tr>
<th>Item</th>
<th>Subitem</th>
<th>Description of goods</th>
<th>Rate of Duty</th>
</tr>
</thead>
<tbody>
<tr>
<td>(f)</td>
<td>biodiesel;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(g)</td>
<td>blends of 1 or more of the above goods (with or without other substances), other than blends covered by subsection 77H(1) or (3) of the Excise Act 1901; but not including the following:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(h)</td>
<td>goods classified to item 15;</td>
<td></td>
<td></td>
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<tr>
<td>(i)</td>
<td>waxes, liquefied petroleum gas and bitumen</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10.1</td>
<td>Petroleum condensate</td>
<td>$0.38143 per litre</td>
<td></td>
</tr>
<tr>
<td>10.2</td>
<td>Stabilised crude petroleum oil</td>
<td>$0.38143 per litre</td>
<td></td>
</tr>
<tr>
<td>10.3</td>
<td>Topped crude petroleum oil</td>
<td>$0.38143 per litre</td>
<td></td>
</tr>
<tr>
<td>10.5</td>
<td>Gasoline (other than for use as fuel in aircraft)</td>
<td>$0.38143 per litre</td>
<td></td>
</tr>
<tr>
<td>10.6</td>
<td>Gasoline for use as fuel in aircraft</td>
<td>$0.02854 per litre</td>
<td></td>
</tr>
<tr>
<td>10.7</td>
<td>Blends of gasoline and ethanol</td>
<td>The amount of duty worked out under section 6G</td>
<td></td>
</tr>
<tr>
<td>10.10</td>
<td>Diesel (other than biodiesel)</td>
<td>$0.38143 per litre</td>
<td></td>
</tr>
<tr>
<td>10.11</td>
<td>Blends of diesel and ethanol</td>
<td>The amount of duty worked out under section 6G</td>
<td></td>
</tr>
<tr>
<td>10.12</td>
<td>Blends of diesel and biodiesel</td>
<td>The amount of duty worked out under section 6G</td>
<td></td>
</tr>
<tr>
<td>10.15</td>
<td>Heating oil</td>
<td>$0.38143 per litre</td>
<td></td>
</tr>
<tr>
<td>10.16</td>
<td>Kerosene (other than for use as fuel in aircraft)</td>
<td>$0.38143 per litre</td>
<td></td>
</tr>
<tr>
<td>10.17</td>
<td>Kerosene for use as fuel in aircraft</td>
<td>$0.02854 per litre</td>
<td></td>
</tr>
<tr>
<td>10.18</td>
<td>Fuel oil</td>
<td>$0.38143 per litre</td>
<td></td>
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<tr>
<td>10.20</td>
<td>Denatured ethanol for use as fuel in an internal combustion engine</td>
<td>$0.38143 per litre</td>
<td></td>
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<tr>
<td>10.21</td>
<td>Biodiesel</td>
<td>$0.38143 per litre</td>
<td></td>
</tr>
<tr>
<td>10.25</td>
<td>Liquid aromatic hydrocarbons consisting principally of benzene, toluene or xylene or mixtures of them (other than goods covered by section 77J of the Excise Act 1901)</td>
<td>$0.38143 per litre</td>
<td></td>
</tr>
<tr>
<td>10.26</td>
<td>Mineral turpentine (other than goods covered by section 77J of the Excise Act 1901)</td>
<td>$0.38143 per litre</td>
<td></td>
</tr>
<tr>
<td>10.27</td>
<td>White spirit (other than goods covered by section 77J of the Excise Act 1901)</td>
<td>$0.38143 per litre</td>
<td></td>
</tr>
<tr>
<td>10.28</td>
<td>Petroleum products (other than blends) not elsewhere included (other than goods covered by section 77J of the Excise Act 1901)</td>
<td>$0.38143 per litre</td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>Subitem</td>
<td>Description of goods</td>
<td>Rate of Duty</td>
</tr>
<tr>
<td>------</td>
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<td>--------------</td>
</tr>
<tr>
<td>10.30</td>
<td>Blends of 1 or more of the above goods (with or without other substances) not elsewhere included that can be used as fuel in an internal combustion engine (other than goods covered by section 77J of the <em>Excise Act 1901</em>)</td>
<td>The amount of duty worked out under section 6G</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>Goods as follows, other than: (a) goods for use as a fuel; and (b) exempt oils and hydraulic fluids</td>
<td></td>
<td></td>
</tr>
<tr>
<td>15.1</td>
<td>Petroleum-based oils (including lubricant/fluid/oil products) and their synthetic equivalents but not greases</td>
<td>$0.05449 per litre</td>
<td></td>
</tr>
<tr>
<td>15.2</td>
<td>Petroleum-based oils (including lubricant/fluid/oil products and greases) and their synthetic equivalents, recycled for use as oils (including lubricant/fluid/oil products) but not greases</td>
<td>$0.05449 per litre</td>
<td></td>
</tr>
<tr>
<td>15.3</td>
<td>Petroleum-based greases and their synthetic equivalents</td>
<td>$0.05449 per kilogram</td>
<td></td>
</tr>
<tr>
<td>15.4</td>
<td>Petroleum-based oils (including lubricant/fluid/oil products and greases) and their synthetic equivalents, recycled for use as greases</td>
<td>$0.05449 per kilogram</td>
<td></td>
</tr>
<tr>
<td>20</td>
<td>Stabilised crude petroleum oil, other than: (a) stabilised crude petroleum oil produced from a Resource Rent Tax area; and (b) exempt offshore oil</td>
<td></td>
<td></td>
</tr>
<tr>
<td>20.1</td>
<td>As prescribed by by-law</td>
<td>Free</td>
<td></td>
</tr>
<tr>
<td>20.2</td>
<td>Delayed-entry oil</td>
<td>The delayed-entry oil rate that applies to the oil</td>
<td></td>
</tr>
<tr>
<td>20.3</td>
<td>Pre-threshold onshore oil</td>
<td>Free</td>
<td></td>
</tr>
<tr>
<td>20.5</td>
<td>New oil</td>
<td>Free, or, if higher, the amount of duty worked out under section 6C</td>
<td></td>
</tr>
<tr>
<td>20.6</td>
<td>Intermediate oil</td>
<td>Free, or, if higher, the amount of duty worked out under section 6D</td>
<td></td>
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<tr>
<td>20.7</td>
<td>Other</td>
<td>Free, or, if higher, the amount of duty worked out under section 6B</td>
<td></td>
</tr>
<tr>
<td>21</td>
<td>Condensate produced in a State or Territory or inside the outer limits of the territorial sea of Australia other than condensate produced from a prescribed source</td>
<td>Free</td>
<td></td>
</tr>
</tbody>
</table>
Statement pursuant to the order of the Senate of 26 June 2000—

These amendments are framed as requests because the bills to which they relate are bills imposing taxation within the meaning of section 53 of the Constitution. The Senate may not amend a bill imposing taxation.

Statement by the Clerk of the Senate pursuant to the order of the Senate of 26 June 2000

Under section 55 of the Constitution, bills for imposing duties of customs and bills for imposing duties of excise may deal with different goods, and increases in duties on some goods and decreases on duties on other goods may be contained in the same bill.

Where a bill contains both increases and decreases in duties, the Senate regards it as a bill imposing taxation within the meaning of section 53 of the Constitution. The Senate may therefore not make amendments directly to such a bill, and all Senate amendments must proceed by way of requests.

This is in accordance with the precedents of the Senate.

Senator MURRAY—What these amendments do is propose several limited changes to the current excise laws on the taxation of excisable beverages below 10 per cent alcohol by volume, other than beer and brandy. These amendments directly relate to the Senate Economics Legislation Committee’s recommendation 3 in its report of June 2006 of its inquiry into the provisions of the Customs Amendment (Fuel Tax Reform and Other Measures) Bill 2006 and three related bills.

To remind the chamber, the committee recommended that the government apply the same tax and excise treatment to low- and mid-strength ready-to-drink alcohol products as it applies to similar strength beer products. The tax and excise structure for RTDs should incorporate the three-tiered structure that currently applies to beer, with the 1.15 per cent excise-free threshold that applies to beer extended to low- and mid-strength RTDs but not—note—to full strength, 3.5 per cent alcohol by volume and above, RTDs. These amendments fulfil exactly that recommendation.

I would expect that if the Treasury were to produce their own amendments they would be very much in this format. However, I am not expecting these to be agreed to by the government today simply because the government has not yet signalled its acceptance of the policy outlined by the committee, and a consultation process would no doubt be required. You would then ask, ‘Why am I moving these amendments?’ Firstly, I am moving them because I have previously moved amendments of this type and to confirm the strong support of my party for the introduction of a low-alcohol regime, which we think has extremely attractive health as well as good economic virtues attached to it.

I would note again the remarks I made in my speech during the second reading debate about how strongly this particular policy is supported by health professionals who study the effects of alcohol on our society. These issues were explored during the recent Senate Economics Legislation Committee inquiry into the Customs Amendment (Fuel Tax Reform and Other Measures) Bill 2006 and other related bills. I also intend to put these amendments on the record so that industry participants have a template which they can examine so that when they are considering these issues they can look at the effects of these amendments as they would be in legislation.

The purpose of the amendments is to provide taxation equivalence between the low- and mid-strength packaged, ready-to-drink alcohol products and packaged beer of similar content. The DSICA submission to the committee, like its submissions in past years,
is a very detailed and thorough one. The
DSICA submission estimated the cost to the
revenue of this change as being around $2
million per year, so it does not have a high
cost.

The amendments also provide an increase
in excise duty on brandy from the current
concessional rate to the same rate as all other
full strength spirits. Not only is this an integ-
rity measure in the sense of having like
products taxed alike but I have not under-
stood why that tax concession has been al-
lowed to remain as part of government pol-
icy. The spirits industry—all its bodies—
have long supported the ending of that con-
cessional rate, despite the fact that they esti-
mate the change will result in an additional
$5 million revenue per year. I view the
brandy amendment as having a twofold vir-
tue. First of all, it ends an unnatural distinc-
tion between brandy and other spirits such as
rum, whisky, vodka or gin. Brandy has an
unnecessary concessional rate. The second
virtue is that it would enable the revenue
costs of $2 million per year to be paid for.

The amendments after the taxation treat-
ment of two categories of alcohol beverages
apply the existing 1.15 per cent alcohol by
volume excise-free threshold that applies to
beer to ready-to-drinks and it also applies the
tiered taxation regime currently applicable to
all beer products packaged in individual con-
tainers not exceeding 48 litres to other excis-
able beverages not exceeding 3.5 per cent
alcohol by volume packaged in individual
containers not exceeding 48 litres, which
excludes beer. That is a longwinded technical
way of saying that, effectively, this applies to
low-and medium-alcohol products; it does
not apply to high-alcohol products above 3.5
per cent alcohol by volume. The other thing
is, as I have already mentioned, that it does
increase the brandy excise rate to that of
other excisable beverages exceeding 10 per
cent alcohol by volume.

These items mirror those provisions which
already apply to low-alcohol packaged beer
and to mid-strength packaged beer and they
would ensure that all remaining categories of
ready-to-drinks would continue to be taxed
at the current rate. In other words, those
which are above 3.5 per cent alcohol by vol-
ume would not have their excise affected or
changed in any way. With that somewhat
technical motivation, I have moved those
four items and the request attached.

The TEMPORARY CHAIRMAN
(Senator Watson)—In relation to the re-
quests, I put to the Senate a statement of rea-
sons. Is it the wish of the committee that the
statement of reasons accompanying the re-
quests be incorporated in Hansard immedi-
ately after the requests to which they relate?
There being no objection, it is so ordered.

Senator STEPHENS (New South Wales)
(1.03 pm)—I did indicate in my contribution
to the second reading debate that Labor
would not be supporting Senator Murray’s
amendments on the basis that, as was evi-
denced in the inquiry, we need to consider
this issue as part of a much broader consid-
eration of the whole alcohol regime.

Senator COLBECK (Tasmania—
Parliamentary Secretary to the Minister for
Finance and Administration) (1.03 pm)—As
Senator Murray indicated he expected, the
government will not be supporting the
amendments. That is not to say that we are
not interested in some of the issues he has
raised. I am certainly aware that there is
some interest, particularly in relation to low-
strength RTDs. As a parent with three chil-
dren between 18 and 25, I see a bit of that
stuff go through the fridges at my place and
at some of the parties my children attend. It
certainly is an interest but I think best dealt
with in the context of an overall alcohol de-
bate, as has already been indicated by Sena-
tor Stephens. I indicate that there remains
some interest within the government in addressing that as an issue, given the concern we have about alcohol use and particularly alcohol abuse.

I am aware of Senator Murray’s long-standing interest in this and I note some correspondence to the Treasurer going back to 2003 in relation to this and also to the matter of brandy. I have here some correspondence that the Treasurer, Mr Costello, has sent back to Senator Murray in relation to that, so I will not address those things particularly at this time but indicate that the government will not be supporting the amendments.

Question negatived.

Bill agreed to.

CUSTOMS AMENDMENT (FUEL TAX REFORM AND OTHER MEASURES) BILL 2006

In Committee

Bill—by leave—taken as a whole.

Bill agreed to.

CUSTOMS TARIFF AMENDMENT (FUEL TAX REFORM AND OTHER MEASURES) BILL 2006

In Committee

Bill—by leave—taken as a whole.

Senator MURRAY (Western Australia)

(1.07 pm)—I move:

That the House of Representatives be requested to make the following amendments:

(1) Schedule 2, item 4, page 6 (line 14) to page 8 (before line 1), omit the item, substitute:

4 Subsection 19(1) (table)

Repeal the table, substitute:

Table of related Customs subheadings and excise items

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customs subheading</td>
<td>Excise item</td>
</tr>
<tr>
<td>2203.00.69</td>
<td>1.10</td>
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</table>

(2) Schedule 2, page 10 (after line 15), after item 12, insert:

12A Schedule 3 (subheading 2208.20.10, the rate of duty in column 3)

Repeal the rate of duty, substitute:
- 5% and $62.64/L of alcohol
- $62.64/L of alcohol
- NZ/PG/FI/
- DC/LDC/
- SG
- 3% and $62.64/L of alcohol
- DCS

12B Schedule 3 (subheading 2208.90.20)

Repeal the subheading, substitute:

| 2208.90.20 | 5% and $31.73/L of alcohol, calculated on that alcohol content by which the percentage by volume of alcohol of the goods exceeds 1.15 |
| 2208.90.21 | 5% and $31.73/L of alcohol, calculated on that alcohol content by which the percentage by volume of alcohol of the goods exceeds 1.15 |
| 2208.90.22 | 5% and $36.98/L of alcohol, calculated on that alcohol content by which the percentage by volume of alcohol of the goods exceeds 1.15 |
NZ: $36.98/L of alcohol, calculated on that alcohol content by which the percentage by volume of alcohol of the goods exceeds 1.15
PG: $36.98/L of alcohol, calculated on that alcohol content by which the percentage by volume of alcohol of the goods exceeds 1.15
FI: $36.98/L of alcohol, calculated on that alcohol content by which the percentage by volume of alcohol of the goods exceeds 1.15
DC: $36.98/L of alcohol, calculated on that alcohol content by which the percentage by volume of alcohol of the goods exceeds 1.15
DCS: 3% and $36.98/L of alcohol
LDC: $36.98/L of alcohol
SG: $36.98/L of alcohol

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**2208.90.23**

---Having an alcoholic strength by volume exceeding 1.15% vol but not exceeding 10% vol

5% and $36.98/L of alcohol
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**Statement pursuant to the order of the Senate of 26 June 2000**

These amendments are framed as requests because the bills to which they relate are bills imposing taxation within the meaning of section 53 of the Constitution. The Senate may not amend a bill imposing taxation.

**Statement by the Clerk of the Senate pursuant to the order of the Senate of 26 June 2000**

Under section 55 of the Constitution, bills for imposing duties of customs and bills for imposing duties of excise may deal with different goods, and increases in duties on some goods and decreases on duties on other goods may be contained in the same bill.

Where a bill contains both increases and decreases in duties, the Senate regards it as a bill imposing taxation within the meaning of section 53 of the Constitution. The Senate may therefore not make amendments directly to such a bill, and all Senate amendments must proceed by way of requests.

This is in accordance with the precedents of the Senate.

I do not intend to speak to these because the arguments have already been made. However, I merely add that the parliamentary secretary has obviously picked up on the fact
that I am persistent and consistent in these matters, which is probably a sin as well as a virtue. I do feel strongly that we should promote low-alcohol products in this community.

The TEMPORARY CHAIRMAN—The question is that the requests be agreed to.

Question negatived.

Bill agreed to.

Excise Laws Amendment (Fuel Tax Reform and Other Measures) Bill 2006 reported with amendments; 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 reported without amendments or requests; report adopted.

Third Reading

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (1.09 pm)—I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.

ELECTORAL AND REFERENDUM AMENDMENT (ELECTORAL INTEGRITY AND OTHER MEASURES) BILL 2006

Second Reading

Debate resumed from 16 June, on motion by Senator Kemp:

That this bill be now read a second time.

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

At the end of the motion, add:

“but the Senate is of the view that this bill should be withdrawn until undemocratic provisions that:

(a) reduce the period of time Australians have to enrol to vote and update their details on the electoral roll;
(b) introduce new proof of identity requirements;
(c) increase the disclosure of thresholds to $10,000; and
(d) increase the tax-deductibility of political donations are removed.”

Senator O’BRIEN (Tasmania) (1.10 pm)—I briefly commenced my contribution last week—and I will not detain the Senate for an extensive period of time today—and I had been touching upon what I believe to be a giant position of inconsistency being adopted by members of the government in relation to a number of aspects of this bill, particularly the way new enrollees are treated. I am reminded that on many occasions government members in this chamber have told us that this is a government which is friendly to the family, that this is a government which respects the bonds of family in the community and that this is a government which believes that those bonds should be encouraged. Yet, at the same time, this legislation contains provisions in relation to new enrollees which require, in some circumstances, that their applications for enrolment or variations to their enrolment be witnessed by any other person than someone who is related to them. Many young people who do not have a drivers licence will find themselves in a situation where they will need to enrol in the shortened time that the government now prescribes without recourse to people who have known them for all their lives or for a substantial period of their lives. Who would better know the identity of new enrollees than their relatives? Who would better know the person and that the details on the application were indeed factual than the
relatives of the person seeking to be enrolled?

If an elector does not have a drivers licence or a prescribed identity document, they must have their enrolment application signed by two referees who are not related to the applicant and who have known the applicant for at least a month, and those people must provide their drivers licence number. There can only be one reason for that being prescribed—and no reason has been advanced by the government, I might say, as to why this provision is to be included as a result of this legislation—in regard to those seeking to enrol or to change their enrolment. The reason is that it is designed to make things more difficult. It cannot be because that gives greater certainty about the identity of the person seeking to be enrolled. How can it? How could it be that the relatives of a person would not be the best persons to attest to the accuracy of the application the elector is providing to the Electoral Commission in which they are seeking to enrol and exercise their democratic rights, perhaps for the first time, or to change their enrolment?

In relation to the issue of changing their enrolment, who indeed would be more likely to be seeking to alter their enrolment than a young person who may be in rental accommodation and moving from place to place, as is the wont of students, particularly those who are students at university for the first time and who may have to move away from home and may not have a strong network of friends and acquaintances to assist them to enrol? Who would be better placed to assist with such an application—for a young person seeking to enrol or alter their enrolment details due to a change of their place of residence—even remotely, than a relative? I cannot think of any person who would be better placed. Yet this piece of legislation seeks to, and will, rule out those people from attesting to the identity of the person registering for the electoral roll to be able to exercise their democratic right to vote for members of this parliament.

In addition, when one considers this in the context of remote Aboriginal communities, given that some of those communities are very small and that a number of them contain, substantially, people who have a familial relationship—perhaps extended, but a relationship nevertheless—I have no doubt that some young people without a drivers licence will find it extremely difficult to find a person who satisfies the test—that is, a person who is not a relative, who holds a drivers licence and who can be reached easily for the purposes of testing that the young person is who they claim to be on their application. In remote communities, how do you find someone who is not a relative, who has known the young person for at least a month and who has a drivers licence? In some cases I suspect that will be an impossibility. So the provisions of this bill, far from enhancing democracy, will actually deny young Australians in remote communities the opportunity to exercise a vote, let alone make it easier. As well, the three-day limit will place great time pressures on those young people to enrol to vote for the first time if an election is called and they have not sought to enrol earlier.

One has to say that the motivation for this must be to deny some people the opportunity to exercise their democratic rights, rights that I think all Australians believe are fundamental rights of members of our community. Some people, it might be said, take those rights quite lightly, but I do not think that this parliament should take any action which could be seen as a justification for members of the community taking lightly their rights and obligations in relation to exercising their democratic rights. Too many sacrifices have been made by Australians over the years for our democratic rights to be weakened in this
way, for the rights of Australians to be subjugated to the political will of this government—to deny people the right to vote where it is thought that they might not vote for the government.

It also ought be said that a class of people who might find themselves in difficulty as a result of these provisions are those who rent their accommodation rather than live in a home they have purchased. I do not know of anything that justifies treating renters as lesser people in terms of their democratic rights, but that is what this bill will do. You see, if people rent their homes then they are more likely to change their place of residence more frequently. In changing their place of residence more frequently, they are more likely to move from one electorate to another. Then, upon the calling of an election, they will find themselves in the position of having to prove their identity when they turn up at the polling booth to exercise their democratic rights.

Another provision in this bill is clearly designed to make it more difficult for people to exercise a provisional vote, and we all know that there are quite a number of provisional votes made in every federal election. It has been said, and I think it is a valid suggestion, that the provisions of this legislation will actually impose a greater workload on the AEC in administering provisional voters’ rights. Now, I have never heard the AEC complain about the workload that they face in administering the current system of provisional voting—not once, and I have had some dealings with the Electoral Commission in relation to elections held in the state of Tasmania. I have not heard them complain once. I think that the Australian Electoral Commission take great pride in the fact that they administer what has been, at least up until now, one of the most democratic and well-respected electoral systems in the world.

It has been said in this debate, and I echo the statement, that Australian electoral officials are sought out for elections in all parts of the world, particularly the Third World, I might say, to assist in the conduct of those elections. And, in those areas where democracy has more recently been introduced, their assistance has proved to be invaluable. The AEC have never complained about the provisions that the government is changing. They have never highlighted that the system could be strengthened by reducing the time allowed for enrolment after the calling of elections, nor have they sought to change the identification provisions in the way that this bill suggests. Their views are clearly being swept aside by this government in its pursuit of political advantage via these changes.

Indeed, the coalition-dominated Joint Standing Committee on Electoral Matters, following the 2004 election, did not suggest there were weaknesses in our system in relation to the enrolment period and the identification of those seeking to enrol—changes to which the government now seeks to give effect through this bill. The government’s own members, in reviewing the last election, did not find it to be a problem. I always thought the government’s view on matters of law was ‘if it ain’t broke, don’t fix it’. The only way that this election system is ‘broke’ insofar as the government is concerned is that it may not necessarily deliver to the government the advantage that it would like it to deliver.

So let us see these changes in the light in which they should be seen. These changes are purely party partisan. They are designed not to enhance the democratic rights of Australians, they are designed not to give effect to the general principles of democracy that people of a certain age ought to have access to the right to vote; they are designed to limit the opportunity for people to exercise their democratic right in this country. When mem-
bers opposite talk about their respect for the family and then say in legislation that a relative cannot verify that their relative is the person that they claim to be for the purpose of enrolling for an election, that smacks to me of an absolute double standard and reveals in its entirety the motivation for this change—that is, political advantage.

I will not detain the Senate any further on this matter. There have been some excellent contributions in this debate, and I think the opposition has clearly won the argument. The fact that coalition members have chosen not to stand up in this place and debate the principles that lie behind this bill indicates that they do not want to be on the record justifying this sort of sham legislation which will undermine our democracy, not strengthen it. Frankly, I can understand why they would not want to put their words on the record supporting this legislation, because it is shameful.

Senator BARTLETT (Queensland) (1.23 pm)—I want to speak briefly on the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2006. I was not able to do so last Friday when it was before the Senate because I was chairing a Senate committee. I want to put a few things on the record. I will not cover all aspects of what the bill deals with, because other speakers have done that quite adequately, but I do want to touch on a few components of the legislation. In particular, I am very concerned about the likely impact it will have on the ability of Indigenous Australians to engage with the electoral process. If you look at the extra hurdles that are being put in place through this legislation, you will see that it is quite clear that one group in the community that will almost certainly be most significantly affected is Indigenous Australians. The requirement to produce a drivers licence is obviously going to be harder for younger Australians and for many people in remote areas. The requirement to produce an alternative prescribed document, to find a couple of people to sign declarations verifying your identity and to then get that into the relevant authorities is going to be a hurdle that is much more difficult for Indigenous people to overcome.

The first thing that I want to emphasise in saying that is that it is not that Indigenous people are any less capable than anybody else of following requirements but that people in remote communities are far less likely to be readily reminded and far less likely to be able to do these sorts of things easily. The key aim in the Electoral Act is to make it as convenient as possible for people to get on the electoral roll. You always have to balance that with ensuring that the integrity of the electoral roll is such that it does not unduly or improperly affect the outcome of elections. We have to face up to the simple reality that there are always going to be flaws in the electoral roll. The key test for the parliament, for the Electoral Commission and, indeed, for the public more broadly is to ensure that the accuracy of the electoral roll is close enough to 100 per cent so as not to impede the accuracy of an election result. You can never get 100 per cent. The government is not suggesting that you will get 100 per cent with these changes. We could always do more to make it closer to 100 per cent, but the test is whether or not such extra actions will make a discernible difference with regard to an electoral outcome and whether or not there are adequate protections in place to detect any fraud or deliberate dodgy behaviour that impacts on the result of an election.

I have been a member of the Joint Standing Committee on Electoral Matters in the past. I was a participant in the committee back in the days when it was chaired by Mr Pyne, the member for Sturt, when there was an inquiry focusing on the revelations about dishonest behaviour with regard to electoral
enrolments by some members of the Labor Party in Queensland. Of course, the Shepards-
son inquiry looked into that matter. There was no doubt that some dishonesty was un-
covered. Some people had to pay quite a high price when that dishonesty was un-
covered, but the simple fact is that at no stage was there any evidence provided, let alone proven, that that dishonesty affected the result of an election. No evidence of any substantial na-
ture at all was provided to that inquiry, to any of the others that I sat on or at any other time that I am aware of that suggests any form of calculated, organised, deliberate widespread fraud with regard to electoral outcomes.

It is quite clear that, if significant fraud was conducted at election time by people wrongly enrolled, voting when they were not entitled to, voting in the name of dead people or all those sorts of urban myths that float around the place, it would be detected. Any election that is sufficiently close that there is the prospect of that sort of behaviour influencing the outcome would clearly be pursued by the losing party and would clearly be able to be detected. You might not be able to detect people voting that way on the day but, if a whole bunch of people bussed in to vote unlawfully as is sometimes alleged, it would be detected after the fact and, if it affected the result in a particular seat, that result would be able to be challenged and, I would suggest, almost certainly overturned. The simple fact is that that has not been detected on any wide scale, and I believe the protections in place are adequate to assess whether or not it has happened.

In addition, we could put in extra re-
quirements that would compromise people’s protections under privacy laws to ensure that they are enrolled where they are supposed to be enrolled, to ensure that people are not incorrectly enrolled at the wrong address and to ensure that the people who are enrolled are the people they say they are, but it would cost an enormous amount of money. It would improve the accuracy of the electoral roll marginally, but it would not be to any dis-
cernible benefit.

You also have to look at the flip side. It is unreasonable to spend millions and millions of extra dollars to just slightly improve the accuracy of the electoral roll. On top of that, you have to look at what the impact will be. If you make it too difficult, too much of an imposition, too much of an inconvenience or too much of a hassle for people to get on the roll then many people will not do it. We would all like to think that everybody would be charging down to get their name on the electoral roll the moment they turn 18—or I think you can get your name on the roll provisionally at age 17. We would all like to think that everybody in the country follows politics as closely as we in this chamber do, but the fact is that people do not. The fact is that enrolling is something that people usually do some time or other when they get around to it. We all know, or at least we should know, the enormous percentage of young people—particularly those who are just 18—who are not on the roll.

I recall that it was suggested during esti-
mates a year or two ago that perhaps as many as 50 per cent of 18-year-olds are not on the electoral roll. The time when they do get on the roll is when an election is called or when an election is imminent. That is why the de-
liberate closing of the electoral roll on the day that writs are issued is a flagrant rort, and it will unquestionably lead to the disenfranchisement of tens of thousands of Australians. For those who want the history and the background of that, Senator Ray’s and Senator Faulkner’s speeches on Friday in this chamber give that detail quite accurately. We know what impact it will have because we have seen it. It has been done before. It was done in 1983 and we know what happened.
Tens of thousands of people, mainly young people, will be disenfranchised, and many more will be forced to vote in an electorate in which they are no longer eligible.

I believe that this legislation is a perfect example of why it is tremendously dangerous to give any one political party control of both houses of parliament. We have seen that, at the first available opportunity, this government has introduced changes to the Electoral Act to try to rort the act in their favour. That is not only unconscionable; it also brings democracy into disrepute. Many people have criticised the way this government has followed the US in areas such as foreign policy. I am particularly disappointed to see them following the USA with regard to the partisan use of electoral laws. That is what this legislation is: it is blatantly party political and deliberately tilted to meet the interests of the governing party.

People have already noted that under this legislation it will be possible, in effect, to make anonymous donations of up to $90,000 to a particular political party. That can be done if you donate $10,000 to each division of a party in each state and territory, plus nationally. That is a disgrace. We have seen, of course, a significant jump in the level of tax deductibility for political donations. I remember when the Electoral Act was amended to allow donations up to $100 to be tax deductible. The Democrats supported that at the time because it was actually a clause specifically out of our party’s policy. That was back in the time of the former Labor government, more than 10 years ago.

My personal view is that it was probably an unwise thing to have in policy. We have public funding, where political parties are funded through election campaigns, I think that is a sufficient draw on the public purse. To have a second draw on the public purse through tax deductibility is, I think, unwise. I think we should reverse that policy and remove tax deductibility from the act altogether. We certainly should not be having that massive increase of up to $1,500.

The other aspect that I want to return to is the fact that the impact is likely to be greater on Indigenous Australians than on anyone else in the community. In the last few weeks we have been talking about the range of problems Indigenous Australians face in many areas, particularly in remote communities. It is particularly ironic and inappropriate to be changing the Electoral Act in a way that it will make it less likely that Indigenous people will be on the electoral roll. How much extra incentive will political parties have to ignore the needs of Aboriginal Australians if they know that more and more of them are not on the electoral roll? There would be even less motivation to address the views and needs of Indigenous Australians with fewer and fewer on the electoral roll—and there is already a higher than average proportion of Indigenous people who are not on the electoral roll.

Again reflecting back on the time when I was a member of the Joint Standing Committee on Electoral Matters, after the 1998 election—I think it was, but I might be mistaken—I spent three days at public hearings in the Northern Territory. At that time, the Northern Territory had just one House of Representatives seat. The Country Liberal Party was so obsessed with the fact that the Aboriginal population in the Territory were voting so much for the Labor Party that they figured there had to be a rort going on. We had hearings in Darwin, in Alice Springs and in Maningrida in Arnhem Land. All the hearings focused, in theory, on how the system
could work better for people in remote communities and for Indigenous Australians. But I know, from things many people said on and off the record, that there was great frustration about the large percentage of Aboriginal people who did not vote for the Country Liberal Party.

It is no secret that a large proportion of Indigenous people in many areas vote disproportionately towards the Labor Party. That is not something I am pleased about. I do not know why they vote for the Labor Party, and I will not use this opportunity to go on at great length about the Labor Party’s failures on Indigenous affairs—in many respects I see them as not much better, and occasionally worse, than the coalition’s failures.

It is nonetheless a simple psephological fact that, broadly speaking, a large percentage of Indigenous people do vote for the Labor Party. I have on occasion heard coalition people basically accepting that that vote will go significantly in that direction and that there is not much they can do about it. However, it appears there is something they can do about it. They can change the Electoral Act to make it harder for Indigenous people to get on the roll and easier for them to get kicked off the roll—particularly when you add in the provision in this act which makes any person who is subject to a term of imprisonment of any length of time—not just a term of at least three years, as is currently the case—not eligible to vote. This is once again going down the US path, and that is a very dangerous path to go down. We all know, and this is another area that we should all be working on in a policy sense, that Indigenous people are disproportionately represented in this country’s jails. This will be another mechanism for significantly disenfranchising a greater number of Indigenous people.

We need to look at how this is used in other parts of the world. I will use the example of the United States of America. People have written a lot about the presidential election of 2000, in particular in the state of Florida. People talked about a range of things, such as hanging chads and whether or not certain things were counted or not counted, but to me the biggest thing that stood out in that state, and in different counties within that state, was the fact that one mechanism that was used by the Republicans—and they are not alone in using electoral law to this end—to disenfranchise a group in the community was to make not just felons but also former felons ineligible to be on the roll. Such people are disproportionately more represented in the black community in America and they are disproportionately more likely to vote Democrat in the US. It was a deliberate tactic to try and purge potential Democrat voters from the electoral roll in the United States, in a way that would potentially affect the outcome of a presidential election—and of course we all know some of the things that have happened since then—and potentially have an enormous impact on the direction of human history.

I am not suggesting that this bill goes that far. However simple the measure, if it is saying that it is appropriate to disenfranchise people because they are in jail, what is to say that the next step will not be to disenfranchise people because they were once in jail and so they are not of proper character and should lose their right to vote? Where does it stop once we accept that some people, who are citizens, should nonetheless have their right to vote removed from them? It is a very dangerous precedent that is being extended substantially in this legislation and it is, once again, by no coincidence whatsoever, occurring in a way that almost certainly will advantage the party that is currently in government.
As a number of speakers have noted in this debate, we also need to look at the form of this government. One of the first things they did when they got into power in 1996, under the guise of budget cutting that was necessary because of the budgetary situation at the time, was to cancel the Aboriginal Electoral Education Program, a program that was widely acknowledged, including by the Electoral Commission, as being enormously effective in improving the ability of Aboriginal people to engage in the electoral system, to understand how it worked and to participate more fully.

Many of us repeatedly bemoan the lack of Aboriginal participation and presence in the federal parliament. Only two people in this parliament in over 100 years have come from an Aboriginal background—they were in this Senate—and of course there are none at the moment. When we are deliberately cutting programs that allow Aboriginal people to be able to more effectively engage just with the voting process, it is no surprise that so few of them have made their way through the political processes and into the parliaments of this country.

While this government restored many of the programs they cut for budgetary reasons in 1996, they have never restored the AEEP. The clear intent of that was to not make it any easier for Indigenous people to vote or to understand the electoral process because they do not vote for this government. This government do not want to help them get on the roll or be able to vote; they want to make it easier to get them off the roll. That is a shameful thing at any time, but at a time when we have a public debate that is openly acknowledging that we need to do better as a political process and as a parliamentary system in assisting Indigenous Australians, it is particularly shameful.

I want to briefly correct one thing in Senator Ray’s otherwise very good speech. In speaking about the Democrats’ role in a previous amendment to the Electoral Act, he said that we supported what Labor called the ‘dash for cash’ legislation. That legislation did not cost the taxpayer one cent. It simply ensured that the Electoral Act clarified the way the administrative structure of the Liberal Party interacted with the public-funding requirements. It may or may not have been responsible for most state Liberal Party branches now being broke, as Senator Ray alleged—I do not know whether or not they are broke, and I do not know whether or not it is a consequence of that legislation—but that is not my business; how they organise their funds is a matter for the Liberal Party.

It was also incorrect to say, as Senator Ray did, that the Democrats were internally divided at the time and that most of the Democrat senators actually opposed it but went along with it because they did not want to rock the boat. That is simply wrong. I can categorically say that, as leader of the party at the time, I did not hear a single Democrat senator express any opposition to that change. It was a logical change. It did not cost the taxpayer one cent. There was no reason not to amend the Electoral Act in a way that enabled the public funding to go in the direction that the administrative arm of that party wanted it to go. I would make the same amendments for any other political party if it did not cost the taxpayer anything. I think that was a misrepresentation by Senator Ray of both the Democrats’ position at that time and the import of that bill.

Having said that, getting back to this legislation, this is a sign of what happens when a government has control of the Senate. There is the risk that they can rort the very act that gets people elected here and tilt it more in their favour. That is shameful and should be opposed, and I hope that at least
one member of the coalition in the Senate has the courage to do so. *(Time expired)*

**Senator BOSWELL** (Queensland—Leader of The Nationals in the Senate) (1.43 pm)—The Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2006 covers a wide range of subjects in the Electoral Act that need adjusting. I intend today to speak about only one or two of these subjects, which I believe are the essentials that need to be addressed.

I want to speak today on party registration and party names, because I saw one of my colleagues, Larry Anthony, the former member for Richmond, defeated by a subterfuge, deceit or misleading conduct by the liberals for forests, as they were called at the time. My colleague the former member for Richmond had had a reasonable hold on that seat and had worked particularly hard in it. Mr. Anthony was a National and he ran under that banner. He was defeated, by 301 votes, by a candidate who ran under the registered party name ‘liberals for forests’.

There were 1,417 votes collected by the liberals for forests candidate and Mr. Anthony was beaten by 301 votes, by a candidate who ran under the registered party name ‘liberals for forests’.

I believe they deceived a number of people—particularly elderly people, who became distressed when they found out what had been achieved. This bill takes on board and addresses that problem.

We in the National Party have lost a very good member of parliament—and probably a prospective leader—but if that is the will of the people then I accept it. In politics, there is always a winner and a loser; I accept that, as long as it is fair and reasonable. But this was not fair. This was designed to mislead. I understand that the people of Richmond are very annoyed about this. I have been told that they are determined that they will reverse this, because they see that unfair play succeeded. Someone who had worked very hard in his electorate for over three terms of parliament was defeated by the group of people who ran as liberals for forests. When we in the Liberal and National parties run against each other, we direct preferences to each other. However, the liberals for forests directed preferences away from the National Party—there was no Liberal candidate at the time, which was even more confusing, to direct preferences to Larry Anthony. He lost the seat by 301 votes.

If ever there was a wrong that needed to be addressed it is that one, and it has been addressed in this particular bill. This subterfuge should have been addressed long ago. You cannot have ‘labor for the dolphins’ or ‘nationals for the turtles’ or liberals for whatever—such names are designed to mislead. The name ‘liberals for forests’ was designed to mislead. And it did mislead people—particularly the older people in the electorate, who became confused. Our polling booth workers pointed out the distress that it caused some people. So I am very pleased to see that a part of this legislation addresses that.

I am also pleased to note that, for postal voting or provisional voting, people will have to provide some form of personal identification. It is very easy—and it does happen—to register as Mr or Mrs Bloggs and to give an address that does not even exist or that is the address for a vacant block of land or a boarding house or even a factory. Yes, there are checks. Sometimes those checks are made; sometimes those checks are not made. Surely it is not too much of a hardship for anyone to turn up with a driver’s licence, a rates notice, a pension card or some other form of identification. Everyone in Australia must have some identification. It is easy to
do that. It is not done in the seats where big margins are held, but sometimes it is done in seats where the result is going to depend on a knife-edge margin—such as the seat of Richmond.

I have been in the business of politics for many years. Traditionally, provisional votes go to the Labor Party. Fair enough; that is part of the electoral process.

Senator Webber—That’s why you don’t like it.

Senator BOSWELL—I do not object to people voting for the Labor Party, but I do object to people being able to register for any address and not come up with proof of identity. I observed that, in the results in the seat of Richmond, up to around 80 per cent—from memory—of those provisional votes went against the sitting candidate. We all accept that provisional votes do, traditionally, favour the Labor Party, but not to such a high degree. You might get 60 per cent; you might even get 65 or 70 per cent, but, when it starts to come in around 80 per cent, you need to start saying: ‘If this is the case then let’s make it certain, by asking people to provide proof of identity when they register for a provisional vote.’ So I think this piece of legislation goes a long way, with these two particular aspects, to making the Electoral Act more fair, more reasonable and more certain. It certainly has my support.

Senator LUDWIG (Queensland) (1.52 pm)—Listening to a number of speakers on the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2006 has drawn me to speak on it now. I have had the opportunity to hear what Senator Boswell has said about this bill, as well as Senator Mason, who is on the Joint Standing Committee on Electoral Matters. I will deal more broadly with the issues that the Labor Party finds offensive and I will reflect on the name itself—that is, the ‘electoral integrity and other measures’ bill. That reminds me of the government’s view on naming bills in the industrial relations field. I think they have done the same thing with this bill. They have effectively named a bill by using a title which is misleading in itself—‘electoral integrity and other measures’. The ‘other measures’ is probably closer to the truth.

When you look at electoral integrity, this bill is far from it. The Liberal Party have been seeking many of the measures contained within this bill—not all of them; some of them are an improvement—over the last four, five or more years. They are now serving them up again, because they have got the numbers in this chamber. That seems clear. It is a pity that neither Senator Boswell nor Senator Mason mentioned that point. In truth, they went on about self-serving issues. I think the central issue of this bill is that it is democracy diminished, not democracy enlarged or improved—and perhaps that should have been the name this bill was given.

The purpose of this bill as stated was to amend the Commonwealth Electoral Act in order to implement the government’s policy on electoral reform—and there they go again using the phrase ‘electoral reform’. It is far from reform; in truth, it is a reduction in democracy and they should admit to it. It is far easier to at least admit to it and then move onto the substantive issues. The major issue in this bill is to increase the threshold for disclosing gifts to party candidates from $1,500 to a whopping $10,000. But they do not leave it at that. To makes sure that they do not have to revisit it and that we do not have to have this debate again, in what could only be described as an excessive exercise, they have decided to link it to the CPI index so it will continue to rise, probably at the rate of some two or three per cent per year. This could only be described as Liberal Party
heaven, because the Liberal Party have been seeking this for some time and they will succeed unless some on the other side see the light. But I doubt that will happen. I suspect when you look at their speeches and you hear the summing-up speech by the minister, they will argue that it is one of those provisions that will be helpful.

Yes, it will be helpful, of course, to the Liberal Party but it will not be helpful for democracy. It will be a backward step for democracy. The Liberals have been trying to do this since 1999. Section 314AB of the Commonwealth Electoral Act requires all parties to disclose donations, and the limit or threshold is currently $1,500. This brings with it substantial transparency—and that is a word that the Liberals cannot say, see or come to grips with. Transparency brings with it the ability for parties and people to understand where the revenue, where the source of income, comes from—from people to political parties. That creates a more transparent system. It ensures that there is integrity in our system of democracy. They argue that a $10,000 limit will not change things much at all. It will most likely encourage people to change their pattern of donation to the Liberal Party. That is exactly why they have been promoting it. It will ensure that those people who want to remain anonymous will find ways to ensure that they can donate $9,999 to the Liberal Party and not have the source of funding disclosed. They will not have transparency.

It was argued in the original 2004 report that this measure has no policy merit at all. It will only diminish transparency between donations and the source, and it will ensure that the people who want to remain anonymous will do so. Senator Abetz has argued that the amount has been eroded by inflation over time. He is not living in the same inflationary period that we have been in if he thinks that $1,500 has been eroded to that extent. It was set 20 years ago. It was probably much too low then, he argues. I think that argument does not have any policy merit at all and misses the point completely. It is a poor defence by this government to argue those matters. It completely misses the whole issue.

Will it make a difference? Of course it will make a difference: $9,999 will be able to be donated anonymously to eight Liberal branches. That is where they know the difference will come in. They have the ability to use family relationships, so a husband and wife can each donate $9,999 to the eight branches of the Liberal Party throughout Australia. That is precisely where they want to be. They want to be in a position to ensure that their sources are not transparent where they can move cash from one source to the next.

Debate interrupted.

MINISTERIAL ARRANGEMENTS

Senator MINCHIN (South Australia—Leader of the Government in the Senate) (2.00 pm)—I inform the Senate that Senator Kemp, Minister for the Arts and Sport, will be absent from question time today and for the rest of this week. Senator Kemp will be absent due to his attendance on behalf of the Australian government at the soccer world cup in Germany and a sports policy summit being held in the Netherlands. We are all very jealous of him! During Senator Kemp’s absence, Senator Coonan has agreed to take questions relating to arts and sport. Senator Santoro, whom I welcome back, has agreed to take questions relating to families, community services and Indigenous affairs, and Senator Ellison will take questions on human services.
QUESTIONS WITHOUT NOTICE

Migration

Senator LUDWIG (2.00 pm)—My question is to Senator Vanstone, Minister for Immigration and Multicultural Affairs. Does the minister recall comments by the Prime Minister on 17 June 2002 stating:

I want to make it clear that there is no intention—and there never has been—to excise any part of the Australian mainland. That is an absolutely ludicrous proposition.

Is the minister further aware of comments in the Senate Legal and Constitutional Legislation Committee’s report on the proposed new laws that state:

... the Bill amounts to an effective ‘self-excision’ of Australia from the international protection regime for all unauthorised boat arrivals.

Why is the minister proceeding with a bill based on what the Prime Minister himself described as ‘an absolutely ludicrous proposition’?

Senator VANSTONE—I thank the senator for the question. Without the detail of those words in front of me, I have to be a little bit cautious in my response. The proposition put by the senator asking the question is that the Prime Minister has said that the bill does not excise the mainland, to paraphrase. He has gone on to say that the committee report apparently says that the mainland is, with two qualifiers, effectively excised—for a limited group of people. There is absolutely no inconsistency between those two statements.

Senator LUDWIG—When did being absolutely ludicrous become government policy? It is quite surprising. Mr President, I ask a supplementary question. Doesn’t the minister’s insistence that something which was an absolutely ludicrous proposition in 2002 should become law in 2006 show that the bill is nothing more than a totally unprincipled attempt to appease Indonesia? Far from bending over backwards for the backbench, isn’t the minister more interested in rolling over for Indonesia?

Senator VANSTONE—I thank the senator for his question. I am sorry that the clarity of the difference between the two phrases raised by the senator is not obvious not only to himself but, clearly, also to his colleagues. There is a world of difference between doing something and doing something else which may have a very similar impact, but for a limited group. There is quite a world of difference.

The senator asked me about appeasement of Indonesia. I come back to the points that I have made in the past in relation to this. Firstly, despite a phone call from the Indonesian president to our Prime Minister, visas to 42 Indonesian West Papuans were granted. Why? It was because we will always follow our international commitments and we will follow our law at the time. But, subsequent to that boat arrival, the government is entitled to have a look and ask: ‘What else can be done to strengthen our borders and to work positively with Indonesia?’ And that is what we are doing. It is not appeasement. (Time expired)

Workplace Relations

Senator BRANDIS (2.04 pm)—My question is addressed to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. How is the Howard government acting to increase wages and employment in this country, and is the minister aware of any alternative policies?

Senator ABETZ—I firstly thank Senator Brandis for the question and note his long-standing interest in ensuring that we create employment opportunities and increased wages in this country. The Howard government has a plan for continuing to increase wages and create new jobs in Australia,
unlike those opposite, who want to go backwards. Already, after just a couple of months operation, the evidence suggests that our plan to increase workplace flexibility and fairness is reaping dividends. Over 78,000 new full-time jobs have been created since Work Choices came into law in March. The independent Australian Bureau of Statistics evidence is that not only do people on AWAs enjoy extra flexibility such as family friendly conditions but they also earn, on average, 13 per cent more than those on often union-negotiated certified agreements.

We on this side will retain the option for individual Australians to strike a deal with their employers which best suits them. Those on the other side will not. They will insist, they will demand, that the unions do it for you, even if you do not want their involvement. Mr Beazley’s decision to do that is all about the self interest of the unions and Mr Beazley’s own personal self interest, not the interest of workers. It might be time to have another ‘Who said it’. On this occasion, I honestly do not know who said it, but I will give those opposite a hint. This is what was said about Mr Beazley’s backflip, or rollover: ‘A gutless rollover to appease a mob of gangsters’—that is, Unions NSW in Sydney. ‘He’—Beazley—‘sacrificed the party position to save his own.’

Who said that? None of us on this side knows, but somebody on that side clearly knows. The hint is that it was a senior shadow minister of the Labor Party. Some on the front bench of the Australian Labor Party know the damage that Mr Beazley’s announcement has done. It is about time for the honest one on the front bench to stand up, fess up and tell it as it is, like Mr Joe de Bruyn—and I commend him for this—who had the honesty to debunk and expose Mr Beazley’s assertion that his backflip on AWAs was as a result of Spotlight.

The only spotlight over the weekend has been the spotlight on Mr Beazley for having misrepresented the position of Spotlight workers. Even the trade union representing the shoppies had to expose Mr Beazley’s misinformation—I will not say ‘lie’—to the Australian people. Even he had to distance himself from it. The weak, implausible argument that Mr Beazley put forward for his backflip has now been exposed by the trade union movement itself, and a Labor front-bencher knows it as well. But of course, for fear of intimidation and retaliatory action by the trade union movement for his or her reindorsement, they are not willing to identify themselves. That is the sort of country we will have under a Labor government. But we want to see increased employment and increased wages. *(Time expired)*

**Migration**

**Senator HUTCHINS (2.08 pm)—**My question is to Senator Vanstone, the Minister for Immigration and Multicultural Affairs. Does the minister recall the Prime Minister’s decision to change the government’s immigration policy last year in response to serious concerns raised by backbenchers such as the member for Kooyong? Does the minister further recall the Prime Minister’s assurance on the ABC’s 7.30 Report on 20 June 2005 about those changes:

... we have introduced some changes which ensure that families with children will be looked after in community detention, in other words they won’t be in a detention centre ...

Does the minister stand by the Prime Minister’s commitment and will she now provide an absolute guarantee that families and children will be placed in the community rather than in a detention centre on Nauru? What has changed that has led the government to again seek to lock up children in detention centres?
Senator VANSTONE—I thank the senator for his question. Yes is the answer to the first one. In relation to the second—whether I remember the specific comments of the Prime Minister—the answer is no, but the substance of them is certainly correct. What the senator did not tell the Senate and therefore the Senate Hānsard record or anyone who happens to be listening on replay is that those agreements made last year were made quite specifically limited to the Australian mainland. Nauru was quite specifically excluded from that. It is a surprise to me that the senator who could have and should have known that would come into this place and ask a question which might lead those who had not been following the debate to conclude that the opposite was the case. Senator, if you did not know that, you do now.

Nonetheless, what the Prime Minister said at the time is right. We certainly want to detain women and children as a last resort. That is certainly the case, and the changes we have made subsequent to June 2005 are proof of that. But Nauru was not a part of this agreement; it is another country. That is why it is called offshore processing.

Senator HUTCHINS—Mr President, I ask a supplementary question. Minister, doesn’t the decision to ditch the Prime Minister’s commitment to not lock up children in detention centres confirm that the bill is just an unprincipled attempt to appease the Indonesian government?

Senator VANSTONE—The bill is designed to strengthen Australia’s border protection, and it does of course mean that we want to ensure that we keep positive cooperation with Indonesia. I might take the opportunity to repeat what your leader said a few years ago, in 2001. This is what he said: ... in the end the only solution to the problem that we now confront resides around the relationship that we have with Indonesia and the attitudes that develop in this region to illegal people movement ...

He went on to say, ‘What we need to do is exercise leadership’—in other words, get our relationship with Jakarta on a positive footing, so this could all be fixed by a good relationship with Indonesia. And now, Senator, you seem to be saying, ‘Throw it in the bin’—a complete regional irresponsibility.

Workplace Relations

Senator JOHNSTON (2.12 pm)—My question is to Senator Minchin, the Minister representing the Minister for Industry, Tourism and Resources. Will the minister inform the Senate of the importance of flexible workplace arrangements, including Australian workplace agreements, to the resources industry?

Senator MINCHIN—I thank Senator Johnston for his question and acknowledge his strong support for the resources industry, especially in his home state of Western Australia. It is very clear that the mining industry is one of the star performers of our economy. According to the recent ABS capital expenditure survey, mining investment has almost doubled in the past year. Also, according to ABARE’s March statistics, the value of mineral exports in the March quarter was up 32 per cent on last year. There are clearly a number of reasons for this very strong investment in export performance for that great industry. Obviously world prices for our commodities are very high and world demand, especially from China, is particularly strong.

But it is also true that our government over our 10 years has done an enormous amount to improve the economic climate in which the resources industry operates. We removed export controls on the industry; we abolished the former Labor government’s no new uranium mines policy—and we look forward to the Labor Party itself abolishing
that policy; we took the tax off exports with the introduction of the GST and we expanded the diesel rebates for the mining industry; and, not insignificantly, we changed Paul Keating’s native title act to make it much more workable for this great industry.

But perhaps the most important step I think our government has taken in relation to the resources industry in our 10 years was indeed the introduction of Australian workplace agreements. Figures from the Office of the Employment Advocate show that the mining industry has the highest penetration of AWAs of any industry. Nearly 30 per cent of all employees in this sector are on AWAs—that is, some 34,000 mining industry workers work under AWAs.

Access Economics did a study in 2004 on this issue and demonstrated a very clear relationship between productivity growth in this great industry and the flexibility of workplace contracts. The mining industry, with as I said the highest penetration of individual contracts of any industry, also had the highest annual productivity growth of any industry over that 10-year period. Of course Access did this study specifically as an assessment of the commitment by the then Labor leader Mark Latham to abolish AWAs. In this report it said that such a policy would have the likely outcome of lower productivity growth and less accurate matching of wages and productivity at the enterprise level. Mr Beazley then reversed that policy when he became leader but now he has gone back to the Latham policy, leading the Australian to I think accurately last week have a headline to the effect that Mr Beazley is just Mark Latham mark II.

But, coming back to the resources industry particularly, the Australian Mines and Metals Association estimates that the removal of AWAs would cost this very significant Australian industry some $6.6 billion a year. Regrettably we do not think the Labor Party has ever quite got its head around the process of wealth creation in this country. It seems to be a party devoted entirely to the redistribution of wealth with no concern for how it is created in the first place, and I think that applies to the commodity boom which we are experiencing. It is not simply a function of good luck or Chinese demand. It has been—and our capacity to respond to that Chinese demand is—a function of the very good policies that this government has put in place, including the introduction of AWAs. It is incredibly bad for the Australian resources industry—and for future investment in it—and the Australian economy that the Labor Party has now done another backflip on this policy. We urge the Labor Party to reconsider, do another backflip and reinstate AWAs as their policy.

Defence: Helicopters

Senator CHRIS EVANS (2.16 pm)—My question is directed to Senator Minchin in his capacity as representing the Prime Minister. I refer the minister to today’s announcement by the government to purchase a further 34 MRH 90 multirole helicopters. Is the minister aware of European concerns that this helicopter is already significantly delayed? Can the minister confirm this supplier, Eurocopter, has also supplied us with the Aussie Tiger, which the Audit Office recently found to be seriously underpowered, failing specifications and unable to fly over water? Can the minister also confirm that, on top of this, both the current Sea King and Seasprite helicopters are grounded, with the Navy Seasprite helicopter also unable to fly over water? What confidence can the Australian people have, given the government’s appalling form on helicopter acquisition, that these helicopters will be delivered on time and within budget?
**Senator MINCHIN**—That question might have been better directed to the Minister representing the Minister for Defence, but I happily intend to answer Senator Evans’s question. I note that Senator Evans happens to be a senator for Western Australia; I think he should spend his time trying to reverse the idiotic policy of the Labor Party on AWAs for the sake of his own state. In relation to helicopters, Senator Evans and I spent many hours in Senate estimates this year arguing the toss on helicopters. We talked at length on the audit report on Tigers. I pointed out, as did the representatives of Finance, that we thought the Labor Party was unduly exaggerating the nature of that report, that it was grossly unfair on the DMO and that there were particular reasons for the difficulties with that project.

One of the reasons was that it was quite deliberately designed to ensure that we were not the lead purchaser of that particular product. Regrettably, the French, who were meant to be the lead purchaser of that product, fell way behind their schedule. Indeed, it is a great credit to the DMO and Defence that we kept to schedule on the acquisition of that product and ended up inadvertently becoming the lead purchaser, which had some complications in terms of the detail of that contract. All of the Auditor-General’s recommendations in relation to that report have been accepted by Defence and are being, and will be, implemented to ensure that that project is a good project for Australia. It is the right product and they will be delivered and operational.

I am very pleased that the government has now announced its decision in relation to the MRH90 troop lift. That is a good decision, one that was thought about very seriously and very carefully. Of course, the government can never win. We have been criticised for being too American oriented in our Defence purchases. Some are critical of us for only purchasing American products. In this case we bought because on balance it was clear, on the evidence available to the NSC, that the best product for Australia was the Eurocopter. We have made that decision. It is a good decision. The Prime Minister and the defence minister have now made that formal announcement. We are very satisfied it is the right product for Australia and will be delivered on budget and on time.

**Senator CHRIS EVANS**—Mr President, I ask a supplementary question. I note the minister said that we argued the toss. I think in fact I agreed with his proposition that the only place we could sell the Seasprite was to a landlocked country, given that it could not fly over water. More importantly, can the minister explain why the announcement today did not include a delivery timetable for the 34 additional helicopters? Is the government softening us up for more delay, given that the first 12 MRH helicopters—announced, I might add, as a major counter-terrorism initiative by the Prime Minister in 2004—are already 12 months late?

**Senator MINCHIN**—I did not read the detail of the announcement. I will take Senator Evans’s word that there was not a specific delivery date and I will get him an answer to that question.

**Telstra**

**Senator EGGLESTON** (2.21 pm)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Coonan. Will the minister advise the Senate of what the Howard government is doing to safeguard the availability of payphones where they are needed most? Is the minister aware of any alternative policies?

**Senator COONAN**—I thank Senator Eggleston for his interest in this ongoing and important issue. The government recognises that access to payphones is an important community service, particularly for people
on low incomes and for people living in rural and regional Australia. That is why the obligation to supply, install and maintain payphones is a universal service obligation so that all Australians, regardless of where they live, have reasonable access to a payphone.

There was, understandably, widespread community concern earlier this year following reports that Telstra was considering removing up to 5,000 payphones. That is why I have announced a range of initiatives to ensure there is more consultation and better information about plans Telstra may have to remove any payphones. While Telstra should be free to make commercial decisions on the location of its more than 32,000 payphones, it must also continue to meet its obligations under the universal service obligation.

To ensure that communities can clearly understand their rights to a USO payphone the government will require Telstra to clearly describe what constitutes a USO payphone. Telstra will also be required to clearly identify which payphones are provided under the USO, and they will be required to ensure that there are robust consultation processes where a non-USO payphone is to be removed or relocated. Telstra will be required to incorporate into their website payphone locator a USO payphone icon so communities of fewer than 50,000 people will be able to identify the USO payphones in their area. Where there is a non-USO payphone Telstra will be required to provide reasons for a proposal to remove the phone and details of how individuals can object.

ACMA will take a more active role in monitoring Telstra’s compliance with its payphone obligations and will enhance its payphone related complaints and awareness raising activities. While many Australians, of course, now use a fixed line or a mobile phone as their main means of communication, payphones continue to play an important communications role in communities right across Australia. By enhancing the USO process, communities can be confident that vital USO payphones are protected and, further, that they will be consulted if there is a proposal to remove or relocate any payphones.

The government’s response in dealing with Telstra’s proposal to remove payphones is a good example of how the universal service obligation is working well, and how the framework is in place that will stay there quite irrespective of whether the government holds shares in Telstra. Rural Australia is simply not fooled by alternate policies—although we have not really seen any, to be perfectly honest, on this issue. Under Labor, people waited more than two years to have their home phone connected, let alone a USO phone connected. To add insult to injury, Labor decided to close down the analogue mobile network without having any alternative in place. The coalition government will continue the job of delivering services for rural and regional Australia, and will ensure that they continue to have access to good telecommunication services.

Whaling

Senator BOB BROWN (2.25 pm)—My question is to Senator Abetz, the Minister representing the Minister for the Environment and Heritage. I ask, in relation to the lost vote on commercial whaling at the International Whaling Commission, how on earth could the minister for the environment, Senator Ian Campbell, have failed to get the support of Nauru and the Solomon Islands on this matter? How on earth could the minister for the environment, Senator Ian Campbell, have failed to get Nauru to prevent whales being sent to Japan? How on earth could the minister for the environment, Senator Ian Campbell, have failed to get Nauru to prevent whales being sent to Japan?

Senator ABETZ—As is so typical of the Australian Greens we have a mishmash of policy mixed up in the one question. The
simple fact is that any fair and objective observer would say that Senator Ian Campbell has done his utmost to rid the world of commercial whaling. To have won four out of the five votes is a very good result, especially in the difficult international climate in which the International Whaling Commission operates. I look opposite and four out of five would be the sort of result that Senator Conroy could only dream about in relation to ballots.

Of the five key votes over the weekend the pro-whale conservation bloc, which was led by Australia, won four of them. This was the culmination of intense international diplomacy over the past 12 months. We do not take the sort of patronising approach—which Senator Brown seems to imply in his question—that we can somehow direct countries how to vote because we might have other deals with them. We, as a country, act honourably in our international relations and, even when we disagree, we do respect the sovereignty of these countries to cast their vote as they deem fit.

You will never hear Senator Brown, because of his anti-Western stance, congratulating the United States on supporting Australia, or New Zealand, France, Germany and the other countries that helped Australia in this vote. You will never hear Senator Brown praise the role of the United States in relation to the votes. Quite frankly, four out of five is a very good result. We, as Australian senators, should be congratulating Senator Campbell on his efforts. As Senator Campbell himself said we cannot rest on our laurels just because of those four out of five votes. What we need is ongoing and very important action to be taken around the world to ensure that there is an ongoing coalition effort of the willing to ensure that whaling is banned.

**Senator BOB BROWN**—Mr President, I ask a supplementary question. I note that Senator Ian Campbell has taken claim for four votes. He has to take responsibility for the fifth. I ask again, because the minister ducked this in his answer: how come the Minister for the Environment and Heritage failed to influence Nauru to stop the vital vote for commercial whaling, which is now going to set the pattern for future whaling conferences, when so much effort has been put in by this government to taking West Papuans, and how come Senator Campbell flopped in getting the Solomon Islands on side for this crucial vote on whaling? What is it that led to this failure of diplomacy by the minister in both cases?

**The PRESIDENT**—Order! Senator Ray, you are rather noisy today; I ask you to come to order.

**Senator ABETZ**—I think to a certain extent this is an issue of integrity. When we as an Australian government help a country such as the Solomon Islands we do it out of commitment, compassion and wanting to assist them without saying, ‘We will only help you restore law and order in your country if you vote with us on whaling.’ That is not the way we operate, Senator Brown. For you to suggest that that would be the Greens way of undertaking foreign affairs reflects very badly on Senator Brown as the leader of the Greens and on his party.

### Aged Care

**Senator HUMPHRIES** (2.31 pm)—My question is to the Minister for Ageing, Senator Santoro. I understand that the minister recently visited the United States. Would the minister inform the Senate about the purpose of his visit and the outcome of any discussions with key stakeholders in relation to issues of ageing and aged care policy?
Senator SANTORO—I thank Senator Humphries for his question and for his continuing strong interest and involvement in aged care issues. I have just returned from the United States, where I was able to share information and views with key stakeholders on ageing policy and the aged care system. Additionally, I was privileged to attend, in Washington DC on 14 June 2006, a special ceremony to commemorate the 63rd anniversary of the Baker’s Creek air crash, in which 40 US servicemen died shortly after taking off from Mackay, Queensland, where they had just completed a period of rest and recreational leave from the theatres of war in the Pacific. I have addressed the Senate on this matter several times before.

I can report to the Senate that during my trip to the United States I had a large number of very useful meetings regarding ageing matters. In Austin, Texas, I met with the adviser to Governor Perry on ageing issues, the Texas Land Commissioner, who is responsible for the administration of the Texas veterans homes, and Mr Pat Kennedy, a director of the Holiday Retirement Corporation. I also met with the Texas Secretary and Deputy Secretary of State. In Washington DC I met with Dr Zaven Kachaturian, a world expert in programs for those suffering from Alzheimer’s disease and their carers, and also the man who contributed greatly to the Alzheimer’s Australia 2004 Report, Dementia research: a vision for Australia.

I also met with the Director of Ageing and Retirement Policy at the American Enterprise Institute, the Director of the National Institute for Ageing, the Assistant Secretary of the federal Administration on Ageing, the Director of Health Policy at the Heritage Foundation, the President of the American Association of Homes and Services for the Ageing, and the Director of the National Centre on Elder Abuse. I also met with Congressman Ralph Regula, Chairman of the House of Representatives Committee on Labor, Health and Human Services and Education, and—

Senator George Campbell—This is a travelogue!

The PRESIDENT—Order!

Senator SANTORO—Senator Herb Kohl, the ranking Democrat member on the Senate Special Committee on Ageing.

Senator Ludwig—Mr President, I raise a point of order on relevance. I am sure Senator Humphries would like his question answered. What we have had so far is a travelogue. There are times later on in the day when he might be able to do that. Mr President, I ask you to consider the relevance of the answer to the question.

The PRESIDENT—I believe that the question did ask Senator Santoro what he was doing, and I believe he is answering that—although, he does seem to be answering it in rather a—

Opposition senators interjecting—

The PRESIDENT—Order! I ask the minister to return to his answer.

Senator SANTORO—I think it is relevant that I tell the Senate who I met with because these are very high-level meetings, out of which we obtained very good dialogue, information and advice. Additionally, in New York I met with the Director of the Social Integration Branch of the United Nations, the President of the Continuing Care Leadership Coalition and the President of the Isabella Community Centre. I also addressed the Inaugural World Elder Abuse Awareness Day Symposium at the United Nations on 15 June.

Senator Forshaw—Mr President, I raise a point of order on relevance. The minister has said that he had these meetings. If he was actually at these meetings then surely he would be able to stand up here and tell us
about those meetings rather than read from a prepared script that has obviously been written by somebody else.

The PRESIDENT—There is no point of order. Senator Santoro, you have 1½ minutes left.

Senator SANTORO—It is appropriate for me to report at this stage that I have returned from that trip convinced that, while there are some things we can do differently in Australia, overall by comparison to the United States we are doing well on a number of important fronts. Firstly, the key policy makers that I met with were most envious of the fact that the Australian government has been able, by taking difficult decisions and exercising fiscal discipline, to eliminate all of the $96 billion of public sector debt bequeathed to this nation under, in part, Kim Beazley’s stewardship as Minister for Finance.

Opposition senators interjecting—

The PRESIDENT—Order!

Senator SANTORO—Furthermore, when they learnt that this has allowed the government to establish the Future Fund and about how it will help meet the costs of demographic ageing, they were even more impressed. Consumer advocates, such as the National Centre for Elder Abuse, and provider organisations, such as the International Association of Homes and Services for the Ageing, commended the Howard government for establishing a quality framework in relation to care and building standards for residential aged care. They were very surprised to learn that this had not been in place prior to 1996 when the government was elected. The government’s approach of increasing the availability of community care so that people have the option of staying in their own home to receive care close to their friends and communities was strongly supported by the US industry stakeholders with whom I met. (Time expired)

Senator Minchin—Mr President, I raise a point of order. The opposition’s behaviour during the answer to that question was completely unacceptable and completely unruly. There are only three question times to go; you would think they could manage to maintain some order during the last week.

Senator Chris Evans—Mr President, on the point of order: senators are getting frustrated by ministers misusing question time. Quite frankly, if the minister wants to embarrass himself and bring back the photos and tell people what a wonderful time he had, he should do that at the government senators’ cup-of-tea time rather than now and abuse the process of the Senate.

The PRESIDENT—Order! There is no point of order. A point of order was raised during the answering of that question which went to relevance and I ruled that the minister was relevant because he was asked that question. I would ask the Senate to come to order.

Media Ownership

Senator WORTLEY (2.38 pm)—My question is to Senator Coonan, Minister for Communications, Information Technology and the Arts. Has the minister seen the submission by Rupert Murdoch’s News Limited on her media reform discussion paper? Is the minister aware that News Limited has described her plan as a selective and discriminatory approach to deregulation which entrenches protection for free-to-air television broadcasters and deprives consumers of choice? Does the minister accept News Limited’s claim that her plan favours free-to-air broadcasters at the expense of consumers? In view of these comments, is the government now prepared to consider News Limited’s call for the allocation of new free-to-air television licences?
Senator COONAN—Thank you to Senator Wortley for the question. As she would be aware, the purpose of having a discussion paper in the first place is to give all interested parties, including consumers, an opportunity to comment. I think it is perfectly understandable that a range of views is expressed. She asked specifically about News Limited’s submission. Whilst I do not think it is appropriate that I give a running commentary on each submitter to the paper, what I can say, based on public statements that have been made by News this morning, is that their submission appears to be based on a very clear misapprehension of what is contained in the package. Let me give some examples to Senator Wortley and to the Senate more broadly.

The concern appears to be that the government said that there will not be a fourth free-to-air terrestrial licence allocated for television. In fact, what the government said is that the spectrum will be used for the allocation of two new licences and for new and innovative services, rather than just another look-alike free-to-air station or indeed a pay station of the kind that currently exists. The government would be looking to provide something for consumers, something that consumers would enjoy, in the line of some new and innovative services. The News submission appears to be incorrect in assuming that to start with. Another is that the free-to-airs will not be able to bid for this new spectrum. That also appears to be a fundamental misapprehension, at least by the commentator this morning on the AM show. There certainly will be competitive pressures on the free-to-airs in the allocation of new spectrum—and that certainly seemed to be exercising the commentator, Mr Baxter, this morning.

The other thing that he appeared to not quite have straight was that the government was proposing unlimited multichannelling. That is not the case at all. The government has accepted—as Mr Baxter has urged the government—that it should look at high quality, high definition. You cannot, under current compression and standard arrangements, have both multichannelling and the highest of high definition. The government has never at any stage proposed that there would be full multichannelling. I think there is an exception that one channel will be allowed in digital only. Of course, at the moment, there is not a high take-up of digital, so it is unlikely to be a big competitive pressure to News or indeed anyone else.

The important point about the paper is that it is critical that people can make their views known. The anti-siphoning list is of course set until 2010 and there will be a review in 2009. In fact there is now monitoring of the list and the government has proposed, as part of the package, that there be a use-it or lose-it that would operate until there can be a review. I look forward to discussing what appears to be, as I say, some misapprehensions on the part of News, or at least those advising News, as to what the package contains. The important point about this—and I make no apology for it—is that we are absolutely determined that we are going to provide new services for consumers and that we are going to have an arrangement to transition from the old industry settings to the new digital world, or else we will become a dinosaur, as Senator Wortley would appreciate. Whilst I certainly welcome all contributors to the paper, obviously it is a matter where we will pull together the proposals and get this enacted. (Time expired)

Senator WORTLEY—I ask a supplementary question, Mr President. Does the minister recall stating that media reform would only occur with broad industry support? Is the minister aware that Australia’s largest media owner, News Limited, has stated that it does not support her plan to
relax the cross-media ownership laws? Can the minister now indicate whether the government remains committed to introducing legislation to change the media ownership laws this year?

Senator COONAN—Thank you to Senator Wortley. The situation is that the cross and media laws are certainly not the centre-piece of this package. The centre-piece of the package is the move to digital and the switching off of the analog signal, which will enable Australia to actually participate in what the rest of the world is moving to, which is digital. But these are important adjuncts to the proposal. Based on the fact that News said that their opposition to cross and foreign is based on a number of matters that I have talked about or misapprehensions as to how this package works, the answer is that of course the government will continue to consider the appropriateness of cross and foreign reforms.

Schools Funding

Senator ALLISON (2.44 pm)—My question is to Senator Vanstone, Minister representing the Minister for Education, Science and Training. I refer to the minister’s announcement at the weekend that the government will fund school chaplains. Will school chaplains be encouraging young people to take on particular religions? Will schools that are already religious schools get the money too? And will the funding also be available to schools where the school itself decides that a general counsellor better suits the needs of its students?

Senator VANSTONE—Senator, I am sorry; I have had a look at the briefs in this area and there is none in relation to this announcement on the weekend. I am sorry about that. I will get an answer from the minister and give it to you.

Senator ALLISON—Mr President, I ask a supplementary question. I ask Senator Vanstone to also ask the minister: school chaplains provide Bible instruction and worship services, pray with students and provide religious education classes. In some schools, I understand they provide instruction classes for confirmation, assist with communion and so on. Are these the activities the government wants to fund rather than funding teachers to provide literacy and numeracy programs, for instance, or physical education, nutrition education, sex education to reduce teenage pregnancies or indeed career counselling?

Senator VANSTONE—I am happy to take that on notice. But I would ask you to consider, Mr President, whether you can in fact ask a supplementary after an answer that simply says, ‘I’ll take it on notice,’ because it cannot possibly arise out of the answer.

The PRESIDENT—I believe the supplementary, Minister, was adding to the original question, and I just hope that you can get all the answers for the senator.

Internet Content

Senator POLLEY (2.46 pm)—My question is to Senator Coonan, Minister for Communications, Information Technology and the Arts. I refer to the minister’s speech at the National Press Club last week, where she indicated that the government would not require internet service providers to filter out prohibited content before it gets to the family home. Can the minister confirm that 62 members of the coalition backbench have written to the Prime Minister calling for ‘a ban on access to pornographic, violent and other inappropriate material via the internet’? Does the minister stand by her comments at the Press Club that those calling for mandatory filtering, such as her coalition colleagues, are ‘not well informed about the best available technical solutions to internet pornography’?
Senator COONAN—I can only assume that the senator was not here last week when I gave a detailed and very lengthy answer to a question from Senator Fielding about the reasons why ISP-level filtering is an inferior solution to effective filtering at PC level. I will go through it again, however, because it is obviously important for those who do not catch on the first time to hear it again. I have always said I would not categorically rule out ISP filtering, because, just in case the technology improves, I would like to be in a position where this government is ready to continue to look at whether or not there are better ways of doing it. The objective of this government is to get the very best and most effective way of filtering pornography so that it does not come into the hands of children.

We have looked at ISP-level filtering on three occasions, with a fourth coming up. In 1999, there was a CSIRO technical trial; in 2003-04, a review of the online contents scheme; and, in 2005, a trial conducted by NetAlert involving RMIT and ACMA. These are not matters conducted by the government; they are conducted by other parties. Unless they are completely misinformed, they tell us that there are continually problems with this particular level of ISP filtering: they tend to over-block all forms of content. Many are unable to scale effectively on larger systems, so you might be able to do it on a very small one but not a large one. They also have problems on a smaller network, so scaling to a larger one makes it very difficult. They are unable to analyse and block websites based on more sophisticated techniques such as skin tones. Many provide no protection for children using chat rooms. Surely there would not be a person in this place who would think that it was not appropriate to try to do your best to stop the kind of traffic that affects children in chat rooms. So why wouldn’t you get the very best advice, which I think the government has, on the very best way of dealing with this?

Most of these ISPs simply cannot filter content sent via instant messaging, peer-to-peer services or indeed email services. And most of them do not allow a parent to customise their child’s experience, so you would have the same kind of block for everyone in the family whether you are a medical student or a seven-year-old child. Of course, an ISP-level filter cannot actually log children’s activity, which is a very important tool in letting parents know what their children are looking at.

These particular problems have been found in every trial that this government has looked at, and there is not a developed country in the world that mandates ISP-level filters. It is true that it was mandated in Saudi Arabia, I think, and in Pakistan; but they made it so difficult, so much of it seemed to be circumvented, that I do not really know to what extent anyone could say that it actually worked. I think the really critical thing about this is that this government wants the most effective solution. We know that PC based filters can deliver that. You can get a customised and safe experience that looks after emails, chat rooms and peer-to-peer file downloading in a much more effective way than simply blocking half the internet and slowing it down so that nobody can use it, even for innocent purposes.

Senator POLLEY—Mr President, I ask a supplementary question. Is the minister aware of comments by her colleague Senator Barnett that ‘as members of parliament we have a duty of care to ensure that pornographic and violent sites are not available to children”? Does the minister agree with Senator Barnett? If so, Minister, why won’t the government act to require internet service providers to block access to thousands of websites identified by the Australian Com-
Communications and Media Authority as containing prohibited content like child pornography?

Senator COONAN—I do not know whether there is some problem with the senator’s comprehension. I have just spent four minutes explaining the difficulties—

Opposition senators interjecting—

The PRESIDENT—Order!

Senator COONAN—but she appears to have absolutely no idea of what I am saying. That is, ISP-level filters are not as safe as the PC based filtering which this government has introduced as part of online counselling. I cannot help it if those on the other side have got room temperature IQ. What you should do is try to find out what works, and PC filters work.

Opposition senators interjecting—

Senator Coonan interjecting—

The PRESIDENT—Order! Senators will come to order.

Customs: Illicit Drugs

Senator PAYNE (2.52 pm)—My question is to the Minister for Justice and Customs, Senator Ellison. Will the minister update the Senate on the Australian government’s commitment to the fight against illicit drugs? Is the minister aware of any alternative policies?

Senator ELLISON—I thank Senator Payne for what is a very important question which all Australians are vitally interested in. Today we announced the arrest of four people in Sydney in relation to the seizure of 120 kilograms of pseudoephedrine. Pseudoephedrine is an important precursor that we are targeting in relation to the manufacture of amphetamine type stimulants. This is a scourge which Australia is experiencing perhaps more than any other country. This demonstrates the great work that Customs and the Australian Federal Police are doing in the fight against drugs. Of course, we have resourced those agencies in record proportions to lead the fight against illicit drugs in this country. We have tripled funding to the Australian Federal Police and, since 1997, the Howard government has devoted $1 billion to the Tough on Drugs strategy. Late last year, we brought in new laws which went through the Senate in relation to precursor chemicals. As a result of that, these people are charged under those laws and, upon conviction, face a maximum of 25 years imprisonment and/or a fine of $550,000.

As I said, amphetamine type stimulants are a big challenge to Australia. We have made progress in relation to the fight against heroin and we have seen levels of supply reduced. Recently, when I was in the United States and the United Kingdom, it was recognised that we had had great success at the law enforcement level in reducing the supply of heroin. Sadly, Australia leads the world in the uptake of amphetamine type stimulants. That is where our attention on precursor chemicals is so important. What is staggering is that today we saw a former Labor minister for justice and Attorney-General, Mr Duncan Kerr, the member for Denison, stating that he would support a safe injecting room in Tasmania likes the nation’s only one at Kings Cross. He also went on to say that he was a cautious supporter of testing for party drugs at nightspots but would like to see the tests improved to identify any ‘nasties’ contained in the pills. He said: ‘Then they can plan and manage the use of the drug.’ This is entirely inappropriate in the midst of the war that we have on amphetamine type stimulants. We are not dealing with party drugs, we are not dealing with recreational drugs; we are dealing with dangerous drugs that are killing Australians, particularly young Australians. That is why the member for Denison should really take stock of himself and look at what he is saying. Importantly, the Leader of the
Opposition, Mr Beazley, should rule that out of order and unequivocally state that that is not part of Labor’s policy and approach to fighting illicit drugs.

The member for Denison is also very wrong when he says that 85 per cent of our funding goes on law enforcement. It was stated by TurningPoint Australia, a 2005 report, that 40 per cent of our expenditure goes to law enforcement. Out of that $1 billion, hundreds of millions of dollars goes on education and health. I have always said—and I say it again in this chamber—that our fight on drugs is on three fronts: education to reduce demand, particularly among young Australians; health to rehabilitate; and law enforcement to reduce supply. When you reduce supply, you enhance your chances of success with rehabilitation and reduction of demand.

Workplace Relations

Senator WONG (2.56 pm)—My question is to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. Is the minister aware of the announcement by the Minister for Employment and Workplace Relations that, under the Howard government’s welfare changes, parents would not have to accept a job that did not result in at least a $25 a week net gain after the costs of work had been taken into account? Isn’t it also the case that, under these changes, parents must work for 15 hours a week? Doesn’t this mean that the hourly return from work the government regards as acceptable for a parent is $1.66 an hour? Could the minister indicate whether he would work for a net benefit of $1.66 an hour?

Senator ABETZ—Once again, we have the Australian Labor Party trying to suggest that our Welfare to Work initiatives that have been so well received by the Australian community have this implicit trend for less income and that people would get $1.66 per hour. What she deliberately fails to say is that these people will be better off, because they are not working for $1.66 per hour but are working and gaining a lot more. What the Australian Labor Party are saying to the people of Australia is: ‘If you are on welfare and you have the capacity to work, don’t bother going to work. Let the Australian taxpayer keep funding you, because we like to keep the pool of unemployment up.’ Those on the opposite side are absolutely aghast that we now have an unemployment rate of only 4.9 per cent. They want to return to the good old days of one million Australian being unemployed. That was their great boast as a government. After 13 years, that is what they could point to: one million Australians unemployed.

The vast majority of Australians are in fact aspirational. The vast majority of Australians on welfare do in fact want the opportunity to work. That is why we have a deliberate strategy of Welfare to Work, unlike Senator Wong and her party, which has a policy of welfare to nowhere. We know exactly what the social consequences of welfare to nowhere are—that is, generation after generation living off welfare without any suggestion that they should in fact be making a contribution if they are able to.

The simple fact is that those previous welfare recipients will not only be better off financially—as Senator Wong well knows—but also socially and health-wise. Every other indicator that you can look to shows that those who are engaged in mainstream society, in employment, are much better off—for their own mental and physical health and wellbeing, and for their social interaction, and children in those households are better off for the next generation. And yet the Australian Labor Party, without a policy of their own, come into this place and seek to grossly misrepresent that
which we are doing for our fellow Australians who have every right and entitlement to a job.

Senator Wong interjecting—

Senator ABETZ—It is all very easy for people such as Senator Wong, who will always have a job courtesy of Labor Party endorsement or the CFMEU—which used to employ her before she came into this place—

Senator Chris Evans—You’ll have to withdraw that; you’re wrong again.

Senator ABETZ—if it is an insult that she worked for the CFMEU, I would be happy to agree and withdraw it. That is fine, and I am glad to have that on the record. Another own goal for Senator Evans, very foolishly. We as a government are committed to getting our fellow Australians into work and, irrespective of Senator Wong’s gross misrepresentation of our policies, we will continue to pursue that goal because of the benefits to our fellow Australians, as I have outlined.

Senator WONG—Mr President, I ask a supplementary question. Can the minister confirm that there is no such threshold set for a person with a disability? Doesn’t this mean that a person with a disability under this government can be forced to work for a return even lower than $1.66? Isn’t it the case that there is nothing to stop the Howard government from forcing a person with a disability to take a job that leaves them worse off working than on welfare?

Senator ABETZ—Once again, we have the Australian Labor Party exposing their welfare policy. And what is it? It is to concentrate on people’s disabilities rather than on their abilities.

Senator Wong—Mr President, I raise a point of order. The supplementary question was very specifically about the fact that the government’s policy permits a person with a disability to go backwards. The answer is currently about Labor Party policy. I ask you to tell the minister to return to the question.

The PRESIDENT—The minister was 15 seconds into his supplementary answer. I remind him of the question.

Senator ABETZ—They are very sensitive, aren’t they? I was only 15 seconds into my answer and they were up on a point of order because they know the point I was going to make is the one that sinks them in the public debate each and every time. That is because we look at people’s abilities and do not, as you do in your patronising fashion, concentrate on their disability. If people have a capacity to work for 15 hours or more per week, we seek to engage them in the mainstream of society and not to throw them onto the waste heap of welfare recipients, like the Australian Labor Party did when they were last in government, when more than one million of our fellow Australians were unemployed. That is not good enough for us. It might be good enough for them. Let the Australian people be the judge at the next election. (Time expired)

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Defence: Helicopters

Senator MINCHIN (South Australia—Minister for Finance and Administration) (3.03 pm)—Senator Evans asked me a question about delivery dates for the MRH90 helicopters. I have an answer which I seek leave to incorporate in Hansard.

Leave granted.

The answer read as follows—

MRH-90 Aircraft Delivery Dates.

The announcement by the Government today was for an additional 34 MRH-90 helicopters. Together with the 12 aircraft already committed to
under Project Air 9000 Phase 2, this will mean 46 new aircraft.

Today's announcement means that both Army and Navy will be using the same aircraft.

This joint approach will allow the Government to allocate aircraft as they come off the production line to firstly establish the joint training and support environment, before aircraft are allocated to areas of most need. This initiative will allow both Army and Navy to gradually transition to the new MRH-90 squadrons without causing wholesale reduction in capability.

The first aircraft will be delivered by the end of 2007, with gradual deliveries allowing the Sea King to be retired by mid 2010 as Navy aircrew are trained. Army will commence replacing its Blackhawk Squadrons as trained aircrew become available from between 2011 and 2015.

This process allows the Government to continue to provide capable squadrons able to protect Australia and its interests in a cost effective and timely manner.

The first aircraft to be acquired by Australia will be the 51st aircraft off the production line. By this time the other participating nations will have qualified the aircraft for service in their own defence forces.

Child Care

Senator SANTORO (Queensland—Minister for Ageing) (3.03 pm)—Last Thursday, Senator Kemp, who was representing the Minister for Families, Community Services and Indigenous Affairs, was asked a question concerning child care. In accordance with Senator Kemp’s undertaking to provide additional information, I am pleased to provide the Senate with the following facts. If it is appropriate, I seek leave to have it incorporated in Hansard.

Leave granted.

The answer read as follows—

The Australian Government is committed to assisting child care services to provide the best quality care for all children.

Over $75 million a year has been committed to the Inclusion and Professional Support Programme.

Ethnic Child Care Resource Unit has been funded under this programme to provide a broad range of bicultural support, training and multicultural resources to child care services. In 2005-06 ECCRU received $349,351 for these purposes. This subcontracting arrangement is due to conclude on 30 June this year.

The new programme is based on an open competitive process which has resulted in a consistent and integrated funding model across Australia. Funding allocations will be based on a nationally consistent funding methodology.

This takes into account the number of child care services, places and children with additional needs, with a weighting for rural and remote location.

ECCRU will now be required to compete in an open tender process to deliver services under the new Inclusion and Professional Support Programme.

The tender for the ongoing delivery of bicultural support closed on 16 June. ECCRU was free to apply for this tender which is worth approximately $190,000.

It would be inappropriate for the Government to intervene in the tendering process in favour of one or more applicants.

However, under this programme the Federal Government will continue to fund child care services and rejects assertions to the contrary.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS

Answers to Questions

Senator LUDWIG (Queensland) (3.04 pm)—I move:

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

What we had again today was a Minister for Immigration and Multicultural Affairs seeking to ensure that a ludicrous proposition would come true. It is almost impossible to believe that we now have a situation where

CHAMBER
the immigration minister is a proponent of a bill which will discriminate between those who arrive by sea and those who arrive by air. We have a position now where those people who arrive by sea to claim asylum and who are regarded as unlawful noncitizens upon arrival will be taken to offshore processing in Nauru, Manus Island or wherever else the minister can argue for, with conditions that we do not yet know, where they will not be able to have a review by the RRT, and they will not be able to have all of the things that we provide onshore.

With respect to children in detention, the minister ensured some time ago, with the pushing of her backbench, that children and families in detention would be removed. Now the position is that all of that is to be swept aside. You could call that either disingenuous or mischievous, or say that she has tried to hoodwink the backbench to bring this one back. But let me give a salutary warning: they are not easily hoodwinked. I suspect that she is now in a pack with them, trying to negotiate her way out—and it is not going to be easy. What the minister agreed to last time, and what she has now completely ignored, is that they were assured that those asylum seekers would have Ombudsman oversight, they would be processed within 90 days, and women and children would be out of detention.

That is the criteria, that is the high-water mark, and this minister is not going to be able to meet it. We have heard in the media already today that there is some suggestion that time limits are going to be imposed. But what are they going to be? More importantly, what do you do with those people who are going to be left to languish in Nauru? Currently, there are still two people on Nauru who have received adverse security assessments. What is she going to do with them? Process them within 90 days and return them to Australia?

This minister is making policy on the run. The Migration Amendment (Designated Unauthorised Arrivals) Bill 2006 is really all about the Prime Minister trying to substantiate his position in terms of Indonesia and the West Papuan issue. It is not about good policy, it is not about dealing with unlawful noncitizens arriving in this country, and it is not about dealing with refugees in any fair or sensible way under Australian law. It is all about trying to deal with a flawed domestic policy and with Indonesia’s complaints.

This bill does represent a flawed policy. It is wrong. There is no argument about that. The opposition know that, the minor parties know that and the government backbenchers know that. I suspect the minister is going to come back with a couple of bits to support the backbench. What they should be doing is pressuring her to throw out the bill, because it can be regarded by many as containing serious breaches of Australia’s obligations under international law, particularly under the refugee convention.

This bill also represents deficient foreign policy in terms of the perceived attempt to appease Indonesia over the situation in West Papua. There is no clearer message about this bill than a quote from the committee report that looked into it which said that the bill is ‘an inappropriate response to what is essentially a foreign policy issue’. If this government were serious, it would send its foreign policy minister to Indonesia to talk to them rather than come back with this failed attempt. The legislation is about seeking to pretend Australia has no border and dumping people in other countries. Labor will be voting no on this bill. We think that this bill is irredeemable, that this legislation is wrong in substance and that its motivation is unforgivable. *(Time expired)*

**Senator RONALDSON** (Victoria) (3.09 pm)—I think that was an extraordinarily dis-
appointing contribution from Senator Ludwig, with the greatest respect to him, to the taking note of answers. It just reinforced the point that Labor’s position in relation to this is pure political point scoring at its worst, at the expense of our international relationships. It is populist at best. The Labor Party are trying to wind back the clock. Their hypocrisy in relation to these matters today is breathtaking.

I will mention for Senator Ludwig names such as Ashmore and Cartier Islands and Christmas Island. What did the Labor Party do in 2001? They supported offshore processing. But, all of a sudden, because it is about somewhere else geographically, it is not supported. What gross hypocrisy. I will quote for you, Senator Ludwig, some comments by the member for Brand. I suspect that my senatorial colleague Senator McGauran will probably have some as well.

Senator McGauran—I will repeat yours.

Senator RONALDSON—Thank you! In 2001, the member for Brand, Kim Beazley, made his views known ad nauseam in relation to this. On 16 October the member for Brand, the Leader of the Opposition, as he still is now, stated:

Australia can only stop the flood of boats by fixing our relationship with Indonesia. A real solution must be found in Jakarta.

Talking about border protection earlier that day on 6PR, he stated:

... in the end the only solution to the problem that we now confront resides around the relationship that we have with Indonesia and the attitudes that develop in this region to illegal people movement. Exactly. So what are the Labor Party seeking to do now? They are using the international relationship that Mr Beazley said was so important for some political point scoring. It is gross hypocrisy. I am sure that Senator McGauran will mention the word ‘leadership’, which Mr Beazley mentioned as well.

What a gross abrogation of his responsibilities as a leader to behave the way he is at the moment in relation to this matter.

What the Australian people are looking for from the Australian Labor Party, which they have not seen for 10 years, is some leadership in relation to any issue, and none can be more important than our relationship with Indonesia. It needs to be dealt with in a delicate way and leadership needs to be shown. For the Australian Labor Party to allege in the public domain that this matter is about Indonesia is absolutely and totally wrong, and they know it is wrong. As my colleague said, it is un-Australian. It is un-Australian to be using that relationship to score cheap political points.

The Labor Party’s views in relation to the issue of offshore processing, although they had to be dragged kicking and screaming to give them, are well known to everyone in this chamber, to everyone in the other place and to every member of the Australian community. They will see them, quite rightly, as being absolutely duplicitous in relation to this matter. I cannot believe that Senator Ludwig, in what was a very poor response to a very serious question, can still pursue the line that this is in some way kowtowing to Indonesia. This is about maintaining the integrity of a policy that the Australian Labor Party have themselves signed up to, with the greatest reluctance, because they were forced to do so by the Australian community, who can see the fallacy of what they were doing. (Time expired)

Senator WEBBER (Western Australia) (3.14 pm)—Ever since the Prime Minister infamously declared that he would decide who would come to this country and the circumstances in which they would come, we as a country have lurched from one crisis to another when it comes to immigration policy. Is it any wonder at all that we face the prob-
lems that we currently do? The Howard government have a hardline approach that does not allow for any flexibility. Under their proposals, there will be no appeal to Australian law, because they are effectively going to put Australia outside of Australian law. This latest move is an attempt to remove the Australian mainland from our very own migration laws. How ridiculous is that?

Senator Sterle—Is Tasmania part of Australia?

Senator WEBBER—As Senator Sterle says, we need to qualify for the Tasmanians whether Tasmania is going to be part of this ridiculous parade of folly. What have we had under this current government’s watch? We have had *Tampa*, we have had ‘children overboard’ and we have had the SIEVX. We have had Cornelia Rau and Vivian Alvarez, and the scandal of six inmates with severe mental illnesses compulsorily detained in Baxter even though the government promised that that would no longer happen. It is an absolute outrage. Now the government complains when they have been hoisted with their own petard. They have given us their latest instalment of migration changes which pander or kowtow to the Indonesians over the West Papuans.

That is the essential dilemma that the government have. They have told us that they are tough on border security. They have told us that they are going to be tough on illegal arrivals—even though you must admit that it was not until talkback radio raised the issue that the government did anything. But they promised that they would be tough. They told us that they would decide who would come here and the circumstance under which they would come. We now see from evidence before Senate committees and from the Palmer report that they have not shared the full story with the parliament or the Australian public. We have lurched from one stuff-up to another, with bungles and overzealous applications of policies bringing us to this current fiasco—policies that allow a department to deport our own citizens.

Then the Indonesian government complained about 42 asylum seekers. So what do we have to do? We have to change our migration laws so Australia is no longer part of the Australian migration zone; so Australia does not have a migration zone—except perhaps if Tasmania is in it. This is a pathetic excuse for a system. The fact is that the government gagged debate in the other place last week. They are still struggling to cobble together a deal so that they can introduce the legislation in this place, because they cannot even convince their own members and senators to support this ludicrous, ideologically driven and crazy proposition.

It is now time for this government to front up for once and do the decent thing. They need to concede that after 10 long years the system is broken and they need to fix it. And fixing it does not mean excising Australia from its own migration zone; it means coming up with an immigration system that has decency and fairness at its core and then implementing it in a non-partisan, non-ideologically driven way. At the moment, all we have time and time again are examples of this government coming in here unable to explain exactly what is going on.

After this proposed legislation goes through—if it goes through; if you can ever get the numbers in the party room by making people compromise on their principles or by coming up with a decent set of proposals—there will be no more legislative excuses. You will have to front up to the fact that you cannot administer it and that you are not up to the job. This portfolio has always come in for its fair share of criticism over the years, but nothing like what we are seeing now. This is complete incompetence. It is a com-
plete shambles when you have an administrative system that detains those with mental illness and deports Australian citizens, and then you want to excise Australia from its own migration zone. *(Time expired)*

Senator McGauran (Victoria) (3.19 pm)—There is something very telling about the debate today in question time and, in fact, the debate we had all last week. As we know, question time all last week—and it looks like the same pattern will be followed this week—was focused on this issue of border protection. It has been a pretty weak but nevertheless concerted effort against Senator Vanstone. But there is something very telling about that. The Labor Party are making their centrepiece the industrial relations legislation, an issue that has been covered in the media week in and week out, and yet not one single question has been asked in relation to industrial relations—not one. Senator Abetz, the lonely minister, has sat there waiting for a question from the other side on the real issue of the day. We have already settled on border protection, and the other side know that. If they dare go to the next election on this issue rather than on industrial relations, we will settle it like we did in 2001.

The really telling issue here—

Senator Webber interjecting—

Senator McGauran—Senator Webber, can I pick you up on an issue? Don’t you come into this parliament and hang the SIEXV on this government. That is an outrageous claim. That was a tragedy that all confess and admit was the doing of people smugglers. You ought to be ashamed of pointing the finger at this government. In fact, you ought to apologise about that SIEXV claim. What a disgrace; what an opportunist. What a pathetic debate you ran in relation to that. The real point—

Opposition senators interjecting—

Senator McGauran—The two union men over there have not got the courage to defend the Labor position in the industrial relations debate. They have not got the courage to stand up in here and tell the public and the parliament why they are going to abolish the unfair dismissal laws and why they are going to abolish the secondary boycott laws. That is a hidden agenda. They are going to abolish the secondary boycott laws to give the Maritime Workers Union all that power back. Why are they going to abolish AWAs? There has been no debate on that in this parliament. How pathetic.

Instead, they rely on what they think is an old faithful—border protection. Let me tell you about border protection. In the national interest, the government is bringing in this legislation.

Senator Ronaldson interjecting—

Senator McGauran—What my colleague invited me to do is to quote their own leader on this very issue to point out their utter opportunism in attacking this government for kowtowing to Indonesia—which is absolutely wrong and which has been rejected. I do not think that they have convinced anyone but their own side in regard to that. Let us quote what the Labor Party’s leader, Mr Beazley, the member for Brand, said in regard to relationships with Indonesia on this very issue. On 16 October, he said:

*Australia can only stop the flood of boats by fixing our relationship with Indonesia. A real solution must be found in Jakarta.*

In talking about border protection earlier in that same period, he stated:

In the end, the only solution to the problem we now confront resides around the relationship that we have with Indonesia and the attitudes that develop in this region to illegal people-smuggling.

He went on to say:
What we need to do is exercise a bit of leadership, because we want circumstances where people who come here illegally go back to the point they came from and get processed there.

He continued:

That is the true disincentive for people coming down in the way in which they have been doing. Everything else has been tried. Let’s try that.

In other words, his solution was to tow the boats back to West Papua, Indonesia or wherever they came from. That quote is an indication that he wanted to tow the boats back—but, of course, we all know that was an opportunist quote at the time. We all know that what you are running in here is also opportunist. We reject the flimsy arguments and the opportunism that the opposite side walk in here with with regard to border protection. We are acting in the national interest.

Senator HUTCHINS (New South Wales) (3.24 pm)—I rise to take dispassionate note of Senator Vanstone’s answer to my question this afternoon in relation to the current debate on refugees. I would also like to comment on some of the statements made by Senator Ronaldson and just lately by Senator McGauran. I remind the chamber that we on this side of parliament had to hear ad nauseam only a few years ago the Prime Minister—and Senator Webber rightly quoted him—saying, ‘We will decide who comes to this country and we will decide the circumstances under which they come.’ Yet one could hardly not come to the conclusion in relation to the events over the last few months that, as a result of significant pressure from the Indonesian government, we are about to embark on a course that will change our migration/refugee policy.

Last week, you, of all people, Mr Deputy President Hogg, would be aware that there was significant lobbying done in relation to the Australian Capital Territory’s civil union legislation. Concern was expressed by a number of people who were uncomfortable with that legislation and about how to vote on the disallowance of it. During the lead-up to that debate, I received not one representation from a member of any particular church or faith. I never received a phone call from a bishop, a priest, a nun or a brother to lobby me one way or the other on that particular piece of legislation. However, since it became clear that the government was going to introduce this proposed migration legislation, I have been lobbied significantly by members of the clergy of all Christian denominations, not just my own faith of Catholicism, who are extremely concerned about the direction the government is taking with the proposed asylum seeker laws.

I would like to remind the chamber what the granting of asylum is about. It is meant to be a humanitarian act; it is not meant to be a political statement. If the government go back to that single premise, that is where they can probably extricate themselves from the difficulty that they have got into at the moment. We have all seen the report of the Senate Legal and Constitutional Legislation Committee and its recommendations: unanimous in the position they are taking on this proposed migration legislation. They say that the proposal is irredeemable in its current form. Why wouldn’t it be?

As I have said, I have had representations from various church groups, let alone all the other groups in our Commonwealth, about this proposed legislation. The legislation places asylum seekers beyond the reach of Australian law. Once again, it puts women and children in detention. It allows for indefinite detention. There will no longer be, as I understand it, case-managed mental health. There will be no professional assistance available to those people. There will be no visitors or charitable or religious assistance available to them. The Commonwealth Ombudsman loses oversight when they are sent to these islands for processing. There is
no access for these men, women and children to the Refugee Review Tribunal or Australian courts for a judicial review. The people who are processed offshore are treated differently.

We are signatories to the 1951 convention on the status of refugees. We are one of the countries who signed it in that period. Nauru is not a signatory to that protocol. We do not even know what visa conditions these people will be subject to when they go offshore to these islands. They are subject to those islands’ visa conditions, not anything that we put there. In fact, I think it was only reported last week in the Age that ASIO agents tried to go to Nauru and they were refused entry.

(Time expired)

Question agreed to.

Schools Funding

Senator ALLISON (Victoria—Leader of the Australian Democrats) (3.29 pm)—I move:

That the Senate take note of the answer given by the Minister for Immigration and Multicultural Affairs (Senator Vanstone) to a question without notice asked by Senator Allison today relating to school chaplains.

I rise to take note of the answer given—or not given—to my question about state school chaplains. It is really disappointing that, as she admitted, the minister had no brief for this question, given that it was spread across the papers over the weekend and seems to us to be a major issue. She could not even comment on whether or not this was something that she supported, when it was going to happen or any of the detail about this so-called proposal.

What we do know about it is that the minister has said that chaplains could be installed in government schools to:

... lift religious standards and provide mentoring for students.

Ms Bishop said parents were “looking for choice in the education and values taught to their children”.

This whole values debate has been trotted out time and time again as a way of damaging our public education system—the whole concept that public schools, government schools, somehow do not impart values. That is an absolute nonsense. It is not only the churches who have ownership of the values debate. I would argue that many who have no religious convictions can demonstrate a far greater attachment to high-level values, if you can put it that way.

Tolerance and respect for diversity are values that I would like to see young people, old people and middle-aged people have. We know in this place that this government has absolutely no interest in respecting diversity—otherwise, we would not be so inhumane in our treatment of refugees and asylum seekers. We would not have had a debate where the Prime Minister constantly told us that Muslim people do not have the same values as we do and that they should go home. It was not that many weeks ago that the Prime Minister himself said that Muslim people who do not share our values—whatever those values are—should pack up and go back to the country from which they came.

The Democrats are extremely concerned about this latest measure, this idea backed by so many supporters. Victorian supporters named were Greg Hunt, Parliamentary Secretary to the Minister for the Environment and Heritage; Andrew Laming; Louise Markus; and David Fawcett. Mr Hunt, for instance, is quoted as saying that state schools are antireligious. In this country, the state school system is secular; it is not religious. We have religious schools, but we also have state schools and, in my view, there is no argument for them to suddenly become religious—to suddenly have chaplains conduct-
ing services and coercing young people into being in a particular religion.

What if there are Muslim or Hindu students in a particular school? Will they be told they should be Christian, Catholic, Anglican, Uniting Church or whatever is the case? Are we really suggesting that we should have chaplains pushing religions on young people? Would it not be better to use whatever money will be thrown at this exercise to get to the real problems in schools: literacy and young people with learning disabilities. They still have no right to additional assistance in schools. Would it not be better to have sex education in a way which reduces the huge number of teenage pregnancies in this country? Let’s start to broach some of the real issues in schools instead of making our state schools into copies of religious schools elsewhere.

In respect of simply saying to parents, ‘You need choice; you need values; your children need values,’ we all know children need values, but are they necessarily the values that come from the churches? I do not know. Some churches do not, quite frankly, have a very good history of respecting children. The inquiries into the abuse of children in institutions points the finger very firmly at many churches who have abused children over many years. Can we trust the churches to do this? Where would chaplains come from? Would they have police checks like teachers do? I would certainly hope so, because paedophiles move in circles where they get access to young people. That is the awful truth. If we are suddenly saying there need to be chaplains in every school, I want to know where they are coming from, because they could well be people who will prey on young people. We need to be tough about this. We need to make sure that they do not get access to our children. *(Time expired)*

Question agreed to.

PETITIONS

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

Asylum Seekers
To the honourable President and members of the Senate in Parliament assembled:
The petition of the undersigned shows:
That the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006 can mean children in detention again. Indefinite detention will return, and case managed mental health care is over. The Commonwealth Immigration Ombudsman will also lose oversight of asylum seekers when they are sent to a remote foreign island for processing.
Your petitioners request that the Senate:
Vote against the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006.
by The President (from 50 citizens).
by Senator Chris Evans (from 21 citizens).
by Senator Ronaldson (from five citizens).

Health
To the Honourable the President of the Senate and Members of the Senate in Parliament assembled in Parliament:
This petition of certain citizens of Australia draws to the attention of the Senate, the crisis in the medical workforce due to the neglect of the Howard Government.
Your petitioners therefore ask the Senate to:
• Increase the number of undergraduate university places for medical students,
• Increase the number of medical training places, and
• Ensure Australia trains enough Australian doctors, nurses and other medical professionals to maintain the quality care provided by our hospitals and other health services in the future.
by The President (from one citizen).
Human Rights: Falun Gong

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

The petition of the undersigned shows:

Witnesses, including an investigative journalist and a veteran military doctor have revealed that Falun Gong practitioners are being held in at least 36 concentration camps in China where they are routinely subject to the forced removals of their organs which are then sold for transplants and their bodies are then cremated to destroy all evidence.

Your petitioners therefore request the Senate to initiate a resolution to:

(1) Call for the Australian Government to fully support the International Coalition to Investigate the Persecution of Falun Gong (CIPFG), and demand that the Chinese Communist Party (CCP) immediately open the doors of all concentration camps, forced labour camps, hospitals, prisons and detention centres throughout the People’s Republic of China in order to allow independent teams to investigate the charges of illegal detention, torture and live organ removal for transplants.

(2) Demand that the CCP regime release all detained Falun Gong practitioners immediately.

by Senator Ronaldson (from 96 citizens).

Petitions received.

NOTICES

Presentation

Senator Humphries to move on the next day of sitting:

That the Community Affairs Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 22 June 2006, from 3.30 pm, to take evidence for the committee’s inquiry into the Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005.

Senator Moore to move on the next day of sitting:

That the Community Affairs References Committee be authorised to hold a public meeting during the sitting of the Senate on Friday, 23 June 2006, from 9 am, to take evidence for the committee’s inquiry into gynaecological cancer in Australia.

Senator Nettle to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) 20 June 2006 is World Refugee Day and the day’s theme is ‘keeping the flame of hope alive’,

(ii) there are more than 19 million refugees and 5.5 million internally displaced people in the world looking for protection,

(iii) many countries assist hundreds of thousands of refugees who have no choice but to flee persecution,

(iv) the Government has changed its policy, breaching the Refugee Convention, in response to the arrival of 43 refugees, and

(v) the Government’s new policy will mean many asylum seekers who arrive by boat are exiled to Nauru or Manus Island; and

(b) calls on the Government to:

(i) drop its policy of appeasing Indonesia and ensure Australia’s refugee laws conform fully with the Refugee Convention, and

(ii) increase Australia’s intake of refugees and offer asylum seekers real hope.

Senator Bartlett to move on Wednesday, 21 June 2006:

That the following bill be introduced: A Bill for an Act to amend the Migration Regulations 1994 to remove the category of Temporary Protection Visas, and for related purposes. Migration Legislation Amendment (Temporary Protection Visas Repeal) Bill 2006.

Senator Milne to move on the next day of sitting:

CHAMBER
That the Senate—

(a) notes:

(i) the inherent nuclear weapons proliferation risk associated with uranium enrichment,

(ii) that in 2004 President Bush proposed to cap the group of enriching states and that the United Nations’ Secretary-General Kofi Annan’s High-Level Panel on Threats, Challenges and Change called for the creation of incentives for states to forgo the development of uranium enrichment and reprocessing capacity,

(iii) that in 2005 the International Atomic Energy Agency Director, Dr Mohamed ElBaradei proposed a 5-year moratorium on constructing uranium enrichment and nuclear reprocessing facilities, and

(iv) that a domestic enrichment plant would provide Australia with the capacity to produce fissile material in the form of highly-enriched uranium, a development that may destabilise the Asia Pacific region; and

(b) therefore opposes the development of any uranium enrichment facilities on Australian soil.

Senator McGAURAN (Victoria) (3.36 pm)—At the request of the Chair of the Standing Committee on Regulations and Ordinances, I give notice that 15 sitting days after today I shall move that the following legislative instruments, a list of which I shall hand to the Clerk, be disallowed.

The list read as follows—

(1) Australian Prudential Regulation Authority Instrument Fixing Charges No. 1 of 2006 made under paragraph 51(1)(A) of the Australian Prudential Regulation Authority Act 1998.


(3) Fisheries Levy (Torres Strait Prawn Fishery) Amendment Regulations 2006 (No. 1), as contained in Select Legislative Instrument 2006 No. 3 and made under the Fisheries Levy Act 1984.


(7) Migration Amendment Regulations 2006 (No. 1), as contained in Select Legislative Instrument 2006 No. 10 and made under the Migration Act 1958.


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

Leave granted.

The summary read as follows—

Australian Prudential Regulation Authority Instrument Fixing Charges No. 1 of 2006

This Instrument specifies charges payable on a voluntary basis by those general insurers who contribute data to and receive information from the National Claims and Policies Database during each of the 2004-05 and 2005-06 financial years. The Committee has written to the Minister seeking advice on the following matters.

First, the instrument is dated 10 February 2005. It is not clear whether the date of signing of this instrument contains a typographical error (in that it should refer to 10 February 2006), or whether
there has been a 12 month delay in registering the instrument.
Secondly, the instrument specifies charges for a period of time before it was made (whether that be February 2005 or 2006).
Thirdly, it is not clear in which sense the charge is voluntary. Clauses 4 and 5 of the Schedule to the instrument state that the charge is to be paid by an insurer within 28 days following receipt of a request and invoice from APRA.
Finally, the instrument contains three different definitions of the term ‘NCPD insurer’. One is found in the general interpretation section of the instrument. The second is found in clause 7 of the Schedule. The second definition varies from the first by adding the words ‘or Lloyd’s underwriter’ and ‘or reportable facility business’. The third definition is found in the Annexure A. The third definition varies from the second by referring to 1 January 2003, instead of 1 January 2006, the latter date being used in the first two definitions.

Aviation Transport Security Amendment Regulations 2006 (No. 1), Select Legislative Instrument 2006 No. 40
These Regulations amend regulation 9.01 of the principal Regulations, concerning the making of threats regarding aviation security. The Explanatory Statement accompanying these Regulations does not contain a consultation statement in accordance with section 17 of the Legislative Instruments Act 2003. The Minister advised that consultation was undertaken during the development of these Regulations and the Committee is seeking further advice on the nature of that consultation.

Fisheries Levy (Torres Strait Prawn Fishery) Amendment Regulations 2006 (No. 1), Select Legislative Instrument 2006 No. 3
These Regulations specify a levy for licences granted or renewed in the Torres Strait Prawn Fishery. The Explanatory Statement accompanying these Regulations does not contain a consultation statement in accordance with section 17 of the Legislative Instruments Act 2003 The Committee has written to the Minister seeking advice on whether consultation was undertaken and, if so, the nature of that consultation.
the Minister for Foreign Affairs and the discretion of the Minister for Immigration in granting visas in certain circumstances.

Item [1] of Schedule 1 to these Regulations provides that the Minister for Foreign Affairs may determine, as a ground for cancellation of a visa, that the holder of a visa is a person whose presence in Australia is contrary to Australia’s foreign policy interests, or is directly or indirectly associated with the proliferation of weapons of mass destruction. The Minister for Foreign Affairs advised that the term ‘contrary to Australia’s foreign policy interests’ is to be given its ordinary meaning, with decisions on visa applications and/or visas made personally by the Minister for Foreign Affairs on a case-by-case basis. The Committee has written to the Minister seeking a briefing on this matter.

**Occupational Health and Safety (Commonwealth Employment) (National Standards) Amendment Regulations 2006 (No. 2), Select Legislative Instrument 2006 No. 9**

These Regulations amend the principal Regulations to give effect to the national standard for the Storage and Handling of Workplace Dangerous Goods.

Regulation 8.15 imposes an obligation on an employer to identify hazards that are associated with the storage or handling of dangerous goods at the workplace. Subregulation 8.15(2) supplies a non-inclusive list of matters that are to be taken into account in identifying such hazards. Paragraph 8.15(2)(g) requires an employer to consider ‘the kind and characteristics of incidents associated with the dangerous goods’. The ambit of the word ‘incidents’ is unclear.

Subregulation 8.27(4) imposes an obligation on an employer to review an emergency plan at certain times. No offence is specified for a failure to comply with this obligation. It is not clear whether this is intended to be an offence-creating provision. Further, under subparagraph 8.27(4)(b) the obligation to review an emergency plan arises if there is a change in circumstances at the workplace. The ambit of the phrase ‘change in circumstances’ is unclear and is not defined.

The Minister advised that Comcare is developing a Code of Practice to support the Regulations that will provide further examples and circumstances of what should be considered dangerous goods incidents when identifying and assessing risks and that it was therefore not necessary to include such examples in the Regulations. The Committee has written again to the Minister seeking further advice as to why this information cannot be included in the Regulations.

**Withdrawal**

Senator McGAURAN (Victoria) (3.36 pm)—Following the receipt of satisfactory responses, at the request of the Chair of the Standing Committee on Regulations and Ordinances, Senator Watson, and pursuant to standing order 78, I give notice of Senator Watson’s intention, at the giving of notices on the next day of sitting, to withdraw business of the Senate notice of motion No. 1 standing in Senator Watson’s name for four sitting days after today for the disallowance of the Broadcasting Services (International Broadcasting) Guidelines 2005. I seek leave to incorporate in Hansard the committee’s correspondence concerning these guidelines.

Leave granted.

*The correspondence read as follows—*

**Broadcasting Services (International Broadcasting) Guidelines 2005**

8 December 2005

Senator the Hon Helen Coonan

Minister for Communications, Information Technology and the Arts

Suite MG70

Parliament House

CANBERRA ACT 2600

Dear Minister

I refer to the Broadcasting Services (International Broadcasting) Guidelines 2005. These Guidelines remake the previous Guidelines with amendments made necessary by the replacement of the Australian Broadcasting Authority with the Australian Communications and Media Authority. Notwithstanding the fact that the Guidelines are the same in substance as the previous Guidelines, the...
Committee raises the following matters with regard to this instrument.

As a general comment, there are several clauses in these Guidelines which permit programs to be broadcast where, for example, the matter is in the public interest, is presented reasonably, or is for an academic, artistic or scientific purpose. It is not clear how such matters are to be decided where there is a dispute or complaint, and what criteria will be used in deciding whether, for example, a broadcast has been 'presented reasonably'. Further, it is not clear what consequences follow for a broadcaster if a program is found to have breached these guidelines.

The Committee also notes that subclause 2.2(3) permits the making of a program that seriously offends a cultural sensitivity, incites hatred, or vilifies persons on certain grounds, if the matter is 'a fair report' or 'a comment'. The Committee seeks your advice on whether the second term should be amended to read 'a fair comment'.

The Committee would appreciate your advice on the above matters as soon as possible, but before 30 January 2006, to enable it to finalise its consideration of these Guidelines. Correspondence should be directed to the Chairman, Senate Standing Committee on Regulations and Ordinances, Room SG49, Parliament House, Canberra.

Yours sincerely
John Watson
Chairman

I note that there were no substantive changes to the previous Guidelines and that the amendments reflected the merging of the Australian Broadcasting Authority (ABA) and the Australian Communications Authority (ACA) to form the Australian Communications and Media Authority (ACMA).

As ACMA has responsibility for the administration of these Guidelines, I sought its advice in relation to the matters raised by the Committee.

Determining compliance with the Guidelines

ACMA has advised that the provisions similar to those identified in your letter appear in most of the Codes of Practice developed by the various industry groups in the broadcasting sectors and included by ACMA in its register under s.123(4) of the Broadcasting Services Act 1992 (the Act) [eg. the Commercial Television Industry Code of Practice developed by Free TV Australia.] Judgments about whether material is in the public interest, etc. are routinely made by licensees in their everyday operations, particularly in the context of news and current affairs programming. Such judgments are required not only in relation to code of practice matters, but also in relation to general law issues such as defamation.

In other broadcasting sectors such judgments in the context of codes of practice are subject to complaint and review by ACMA, and ACMA may find that a particular broadcast, claimed by a licensee to be in the public interest, was not in the public interest. Under the Act, ACMA is the arbiter of such questions in relation to those services, and has established procedures for its investigations into such matters in the light of the principles of administrative law. The licensee might thus be found not to have complied with the relevant Code of Practice in broadcasting the particular material.

However, ACMA is precluded by the Act [s.121FR] from dealing with complaints about international broadcasting services: its role in relation to such services is very different to the role it has in relation to other broadcasting services. ACMA considers compliance with the Guidelines in two situations only: after receipt of an application for an International Broadcasting Licence (IBL) [s.121FB], and following a request from the Minister for Foreign Affairs [s.121FM]. In each of these situations, ACMA is required to
provide a report to the Minister for Foreign Affairs as to whether the service complies with the Guidelines. The application form approved by ACMA requires each applicant to provide ACMA with a written commitment to abide by the Guidelines (in the form of a statutory declaration) with its application for an IBL. The Guidelines describe how the making of, or failure to make, that commitment in the application will be treated, in Part 13.

Failure to comply with the Guidelines
ACMA has also advised that while s.121FP of the Act requires ACMA to formulate guidelines for international broadcasting services, there is in the Act no obligation on licensees to operate in accordance with the Guidelines. ACMA does report to the Minister for Foreign Affairs on a proposed service’s compliance with the Guidelines after an application is received [ss.121FB(1)(d) and 121FB(5)(d)], and may also report to the Minister on this matter at any other time, at the Minister’s request [s.121FM]. Such reports may be taken into account by the Minister in making decisions and giving directions to ACMA [ss.121FD, 121FL]. The Minister’s focus in making such decisions, however, is on the national interest, and it is explicit that the Guidelines need not be confined to that matter [s.121FP(2)].

There may well be provisions in the Guidelines, therefore, which do not relate to the national interest and, while ACMA may include comment on compliance with such provisions in its report to the Minister for Foreign Affairs, the Minister is required by the Act to focus on Australia’s national interest in directing ACMA to act in relation to an IBL.

The Minister for Foreign Affairs’ power under s.121FL to direct ACMA to formally warn a licensee, or to suspend or cancel an IBL, is also based on the Minister’s view that the service is contrary to the national interest. As in the case of other broadcasting licensees, there are ‘suitability’ provisions relating to IBL licensees. At the time of receipt of an application for an IBL, ACMA may form a view about the applicant’s ‘suitability’. [In the language of the Act, ACMA would decide that s.121FC applied to the applicant.] A negative view of the applicant would prevent referral of an application to the Minister for Foreign Affairs [ss.121FB(1) and (5)], and the application could then go no further; ACMA would be required to refuse to allocate an IBL [ss. 121FB(2) and (6)].

‘Comment’ or fair comment”?
ACMA has advised that it appears that the terms of clause 2.2 of the Guidelines are a paraphrasing of some of the words of clauses 1.8 and 1.9 of the Commercial Television Industry Code of Practice (the Code). Subclause 2.2(3) of the Guidelines appears to be based on clause 1.9.3 of the Code. However, that in relation to comment, it is noted that the Code uses the phrase ‘a fair comment’, while the Guidelines refer merely to ‘a comment’. ACMA has advised that it is not aware of the ABA’s intention regarding the original Guidelines drafted in 2000. ACMA has also advised that the omission of the qualification ‘fair’ in relation to comment could have been either accidental and the intention in drafting the Guidelines was to reproduce the effect of the Code or that it may have been a conscious decision to create a different rule for the Guidelines with an eye to the promotion of free speech i.e. provided it is clear that what is being broadcast is a comment, fairness is not an issue. This is in contrast to the intent of subclause 2.2(3)(a) of the Guidelines where it is important that a report of ‘an event or matter of public interest’ is fair.

I trust this information addresses the Committee’s queries about the Guidelines. The contact officer in the Department of Communications, Information Technology and the Arts on these matters is Gordon Neil, General Manager, Licensed Broadcasting. He can be contacted on 02 6271 1712.

Yours sincerely
Helen Coonan
Minister for Communications, Information Technology and the Arts

2 March 2006
Senator the Hon Helen Coonan
Minister for Communications, Information Technology and the Arts
Suite MG70
Parliament House
CANBERRA ACT 2600
Dear Minister

In your letter you point out that the Australian Communications and Media Authority (ACMA) advised that it is not aware of the Australian Broadcasting Authority’s intention regarding the original drafting of the Guidelines in 2000 and that the omission of ‘fair’ in relation to comment was either accidental or deliberate. If it is accidental, then the Committee is not sure if your argument is that it produced a result that is desirable or simply that no-one is certain why this term has been used. In light of this advice, the Committee seeks clarification of the position of clause 2.2. Is it your intention to maintain a different rule for the Guidelines or will the clause be amended to bring it into conformity with the Commercial Television Industry Code of Practice?

The Committee would appreciate your clarification on the standing of this clause as soon as possible, but before 24 March 2006, to enable it to finalise its consideration of these Guidelines. Correspondence should be directed to the Chairman, Senate Standing Committee on Regulations and Ordinances, Room SG49, Parliament House, Canberra.

Yours sincerely
John Watson
Chairman

20 May 2006
Senator John Watson
Chairman
Standing Committee on Regulations and Ordinances
PARLIAMENT HOUSE
CANBERRA ACT 2600
Dear Senator Watson
International Broadcasting Guidelines
Thank you for your letter of 2 March 2006, requesting further clarification to address the concerns of the Standing Committee on Regulations and Ordinances in relation to the drafting of the Broadcasting Services (International Broadcasting) Guidelines 2005 (the Guidelines).

In my earlier letter dated 26 February 2006, I noted that I had received advice from the Australian Communications and Media Authority (ACMA) in relation to the omission of the term ‘fair’ from clause 2.2 of the Guidelines dealing with matters causing offence or hatred. As you are aware, this clause paraphrases the wording of clauses 1.8 and 1.9 of the Commercial Television Industry Code of Practice (the Code). ACMA advised that this omission could have been either accidental and the intention in drafting the Guidelines was to reproduce the effect of the Code, or that it may have been a conscious decision to create a different rule for the Guidelines with an eye to the promotion of free speech.

After further consultation, I have been advised that ACMA proposes to retain the wording in the instrument at present. ACMA notes that following reforms to Australian defamation law by the Commonwealth, States and Territories on 1 January 2006, the defence of ‘fair comment’ is now redundant and has been replaced with a defence of ‘honest opinion’. Whilst defamation law is not directly relevant to broadcasting standards, it remains an important consideration when developing industry codes of practice as a means of ensuring consistency and certainty in defining the appropriate balance between freedom of speech and unacceptable content.

I note that the Commercial Television Industry Code of Practice will be subject to a full review in 2007, which will include consideration of the ‘fair comment’ defence to the broadcasting of prescribed material. Changes to defamation law will be considered in the context of this review process, and ACMA intends to reconsider the wording of clause 2.2 of the International Broadcasting Guidelines in light of this review next year.

I trust this information addresses the concerns of the Committee.

Yours sincerely
Helen Coonan
Minister for Communications, Information Technology and the Arts
COMMITTEES
Economics Legislation Committee
Meeting
Senator McGAURAN (Victoria) (3.37 pm)—by leave—At the request of the Chair of the Economics Legislation Committee, Senator Brandis, I move:

That the Economics Legislation Committee be authorised to hold a public meeting during the sitting of the Senate today, from 4.30 pm, to take evidence for the committee’s inquiries into the provisions of the Petroleum Resource Rent Tax Assessment Amendment Bill 2006 and a related bill, and the provisions of the Tax Laws Amendment (2006 Measures No. 3) Bill 2006.

Question agreed to.

NOTICES
Postponement
The following item of business was postponed:

Business of the Senate notice of motion no. 1 standing in the name of the Chair of the Finance and Public Administration References Committee (Senator Forshaw) for today, proposing the reference of a matter to the Finance and Public Administration References Committee, postponed till 20 June 2006.

SEA BOTTOM TRAWL FISHING
Senator SIEWERT (Western Australia) (3.38 pm)—by leave—I move the motion as amended:

That the Senate—

(a) recognises that unregulated high seas bottom trawling is inconsistent with international law as recognised in the United Nations (UN) Convention on the Law of the Sea;

(b) notes the Australian Government’s initiatives in developing long-term governance arrangements to address destructive fishing practices such as illegal, unregulated and unreported fishing and high sea bottom trawling;

(c) calls on the Government to report on its actions to inform a review of progress and future recommendations to address the destructive impacts on deep sea ecosystems, as requested by the UN, and which was to have been provided by 1 May 2006;

(d) notes that:

(i) these governance measures will take time to develop and implement and the need, therefore, for interim short-term measures, such as a global moratorium on high seas bottom trawling, and

(ii) the UN General Assembly will consider a proposal for a global moratorium on high seas bottom trawling in October or November 2006; and

(e) calls on the Government to support interim measures to address the destructive impacts of bottom trawling on deep sea ecosystems while long-term governance measures are put in place.

Question put.

The Senate divided. [3.43 pm]

(The President—Senator the Hon. Paul Calvert)

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<thead>
<tr>
<th>Ayes</th>
<th>Noes</th>
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AYES

Allison, L.F. Bartlett, A.J.J.
Brown, B.J. Brown, C.L.
Campbell, G. * Carr, K.J.
Crossin, P.M. Faulkner, J.P.
Forsyth, M.G. Hogg, I.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.
Stott Despoja, N.
Wong, P.
I move: That the following bill be introduced: A Bill for an Act to amend the Migration Act 1958 to prevent unreasonable impediments to entry to detention centres, and for related purposes.

Question agreed to.

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

Question agreed to.

Bill read a first time.

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 Private Senator’s Bill is one in a series of Migration Bills which I will seek to introduce over the course of this parliamentary year.

The aim of these bills is to provide a roadmap for what needs to be done to reverse the many negative provisions that have been introduced into the Migration Act over the last fifteen years which have undermined the rule of law and restricted or removed the rights of refugees, asylum seekers and migrants.

It also seeks to counter-balance the regressive, backward looking momentum created by the government’s latest Migration Amendment (Designated Unauthorised Arrivals) Bill 2006, which seeks to ensure all persons arriving at mainland Australia unlawfully by sea are taken outside the reach of Australian law and public scrutiny.

The purpose of this first Bill specifically aims to repeal the provisions introduced by the Migration Legislation Amendment (Immigration Detainees) Act 2001. That law effectively increased the maximum penalty for the offence of escaping from detention from two years imprisonment to five years imprisonment, bringing that penalty into line for the same offences in the Crimes Act. It introduced a new criminal offence for detainees who manufacture, possess, use or distribute weapons or who are found to be in possession of anything that may resemble a weapon and introduced additional security and screening measures for visitors to immigration detention centres.

The Democrats were fundamentally opposed to the introduction of the Migration Legislation Amendment (Immigration Detainees) Act 2001 when it was debated as we had serious reservations about giving guards extra powers in detention centres. We believed it had major implications in terms of basic human rights and also in
regard to the powers that should be provided to people who are managing, running and operating detention centres. While there is some merit in ensuring there are adequate powers for the safety of staff and detainees, we believed that there was already clear evidence of widespread problems and criticisms about how detention centres were being run.

The Democrats believed then that the legislation was unacceptable because of the level of scrutiny and accountability for what happens in our detention centres was clearly inadequate, and to pass any legislation which increases the powers in any way of people running detention centres or increases penalties for detainees was completely inappropriate at a time when our system of mandatory detention is shown to be clearly not functioning.

Secondly, we were opposed to any legislation that reinforces the presumption that people who are in immigration detention are criminals. The mere act of bringing in offences in line with offences in the Criminal Code and in the Crimes Act only reinforces and equates detainees with convicted criminals. These people are not convicted criminals, nor have they been charged with any crimes.

I believe that this Private Senators Bill is especially timely, given reports that occurred over last weekend, the 10th and 11th of June 2006, about alleged rapes and assaults of a female detainee at Villawood detention centre by guards and other detainees over a period of 6 months, as it relates directly to the issue of mismanagement of detention centres and the welfare and safety of detainees.

Reports indicated that the female detainee in Villawood had been unable to keep the perpetrators out of her room as there were no locks on her door. As a response to this the Department of Immigration are holding an inquiry into the issue, instead of reporting the matter to the police. This shows once again that the whole system is neither accountable nor transparent. It is a shambles and provides inadequate protection for detainees who may be vulnerable.

The issue of mistreatment and assault by detention centre staff and guards are not new by any means. The fact that concerns such as these are still being raised shows that the system of mandatory detention is not working.

There have been numerous reports and inquiries into detention centres and the operation of the Migration Act and while some change is happening on the ground, it is important to understand that real change will not be possible until mandatory detention is abolished. The Government has wasted hundreds of millions of dollars keeping innocent people locked up indefinitely in a cruel and inhumane system.

I would like to again place on record the opposition of the Democrats to the practice of compulsory mandatory, indefinite on going detention of unauthorized arrivals and commend this bill to the Senate.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

AUSTRALIAN CAPITAL TERRITORY (SELF-GOVERNMENT) AMENDMENT (DISALLOWANCE POWER OF THE COMMONWEALTH) BILL 2006

First Reading

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.48 pm)—I move:

That the following bill be introduced: A Bill for an Act to abolish the power of the Commonwealth executive government to disallow any Act of the Legislative Assembly of the Australian Capital Territory, and for related purposes.

Question agreed to.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.48 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 BOB BROWN (Tasmania—Leader of the Australian Greens) (3.48 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—

After the quarter of a million voters (227,541 in 2004 election) in the ACT elect a government, its laws should not be overridden by the federal government, in particular, the executive of the federal government.

The Commonwealth Parliament’s power to make laws for the territory comes from Sections 52 and 122 of the Constitution. Notably, the Constitution gives this power to the Parliament. In 1988, the Parliament delegated the power to the elected Legislative Assembly of the ACT through the Australian Capital Territory (Self-Government) Act 1988.

The Self-Government Act provided for the Parliament or the Executive to disallow any Act of the ACT’s Legislative Assembly. This bill removes the power from the Executive, and leaves no doubt that any disallowance of an ACT law should be by legislation of the Parliament as a whole.

The Executive can and does meet in secret, without the direction or agreement of the Parliament. The provision for the executive override of the ACT’s laws leaves Parliament, and its consultative committee system, diminished and reactive. This is not in the spirit of the Constitution.

This bill removes this anomaly and restores, unequivocally and exclusively the Parliament’s power to wield or constrain Constitutional authority over the territorial assembly.

I commend the bill to the Senate.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

NOTICES

Postponement

Senator SIEWERT (Western Australia) (3.49 pm)—At the request of Senator Nettle I move:

That general business notice of motion no. 453 standing in the name of Senator Nettle for today, relating to West Papua, be postponed till the next day of sitting.

Question agreed to.

HUMAN RIGHTS: BURMA

Senator BARTLETT (Queensland) (3.49 pm)—At the request of Senator Stott Despoja I move:

That the Senate—

(a) notes:

(i) that 19 June 2006 is Daw Aung San Suu Kyi’s 61st birthday,

(ii) that Daw Aung San Suu Kyi has spent more than 10 years in detention and that on 27 May 2006 her house arrest was extended by the Burmese military junta for another year, and on her 61st birthday she is no closer to freedom,

(iii) the continued suffering of the Burmese people at the hands of the Burmese military regime, and

(iv) that so long as Daw Aung San Suu Kyi’s house arrest continues, Burma’s development toward democracy will remain critically constrained; and

(b) urges the Government to maintain pressure on the regime.

Question agreed to.

MATTERS OF URGENCY

Indigenous Communities

The DEPUTY PRESIDENT—The President has received the following letter from Senator Bartlett:

Dear Mr President,

Pursuant to standing order 75, I give notice that today I propose to move:

That, in the opinion of the Senate, the following is a matter of urgency:

The need for all political parties and all levels of government to make the long-term commitment of working constructively together with Indigenous Australians and communities to address the completely unsatisfactory health and housing situations faced by many Indigenous people.

Yours sincerely,
Senator Bartlett
Australian Democrats Senator for Queensland
Is the proposal supported?

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

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

Senator BARTLETT (Queensland) (3.51 pm)—I move:

That, in the opinion of the Senate, the following is a matter of urgency:
The need for all political parties and all levels of government to make the long term commitment of working constructively together with Indigenous Australians and communities to address the completely unsatisfactory health and housing situations faced by many Indigenous people.

I have raised this urgency motion today because I believe it is very important for the Senate, and for the political process more broadly, to continually remind itself about the necessity of giving priority to the situation faced by Indigenous Australians. I believe from conversations I have had with many senators in this place over a number of years that the vast majority of us would and do very genuinely want to see an improvement in the situation faced by Indigenous Australians.

What I believe is the unavoidable truth is that, frankly, the political system itself—and most of us within it—really does not know how best to go about it. It is about time we looked at the evidence to back up that claim. There would not be another area of public policy where the political system has so comprehensively failed as in the area of Indigenous affairs. Over the 105 years since Federation there has been a litany of failure on the part of the political process, sometimes driven by malevolence, sometimes by disinterest and sometimes with genuine goodwill, but in almost all cases with unintended consequences. As a general result today we have reached the point where there is obviously still major inequality and a significant situation where the average Indigenous Australian has far fewer opportunities than other people in the country.

Nowhere is this more starkly and inexcusably reflected than in the basic statistic—a statistic that we should remember is reflected by living, breathing human beings—that the life expectancy of the average Indigenous Australian is at least 17 years shorter than the rest of us. What continues to frustrate me and many people is that we have such a stark health statistic, which states that a group of people in our community live 17 years less on average than the rest of us, and yet it is not a political scandal of the highest order and it is not priority No. 1 for all political parties and all parliaments—state, federal and territory. That, I believe, is simply because it is literally in the too hard basket. It is literally an issue which the political system as a whole does not know how to address so we lurch from crisis to crisis, from short-term solution to short-term solution, and the overall situation—whether it is health, housing or violence in communities—continues to be one that is totally unsatisfactory.

What I do not seek to do by this motion is to point fingers of blame at any particular party or level of government. The political system as a whole, as I have said, has plenty of blame to go around. I think we have all failed—all major parties, all levels of government and indeed I would be quite prepared to put smaller parties in that category of failing as well—because none of us, the smaller parties included, have given adequate priority to the need to overcome this...
single, most disgraceful inequality in modern Australia. We all know the statistics and the different stories and situations, whether in fundamentals such as health and housing or some other areas.

I want to point to one aspect that needs to be given more emphasis. We repeatedly hear that you will not solve the problem by throwing more money at it. Certainly, if you just throw money of any amount—small or large—at a problem without direction and without seeking to ensure that it is properly spent then, no, you will not help. But that should not be taken to mean that it does not need more resources, because clearly, in some of these areas, there is a need for more resources—in health and housing in particular. The Australian Medical Association has estimated that we are hundreds of millions of dollars short of what we need to address Indigenous health. Similar amounts of money are needed up-front, in large amounts, to deal with the ridiculous overcrowding in many Indigenous communities in housing. Whilst these are large sums of money they are also only the price of one or two of the latest high-tech fighter planes of which we are seeking to buy another 20 or 30. It is a matter of priority.

By this motion I do not seek to blame. I seek to put the pressure and obligation on all of us, on all sides of politics and all levels of government to give greater priority to this issue, to keep reminding ourselves of it day after day rather than just responding with the right sounding words whenever it hits the headlines. We need to be working on it when it is not in the headlines. We need to be working on it day after day, continually, and we need to be working on it with Indigenous communities. There is still too much of governments getting together—as we are seeing with the summit in the near future—and determining solutions that are once again going to be imposed on Indigenous communities. It is a long-term task—it will take 20 or 30 years. It will take all of us working together and it will take all of us having to work with and listen to Indigenous communities to find out what will work for them. (Time expired)

Senator SCULLION (Northern Territory) (3.57 pm)—I rise to support this very important motion. I would like to take the opportunity to congratulate Senator Bartlett on using this time in the Senate today for something that is very, very important—not only to myself as a Territorian but to all Australians. It is vital that we work together constructively to address the lot of Indigenous Australians and particularly of those who are living, by and large, in Indigenous communities. I will be supporting you, Senator Bartlett, and the Democrats in this very important motion.

I am particularly proud to be part of a government that is showing leadership in almost every aspect of this particularly important policy area. I am not so sure that all jurisdictions are doing the same. I am not so sure that they will pay much attention to this motion for working together. I have been working very closely in the Northern Territory with Mal Brough over the last couple of months, and it has been well reported how Australians generally have responded to action in this area. It is disappointing that the Chief Minister of the Northern Territory, Clare Martin, told us a number of things, the first of which was: ‘We need action, not words.’ That is what we need, Mr Deputy President—action.

Senator Carr—She is right about that.

Senator SCULLION—Thank you, Senator Carr. Action—I am glad you understand what that actually means. Of course, she changed her mind the next week. She said she was going to the summit and then she said she was not going to the summit. Suddenly she said, ‘No summit.’ So we have ‘Turnaround Martin’. It is all right, Senator
Carr, you would understand this: let us have a 20-year plan, something that comes from the back blocks of Jurassic Park in the Soviet Union. That is where that sort of stuff comes from. Let us have a 20-year plan. Nothing changes in 20 years, Mr Deputy President, according to those on the other side, and that is why they are a completely policy-free area on Indigenous affairs.

Of course, we are not sure what the plan will consist of—probably more of what we have got from the other side—but I would hope not. They say: ‘If you break your house, if you don’t look after it, if you bash it, if you have a riot or you destroy it, we’ll just build you a new one.’ It is all part of the same welfare mentality that has brought Indigenous Australians to such terrible circumstances.

I can tell you that people are sick of listening to all of those arguments that we have from fundamentalists on the other side. We cannot go and do the same thing and expect a different outcome. Those days are over. This government is about action and about changing the lot of Indigenous Australians. Clare wants to discuss which way we want to go. We do not need a 20-year plan. We actually know what needs to be done now. What we need, Clare, is action. I know what Indigenous Territorians have told me throughout time. They are like every other Australian. There is no difference at all. They simply want to be able to buy their own homes and have a good education. They want some safety in their communities. They want some employment. Also, again, there is the fundamental issue of simply having a bit of hope.

Senator Carr—They will be disappointed then, won’t they!

Senator SCULLION—We continue to have interjections from the other side. I have to say that they should really focus on trying to get some answers to this issue because they are being substantially left behind. The principle that most Territorians and I know all Indigenous Australians want is equality in their communities. That is exactly what they are going to get under this government. We actually plan to make sure that people live in communities that work in exactly the way that every other community works. It is a very simple process. It is a process of normalisation.

Everybody accepts that not all of these communities are the same. I know I have a number of comparisons. If you go to one of the communities in my electorate, Daly River, you will find that it is quite a well functioning community. The houses are wonderful. When you look at it, it is no different from any other place in regional Australia. Yes, we need to go a long way, but I know that Miriam Rose Bowman and others will show the leadership that is necessary in that place to ensure that that goes forward.

I have to say that one of the principal concerns that I think we have—or most Australians do—is: why is it so different in Indigenous communities? It is that fundamental question that this government has focused very much on answering in the last few months. If we are going to have normalisation in these places, we have to accept that many of the Indigenous communities, particularly in my electorate, are communities where the demographic is such that they live in an area where there is not necessarily a whole range of resources. There are not the opportunities available in those areas that there would be in other places.

But, of course, they are trapped. They are trapped because of one issue: education. I am talking not only about learning to read and write but also about simply having sufficient education and confidence, as the leaders in those communities do—the older people in those communities have those skills—to be
able to leave the communities and home
towns where they were born and go out into
the external community to work, as other
Territorians and Australians do. If you look
anywhere in regional Australia, you will find
that there are plenty of demographics where
the opportunities adjacent to where people
live are small in number. They are not oppor-
tunities that will allow a population to grow
and thrive without creating massive unem-
ployment. That is simply because of the op-
portunities that are adjacent to those areas
geographically.

Of course, we do not have that demo-
graphic reflected in Indigenous communities.
Indigenous communities tend to remain
static in their own country. Instead of having
the confidence to move out and ensure that
they can take opportunities in other areas,
they cannot move. That is fundamentally
about education. When you have an educa-
tion, you have choice. The passport to free-
dom in an Indigenous sense is an education.
In so many of the communities now, particu-
larly in remote regional Australia, we have a
centre hub. Around the centre hub we have
what we call outstations. The outstation ar-
gument has been argued up and down. Peo-
ple need to be on country, but it has taken
people away from those services.

A fundamental rule of the way forward
would have to be that, if we are going to
support places like outstations and home-
lands, we need to make sure that they are in
fact connected in some way throughout the
year to adequate education and health ser-
vices. That is an absolute fundamental. It
happens everywhere else in Australia. With-
out that building block of education, I think
the circumstances we will find are that In-
digenous housing and health in these com-
munities are going to be again offset by the
very small number of opportunities that pre-
sent themselves.

This motion also goes specifically to
housing. There are a couple of fundamentals
on how we approach Indigenous housing. We
have asked the states and territories to pro-
vide, effectively, housing. There are a num-
ber of mechanisms through which that is
done. But I have to say that it is very sad that
some jurisdictions around Australia—and it
appears that it is in fact all jurisdictions
around Australia—when it comes to Indige-
nous housing are failing miserably. That is
not just a measure of what I think or a politi-
cal statement based on the fact that they are
all represented by the Labor Party. The fact
of the matter is that $141 million less was
spent on Indigenous housing in all of those
states and territories than should have been
the case. That is an outrage.

I think that people on the other side who
are trying to take any sort of moral high
ground need to rethink their position, talk to
their state and territory colleagues, get on the
program and ensure that they spend the funds
that are appropriated directly on that hous-
ing. Actually, they need to perhaps take a
little bit of advice from some of their leader-
ship. I think it is about leadership. It is a fun-
damental aspect of this. The ALP national
president, Warren Mundine, says that the
ALP needs to make changes in its approach
to Indigenous policy. Where were they for
nine months when we were trying to cut off
the head of the sacred cow, ATSIC? Where
were they then? They were wasting time. We
would not be having the debate if ATSIC
were alive and well and standing in the way
of good governance, leadership and progress
in this matter. Again, there are delays. He
goes on to say, referring to the ALP:
... the party had to look more favourably at the
mutual obligation deals now being struck between
Aboriginal communities and the Federal Gov-
ernment.

They fought that all of the way. Again, I im-
plore those on the other side to have a little
bit more of a progressive look at this issue.
At the moment, as we speak here, we are
now debating in the other place the Aborigi-
nal Land Rights (Northern Territory)
Amendment Bill 2006. As I understand it,
those on the other side are in fact opposing
it. They are opposing measures that would
allow people to own their own homes—a
fundamental right, I believe, of Australians.
They will be able to own their own homes.
They will not be able to own their own
homes unless we get support from all people
in this place. Yes, we will probably get it
through because it is commonsense, but I
appeal for a bit of commonsense from the
other side. (Time expired)

Senator CHRIS EVANS (Western Aus-
tralia—Leader of the Opposition in the Sen-
ate) (4.07 pm)—I rise to support the motion
moved by Senator Bartlett. I commend him
for doing so, because he seeks to rise above
the sort of contribution that Senator Scullion
made. Senator Bartlett tried to focus on the
needs of Indigenous people and the way for-
ward, unlike the grandstanding, point-
scoring and petty political attacks that char-
acterised Senator Scullion’s performance and
that of the Minister for Families, Community
Services and Indigenous Affairs—

Senator Johnston—It is not a petty issue.

Senator CHRIS EVANS—No, it is not a
petty issue. Senator, stick to abusing coppers.

Senator Johnston—This is not a petty is-
ue.

Senator CHRIS EVANS—This is not a
petty issue, but your government’s perform-
ance has been petty—with everything being
the state government’s fault and everybody
else’s fault, and you taking no responsibility.

What I want to do is concentrate on the
aspects of the motion that I think ought to be
given support—for example, the long-term
focus on plans that are not just driven by the
latest media frenzy but fundamentally attack
the causes of the disadvantages—and call for
a bit of a bipartisan approach, to take some
of this petty politics that we have just seen
out of the debate, and to a focus on the dis-
advantage.

Minister Brough has very much focused
on the symptoms. This motion seeks to focus
on the causes. I suggest, Senator Bartlett,
that your motion should have done both—
because both need to be tackled. Mr Brough
is right in saying that we have to tackle the
symptoms by providing extra policing and
measures that help prevent the violence and
child abuse occurring in the first place. But
we also have to recognise—as I think Minis-
ter Brough is coming around to recognise—
that we have to focus on the housing needs,
the employment needs, the education needs
and the economic development needs. A lot
of what occurs in terms of Indigenous disad-
vanage in this country is effectively caused
by their poverty. These are fundamental is-
ue of poverty, and the economic disadvan-
tage is a root cause of a whole range of these
other symptoms. So we have to address both
the symptoms and the causes.

I think the issues about Indigenous disad-
vanage are well known. The bottom line is
that there is nearly a 20-year gap in life ex-
pectancy between European Australians and
Aboriginal Australians. That has not shifted
for years. We have made no progress. If we
look at all the indicators about progress—
health statistics, employment statistics et

cetera—we see that very little or no progress
has been made over successive governments.
I remind members of the government that
they have been in power for 10 or 11 years.
They have some responsibility for where we
are at now. And changing the policy name
from ‘practical reconciliation’ to ‘the quiet
revolution’ does not address the fact that they
have done nothing to significantly alter the
life expectancy and conditions of Indigenous
people. And I concede that the previous La-
bor government also made very little headway on that. So we have a joint responsibility.

In the House of Representatives today, Minister Brough was looking for the cheap political attack, looking for the cheap point scoring, looking to blame the state governments and looking to try to position Labor as being anti home ownership. We have been in favour of home ownership for 100 years. We were actually in favour of it for poor working European Australian citizens. We have always been in favour of it for all, including for Indigenous Australians. But that is not what this is about; it is about responding to the serious concerns of Indigenous violence and child abuse—which have been put on the agenda again recently.

I remind the government that the Prime Minister had a national summit in 2003. What happened? Nothing. Virtually nothing has occurred in the interim. There was also a national outcry in 1999. Both occurred while this government have been in power. But now the government come in and say, ‘Get on board; we’ve got the magic solution.’ Senator Scullion knows that there are no magic solutions or quick fixes. We need a national commitment from all sides of politics, from business, from the community and from Indigenous people. Unless we get that, we will just have another point-scoring debate, which will leave Aboriginal people worse off. I encourage the government to actually think about it.

Minister Brough was in the House of Representatives today talking about ‘communist enclaves’. He described Indigenous people’s communities as ‘communist enclaves’. Have you ever heard anything more politically charged and more designed to denigrate those people who live there and to provide a divisive debate? It is again all about the wedge and about the denigration of Indigenous people, and it is not about improving the way forward. When I offer bipartisanship to him and when I genuinely try to get some cooperation, I get back name-calling. I get ‘You’re wishy, washy’ or ‘You’ve got your head in the sand’—all that sort of stuff. That is the sort of statesmanlike leadership we are getting at the moment!

I believe Mr Brough was genuinely surprised—I do not know where he has been all his life—when he ran into the entrenched poverty, disadvantage and violence that exist in Indigenous communities. I give him that. But to think that he can rampage around the community, blaming people and thinking that somehow he is going to fix it all by pulling publicity stunts is just wrong. We know it is wrong. We know it has not worked before. We have had Labor ministers, Liberal ministers and Prime Ministers go out and do their publicity stunt in a remote community and come back to Canberra and say that it was a life-changing experience—and what changes? Nothing. Their life might have changed, but nothing changes for the Indigenous people living in those communities. I do not want to see that happen again.

I think if the government could pull back and think about it, they would realise that they need us. They need the state governments, they need federal Labor and they need people like the head of News Ltd—who made a very good contribution the other day. To overcome Indigenous disadvantage, we need everyone. If Mr Brough things that he can do it on his own, I have news for him: he will be another failed minister for Aboriginal affairs. There is a long list of them—mainly good people. Some of them are still working in the area. I met with Fred Chaney the other day. Twenty years on and he is still fighting to improve Indigenous people’s life experiences. There are good people who are committed to the cause who have not had a substantial impact because of the entrenched
problems. There is no quick fix, and people ought to recognise it.

I do not want to see what is happening at the moment. Minister Brough is doing damage as he goes around the communities, because he is bringing disrespect on a lot of the Indigenous people. They have been calling for assistance to combat violence and abuse for years and years. A delegation of Aboriginal women from Queensland tried to spark the Prime Minister’s interest in 1999. They said, ‘We need action now.’ They were desperate. We are seven years on. In 2003, after the last outrage at the publicity concerning violence, the Prime Minister said that we would have a national framework to tackle it. Clearly, that has not worked. Clearly, the commitment somehow faded. Clearly, the resolve was not maintained.

A point I want to make is that a senior Aboriginal man told me the other day that Mr Brough is like a willy-willy: he comes out of nowhere and he leaves a trail of destruction, but it is all just wind. Aboriginal people feel that the categorising of Indigenous people as child molesters and perpetrators of violence has disparaged them all. They feel that all their efforts to tackle those problems have been laid to waste; that the efforts that have been made by thousands of Indigenous people throughout the community are being discounted. Those are the sorts of issues that the minister has to address. He has to come to terms with those things.

I can blame the federal government for that, but where does that get us? Nowhere. It does not get us anywhere. If Minister Brough wants to debate what the states have not done, I will take him through what he has not done in Wadeye: the housing never turned up; the expenditure on housing has not occurred. I know it is always somebody else’s fault. What happened to the money that was supposed to be provided for the community patrol in the town? It never happened. It is three years on and it has still not happened. They promised a community patrol; they promised the money. It has not happened. They wanted a crime prevention grant in October to prevent the violence that occurred the other month—the violence that so shocked the minister. What happened? No funding. So do not come in here and say that it is all someone else’s fault. It is the fault of all of us. Until we all take responsibility, until we stop this stupid name-calling and blame, we are not going to make any progress. We all have to actually accept responsibility.

Senator SIEWERT (Western Australia)
(4.17 pm)—We are all aware of the statistics on health and housing in Aboriginal communities: a 17-year gap in life expectancy, high levels of childhood mortality and morbidity and high levels of death and disablement from predictable diseases—for example, ear infections and trachea. You hear stories all the time about children going to school but
that there is not much point because some of them have such severe ear infections that they cannot actually hear what they are being taught. It is no wonder that they get bored and do not want to be there. There are countless reports about housing conditions, where between 15 and 20 people live in a three-bedroom house with one bathroom.

There is also report upon report and strategy upon strategy. These issues have been around for a long time. They have not suddenly eventuated because Mr Brough has become the minister and has gone out to a few Aboriginal communities and because the media has suddenly decided, yet again, for a short space of time, that there is a crisis going on. That crisis has been going on for a very long time, as is articulated and is evident from the figures that I have just gone through, and they are just the tip of the iceberg. We have continued to have a cycle of knee-jerk reaction, crisis, piecemeal approach and extremely short term funding—funding cycles of 12 months, for example. Yet again, just today I heard about another example of a funding program that was proposed for 12 months. The difference is that the organisation that was being offered the money said: ‘No, we’re not going to do it any more. You think that we can fix this problem in 12 months.’ They cannot, so they refused to take the money. I say: good on them; send the government a message.

I was also at the ANTaR forum this morning and Tom Calma gave yet another excellent presentation. He talked about the strategy on violence that was released in 2004. That strategy was a good one. That strategy talked about the key things that need to be done. But, guess what? It is not being implemented. There is a bookshelf full of reports not being implemented. The reports talk about the bad statistics, but nothing is being done. The government has missed an opportunity yet again, this year, with the budget. It handed out billions of dollars of tax cuts without addressing housing. You only have to open up the latest report by Social Justice Commissioner Tom Calma to see how much funding is needed to address Aboriginal housing in this country. What is the figure? It is $2.1 billion. And what do they get? A measly amount in the budget.

It is the same with health. Even to bring Aboriginal communities up to the standards of non-Aboriginal communities, the estimate is half a million dollars a year. Money is given back as tax cuts to people who do not really need it. If they were asked, ‘Would you rather invest this money in Aboriginal communities so that we can close the mortality gap of 17 years?’ and if they had a true picture of what was going on and the impacts in those communities, I would bet that a lot of people would say, ‘Yes, we want that money spent in those communities.’ There is always this approach: ‘Let’s turn around and blame the service deliverers; ‘Let’s blame ATSIC’; ‘Let’s get rid of ATSIC’. We all know ATSIC delivered only one-seventh of the money that was going to Aboriginal communities. And there is: ‘Let’s blame self-determination, community empowerment and capacity building. They just haven’t done it, so it’s not our fault that they’re still suffering from significant disadvantage.’ That was never the intention of self-determination, community empowerment and capacity building.

Of course, the proposal never was that everything would be handed over and heaped on the shoulders of Aboriginal communities for them to deal with it alone, without government support, without the support of the agencies and without delivering the services that every other Australian expects. Aboriginal communities expect, and have a right to, the same sort of service delivery. They have a right to equality of health and equality of housing conditions. I again turn to Tom
Calma’s work as the Social Justice Commissioner. The plan he has put forward is for Aboriginal Australians to reach equality within a generation. His plan puts through a series of goals and benchmarks that we should be meeting over the next 25 years to ensure that an Aboriginal child born today has the same health and housing standards as non-Aboriginal Australians. But, let me tell you, if we do not start addressing that point now, today, Aboriginal Australians will still be suffering the 17-year mortality gap—or we might have narrowed it slightly; maybe it will be only 15 years. They will still be suffering that 17-year gap unless we start addressing the gap now. We are talking about generational change. (Time expired)

Senator FERRIS (South Australia) (4.22 pm)—I was quite gratified when I read this urgency motion today because I agree that this is an issue above party politics. This is an issue that concerns every single member of this chamber. But Senator Evans did at least half of his speech as a bag job on the minister who is trying to make amends in this very difficult area. Senator Evans talked about a bipartisan approach, but he spent at least half of his time bagging the minister. We have just had another contribution, from Senator Siewert, which was full of bagging. So whilst I agree that a bipartisan approach is needed here—and I am disappointed that Senator Bartlett is not in the chamber to hear these contributions—I must say that I have yet to hear too much that is bipartisan in the contributions from those opposite. My contribution today is made as a former chair of the joint native title committee and as a former president of the Bennelong Society.

Senator Carr—Well done, Senator Bipartisanship.

Senator FERRIS—Senator Carr makes ridiculous remarks. He cannot control himself. I would like to think that he would listen to my contribution because I have some quite important words that might help him. I am very glad to see that both state and federal governments have been linked to this motion by Senator Bartlett today, because there would not be a person in this chamber who would not agree that this is an issue that should be a long way above any cheap political point scoring. Successive Australian governments and their state and territory counterparts have attempted in various ways to tackle issues of Aboriginal health and housing, but sadly they have had mixed results.

I would like to refer to one of the most thought-provoking contributions on this very vexatious and difficult issue that I have heard for a very long time. It was made at the 2005 Bennelong Society conference, which Senator Carr was bagging a few minutes ago. It was made by the now President of the Australian Labor Party, Mr Warren Mundine. However, he made the comments as an individual, an Aboriginal man extremely concerned about these issues. I would urge Senator Carr, Senator Marshall and any of those opposite who happen to be watching this debate to listen carefully to the passionate speech that Mr Mundine made to our Bennelong conference on Indigenous freedom and his very thoughtful speech about Indigenous issues in today’s society.

Senator Carr—You are going to bag him now?

Senator FERRIS—Senator Carr could read the speech if he cared to go to the Bennelong Society website. Mr Mundine argued very clearly and strongly that land in Indigenous communities should be used for socio-economic development. He urged governments, both state and federal, to look at the privatisation of some lands for housing and development.

Senator Marshall interjecting—
The ACTING DEPUTY PRESIDENT (Senator Troeth)—Order! I must ask opposition senators to refrain from interjecting.

Senator FERRIS—Mr Mundine’s speech, which was a particularly thought-provoking and well-delivered speech, raised a number of very important points in relation to the role of private housing and the impacts that these changes could have on Aboriginal people in various communities, both regional communities and remote communities. I would urge senators with an interest in this topic to take the time to read his speech. It is very worth while. I must say that, at the recent funeral of my good and old friend Rick Farley, I spoke to Warren Mundine and commended him again on that speech and suggested to him that he might now try to implement some of these issues as policy in the Labor Party. His comments that were shared with so many people at the conference on that day can be encapsulated by this quote from his speech: ‘The youth of our communities are crying out for a better future and to give them that future that they want and need, I would suggest the following’. And, interestingly enough, none of these issues were raised by Senator Evans in his contribution. I will include just a few of the issues in my contribution today:

Ensure our hard fought gains in Native Title, ILUA’s and State Land Rights legislation ... be protected so that they can be used for the direct benefit of everyone. ... Create more efficient management and corporate governance practices.

Provide specific outcomes and be outcomes driven.

Provide clear socio-economic benefits to everyone—not just the few.

I thought it was interesting that Senator Evans said today that poverty was one of the driving forces in Aboriginal communities. Let me say what else is a driving force—that is substance abuse. Let us get that on the table. There is no point skating around what is a substantial cause of the difficulties facing particularly women and children in rural and remote Aboriginal communities. I say that very sadly and reluctantly, but as someone who has travelled widely in rural and remote communities and as someone who has gone out with Indigenous night patrols in a number of rural and remote centres in both the Northern Territory and my home state of South Australia and seen first-hand the tragic circumstances facing women at the hands of drunken Aboriginal men in their homes. Unless we get substance abuse on the table, unless it is addressed by the state government and unless the police and the Aboriginal workers in that area take on this topic, we are never going to get to the bottom of the problem. I commend Mal Brough for the issues he is taking on. I said to Warren Mundine, ‘Please, stick with your speech—move forward,’ and he said, ‘This is not easy.’ I know it is not easy. It is not easy for anybody.

Senator Carr—How touching!

Senator FERRIS—It is certainly not easy for Senator Carr as he sits there and denigrates the president of his own party—an Aboriginal man who had the courage to lay on the table at a non-party-political conference the issues that need to be tackled for the youth of Aboriginal communities. In his view, the issues that need to be tackled as policy, and again I refer to his speech, are: the development of Indigenous private enterprises and home and property ownership as the basis for building a future in those communities for families, as in the rest of Australia; and working with Indigenous youth by putting them into trades and/or university programs where they can—as his sons are—become self-employed and run their own enterprises. These policies must be put in place.
Minister Brough is moving to do these things. Educational programs, scholarships and private home ownership are issues that we need to tackle. Chief Minister Clare Martin’s housing minister, Elliot McAdam, said that, without decent housing, efforts to end the sexual violence and substance abuse are futile. What confusion is this man suffering from? We all know that, but what is the Northern Territory government doing to address the problem? (Time expired)

Senator CARR (Victoria) (4.30 pm)—We have heard a couple of speakers from the Liberal Party and, of course, the doormats from the National Party on this issue. We have claimed that this is in the spirit of bipartisanship.

The ACTING DEPUTY PRESIDENT (Senator Troeth)—Order! Senator Carr, I ask you to withdraw your reference to the National Party.

Senator CARR—Why is that unparliamentary, Madam Acting Deputy President?

Senator Ferris—Because it is a lie.

Senator CARR—That is a reference to the National Party. It is not unparliamentary.

The ACTING DEPUTY PRESIDENT—Senator Carr, I ask you to withdraw. Senator Ferris, I also ask you to withdraw your comment.

Senator Ferris—I withdraw, but it is an untruth to say what Senator Carr said.

The ACTING DEPUTY PRESIDENT—Senator Carr, I ask you to withdraw your comment on the National Party.

Senator CARR—I withdraw if you request me to withdraw but I can see nothing unparliamentary about describing the National Party as a bunch of doormats.

The ACTING DEPUTY PRESIDENT—Senator Carr, I ask you to withdraw.

Senator CARR—I withdraw. This motion here is presented on the basis of a call for bipartisanship. What have we heard from the two government senators? Abuse. We had pitiful and patronising quotations from the President of the Labor Party and an attempt to associate him with the racist and reactionary views of the Bennelong Society. What an outrageous slur, what a shocking thing to say, what a terrible thing for a senator to do in this chamber.

Senator Ferris—Madam Acting Deputy President, I raise a point of order. Senator Carr is casting slurs on a very well-established public body and I would ask that he cease doing so.

The ACTING DEPUTY PRESIDENT—There is no point of order. However, Senator Carr, I ask you to moderate your language.

Senator CARR—Clearly, we have a spurious point of order now being made in an attempt to slur the Labor Party and leading members of the Labor Party. We have heard from Senator Scullion. He asked: why is it so different for Indigenous communities? Why is it so different, he asks! What an extraordinary question for a senator representing the Northern Territory. I put it to you very simply: it is poverty. It is simple—it is poverty. You ask what is so different. Think about the difference between the community on Wadeye—from what I understand, a town of a little under 3,000—and a town down the road, say, Tennant Creek, also a town of about 3,000. One has a number of doctors, one has none. One has numerous telecommunication systems, one does not have a public telephone. One has a high school, one does not. One has a garbage service, one does not. One has basic fire services, one does not. You will be surprised to hear that the one that does not have those things in those examples is the Indigenous town of Wadeye.
So Senator Scullion asks: what is the difference? The fundamental difference is the inherent racism that we have seen being spread throughout this country for generations. Why is it that we have a situation where a town of 3,000 people does not enjoy these basic services? What do we hear from the minister for Aboriginal affairs? We hear that this is a problem created by the government of the Northern Territory. What a load of nonsense. That is a government that has been in office for a couple of years; these are problems that go back a generation, two generations and to the formation of white settlement in the Northern Territory.

So you ask yourself why is it that such circumstances are allowed to continue in this country. Why is it that we have a situation where, in Indigenous communities, there is overcrowding of one house for 17 people? Where else in the country is that sort of situation tolerated? What are the consequences of having overcrowding of that dimension in Indigenous housing? What are the consequences for educational achievement? What are the consequences for the health of the people who live in conditions such as that? What are the consequences for the social development of those communities? I ask a simple question: how is it that we allow those situations to continue?

Senator Scullion asked the question: why is there such a difference? We have a simple proposition here—the figures are very, very clear: Indigenous Australians make up 2.4 per cent of the Australian population but Indigenous people make up 8.5 per cent of the homeless, and 19 per cent of all the people in Australia sleeping rough are Indigenous people. That is 19 per cent for a population that makes up 2.4 per cent of the total population of Australia. ATSIC estimated $2.2 billion is required just to deal with the housing problem, not to mention all the other matters such as education. A recent housing ministers conference—of white housing ministers from across the country—identified the figure as being $3 billion. It is a very rare circumstance where an organisation that was set up and organised to directly assist black people would come up with an estimate less than the estimate made by a mainstream organisation. But that is the situation here.

What is the government talking about? They are talking about providing $6 million for a trial of innovative housing options in Indigenous communities and a budget for services of $150,000 per house. It is a known fact that, for the 18,000 dwellings that we are short in this country for Indigenous people, the cost of providing that would be at least $2.7 billion—on the minister’s own figures. But what does he do? He provides $6 million. So Senator Bartlett is quite right. What we need is constructive engagement. We need a situation where the Commonwealth addresses these issues in a genuine way and does not seek to pass the buck to other levels of government. We have to see that the Commonwealth government—

*Senator Johnston interjecting—*

**Senator CARR**—Senator Johnston laughs. The Commonwealth government itself has acknowledged that its education programs were underspent by $126 million in 2004-05. What do we see on the weekend? A massive assault on the states, run in every newspaper in the country and based on the housing ministers conference on Friday, with regard to the states’ performance on under-spending. It is really the pot calling the kettle black. We have a situation here where the underspend on Indigenous programs is totally unjustified. It is unjustified for the states and it is unjustified for the Commonwealth. This Commonwealth government has a pitiful record in that regard. Senator Scullion likes to blame the Labor government of the Northern Territory. I can recall that it was
only a few years ago that here in this cham-
ber and in Senate estimates I was able to
highlight that the amount of money that the
Liberal-National Party government, the
doormats in the National Party, were actually
arguing for 48—

The ACTING DEPUTY PRESIDENT—
Senator Carr, resume your seat. I ask you
again to withdraw the comment you have
just made.

Senator CARR—I will withdraw whatever
comment you want, but we had a situa-
tion—

The ACTING DEPUTY PRESIDENT—
Senator Carr, I ask you to withdraw your
comment unreservedly.

Senator CARR—I unreservedly with-
draw any comment you want me to. There
was a 48 per cent fee collected by the gov-
ernment of the Northern Territory under your
party—a 48 per cent administrative charge
for Indigenous programs in the Northern Ter-
ritory. What sort of nonsense was that? They
were claiming that there were administrative
costs in education which totalled 48 per cent
of the budget. So we have a situation here
where there is a long and sorry record of
abuse. Inherent in that abuse is a notion that
somehow or another Indigenous people are
not up to it. They are not up to having the
same level of services that the rest of the
country is entitled to. They are not up to en-
joying medical services, housing and educa-
tion on the same basis as every other Aus-
tralian in the country. We do not seem to have a
view that equality of opportunity extends to
all our citizens—particularly if they are Abo-
riginal and live in towns such as Wadeye.
There are 3,000 people without a doctor or a
public telephone booth. How can we possi-
bly justify that in a country of this wealth?

I ask a simple question: what do we ex-
pect from a government that seeks to use this
as a political device to attack Labor govern-
ments? That is what is going on here now.
We have a new minister trying to make a
name for himself by seeking to criminalise
an entire community and seeking to avoid his
responsibilities and the fact that there has
been a massive underinvestment for 10 long
years. We have a situation where Minister
Andrews pointed out a simple fact a few
months ago. He said that Indigenous people
have an average income of between $12,000
and $16,000 per year. Compare that to what
the rest of the country enjoys, and you will
find a very simple proposition: you cannot
fund a private mortgage on an income be-
tween $12,000 and $16,000 a year. We have
a situation where in Tasmania 52 per cent of
Indigenous people own their own home. In
the Northern Territory it is only 15 per cent.
It is not a question of whether or not you are
for or against home ownership. There are
statements that are clear facts that this gov-
ernment is seeking to avoid. There are simple
propositions here. If you have an income
between $12,000 and $16,000 a year, the
Commonwealth Bank is not going to rush
down and offer you a mortgage. (Time ex-
pired)

Senator JOHNSTON (Western Australia)
(4.41 pm)—I want to commence by con-
gratulating Senator Bartlett. I say to all sena-
tors in this chamber, and particularly Senator
Bartlett, that when any member of the Senate
wants to raise an issue in the tenor that he
has used then I for one want to speak on the
subject and participate in the debate, because
it is a vitally important subject.

But the fact is that Senator Bartlett only
got halfway. We had the hand-wringing of
Senator Bartlett, and we just heard Senator
Carr. But the problem is that when you have
young children being violently physically
and sexually abused, you cannot sit back and
say, ‘Let’s have a bipartisan approach.’ There
has to be action. Under our Constitution
there is only one organisation responsible for
the administration of Aboriginal communities in the states, and that is state governments. Police, health, alcohol abuse, petrol sniffing and drugs are matters for the states. Every time I go home to Western Australia I get belted up by the state government saying I am not standing up for WA. The fact is that the WA government—and I will have the proof here in one moment—has lost the plot when it comes to the administration of Aboriginal affairs inside its state boundaries. Let us look at towns and communities. Blackstone, Wingellina, Warburton, Meekatharra, Leonora, Laverton, Kalgoorlie, Coolgardie, Norseman, Carnarvon, Geraldton—all these towns are administered by state governments. The people on the ground are employed by state governments.

In the very short time I have I want to put one issue to the Senate. In 2002 a very learned jurist, an Aboriginal woman, Mrs Gordon, handed down an inquiry. It showed: Endemic family violence and sexual abuse in Western Australian Aboriginal communities was a “human tragedy that was nothing short of a national disaster”.

And those are the words of the then premier, Geoff Gallop.

A landmark $1 million, six-month inquiry has found the incidence of violence and child abuse in WA Aboriginal communities is “shocking and difficult to comprehend”.

I quote those words.

Tabled in the State Parliament—

the day before 16 August—

the 640-page Gordon inquiry report into how WA government agencies handled complaints of child sex abuse and family violence includes 197 findings and recommendations.

It recommended more coordination between government agencies, more training for staff, including cross-cultural education, and more services, particularly in remote areas. It said a lack of trust between Aboriginal communities and government agencies, especially police, hindered the reporting and follow-up of violence and abuse.

That was the situation back in 2002, when the report was handed down. Senator Carr says it is not the states’ fault. I would have to say I do not know where Senator Carr has been. He displays all of the understanding of most Victorians about what is going on out in the bush in Western Australia. I will quote from an Auditor-General’s report reviewing what happened to the Gordon inquiry. It says:

Three years on from the Gordon Inquiry little is known about the progress of an action plan (with initial funding of $66.5 million and more than 120 initiatives) developed to address the Inquiry’s findings.

‘Little is known about the progress’. This was about child sexual abuse. There were 197 recommendations, and in WA, in November of last year, the Auditor-General said, ‘Little is known about whether we’ve progressed and done anything about this report.’ It continues:

A report by WA Auditor General Des Pearson tabled in Parliament today—

23 November 2005—

reveals that an authoritative account of the progress in implementing the initiatives and the action plan overall does not exist.

This is the level of commitment we have in terms of things like petrol sniffing. To see a two- or three-year-old child walking around with a can of petrol strapped with a piece of wire over its neck so that it sniffs is the most sad, tragic thing any person who has had an education can ever see—and I have seen it. They do not just sniff it; they sip it. It is absolutely unbelievable. Here was a report in 2002 laying out an action plan for what Western Australia needed to do to try to arrest this sort of thing. What has happened? Last year the Auditor-General said, ‘Nothing is happening.’
Do we sit on our hands? Do we sit around saying, ‘We can’t blame the state governments because it’s above politics’? Of course we don’t! We have to do something, Senator Carr. I will quote further what the review says:

The result is that groups formed to monitor and oversee the plan do not have available such basic information as:

- The number of initiatives and how many have been implemented.
- How many are behind schedule.
- Expenditure against budget—The basic fundamental of good government is expenditure against budget. In other words, you appropriate money to do these things. The state government in Western Australia did not do it. The review continues:
  - Estimates on final expenditure and anticipated final completion.
  - A summary of the actions taken to resolve delays and barriers to timely implementation.

This is just disgraceful. This is maladministration by a Labor government. In other words, you appropriate money to do these things. The state government in Western Australia did not do it. The review continues:

- For a long time I have said that this country has failed to enhance the talents of Indigenous Australians. We have failed to capitalise on the strengths of Indigenous people. I am glad that we have a federal minister who now wants to make some noises about this, but I am saddened at the way that he is going about it. Mal Brough behaves like a rabbit in a spotlight. He has suddenly discovered the plight of Indigenous Australians but he is treating it and acting upon it in such a negative way. I was shocked this morning when, on ABC radio in Darwin, preceding my interview, Mal Brough referred to Aboriginal communities as ‘communist enclaves’. What an indictment of Indigenous people! What an outstanding insult to the old and trusted traditional owners of those communities. It also shows a complete lack of understanding of the role of traditional owners—their competence, the faith in and respect for those men that communities have, the many years of learned culture and belief that they carry on behalf of the people and their absolute connection with the land, of which they are the custodians.

I could not have thought of anything more insulting to Indigenous people than what Mal Brough said this morning. I was deeply offended and shocked by his comments this morning. This should not be what we hear from a minister who is seeking to rectify what is happening in Indigenous affairs. This is such a wrong way to go about it. There is
no doubt that the plight of Indigenous Aus-
tralians now has national attention—
probably more than it ever has had. But we
need to work with these people. We do not
need to bully these people. We do not need
to back them into a corner and say to them,
‘You’re not going to get basic services unless
you give me your land for 99 years.’ That is
not the way to treat Indigenous people. It is
not the way we treat non-Indigenous people,
and Indigenous people should not be treated
any differently.

I think governments on both sides of the
fence have failed in years gone past. In 27
years of the CLP in the Northern Territory
not one secondary school was built in remote
communities. Also, under the Hawke-
Keating government, every time a state gov-
ernment took Indigenous money off the
Commonwealth they took 48c in the dollar
and stuck it in their pocket. I have to say that
David Kemp, to his credit, along with the
work that Bob Collins and I did, got the
Commonwealth government to make sure
that the states and territories take only 10c of
every education dollar for their own pockets.

There is failure across the spectrum. Juve-
nile diversionary programs were not funded
last year by this federal government, and
they were a success in the Northern Territory.
The Prime Minister promised the people of
Port Keats $50,000 for a community patrol,
and it has not been delivered. So there are
faults everywhere when it comes to under-
funding and underservicing.

But there are some wins. In estimates I
heard about, the OATSIH are making pro-
gress on getting asthma puffers for Indige-
nous communities. People on CDEP, thanks
to the work that some of us have done, can
now get access to hearing aids. But there is
not a holistic approach. There is not a na-
tional plan. There is no concept of walking
together. There is no suggestion from Mal
Brough that he might take the people in this
federal parliament like Senator Scullion and
I who talk to these people day in and day out
and have a joint bipartisan parliamentary
committee that advises and gives input to
this government about what is really happen-
ing out there. Senator Scullion wants to see
as many changes in those communities as I
do. I am sick of the blame game, I am sick of
the anger and I am sick of the yelling. (Time
expired)

Question agreed to.

COMMITTEES

Superannuation and Financial Services
Committee

Report: Government Response

The ACTING DEPUTY PRESIDENT
(Senator Troeth)—Pursuant to standing or-
der 166, I present a government response to
the report of the Select Committee on Super-
nannuation and Financial Services which was
presented to the President when the Senate
adjourned on 16 June 2006. In accordance
with the terms of the standing order, the pub-
lication of the document was authorised. In
accordance with the usual practice and with
the concurrence of the Senate I ask that the
government response be incorporated in
Hansard.

Leave granted.

The document read as follows—

Government response to The Recommenda-
tions made by the Senate Select Committee on
Superannuation and Financial Services in
their report entitled Early Access to Superan-
nuation Benefits

Recommendation 1

The Committee recommends that the Government
review the adequacy of current social security
measures to provide relief in case of severe finan-
cial hardship as part of an overall review of the
Government’s retirement incomes policy.
The Government's response: Not supported
The Government does not support the recommendation to review the adequacy of current social security measures to provide relief in cases of severe financial hardship.

The Government provides a safety net via the social security system for people in financial need and believes that the present arrangements are appropriate. Aside from the general support measures such as income support payments and concession cards, there are also specific measures available for those in severe financial hardship including a special benefit payment, a crisis payment, lump sum advances and waiving of waiting periods.

More broadly, in 1999 the Government established a broad-ranging process of reform to Australia's working age support system. The latest stage of this reform process is Welfare to Work measures that were announced in the 2005 Budget and will commence on 1 July 2006. The Welfare to Work measures will encourage greater levels of economic participation amongst people on income support payments, which in turn will reduce the likelihood of severe financial hardship.

On superannuation, the Government's current priorities lie with the implementation, and bedding down, of its election commitments that were outlined in the policy documents A Better Superannuation System and Super for All and Understanding Money. These commitments include the generous Government superannuation co-contribution for low-income earners, the choice and portability policies, increasing the fully deductible amounts for the self-employed and allowing the splitting of contributions for couples. As well, the superannuation surcharge has been abolished from 1 July 2005. These policies combined reflect the Government's commitment to making superannuation more flexible, attractive and secure for Australians.

Recommendation 2
The Committee recommends that information be collected annually on the total number, value and type of early release payments by superannuation funds, in order to allow for analysis of trends in those payments.

The Government's response: Supported
The Australian Prudential Regulation Authority (APRA) has undertaken to collect data on early release payments, including data on the release of benefits on compassionate and severe financial hardship grounds.

New reporting arrangements generally require funds to report annually on the amount of superannuation released on both severe financial hardship and compassionate grounds.

The Government believes that this data will be helpful in analysing trends in the early release of superannuation benefits, and in determining the appropriateness of current policy settings.

Recommendation 3
The Committee recommends that the rules governing early access to superannuation benefits be consistent for all accumulated funds.

The Government's response: Not supported
The Government does not support the recommendation that the rules governing early release of superannuation benefits be made consistent for all accumulation funds.

Traditionally, trustees have had discretion as to whether moneys may be released under severe financial hardship or compassionate grounds. Despite this discretion, the Government understands that the majority of superannuation funds do offer early release of superannuation benefits to members.

Requiring all funds to offer early release may result in a disproportionate administrative impact on funds, depending on the size and type of fund and administrative capability. The introduction of choice and portability measures allows people to choose a fund that suits their requirements.

Recommendation 4
The Committee recommends that the Government examine how defined benefit funds, including Commonwealth civilian and defence force funds, could make the early release of benefits available to those members to whom it is not currently available.
The Commonwealth Superannuation Scheme (CSS) and the Public Sector Superannuation Scheme (PSS) are defined benefit schemes that provide superannuation arrangements for Australian Government civilian employees. However, the CSS and the PSS were closed to new members from 1 July 1990 and 1 July 2005 respectively. The new Public Sector Superannuation Accumulation Plan, which is available to most new employees who commence employment on or after 1 July 2005, permits the early release of benefits to the extent allowed by the law.

The Defence Force Retirement and Death Benefits Scheme (DFRDB) is a fully defined unfunded superannuation scheme for members of the Australian Defence Force (ADF) was closed to all new members on 1 October 1991. The Military Superannuation and Benefits Scheme, a defined contribution/defined benefit scheme, replaced DFRDB for new entrants to the ADF on 1 October 1991.

The Government does not support a broader review of how defined benefit funds could offer early release. Unlike accumulation schemes, it is not possible to extend access to the current provisions for early release in the abovementioned defined benefit schemes without affecting scheme costs and/or increasing the complexity of the schemes. Whether a fund, be it an accumulation or defined benefit fund, offers early release of benefits is a matter for the individual fund to decide, taking into account a range of considerations including potential benefits to members and administration costs.

**Recommendation 5**

The Committee recommends that all early release payments on the grounds of severe financial hardship and compassionate grounds (or specified criteria) be administered by a single government agency, which must be provided with adequate funding and staffing, and suggests Centrelink would appear to be the appropriate agency.

The Government’s response: Not supported

It was announced in the 1997-98 Budget that the administration of claims for the early release of superannuation benefits based on severe financial hardship grounds was to move away from a government agency, the Insurance and Superannuation Commission’s (ISC), and rest with superannuation fund trustees. To return administration of these claims to a government agency now would be contrary to this move.

Trustees of superannuation funds have the sole responsibility of determining claims for early release on severe financial hardship grounds.

Although APRA, the ISC’s successor, continues to examine claims for early release of superannuation benefits on compassionate grounds, the final decision on whether benefits are released rests with the trustees of an applicant’s superannuation fund, subject to the fund’s governing rules.

Many of the issues identified in the Committee’s report centred on the cost to the fund in administering claims for early release, inconsistency between funds and the lack of expertise of fund staff. In addition, there were concerns about the interpretation of the $10,000 maximum withdrawal limit placed on severe financial hardship claims.

Available information suggests that the current processes for administering early release of superannuation benefits work relatively well. It is believed that, for the most part, the issues outlined above could be overcome by superannuation funds adopting improved decision-making processes and providing clearer information and instructions to members applying for the early release of their superannuation benefits.

APRA has produced a set of guidelines and suggested forms (use of which is voluntary) that provides trustees with assistance in administering financial hardship claims. In relation to the concerns about the withdrawal limit, APRA will ensure advice is available to fund trustees on how the provision works.

The Government will continue to monitor the appropriateness of the processes and make changes if and when required.

**Recommendation 6**

The Committee recommends that a single external review mechanism apply to the agency’s decision on early release applications, irrespective of the grounds on which the application was made.
The Government’s response: Not supported
Different bodies are responsible for reviewing decisions regarding early release of superannuation benefits on severe financial hardship and compassionate grounds.

Members who are not satisfied with trustees’ decisions on severe financial hardship grounds can appeal to the Superannuation Complaints Tribunal (SCT) which conducts merits review. Merits review involves a third party ‘stepping into the shoes’ of the original decision maker, and, where appropriate, substituting its own finding or affirming the original finding.

Members who are not satisfied with APRA’s decisions on compassionate grounds can request that the Commonwealth Ombudsman investigate to determine if correct processes were followed. Currently APRA’s decisions are not subject to merits review.

The Government is investigating the appropriateness of having merits review via the Administrative Appeals Tribunal (AAT) apply to decisions made by APRA in regards to the early release of superannuation benefits on compassionate grounds. This would ensure that all early release decisions are subject to equivalent external review processes, albeit administered by two separate bodies as neither the SCT nor the AAT have jurisdiction to review both.

Recommendation 7
The Committee recommends that the Government consider extending the criteria that govern early access to superannuation, given the evidence the Committee had received of widespread dissatisfaction with the rigidity of the current grounds for release.

The Government’s response: Not supported
The Government considers that the existing early release mechanisms strike an appropriate balance between allowing people access to superannuation benefits in cases of personal or financial difficulty, and the need to ensure that concessional tax on superannuation is used for retirement income purposes. The current preservation arrangements (within which the early release provisions operate) assist in meeting Australia’s retirement income objectives.

The arrangements for early release were reformed to ‘tighten and streamline’ the administration of benefits in the 1997-98 Budget. They include:

- replacing the former ISC’s discretionary administration of early release on severe hardship grounds with a more objective test to be administered by fund trustees; and
- replacing the former ISC’s board’s discretion to approve the release of benefits on compassionate grounds with specified objective criteria, as set out in the Superannuation Industry (Supervision) Act 1993. This function has been carried out by APRA since it replaced the ISC on 1 July 1998.

Recommendation 8
The Committee recommends that where there is conclusive medical evidence of the existence of a prescribed terminal illness, claims be processed without delay.

The Government’s response: Supported in principle
The majority of superannuation funds that offer early release aim to release funds to successful applicants as quickly as practicable.

Where applicants of early release have been assessed, by APRA and/or their trustee, to be experiencing some form of personal or financial difficulty, and the Government believes that applicants should be provided with access to funds as expeditiously as possible. As such, the Government does not intend to prescribe that only those with specific illnesses should have their claim processed without delay.

Recommendation 9
The Committee recommends that trustees be required by law to release funds within a specified time of receiving notification of authorisation by the relevant government agency with responsibility for administering claims for the early release of superannuation benefits.

The Government’s response: Not supported
The Government understands that timeliness is important for genuine applicants of early release, as the applicants are people in financial difficulty. That said, allowing superannuation funds to offer early release on a voluntary basis, on the one hand, whilst mandating timeframes for release of
benefits on the other, may lead to a decline in the number of funds offering early release. That is, if trustees envisage that it will be difficult to adhere to the timeframe, they may stop offering early release to members.

The Government encourages superannuation funds to release benefits in a timely manner, and to assist members in ensuring that they understand the application process, including what information should be provided, in order to minimise delays.

DELEGATION REPORTS
Parliamentary Delegation to the Republic of South Africa and the 114th Inter-Parliamentary Union Assembly in Nairobi

Senator MARSHALL (Victoria) (4.54 pm)—by leave—I present the report of the Australian parliamentary delegation to the Republic of South Africa and the 114th Inter-Parliamentary Union Assembly in Nairobi, which took place from 28 April to 12 May 2006. I seek leave to move a motion in relation to the document.

Leave granted.

Senator MARSHALL—I move:

That the Senate take note of the document.

I will speak very briefly to the motion because the report of the delegation and the bilateral visit to the Republic of South Africa and the 114th Inter-Parliamentary Union Assembly in Nairobi is a detailed and comprehensive one and speaks for itself. I just want to highlight a couple of the issues, the first one in relation to the South African bilateral visit where the delegation went to visit the BHP Billiton aluminium smelter site located the north of the Republic of South Africa in KwaZulu Natal in the town of Richards Bay.

As the delegation arrived at the airport we were met by a protest that had been organised by the local union movement in Richards Bay, protesting against the repressive and extreme industrial relations changes being initiated at the time in Australia by the Howard government. It took us somewhat by surprise that these laws had gained international attention, and the delegation—both members of the government and members of the opposition—had an opportunity to speak to the protesters. I was quite surprised at their knowledge of the industrial relations changes and the impact they would have.

As a much younger man I had been involved in opposing the apartheid regime in South Africa and I had also been involved with the union movement when the union movement in Australia took a very proactive and quite decisive role in many respects in opposing that abominable regime that was an affront to civilisation. South Africa is considered a developing country, but even as a developing country in the new post-apartheid regime they have laws that give people a fair go, that give rights to workers to collectively bargain and opportunities for workers to also share in the growing wealth of the Republic of South Africa where there is quite a substantial growth rate and, by all comparisons, a booming economy.

Senator Abetz interjecting—

Senator MARSHALL—The sorts of extreme laws that this government is putting in place in a so-called developed country are making us international pariahs in respect of equality and fairness in industrial relations. They were aware that individual contracts do strip away the basic bargaining power or any semblance of equity of bargaining power for workers when negotiating with employers. It was somewhat amusing—Senator Abetz, you may be interested to hear this—that one of the government members of the delegation, whom I will not name, went to explain to the protesters that really nothing was going to change because the awards are still there and all those conditions are protected and that if the workers did not want to enter into any

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workplace agreements they would not have to. But on our return we have actually seen the initial impact of Australia’s extreme industrial relations laws and we have seen that there is no choice, no bargaining and no negotiation. Workers are simply given a contract in a take it or leave it approach. People at the lower end with the inability to negotiate or those whose skills are not in high demand or who do not have high education levels are simply in no position to bargain effectively and equitably with their employers.

On the Office of the Employment Advocate’s own figures, out of all the AWAs registered with it since the Work Choices legislation came into being, 100 per cent excluded at least one so-called protected award condition; 64 per cent removed so-called protected annual leave loadings; 63 per cent removed so-called protected penalty rates; 52 per cent removed so-called protected shiftwork loadings; 40 per cent of agreements would appear to have lost gazetted public holidays; and 16 per cent actually excluded all of the so-called protected award conditions. I found it somewhat amusing that even the government members at the time had no understanding of the impact of this legislation, and they now should. It would appear that unionists in South Africa had a better understanding of the legislation than the members of this government, who were voting for it. But it was good to see that there is some international solidarity and some genuine concern across the worldwide union movement against this extreme government.

But there is one other issue that I wish to talk about, and it is an issue that I took up with a number of politicians at the Inter-Parliamentary Union Conference in Nairobi. It is the case of Mr Crispin Beltran, a member of the House of Representatives of the Philippines. He was the subject of a study in a report of the Committee on the Human Rights of Parliamentarians, which is a subcommittee of the IPU, and he is the subject of representations I made while I was at the IPU conference. It is worth detailing some of those issues for the public record here, and there are more details contained in the report being presented today. The report states:

On 25 February 2006, Mr. Crispin Beltran, a well-known and outspoken opposition member of the House of Representatives, “was invited” for questioning by police belonging to the Criminal Investigation and Detection Group …

At that interview:
... he was shown an arrest warrant on a rebellion charge dating back to 1985; although the police were told by his lawyer that the warrant, which stemmed from an inciting-to-rebellion case filed by the Marcos regime, has long been quashed, the police refused to release him; later that day, a case was filed against him for allegedly inciting to rebellion at a rally held on 24 February 2006 in commemoration of the ousting of the Marcos regime; counter-affidavits were issued stating that this was untrue and that Mr. Beltran had never given any such speech; on 27 February and 4 March 2006, two new charges of rebellion were brought against him, one of conspiring with an army officer involved in a coup d’etat attempt in 2003 and another one linking him with the Communist Party of the Philippines; on 23 March 2006, the Quezon City Metropolitan Court, which was handling the inciting-to-sedition case, ordered his release;

On 3 April 2006, Mr. Beltran and his counsel filed a motion for quashing the incitement to sedition charge, and the relevant hearing is reportedly set for 29 May 2006; with regard to the rebellion charges, in response to the judge’s decision to resolve within 30 days the motion for the judicial determination of probable cause and urgent motion to release Mr. Beltran or alternatively allow him to attend parliamentary sessions, Mr. Beltran and his counsel have filed a motion to set for hearing and/or resolve the pending urgent motion and to allow the accused to be transferred to a hospital with adequate facilities; however, no decision appears so far to have been taken in this respect and Mr. Beltran remains—
and it would appear from my best information that he remains today—in detention without a valid arrest warrant.

Regarding the rights of parliamentarians across the world, it is of significant concern when parliamentarians promote significant opposition in their own country and then have the apparatus of the state used against them, in what appears to be purely an attempt to quash that opposition.

The IPU has expressed deep concern at the arrest and continuing detention of Mr Beltran and at the charges brought against him. It observes many points that I do not have time to go into, but it requests that the committee continue examining this case and report to its next session, to be held during the 115th assembly, in October 2006. I will certainly continue to make representations to the IPU on this matter until there is a successful outcome. I recommend the delegation report to the Senate.

Question agreed to.

DO NOT CALL REGISTER BILL 2006

DO NOT CALL REGISTER
(CONSEQUENTIAL AMENDMENTS)
BILL 2006

First Reading

Bills received from the House of Representatives.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (5.05 pm)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

DO NOT CALL REGISTER BILL 2006

The Do Not Call Register Bill 2006 provides a direct response to growing community concerns about unsolicited and unwanted telemarketing calls. The number of unsolicited calls in Australia has grown significantly in recent years, and has led to rising community concerns about the inconvenience and intrusiveness of telemarketing. Telemarketing can intrude on everyday activities, from getting the kids ready for school, to making the evening meal. For many, these calls are disruptive and cause frustration.

The Government is addressing these concerns by giving Australian phone users the right to opt out of receiving unsolicited telemarketing calls and by creating a more consistent and efficient operating environment for the telemarketing industry. Similar arrangements have been adopted in the United States and United Kingdom in response to the same kinds of difficulties experienced in those countries. Canada is also currently considering the introduction of a Do Not Call register.

The telemarketing industry itself has also called for action. The current rules governing telemarketing practices are contained in various instruments, including voluntary codes, state and territory legislation and Commonwealth law.

This fragmented and sometimes inconsistent approach has lead to calls from industry organisations such as the Australian Direct Marketing Association for the Government to address the issue of inconsistency. This is needed to provide telemarketers with more operational certainty and consumers with more effective complaint handling mechanisms. Currently, there is no single body to which consumers can register a complaint.

Outline of the Do Not Call Scheme

Under the arrangements set out in the bill, a national do not call register would be established.

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—

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The Government is addressing these concerns by giving Australian phone users the right to opt out of receiving unsolicited telemarketing calls and by creating a more consistent and efficient operating environment for the telemarketing industry. Similar arrangements have been adopted in the United States and United Kingdom in response to the same kinds of difficulties experienced in those countries. Canada is also currently considering the introduction of a Do Not Call register.

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Outline of the Do Not Call Scheme

Under the arrangements set out in the bill, a national do not call register would be established.
People who do not wish to receive telemarketing calls would have the option of applying for their fixed and mobile numbers to be recorded on the Register. Once a number is registered, it will be prohibited for telemarketers to contact that number, except in limited specified circumstances. In recognition of the potential for registrations to become out of date, registrations will be valid for a period of three years, unless withdrawn earlier.

The scheme will apply to telemarketing calls made to an Australian number, whether the call is made from Australia or overseas. The bill allows for penalties to apply to Australian companies making use of overseas telemarketers. While enforcement of telemarketing which does not have a direct Australian link will be more difficult, the bill also makes provision for development of bilateral agreements between countries wishing to stamp out international telemarketing.

Some exemptions are provided for organisations that act in the public interest, such as charities and Government, and where businesses have an existing business relationship with customers. This recognises that there are occasions where unsolicited telephone calls fulfil an important social and community role.

The operation of the Register will involve cost recovery from the telemarketing industry. While the Government will contribute a significant proportion to the initial funding, it is appropriate that the telemarketing industry contribute an increasing proportion of the costs over time.

The bill allows for the making of regulations in a number of areas to provide flexibility in responding to changes in technical delivery of telemarketing and to potential abuse of the intent of provisions. The bill also makes provision for the review of the entire Do Not Call scheme after three years of operation.

Operation

Under the legislation the Australian Communications and Media Authority (ACMA) will have a number of key roles in the operation and administration of the Do Not Call Register.

ACMA will operate, or outsource to a third party, the operation of the Register. The Register can list all forms of telephone numbers used primarily for private use. Telemarketers who wish to make telemarketing calls will be required to check their calling lists against the numbers registered on the Do Not Call Register to ensure that they do not contact numbers where the account-holder has opted out of receiving telemarketing calls. The details relating to the operation and administration of the Register will be provided for by a determination made by the ACMA.

ACMA will also respond to complaints relating to the Register.

Enforcement

Enforcement of the legislation will also be undertaken by ACMA through a tiered enforcement regime which provides for a scale of penalties ranging from $1,100 up to $1.1 million depending upon the provision breached and the seriousness of the breach.

The enforcement measures available to the ACMA include a formal warning, acceptance of an enforceable undertaking, or the issuing of an infringement notice. The ACMA may also apply to the Federal Court for an injunction.

Expected benefits

This is a comprehensive scheme to address a problem that affects a large number of Australians.

The telemarketing industry has attempted to address this problem but there are simply too many operators unwilling to raise their standards and too many offshore call centres offering reduced prices and low standards.

The Do Not Call Register arrangements benefits telemarketers and consumers.

Consumers will be able to complain to a recognised body and have their complaint dealt with. In this way consumers will be able to reduce the number of unwanted calls they receive in Australia and potentially from overseas.

Telemarketers will make efficiency gains by not making calls to those who don’t wish to receive them, will experience reduced compliance costs from having national standards legislation; and will have a level playing field with all telemarketers bound to high professional standards, rather than have the industry brought into disrepute by rogue operators.
This implementation of a Do Not Call Register is generally supported by the telemarketing industry and consumers.

Conclusion
This bill will put in place a range of measures that will have the effect of reducing the level of unwanted commercial telemarketing calls. It will provide the public with the ability to take effective action through their registration on the Do Not Call Register. The outcome will be that telephone users will have the ability to control the amount of unwanted calls they receive.

Expected benefits
This is part of a comprehensive scheme to address a problem that affects a large number of Australians.

The telemarketing industry has attempted to address this problem but there are simply too many operators unwilling to raise their standards and too many offshore call centres offering reduced prices and low standards.

These arrangements benefit telemarketers and consumers.

Consumers will be able to complain to one body in relation to a number of aspects of telemarketing calls and will benefit by receiving fewer silent calls or randomly dialled calls. Consumers will be able to reduce the number of unwanted calls they receive from overseas and in Australia.

Telemarketers will make efficiency gains by not making calls to those who don’t wish to receive them; will experience reduced compliance costs from having national standards legislation; and will have a level playing field with all telemarketers bound to high professional standards, rather than the industry being brought into disrepute by rogue operators. This implementation of a Do Not Call Register is generally supported by the telemarketing industry and consumers.

Conclusion
This bill will put in place a range of measures that will have the effect of reducing the level of unwanted commercial telemarketing calls. It will provide the public with the ability to take effective action through their registration on the Do Not Call Register. The outcome will be that telephone users will have the ability to control the amount of unwanted calls they receive.

Debate (on motion by Senator Abetz) adjourned.

Ordered that the resumption of the debate be an order of the day for a later hour.
together with documents presented to the committee.

Ordered that the report be printed.

**ROYAL COMMISSIONS AMENDMENT BILL 2006**

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

Assent

Messages from Her Excellency the Administrator of the Commonwealth of Australia were reported informing the Senate that she had assented to the bills.

**ELECTORAL AND REFERENDUM AMENDMENT (ELECTORAL INTEGRITY AND OTHER MEASURES) BILL 2006**

Second Reading

Debate resumed.

(Quorum formed)

**Senator LUDWIG** (Queensland) (5.10 pm)—When I left off on the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2006 before question time, I was talking about democracy diminished, in that the so-called integrity measures are far from that. Earlier I dealt with the issue of gifts and party donations and the increase from $1,500 to $10,000. Before we broke for question time today, I also referred to how the Liberal Party can use anonymous sources under the $10,000 regime, if people donate $9,999 to the eight Liberal branches. If you were to use family relationships, you could also multiply that by two and get to some extraordinary numbers. What is important with these things is that there is transparency. It is good to see Senator Abetz here in the chamber because some of the matters he went to in respect of that, as a defence, do not stand up. I dealt with some of those before, but let me reiterate: there is no policy merit in this change.

The other area where there is no policy merit is the early closure of the rolls. Notwithstanding the spirited defence of it by the Australian Electoral Commission, the early closure of the rolls will cause a huge group of people to be disenfranchised from their votes, because it will effectively mean that the rolls will close from 8 pm on the day the writs are issued. There is no longer a period of grace where people are reminded they need to get on the rolls and sort out their enrolment. What Senator Abetz has argued in the past—if I verbal him, I am sure he will correct the record—is that people should take advantage of the issue and keep up to speed on their enrolment and deal with it as they go. That would be terrific in a perfect world, but we do not live in a perfect world. The grace period of seven days acts almost like a reminder, and it is a very focused reminder. When the writs are issued, people take note and turn their minds to an election that is going to occur and deal with it accordingly. This will result in people—people who would have otherwise been able to enrol and vote—not being able to change their particulars and they may be excluded from the roll. In a democracy, if we are talking about ensuring that all people who can vote are able to vote and not disenfranchising groups who we could otherwise deal with, it is wrong to have an early closure, as proposed in this bill.

The guiding principle in this area is that there should be the ability for people to express their will in an election. I am concerned about that ability being changed for new citizens and 17- to 18-year-olds, and not only, as might be argued, that the Liberal Party will seek to gain a benefit. I cannot clearly see how it will transpire, but I think you could make the reasonable guess that the early closure of the rolls will not disadvan-
tage the Liberal Party. I think you could say it is more likely to advantage the Liberal Party and their constituency. The National Party probably have not turned their minds to how it will affect regional and rural Australians—whether their ability to use the seven days that currently exist to sort out their enrolment will be diminished. I suspect it will. I suspect they will also suffer under this integrity measure, so-called. It is surprising that the National Party have not really addressed it in any broad way, but that is a matter for them. It is, of course, still a great concern to the Labor Party.

I will turn to a couple of other issues. Senator Boswell provided some commentary on an old issue that I think has long been a thorn in the side of the Nationals—that is, Liberals for Forests, an issue which has focused them and which took up the majority of Senator Boswell’s speech. The minority report of the Joint Standing Committee on Electoral Matters report says:

Several electorates on polling day 2004 saw the distribution of how-to-vote cards which were clearly designed to mislead voters into voting for a party they did not intend to vote for. This was particularly obvious when the manner in which these cards were distributed is taken into account. The Government members of the Committee devoted a great deal of time to expounding their view—

and Senator Boswell took the opportunity during the second reading debate to do that again—

that the Government candidate in the Division of Richmond was defeated …

It goes on to say that the government members tried to have it both ways on this question by condemning what they saw as the misleading distribution of the Liberals for Forests cards in Richmond, while condoning a clearly well-orchestrated campaign by the Liberal Party to deceive Australian Greens voters in the division of Melbourne Ports by the blatantly misleading distribution of green coloured how-to-vote cards. The minority report concluded:

We support the recommendation that the AEC conduct a review of the relevant sections of the Act, which are clearly inadequate for the purpose of preventing the misuse of how-to-vote cards to deceive voters. We believe that the practice of some state electoral authorities …

And it goes on. What we have there, of course, is an argument for another day. But I think the minority report does provide a better position than the one argued by the majority in this area. The majority report argued poorly, I think, to try to substantiate the reasons for the earlier closure of the rolls. I think it failed to address some of the more relevant issues. Of recommendation 4, the minority report said:

This is the most radical recommendation in the entire report. It will have the effect of disenfranchising anyone who has not enrolled by the time the writs for an election are issued, and potentially disenfranchising all voters who are not enrolled at their correct address by depriving them of an opportunity to correct their enrolment details.

That is the position that is likely to occur. The government have failed to take heed of what the minority pointed out. They have steamrolled over those issues and in doing so they have steamrolled over democracy. The pretext for this proposal is that the enrolment during the five working days increases electoral fraud because the AEC does not have time to verify the information given by the enrollees. That is the argument that seems to be put, but there was no evidence in support of that contention presented to the inquiry, nor has any been presented to previous inquiries.

If there is evidence out there, it should be tabled. It should be brought forward. The AEC has never said that it cannot handle the volume of applications received, so I think it
is disingenuous to say that the AEC would be swamped during this period and not able to cope. If there is that view then it is a matter of ensuring that the AEC does have that flexibility, and the government have the ability to ensure that. The AEC continues to check into the integrity of the rolls in the period following their closure to ensure that people are eligible to vote, so I think that argument is broadly disingenuous. We also heard from an AEC employee, appearing in a private capacity, about the early closure of the rolls. The early closure of the rolls, in his words:

... would disenfranchise a lot of people. We would have had to go to a lot of expense and advertising to ensure that the rolls were as up-to-date as possible and do that on a continuing basis.

That evidence was presented to the committee on 12 August 2005. But the AEC said:

The AEC is firmly of the view that, in the absence of any evidence to suggest that the opportunity to enrol or correct enrolment details in the week prior to the close of the rolls is being significantly abused, the procedure introduced on the Committee’s recommendation after the 1983 election must be judged a success.

But we are still debating these issues in this chamber. The recommendation will also cause, as I have said, particular problems for electors in remote or regional Australia. The Liberals’ partners in the coalition, the National Party, have certainly not twigged to the fact that it is also part of the Liberal Party armoury to ensure that The Nationals are disadvantaged as a consequence. To not have adequate access to appropriate communication facilities would, as the Western Australian government at the time indicated in their submission, cause difficulties and might lead to disenfranchisement of electors.

We have also heard from Senator Mason. Curiously, Senator Mason was the only coalition senator—save, I suspect, Senator Abetz in his summing up—to even attempt a straight-faced justification of the changes. And perhaps Senator Abetz may not even do that. Senator Mason stated that these changes to enrolment awareness campaigns ‘will go a long way to countering any possible unintended consequences of an early closure of the roll’. It is not the unintended consequences that Labor is worried about but the many intended consequences of this bill. When you go to the two major issues that I have talked about today—the donations and the early closure of the rolls—this bill should not be proceeded with. The government know what they are doing. They are seeking to commit another rort. These are not integrity measures. They have again carted out the wheelbarrow of old wish lists that they always want to bring forward. When you look at the broader issue of whether democracy will be diminished as a consequence, it can be safely said that it will be by the passing of these integrity measures. I am going to run out of time now but I will have the opportunity in the committee stage to ask a range of questions about some of these matters and particularly the issues that surround the political financial disclosures under the proposed changes to the thresholds.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (5.23 pm)—The Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2006 will enhance Australia’s electoral system. We have a very good electoral system in this country, but that does not mean that it cannot be enhanced. Indeed, these measures are about making it more robust, fair and rigorous. As a result, people will be able to have even greater confidence in our electoral system. Confidence in our electoral system is vital to the acceptance by the people of the electoral outcomes. What problems does this bill address? It addresses a number of them. I will go through them in some sort of order. I will also try and glean
from the contributions of various senators what the themes were.

First of all, in relation to tightening up the electoral roll, Senator Andrew Bartlett, the Deputy Leader of the Democrats, told us that the key aim of the Commonwealth Electoral Act is to make it as easy as possible for people to get on the electoral roll. No; wrong. The Commonwealth Electoral Act should make it as easy as possible for people to get onto the electoral roll, subject to the appropriate tests being in place to ensure that the roll cannot be rorted.

I was absolutely astounded to hear and read in some of the speeches by opposition senators the suggestion that electoral fraud does not exist in this country. Senator Carr made the mistake; Senator Webber did. Every—

Senator Carr—Seventy-one cases since 1990; one in a million.

Senator ABETZ—He now admits that fraud does exist, and he has offered the number 71. Karen Ehrmann went to jail because of electoral fraud perpetrated within the Australian Labor Party. Tony Mooney, Andrew Keogh, Lee Birmingham, Jim Elder, Mike Kaiser, Grant Musgrove, Bill Ludwig, Joan Budd and David Barbagallo are all names that have come up in relation to electoral fraud. It is disingenuous in the extreme for those opposite to suggest that electoral fraud is not a problem. Tell Karen Ehrmann, who served a period of imprisonment, that electoral fraud does not exist.

Senator Ferris—What about that cat that voted twice in a marginal seat?

Senator ABETZ—And we have the case of ‘Curacao Fischer Catt’, who was enrolled in the seat of Macquarie. The cat was able to get onto the electoral roll through fraud and misrepresentation. And, if somebody can get a cat onto the electoral roll, you cannot have confidence in the electoral system. But, for the roll rorters, that is fantastic news. If you can get a cat onto the electoral roll, chances are you can get anybody on the electoral roll, and then you can rort the system. Tell Karen Ehrmann, who served a period of imprisonment courtesy of Labor Party roll rorting, that roll rorting does not exist. It exists, and you know it. Thank goodness it is at a minimum. But we need laws to ensure that that cannot occur again.

The Liberals for Forests campaign was a disgraceful campaign, and the Labor Party support of it tells us why the current Labor member for Richmond refused to come before the Joint Standing Committee on Electoral Matters, because she would have been asked this question: ‘Were you aware of what was happening with Liberals for Forests?’ Because there was not a Liberal candidate running in that electorate, the Liberals for Forests wore blue t-shirts with ‘Liberal’ emblazoned on the front. They put their thumbs over the ‘for Forests’ on the how-to-vote cards and accosted people coming into the polling booths saying, ‘Vote Liberal’, not ‘Vote Liberals for Forests.’ Unfortunately, a lot of people were misled. Disingenuously, the how-to-vote card for Liberals for Forests had only their own candidate’s party listed, next to ‘vote 1’. All the other people on the how-to-vote card did not have their party listed next to them. There was clearly a stunt being pulled. Unfortunately, it worked. We say that that is not good enough.

We then have the situation of Labor trying to defend the changes made in 1984 by the Australian Labor Party in the current Commonwealth Electoral Act. You do not have to listen to me in relation to what motivated these changes. Listening to Senator Ray’s speech, I was nearly convinced. He nearly convinced me how outrageous this was—until the good former senator Graham Richardson reminded me what Senator Ray and he had been up to in changing the rules.
This is what Senator Richardson said about these changes. They were made so:

... that Labor could embrace power as a right and make the task of anyone trying to take it from us as difficult as we could.

What shameful cynicism! Then Senator Ray has the audacity to come into this place, having been part and parcel of that, to try to pretend that somehow his hands are clean!

Senator Carr—So that is what you are up to? Is that your confession?

Senator ABETZ—The confession in fact comes later because Senator Sterle foolishly said, ‘If it happens to have suited Labor and it is good for the nation then so be it and let the cards fall where they will.’ Unfortunately, Senator Sterle’s researcher did not read further on in the Graham Richardson chapter because Senator Richardson made a confession. It is very interesting that you should talk about confessions, Senator Carr. This is what Senator Richardson said:

It is hard to argue that we have a better country for it.

Senator Richardson is willing to say that, with all of those changes that the Labor Party forced through, it is hard to argue that we have a better country for it. We now move onto the issue of people’s votes being accepted which are not able to be substantiated.

At the last federal election 27,000 provisional votes were accepted into the count. There were more than 27,000 votes in total; but, of those provisional votes that were taken into the count, the Electoral Commission was unable to follow up on 27,000 of them to verify that they actually lived where they had asserted. When you divide that by the number of seats we have in this country, noting that some seats are won by 100 or so votes, that becomes a very serious concern.

Senator Carr interjecting—

Senator ABETZ—Would you mind, Senator Carr? We actually listened to you guys and your very pathetic contributions for a while. Let me turn to prisoner voting. There are those who are now suggesting that everybody should be entitled to vote, including prisoners, and that this is somehow a fundamental right. It has long been the case in Australia, especially in state jurisdictions, that, if you are serving a period of imprisonment, you do not get the vote. We as a government happen to believe that if through the judicial system you have been sentenced to a period of incarceration—in other words, you have been removed from society by society through the judicial system—then, during that period of your removal from society, you forfeit the right to vote.

Senator Nettle and others are trying to justify the right to vote for these people. She says it is an important part of their rehabilitation. Can I say that I acted in the criminal law jurisdiction for quite some time. Not once did a person likely to go to jail say to me: ‘Eric, whatever you do, just give me the right to vote. Send me to jail by all means, just as long as I keep the right to vote.’ Not once was that said.

Let us get a grip on reality with this. The concern of citizens is their removal from society by the judicial system because they have so offended against the rules and laws of our society that they are deemed to be unworthy to walk the streets. I know some academic said that I put it deliciously simply by saying that chances are that, if you are unfit to walk the streets, you are unfit to vote. I suppose the reason they say that it is deliciously simple is because there is no argument in principle against that proposition. If you are removed from society then chances are that you should not be entitled to vote.

Allow me to go through some of the contributions of honourable senators in relation to the threshold in particular. What I seek to
do is put on the record and repeat into the \textit{Hansard} that which was said nearly a quarter of a century ago. Who said this, Senator Marshall? This person said:

People should be protected, if they want to be protected, by not having their names associated with a particular political party. What we are saying is that people who make these donations to political parties should be allowed to remain anonymous. We say that any donation—and this will give you the hint, especially Senator Murray, I trust—over $2,000, which we would regard as significant, should be capable of public disclosure.

That, of course, was the former leader of the Australian Democrats, speaking in this place some 24 years ago, saying that $2,000 was the appropriate threshold. If you then go to the Parliamentary Library and ask them to apply the inflation factor to that, you now have a figure well in excess of $5,000. So if the principle of Senator Don Chipp at the time remained and if you were to forward it to 2006, a quarter of a century later, you would have a figure in excess of $5,000. But he does make this point:

I would be sympathetic to the view that if persons because of altruism want to give a certain amount of money they should be protected if they want to be protected.

\textbf{Senator Bernardi}—They need protection.

\textbf{Senator ABETZ}—Senator Cory Bernardi has quite rightly interjected that they need protection. They need protection from those people who would seek to intimidate them because of their donations. That is quite right. Senator Don Chipp a quarter of a century ago recognised that important point. We as a government, in fact, have had the view that the threshold should be $10,000 for the last 20-plus years. So there are no surprises here. We have remained consistent in that regard.

The important thing about this is that 88 per cent of all donations disclosed by both Labor and the Liberal Party were donated in amounts of $10,000 or more in the 2003-04 year. So, really, only 12 per cent of current donations might not be disclosed. If people are saying that that 12 per cent is going to somehow create undue influence on the body politic of Australia, I would say with great respect that I do not think you are right.

What that 12 per cent—the rats and mice of the donations—is doing is putting untold pressure on political parties, especially small political parties, that have difficulty in coming to grips with the current system. And the Australian Electoral Commission spends far too much time on those figures for no real benefit. I would point out that on 9 March 2006, Karen Cassidy, the Tasmanian Greens convenor, said:

The Tasmanian Greens have two part-time employees, one of whom is our administrator. She basically has a full-time job in a part-time capacity trying to comply with the current regime for reporting of donations.

So even the Greens are complaining about the amount of work involved with these small amounts—and I am sure that is why Senators Brown and Milne are very quiet in relation to this point.

Those opposite have the absolute audacity, Senator Bernardi, to complain about the new threshold of $10,000. Coming from the state of South Australia, you will undoubtedly recall the stunt pulled by Senator Nick Bolkus—as he then was—for the campaign for Steve Georganas, who is now the member for Hindmarsh. He ran a $10,000 raffle. The one donor bought all the raffle tickets and there was no raffle prize—and it was not disclosed until he was flushed out. Senator Bolkus, a former minister responsible for the Commonwealth Electoral Act, engaged in this sort of behaviour.
Monday, 19 June 2006

It shows that the Labor Party will window-dress and assert themselves as being cleaner than the driven snow and then engage in the practice of trying to get donations and hiding them through the guise of a false raffle. It is the same when they talk about electoral roll rorting—'It doesn’t exist; we don’t need to tighten up the provisions'—when they are the ones who have had people going to jail for roll rorting. I indicate to honourable senators that the electoral roll is used not only for electoral purposes but also for social security and other fraud related matters. Therefore, it makes good sense for the electoral roll to be robust.

I say to my good friend Senator Fielding that I disagree with his unfortunate reflection on political parties. In his contribution, he told us that community groups and lobby groups that push political agendas are not eligible for tax deductibility status. I say to Senator Fielding, yes they are, unfortunately. There is the Wilderness Society, the RSPCA and a number of organisations. What we are saying is: ‘Let’s level the playing field. Rather than taking tax deductibility status off some of these organisations, we ought to level the playing field.’

Senator Fielding said that he was opposed to the electoral roll being used for the purposes of the Financial Transaction Reports Act. I would be happy to give Senator Fielding a private brief on that. Basically, as a result of Commonwealth legislation, we require banking institutions to undertake checks for which we allow the electoral roll to be used—and they have now outsourced that to a third party. As I understand it, there is, at least on this issue, unanimity between Liberal and Labor and, I think, the Australian Democrats. So, if I have the opportunity to explain things to Senator Fielding later on, hopefully there will be agreement from him on that issue.

Unfortunately, time is short. Suffice it to say that those who are seeking to assert that there is somehow a conspiracy involved in relation to the thresholds et cetera conveniently overlook their own behaviour as a political party—for example, the raffle that I indicated earlier—and what Labour governments around the world do. In New Zealand, the threshold is $NZ10,000 and in the United Kingdom it is £5,000, which in very rough terms translates to $A10,000. Nobody has asserted that there is a democratic deficit in New Zealand or the United Kingdom because of those thresholds. They have had Labour governments for some considerable period of time and they have seen no need to change the laws. Nobody is asserting that there is a democratic deficit in those countries, and there is no basis to assert that there would be a democratic deficit if we were to have the $10,000 threshold in this country.

I thank honourable senators for their contributions. I look forward to the committee stage and I recommend the bill as printed.

Question put:

That the amendment (Senator Carr's) be agreed to.

The Senate divided. [5.48 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes ........................ 31
Noes ........................ 34

Majority ........... 3

AYES

The Senate divided. [5.52 pm]

(Aye—Senator the Hon. Paul Calvert)

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

AyEs
Abetz, E.
Adams, J.
Barnett, G.
Bernardi, C.
Boswell, R.L.D.
Brandis, G.H.
Calvert, P.H.
Chapman, H.G.P.
Colbeck, R.
Eggleston, A.
Ellison, C.M.
Ferguson, A.B.
Ferris, J.M.
Fierravanti-Wells, C.
Fifield, M.P.
Heffernan, W.
Humphries, G.
Johnston, D.
Joyce, B.
Lightfoot, P.R.
MacGauran, J.J.J.
Mason, B.J.
McGauran, J.J.J.
Nash, F.
Parry, S.
Payne, M.A.
Santoro, S.
Trent, J.M.
Vanstone, A.E.

NOEs
Abetz, E.
Adams, J.
Barnett, G.
Bernardi, C.
Boswell, R.L.D.
Brandis, G.H.
Calvert, P.H.
Chapman, H.G.P.
Colbeck, R.
Eggleston, A.
Ellison, C.M.
Ferguson, A.B.
Ferris, J.M.
Fierravanti-Wells, C.
Fifield, M.P.
Heffernan, W.
Humphries, G.
Johnston, D.
Joyce, B.
Lightfoot, P.R.
MacGauran, J.J.J.
Mason, B.J.
McGauran, J.J.J.
Nash, F.
Parry, S.
Payne, M.A.
Santoro, S.
Trent, J.M.
Vanstone, A.E.

Question agreed to.
Bill read a second time.

In Committee
Bill—by leave—taken as a whole.

Senator MURRAY (Western Australia) (5.55 pm)—The Democrats oppose schedule 1 in the following terms:

(1) Schedule 1, item 14, page 7 (lines 14 and 15), TO BE OPPOSED.

This item in the bill refers to prisoner voting.

In motivating our opposition to item 14, I...
want to make a number of remarks. I am well aware of the difference of opinion on these matters, but I want to put as clearly as I can the principle and policy position which has consistently guided the Australian Democrats and others who support the right of prisoners to vote. We oppose the government’s intention to repeal the existing voting rights of prisoners on civil and human rights grounds and on basic principles of justice. We are informed by our reading of and our support for the International Covenant on Civil and Political Rights, to which Australia is a signatory, by jurisprudence in other parts of the world and by our view as to how the process of judicial punishment should operate.

As I outlined in my speech on the second reading, we Democrats are of the opinion that the removal of prisoner voting rights is an extrajudicial penalty and, over and above that, is an abuse of an inalienable birthright which belongs to every citizen—and that is the fundamental right to vote. We regard terms of imprisonment as having a couple of main planks to them. The first plank is of course that of punishment for a crime which is considered serious enough to deprive a person of their liberty. The second purpose of imprisonment is to encourage rehabilitation. Unfortunately, far too little money and effort is often spent on that particular aspect, but nevertheless it is universally recognised as the second aspect. The third aspect, which in polite circles people tend to conceal a little, is the aspect of vengeance. It is society taking judicial vengeance on someone for hurting or harming one of their members.

Taking liberty away from a person is a major punishment, but we have not said in this country that if you are imprisoned you become a noncitizen or an alien. We leave with prisoners their rights of citizenship in all respects. Obviously, they are not going to be chosen for jury duty, but there is nothing to stop someone who has been a prisoner from defending the country or carrying out any other act of citizenship. I must say that the one virtue of the government’s proposal is that it does not intend to remove the right to vote from persons who have served terms of imprisonment. In that respect at least they do not follow the barbaric practices of the Americans.

During the debate on the second reading we had some discussion about the question of rehabilitation and the question of the human rights of prisoners. I, with a varied and somewhat interesting background, sometimes think of prisoners in that famous framework of, ‘There but for the grace of God go you and I.’ It is a bit difficult to automatically assume that everyone in prison is an evil rogue worthy of the very worst treatment. Whilst evil does find its expression in prisoners, many prisoners, including some I have met after imprisonment, are simply people who made bad mistakes. I will say in passing that I wish our governments poured more serious resources into early intervention strategies which prevented the sorts of circumstances which lead people into crime and into socially harmful behaviour. Then I think our prison population would decline significantly instead of increasing, as it is at present.

I think the government proposal accurately reflects its conservative nature rather than a liberal inheritance. I have long thought that the liberal name should not apply to the Liberal Party because, generally speaking, the individuals that I meet are conservatives and not liberals. This provision of the government not only removes a fundamental right recognised under article 25 of the International Covenant on Civil and Political Rights but also is inconsistent with recognition by influential courts overseas that prisoners should retain the right to vote. Even on constitutional grounds there is also
an argument against prisoner disenfran-
chisement. Constitutionally the requirement
is that the government be elected by the peo-
ples. The only problem with that argument is
that I cannot see prisoners banding together
to argue that case before the High Court.

Quite apart from these arguments on hu-
man rights grounds, there is also a technical
complication. There is no uniformity
amongst the states or between the states and
the Commonwealth as to what constitutes an
offence punishable by imprisonment, and so
complications will arise. I have heard the
former Special Minister of State, the minister
in charge of this particular debate, argue that
rapists and murderers should not get a vote.
Even if you were to accept that argument,
not everyone in prison is a rapist or a mur-
derer. For instance, in Western Australia fine
defaulters lose their licence rather than go to
prison; however, in other states they can go
to prison for not paying a fine. Why should
somebody who does not pay a fine lose their
right to vote? A journalist may refuse to dis-
close their source and be imprisoned for it.
Why should a journalist who refuses to dis-
lose their source, which in my view is an
act of honour in their profession, have to go
to jail? We could have a situation where a
person who defaults on a fine in WA is not
jailed and retains the right to vote while a
citizen in another jurisdiction is jailed for the
same offence and loses the right to vote. That
is inequitable and unacceptable. As you will
see from our next amendment, which I will
talk to later, we believe that if you want the
right to vote to be a question attached to im-
prisonment then that removal should be a
judicial penalty. It should be made by a judge
and it should not be imposed as a general
provision in law.

I am indebted to the Justice Action Group,
which have been campaigning on this issue
of prisoner voting. I have read many extracts
from some of the cases they quote in their
pamphlet. They quote a few things that I
know to be so. For instance, they have indi-
cated that Commonwealth nations like Can-
ada and South Africa have removed these
sorts of discriminatory laws. There is a
quote, which I remember, in their pamphlet
from Chief Justice McLachlin of the Cana-
dian Supreme Court in the case of Sauve v
Canada on 10 December 2002:

Denying penitentiary inmates the right to vote is
more likely to send messages that undermine
respect for the law and democracy than messages
that enhance those values ...

They also quote the European Court of Hu-
man Rights, which recently ruled in favour
of giving British prisoners the vote:

Prisoners lose their liberty, not their place in the
human race nor their position in the society.

That is from Hirst v the United Kingdom No.
2, 6 October 2005. They also say in their
pamphlet:

There is no evidence that disenfranchising
prisoners deters crime or assists in rehabilitation.

It is more likely to increase alienation and dis-
engagement from mainstream society and any
sense of civic responsibility.

This would disenfranchise 25,353 voters of
which more than half are expected to serve sen-
tences of less than two years; ie who are likely to
be released within a political term.

It is a double disenfranchisement for the 5,656
Indigenous people in jail who lost their ATSIC
vote last year.

The pamphlet also says:

Removing prisoners’ political voice means
politicians can now officially ignore prisons and
prisoners. They have sentenced them to civic
death.

Whilst I do not believe that the government
is just going to ignore prisons and prisoner-
s—I do not think that should be a conse-
quence of this—this is in a sense a sentenc-
ing to civic death, as dramatic as that sounds,
despite the fact the minister said—and you
did amuse me, as you sometimes do, Minister—he had never had someone in a criminal case plead with him to preserve their vote. I suspect that prisoners value their vote as much as the ordinary Australian does. Of course, I have no way of knowing that and I suspect that you do not either. So, there we are. With those remarks, I oppose this provision.

Senator LUDWIG (Queensland) (6.07 pm)—I wanted to make a contribution to this second reading debate because the legislation raises a couple of really interesting issues, particularly when you examine the issue of prisoner disenfranchisement which is part of it. Hirst is a notable English case that is relevant to this and I think it makes the position clear. There are three cases that I want to talk about. The first is Hirst v the United Kingdom (No. 2) of March 2004. One of the issues raised there is that the UK had a similar position to what is being proposed here. Although it was different in kind, it was effectively a blanket disenfranchisement of prisoners in the voting process.

That case was concerned with the interpretation of article 3 of the first protocol of the European Convention on Human Rights, which, granted, does not apply here, because of course we do not have a similar protocol. But it is unusual for this government not to take cognisance of international arrangements and protocols that apply. I am curious as to why the government is ignoring this position that seems to have been accepted more broadly than just in the United Kingdom, and I will go to that shortly. Article 3 states:

The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.

The UK had asserted two aims in the legislation. The first was to prevent crime and punish offenders and the second was to enhance civil responsibility and respect for the rule of law by depriving those who had seriously breached the basic rules of society of the right to have a say in the way such rules are made for the duration of their sentence. That seems to be in accordance with what this bill might be trying to achieve. This point was also borne out in Sauve v Canada (Chief Electoral Officer), which I am sure your officers, Minister, would also be familiar with, along with the case I just mentioned. But with regard to the second of those objects, the court followed the reasoning of the Supreme Court of Canada, as I just mentioned. They said:

To deny prisoners the right to vote is to lose an important means of teaching them democratic values and social responsibility.

It is interesting that you have not taken due cognisance of the cases that I have mentioned. Surprisingly, you have not followed the dicta in those; you have chosen instead to follow a separate course. As to the object of punishment and deterrence, the court again favoured the Sauve judgment insofar as it found no evidence in support of the proposition that disenfranchisement deterred crime and it found that a blanket removal of the vote from prisoners per se disclosed no rational link between the punishment and the offender.

This is an interesting proposition. If the matter is relevant to the removal of the right, it might be a legitimate purpose or aim or object. But where there is no rational link then you really have to question whether the blanket removal is rational or legitimate. The course you are adopting stands in stark contrast to those two cases, the UK direction and the Canadian direction as well, which is surprising. I am happy for the coalition to substantiate their position. There could be the unique circumstances where you remove the right of a person who has offended the roll,
and you remove their right to vote because they have not exercised their right to vote. It is an offence. Therefore it is not considered a double punishment; it might be that the punishment fits the crime in the sense that you are punishing them for not voting by removing their right to vote.

Senator Abetz interjecting—

Senator Ludwig—I am taking it quite seriously. This is your proposal and I am curious as to how you are going to deal with it. If it is linked to punishment and deterrence, how do you justify the latter position? I am sure you will be able to reflect on it and provide an answer to the Senate for those reasons. As is said in the Current issues brief, ‘such punishment is for imprisonment rather than for the commission of an offence’.

The other case I am sure you are familiar with is the Grand Chamber judgment of Hirst v the United Kingdom. It is really instructive because of the general principles enunciated there. What I want to understand is how you say this legislation fits in with those general principles if you are really upholding democracy in a broad sense and if you say it is an improved position. The judgment states:

The Court stressed that the rights guaranteed under Article 3 of Protocol No. 1 were crucial to establishing and maintaining the foundations of an effective and meaningful democracy governed by the rule of law and also that the right to vote was a right and not a privilege.

Granted, under the Constitution it is not a right; perhaps it is an implied right, although it has not been tested recently. They went on to say in that judgment:

However, any limitations on the right to vote had to be imposed in pursuit of a legitimate aim and be proportionate.

I would like to hear from the coalition how the blanket removal of the right of prisoners to vote was both a legitimate aim and proportionate. There are circumstances, granted, in which you might be able to justify that removal. But what I am keen to understand from the coalition is how, in this instance of the blanket removal, it was both a legitimate aim and proportionate.

Of course, ‘the integrity and effectiveness of an electoral procedure aimed at identifying the will of the people through universal suffrage’ is very important. It is extraordinarily important to ensure that you do in fact achieve that. To destroy rights, to take away rights, is a severe measure; there is no argument about that. It should not be undertaken lightly. The principle of proportionality requires ‘a discernible and sufficient link between the sanction and the conduct and circumstances of the individual concerned’. So this is the other question that I pose to you. I am sure that in your reply you are going to be able to explain how your measure, given that it is a disfranchisement, has a discernible and sufficient link between the sanction and the conduct. It would be helpful to understand both the legitimate aim that you intend to use and the proportionality. In other words, is it proportional to the offence?

As I said in the earlier example, you can have a situation where, for a minor offence, a person loses the right to vote. They may end up in prison for two or three months for an unfortunate driving incident or something like that. That might fall during an election period and, as a consequence, they lose the right to vote. You might have a situation where someone has committed a more serious offence and is imprisoned for 2½ years but no election falls within that period, so they do not lose the right. I would not mind you explaining how you say that in those circumstances the measure is proportionate to the offence. You have one person who, because of the electoral cycle, unfortunately finds themselves in prison for two months and loses their right to vote. You might have an argument with regard to the person who is
imprisoned for 2½ years, but if that does not fall within the period of an election they do not lose their right to vote. They then come out and exercise that right accordingly.

If you say that the only reason for the losing of the right is the detention then how is that proportionate? How is it a legitimate aim directed at the type of offence? I am not making the case. I would like you to answer it so that it is clear how you can say that it is both legitimate and proportionate to the offence. It would be very helpful to understand that. What they said in relation to the UK provision was that it remained a ‘blunt instrument’. The judgment said:

It stripped of their Convention right to vote a significant category of people and it did so in a way which was indiscriminate.

What I want to find out from you is how you can say that it is not an indiscriminate use of disfranchisement, of removal of the right to vote. How do you argue that it is both a legitimate aim and proportionate if it is a blunt instrument? I thought it was helpful to at least lay out the argument so that you could work through some of these matters before us. The UK judgment went on to say:

Such a general, automatic and indiscriminate restriction on a vitally important Convention right had to be seen as falling outside any acceptable margin of appreciation, however wide that margin might be …

They argue that there is a margin of appreciation. You can have legislation that removes the right. It seems clear that they found that a blanket right could potentially fall outside any acceptable margin of appreciation. I want the coalition to answer and perhaps provide a cogent argument as to—

Senator Abetz—You can call us ‘the government’ if you so deign.

Senator LUDWIG—I much prefer ‘the coalition’. I want to know how they can say that this amendment is not an automatic, indiscriminate restriction and that it falls within an acceptable margin of appreciation. That would be helpful to understand the debate. I am seeking an answer to that from the coalition. What I have covered more broadly are the aims and objectives, and the issues concerning the case law that surrounds this. I need an explanation of the justification from this government—

Senator Abetz—Government. Thank you.

Senator LUDWIG—If it gives me an answer, I am happy to use ‘government’. That would be helpful. As I have indicated, the 1978 Nagel report also talked about article 3. I did want to use that, but I am not going have time now. I might have time to use that shortly. More broadly, if you look at the development, the government are now perhaps placed in the UK position. Quite rightly, you do not have article 3 of the protocol to consider, but you do have article 25 of the ICCPR. It would be helpful to understand how you would not offend article 25 of the ICCPR, given the matters that I have just addressed more broadly, and why it would not be found to be a breach of article 25 of the ICCPR. I have highlighted a couple of cases where not only could it be an inconsistent application but also the legitimate objective is unclear and whether it is proportionate to the outcome. The simple answer may be that you have just followed the US and copied. Choose your answer.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (6.22 pm)—I will respond to the contributions of senators, first of all to Senator Murray, who moved the amendment. When people are sentenced to a period of imprisonment their liberty is taken away from them, and every state has a different regime operating. You can quite properly assert that they do not stop being citizens whilst they are in prison. That is quite right. People that are not al-
allowed to vote because of being under the age of 18 and those that are seen as having a mental illness or deficiency do not lose their right to be citizens either, but they do not have a right to vote. In the prison system your right to visit and talk to your family as much and as often as you want is taken away from you. In fairness, what do you think is more important: that you have proper family relationships or the right to vote?

Let us have a look at some of these issues. The number of telephone calls you are allowed to make as a prisoner—limited. The number of letters that you can write, the clothing that you wear, things that you would normally expect—all restricted. Do judges say, ‘In sentencing this person to imprisonment, I will allow them nevertheless to wear a red, garish tie like Senator George Campbell was wearing today,’ or something like that? These extra things that you and I would expect to be our normal right are taken away from us.

I fully agree with you that as a society we do need to be forgiving and also accepting of rehabilitation. That is why I would not go down the path of some states in the United States—to take Senator Ludwig’s suggestion—where, if you have served any period of imprisonment, you lose your right to vote forever. I do not subscribe to that view at all. But during the period in which you are in jail I think that society has a right to expect that your removal from society will also remove you from casting a vote.

I have been asked about article 25 of the UN convention. I do not have the exact wording in my mind, but it is basically that you cannot have an arbitrary or unreasonable abolition of the vote for certain people. If this parliament so determines then, with great respect to the United Nations, I would not consider that to be arbitrary or unreasonable if that is what the democratic parliament has determined through the democratic process. Tasmania used to have this provision—and I think that it just changed it very recently—but nobody ever asserted under the state Labor government that that was somehow a breach. We have state governments—I think, Western Australia and New South Wales—that say that if you serve a period of imprisonment of one year or more you lose the vote.

I think that Senator Murray’s stance is a principled one, but one that I disagree with. I am not sure where the Labor Party are coming from on this. If they are saying that disallowing somebody the right to vote whilst they are in jail is arbitrary, I would have thought that putting it at 12 months or three years is also an arbitrary situation. For the benefit of Senator Murray, who took delight in quoting Justice Action, I understand that that is an organisation that disagrees with the concept of imprisonment, full stop.

Senator Murray—Well, I don’t!

Senator ABETZ—Yes. So, with great respect, they have a very different view from the way we believe we should deal with offenders against a society’s rules. Senator Murray also made the point that he believed that chances are there are some people in jails who should not be there. I happen to agree with him. That is found on appeal on the odd occasion. Or there might be laws with which you and I might disagree—and, might I add, the vast majority of the laws are state laws. But I think the argument there is: let us change those specific laws rather than use that as an argument to undermine the principle that this government is putting to us.

Senator Ludwig told us about the Canadian case and the UK case. These are all very interesting but, with great respect, I am not sure how relevant they are. In Canada I think they have the bill of rights to which they then
make reference. That is their own law and they have to have reference to it. With the United Kingdom, they signed up to some protocol with the European Union, I think, and as a result under the rule of law they have to abide by the interpretation of those rules and those laws. I happen to think that sometimes signing up to these international agreements or bills of rights can have unforeseen consequences, and clearly the United Kingdom government was of that view in trying to argue the case that they did, albeit unsuccessfully.

Senator Ludwig makes the point—and it is fair—that if you get a two-month period of imprisonment that falls during an election period you are denied the vote on that occasion, whereas you could get a two-year penalty that does not. Yes, that is right. But if your son was getting married during that time or if there was a funeral—you might get special leave to attend a funeral—or a friend’s graduation, or whatever: the period of time that you are in jail will have all sorts of varying impacts.

This is not an indiscriminate piece of legislation. We are saying that if, under the rule of law, the judiciary in this country has determined that you should be removed from society for a period of time, then we as a government say that during that period of time, judicially determined, you should be denied the vote, and of course as soon as that penalty is served you should get the right to vote again. I fully support that. In relation to penalties, they do vary. I think that illegal fishing fines, for example, are sometimes a lot heftyier than those for an unprovoked assault. What is the rationale for that? You have got to ask the state parliaments about that. But, all that aside, I commend the legislation as drafted.

**Sitting suspended from 6.30 pm to 7.30 pm**

**Senator CARR** (Victoria) (7.30 pm)—The opposition will be supporting the Democrats’ opposition to schedule 1, item 14, of the bill, because if it succeeds then the provisions of the bill will be altered to the effect that it will protect the status quo. However, we will not be supporting Democrat amendment (2), because it goes further than the current circumstances. We have a situation here where the government is proposing to disenfranchise prisoners serving a sentence of imprisonment of three years or more. There are 9,861 prisoners in that category. The additional measures that the government is seeking under this bill effectively disenfranchise all prisoners, some 19,000 people. As I read it, because people are enrolled in the electorates in which they lived prior to their imprisonment it would not necessarily have a great impact on any particular electorate. So in practical terms I cannot see that it has any particular measures associated with it. I do not think the government has explained its case, and I ask the minister: does this provision affect those who are on remand—

**Senator ABETZ** (Tasmania—Minister for Fisheries, Forestry and Conservation) (7.31 pm)—No.

**Senator CARR** (Victoria) (7.31 pm)—or those who are actually serving? So it does not affect those on remand but only those currently serving. Has there been any advice sought on whether or not this measure is constitutional?

**Senator ABETZ** (Tasmania—Minister for Fisheries, Forestry and Conservation) (7.32 pm)—Yes. Section 30 of the Constitution deals with qualification of electors:

> Until the Parliament otherwise provides, the qualification of electors of members of the House of Representatives shall be in each State that which is prescribed by the law of the State as the qualification of electors of the more numerous House of Parliament of the State; but in the
choosing of members each elector shall vote only once.

The important thing there is ‘until the parliament otherwise provides’, and I think it was in about 1902 that we had the first Commonwealth electoral act where the parliament ‘otherwise provided’.

Senator CARR (Victoria) (7.32 pm)—In terms of the position that Senator Ludwig was putting to you—and I emphasise that Senator Ludwig was advancing a series of questions; they were not necessarily positions he was arguing on behalf of the Labor Party—has there been any consideration of whether or not this provision will breach our international treaty obligations?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (7.33 pm)—I thought I had answered that prior to the dinner break. Senator Ludwig provided two examples to us: one was a Canadian one, based on their bill of rights, and the other was a UK situation based on a protocol in relation to the European Union that I accept I am not fully acquainted with. The answer in relation to both of those was that if countries have a bill of rights or a constitution, or have signed up to certain documents, then—if you believe in the rule of law, as I happen to do—they have to abide by them. In Australia we do not have a bill of rights such as the one which is now interpreted in this interesting way by the Supreme Court of Canada, or a protocol such as exists in the European Union. I might add that the United Kingdom government fought against the interpretation put on that protocol by the equivalent of the European court.

In relation to any international treaties we might be signatory to—that is article 25 of the International Covenant on Civil and Political Rights. While I do not have the exact wording in my mind, the wording is to the effect that you should not arbitrarily or unreasonably withhold the vote from anybody. I would have thought if this parliament has duly considered a provision for legislation and legislated accordingly then it is not for others around the world to suggest whether our legislation is reasonable or unreasonable or arbitrary, given that we do of course have restrictions on people’s franchise in relation to the age of 18 and in relation to their mental capacities.

Senator CARR (Victoria) (7.35 pm)—The question was about whether or not the government had sought legal advice. You have indicated that you have sought legal advice on the question of constitutionality—in relation to the Australian Constitution. I am asking: have you sought legal advice in regard to our treaty obligations? You have referred specifically to article 25 of the International Covenant on Civil and Political Rights. I will ask again: has the government sought legal advice on whether or not this provision is compliant with that aspect of that covenant?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (7.35 pm)—I am reminded that the test is reasonableness not arbitrariness, and the government believes that it is reasonable to remove the right to vote from people who are serving a sentence of full-time imprisonment as a result of the disregard they have shown for the laws of the parliament or parliaments of Australia. That is the government’s position. Whether specific legal advice has been sought on that or not, I do not know, other than to say that I think it is more than reasonable for this parliament to make such a determination, and the fact that it has been subject to debate and consideration in this place would indicate that it is not something that is done arbitrarily but something that is done on a reasonable basis.
The Labor Party want to take some shelter in a halfway house position: if you serve a period of imprisonment of more than 12 months or 3½ years or whatever, then somehow it is reasonable, but for anything below that it is unreasonable. There is also the argument that the states have it for 12 months. Why is it reasonable to deny the vote to somebody who gets sentenced to jail for 365 days, but if they get sentenced to only 364 days they get the vote? Why should that extra one day visit upon the prisoner the loss of their vote? That is the difficulty that the Labor Party have, and that is why I made the point before the dinner adjournment that at least the Democrats have a principled point of view—one that I disagree with—that all prisoners ought to get the vote. That is fine; we happen to disagree on that. But, when the Labor Party start trying to delineate between those sentenced to 364 days, who are deserving of a vote, and those sentenced to 365 days, who are not, they should explain to this place what the difference is of that one day of imprisonment and why it justifies the loss of one’s vote. I think our position is a lot more reasonable.

**Senator CARR (Victoria) (7.38 pm)**—‘Reasonable’ and ‘arbitrary’ are not necessarily mutually exclusive. The point that the minister makes here is essentially that it is the opinion of the government that this is both reasonable and not arbitrary. What we are seeing here—and it is a matter that I think we will see again on a number of occasions this evening—is that ultimately what will count are the numbers in this chamber. That is the basis on which the government regards it as both reasonable and not arbitrary—no other. It is the numbers in this chamber.

**Senator Abetz**—That is wrong.

**Senator CARR**—We will discuss a number of matters tonight where we will see that it has not been the policy of this chamber, of this parliament, on many of these questions. But what we are seeing in this particular matter is the first of a series of questions that will come before us tonight whereby the government will seek to impose its agenda with regard to the electoral laws of this country.

The minister makes great play of the international situation. He says that he does not particularly like being identified with the United States position on this matter. I understand that. In much of what we are seeing tonight, he will have to take a different view because he will be able to see the introduction of a United States style electoral system here. We know that, in the United States, 48 of the states deny the right to vote for any serving prisoner, 33 states disqualify those who are on parole and eight states deny the vote to not only those in prison but those who have been convicted. European countries such as Ireland, the Netherlands and Spain have no restrictions on people’s right to vote based on whether they are prisoners or otherwise, whereas a number of eastern European countries clearly have quite significant restrictions on those matters, and, as the minister has indicated, they may well be subject to change themselves, given recent decisions of the courts in Europe.

However, the matter before us now is whether or not it is fair and reasonable to disenfranchise people who are in jail serving a sentence of this duration. We take the view that it is not. We will support the Democrats’ opposition to schedule 1, item 14, but we will not be supporting Democrat amendment (2), because, essentially, we do not want to go to the next stage. We think the current position is an appropriate compromise and middle course on this matter.

**Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (7.41**
Very briefly, for the sake of completeness, I can refer to the full wording of article 25, which I now have in front of me. I was talking about arbitrariness and reasonableness. In fact, the test is ‘and without unreasonable restrictions’. Therefore the article quite appropriately contemplates that there will be restrictions on the franchise and therefore the only argument is what is reasonable in all the circumstances. The test for reasonableness is that ‘unreasonable’ means that no reasonable person could consider it reasonable.

Senator Carr asked about what has changed, other than the numbers in the Senate. The last time we debated this issue, I recall that the government’s view was that every prisoner should be denied the vote. The legislation at the time was for, I think, five years—and Senator Murray confirms that—and, in a spirit of compromise, the government and opposition agreed to the 3½-year mark that we are at now. There is no magic in these figures. I commend the Labor Party for having changed its position and accepting 3½ years as being a compromise. But we as a government were always of the view that nobody who is serving a full-time period of incarceration should get the vote. And let me just make it clear to Senator Carr that for people on remand, in home detention and things like that it would be different. We have held that view, and our view has not changed because of the election result. We believe that, that having been our view for such a long period of time, when the people give us a mandate we are entitled to implement those policies that we went to the election with.

Question put:
That schedule 1, item 14, stand as printed.
The committee divided. [7.47 pm]
(The Chairman—Senator JJ Hogg)
Senator MURRAY (Western Australia) (7.51 pm)—I move:

(2) Schedule 1, item 15, page 7 (lines 16 to 22), omit subsection 93(8AA), substitute:

(8AA) A person who is serving a sentence of imprisonment for an offence against the law of the Commonwealth or of a State or Territory is entitled to vote at any State election or House of Representatives election, unless:

(a) the person is of unsound mind; or
(b) the person has been convicted of treason; or
(c) the person has had his or her right to vote removed by the decision of a judge as part of a sentence.

I do not intend to speak at length on this, because the substantial debate has been had. However, this is a materially different amendment that we are putting before the chamber, and it deserves to have a vote. For those who are waiting in eager anticipation, I will not be calling a division on this one, so you will not have to worry about that.

This amendment reflects our strong opinion that the vote should only be taken away from adult citizen Australians if they are of unsound mind, or if they have been convicted of a crime against the state—namely, a crime against citizenship, such as treason—or if the judge concerned has taken the view that the particular crime that they are adjudicating on is such as to warrant a removal of the right to vote in addition to the loss of liberty. If you are determined that some crimes should in fact attract the additional judicial penalty of loss of vote, it is our view that that should be left up to a judge. It should not be for this chamber to disenfranchise prisoners en masse.

I note that Labor have already said that their view is that they want to leave the law as is. I hope that that does not mean that they are closed to the principles I enunciate. This amendment is predicated on the fact that removing the right to vote from a prisoner should be a legitimate and proportionate punishment attached to the particular offence the prisoner is in jail for.

The Democrats move this amendment in the name of upholding basic human, democratic and civil rights. We move it on constitutional grounds, because we believe it accords with Australia’s Constitution that prisoners should have the right to have a vote and because we believe it is part of Australia’s obligations under the international covenant on social and political liberties. We move it to uphold our proud history of leading the world in enfranchisement. Minister, I understand your arguments counter to that, such as the fact that the question of reasonableness and so on resides in the various statutes, so I understand that it is an arguable concept. Nevertheless, it is one we hold.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (7.54 pm)—The Greens support Senator Murray’s amendments. We do not believe that it is the role of politicians to be interfering in the universal right of people to vote—including prisoners, with the complications that come with that. That said, I have a question about clause 8 of schedule 1. I will leave it to you, Chair, as to whether I can ask that now or after this matter has been dealt with.

The TEMPORARY CHAIRMAN (Senator Ferguson)—It must be a different section that you are talking about, Senator Brown. We will do that when we get to it. I am advised, Senator Brown, that you can debate that when we move on to the next question, which will be whether the bill should stand as printed. When we get to that stage, which will be after this amendment, you can discuss that.
Question negatived.

**Senator MURRAY** (Western Australia) (7.56 pm)—The Australian Democrats oppose schedule 1 in the following terms:

(3) Schedule 1, item 36, page 10 (line 29) to page 13 (line 8), **TO BE OPPOSED**.

**Senator BOB BROWN** (Tasmania—Leader of the Australian Greens) (7.56 pm)—I want to ask the minister about what is meant on page 6. We are dealing here with schedule 1, part 8. This is for the purposes of who gets the electoral roll. It says:

... a prescribed person or organisation that verifies, or contributes to the verification of, the identity of persons for the purposes of the Financial Transaction Reports Act 1988 ...

**Senator ABETZ** (Tasmania—Minister for Fisheries, Forestry and Conservation) (7.56 pm)—Mr Temporary Chairman Ferguson, it is good to see you in that role.

**Senator Faulkner**—It is not good to see you in your role, Minister.

**Senator ABETZ**—I can understand that. If I were sitting in opposition and watching the government introduce its policies, I suppose I would be upset as well, Senator Faulkner. Let us talk about the question.

**Senator Faulkner**—I am making the point that you are hopeless.

**Senator ABETZ**—You keep advising Mr Latham. I think you were very good at that. I am not sure I want to take your advice, though. Senator Brown, in relation to the Financial Transaction Reports Act, this parliament in fact put a requirement on financial institutions to provide reports and obtain verification. It was considered appropriate by this place that the electoral roll be made available for those institutions so they could abide by the requirement that this parliament had imposed on them. Those financial institutions no longer do that work. They have outsourced it to a third party. After consideration, it was agreed that they should have that access.

To take you through the history of it: there was a unanimous recommendation of the 2001 election report of the Joint Standing Committee on Electoral Matters that suggested that there should be a limitation on who has access to the electoral roll for commercial reasons. That was something that I, as Special Minister for State at the time, thought was appropriate. It went through this place with virtually no discussion. One of the unforeseen consequences was that these financial institutions on whom we had put this duty were substantially disadvantaged. As a result, we are seeking to get rid of that unintended consequence so that the financial institutions can continue with their obligations under the Financial Transaction Reports Act.

**Senator BOB BROWN** (Tasmania—Leader of the Australian Greens) (7.59 pm)—Would the minister please indicate which financial institutions and which third parties now get access to the electoral rolls and what limitation on the use of those electoral rolls or dissemination of information from those electoral rolls is placed upon those organisations?

**Senator ABETZ** (Tasmania—Minister for Fisheries, Forestry and Conservation) (7.59 pm)—It is part of the anti-money-laundering provisions. Somewhere in my mind I have a figure of $10,000. We do not seem to have an expert on the Financial Transaction Reports Act in the advisers box at the moment, but what I can indicate is that it applies to all financial institutions that have a duty to report certain financial transactions, with a view to us as a society clamping down on money laundering. That was the purpose of the Financial Transaction Reports Act 1988. It was working well with the use of electoral roll until we made those amendments after the 2001 report of the Joint Standing Com-
mittee on Electoral Matters. It had unforeseen consequences. As a result, we are seeking to address the unforeseen consequences of those amendments.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (8.01 pm)—I ask again which sorts of financial institutions the minister is referring to. I take it from the senator’s reply that the financial institutions had access to the electoral rolls for use, that was taken away in 2001 and this is to effectively restore that access. I did ask who the third parties are that the minister referred to. Could you tell us who they are and give an example?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.01 pm)—The financial institutions covered are those that are defined in the Financial Trans- action Reports Act 1988.

Senator Bob Brown—Yes, but who are they?

Senator ABETZ—Banks, building societies, credit unions and those sorts of financial institutions. The capacity of the institutions themselves to have access to the electoral roll was in fact maintained, but what nobody was aware of or cognisant of at the time was that that had in fact been outsourced to one company that is not a financial institution.

Senator Bob Brown—Who is it?

Senator ABETZ—The name of that company is Baycorp. That is the company that provides that service to financial institutions around Australia. It is cheaper for the institution and therefore cheaper for those who deposit funds et cetera to have this outsourcing situation. It was not intended that we would make it more difficult to fight money laundering with the amendment that was carried some time ago. Therefore, we want to ensure that the fight against money laundering can continue unhindered. That is what they are restricted to with this amendment. The other restrictions on the use of the electoral roll remain.

Senator MURRAY (Western Australia) (8.03 pm)—I think the minister’s memory is accurate. I think it is a $10,000 threshold for reporting dodgy transactions under that act. Turning to schedule 1, item 36, which we seek to oppose, the item concerned would insert a new section 99B—I am taking this from the explanatory memorandum—into the Commonwealth Electoral Act which provides that, if a person has been notified by the immigration department that they are eligible for Australian citizenship and will become Australian citizens between issue of the writs and polling day, they are entitled to apply to the AEC for provisional enrolment before 8 pm on the day of the close of rolls—that is, the third working day after the issue of the writ.

That sounds like a generous concession. In fact, it is a concession in terms of what the government proposes. But, in terms of the existing law, it in fact reduces the period that new Australian citizens can register from seven days to three days following the calling of the writs. For that reason we think it is consistent, since we do oppose the changes to the closure of rolls, to oppose this particular provision.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (8.05 pm)—We also express our opposition to this provision to reduce the time available for people to become enrolled and therefore to vote.

Senator CARR (Victoria) (8.05 pm)—The opposition will not be supporting the Democrat opposition to this item, on the basis that, while we are very concerned about the whole question of the early closure of the rolls, the particular aspect that the Democrats are dealing with here on my reading of it is very narrow. It is to deal with the question of
the application of provisional voting for migrants seeking Australian citizenship whereas the more appropriate response to these matters is to actually knock out the entire section which goes to the issue of the closure of the rolls. That is what we do in our opposition to schedule 1, items 20, 24, 28, 29, 45, 51, 52 and 104 to 108, and similarly with the next question on a related matter. I would propose that at that point we will discuss in some detail the question of the early closure of the rolls. But I do think that this particular aspect that the Democrats are pursuing is far too narrow an approach on this matter. We do not have a particular problem with providing new citizens with the opportunity to enrol provisionally.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (8.07 pm)—Just to clarify it, my understanding is that Senator Murray’s narrow provision is not covered by provisions to come down the line by Labor. I would be encouraged to relax about it if that were the case. What Senator Murray has outlined is a new provision under section 36 which means that people who are applying for citizenship have four days less in which to do so and therefore some of them will be cut out of having the opportunity to vote when an election is called. If that is not covered by a Labor amendment, I am motivated to strongly support the Democrat opposition to this item before us.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.08 pm)—This provision for intending Australian citizens who have their applications under way has not previously existed. We are therefore making it easier for those who are going through the citizenship ceremony during the period of the election campaign to get on the roll in anticipation of that citizenship ceremony taking place. So we are in fact extending the franchise for new Australians in a manner that has not occurred before. Just for the record, I think that indicates that some of the criticisms about the government’s motives et cetera might be somewhat misplaced. We will be opposing Senator Murray’s proposal.

Senator MURRAY (Western Australia) (8.09 pm)—I would always be happy to withdraw an amendment if I were wrong; so I want to establish if I am wrong. My reading of the present law is that a person who is eligible for Australian citizenship and will become an Australian citizen in the seven days between the issue of the writs and polling day could enrol to vote. So there is a category of citizens presently who, if they become Australian citizens between the issue of the writs and the seven-day closure, could get onto the roll; whereas the new provision would say that that could only happen within three days. However, Minister, you are talking about a second category of persons who, under present law, if they became a citizen between the seventh day and let us say the 33rd day could still get on the roll because it was known that they would be a citizen in that time. Is that what you are saying to us? I have the two categories in mind, and I was considering the first category. Are you saying that there is a second category, who presently cannot get on the roll because they are between the seventh and, say, the 33rd day, who can now get on the roll? Is that accurate?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.10 pm)—Yes. I will keep a very close eye on Mr Moyes in relation to this to make sure that I am absolutely accurate on this for you, Senator Murray, because it is an important issue. At the moment, if you are becoming an Australian citizen, you can enrol only if you actually are an Australian citizen. Therefore, as the law stands, in that seven-day period after the writs are issued, you can become
enrolled up until the end point of the seven days if you have become an Australian citizen. After that, if you have become an Australian citizen, you are denied the vote and you cannot vote. What we are saying in our amendment is that, in the three-day grace period that we are allowing for to change your details on the electoral roll after the writs are issued, where other citizens can seek to change their address et cetera, prospective citizens can provisionally enrol on the basis that they will become an Australian citizen right up to and including election day. So I think we are in fact increasing and expanding the potential franchise, especially for new Australians. I hope that explanation is sufficient to have Senator Murray withdraw his amendment.

Senator MURRAY (Western Australia) (8.12 pm)—That was a helpful remark. Just for clarification—and you can acknowledge it if I am accurate—I assume that a prospective citizen expected to become a citizen will be determined by the date of the ceremony.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.13 pm)—That is right.

Senator MURRAY (Western Australia) (8.13 pm)—So we have a situation where a cohort of persons are having their present enrolment capacity reduced from seven days to three days but a second cohort within the same ambit of new citizens will in fact have an entitlement to which they did not formerly have. If that is the correct summation, I will continue to oppose item 36 of schedule 1, but I will not be overly sad if it is not voted for. We will not call a division on it.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.13 pm)—I will quickly seek to dissuade Senator Murray from that course of action. Whilst there are only the three days as opposed to the seven days, there is no doubt in my mind that a lot more people will, as a result, be able to vote from the brand new Australian category—if I can call it that—having become citizens between the issue of the writs and election day, including election day itself. In the past, if you had not become an Australian citizen within those seven days after the writs were issued and you became an Australian citizen on the eighth day after the writs were issued, you were denied the vote. We are saying that you will get the vote from the eighth day right through to whenever the election day may be.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (8.14 pm)—I find this a little bit disconcerting. Can the minister say that nobody will be disadvantaged under this amendment as against the law as it stands?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.14 pm)—Anybody who would have been entitled to enrol within those seven days will have the capacity to provisionally enrol or enrol, if they become an Australian citizen, within those first three days. So there is no doubt that the franchise will in fact be increased for our new Australians.
reduced from seven days to three days. We know that those are two massive limitations on the franchise. And, because of figures that have been provided in evidence to the Joint Standing Committee on Electoral Matters and to the Senate Finance and Public Administration Legislation Committee, we know precisely how many people in those categories would have been affected in the 2004 election. As the minister would appreciate, we know those figures for not only the 2004 election but for electoral events prior to the 2004 election.

Minister, given that there is the very defined group of not new enrollees but, in fact, new Australian citizens—that seems to be the best way of describing them for the purposes of the debate that we are having before the committee at the moment—and given that you have indicated that there will be some extension of the franchise for that number of new Australian citizens, could you provide the committee with an indication of precisely how many citizens would have been included in 2004 as a result of these changes? Or—and I understand that the precise figures might not be available because, of course, the provisions of the act were different at that time—could you provide the estimations of the Australian Electoral Commission? You used the term ‘a lot of people’. I would just like to know either a precise indication or a clear and best estimate of what ‘a lot of people’ actually means.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.18 pm)—I am delighted that Senator Faulkner hangs onto my every word and seeks to find out exactly what is meant. If I used terms such as ‘a lot of people’, ‘many more’ or a term to that effect, what I was pointing out was that at the moment you can only get a vote as a new Australian if you are given Australian citizenship during the seven-day period, whereas what we are suggesting is that you ought to be able to get the vote if you provisionally enrol in anticipation of that, right up to and including election day.

So, in very rough terms for ease of calculation, I would anticipate that we have the same number of residents becoming Australian citizens on a weekly basis. There are citizenship ceremonies all over the country at different occasions, and therefore one week’s worth in comparison to what might be four or five weeks worth may well mean that four or five times as many people could fit into the category of ‘a lot of people’ or ‘a lot more’. So what you have is potentially, in rough terms, four or five times as many people if they provisionally enrol. When and if they avail themselves of that, of course, remains to be seen, but it is something that, in my mind, will clearly extend the franchise for the new Australians and allow them to vote on the first possible occasion, as long as they become an Australian citizen between the issue of the writ and election day.

Senator FAULKNER (New South Wales) (8.20 pm)—Minister, I am afraid that you have not yet been able to provide an answer to my question. I understand what you are saying to the committee in terms of how you are defining the new class of electors. I think that all the members of the committee understand the definitional issue. It has been clarified somewhat in this debate, which has been raging now for a good half-hour on this particular matter. So I think we understand the definitional issue. What I am asking is whether you can put some flesh on the bones. How many electors are we talking about when you proudly stand up, beat your breast and say that the franchise is being extended?

Senator Abetz—There was no chest-beating.

Senator FAULKNER—That is what you have done. You have stood here and said,
'This is a move in the right direction.' You are actually saying that the government, as a result of this particular provision, is extending the franchise. That is what you have said, and you have claimed credit for it.

Senator Abetz—That’s right.

Senator Faulkner—The committee is trying to establish whether you are right or wrong on that point, but what I can tell you and what I do know in relation to the other provisions regarding the closure of the rolls that you are putting forward in this bill is that, on the figures available from the AEC for the 2004 election, 78,908 new enrollees and 78,494 re-enrolments occurred in the period available. With the changes that are being made in this legislation, virtually none of those people will be enrolled. We also know that over a quarter of a million others changed their enrolment details in the seven days that were available. So when you get up here before this committee, puff yourself up and say, as I said, ‘We’re extending the franchise,’ the truth is the franchise is being massively limited for new enrollees and re-enrollees, and the franchise is also being limited, and unfortunately manipulated, in relation to those persons who want to change their enrolment details.

The truth of the matter is—and every senator in this chamber and every parliamentarian in this parliament knows it—that most people are not as obsessed as we all are about the electoral process. Of course the calling of an election triggers a person’s interest in the voting process. It triggers the need for them to make sure that their enrolment is accurate, that they are enrolled for the right address or that they are on the roll if they are an 18-year-old or if their enrolment has lapsed for some reason. As I have said before, these people are not rorters or manipulators. They are just ordinary Australians who want to cast a vote.

We know the franchise is massively affected for literally tens of thousands of people in that category. If you are saying the franchise is being extending in one very small and very defined area, put your money where your mouth is and tell us how many people are being affected by this new provision. I know the answer: it is comparatively a handful. If what you are saying to the committee is right—and I hope it is—it is a handful of people. The facts are that the franchise is being deliberately limited by this legislation in relation to new enrollees and re-enrollees. They will get no chance at all of getting on the roll—and of course over a quarter of a million people who want to make sure their enrolment is up to date and accurate are not going to have the opportunity to do that, and they will be voting in the wrong electorate. So do not come into this committee and talk to us about any extension of the franchise. This bill represents the most significant limitation of the franchise in this country since Federation. That is what it represents: a massive limitation of the franchise. It is absolutely undemocratic at its core.

Senator Forshaw (New South Wales) (8.26 pm)—I firstly want to endorse the excellent remarks of Senator Faulkner.

Senator Faulkner—Thank you very much.

Senator Forshaw—I am happy to. Secondly, I want to take up the minister’s comments of a moment ago where he tried to justify his proposition that the government is advancing the rights of provisional new citizens by talking about averages of citizenship numbers from week to week or month to month. Frankly, the proposition is clearly one which has been determined but which they are now trying to find an argument in support of. There isn’t one!

Senator Abetz interjecting—
Senator FORSHA—I would assume that, as a senator, the minister in this debate would have attended a few citizenship ceremonies. I have certainly attended many. What I know from the area where I live in Sydney and other areas is that citizenship ceremonies are usually held every couple of months. Certainly in the Sutherland shire area—the electorates of Cook and Hughes—a large citizenship ceremony is held on Australia Day. It is one of the largest throughputs of new citizens in the country on that day. The Sutherland Shire Council holds another ceremony, on average, every three months. The problem with the minister’s response was that he asserted that the possibility that so many new citizens who have already had their citizenship granted will lose their entitlement to get onto the roll under the government’s proposals because they have not enrolled before the day that the writs are issued will be balanced by the extension of the franchise to people who are going receive citizenship after the seventh day through to election day.

Senator Murray—The third day under the new one.

Senator FORSHA—It will be the third day under the new legislation, but under the current provisions of the act it would be the seventh day. The minister has tried to say that there is a large number—he called it ‘a lot more’—of prospective new citizens who would get their citizenship between day three or day seven and the day of the election, and they will be able to get themselves on the roll in advance and that might balance out or equate to the number that may have got their citizenship in the last 12 months or so but have not got around to putting themselves on the roll.

Frankly, that is just an absolute nonsense. As I said, if you know anything about the way in which citizenship ceremonies occur around this country, you know that they are not held every week. The operation of this provision that the minister is lauding as somehow an extension of the franchise is entirely dependent upon whether the election campaign period coincides with the citizenship ceremonies. It could well be, for instance, that in the area where I live there may be no citizenship ceremonies programmed during the 33 days of the election campaign. So in that situation nobody is going to be able to avail themselves of this supposed extension of the franchise.

However, as Senator Faulkner has pointed out, and as Senator Carol Brown and I pointed out in the minority report of the Senate Finance and Public Administration Legislation Committee, thousands of people are going to lose the opportunity that they currently have to put themselves on the roll. That includes all those people who may have gained their citizenship in the period preceding the calling of the election but who have not got around to putting themselves on the roll. It seems that the government’s approach on this is that if you did not get around to doing it, it is tough luck, bad luck—you should have been a lot more enthusiastic, you should have been on the ball, you should have got yourself down to the electoral office and put yourself on the roll to make sure that on the day the election is called you are on the roll. And that applies to new citizens. That is an argument they can advance; I just wish they would have the honesty to get up and say that that is their position, that this is a case of double jeopardy—if you did not get around to putting yourself on the roll before the day the election is called then you have lost the opportunity once the election is called.

The fact of the matter is that there are many people, particularly people who are turning 18, who will be affected by this. As I said the other day in my speech in the debate...
on the second reading, when federal elections are held towards the latter part of the year, often young Australians turning 18 are in the middle of studying for their HSC or even doing their exams. Their minds might be preoccupied with what is an incredibly important thing for them and they might not have got around to putting themselves on the roll. There might be citizens who have been granted citizenship within the couple of months prior to the day the election writs are issued and who have not got down to the electoral office to put themselves on the roll. The current provisions in the act at least give them seven days to do that. These proposals from the government, these changes to the act, remove those opportunities completely.

You cannot come into this parliament and wax lyrical, pat yourself on the back, pump yourself up and beat your chest and say, ‘As a government we are going to take away the rights of these thousands of people who currently have them but we are going to find a small cohort of potential new citizens who, if they are lucky enough to have a citizenship ceremony programmed during the election campaign period, will be able to get themselves on the roll.’ This is just sheer and utter hypocrisy. It is sheer and utter banditry when it comes to the rights of those people who have an opportunity to put themselves on the roll. You do not promote democracy, respect for the electoral process and respect for the government by telling people their seven-day period of grace is going to be removed and then turn around and run some fictitious argument about a very small category of people and say, ‘Look how good we are; we are extending the franchise.’

I would like to know from the minister: what evidence was put before either the Joint Standing Committee on Electoral Matters or the Senate committee that went to this particular issue of these potential new citizens saying that the act should be amended to give them an opportunity to get onto the roll? I am not suggesting that it would not be an extension if you maintained the current provisions. But there was no evidence brought forward by anybody complaining about that. There was no evidence or complaint made about the current provisions but there was plenty of evidence put forward complaining about the other part of this equation, which affects huge numbers of Australians, new citizens and people who will get the opportunity to enrol for the first time. At the end of the day, this proposition the minister is advancing is a complete and utter furphy.

Senator MILNE (Tasmania) (8.35 pm)—I rise to support the remarks of the last couple of speakers, particularly those in relation to the government’s proposition about extending the franchise. In her recent paper, ‘Damaging democracy? Early closure of the electoral rolls’, Marian Sawer from the ANU makes it quite clear that closing the roll when an election is announced will disenfranchise about 80,000 new voters and impact particularly on young people. And, as Senator Faulkner said a little while ago, the reduction in time for voters on the roll to change their address details will create difficulties for some 200,000 people. She also says:

In 2001 83 000 first-time voters enrolled in the week between the issuing of the writs and the closing of the roll.

That is 83,000. Sawer goes on to say:

Many put off enrolling until an election is announced. Other comparable democracies are trying to increase the electoral participation of young people, with Canada—

Senator Abetz—Mr Temporary Chairman, I rise on a point of order. I do not want to curtail discussion on this but we are in fact discussing Senator Murray’s amendment. The opposition have an amendment that covers all the matters that Senator Faulkner, Senator Forshaw and now Senator Milne are
canvassing. I do not care how often we hear the same thing, but for the sake of the orderliness of the debate I suggest that we contain our remarks at this stage to Senator Murray’s amendment because there will be an opposition amendment going to these other matters.

The TEMPORARY CHAIRMAN (Senator Marshall)—Thank you, Minister, but there is no point of order.

Senator MILNE—Thank you, Mr Temporary Chairman. Whilst I appreciate what Senator Abetz is saying, the point here is that he was the one claiming to extend the franchise in relation to this matter. I am pointing out that he is wrong about that and explaining why. If necessary, we will repeat it again and perhaps later in the night he will change his mind.

What I was saying is that Canada allows young people to enrol on the day they turn up to vote. New Zealand gives them until the day before the election. In New Zealand they can now ask for their enrolment form through a free text message, which is very popular with young people. Australia is intending to close its electoral roll for new voters far earlier than comparable democracies and at least 33 days before an election. What is happening here is the attempt to prevent at least 83,000 young people from getting on the roll. I am aware that Senator Abetz has previously denied that there is any malevolence in this. He says: ‘Well, the writs are issued in Tasmania and New South Wales straight away and no-one has ever claimed that there is a democratic deficit in those states.’ But in fact, as Professor Sawer points out, in Tasmania the Electoral Act requires there to be at least five days between the proclamation dissolving parliament and the issuing of the writs. So it is disingenuous for the minister to suggest that somehow what he is doing is a similar practice.

I make the point quite clearly that, whilst the minister may be claiming to extend the franchise, in fact we are seeing the early closing of the roll and the absence of fixed terms making sure that a large number of young people—no doubt more than 80,000, come next year’s federal election—will be prevented from voting. Of course it is no coincidence that a large number of those young people tend to vote for progressive parties. One cannot help but think there is another agenda running here in terms of the reason for closing the rolls. This is an anti-democratic measure. And to try to suggest that the provisions in relation to citizenship are somehow extending the rolls, well, we will see—the proof will be in the pudding after next year.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.40 pm)—I hope we do see the proof in the pudding, because that suggests that the bill will stand as printed. Whilst I admire the attempts of Senators Faulkner and Forshaw to muddy the waters and change the debate, the simple fact is that my intervention in this debate was in direct response to the amendment of the Australian Democrats, which, as I was seeking to explain, would take away the franchise. We would not be running this argument at all but for the suggestion of the amendment of the Australian Democrats. It will be very interesting to see if the Labor Party support the Democrats’ amendment—

Senator Carr—We’ve already expressed our view!

Senator ABETZ—And of course Senator Carr has quite rightly already expressed the Labor Party’s view on this, with carriage of the bill, so one wonders why the two Fs—Forshaw and Faulkner—had to involve themselves in the debate other than to muddy the waters. Senator Forshaw, the logic is pretty clear. If you become entitled to vote
during the election period, then there is already a provision to enable you to enrol provisionally. Of course that is for 17-year-olds. They can enrol because they might become eligible to vote right up until election day. What we are doing is providing a similar provision for the benefit of those who will become Australian citizens during that period, so they are able to get themselves on the roll.

**Senator Forshaw**—How many are there? You haven’t told us yet. How many are there?

**Senator ABETZ**—“How many are there?” is an interjection that I will take and which, of course, nobody knows the answer to. How many people will vote at the next election? Nobody knows the answer to that. How many young people, how many old people? We do not know. All we can do is try to establish the basic principles under which the Commonwealth Electoral Act will apply. That is what we have done. Trying to put a figure on it would be a guess. But, in general terms, there is no doubt in my mind that more people will become entitled to vote as a result of this particular provision. I think Senator Murray seeking to have it removed is not going to assist our new citizen community. In relation to citizenship ceremonies, which Senator Forshaw says he attends regularly, so do I.

**Senator Webber**—So do I!

**Senator ABETZ**—Good on you, Senator Webber. She goes as well.

**Senator Webber**—I do! Not to the same ones as you, though.

**Senator ABETZ**—And who is there? The Australian Electoral Commission. They do a fantastic job. Part and parcel of our policy is to get people to actually apply under the provisions of the electoral law which Labor put in—that is, you have to get yourself onto the roll within a certain period. Twenty-one days after becoming eligible you should get yourself onto the roll or, if there are changes, to make those changes known. What we intend to do—and we have already been doing it—is to increase the advertising amongst young people, with Rock Enrol et cetera, to get them enrolled.

**Senator Webber**—I think they’ve moved on from rock-and-roll, Senator Abetz.

**Senator ABETZ**—No—Rock Enrol. They go to the Big Day Out with a special—

**Senator Webber interjecting**—

**Senator ABETZ**—This is the unfortunate thing: completely ill-informed, we have this affected cackle from those opposite, not knowing what the Australian Electoral Commission actually does to encourage people to get on to the electoral roll.

**Senator Webber**—It’s a long time since there’s been rock-and-roll at the Big Day Out.

**Senator ABETZ**—I will not even bother with that.

**The TEMPORARY CHAIRMAN** (Senator Marshall)—Minister, yes—if you would not respond to that. I remind the committee that the question before the chair is that item 36 stand as printed.

**Senator FAULKNER** (New South Wales) (8.45 pm)—I understand that in my absence I have been called ‘one of the two Fs’—fair enough—by the A over there. Senator Abetz asked why I intervened in the debate. I intervened in the debate, even though the opposition is supporting the government on this provision, as you rightly say, to point out the utter and stupendous hypocrisy of your statements about the extension of the franchise, which I think stand utterly repudiated by the facts. There is no extension or expansion of the franchise here at all. You are claiming great credit for, in very small measure, in a very limited area, partially giv-
ing back what you are taking away through other provisions of the bill. It is as simple as that.

You are the Minister representing the Special Minister of State on this legislation—but in fact it was Senator Abetz who was the minister responsible for this legislation originally—that represents the most massive limitation of the franchise in Australian electoral history. The vote is being ripped off people left, right and centre. New enrollees, young people particularly, are going to be stopped from enrolling, stopped from participating in the democratic process and stopped from casting a vote in the next elections. It is true also of those people who are re-enrolling and in the case of many people who want to change their electoral enrolment to the right electorate—the electorate in which they reside at the time of an election being held. In other words, very responsible people who want to do the right thing by the electoral process and who want to vote in the right electorate—where they live—are going to be blocked from doing that. This is a massive limitation of the franchise, so I am explaining, Chair, why I intervened in the debate. I intervened in the debate for a little bit of a reality check on this minister, who is massively misleading this committee and massively misleading the Senate.

Senator FIELDING (Victoria—Leader of the Family First Party) (8.49 pm)—Can I just clarify something here? I thought schedule 1 item 36 in actual fact had very little to do with the opposition’s schedule 1 items 20, 24, 28, 39 to 45, 51 and 52, which are later on. I think that this is a new inserted provision, which Family First will be supporting because it is separate. The issue of closing the rolls after three days rather than after seven is actually to be dealt with further on in the committee process. Can someone clarify that for me to make sure that we are not talking about two separate issues?

Senator Faulkner—That’s quite right. You’re absolutely right.

 Senator FIELDING—I do not know why we are having a debate about the second amendment later on rather than now.

Senator Abetz—Senator Fielding is quite right. I raised a point of order.

The TEMPORARY CHAIRMAN—All I can do is remind the committee that the question before the chair is that item 36 stand as printed.

Senator MURRAY (Western Australia) (8.50 pm)—Regrettably, Senator Fielding was not here—

Senator Faulkner—I forgive him for that.

Senator MURRAY—I do. Senator Fielding was not here when the debate was under way. For clarification for the senator—and the minister can correct me if he feels it is wrong—the government’s proposed amendment effectively deals with two separate sets of people who are about to become citizens of Australia. For one set of people who got their citizenship within the seven days after the issue of the writs, their period for registration to vote in the election is shortened. They lose enfranchisement. It goes down from seven days to three days. A second set of people who were formerly going to be unable to vote, because they became citizens after the seventh day but before the day of the election, will now be entitled to enrol to vote if their citizenship ceremony occurs after the third day and before the election day. So it is two separate sets of people. Mr Chairman, I urge that we take the vote and move on on this one.

The TEMPORARY CHAIRMAN (Senator Marshall)—The question is that item 36 stand as printed.

Question agreed to.
Senator MURRAY (Western Australia) (8.51 pm)—The Democrats oppose schedule 1 in the following terms:

(4) Schedule 1, item 53, page 16 (lines 22 and 23), TO BE OPPOSED.

(5) Schedule 1, item 54, page 16 (lines 24 and 25), TO BE OPPOSED.

These particular items in the bill act to increase the nomination deposits for the House of Representatives and for the Senate. The increase for the House of Representatives is $350 to $500, which is a substantial jump, and for the Senate per candidate from $700 to $1,000.

We oppose this on the grounds that there is no evidence that the current amounts are inappropriate. I wandered down and had a look at the 2004 election report. I could not find at a quick glance nor do I recall the Joint Standing Committee on Electoral Matters recommending this increase. It is an increase that the government have devised, as far as I am aware. We consider that there is no evidence that the current amounts are inappropriate. There is no evidence that they are too low. The purpose of the nomination deposit is primarily to deter frivolous candidates. Similarly, there is no evidence that they are so high as to deter serious candidates. Again, there is always a danger, because the cumulative cost for political parties of nomination fees can represent a barrier to entry, and it is a basic principle of our electoral democracy that we do not have high barriers of entry to political contests. While these increases may not be such a problem for the more moneyed major parties, there is a problem of principle here and the actual quantum does in my view pose a problem for the smaller parties or groups of independents wishing to field contestants in a number of electorates.

As with much of this bill, we think that this proposal is counter to good democratic practice. We think that nomination deposits should be at a level that does not deter people from standing as an election candidate, and contesting elections should not be confined to those who can best afford to do so. If the government is minded, as I think it is arguing with respect to the disclosure threshold, that you have to take account of inflation over time, then I would suggest that is the appropriate mechanism to put into the law rather than a leap which seems to me very substantial in quantum and in aggregate I think will act in a contrary fashion to encouraging the fullest participation possible.

Senator MILNE (Tasmania) (8.55 pm)—I support the remarks by Senator Murray. I cannot see any justification for increasing the amount to this extent. Yes, it is a basic principle of democracy to give access to people to stand as candidates. I would like to ask the government since there is no reference to this being an issue anywhere in relation to election reports: on what basis have they increased the amount? On what basis have they increased it to the level that they have? Where is there any evidence that the current levels have encouraged any kind of frivolous activity in relation to accessing the capacity to run as a candidate in an election? Where is the evidence for any of this? Is this just not simply something that the government has decided to do without rhyme or reason except that the government wishes, again, to use a capacity to finance access to the election to restrict the number of small parties that might wish to contest an election? I am interested to know what the evidence is, where the government has got this idea from, where it got the level from and what the justification is for it.

Senator CARR (Victoria) (8.56 pm)—The opposition will be opposing these amendments. We will be supporting the changes that the government is proposing. We take the view that the increase in the amounts from $700 to $1,000 is marginal
and that if candidates are serious about standing for office these will not be a serious deterrent to standing for public office.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.57 pm)—The government’s position is that they do not support the amendments proposed by Senator Murray. The government considers the levels proposed in the bill to be the appropriate amounts for nomination deposits as the existing deposit amounts have not been increased since 1998. The proposed amounts have maintained their position as a percentage of average weekly earnings compared to the position of the current amounts when they were introduced in 1998. When the amounts were last increased in 1998 the number of candidates at the subsequent federal election in 1998 rose significantly, so I am not sure that these necessarily are a disincentive.

As I understand it, all governments have a nomination deposit. The deposit is designed to try to ensure that you do not get frivolous nominations. That seems to be the public policy reason behind it. There is no exact science in this. I accept that these figures are drawn up on the balance of what you think might be acceptable in all the circumstances. The important thing is that a candidate’s nomination deposit will continue to be returned if the candidate obtains at least four per cent of the formal first preference votes cast at the election. I think that a deposit for a senator going up from $700 to $1,000 is reasonable. I understand for the New South Wales upper house the nomination fee is $500 and it is $250 for the lower house. I do not know what it is in other states, but as this is the federal parliament one would assume potentially that there ought to be some higher threshold. But the important safety valve for minor parties and anybody believing that they are not a frivolous candidate is that if they obtain four per cent or more of the formal vote they are entitled to have their deposit refunded.

Question put:
That schedule 1, items 53 and 54, stand as printed.

The committee divided. [9.04 pm]
(The Chairman—Senator JJ Hogg)

Ayes…………… 51
Noes…………… 7
Majority……… 44

AYES

Abetz, E. Adams, J.
Barnett, G. Bernardi, C.
Boswell, R.L.D. Brown, C.L.
Calvert, P.H. Carr, K.J.
Colbeck, R. Crossin, P.M.
Eggleston, A. Ellison, C.M.
Evans, C.V. Faulkner, J.P.
Ferguson, A.B. Ferris, J.M. *
Fielding, S. Fierravanti-Wells, C.
Fifield, M.P. Forshaw, M.G.
Heffernan, W. Hogg, J.J.
Hurley, A. Hutchins, S.P.
Johnston, D. Joyce, B.
Kirk, L. Lightfoot, P.R.
Ludwig, J.W. MacDonald, J.A.L.
Marshall, G. Mason, B.J.
McEwen, A. MceWuran, J.J.
McLucas, J.E. Moore, C.
Nash, F. O’Brien, K.W.K.
Parry, S. Patterson, K.C.
Payne, M.A. Polley, H.
Ray, R.F. Ronaldson, M.
Scullion, N.G. Sterle, G.
Troeth, J.M. Trood, R.
Watson, J.O.W. Webber, R.
Wortley, D.

NOES

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

* denotes teller

Question agreed to.

Senator MURRAY (Western Australia) (9.08 pm)—Before I move on to oppose item
79 of schedule 1, I would like to remark upon what we have just voted for. If a parliamentary party stood 150 lower house candidates, that would cost them $75,000 in nomination deposits—that is, $500 times 150. If they stood three candidates in every Senate sector through eight territories and states at $1,000 a pop, that is $24,000. So, adding those two together, if you completely covered the field as a minor party, it would cost you $99,000. If you were a minor party that got, say, 1.9 per cent—and people have been elected with that—you would lose that $99,000. Some families could never, ever afford that, unless they were really rich families or well-paid senators. People need to be reminded of the aggregate sum of what affects them when they are dealing with things like nomination deposits and so on.

I will now move on. The Democrats oppose schedule 1 in the following terms:

(6) Schedule 1, item 79, page 20 (line 24) to page 22 (line 11), TO BE OPPOSED.

This concerns the disclosure threshold. I have listened with care to the minister and many others justifying a $10,000 threshold. Without verballing the minister, I summarise his arguments to be: firstly, it is a reasonable amount; secondly, if you compare it to the original disclosure amount, if that had been indexed it would certainly have been far greater than the present $1,500—I think the minister mentioned that it would be at least $5,000 on current indexation; and, thirdly, the $10,000 equates, roughly speaking, with the figure in a number of countries around the world that have disclosure thresholds. All those are arguments to be put in favour of increasing the disclosure threshold.

We have a different view. Our view is that the way in which democracies have moved is to be more rigorous over disclosure and that you cannot look at the disclosure regimes of other countries without looking at them in their total context. For instance, the disclosure regime of the United Kingdom, which was commented on favourably by the minister with respect to the threshold, is extremely rigorous in other respects. Recently I was able to read all about how much the Prime Minister’s wife had spent on hairdos when she accompanied the Prime Minister during the campaign and how much Charles Kennedy had spent on make-up, which strikes me as amusing. Of course, he was a Liberal Democrat, so I suppose it goes hand in hand! They have a far stronger disclosure regime in other areas, and you need to balance it out.

The problem with our disclosure regime is that it is weak. The disclosures that are available—

Senator Faulkner—Deliberately weak.

Senator MURRAY—Yes, they are deliberately weak. I acknowledge, through the Temporary Chairman, the strength of argument and principle that I have respected in Senator Faulkner. But, Senator Faulkner, I assume that you have not been able to persuade your party, because your party itself has not moved to put into policy full disclosure with respect to trusts, clubs, foundations, overseas donations, fundraisers and everywhere else where we do need far better disclosure.

Senator Faulkner interjecting—

Senator MURRAY—I take the interjection and I will repeat it. Senator Faulkner said, ‘To be fair, there would not be disclosure rules and regulations in the Electoral Act if it were not for the Labor Party,’ and I acknowledge that. My party is grateful for the initiatives and the efforts that the Labor Party put into a better funding and disclosure regime as far back as 1984. My criticism is not of what you did in the past but of what still remains to be done. I urge you to turn your eye to that.
But, coming back to this particular area: we see in our environment an increasingly moneyed electoral situation. Frankly, it acts as a major barrier to entry to small and minor parties and Independents. Unless you have rich interest groups or rich benefactors, you are going to struggle somewhat. The moneyed environment in which politics now operates in Australia is characterised by extremely high-cost campaigns and the increasingly well-benefacted, if I can use that phrase, nature of incumbency. In that case, you would have to ask why I would be concerned or worried about raising the disclosure level. My worry and concern about raising the disclosure level is that, the more political parties and politicians become dependent on money for electoral success, the greater the danger of undue influence and undue access being bought. Therefore our support for $1,500 remaining as the generous sum—we think it is a generous sum—set for the current threshold is based on the precautionary principle that, below that figure, we cannot really see someone being corrupted in the exercise of their duties, or a political party being influenced in the exercise of its duties. But, once you start to reach significant figures, you have to worry about it.

The government might say that $10,000 is not that significant, but there are clear cases in local council inquiries by the various corruption commissions where amounts of that type have been found to be improper and to have created a perception, and sometimes an actuality, of graft or corruption. The Labor Party claimed, in its submission to the inquiry into the 2004 federal election, that the current amount of $1,500 provides ‘a fair balance between optimum disclosure and practicability.’ I agree. Professor George Williams also argued that a major increase could not be justified. He stated:

The change would have a harmful effect on our democracy. Reform should instead be aimed at the more effective and more frequent disclosure of political donations.

Given the regulation loopholes that already exist with political finance disclosure laws, the boost from $1,500 to $10,000 can only intensify this problem. It could, essentially, allow secret donations of $9,999 to be made.

Senator Bob Brown—Ten thousand dollars.

Senator MURRAY—Generally speaking, to avoid doubt, people will put a cheque down for $9,999, which would definitely not be disclosed and therefore would be secret. Had this law been in place for the electoral period of 2004-05, it is claimed that a very high percentage of donations would therefore have been secret. The government argues in contradiction to that that a very high percentage of donations will still be disclosed. I think—and the minister will be able to verify this—the government says that around 75 per cent of total receipts will still be disclosed.

The Democrats think—and, I must say, it is a theme being picked up by the media—that more secrecy and hidden influence is not what ordinary Australians want. We think that already the perception, if not the reality in some cases, is that only those of wealth—corporate or entity wealth or individual wealth—are able to get major access and major input into our political system. We say: don’t aggravate further that perception; let us put our efforts into more transparency. Raising the threshold is contrary to good principles of transparency and full disclosure.

In closing my remarks, I must say that I would be less concerned about this jump to $10,000 if the multiple donations problem did not exist—that is, the ability of individuals, as in the example I have just given, to donate $9,999 secretly not just to one but to nine divisions of a party, if a party has nine
divisions. That means $90,000 worth of secret donations in a year, and that is an extremely concerning issue. When I discussed this matter formally with the Labor Party at the Joint Standing Committee on Electoral Matters hearing on this matter, I had the impression from the national secretary that they were as concerned as I was about this issue. I have tried to address the issue of multiple donations in a later amendment of mine. I hope that when we come to it I will find, at least, the opposition able to support it.

Senator CARR (Victoria) (9.20 pm)—Senator Murray’s proposition is one which the opposition will be strongly supporting. Senator Murray is proposing to essentially strike out a provision, a proposal we would strongly support. This is a highly controversial question that has arisen as a result of the Liberal Party’s long-held and absolute obsession with ensuring that it can get its big money mates to hand over millions and millions of dollars without being held publicly accountable for it. This is a proposition that is advanced on the most spurious of grounds—that is, that we are somehow or other expected to believe that this is all about the consumer price index. It has nothing to do with the consumer price index; although, I might add, the provisions of the particular section will see that an automatic increase in the sleaze factor will be there ad infinitum, should this legislation stand.

What we are looking at here is a proposition which would see the capacity for people to move money around rise from $1,500 per donation to, effectively, $80,000 per donation. This is not a matter that has anything to do with inflationary impact. It is about ensuring that the Liberal Party has access to very large sums of money. If you look at the so-called inflationary side of this, you see that if inflation were to be applied properly then the amount for which a candidate is required to put a post-election return in—which was set in 1984 at $200—would rise to $439. For post-election returns for groups of candidates, the amount would rise from $1,000 to $2,100. Measures that were introduced throughout the 1990s would similarly have very small increases—$400 or $500 at the outside—if it were purely an inflationary matter.

What we are talking about here is the capacity for large sums of money to enter into the political system and not be recorded, so that you cannot identify where the money is coming from. We know that under the present, somewhat inadequate, arrangements there are people around who are prepared to contribute very large sums of money. Lord Michael Ashcroft wrote a cheque for $1 million. We know that there is a capacity for very large sums of money to move into the political system. But what this will do is enable that level of investment to increase dramatically.

The Parliamentary Library has provided us with some advice on the effect of this measure. We see that with the current disclosure threshold of $1,500, of the current returns of $117 million, 81.9 per cent of the total donations is required to be declared. But under this provision the percentage of the total amount of money required to be declared would drop down to 70 per cent. That is on the current arrangements. If you see any change in behaviour as a result of these measures—which the government has said it intends to create; that is, it wants to see more people contribute these sorts of sums of money, and to do so in secret—then you would possibly see a situation arise where a little over 50 per cent of moneys would have to be declared. They are the consequences of these changes. What does that mean in real terms? What it means is that individuals with $80,000 will be able to buy votes in this parliament. That is a direct consequence of these sorts of provisions.
Those sorts of provisions have been rejected time and time again by this chamber and by this parliament. The Liberal Party has had this policy for the better part of 20 years and has failed to get it up. What has changed? Control of this chamber. That is the only thing that has changed in this whole debate. The provisions that are being proposed here are essentially not new. Senator Faulkner has probably argued this case for far longer than I have. But I recall that these questions have come up while I have sat here and listened over the last 13 years. They came up when the Liberal Party was in opposition and sought to do this. They have come up while the Liberal Party has been in government. But these proposals have failed, because they are fundamentally undemocratic.

These proposals are about ensuring the secrecy and the unaccountability of donors. Big money politics can buy votes, and this is a method by which that process can be made legal. That is why it should be strongly opposed. As far as we are concerned, this is one of those measures which highlights what this government is seeking to do with these electoral changes. It is not about improving transparency and it is not about ensuring that people know more about how their political system operates.

The Australian Electoral Commission has suggested that there needs to be a stiffening of requirements when it comes to the question of anonymous donors. But what do we see here? Exactly the opposite. Minister, I ask you straight up: why have you ignored the Australian Electoral Commission’s advice on this matter? What is the argument contrary to the view that says that the Liberal Party is in the pay of those large corporations that want to donate directly and buy votes through the Australian political system? If you can come forward and provide an $80,000 donation on the quiet and have no-one know that you have done it, what sort of influence can that bring? I think the answers to those questions are pretty straightforward. I look forward to the minister explaining his position on this, because so far there has been no explanation whatsoever provided as to why the government is seeking to do this—other than that it is an established Liberal Party policy which they are claiming is about inflation. It has nothing to do with inflation, other than the inflation of the Liberal Party vote. That is the inflation that they are interested in. They are interested in how they can keep it up.

It has also been claimed that this is a device by which we can ensure that more people contribute to the political system. We know a great deal about the sorts of people that this government wants to see contribute to the political system. As I read their proposals, if we saw an additional $10 million come into the political system, then the percentage of total receipts for which details would not have to be given would reduce to something closer to 50 per cent. There would be a reduction in the level of public disclosure. That is the direct consequence of this. That is the argument that is being put to you, Minister. I am looking forward to you putting a view to us as to why it is that you think that it is so important that this legislation should be allowed to proceed when it has failed so many times before in this chamber.

Senator Faulkner—It is called 39 votes.

Senator CARR—That is the rule. That is the particular provision that we are looking at here: it is the capacity to get a majority in this chamber. In the American Senate, which has 100 senators, 40 senators are people who have wealth in excess of $1 million—40 per cent of the American Senate. One thing that has always struck me as one of the great things about the Australian political system
is that you can get elected without having a lot of money. What you are going to see under these arrangements is a big change in the way in which our electoral system functions. That is the consequence of these arrangements. Large sums of money will flow into the system, and no-one will be accountable for it. That will attract a different type of candidate. People will need to spend a lot more money to get elected here. A different sort of candidate will emerge as a result of that. We will see the Americanisation of the political system in this country. That is something that we should deeply regret.

The government think it is a smart move to pull. They think this is an easy way to secure their longevity. In fact, it may well prove that in the short term they are able to attract more money and it may well hurt the opposition parties in this country. It may well hurt the Labor Party. I have no doubt we will hear a lot about unions in a few moments. I can say to you that, of all the money that was put into the Labor Party at the last election by unions, which was about $1 million, one individual—one British lord—put in the equivalent amount. Under these arrangements what you are going to see is extraordinary sums of money coming into the system, and it will be unaccountable and in secret. It will be the dirty money that comes with demands for political favours to be exercised.

There will be no-one around to be able to say, ‘Why did you do that?’ because we will not see any connection between the donations that are actually given to the political parties, their public declarations and the subsequent actions that governments take. You have to bear that in mind when we are talking about these matters. We are talking about the capacity to buy political favour. I have yet to hear from the government any defence that suggests they are going to be able to protect themselves—and that is an important part of this; it is not only to protect the parliament but also to protect themselves—from the capacity of unscrupulous individuals to actually buy political influence as a result of being able to make secret donations.

I have mentioned $80,000, but I can see circumstances where perhaps that is underestimating the impact. There could be a situation, as I think Senator Ludwig pointed out this evening, where you might get a couple of people in a family contributing individually. You would see multiples of $80,000 added through. It may well be considerably more than that. An extra $10 million, which the parliamentary research note draws our attention to, is not an unrealistic figure to expect. Under those circumstances we are likely to see a dramatic fall in the level of accountability that will flow from this.

I am deeply disturbed by this proposal. For many reasons I think that tonight we will see the continuation of an argument. It will not end here, whatever the vote is tonight. This is the sort of thing that rots at the heart of a political system because it allows for dirty, big money politics to actually infect the political system. The key to it is being able to say to people, ‘This is where we got our money from and these are the circumstances under which we got it.’ If you go to a system where a political party has access to this sort of money—undeclared, anonymous money—then the political favours that flow from that I think can lead to very serious consequences for the probity of the political system.

There is a lot at stake here on this vote. This is not just a question of short-term political advantage for the Liberal Party and inflating the Liberal Party vote at the next election. This may well have quite serious consequences for the general political system and the probity of the Australian electoral system. One of the things that we could genuinely hold our heads up on until now is
that Australian politics is largely pretty clean. I say that the secret of it is the fact that people are required to declare where they get their money from. That is what is being put at risk here with these arrangements. That is what troubles me about these propositions.

The government think that, because it is Liberal Party policy, we should just accept it with no explanation. We should just cop it sweet. They have tried in the past and failed, and now they have the numbers they expect us to go quietly on it. Minister, you are wrong about that. People will not go quietly on this. This will be a matter that is fought right throughout the length and breadth of this country.

Senator Abetz—I would never expect you to go quietly!

Senator CARR—You should get used to it because this is a matter that will haunt you for quite a considerable time. This is a terrible mistake. It is not actually in your long-term interest to do this. That will not deter you, but the fact is that it will lead to corruption in the Australian political system. It will undermine the integrity of our electoral system. It will undermine the probity of the way in which governments do business in this country. It will have a profound consequence for the future of politics in this country. Minister. I am looking forward to your explanation as to why it is that such a move is necessary, other than the fact that you have said you have believed in this for a long time. You have wanted to get your snout into this trough for a long time. Now you have the opportunity to do it.

Senator Ferris—You are a disgrace!

Senator CARR—You think that is a sleaze, do you?

The TEMPORARY CHAIRMAN (Senator Ferguson)—Order! Senator Carr, I have been very patient but it is time you started addressing the chair and not the minister.

Senator Abetz—It was Senator Ferris, in fact.

Senator CARR—Thank you for your advice, Mr Temporary Chairman. One of the government senators over there thought this was a bit of a sleaze. What is a sleaze is the capacity—

Senator Ferris—Mr Temporary Chairman, I rise on a point of order. I do not want Senator Carr to misrepresent me in this place. What I actually said was, ‘You are a disgrace.’ I did not say the word ‘sleaze’ and I do not want it to be reported on the Hansard that I did.

Senator Faulkner—Mr Temporary Chairman, on the point of order: I would indicate that by interjection I used the word ‘sleaze’. I think this is an incredibly sleazy operation from the Liberal Party.

The TEMPORARY CHAIRMAN—What is your point of order?

Senator Faulkner—I am just fronting up and saying—

The TEMPORARY CHAIRMAN—There is no need to front up. You have not been called to withdraw. I would ask you to sit down.

Senator Bob Brown—Mr Temporary Chairman, on the point of order: the word ‘disgrace’, in my experience, is disorderly. The honourable member should withdraw it.

The TEMPORARY CHAIRMAN—There is no point of order.

Senator Bob Brown—Chair, I want you to get a ruling from the President about the use of the word ‘disgrace’. Would you please do that?

The TEMPORARY CHAIRMAN—Yes, certainly.

Senator Bob Brown—Thank you.
Senator CARR—Mr Temporary Chairman, I have been called much worse. We were told today that using the phrase that the National Party are ‘a bunch of doormats’ was unparliamentary. So I think some of the things that have been said tonight—

Senator Ferris—And it is!

Senator CARR—What I am concerned about is this: the government think that what I am suggesting is a disgrace. That is nothing on what is coming as a result of their actions in allowing the Australian political system to be corroded and corrupted by these sorts of devices. In the past you were satisfied with trying to lift it from $1,500 to $3,000, Senator Abetz. This time you have gone for the jackpot. You have moved it up to $10,000, which I say in reality is $80,000 because of the way in which our political system actually works. In reality it may be much higher than that figure. (Time expired)

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.36 pm)—The Greens will also vigorously oppose this clause and support the Democrat motion opposing it. This is Honest John’s corruption clause. This is a means of bringing into this parliament—

Senator Abetz—Mr Temporary Chairman, I rise on a point of order. Senator Brown is so anxious to ensure that people abide by parliamentary standards. He knows that the Prime Minister should be referred to by his proper title—and Senator Brown should do so. I would have thought that if ‘disgrace’ were an improper term then ‘corruption’ might be also.

Senator Faulkner—On the point of order: I agree with part of Senator Abetz’s point of order. I would never describe Prime Minister Howard as ‘Honest John’—never. So I agree with that. But I do think the term ‘corruption clause’ is perfectly reasonable in this circumstance and not unparliamentary.

Senator BOB BROWN—If Senator Abetz identifies ‘Honest John’ as the Prime Minister, I am prepared to withdraw it.

The TEMPORARY CHAIRMAN (Senator Ferguson)—Order, Senator Brown! I think I should rule on the point of order. If you are referring to the Prime Minister, you must use his proper title. If you are suggesting that the Prime Minister is corrupt, that is not parliamentary and I would ask you to withdraw.

Senator Faulkner—No; it was ‘corruption clause’.

The TEMPORARY CHAIRMAN—Order, Senator Faulkner!

Senator BOB BROWN—I would refer to the Prime Minister by his correct title but, when it comes to the term ‘corruption clause’, I would not withdraw it, because I believe this clause will engender corruption. It is a dastardly piece of legislation to bring into this parliament. We have a Prime Minister who has inveigled business to be philanthropists. The effect of this will be an enormous, covert, hidden, secret, unaccountable, opaque—not transparent—passage of money from his big business mates, in particular, to his political party in the future without public accountability. It is a very serious matter.

I agree with Senator Carr that, in the main, we have had a credible electoral system. But this legislation plunges our electoral system into the depths of all sorts of potential sleaze—as Senator Faulkner would put it. These are terrible words to be using, but this is terrible legislation. We know about the large amounts of money that already flow under our current system from big corporations, in particular, and wealthy individuals
to the political parties. We should be removing that, because it is done to gain favour. It is illogical—in fact, it is of questionable legality—for a corporation to be passing money across to any political party unless they can show that there is going to be a gain for their shareholders. Certainly under corporate ethics, in which boards are charged with getting a maximum return and to always act in the interests of the shareholders, it would be quite wrong to be giving political parties money unless there were a gain to be seen to be coming out of that. Of course, you would be daft to think otherwise.

Senator Bernardi—What about the Wilderness Society?

Senator BOB BROWN—The difference is that the Wilderness Society people are not making money.

Senator Bernardi—the Wilderness Society get paid.

Senator BOB BROWN—You brought it up. Now let me tell you. The senator opposite is disorderly and interjecting, Mr Temporary Chairman, but I must respond nevertheless.

Senator Bernardi—the Wilderness Society get paid commissions—

The TEMPORARY CHAIRMAN—Senator Brown, you have the call and I ask you to continue.

Senator BOB BROWN—Is the senator against paying commissions for people who do work?

The TEMPORARY CHAIRMAN—Order! Just ignore the interjections and continue, Senator Brown.

Senator Faulkner—How would you know. You aren’t running around in a koala suit.

Senator Bernardi—we don’t even know who he is. He is anonymous. He is in a koala suit.

Senator BOB BROWN—Oh, he is worried now about the anonymity of a koala suit person collecting money in the street as against what is going to happen here. My colleague Senator Milne will show some of the potential expansion of hidden donations that will come out of this. I do not know, but I think Senator Abetz may be able to enlighten us on the process, because there is a lot more to be discovered and at least challenged in the course of this debate.

But what are we to do with an electoral system where there is the encouragement of large amounts of money and multiple amounts of money going to political parties and not being accountable? And here we go from $1,500 to $10,000. I would point out to Senator Murray, who has been making such a positive contribution to the defence against this terrible legislation today and tonight, that the wording that is now used in the legislation is such that you have to account for gifts et cetera which are valued at more than $10,000. So, under this law, you can give $10,000 and not have to account for it, but if you give $10,000.05 you have to. That is because the old system, which said that amounts of less than $1,500 required you not to give $1,500 or you had to account for it, was a bit awkward.

Senator Faulkner—you could go the round figures.

Senator BOB BROWN—Yes, go the round figures. I would presume that people had to be instructed—

Senator Faulkner interjecting—

The TEMPORARY CHAIRMAN—Order, Senator Faulkner! Would you please let Senator Brown continue with his contribution.

Senator BOB BROWN—I am quite happy. I am enjoying the interjections.
Senator Faulkner—I am just helping him.

The TEMPORARY CHAIRMAN—You are not; you are interfering.

Senator BOB BROWN—It has been thought out so as to be able to smoothly say to people: ‘Give us $10,000. Write the cheque now and nobody will know about it ever.’ It used to be much more awkward. It used to be, ‘Give us any figure short of $1,500 but don’t make it $1,500 or you will be on the record.’ They have overcome that through this wording which says, ‘Give us $10,000 and you are right.’

Senator Murray—Not even the shareholders will know.

Senator BOB BROWN—That is right. What do you do with secretive organisations that are able to manipulate their members and followers into making donations to political parties without having to account for it? What do you do with organisations like the Exclusive Brethren, which I am told have their members—Senator Abetz interjecting—

Senator BOB BROWN—Senator Abetz may be able to enlighten us more on this—give money, as members, to advertise for the Prime Minister, as they did in Bennelong, with big, colourful ads, attributed not to the Exclusive Brethren but to Mr S Hales or to the address of a school, which happens to turn out to be an Exclusive Brethren school. There was the same sort of advertising for the Liberal Party in Parramatta, in Adelaide and in Tasmania. Thousands upon thousands of brochures went out in Tasmania against the Greens under the guise of being somebody’s production—just a person, just a line—but it turns out that they came from the membership of the Exclusive Brethren sect, which is not registered as a political party. According to them, the Prime Minister, John Howard, is the right Prime Minister, the best Prime Minister that this country has ever had, which means that the other political parties are wrong. They will work to ensure, even though their members cannot vote—strangely enough—that this political party stays in office. I say that if the Exclusive Brethren want to do that, fine, but put it on the public record, be honest about it and allow everybody to know where it is coming from and what the philosophy of those behind it is, but we do not get that.

What this legislation will mean is that an extraordinarily well-cashed-up organisation like the Exclusive Brethren, where millions of dollars pass hands each year, will potentially be able to put hundreds of thousands of dollars into advertising for the conservative parties against the Labor Party and/or the Greens and/or any other party in the spectrum, and nobody will know about it. You will just see the ads appearing, you will just see the brochures going out, and nobody will know what the arrangement is and who the people behind that are. That is defrauding democracy. When that happens, democracy is being degraded.

The senator opposite, Senator Bernardi, mentioned the Wilderness Society a while ago. Okay—let us make it more accountable, not less accountable. This is where we should be going with this legislation tonight: we should be following Canada. After a series of corruption scandals, they abolished corporate donations and moved on to effectively abolish private donations, replacing them with public funding. They did that with a great deal of skill and acumen because they wanted to get rid of the cheating, unfairness and skulduggery creeping into Canadian politics. Here is our opportunity to do that, but, instead, the Howard government is moving rapidly in the opposite direction: in the direction of the United States, as I think Senator Carr was pointing out. To corrupt the wonderful political system in this wonderful
country of ours is a terrible direction to be going in. This legislation will corrupt it. It is designed to get much larger amounts of money out of people to help this government. That is what it is about: helping the coalition parties. Nobody else is here advocating it.

If you think you have ever seen legislation like this before the parliament, without it having been weighed up and very carefully considered by the back room of the Prime Minister’s office, with the Prime Minister being fully alert to and aware of the weighted odds going in favour of the government and nobody else, then you need to think again. That is just what is happening here. Many of the amendments that this legislation makes—like cutting out young people, as we have been talking about, cutting out prisoners and making it more difficult for new immigrants—(Time expired)

Progress reported.

ADJOURNMENT

The PRESIDENT—Order! It being 9.50 pm, I propose the question:

That the Senate do now adjourn.

Mr Michael Ferguson MP

Senator WATSON (Tasmania) (9.50 pm)—In politics it is said that if you excite the interest of your opponents then you must be actually achieving something. From the events of the last few days, it appears that the Member for Bass, Mr Michael Ferguson, must be doing very well as a local representative. Why? Because the Australian Labor Party has slowly wheeled out all its big guns to mount a baseless political attack on him. First, we had Senator O’Brien, in the late adjournment last week, dredging up completely false allegations that Mr Ferguson had somehow breached the provisions of the Companies Act and spreading sufficient innuendo to make it look as though Mr Ferguson had some case to answer. Then we had the same senator, Senator O’Brien, making totally baseless allegations about Mr Ferguson’s personal website. Now we see that Senator O’Brien has put on notice questions designed to attack the church—churches are under a lot of attacks lately—to which Mr Ferguson and many of his, my and Senator O’Brien’s constituents belong: a big church in Launceston.

Then in the other place the member for Denison, Mr Kerr—a colleague of mine—was prodded by his colleagues into asking a question of the Speaker to make a totally spurious claim about Mr Ferguson. I repeat: if you throw enough mud, some of it will stick. This is obviously the motto of the ALP dirty tricks campaign department. They slander and defame someone under the cloak of parliamentary privilege and hope that something will stick—however baseless the allegations.

Let me deal with these dirty tricks in order. The first assertion was that Mr Ferguson had somehow breached the Corporations Act 2001 because ASIC had not been notified of his resignation as a director of a public company. Senator O’Brien was very careful in what he said in this place, as he spread the mud, because if he had read the act itself he would know Mr Ferguson had done nothing wrong whatsoever. Yes, section 205A of the act provides that a director may—advise ASIC of their resignation as a director. However, that same section goes on to say that any action by a director does not affect the company’s obligations to advise ASIC under section 205B. As anyone who knows even a small amount about corporations knows, it is the obligation of the company secretary, not the directors themselves, to advise ASIC about appointments and resignations of directors. Indeed, section 5 of the act, which amongst other provisions sets out the duties of company secretaries,
says that the first duty of a secretary is that he or she:
... notifies ASIC about changes to the identities, names and addresses of the company’s directors ...

Therefore, it was not Mr Ferguson’s responsibility to notify ASIC of his resignation—it was the secretary’s obligation. So we can dismiss that baseless allegation.

Now we address the next baseless allegation made by Senator O’Brien under privilege. Senator O’Brien’s allegation is that Mr Ferguson’s personal website said that he was awarded the ‘order of the British empire award for community service’ in 2000 and that this claim is somehow untrue. As someone familiar with the Order of the British Empire Association, which has chapters in every state, I know that Mr Ferguson was indeed the recipient of an award before he entered parliament. There is no such honour as the ‘order of the British empire’ in any case. How could Labor claim that the member for Bass had been untruthful? They are making, whether deliberately or not, the common error of confusing the order of the British empire with the separate honour of Officer of the Order of the British Empire, which entitles a person to the letters ‘OBE’ after his or her name. That is a monumental mistake. Michael Ferguson has never claimed that he received this honour. All he claimed was the truth: that he was proud that a non-political organisation of eminent people in Tasmania had seen fit to give him an award for community service—an award quite consistent with Mr Ferguson’s hard work in the Northern Tasmanian community both before and after his election to the House of Representatives.

**Senator Abetz**—Hear, hear! Exactly.

**Senator Watson**—Thank you, Senator Abetz. So much for that baseless allegation. Finally, the member for Denison, Mr Duncan Kerr, has been roped in to this dirty tricks effort. I say ‘roped in’ because I cannot believe that someone who is a senior counsel in the Supreme Court of Tasmania could actually for a moment believe what he has alleged or be completely comfortable in making those allegations, whether in parliament or not. Mr Kerr raised the matter of the website with the Speaker, alleging a contempt of parliament. Again, that was a totally baseless, muckraking exercise and it was beneath the character that I know the member for Denison possesses. The contents of any senator’s or member’s personal website are the personal responsibility of the senator or member concerned and theirs alone. When any person clicks on the link after the APH official biography for any member to go to the member’s website, the following caution appears:

> You are now leaving the Parliament of Australia Web site. We have no control or responsibility for external sites.

Therefore, the member for Denison—or the people who forced the question on him—knew, or should have known, that it was nothing to do with the Speaker, just as any claims made by any senator or member on their websites are nothing to do with the Speaker or even you, Mr President. The Speaker has advised Mr Kerr that Mr Ferguson has no case to answer whatsoever. It is just more mud. It is just baseless mud. I am sure the decent Tasmanians who make up the Order of the British Empire Association—many of whom I know personally—know exactly why Mr Ferguson was awarded their service award. I am equally sure they would be unimpressed to be drawn into this political attack.

Finally, Senator O’Brien has put down a series of questions on notice about a particular church. He of course knows that counted among the large congregation of this church is the member for Bass. Because of that,
Senator O’Brien unfortunately decided to proceed on an ill-advised witch-hunt about federal government funding the church may or may not have received. I do not know whether that particular church has received any federal grant. What would be wrong if they had? Quite frankly, I cannot see why Senator O’Brien, having never in his parliamentary career shown an interest in this area, suddenly decided to pursue this matter—except of course for the broader attack on Mr Ferguson. How unpleasant can you get—attacking any church purely because an MP might happen to attend it?

If this is their approach so far, I can imagine that Labor will ensure that things will get very nasty in the forthcoming Bass campaign. I think that is unfortunate. The electorate does not like these baseless personal attacks on a person’s integrity. Labor know that the previous federal member has decided on a state career and has been successfully elected to the state House of Assembly. I congratulate Michelle O’Byrne on that. However, without any high-profile candidate for Bass, Labor have reverted to the oldest trick in the political book: if you cannot beat your political opponent in a fair fight then raise as much smear, dirt and innuendo as you can. It does not of course matter to Labor whether it is true. They have the umbrella of parliamentary privilege to protect them from that. They will just be satisfied if they can smear the reputation of an exceptionally talented and hard-working politician. I know that, whatever Senator O’Brien and others do, Michael Ferguson will not be distracted. He will continue to fight for the people of Bass, in their interests and for their betterment. Tasmanians like robust political debate. They dislike like mud-slinging. On election day, I am quite confident the judgment of the electors of Bass will reflect that.

Queensland Health: Nurses

Senator McLUCAS (Queensland) (10.00 pm)—Last Tuesday night in both the House of Representatives and in the Senate, almost in concert, two speeches that lacked any basis in logic were delivered. First Mr Lindsay, the member for Herbert, and then Senator Ian Macdonald—one cannot imagine that it was coincidental—drew the attention of their relevant chamber to the recent enterprise bargaining agreement between the Queensland Nurses Union and the Queensland state government to bring nurses into wage parity with nurses in New South Wales and the Australian Capital Territory. This agreement, certified last Friday, recognises, amongst other elements, the value of the work of nurses. It recognises that it is essential to the task of attracting and retaining nurses that nurses be paid according to their contribution and it assists nurses to balance their work and family lives, thus improving recruitment and retention potential.

That is why I was astonished that Mr Lindsay and Senator Ian Macdonald would attempt to construct an argument against bringing our Queensland nurses into line with those in New South Wales and the ACT. The nub of their argument is that wage increases in the public sector will affect the private hospital sector because they will have to match wages paid in the public sector. I agree; it is correct to say that the private sector will have to bring their nurses into parity, and why not? Are Mr Lindsay and Senator Macdonald saying that private hospital nurses should be paid less than their state employed colleagues? To be fair, probably not.

If it is not their contention that private hospital employees should be paid less than their state employed counterparts, are they suggesting that neither state nor private hospital employees should achieve wage parity
with their colleagues in New South Wales and the ACT? Implicitly, in both speeches that is exactly what they are saying—not openly, not honestly, not calling it for what it is, but that is exactly what they contend; that no nurse should get a pay rise. It is the only conclusion anyone listening to either contribution could make: according to Mr Lindsay and Senator Macdonald, if the private hospital system cannot afford increases in nurse salaries then no nurse should have a pay rise.

Senator Ian Macdonald and Mr Lindsay are highly critical of the state Labor government for negotiating wage increases of 23 per cent, which turn into 25.3 per cent compounded, over four years. Senator Macdonald described them as ‘huge’. Mr Lindsay said in part that the government was ‘recklessly creating an imbalance in nurses’ pay levels’. ‘Huge’ and ‘reckless’ might be the description of the enterprise bargaining agreement by Mr Lindsay and Senator Macdonald, but it is not the view of nurses, whether state or privately employed. It is not the view of nurses, all of whom, I remind the gentlemen, have a vote. It is the view of nurses and the Queensland government that this enterprise bargaining agreement will raise level 1 nurse pay—the level of the majority of nurses in Queensland—from the lowest in Australia to amongst the highest. But, rather than congratulate the parties to this agreement, Liberal MPs and senators denounce it as reckless.

Where would policy as described by Senator Ian Macdonald and Mr Lindsay have left us? It would have left us with public and private hospital sectors struggling to attract and retain nurses as they move to states and territories and the GP sector where conditions and pay better reflect their efforts. It would have left us with a diminished public value afforded to nurses’ work, resulting in low morale and limited ability to attract school leavers and mature age prospective nurses into nursing. It would have left us with less attractive career path options and less support for nurses who balance family responsibilities and their work. That is where these Liberals would have left us in Queensland.

Contrast these Liberals with the success that the Queensland Labor government has had. Queensland Health has already increased its nursing workforce from 21,911 in June 2005 to 23,206 as of May 2006—1,295 nurses recruited in less than 12 months due in no small part to the four per cent wage increase in December 2005. That is what you get when you value workers and their contribution, and recognise that contribution with financial reward. I am sure that Mr Lindsay and Senator Macdonald will say that they do value nurses and their work. In fact, Mr Lindsay said:

I do not think there are many people who do not believe that our nurses are anything but caring, hardworking and dedicated health professionals ...

‘Caring, hardworking and dedicated’, but Mr Lindsay and Senator Ian Macdonald think they should do it for love. That is the sort of predictable line we get from this government when it comes to all sorts of predominantly women’s work—nurses, teachers and child-care and aged care workers. We get the patronising rhetoric about how dedicated and caring they are, but not the language that says they are dedicated, caring, professional, highly educated and worth paying appropriately.

That is not the response that nurses, whether they be in the public or private hospital system, in community care or in residential aged care, will get from a Beazley Labor government. Labor has identified that in 2003 the average age of an employed nurse was 43.1 years and that, in 2005, 2,716 Australians were turned away from undergraduate nursing places despite having
achieved the required marks from high school. The Australian Health Workforce Advisory Committee has said that between 10,182 and 12,270 new graduate nurses are required just to meet demand in 2006—and, currently, around 5,000 nurses graduate each year. This Howard government has presided over 10 years of limiting access to university places for nurses and now is suggesting that they are too expensive to be employed. I wonder just who is going to care for the sick and the aged.

The last word on this matter should go to the Minister for Ageing, who joined the chorus attacking state industrial relations commissions for—and I quote him from the *Courier-Mail*—‘continuing to approve large pay rises for nurses’. His feeble attempts at disassociate himself from the report in the *Courier-Mail* did not include a media release to publicly support nurses achieving wage parity and it did not include a letter to the editor clarifying his position—nothing. There was nothing from a minister who we in this place all know craves publicity. This would have been a great opportunity for Minister Santoro to show his support for nurses and the work they do, but instead he let his dog whistle stand.

I need to say that dog whistling from Senator Santoro and disingenuous praise for the work of nurses by Mr Lindsay and Senator Macdonald will be seen by nurses for what it is: a pitiful attempt to curry favour with the private hospital sector and aged care providers. What nurses and, can I say, the private hospital sector and the aged care providers want are sensible answers—answers that recognise that nurses traditionally have been undervalued, that redress is necessary to attract and retain nurses and that our health and aged care systems must be funded to ensure quality care is delivered to all in our community.

Mr Rick Farley

**Senator ALLISON** (Victoria—Leader of the Australian Democrats) (10.08 pm)—I rise tonight to speak on a matter of some sadness, and that is the passing of Mr Rick Farley. Rick Farley died on 13 May in a tragic accident just months after he was severely debilitated by a brain aneurism. I thought it appropriate to take the opportunity to put on record Mr Farley’s achievements and to express, on behalf of the Australian Democrats, our regret and our sympathy to his family: his partner, Linda Burney, and his children, Jeremy and Cailin.

Rick was a man of immense talents who fought his battles with logic, intelligence, goodwill, justice and a great deal of optimism. He had a diverse and very successful career that will be best remembered for his commitment to conservation and for his compassion and enthusiasm for Indigenous people. He started his working life as a journalist, at some stage he was an actor and he worked as a staffer in the Whitlam government before joining the Cattlemen’s Union.

Rick went on to the National Farmers Federation, where he was executive director from 1988 to 1995. It was during his time with the NFF that Rick Farley, along with NFF president Graham Blight, negotiated with the Keating government on native title legislation that followed the 1992 High Court Mabo decision, which gave Indigenous Australians some rights to their land. During his time with the NFF he also skillfully handled the Mudginberri industrial dispute and oversaw the creation of the national farmers fighting fund. After the native title legislation was finalised, Mr Farley continued his dedication to Indigenous causes. In 1991 he became a member of the Council for Aboriginal Reconciliation and served as a member of the Native Title Tribunal, speak-
One of Rick’s greatest achievements was when, along with Phillip Toyne, he became the architect of the volunteer national Landcare movement, which will live on in his absence. He saw the opportunity for a sustainable Australia well ahead of others and he worked with two great traditional adversaries—the environment movement and the National Farmers Federation—to bring to the government a proposal for a decade of landcare. The $320 million that was originally committed to Landcare has grown to over $1 billion, which has gone towards helping farmers and communities manage the land in a responsible and sustainable manner.

Throughout his career, Mr Farley was recognised by many as an extraordinary alliance builder who worked hard to build bridges and break down barriers. Through his goodwill, determination and commitment to overcoming what could appear to be irreconcilable differences, he was able to bring together the interests of pastoralists and farmers with those of Indigenous Australians. It is worth repeating the words he used in his 2003 Australia Day address:

Unless the relationships between our citizens are respectable and inclusive, we are a divided and diminished society.

In 1993, Rick Farley called for an environment levy as part of the tax system, saying that natural resources should be used in a sustainable way. If not, he said, ‘our economic, social and even our spiritual security will inexorably be diminished’. Mr Farley was always willing to listen to all viewpoints and to try and understand people’s positions. He also had a tilt at a formal political career, almost taking the ACT Senate seat for the Democrats in 1998, with about 16 per cent of the primary vote.

We will miss him. It is a tragedy for his partner, Linda, for his children and for all those who knew him that he died at such an extremely young age. It is also a loss for the country. Rick Farley made a difference and he would have continued to make a difference if he had been able to continue his life’s work. His loss will be sorely felt by many.

A Smart Start

Senator ADAMS (Western Australia) (10.13 pm)—Tonight I would like to speak about a program called A Smart Start. The reason I am doing this is that I am currently a member of the Senate Community Affairs References Committee, which is looking at petrol sniffing, and one of our terms of reference is to look at things that work. I believe that this program, which is actually run in the Great Southern area of Western Australia, where I come from, has a lot of merit. Unfortunately its funding is about to cease. So I think it is important tonight that I tell you about this program and we will see what we can do to continue its work.

A Smart Start is an exciting early childhood initiative that is designed to make a difference for children aged nought to four years. A Smart Start is a series of strategies that are implemented across seven shires and 10 communities in the central Great Southern area of WA. These shires include Broomehill; Gnowangerup, including Borden and Ongerup; Katanning; Kent, including Nyabing and Pingrup; Kojonup, which is my own home town; Tambellup; and Wooroloo. A Smart Start has two primary areas of focus: the home environment of nought- to four-year-old children and the community environment that these young children grow up in.

A Smart Start is community owned and driven. It is cross-sectorial and creates networks and links at all levels. It involves parents, caregivers, local shires, schools, librar-
ies, service clubs, community agencies and businesses and government organisations all working together to give our children the best start in life. Its goals include establishing personal links with all families of nought- to four-year-old children within the central Great Southern area. It aims to empower parents with skills and knowledge in recognition that they play a key role in providing their children with an optimal learning environment. It aims to develop links between agencies and organisations within and across communities, to increase the accessibility of all families of nought- to four-year-old children to community based networks and local support groups and to facilitate relationships between families of nought- to four-year-old children and local schools and professional support services. It promotes research based practices that accelerate learning within the home environment and it provides an ongoing accessible resource for all families of young children in the central Great Southern region.

Its strategies include personal contact made by the child health nurse with each family at the time of the child’s birth and further contact at regular intervals during the child’s first four years of life, using community volunteers. Age-appropriate books are given to the child at birth and subsequently at each birthday up to and including their fourth birthday. Information that includes developmental milestones, activities to promote the child’s development, the immunisation schedule and support services available is given to families in the form of a resource manual that is updated at regular intervals: birth, six months, 12 months, 18 months, two years, three years and four years.

Local volunteers in each community have taken responsibility for delivering updates and birth books to families. Informal information mornings are held in each community, where relevant topic based talks are organised and parents can learn and talk together and meet health professionals, teachers and other agency personnel. Free creche facilities are provided to all parents who attend the information morning. Local libraries, in conjunction with the state library, have increased their stocks of books and resources for families with young children and are currently supporting the process of establishing A Smart Start-Better Beginnings partnership in all shires in the central Great Southern area.

Programs that assist parents to further develop their parenting skills and understand their child’s development are promoted, such as the Positive Parenting Program, Power Play and WILSTAAR. Culturally appropriate activities are run on a regular basis for the Malay and Nyoongah communities. For example, there is regular story reading in Malay homes and there is the Nyoongah Picnic in the Park.

The coordination of A Smart Start is at a central level. It is coordinated from a central base in Katanning. At present there is a full-time coordinator, Jan Batchelor, who has been with the program since its inception. There is a project officer, administration support, a Malay and a Nyoongah project officer and a bookkeeper. Those positions are responsible to the A Smart Start Central Great Southern Advisory Committee, which is an incorporated body and is the planning and decision-making body for the region. This committee has community representation from all seven shires, together with representation from government organisations.

At a local level each community has their own local working party, which has parent and community representation, together with representation from local service providers, such as librarians, local school principals or teachers, child health nurses and other providers in the area. Each local working party
is supported by the A Smart Start coordination team. The level of support provided to local working parties varies, depending on their level of independence. Members of the local working party are responsible for coordinating their strategies locally and in their communities.

I think the partnerships are quite incredible. A report in 2005 provided the following data. The number of government partners—for example, local, state or other Commonwealth agencies—was 67. The number of business partners—all types of businesses, large or small—was 11. The number of non-government partners—for example, community groups and non-government service providers—was 57. The total number of partnerships was 135. For such a small area and with the number of towns in it, I think that is absolutely incredible. There is no reason why this could not be duplicated in other areas of our state or throughout Australia. New partnerships are being formed and re-modelled constantly. Therefore, the data is only an estimate.

In 2001 the state Department of Health gave $10,000 in New Vision funding to employ a project officer to develop the concept and to apply for federal funding. In 2002 the education department provided a $10,000 donation for the general development of A Smart Start. In 2002-03 the Central Great Southern Health Service, now part of the Great Southern Health Service, allocated funding for 0.5 of an FTE to coordinate A Smart Start while grant applications were still pending. In 2003 the Department of Family and Community Services Stronger Families and Communities Strategy grant application was successful. A Smart Start in the central Great Southern region was allocated $300,000 to be spent over a three-year period. This money has funded the coordinator’s position, the lease of a car and administration costs. Unfortunately, this funding will finish in September 2006. Where the program will go from there we do not know.

At the local level the resource manuals and books are funded fully by local government in five of the seven shires and are co-funded by local government and local service clubs in the Katanning shire and local government and the Gnowangerup Family Support Association in Gnowangerup. Local service clubs, local businesses and family and children’s services have provided donations and funds to cover the creche costs. Early Years Activities grants have been used to assist with running information mornings and A Smart Start activities. This has provided funds for food, Christmas gifts, materials and costs incurred in organising guest speakers from out of the region.

In kind support has come from the Department of Health, with office space, computers, telephones, stationery and administrative support, and health professionals are always available to speak at A Smart Start information mornings. The Department of Education and Training supply venues, photocopying and tea and coffee urns. Principals and teachers take part in information mornings when required and actively participate in local working parties. Local government has venues for information mornings and administration assistance with photocopying. The Tambellup Shire act as the incorporated body that entered into a long-form funding agreement with the Department of Family and Community Services on behalf of A Smart Start, and they also lease the car on behalf of the A Smart Start program. The libraries are venues for meetings, and librarians actively participate in local working parties.

As for the number of children currently involved, there are 578, with 10 towns involved. There are 36 Malay children in Katanning and we have 52 Nyoongah children
and six Maori children throughout the district. Parents are very much involved with this and, as I see it, this program can be incorporated anywhere in Australia. I really do think that it is one that could be picked up as far as Aboriginal communities go. *(Time expired)*

Senate adjourned at 10.24 pm

**DOCUMENTS**

**Tabling**

The following documents were tabled by the Clerk:

> [Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]


ACIS Administration Act—Select Legislative Instrument 2006 No. 134—ACIS Administration Amendment Regulations 2006 (No. 1) [F2006L01811]*.

**Appropriation Act (No. 1) 2005-2006**—Advances to the Finance Minister—Directions Nos—

15 of 2005-2006 [F2006L01800]*.

16 of 2005-2006 [F2006L01815]*.


**Civil Aviation Act**—

CASA 182/06—Direction—carriage of cabin attendant in hot air balloon [F2006L01766]*.

CASA 183/06—Direction—carriage of cabin attendant in hot air balloon [F2006L01767]*.

CASA EX22/06—Exemption—training and checking, and flight check system, approvals [F2006L01733]*.

Civil Aviation Safety Regulations—Airworthiness Directives—Part 105—

AD/AS 355/87 Amdt 1—Untimely Firing of Squibs [F2006L01830]*.

AD/ECUREUIL/111 Amdt 1—Untimely Firing of Squibs [F2006L01838]*.


Corporations Act—ASIC Class Order [CO 06/469] [F2006L01813]*.

Corporations (Fees) Act—Select Legislative Instrument 2006 No. 135—Corporations (Fees) Amendment Regulations 2006 (No. 1) [F2006L01817]*.

Crimes Act—Select Legislative Instrument 2006 No. 127—Crimes Amendment Regulations 2006 (No. 1) [F2006L01816]*.

Customs Act—Tariff Concession Orders—

0605329 [F2006L01826]*.

0605445 [F2006L01827]*.

0605450 [F2006L01851]*.

0605451 [F2006L01828]*.

0605452 [F2006L01850]*.

0605457 [F2006L01848]*.

0605478 [F2006L01830]*.

0605479 [F2006L01831]*.

0605852 [F2006L01849]*.

Environment Protection and Biodiversity Conservation Act—Select Legislative Instrument 2006 No. 131—Environment Protection and Biodiversity Conservation Amendment Regulations 2006 (No. 1) [F2006L01832]*.
Family Law Act—
Jurisdiction of Courts of Summary Jurisdiction (Children) Proclamation 2006 [F2006L01798]*.
Jurisdiction of Courts of Summary Jurisdiction (Matrimonial Causes) Proclamation 2006 [F2006L01799]*.
Select Legislative Instrument 2006 No. 128—Family Law Amendment Regulations 2006 (No. 1) [F2006L01760]*.
Federal Magistrates Act—Select Legislative Instrument 2006 No. 129—Federal Magistrates Amendment Regulations 2006 (No. 2) [F2006L01763]*.
Financial Management and Accountability Act—Net Appropriation Agreements for—
Australian Fair Pay Commission Secretariat [F2006L01804]*.
Insolvency and Trustee Service Australia [F2006L01814]*.
Office of National Assessments [F2006L01802]*.
Marriage Act—Select Legislative Instrument 2006 No. 130—Marriage Amendment Regulations 2006 (No. 1) [F2006L01764]*.
Murray-Darling Basin Act—Murray-Darling Basin Agreement—Schedule H (Application of Agreement to Australian Capital Territory).
Payment Systems (Regulation) Act—Declarations Nos—
1 of 2006 regarding Purchased Payment Facilities [F2006L01748]*.
2 of 2006 regarding Purchased Payment Facilities [F2006L01768]*.
Product Rulings—
PR 2006/109 and PR 2006/110.
Remuneration Tribunal Act—Determination 2006/09: Principal Executive Officer (PEO) Classification Structure and Terms and Conditions [F2006L01795]*.
Superannuation Guarantee (Administration) Act—Written guidelines for the reduction of an increase in an employer’s individual superannuation guarantee shortfall, dated 9 June 2006 [F2006L01821]*.
Taxation Determination—Notice of Withdrawal—TD 95/29.
Telecommunications (Carrier Licence Charges) Act—
Telecommunications (Annual Carrier Licence Charge) Determination 2006 [F2006L01803]*.
Telecommunications (Costs Attributable to Telecommunications Functions and Powers) Determination 2006 [F2006L01808]*.
Telecommunications (Recovery of ITU Budget Contribution) Determination 2006 [F2006L01805]*.
Governor-General’s Proclamations—
Commencement of Provisions of Acts
Family Law Amendment (Shared Parental Responsibility) Act 2006—Schedules 1 and 2—1 July 2006 [F2006L01775]*.
* Explanatory statement tabled with legislative instrument.