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SITTING DAYS—2006

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RADIO BROADCASTS

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- **SYDNEY**: 630 AM
- **NEWCASTLE**: 1458 AM
- **GOSFORD**: 98.1 FM
- **BRISBANE**: 936 AM
- **GOLD COAST**: 95.7 FM
- **MELBOURNE**: 1026 AM
- **ADELAIDE**: 972 AM
- **PERTH**: 585 AM
- **HOBART**: 747 AM
- **NORTHERN TASMANIA**: 92.5 FM
- **DARWIN**: 102.5 FM
FORTY-FIRST PARLIAMENT
FIRST SESSION—SEVENTH 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
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<tr>
<td>Minister for Trade and Deputy Prime Minister</td>
<td>The Hon. Mark Anthony James Vaile MP</td>
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<td>Treasurer</td>
<td>The Hon. Peter Howard Costello MP</td>
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<td>Minister for Transport and Regional Services</td>
<td>The Hon. Warren Errol Truss MP</td>
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<td>The Hon. Dr Brendan John Nelson MP</td>
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<td>Minister for Foreign Affairs</td>
<td>The Hon. Alexander John Gosse Downer MP</td>
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<tr>
<td>Minister for Health and Ageing and Leader of the House</td>
<td>The Hon. Anthony John Abbott MP</td>
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<td>Attorney-General</td>
<td>The Hon. Philip Maxwell Ruddock MP</td>
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<tr>
<td>Minister for Finance and Administration, Leader of the Government in the Senate and Vice-President of the Executive Council</td>
<td>Senator the Hon. Nicholas Hugh Minchin</td>
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<td>Minister for Agriculture, Fisheries and Forestry and Deputy Leader of the House</td>
<td>The Hon. Peter John McGauran MP</td>
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<td>Minister for Education, Science and Training and Minister Assisting the Prime Minister for Women’s Issues</td>
<td>The Hon. Julie Isabel Bishop MP</td>
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<td>Minister for Families, Community Services and Indigenous Affairs</td>
<td>The Hon. Malcolm Thomas Brough MP</td>
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<td>Minister Assisting the Prime Minister for Indigenous Affairs</td>
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<td>Minister for Industry, Tourism and Resources</td>
<td>The Hon. Ian Elgin Macfarlane MP</td>
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<td>Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service</td>
<td>The Hon. Kevin James Andrews MP</td>
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<tr>
<td>Minister for Communications, Information Technology and the Arts and Deputy Leader of the Government in the Senate</td>
<td>Senator the Hon. Helen Lloyd Coonan</td>
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*(The above ministers constitute the cabinet)*
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<td>Minister for Fisheries, Forestry and Conservation</td>
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<td>Senator the Hon. Charles Roderick Kemp</td>
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<td>The Hon. Joseph Benedict Hockey MP</td>
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<td>Minister for Community Affairs</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>
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<td>The Hon. Bruce Frederick Billson MP</td>
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<td>Parliamentary Secretary to the Minister for Finance and Administration</td>
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<td>The Hon. Christopher John Pearce MP</td>
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<td>Parliamentary Secretary to the Minister for the Environment and Heritage</td>
<td>The Hon. Gregory Andrew Hunt MP</td>
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<td>The Hon. Sussan Penelope Ley MP</td>
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<td>The Hon. Patrick Francis Farmer MP</td>
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<td>Parliamentary Secretary (Foreign Affairs)</td>
<td>The Hon. Teresa Gambaro MP</td>
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SHADOW MINISTRY

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

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

ENVIRONMENT AND HERITAGE LEGISLATION AMENDMENT (ANTARCTIC SEALS AND OTHER MEASURES) BILL 2006

First Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.31 am)—I move:

That the following bill be introduced: A Bill for an Act to amend legislation relating to environment and heritage, and for related purposes.

Question agreed to.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.31 am)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.31 am)—I table the explanatory memorandum relating to the bill and move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

ENVIRONMENT AND HERITAGE LEGISLATION AMENDMENT (ANTARCTIC SEALS AND OTHER MEASURES) BILL 2006


The Antarctic Treaty (Environment Protection) Act 1980 gives effect to Australia’s obligations under the Protocol on Environmental Protection to the Antarctic Treaty—the Madrid Protocol of 1991, of which Australia was a principal architect. The Madrid Protocol afforded significantly increased protection to the Antarctic environment.

Measures giving effect to Australia’s obligations under the Convention on the Conservation of Antarctic Seals 1978 are currently embodied in the Antarctic Seals Conservation Regulations 1986 which means that penalties for offences can only be set at a low level.

This bill transfers the seals-related measures in the existing Antarctic Seals Conservation Regulations 1986 into the Antarctic Treaty (Environment Protection) Act 1980. Seals and whales are the only two families of mammals native to the Antarctic. Whales are already protected under the provisions of the Environment Protection and Biodiversity Conservation Act 1999. The bill increases the penalties for seals-related offences to bring them into line with other wildlife related penalties in the Antarctic Treaty (Environment Protection) Act 1980. Taking seals for commercial purposes will remain prohibited.


In addition to the pecuniary penalty already available, the bill introduces a maximum imprisonment penalty of sixteen years for mining in the Antarctic. The ban on mining is the key feature of the Madrid Protocol and the severity of the proposed penalty reflects the seriousness of this offence as well as the degree of premeditated planning required to commit such an action.

In recognition of the high scientific value of meteorites found in the Antarctic, the Antarctic Treaty Parties in 2003 agreed to a measure to protect them from uncontrolled collection. The bill implements this agreement by requiring a permit to collect meteorites or to remove meteorites or rocks from the Antarctic. Accordingly, it will also be an offence for a person to remove a
meteorite or rock collected in the Antarctic. Collecting rocks and meteorites under a permit is exempted from the restriction on mining activities.

The bill will also extend to individual animals the protection afforded by the Antarctic Treaty (Environment Protection) Act 1980 to seals and birds in concentrations of more than 20.

As a precaution against the introduction of non-native organisms and diseases to the Antarctic environment, the bill includes the requirement for a permit to re-introduce a native bird or seal to the Antarctic. Such a permit would set appropriate conditions for the safe re-introduction of a native animal. This requirement would apply, for example, to the return to the Antarctic of a vagrant individual or a specimen from a zoo.

The bill also adjusts other penalties throughout the Antarctic Treaty (Environment Protection) Act 1980 to better reflect the hierarchy of offences, and to more closely align them with penalties for similar offences under the Environment Protection and Biodiversity Conservation Act 1999.

The bill also adjusts other penalties throughout the Antarctic Treaty (Environment Protection) Act 1980 to better reflect the hierarchy of offences, and to more closely align them with penalties for similar offences under the Environment Protection and Biodiversity Conservation Act 1999.

Finally, the bill will amend the Water Efficiency Labelling and Standards Act 2005 to allow a WELS standard to be incorporated by reference into a determination that relates to a particular WELS product, and make another minor amendment to correct a drafting error regarding the definition of offence against this Act.

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

ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY) AMENDMENT BILL 2006

Second Reading

Debate resumed from 8 August, on motion by Senator Coonan:

That this bill be now read a second time.

Senator HUMPHRIES (Australian Capital Territory) (9.32 am)—Last night I was making the point about the Aboriginal Land Rights (Northern Territory) Amendment Bill 2006 that this bill is more about opportunity than it is about a lack of opportunity. The bill represents an important step towards enabling Indigenous people in the Northern Territory to obtain an economic advantage from the land which, over the last 30 years, under the land rights legislation, has been transferred to the ownership of those Aboriginal people. It is important that we therefore consider in this legislation a shift in the paradigm whereby such land might be used for the benefit of its traditional owners. The fact remains that it has been the case that that land has, for the most part, not been available for such economic exploitation, and this has unquestionably worked to the disadvantage of Indigenous people in the Northern Territory.

I want to focus for a moment on one particular proposal in the legislation, which is that it will be easier for Indigenous people to own their own homes and businesses on land in townships. The scheme was developed by the Northern Territory government. It is important to put on the record that it is not an initiative of this government but in fact was proposed by the Northern Territory government. What is more, it is a proposal which is entirely voluntary and would apply only to townships where most of the residents are not traditional owners. Traditional owners have the power under these proposals to set lease conditions and retain freehold title to the land. It is not about the alienation of Indigenous land—at least not for more than 99 years.

The federal government can only offer homeownership to townships if land tenure issues are resolved. Land councils do have a
role to play in respect of this, but the decisions are principally ones for owners of townships. The dynamics which these changes engineer are ones which permit a use of land which is much closer to that which occurs in other parts of Australia. For instance, it will be possible now for individual Indigenous people or families to obtain ownership, at least for 99 years, of a parcel of land. It will also be easier to regularise the arrangements whereby a business might operate in or move to a township and have a form of land tenure which is much more like what they might enjoy in another part of Australia.

At the moment, many such businesses, if they operate in those areas, operate under a licence arrangement. It is very difficult to see how any business would be willing to invest a large amount of capital in the growth and development of a particular business when there are such uncertain arrangements about the use of the land on which those businesses are based. I think that this development offers the prospect of much better use by and attraction to business of parcels of land for commercial operations.

It is true that many Aboriginal people in the Northern Territory would not be able immediately to take advantage of provisions that allow them to purchase their own homes. It is true that the level of disadvantage in many communities is such as to not make those provisions immediately available for the use of many people. Senator Siewert made that point in her remarks yesterday. But I would say to the Senate that the fact that not everybody is able to take advantage of provisions of this kind should not be an argument against making it possible for those who can.

The argument that if all cannot benefit then none should is a very weak argument indeed. The fact is that some land councils in the Northern Territory are keen for these provisions to be available; some are ready to take advantage of these provisions and to put in place arrangements for better commercial use of land and for ownership to be transferred to people who live in those townships under the 99-year lease arrangement. I think it is unconscionable for the Senate to stand in the way of those arrangements merely because some people in other parts of the Northern Territory may not be in a position to take up and use those arrangements immediately.

Senator Siewert made the comment yesterday that under these proposals traditional owners lose control of their land for four generations—for 99 years. That is true up to a point but, first of all, the conditions under which such leases are to be granted are essentially conditions that are set by traditional owners before the initial 99-year lease occurs. Secondly, if there is a loss of control for those 99 years, or four generations, it is no more or less than occurs in many other parts of Australia where leases are granted and where a measure of individual or corporate ownership occurs over land that is otherwise owned by somebody else for a period of time that approximates with that 99 years. If it works in other parts of Australia and if it is acceptable as a device for the commercial exploitation of land in other parts of Australia, why is it not acceptable on Aboriginal land?

The bill means that many townships under Aboriginal control will need to have a different way of looking at the land that exists in those townships. But it is clear to anybody who visits many of those communities that there is a serious problem in those communities, a problem rooted in poverty and a lack of opportunity, and a problem which the present settings do not adequately address. I believe that it is important that we rethink our approach towards the issues in those...
communities, and this is part of that process. It is part of introducing the kinds of motivations, the kinds of commercial dynamics, in those communities that apply in other parts of Australia. I have no reason to believe that the principles that work in other parts of Australia would not work in these communities as well. I emphasise again that the 99-year township leasing program was one that was originally proposed by the Northern Territory government and was supported, at least in principle, by a number of witnesses who came before the inquiry by the Community Affairs Legislation Committee in Darwin a few weeks ago.

The arrangements proposed in the legislation with respect to mining provisions are somewhat less controversial. They make for easier and clearer pathways for decisions to be made on exploiting the potential to mine on Aboriginal land. Again, the whip hand is retained by traditional owners. It is they who determine the essential conditions under which such arrangements are worked out. Many of the somewhat outdated impediments to making decisions on that land are to be removed by this legislation and I think they are widely seen as being appropriate steps in the right direction.

There are other provisions in the legislation dealing with, for example, the potential to create new land councils which attracted some criticism in the inquiry. These are among a number of provisions in the legislation which may have great benefit to Indigenous communities but which may also create controversy if they are used in the wrong way. On that point, I make the observation that if we stood against any legislation in this place which had the potential to be misused, which had the potential to be wrongly applied by individual governments from time to time, we would not pass a great deal of the legislation that comes before this House. But we have to accept that in order to create opportunities some risks might have to be taken that such misuse or abuse of power might occur. I do not believe that any of the governments involved in exercises such as this, and I refer to the federal government and the Northern Territory government, are likely to exploit such provisions to the disadvantage of Indigenous people in the Northern Territory. I believe there is enough goodwill on the part of the governments concerned to ensure that these provisions are used for the benefit of Indigenous people in the Northern Territory, and provide for an injection of certainty into arrangements which in the past simply have not had sufficient certainty to allow firm decisions to be made.

For example, under present provisions it is possible to create new land councils in the Northern Territory where a ‘substantial majority’ of Indigenous people support the creation of a new council. That has not been defined. What is a ‘substantial majority’? In the past we did not know exactly what that was. This bill defines that substantial majority as 55 per cent of Indigenous people living in an area where a new land council might be created. That is the kind of certainty which people need in order to be able to make arrangements for the future, to deal on a commercial basis with particular landowners and to identify the issues which need to be identified in order to proceed to negotiate outcomes which are to the advantage of those people who own that land.

There are other provisions dealing with the termination of land claims, for example, the termination of claims over intertidal zones and riverbeds which are not contiguous with existing Aboriginal landholdings. It seems to me that that is an entirely sensible arrangement. Although such claims have occasionally been granted in the past, there really is not a reason why land which is not contiguous with existing Aboriginal land-
holdings should be treated in that way. Again, this is about an end to uncertainty.

It seems that the opposition and others in the chamber are opposed to these changes. They are intent on defending the status quo. They want to resist the measures in the legislation for greater flexibility, greater accountability and the use of some market principles. That is unfortunate because it is clear that even others within, for example, the Australian Labor Party see potential in these provisions.

I note again that the Northern Territory government gave substantial support to many of the provisions in this legislation while expressing some concern about the time frame in which they were being implemented. Nonetheless, for the most part they accepted in principle the reforms inherent in this legislation, including those provisions which had more recently been added to the proposal by the minister.

It is important to remember that these changes are going to in large part be administered by the Northern Territory government. They are not about the federal government making day-to-day decisions about use of land in the Northern Territory or about creation of new land councils and so forth. Many of the changes which this bill provides for will confer powers in effect on the Northern Territory government, and it will be making these decisions. So, if there is some sort of conspiracy here to deprive Indigenous people in the Northern Territory of some rights over their land, it is a conspiracy in which obviously the Northern Territory government is at least to some extent a partner. I said that we should look at the benefits in this legislation, not the potential for harm, and I believe that is the case.

I want in the last couple of minutes to make reference to a couple of other matters. No doubt members in this chamber will have had a great many emails and phone calls in recent days from members of the community who are concerned about these changes. As members will be aware, that has largely being generated by the GetUp! website, which has begun a campaign on this legislation. I note that in my case, and I suspect it is the case for other senators, there was almost no correspondence on this legislation before the weekend and now there is a flood of it. I think that reflects more the power of sites such as GetUp! than necessarily a genuine basis of concern in the rest of the community. I do not think that people, though, ought to take their information from one single source, a source which has been universally critical of the present federal government, and consider it to be the only source of information to use for finding out about important reforms such as this.

The Community Affairs Legislation Committee report which was presented out of session last week does endorse the legislation being passed, but I need to put on the record that the committee did feel that there was inadequate time to completely and comprehensively cover the issues which were entrusted to the committee to review. This was not a conspicuous example of the Senate committee system working at its best, and I put on the record that I would urge the Senate to consider very carefully putting issues of such significance into committees which already have a very heavy workload. That was certainly the case for the Community Affairs Legislation Committee. (Time expired)

Senator CROSSIN (Northern Territory) (9.48 am)—Next week we celebrate the anniversary of one of the most remembered and historic moments in the history of this country. It will be 40 years ago, on 16 August 1975, that Gough Whitlam poured a handful of soil from the Daguragu land into the outstretched palm of Vincent Lingiari in a ges-
ture signifying the handing back of 3,236 square kilometres of ancestral land and the final chapter in the Gurindji’s nine-year fight. The official record of this significant gesture was the drafting under the Whitlam government of the land rights legislation finally passed by the Fraser government.

Let me spend a moment looking at the history of the legislation, which was the culmination of the royal commission conducted by Justice Woodward. The Aboriginal Land Rights (Northern Territory) Amendment Bill 2006 before us today would make the most significant and monumental changes in the history of the legislation’s existence. The legislation was designed and has always been seen as an instrument to preserve and strengthen Aboriginal interests in rights over the land and ensure that these interests are not taken away without consent. After review by Justice Toohey in 1983 and amendment as a result, we did not see any other attempt to change the fundamental intent of this legislation until the arrival of the Howard government.

John Reeves QC was commissioned to undertake a further review of this act in 1997, and the controversy of his report culminated in the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs considering his recommendations and the implications of these for change. The report that the House of Representatives committee wrote is there for the history books and should be read by anyone who has an interest in this legislation. The unanimous recommendations—that is, recommendations supported by government members and opposition members in this building—especially the first of these recommendations in the report Unlocking the future, say that this act should not be amended without the traditional owners in the Northern Territory understanding the nature and purpose of these changes and giving their consent and, further, that any Aboriginal communities or groups that may be affected should be consulted and given adequate opportunity to express their views.

That thought was good enough for government members in the House of Representatives to sign up to in 1998-99. It is a pity they did not stick to their view when this bill was put through the House of Representatives in June. We have seen all too often of late the arrogance of the government with control of the numbers in both houses and we have seen their preparedness to abuse such control. This is another of those examples.

This legislation has been rammed through with minimal debate, minimal scrutiny and minimal time for any Senate inquiry. We have just heard Senator Humphries admit that the Community Affairs Legislation Committee of this chamber had a grossly inadequate time frame in which to deal with such serious ramifications as this act presents. The government think they know best on all matters and that they do not have to consult, negotiate or debate with anyone except their mates. The Aboriginal Land Rights (Northern Territory) Amendment Bill 2006 before the Senate chamber today is no exception. As I have travelled around Aboriginal communities in the Northern Territory, particularly in last six months, I have heard constant complaints that Indigenous people have not been consulted and have not been given time to understand, consult and talk with one another about these major changes.

The Aboriginal land rights act is a very major and important piece of legislation. It is, in fact, fundamental to the future of Indigenous people in terms of promotion of social harmony and stability, and maintaining the spiritual link with the land which gives Indigenous people their very sense of identity and their basis for spiritual beliefs.
Any changes should be worked out in very close and full consultation and negotiation with Indigenous people and communities—not thought out using paternalistic ideology by politicians and bureaucrats and then rammed through this parliament in great haste.

Historically, this legislation has had the benefit of being treated in a bipartisan manner. But in the current context of this government and its treatment of Indigenous people we should not be surprised, although very disappointed, with the haste of these changes and the lack of genuine discussion and agreement with the people who will be most affected by them. The existing land rights act has certainly not failed. Under it we can find countless examples of development on Aboriginal land, whether it be mining bauxite at Gove, goldmining in the Tanami, even uranium mining at Kakadu and manganese at Bootu Creek. Then there are examples of tourism at Katherine, Uluru and Kakadu National Park and even the new housing development on the Malpi estate that is being developed in Gove, as I saw only last Friday, and the list goes on.

Under the existing act, Aboriginal people have seen development on their land but in a way in which they can control and in a way that they have come to accept, understand and agree to. This bill proposes major amendments to the Aboriginal Land Rights (Northern Territory) Act of 1976. In summary, these are reforms in relation to mining and exploration provisions, the introduction of the 99-year headleases on Aboriginal land, mechanisms for the creation of new land councils, provisions for the delegation of certain land council functions to incorporated regional groups, new requirements regarding performance and governance of land councils, major change to the funding of land councils and finally, of course, the excision of intertidal zones not contiguous with Aboriginal land.

Everyone except this government—and including the Northern Territory government—agrees that the time allowed to work out and consider these changes is totally inadequate. The Senate Community Affairs Legislation Committee had minimal time to consider this bill and with only one public hearing in Darwin on 21 July—totally inadequate and with not even a chance for the Community Affairs Legislation Committee to get to Alice Springs, let alone to any of the remote Indigenous communities in the Northern Territory who will be at the very core of the effects of the changes to the legislation.

Even the government members of this committee could not give unqualified support to this bill in the report, supporting the legislation only on the basis of further, ongoing negotiations with affected groups—but after passing the bill. Quite frankly, that is nonsense. If the bill in its present form is not good enough to support then it is not good enough to pass and say that later we will tinker around at the edges and make the changes. If it is not good enough to pass in its current form it should not be passed and then sought to be negotiated and discussed further down the track.

We have seen last minute changes of major proportions being made to this legislation. Even, I understand, the Northern Territory government has only had three days to comment on it. The mining and exploration provisions are seemingly accepted by the key stakeholders such as the Northern Territory government, the land councils and the minerals councils. These were done in consultation over many, many months—not in haste—and Labor can and will support them. However, other parts of this bill give rise to serious cause for concern and amendment or
even rejection. Some of the problems include the conditions of the 99-year headlease model, the use of the Aboriginals Benefit Account to fund township surveying and administration of the new entity to hold the headleases, the creation of new land councils and the new requirements on land council performance, accountability and funding methodologies.

Under these changes the land councils are being required to perform and account for funds like few other organisations are expected to do. They have to state their anticipated annual budget and stick to it unless they get ministerial approval to vary it. They are already required to report annually to the federal parliament, as are most other bodies of this nature. It is very unclear to me why they are being asked to do more when this level of accountability is already there and other bodies are not put under such scrutiny.

This bill also makes it possible for the establishment of other land councils and for their powers to be delegated from the existing four land councils. This is nothing more than the implementation of an ideological policy base, and I have not seen such strong opposition against the existing land councils as I have seen in this suggestion. Rather than a genuine attempt to ensure that this act continues to work effectively and in the best interests of Indigenous people, the strength of the larger organisations is not supported by this government. It runs counter to the Commonwealth’s current drive to consolidate services and economies of scale in native title representative bodies and Aboriginal legal services. So on the one hand this government wants to consolidate services to Indigenous people through rep bodies and legal services, and on the other the establishment of this legislation seeks to break up the land councils and larger bodies, abolish their existing strength and effectively create many small land councils and organisations, which will be the end result.

This point was highlighted and disagreed to by the Minerals Council in their submission to the Senate inquiry. If you know anything about the history of this legislation, you would know that this government has seriously got it wrong when even the Minerals Council does not want this change to the legislation, has backed the land councils in suggesting that the current legislation should stand and has urged that this provision not proceed.

All of my Indigenous constituents do not want this at the expense of their culture, and it seems that this government, by the way they are going about things, want to return to an assimilation policy. The establishment of this legislation shows that government members totally lack understanding of and empathy for Indigenous tradition. This bill certainly continues that impression and that trend. Aboriginal people have had minimal input and minimal say in something that will have a major impact on their communities and land councils.

In his submission to the committee, Professor Jon Altman, who is vastly experienced and acknowledged nationally in Indigenous affairs, particularly in the Northern Territory, says that it is his belief that these changes will actually make the amendment objectives, especially with respect to economic development, harder to achieve than under the current laws. He believes headleasing would have been better if trialled first in some communities.

Oxfam Australia, in a letter that I received only yesterday, said that they were one of the many organisations that were prevented from making a submission because of the extremely short time frame for the passage of this legislation. This is very disappointing, as Oxfam Australia undertook research last year
to examine the claim by this government that these changes will generate improved economic development and private homeownership. The report, titled *Land rights and development reform in remote Australia*, found that many of the necessary elements required to promote economic developments are not related to butchering the land rights act and making profound changes to this legislation but to taking action to improve health, housing, education and infrastructure for Indigenous people in their communities.

Mr Daly, the Chair of the NLC, made this point during the Senate inquiry:

We want to be part of the Territory economy ... We want to see our people move forward. We also want our kids to have a decent education and to be able to get decent jobs out on their own traditional lands.

Tom Calma, the Aboriginal and Torres Strait Islander Social Justice Commissioner and an elder and traditional owner from the Northern Territory, says in his submission that he has serious concerns about the land rights amendments in this bill. He says:

The amendments make significant changes to the existing land rights legislation which has the potential to compromise the rights and interests of Indigenous people living in the Northern Territory.

He states very clearly that he is concerned that these amendments have been made without the full understanding and consent of traditional owners and Indigenous Territorians. He says:

... the consultations with land councils regarding the ALRA amendments did not cover the full provisions of the proposed changes to the legislation.

At the Darwin hearings, Raymattja Marika, a traditional owner from north-east Arnhem Land—and current Northern Territorian of the Year, I might add—said:

While we Yolngu have always known our connection to land and the laws that govern our connection and our rights ... Our struggle was against the mining companies and the federal government that issued the first leases in 1966. Now we are in the same position today—we are still fighting the Commonwealth government.

She went on to say—and I quote these words because I think they are of particular significance:

Land ownership is not something you can play with. You dig our land and you take our land, but that land is our backbone. It is our life source. We invite you to respect that and to understand the value we have on our land and to help us achieve our goals.

We also heard from Mr Wali Wunungmurra, a man who my husband calls ‘brother’ and who was the first person to invite us to become part of an Indigenous family in north-east Arnhem Land. He said that, in the view of the grassroots people he was representing, the present land rights act was working fine and was a workable act that people could now understand. He went on to say:

What I say and what the people who asked me to present the case here to the committee say strongly is that if there are going to be changes made to the act, Aboriginal people would like to be a part of those changes. They are saying that they would like to be making decisions and saying where we should go and how fast we should go. We want to make decisions about the pace and the timing.

I want to make a few comments in conclusion. There are many areas of this legislation that I could spend quite a deal of time criticising and commenting on, but I want to address very quickly the notion that, despite what this government says about the 99-year leases being voluntary, what we have seen in the two or three instances in the Territory is that it is anything but that. On 4 May 2006 a joint press release between Minister Mal Brough and Minister Julie Bishop said:

A secondary boarding school will be built on the Tiwi Islands as part of an historic deal to open the door for home ownership on Aboriginal land.
In this press release there is clearly a connection between the boarding school and home-ownership on Indigenous land. There is clearly a link that, if you give up your land for a 99-year lease, we will provide you with a further $10 million towards the construction of a new community managed boarding college on the Tiwi Islands.

After I asked Mr Greer in estimates this year, 'Is this school funding linked to any other requirements from the Commonwealth?' he said:

Yes. I think when the minister for Indigenous affairs announced the new initiative on 4 May, he indicated there would be a condition around signing a heads of agreement committing the traditional owners and the government to settle an agreement by the end of year to allow for home ownership and commercial business development over the township of Nguiu.

But when we were in Darwin on 21 July the chair of our committee asked exactly the same question of Mr Stacey from OIPC. Mr Stacey said:

The government has made it clear right from the outset that the arrangements are voluntary.

We went on to ask Mr Daly, the chairman of the NLC, about the condition on Elcho Island that 50 new homes would be provided in return for a 99-year lease. I asked:

If the people on Elcho Island decide not to enter into the 99-year lease, I take it they don’t get the 49 houses, then, that have been promised by Minister Brough?

Mr Daly said:

That is correct. The community leaders out there have been told, ‘If you do not sign up to this community leasing scheme, you will not get the 50 houses that I have promised you.’

And, in a press release on 19 June this year, Mal Brough had this to say:

Around fifty houses will be built and real jobs provided, if the community is safe and signs up to full school attendance, a no-drugs no-violence policy and agree to a 99 year lease to support home ownership and business development opportunities.

Mr Stacey denied that in Darwin, and he said to me:

I think, with all due respect, it is an oversimplification to try and characterise the government as going around saying, 'Unless you agree to a head-lease, you are not getting essential services.'

In that context, he denied that the government is doing that. Who is right here: ministerial press releases or departmental officials from OIPC? But the point I want to make is that the 99-year leases will be anything but voluntary. The track record of this government in those two instances shows that you will only get essential services or services connected with your future if you agree to give up your land. (Time expired)

Senator ADAMS (Western Australia) (10.08 am)—As a member of the Community Affairs Legislation Committee, I was involved in the inquiry into the Aboriginal Land Rights (Northern Territory) Amendment Bill 2006. Recently, I have also been involved with two other Senate Community Affairs References Committee inquiries, which have visited a number of remote Aboriginal communities in the Northern Territory, Queensland and the Kimberley area of Western Australia. These visits have given me a great insight into the infrastructure needs of these communities and the opportunities that are available to Aboriginal people through the successful passage of this bill.

The amendments contained within the bill are the first comprehensive reforms to the Aboriginal Land Rights (Northern Territory) Act since it was introduced in 1976. The changes to the act will provide more choices in life for Aboriginal people in the Northern Territory, and in time it is hoped other states and territories will follow. They will modernise the act and allow Aboriginal people to get more economic returns from their land.

The
changes to the Aboriginal land rights act will occur without changing the two fundamentals of the act—the inalienability, meaning the title cannot be taken away from traditional owners, and the traditional owner right of veto, meaning traditional owners can prevent or stop development and access to their land if they choose.

Land is the best asset that Aboriginal people have for economic development, and these changes will provide more choices for Aboriginal people. I would like to stress the word ‘choice’. There has been a great deal of misunderstanding amongst some Aboriginal groups and communities regarding the 99-year township leases. The 99-year township lease scheme was developed by the Northern Territory government and is entirely voluntary. It would only apply to townships where most of the residents are not traditional owners. Traditional owners would set the lease conditions and still retain freehold title to the land. The idea is to give individuals more control over their lives. They now have the option to lease their land to other individuals and businesses. For the first time, individuals and families will be able to buy land, and home and retail centres can be privately developed. The opportunity for homeownership should be a great incentive, especially for large extended families, to have a suitably designed house to meet the needs of all occupants. Private investment in retail centres for remote communities is a positive step, considering they may bring employment options as well. I stress again the two fundamentals of the act which will not change with these amendments. The title cannot be taken away from the traditional owner, and traditional owners can prevent or stop development of and access to their land if they choose.

The land councils have criticised the use of the Aboriginals Benefit Account to fund rentals to traditional owners under the leasing scheme. The Aboriginals Benefit Account, known as the ABA, is made up of mining royalty equivalents for the benefit of Aboriginal people. The ABA is designed for the benefit of the Aboriginal people in the Northern Territory, and providing rental to traditional owners satisfies that requirement. It is important to note that this will be a temporary arrangement until the scheme becomes self-funding. The performance and the accountability of the land councils, incorporated bodies and royalty associations which receive payments for the use of Aboriginal land will be improved under this bill. In future, land councils will be funded on the basis of workloads rather than a guaranteed funding formula. Land councils already receive more than the statutory minimum, so this is a much more businesslike approach.

With the Northern Territory government’s support, this bill has the provision to withdraw land claims to the intertidal zone and to beds and banks of rivers which are not adjoining Aboriginal land. The claims are being disposed of because they cover narrow strips of land, which are inappropriate to grant. It was never intended that people could own land that did not abut other owned land. Granting these intertidal zones would prevent legitimate access to non-Aboriginal land. The bill seeks to promote economic development on Aboriginal land by speeding up and clearing up the processes related to exploration and mining on Aboriginal land. The time frame for negotiations relating to exploration licences will be better defined, and the minister will have the power to bring negotiations to a conclusion.

There was a very good editorial in yesterday’s Sydney Morning Herald, titled ‘Dreaming of home: land rights and land deals’, which sums up what the government is hoping to achieve with the amendments in this legislation. The following passage is particularly relevant:
The risks of failure, then, are known, and are great. Yet the alternative is to continue with the welfare-based policies which have trapped generations of Aborigines in the most abject poverty. It is to reject the possibility that some communities may be induced to rely on their own efforts to pull themselves out of the dust. In Aboriginal communities there is enthusiasm and misgiving about the land rights amendments shortly to come before the Senate. That is reasonable. The amendments will never fix every problem or make everyone a winner. But if they can help even some communities to help themselves, they will be worthwhile.

I believe these amendments are a positive step towards improving economic opportunities, providing greater choice for local traditional landowners, and allowing for more decision making for local people.

The bulk of the amendments are based on a joint submission by the Northern Territory government and land councils, and the Northern Territory government supports the bill overall. Whilst the committee has stated that adequate time was not given to conduct the inquiry, I am confident that the government will continue to seek comment from traditional landowners and the community and that it will review the legislation on an ongoing basis to ensure that we are working towards a better outcome for Indigenous Australians. I support this bill.

**Senator MOORE** (Queensland) (10.16 am)—A number of senators have spoken on the Aboriginal Land Rights (Northern Territory) Amendment Bill 2006, and we have heard considerable evidence about the history of this wonderful piece of legislation. When the original legislation was being passed in the chambers, I was at school and I listened to the debate.

There is no piece of legislation that is beyond consideration. I have said before in this place that the whole role of our representative democracy is to consider legislation and to reconsider it to see whether amendments can be made to improve it. Extraordinary care is required when moving changes to some landmark pieces of legislation. In this case, the original land rights legislation followed a period of disputation and negotiation in this country which I think came to signify all things about the acknowledgement of Indigenous rights in Australia. That was important to people not only here but internationally, because we were seen to be making genuine attempts to acknowledge Indigenous people and Indigenous rights.

Other senators have talked about the fact that this legislation was originally introduced by the former Labor government but then taken forward by the new Liberal government, and both sides were able to move together and take a unified approach to make the necessary changes. Senators have also talked about the fact that there have been attempts to make changes—and that should happen. There should be attempts to improve and to make changes. But through this process there has been considerable discussion, and concerns have been raised about the motivation of the changes, the impact of the changes and, most importantly—and it has come up consistently during this debate—the involvement of the people on whom these changes will have an impact, and they are the traditional owners of the Northern Territory. We are being watched, and that is important. How we work with this legislation will show our communities how this government is willing to work effectively with the traditional owners of the Northern Territory and with all traditional owners. On that basis, that is our job.

The changes that are being attempted to be made with this legislation fall into two main parts. There are those changes that have been the subject of ongoing discussion—in fact, ongoing discussion which has led to agreement. Consistently, there has been talk
about the fact that there has been considerable debate over the years about mining rights and about structures, and a degree of consensus was achieved. There is no such thing as a perfect agreement. But a number of the proposals in this legislation have been discussed and there has been a degree of acceptance which could be moved forward. There is an opportunity with this legislation to have consensus and agreement. But then, at the end of the process, a range of other changes and amendments were brought in that have not had the option for that degree of consultation and negotiation.

It comes back to the core issue of understanding and knowledge of the process. Other senators have talked about the truncated time for consultation with traditional owners, with other people in the Northern Territory and with the wider community. Whilst this piece of legislation relates specifically to the Northern Territory, its impact is much wider. It will have an impact on all of us, because it sets up the model and the expectation of how we are going to interrelate and communicate. It actually puts down our credentials as a government for how we are going to operate in this field. I think the credentials are flawed, because the opportunities for consultation and negotiation have not been effectively taken.

That was acknowledged in terms of the process with the Senate committee. Once again we have seen a disregard for the Senate committee process because of the tokenism of saying that the bill would be brought in and that we would go through the standard process and refer it to a committee for consideration—a very fine, very noble and accurate process to follow. But then there was pressure on all members of the committee to ensure that there would not be effective consideration; there would not be the opportunity for people to have their voices heard.

I will talk more about grassroots discussion later, but I want to talk now specifically about the standard operation of the committee, which has a long history of working in this area. The committee has integrity, it offers the chance to communicate, to work together and to achieve often genuine consensus recommendations.

All of us on the committee agreed that we had inadequate time and that we were in fact not providing respect to those organisations and individuals who had made the effort to put forward a submission and who wanted to talk to our committee. They saw the advertisement and they wanted to have their say in the process. So what could we do? We were restricted in our time, and the deadline for when this legislation had to be brought back to the chamber was predetermined. And the legislation must be pushed through. We understand, because we are numerate, that the numbers are there for this particular process to be pushed through. The committee process was a sideshow; it was going through the motions. The motions were disrespectful. As we have heard from other senators, people genuinely wanted to have their say and wanted to put forward their responses to the legislation—legislation that included amendments that were not previously known about and which they had only recently received notification about. They wanted to have their say about how the legislation was going to impact on them, their community, their lives and their futures.

But we had one day in Darwin and we had to limit the number of people who were able to come and talk with us. We received valuable and incredibly important information from people who knew their business and who wanted to come and talk to us. We had to restrict it. As always, we could not hear from all the people who put in submissions. There were large numbers of people who said that they could not meet the original
deadline for submissions, but we could not listen to them because we had to have our committee report concluded so that it could come back into this place in the first week of sittings and so that the legislation could be rammed through and this process proceeded with. So be it. That is the expectation of the government; that will happen. But it devalues the way that we operate and it devalues our credibility and credentials with the wider community.

OIPC were so busy at the time that they could only send some representatives to the committee hearing in Darwin. Some had to stay in Canberra and talk to us by phone hook-up. We acknowledge the fact that OIPC could share a couple of hours with the committee that was tasked to consider the legislation that was going through. I also want to put on record my thanks for the rapid response that OIPC gave to the questions on notice that we put, understanding the time frames and constraints under which we were operating. I want to put on record my appreciation for them getting those responses to us very quickly so that in the limited time that we had we could move forward.

In terms of the process, we set up the committee, we had the hearings and we wrote the report. Even in this very small report we can hear and feel the pain of people who wanted to be involved in the process of changing the legislation which was going to affect everything that they held dear. Senator Crossin quoted the traditional owner who talked so eloquently about the meaning of traditional ownership of their land. We know it. Every single senator in this place understands—I hope—the particular relationship between traditional owners and their land. This strong Indigenous woman could not get to the hearing in the one day that we had but was generous enough to give her time by phone. It is difficult, Acting Deputy President Lightfoot—and I am sure you have had this experience—when you are trying to work through painful issues and you do not have the person in front of you to talk with and see. You do not get the power of their individual evidence. This woman’s evidence was strong even across the telephone line. Senator Crossin quoted those wonderful words about what landownership means.

In that day, we were able to receive significant evidence. I want to quote from one piece of evidence that was specifically about the consultation process with the key people in this whole change, the traditional owners. They were talking about their response to the OIPC submission, which talked about the years over which this particular legislation has been discussed. The traditional owners of north-east Arnhem Land—and I will not attempt to pronounce that area in traditional language because I would destroy it—said, among other things:

There may have been 9 years of consultation leading to these proposed amendments, but it was not with us.

… … … … …

The changes the Government are making to Indigenous affairs generally, and in this case Land Rights, are happening much too quickly for our people to understand let alone respond to. This is placing enormous stress on our leaders, and the sense of ‘loss of control’ and powerlessness to respond is resulting in demoralisation, depression and fatigue.

… … … … …

Yes, changes are needed and new ways forward need to be carefully developed in partnership with government and business, but the changes must be led by us, and implemented in consultation—not imposed.

That is my whole argument. We have missed an opportunity by ramming through this particular group of amendments in this way at this time.

There were no objections during that one-day hearing that we had—maybe if we had
had more time we could have found some objections—to them being involved in the process. There was no objection to them looking at the land rights legislation and seeing whether appropriate changes could be made and made in partnership. The objection was to the way it was being done and to the imposition once again on the people who would be affected by these changes by people who are not from there.

The government, which is supposed to be representing them, chooses not to work with them in partnership for its own philosophical reasons. People have the right to have those. All governments have positions on Indigenous affairs. That seems to be something that every government must do: make particular changes in Indigenous affairs. In many ways, that is good and right because that is one of the key issues for all of us. But it is not good when it means making changes to core legislation about land rights about which the people are not fully informed and aware.

We all know that there is no education process which can guarantee that everybody will be fully aware of every change that could be implemented. That is a goal which, whilst it may be noble, will never be achieved. But there must be understanding. The difficulties of consulting with traditional owners across the Northern Territory were reinforced to us in our one-day hearing. These difficulties are not new. The people who are best able to work through them are the land councils and the government bodies working with the local people.

I was surprised and confused in many ways by the response from OIPC when I asked them about the need for consultation with the local people. Their response to me—and I am not making a direct quote but I am confident that I am not verballing them—was that it was not their responsibility, that it was the responsibility of the land councils to do the consultation and that they would give support to the land councils. I reject that outright. In something as important as this legislation—or as important as all legislation which impacts on Aboriginal people in the Northern Territory—no-one can shirk responsibility or push it onto anyone else.

If the government is going to be introducing changes in legislation, it must be the government that has the final accountability to ensure that the people who will be affected by the legislation are at least aware of what is happening. They may not fully understand it—I think that many people in our community are not fully aware of all changes that government makes—but if we are going to be making a change to the core 1976 land rights legislation, which most traditional owners know about very thoroughly because it is their business, we all share the responsibility to ensure that they are aware of it. It is not good enough to just say that it is the responsibility of either the Northern Territory government or the land councils to do that. If we are introducing change, we must be confident that the people who will be affected by that change know what is going to happen.

It would be a good result if they were part of it and agreed to the changes. That would be the best possible outcome with any change of legislation. But the basic minimum must be that we accept our responsibility to ensure that they are aware of it and they see and understand what is going on. I am not confident that that is the case with this legislation. The evidence that we had from people who were living in the Northern Territory who had the opportunity to come before our committee indicated that they were not confident that this is true. In fact, I do not believe the government is confident that the people of the Northern Territory are fully aware of this legislation. Indeed, what the government has said in responses to our
committee and in statements made in this
place during the debate is that the legislation
is evolving and once we get through the nec-
essary process of passing it in this chamber
and in the lower house then we can get down
to evolving the processes and making sure
they work.

Certainly, any change of policy and any
change of legislation will involve that kind
of working through and seeing what works
best and making that fit. Certainly, we have
had evidence from OIPC that they will be
not imposing standards and that they will be
working through things with each commu-
nity because each community is different. In
my opinion, that is a given. There is nothing
extraordinary about that. That should always
be the commitment. But, in terms of where
we go next, I question whether it is genuine
partnership in that way.

I agree with the comments of Senator
Crossin about the 99-year lease, which is the
core aspect of disagreement. Many other
things could be worked out, but the proc-
esses around the 99-year lease have not been
agreed. I share the concern that Senator
Crossin put forward about whether this
would be a truly voluntary arrangement. We
heard in evidence about the kinds of things
that would be part of the discussion when
communities are asked whether they wish to
give up a 99-year lease on their land for
other purposes. The kinds of things that we
were told would be given back as part of this
very large shared responsibility agreement
included added housing. We heard about that
in one community. In another community, we
heard about the development of higher edu-
cation, a secondary school.

It seems to me that housing and education
should be a standard expectation of any Aus-
tralian, regardless of where they live. This is
tying the provision of housing and education
to giving up your land—because a 99-year
lease is a long time. I totally accept the evi-
dence we have had from the government that
it is not changing the title. We know that the
process would never be—actually I should
rephrase that; I never use ‘never’: we would
hope that the process would be that there
would be an acceptance that there would be
no attempt at any time in our community to
change native title. However, we heard from
people about what a 99-year lease would do.
I had to stop and think about it. If I gave up
something for 99 years, it would be highly
unlikely that I would be around when the
new lease was going to be signed. In that
process, you are looking at a cross-
generational information exchange, and deci-
sions that are being made over the next few
months in Indigenous communities in the
Northern Territory will see a break in the
linkage between the traditional owners and
their land for generations to come. I think
that is something that needs to be considered.

Whilst the core native title is not being
changed, that special relationship is. To do
that in response to something like houses or
schooling would seem to me to involve a not
particularly equitable balance of power and I
am not convinced it would be particularly
voluntary. I hope that people understand this
in the process. I am concerned that this legis-
lation will go through both these houses, but
I implore the government to hear the words
which the people gave to us at our committee
inquiry and try and return to a true partner-
ship, not an imposition yet again.

Senator WORTLEY (South Australia)
(10.36 am)—I rise to speak about the Abo-
riginal Land Rights (Northern Territory)
Amendment Bill 2006. The report on the
inquiry into this bill was handed down last
week, and there remains serious dissatisfac-
tion from key stakeholders, including the
traditional landowners, regarding the bill
proceeding through the parliament. Unfortu-
nately, there appears to be a lack of consid-
eration and respect from the government in considering the impact of some of the changes that will result from this bill.

This is another important piece of legislation that has some degree of merit but where the negative far outweighs the positive. It has been formulated without proper assessment of its impact on the lives of the people it will affect and without proper consultation. Submissions received from the Centre for Aboriginal Economic Policy Research, the Australian Law Society, the major land councils and the Minerals Council of Australia were all critical of the bill. It was strongly argued that the bill should not proceed until such time as agreement could be reached with traditional owners and other key stakeholders. The message that the bill should not proceed in its current form was clear. The answer as to whether the government listened is simple: no.

So today we stand here again witnessing the government’s abuse of a Senate majority. We are dealing with a situation where a Senate inquiry was held with only one public hearing and less than a week to prepare the report—not enough time to allow for proper consideration of such a bill. If this sounds familiar, it is because it is becoming a regular occurrence with this government, one that we on this side have come to expect from the out of touch Howard government. Even the majority report of the committee made the point that the time allowed was totally inadequate. But that is not all it had to say. It said:

There was insufficient time for many groups to prepare submissions and a single hearing was complicated by the necessity to include a number of teleconferences within the hearing. Additionally, time constraints prevented the Committee hearing from a number of witnesses. The inadequacy of time to do justice to the complex nature of the issues involved was reinforced by a number of groups in evidence. So the majority report highlighted the inadequate time frame and the denial of potential witnesses to be heard.

As some in this chamber may remember, it was the establishment of the Woodward royal commission by the Whitlam government and the resulting report that formed the basis of the land rights legislation. The royal commission was brought about by a number of cases surrounding the unfair treatment of Aboriginal Australia with respect to traditional connections to the land. One of the most significant of these cases was the Gove land rights case, in which the Yolngu people’s fight for land rights led to a Federal Court case. The action of the traditional owners of the Gove Peninsula and Arnhem Land to protect their land was due to Nabalco being granted a 12-year lease by the federal government to extract bauxite from the ground on the Gove Peninsula. However, the traditional owners lost. They lost because, at the time, Justice Blackburn used the terra nullius claim, which implies that land was unoccupied prior to European settlement.

The drafting of the land rights legislation was based on the report by Justice Woodward and included such significant aims as:

- The doing of simple justice to a people who have been deprived of their land without their consent and without compensation.
- The promotion of social harmony and stability within the wider Australian community by removing, as far as possible, the legitimate causes of complaint of an important minority group within that community.
- The provision of land holdings as a first essential for people who are economically depressed and who have at present no real opportunity of achieving a normal Australian standard of living.
The preservation, where possible, of the spiritual link with his own land which gives each Aboriginal his sense of identity and which lies at the heart of his spiritual beliefs.

Justice Woodward said that these aims could best be achieved by:

- Preserving and strengthening all Aboriginal interests in land and rights over land which exist today, particularly all those having spiritual importance.
- Ensuring that none of these interests or rights are further whittled away without consent, except in those cases where the national interest positively demands it—and then only on terms of just compensation.
- The provision of some basic compensation in the form of land for those Aborigines who have been irrevocably deprived of the rights and interests which they would otherwise have inherited from their ancestors, and who have obtained no sufficient compensating benefits from white society.
- The further provision of land, to the limit which the wider community can afford, in those places where it will do most good, particularly in economic terms, to the largest number of Aborigines.

Perhaps central to the current state of Indigenous affairs in this country—which, under the Howard government, is not being achieved—is Justice Woodward’s aim that:

The maintenance and, perhaps, improvement of Australia’s standing among the nations of the world by demonstrably fair treatment of an ethnic minority.

Now, more than 30 years on—a whole generation after the Woodward royal commission—we are in a position to update and reform the bill to assess if the changes previously made are still relevant and still to the advantage of the people whom this bill affects and protects. We have the opportunity to uphold this important recommendation of Justice Woodward made back in 1973. But the reality is that here is an opportunity to address an important issue and this government has set it up for failure.

Looking at some of the content in this bill, it would appear that Minister Brough has continued with the same attitude of the coalition ministers before him. That has not been lost on Indigenous Australians, as highlighted in the speech by the member for Lingiari, who held consultative meetings with traditional owners in their communities in the Northern Territory. He said:

At those meetings, people expressed their frustration, their anguish, their concern and their hurt at the way the Commonwealth government has imposed its agenda for change without any reference to them.

He went on to say:

They are deeply concerned that the government feels absolutely no compulsion to sit down and talk with them, let alone to consult or negotiate with them; that the government shows them no compassion; that it shows no knowledge or understanding of their cultural values or priorities; and that it shows no knowledge or understanding of the cultural differences that exist across Indigenous Australia, and of the different historical experiences that different communities have suffered.

There have been three reviews of the Aboriginal Land Rights (Northern Territory) Act 1976 over a nine-year time span. Significantly, in 2003, a submission to the government was made by the Northern Territory lands council, in a joint effort with the Northern Territory government, regarding possible amendments to the act. Many of these amendments, based on the finding of the three reviews and their own consultations, have been adopted in the bill. However, some of the proposed amendments contained in this bill before us today have not
been negotiated with traditional owners and their representatives.

One has to question why the government call for submissions for an inquiry when they clearly fail to give them the genuine consideration they deserve. They do not adequately consult with those affected and they put in place a series of reworded amendments that have the potential to destabilise the whole region. As was outlined in Labor’s dissenting report, the following amendments were not negotiated with the traditional owners: the 99-year leasing on Aboriginal townships; the creation of new land councils; the ministerial power to override a land council’s decision not to delegate its function to a regional body; the removal of guaranteed funding for land councils; the altered administration of the Aboriginal Benefits Account and composition of the ABA advisory board; and the excision of intertidal zones not contiguous with Aboriginal land.

In principle, there are perhaps some functions that may be better off if delegated at a more regional level. This was indeed a proposed amendment by the Northern Territory government and the existing land councils. However, as the member for Lingiari rightly pointed out, the government has taken this way too far. One of the amendments means that the core land council functions with respect to mining and leasing on Aboriginal land could be delegated. This is problematic because it provides for a situation where the powers of the body representing the traditional owners, a land council, could be delegated such that a body including non-Aboriginal people could exercise the core land council functions.

In addition to this, one of the recommendations of the Reeves report of 1998 was opposed by members of the standing committee investigating Reeves’s recommendations. Another poorly conceived consequence in the land council deregulation amendment is that the minister of the day has the power to make decisions about a land council’s authority, whether they agree or not. So you get this scenario whereby the original act, which was designed to give rights to Indigenous Australians, is going in the completely opposite direction. A further poorly conceived aspect of this bill is the proposal for funding for land councils to essentially be at the minister’s discretion. There exist serious concerns about this outcome. If the government of the day is giving payment to the land councils based on workload, it is essentially saying, ‘Let us know what you’ve got coming up and we’ll see what happens.’ It gives an unfair amount of decision-making power to Canberra. This is just a small insight into the problems resulting from some of the government’s amendments.

There is no doubt that there remain some serious flaws in the bill as it currently stands. The Senate Community Affairs Legislation Committee handed down its report on the bill last week, and it is fair to say that the people who were most disenchanted and generally unhappy about the proposals were the very people who will bear the consequences of the bill’s passage. With a bit of jockeying around the committee table, the government agreed to consult with them but only after the bill has been passed. Paragraph 1.75 of the government majority report recommends:

... subject to the amendments foreshadowed by the Minister and a commitment by the Government to undertake further ongoing negotiations and dissemination of information to the NT Government, Land Councils, traditional owners and communities likely to be affected by this legislation.

What they are saying is that the bill be passed and then the government will negotiate with traditional owners—after the horse has bolted. They are saying to the traditional owners, ‘Trust us, and we’ll negotiate later.’
One can only wonder as to why the government see the need to rush the bill through the parliament without taking the time to negotiate with the traditional owners beforehand.

Given this government’s record in honouring undertakings made, it is plain to see why traditional owners, key stakeholders, the opposition and minority parties have grave concerns about such a statement. It is little wonder that those in the Indigenous community get extremely frustrated and discouraged by this government when every time they have the opportunity to move forward they are pushed two steps back. Labor senators, in their minority report, called for the bill to be split to allow for the agreed amendments, such as the negotiated provisions of the bill relating to mining, exploration and subleasing, to proceed. Mining expansions are welcomed by many areas of the Indigenous community because it means they can generate substantial funds to improve their communities and social conditions. The negotiation process of mining has come a long way since the people of the Gove Peninsula boldly defended what was theirs.

Labor also recommended that the remainder of the bill be subject to thorough consultation and negotiation with traditional owners, their representatives and other key stakeholders before it is considered by parliament, not after. Given the lack of consultation raised in submissions to the inquiry, it would be a valuable recommendation to adopt. If, however, the bill is not split, then Labor recommended that the bill should not proceed.

I looked at some of the speeches on this bill made in late June by coalition members in the House of Representatives. Some of the comments are just proof that there is a serious partition between what is needed for Indigenous Australia and what is being applied. For example, the government’s member for Solomon wants ‘normalisation’ for Indigenous communities and cites Irish theme pubs and McDonald’s for incorporation into their lives as his measuring stick for what is normal. The member for Kingsford Smith said at the time, ‘What a joke,’ and I say today: what a disgrace. It just highlights that some government members have little regard for the cultural sensitivity of Indigenous Australia. The minister had the bravado to call it a ‘sorry day for the Labor Party’ for not supporting this bill’s passage through the lower house. In my view, Minister, sorry in respect of rights for Indigenous Australia is a word that many in your party, including your leader, have a very bad track record on.

The transcript of the Senate inquiry on the Aboriginal Land Rights (Northern Territory) Amendment Bill 2006 demonstrates a lack of consultation and negotiation. It demonstrates a lack of respect for traditional owners. As stated in the Labor senators’ report:

These non-negotiated amendments represent some of the most significant changes to the Aboriginal Land Rights (Northern Territory) Act since its original enactment thirty years ago. They have the potential to undermine the long-term viability and independence of Land Councils and deny cultural, social and economic enjoyment of land by traditional landowners.

Without the government addressing the key areas outlined by opposition senators in the inquiry, and indeed today in this chamber, we cannot support the bill.

Senator STEPHENS (New South Wales) (10.53 am)—We heard this morning and yesterday afternoon what the Aboriginal Land Rights (Northern Territory) Amendment Bill 2006 is all about. It proposes to alter 30-year laws that gave Aborigines control and communal ownership over land in the Northern Territory and established land councils to administer the land. This morning, Senator Crossin, who so strongly represents the constituency most affected by this legislation,
has outlined the historic nature of the original land rights bill and the local impacts of the proposed changes to this legislation.

The government majority report of the House of Representatives entitled *Unlocking the future: the report of the inquiry into the Reeves review of the Aboriginal Land Rights (Northern Territory) Act 1976* was tabled in the House of Representatives in August 1999, and I note that it is referred to in the explanatory memorandum to this bill. A committee with a majority of government members produced a unanimous report. Recommendation 1, on page 8 of that report, states:

The Aboriginal Land Rights (Northern Territory) Act 1976 ... not be amended without:

- traditional Aboriginal owners in the Northern Territory first understanding the nature and purpose of any amendments and as a group giving their consent; and
- any Aboriginal communities or groups that may be affected having been consulted and given adequate opportunity to express their views.

As I said, it was a unanimous report with a government majority.

The bill before the Senate today does not meet that basic test of proper consultation and informed consent of traditional Aboriginal owners in the Northern Territory. The report of the Senate Community Affairs Legislation Committee, tabled out of session, noted the concerns of the committee members and many witnesses about the lack of time for preparing submissions and that the committee had only one day of hearings about the bill, which will have a profound effect on Indigenous communities, and that many of those most affected by the changes in the bill are probably not even aware of its existence.

Professor Jon Altman, Director of the Centre for Aboriginal Economic Policy Research at the Australian National University, in his submission to the committee, made a critical point:

... the proposed amendments ... will result in a statutory framework that lacks internal consistency and that will make the meeting of amendment objectives ... less likely than the current framework.

Professor Altman reiterated concerns about the lack of consultation and the explanation of the impacts:

Other parts of the amendment (especially the provisions for head-leasing and then sub-leasing Aboriginal township sites located on Aboriginal land) emanate from quite recent ideas that have not been explained at all to Aboriginal traditional owners, have not been openly negotiated, and that have enormous potential implications for both the workability of ALRA—the act—and especially its financial provisions.

He suggested that the proposals should be undertaken under section 19 provisions of ALRA, rather than amending the act. Professor Altman is a highly respected expert in Indigenous issues. His submission raised very serious constitutional issues about the legislation as well as strong economic arguments. He also said in his submission:

... many old laws ... are good laws and statutory change should only be passed ... if it is likely to result in better outcomes for all stakeholders, but primarily Indigenous Australians.

Paragraph 8 of the explanatory memorandum explains the true motives of the Howard government. Under the heading ‘Objectives’, it states:

The principal objectives are to improve access to Aboriginal land for development, especially mining—

That is why we are here today. The current mechanism of negotiating ILUAs, Indigenous land use agreements, with agreed outcomes and opportunities for communities
and businesses, is not enough for this government.

Labor oppose this bill because aspects of it are wrong and make it deficient. We believe that the bill should be split. The bill seeks to undermine the principles of self-determination by removing funding for land councils from the Aboriginals Benefit Account and replacing it with a funding formula based on workloads and results—however the minister wants to define those. We support the provisions of the bill that relate to mining and exploration which also have the support of traditional owners and the Northern Territory government.

We share the desire of the people of the Northern Territory for investment. We understand that they want the capacity to develop their resources and want to be consulted about how that may occur so that there is a chance to maximise the return for communities—not just in the form of royalties but, more importantly, in social and economic development. The Indigenous communities want resource development and tourism that create local opportunities for training, employment and enterprise development.

It is time for the Minister for Families, Community Services and Indigenous Affairs to admit that he is wrong. Indigenous communities are not anti economic development, but they have been alienated by this government. Shared responsibility agreements that make unrealistic demands on unsuspecting communities, the dismal failure of some of the COAG trials, changes to CDEP funding and interference by the Indigenous policy coordination unit—they are all part of this minister’s style. And let us not even go to the minister’s former employee who helped perpetuate a disgraceful hoax on national television.

The best way to achieve development in Australia is by negotiating with people and taking them with you. That is exactly what the act does as it stands right now. Unfortunately, this government wants to diminish the capacity for land councils in the Northern Territory to properly represent their communities, encouraging instead new regional incorporated bodies to which the minister can delegate functions that override the wishes of traditional owners. Writing in the National Indigenous Times on 15 June 2006, Chris Graham had this to say about the bill:

... the government is seeking to wipe out the independence of the NT land councils—to gain control of them. The land councils’ financial resources will now come under the direction of Mal Brough. He will decide the level of funding they receive (if they receive funding at all).

The Minister is also proposing to give himself the power to delegate land council functions to other bodies—he has created and funded.

What does this mean in practical terms? It means that the land councils are dead. They will no longer do the bidding of traditional owners—they must do the bidding of the government, or they will be abolished.

So what is the intent of the Howard government amendments? They are designed to increase white access to the resource rich lands of the Northern Territory.

The minister has been out there working very hard to try to sell the government’s spin on the bill. I quote him:

The reforms to the Land Rights Act will help create future opportunities for Aboriginal people. These amendments allow for 99 year leases which will make it easier for Indigenous people to own a home or establish a business in Aboriginal townships.

The fact is that the government amendments will actually ensure that traditional owners will forgo their ownership of the land and associated rights to control entry onto their land. That is really what this bill is all about, and tempting Indigenous communities to exchange their land for community housing or facilities is really outrageous. As Senator
Crossin said this morning, 99-year leases equate to four generations. Shameful!

To date, the legislation has provided for traditional owners in certain circumstances to refuse consent for mining and other developments on their land—not because they are against development but because they are trying to ensure there is a balance between development and traditional rights in their communities.

The National President of the Australian Property Institute, Ms Marcia Bowden, yesterday wrote to Minister Brough outlining the concerns that the Australian Property Institute has with this bill. In particular, Ms Bowden expressed concern that the bill will disturb compulsory acquisition law and provide for compulsory acquisition of land held under the Aboriginal Land Rights (Northern Territory) Act 1976. Ms Bowden wrote:

... it is the strong view of the Institute that the compulsory acquisition of property rights, be they held by Indigenous or non-Indigenous holders, should not arise solely to permit a private purpose that cannot be construed as a Government activity. Whilst tenure holders under the Aboriginal Land Rights (Northern Territory) Act 1976 could withhold consent to a proposed lease, such action should not cause compulsory acquisition to arise merely because it frustrates third party private interests.

And there you have it: the government would rather help its mates at the top end of town than give any consideration to long-established compensation law. I call on the minister to respond to the Australian Property Institute’s letter and explain to all Australians—Indigenous and non-Indigenous Australians—why he is prepared to allow a situation to arise whereby an undesirable private property rights precedent may be created.

We know that the Aboriginal Land Rights (Northern Territory) Act 1976 was a direct result of the Woodward royal commission, and several people have spoken in the chamber about its genesis. The Whitlam government drafted the land rights legislation based on Justice Woodward’s report, and the legislation was ultimately passed by the Fraser government. But since the Howard government gained control of both houses of this parliament, we have seen its ideology shine through. It spends its time attacking those areas about which it has a long-held view. The land rights act, for the Prime Minister, is one of those pieces of legislation.

This is very bad public policy. We should be respecting the rights of our Indigenous Australians. We should respect their right to say no. We should respect the fact that there is informed consent in relation to their decision making. We should not have a situation where the land councils have a gun held to their heads by the minister saying to them, ‘If you don’t approve development, we’ll put you out of business.’

This is exactly the reason the land councils have a problem with this legislation. In reality, many Indigenous people want mining in their country, because they see it as the only way to advance themselves and their communities. They are not anti development; they just want to have a say over the development on their land. They want to protect Indigenous assets on the land once a mining lease is entered into; they want clarity about their control of development under the 99-year lease model. To suggest that land councils should be forced to delegate land use functions to small corporations, and as such prioritise scarce resources to them, is unworkable, and will certainly jeopardise development outcomes.

The CDEP program was established in 1977. It is the single biggest employer of Aboriginal people and operates through an Indigenous community organisation, creating a common pool of unemployment benefits
that pay unemployed community members to undertake work within that community. In December 2004 the Minister for Employment and Workplace Relations announced planned changes to the CDEP scheme, and in February 2005 he released a discussion paper which was widely criticised for its potential to create job losses and cut costs.

Nearly 18 months later, with the detail of the bill now before us, I wonder whether Minister Andrews can stand by his claims. Last year, he said of Senator McLucas:

The senator is simply wrong in calling the consultation process a ‘sham’ and is misrepresenting the discussion paper in making erroneous claims about job losses and cost cutting.

I also wonder whether the minister read yesterday’s Melbourne Age, in which three traditional owners of country in Arnhem Land were reported as having written an open letter to the Prime Minister and the people of Australia. About the CDEP, they wrote:

Right now the CDEP allows our people, especially our younger people, to work for the money they get, to learn skills and talents that work for both the white community and the Aboriginal community. The Government wants it to work for the dole, but this is a problem. For the dole you must apply for jobs every two weeks or your payments stop. Here there are not very many jobs, so we share the CDEP work so everyone can get paid and all the work can get done. We are concerned that without the CDEP our younger people will go to places such as Darwin to look for work. This will break up families and expose the young to things such as drink and drugs, which are not here at Gunbalanya.

The Howard government continually espouses its family values credentials, yet its dogged ideology continues unabated. We have had the extreme industrial relations legislation, making life more difficult and uncertain for hard-working families. The government refuses to act on rising fuel prices. Last week interest rates rose for the third time since the Prime Minister promised Australia he would keep them at record low levels—due to the cost of bananas, he would have us believe. Now, the Howard government’s ideology seeks to destroy Indigenous families. It is mean, it is cruel and it is bloody-minded.

We heard what the member for Solomon thought about Indigenous communities when he suggested, ‘You do not see a hairdresser, you do not see clothing stores or a McDonald’s or an Irish theme pub.’ What a shame if an Irish theme pub is evidence of economic and cultural vitality! And we had the minister saying, ‘We’re saying to the people: “You’ve been living on what are, for all intents and purposes, little communist enclaves, which means there’s no opportunity for business to flourish and there’s no access to a market economy.”’ What is the answer for this government? It is to transform the CDEP—to encourage the development of microbusinesses without the appropriate structures, processes, training and planning in place—to allow subleasing of Aboriginal townships, to allow access to traditional lands and to adopt a paternalistic approach to land council funding.

This is one of the fundamental problems of the bill. It is further evidence that the government does not take Indigenous Australians seriously. It is obvious the minister has never read the words of Justice Woodward, and I suggest that he does so. If he did he would see that his world view is not only wrong but also not even close to where Indigenous Australians see themselves. They are concerned about involving themselves in the market economy in some way. Indigenous Australians aspire to having roofs over their heads and their children having access to education and health services. Indigenous Australians want access to work opportunities. Indigenous Australians want these things just like the rest of us.
Labor supports any Australian who aspires to purchase their own home. However, this bill is not about homeownership; it is about housing provision and the regularisation of the arrangement between housing providers and traditional owners. Across Australia Indigenous Australians face a chronic housing shortage. Nationally the housing shortfall is around $3 billion. This housing shortage is reflective of the level of poverty being suffered by Aboriginal Australians, as well as poor health, poor education and the lack of employment opportunities.

Recently the Northern Territory government proposed a new way of addressing the housing crisis on Aboriginal communities, involving community, government and private sector finance. I applaud the Northern Territory Chief Minister for this initiative. There needs to be a genuine partnership between government, the private sector and Aboriginal communities if we are ever to address the chronic shortage of Indigenous housing. But the Howard government’s proposals will not attain that objective, either. The government should be looking at models that do not require traditional owners giving up their right to control commercial development on their land and that would provide ample capacity for dealing in residential property.

The haste with which this legislation has been rushed through is evidenced by the suite of amendments proposed by the government and circulated yesterday afternoon. This will be a function of the new Senate majority of this government: legislate in haste and amend as each unforeseen consequence is identified—an unwieldy and intellectually lazy approach to legislation.

Finally, I commend the substantive amendment moved in this place by Senator Evans that has the effect of splitting the bill. If the Howard government is serious about its practical reconciliation agenda then it can afford to acknowledge that this bill has been contrived in haste and accept these amendments that are about ensuring that Indigenous Australians in the Northern Territory, as traditional custodians of their country, are afforded the same rights as everyone else.

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—Thank you, Senator Stephens. I have Senator O’Brien next on the list.

Senator O’BRIEN (Tasmania) (11.07 am)—No, I am on the list after Senator Scullion.

The ACTING DEPUTY PRESIDENT—Not on the list I have here. Who is seeking the call?

Senator O’BRIEN—Does Senator Scullion seek the call in this matter? A government senator would normally come after an opposition senator in this debate. If Senator Scullion is not seeking the call—

The ACTING DEPUTY PRESIDENT—Senator O’Brien, please take your seat for a moment. The list I have been provided by the whips has Senator O’Brien next. That is all I can go on, I am afraid.

Senator O’BRIEN—My advice from the deputy whip in the chamber is that Senator Scullion is next, and it is normal for the order of debate to be alternated across the chamber. I take it that Senator Scullion is not seeking the call if he is choosing not to speak in the order that would normally occur. If he declines to take part in the debate, so be it.

Senator Scullion—Mr Acting Deputy President, I raise a point of order on clarification. I am present in the chamber as the whip. I have a list of speakers here, as does everyone else, that is quite clear: Senator O’Brien is next on the list and I am after that.
I would not be in the chamber apart from the fact that I am here as the whip.

The ACTING DEPUTY PRESIDENT—There is no point of order.

Senator O'BRIEN—I have never heard a whip use that excuse for not speaking at the appropriate point in the debate, but we hear new things all the time from this government, which is keen to ride roughshod over the practices in this chamber whenever it suits them.

I commend Senator Stephens for her contribution and would respectfully adopt many of the things she has put on the record as a very fair reflection of matters that ought to be put in this debate. We are seeing Indigenous communities being demonised on a regular basis in the media by and with the assistance of this government. I am not surprised. As Labor's former Indigenous affairs spokesman, I have seen this coming, particularly since this government was able to obtain a majority of senators in this chamber. The unspoken desire of many in the government to turn the clock back in relation to the representation of Indigenous Australians in many respects is typified in this legislation.

I also reflect on the fact that this is a government that when it suits it says that communities who are affected by change ought to have a say in those matters. We saw it quite recently with the plebiscite which was conducted in the Toowoomba community on proposals in relation to their water supply. They are not an Indigenous community, of course. Clearly, according to this government, different rules apply to them than apply to Indigenous communities. It was this government that imposed the obligation on the Toowoomba council to hold the plebiscite on a proposal for funding for water recycling. That has received ample coverage in the media, and I do not need to canvass the nature of that proposal.

That was not the first occasion on which this government interposed in proposals put forward within a community for change. I recall some of the fishing communities in the prawn industry being the subject of a plebiscite requested by coalition senators which ultimately saw the removal of the industry development levy—much to the detriment of the industry—because there was some opposition to the existence of that levy. It was this government that imposed on that industry the obligation to hold a plebiscite. In relation to the establishment of other mechanisms which are given effect by this parliament in the farming industry, such as industry levies and other important industry measures, this government imposes—and we do not object to a democratic indication of an industry’s will—an obligation to conduct a plebiscite to ascertain that there is proper support for the proposal within the industry.

That is not happening now—not for this community. This is an area, particularly in relation to the land councils, in which the government is content to do what its secret discussions are telling it it must do to satisfy its constituency. It is imposing on the Northern Territory land councils and the Indigenous communities within them rules that suit this government in relation to their land. Of course, land rights in this country have had quite a chequered and, in many respects, shameful past over many years.

There had been up until this point quite a degree of bipartisan support for the model of representation through land councils to ensure that the Indigenous communities who had a traditional connection with the land would have a proper say in matters, and it was to ensure that development would be in accordance with the wishes of the traditional owners of land that this legislation which is now in place and is subject to the proposed amendments came into existence. There was a degree of bipartisanship. That issue has
been the subject of review and discussion over a period of time.

Now this government has a majority in its own right in this chamber and there is no proposal for extensive consultation with those communities. There is no proposal for a plebiscite within the traditional ownership groups which will be affected by this legislation as to whether they are prepared to accept it on the basis that there is some benefit for them. No, this government will impose its will on these communities. This government will be saying to the land councils: ‘If you don’t do what we want, we will make sure that we get our way. We have control over you in terms of funding. If you don’t do what we want, you can kiss goodbye to the funding.’ This government is saying in relation to setting up new land councils: ‘It doesn’t matter that traditional owners have a view. Any Indigenous Australian who lives in the area proposed will then have a vote in a plebiscite—not just the traditional owners.’

In some of these communities live traditional owners and Indigenous Australians from other parts of the country who have moved there. This legislation will effectively provide the potential for the dispossession of traditional owners by other Indigenous communities through a land council established under a plebiscite, conducted by the Electoral Commission, of any Indigenous Australian who lives in the area proposed. So the government is saying to the traditional owners of land affected: ‘Your rights will be gone. Unless you somehow can exclude those people from the area proposed, you can become the minority.’

I interpose that people talk about concerns about the potential for violence. I would have thought that that would be one of the ways in which this legislation could actually provoke it. I sincerely hope that that is not the case. I know that most Indigenous Australians are gentle people and most Indigenous Australians seek to work well within their communities. But, unfortunately, just as in the white community, a minority of people give some Indigenous communities a bad name and blacken their reputation because they choose to act violently and unlawfully. There are many causes of that, and I do not propose to touch upon them now.

Labor is saying let us proceed slowly. This government has a majority in the Senate and it is not as if it has a time requirement to pass this legislation now without the consultation we propose. It is not as if in a month, three months or six months the position within this chamber will change. It is not as if it does not have the resources to conduct the consultation that Labor is proposing. It is not as if the government has a history of doing otherwise with other communities. It is simply a matter of choice for this government as to what it wants to do now. Why impose on these communities without that consultation and, indeed, without the opportunity to have a proper say in it—and not a farcical, one-day Senate inquiry and not an inquiry which removes from those people the opportunity to have any say at all, let alone to participate in a plebiscite?

Let us have a proper consultation. Let us take this matter to the communities who will be affected by the legislation. Let us not deal with them in the way that other communities have been dealt with where their basic human rights, their rights to the services that the overwhelming majority of Australians receive, can be subject to some community performance standard set by this government. Let us have a proper consultation where the people who are affected by this legislation can have a say.

Why is the government so keen to push this matter through now? That is a question I have not heard an answer to. This govern-
ment has in many respects in relation to other legislation talked about the need to preserve the principles that operate in many areas in the community. Constitutionally, for example, the government has been talking about preserving our connection with the British monarchy as a cornerstone of our democracy, and that is a matter that the community will have a chance to have a say on. This is a government which has opposed rights for people who have different beliefs from it in relation to families and relationships, but there is a democratic process through here, through the community and also right through state parliaments that can deal with some of those rights—but not here. What we have here is a group of Australians with special rights that have been enshrined in legislation with the support of both sides of politics over many years. Now this government wants to change it, and it wants to change it without the right of those people to have a proper say.

I wonder how the government can say that this bill will improve access to health care, education, employment and housing for Indigenous communities. Indeed, it may be possible that they can demonstrate those facts. They have not so far and they have not to the communities affected but, if their case is as strong as they say it is, why are they not prepared to test it with those who are affected by the legislation? Why can't they bring the communities with the government on this legislation rather than simply ramming it down their throats?

The Labor Party are committed to reforms that will provide opportunities for Aboriginal people to gain a maximum benefit from their land. In that context we could consider positively any reforms that have clearly demonstrated that they will enable this to happen. If the government were confident that they can demonstrate that then they would not be rushing this legislation through today. They would have gone through a much more extensive consultation, not just through the Senate committee but with the communities involved.

Aboriginal communities can of course maximise economic gains within their communities without the changes proposed in this legislation. It is happening now in communities across the Northern Territory in partnership with mining interests and others. It has been negotiated under the current legislation. It leads to benefits for those communities through the payment of royalties. Those communities, through their land councils, have had some fine ideas about how they could enshrine the benefits for their communities in the long term. It shows a foresight by those land councils that should be encouraged.

The benefits that might be gained from the proposals that the government talks about are counterbalanced by the negatives that might be given effect. I can envisage circumstances where, in a particular area, it is in the interests of a development proposal to seek to divide a community between traditional and non-traditional owners in order to provoke a proposal for a land council. Who knows? In that circumstance perhaps it could even encourage other non-traditional owners to move into the area and propose that it is beneficial for them to support the change and to establish a land council on the basis of a plebiscite. I do not know if there is anything in this legislation that will prevent that from happening. That is one of the flaws that I see and there are other people in the Indigenous community who see that potential as well. Where there is a financial gain to be made there will be strong incentives within Indigenous communities, and outside them, to seek to persuade a majority of people to vote for a particular proposal, even though it is not in the interests of the majority for that proposal to succeed.
We might say that that is democracy, but this will be a flawed democracy because we are changing from a traditional owner model to a model which will be based on whoever the Indigenous occupants of the land at the time are, and that is a concern. So why not wait? Why not sit down with those communities and talk about the potential ramifications? Why not look at how we can make sure that the rights of the traditional owners are not overridden or effectively wiped out by these proposals? That is a question this government really needs to answer, but I do not expect that it will. I expect that there will be a lot of bravado about how this will be good for communities. There will be a lot of bravado about how this will attend to the problems of the communities and provide a basis for good things in the future. I wonder why many Indigenous Australians are not convinced by this proposal. Many of the leaders of their communities have denounced the proposals and called for further discussions.

The opportunity is there for the government, but it will not take it. It will ram this legislation through and oppose the proposal to divide the legislation so that the good parts of it can be passed and those matters which are more controversial can be the subject of more rigorous consultation. That is what we see from a government that has become arrogant after 10 years in office—a government that now has the numbers to do whatever it will. That is what we will get from this government and, unfortunately, in some communities we will probably reap the whirlwind accordingly.

Senator SCULLION (Northern Territory) (11.30 am)—I rise to speak in support of the Aboriginal Land Rights (Northern Territory) Amendment Bill 2006. It is with some sadness that I have listened carefully to the contributions of those opposite. It saddens me that the only interpretation that they can make on every aspect of this bill is that there is some sort of a mischief in government to go out there and upset Aboriginal people. We have heard from the other side about the creation of violence in the communities. To say that this is some sort of a conspiracy runs in the face of the facts that most people, and certainly all the Aboriginal people who have spoken to me, put to the matter. It is very sad that those opposite have obviously not consulted widely, because, in my experience of living in and around Indigenous communities for well over 20 years, the changes to the Aboriginal Land Rights (Northern Territory) Act proposed in this place today simply reflect the aspirations of Aboriginal people and Aboriginal communities.

The Howard government has three fundamental approaches to economic development. We want to grow the economy, lock in prosperity and build for the future. That vision of this government is in an Australia-wide context and it should extend to every Australian. Unfortunately, many of my constituents who live on Aboriginal land have not been part of this economy. They have been isolated from the mainstream economy and face a number of impediments, in the Northern Territory particularly, primarily to do with education, housing, unemployment and, of course, as we have heard with sadness, the lack of services and of a capacity for law and order in many Indigenous communities. Clearly, the Northern Territory government is not providing the sorts of services and the sort of environment for safety that those first Australians deserve.

There is another important impediment to the development of the economy of this country—particular to the benefits to be gained by Indigenous people who live in the Northern Territory—which is, of course, the Aboriginal land rights act. The principal reason that we are here today is to make some amendments to an act that allow people to
participate in the economy that all other Australians enjoy. People have said that it is a good act. It is 30 years old; it has to be a good act. Old acts are good acts. I do not know where they got that from—they have dug it up from somewhere—but in this place we normally know that times change, and 30 years is an awfully long time. It is out of date, it is paternalistic and it needs to be updated. Some 30 years ago, as part of that act, we set up structures and processes that, instead of developing economies and assisting Indigenous people in developing economies, have been impediments to mining, have dumbed down economic activity, have denied local decision making and have disenfranchised many Indigenous people in the townships and deprived them of being able to make choices in life that so many take for granted.

This is the fundamental process under which we are looking at this legislation. The fundamental plank of the amendments is about choice. Nothing that we are proposing is being imposed. We are providing for the locals to have more say. If you want to buy a house in the townships at the moment, you cannot. You will have to go outside of the community if that is your wish. Senator Crossin said in this place that we should not be able to do this, because people on low incomes cannot afford a house. I am not sure about Senator Crossin’s particular arrangements, but I assume that she owns or is buying a house, as are many like her. There are, of course, people in Darwin who cannot afford to buy a house and are renting. But just because there are people in Darwin who are renting does not mean that we should not provide the environment and the legislative framework for people to buy their own houses. It is absolute paternalism at its very worst.

People say that they are on low incomes, but some people in these communities are employed. Through Indigenous Business Australia we have the Home Ownership on Indigenous Land Program so that a family on CDEP income can in fact buy a house. If those opposite had sat down with Indigenous people for a long time, they would have found out that it is a simple aspiration of every Australian that is shared by Indigenous Australians who live on their land. Just like us, their aspiration is to own their own house, not only for themselves but to pass it on as a legacy to their children as property so that through each generation there is an accumulation of wealth. It is something that clearly has not happened in those communities. Again, it is typical Labor paternalism, an ideological lockdown and a lowest common denominator approach.

All we are trying to do is give local people a say over their own lives, and I cannot understand what is wrong with that. I cannot understand why this government is being attacked over trying to provide choice. I do not understand what is wrong with devolving decision making to local people. The land councils support it. Perhaps those opposite should have better communications with the land councils, because they certainly support it. This legislation gives traditional owners the right to decide the future of their townships and to look after the rights of their local residents, who are not all traditional owners. I do not understand what is wrong with that either. Senator O’Brien stood up in this place and painted a picture of violence and of traditional owners somehow being disenfranchised. Obviously, he either has not read the legislation or has not paid attention to the process.

A lot has been said today about consultation. ‘Let’s have a proper consultation,’ says Senator O’Brien. When he says that the government is rushing headlong and jamming this legislation through the parliament, I am almost speechless about this misrepresenta-
tion of the facts. I will go through a couple of the processes in this consultation, and I am sure that what Senator O’Brien is really saying is: ‘Let’s delay action. Let’s delay Indigenous Australians getting access to the same sorts of rights to own their house as every other Australian has.’

I will briefly run through the consultation process. In July of 1997, Senator Heron announced a review of the Aboriginal land rights acts and their terms of reference. In October 1997, Mr Reeves was appointed to conduct the review. In November 1997 an issues paper was circulated, including public hearings in 22 communities with 98 written submissions received. In August 1998 there were the findings of the Reeves report. In December 1998 the minister referred the Reeves report to the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs inquiry, with 31 public hearings and 72 written submissions between March and June of 1999. The House of Representatives standing committee report was tabled in parliament in August 1999. In January of 1999 the ATSIC commissioned a national competition policy review of the mining provisions of the act. This included written submissions, statistical surveys and meetings with major stakeholders. The draft report was circulated to major stakeholders for comment. The report was then released publicly in August. Early in 2002, Minister Ruddock commenced a new round of consultation meetings with land councils, the Northern Territory government, the mining industry and other stakeholders.

I was very pleased to participate in many of those meetings. They were comprehensive meetings. They certainly did not reflect any of the garbage that I am hearing from the other side. In April 2002, the minister released an options paper to all major stakeholders, and pretty much all of them responded pretty quickly. In June 2003, joint land councils and the Northern Territory government responded. That response was provided to the government. In October, further discussions occurred between the minister and major stakeholders. In 2005, in October, Minister Vanstone announced details of proposed amendments. The opposition was briefed by the senator’s office and by officials. The material was posted on the minister’s website. Detailed media releases and brochures were prepared, and they were distributed widely. On 25 October the land councils, the Northern Territory government and other stakeholders were briefed on the township leasing proposal. The minister’s senior adviser visited the Northern Territory to brief land councils and the Northern Territory government on all the proposed amendments.

On 1 December 2005 the draft legislation on township leasing was provided to the Northern Territory government. On 2 December the same year, the department had a teleconference with the Central Land Council on all the issues. On 30 March a summary paper on reforms was provided to land councils. On 31 March, draft legislation on exploration and mining leasing was provided to the Northern Territory government officials. Early in April the department met with the Northern Land Council, the Tiwi council, the Central Land Council and the Anindilyakwa Land Council in a teleconference. By April, all the comments were received from all the land councils. On 15 May comments were received from the Northern Territory government, and on 4 June comments were received from the Northern Territory government on the township.

People think that the Commonwealth government should sit down under the tree with every single stakeholder and talk to them. It is just a nonsense. We rely on the very good work on the land councils to consult on our behalf with Aboriginal people. That is their
principal role: to manage the land, provide advice and consult with Aboriginal people. They have done a very good job in this, and that list does not seem to me to be a comprehensive failure of consultation. In fact, I would say that it demonstrates quite clearly that the furphy that those opposite are putting forward—that we have not spoken to Aboriginal people—is an absolute lie. It is absolute rubbish, and should not be supported.

After the announcement last year, Senator Evans in his media release of 18 November said:

Labor is pleased that the package of amendments to the NT Land Rights Act were finally announced by Senator Vanstone...

The mining industry, represented by the Minerals Council, said at the time that it supported the package announced by Senator Vanstone. It said:

Though these reforms have been a long time in gestation, the process of consultation between interested parties has been a critical and productive element to the reforms announced by the Government.

Again, more acclaim for the consultation process, how widely we have consulted and how successful and forensic it has been. I cannot understand that those on the other side are saying: ‘Well, it’s not right and it’s not good. We don’t support it.’ I know the Northern Land Council supports the package. The Northern Land Council has been very supportive of the township reforms and has undertaken a very responsible approach to the permit issues. I have to say, from a personal point of view, that at one time I was inclined to pursue the permit system further than the government wished. It was my wish, originally, to ensure that the media had full access to these communities inside the permit system. But I have been convinced by the activities of the Northern Land Council that it is responsible enough to ensure that the media have access, without any prescriptive legislation to ensure the permit system gives them access. I will be continuing to watch that space, but it is because of the activities of the Northern Land Council and its responsible approach to these matters that I have decided not to pursue that matter.

Let us go through some facts. I know we have had a lot of stuff from the other side—doom and gloom and saying the world is going to fall in—but these are, simply, good amendments. This is good legislation that provides for the future aspirations of Indigenous Territorians. The 99-year leasing for townships was put forward by the Northern Territory Labor government, and it is funny to see those people on the other side saying that they are all part of the Labor Party. All you have to do is pick up the phone and ring Clare, and she will probably straighten you out on it.

There was a bit of an issue about the five per cent cap of the rentals. The Northern Land Council talked to us at length about that. We have made changes and amendments to ensure that we have reflected their concerns. There is no longer a cap. This whole process is voluntary, and in Nguiu the consultation is under way with the support of the Tiwi Land Council. It is very interesting; when I was last there they were reflecting that some of the traditional owners had in times past visited Lord Melville. They were telling me how Lord Melville’s land spread for so far. They had some industry on it, other people had sheep and cattle, and it was all going very well. The Tiwis from Melville Island asked Lord Melville, ‘What is the secret?’ He said, ‘Never sell your land.’ They understood that. They asked, ‘How do you get all these people?’ And he answered: ‘I lease it. Never sell your land; make sure you lease your land.’ In this speech by traditional owners, they were telling me that what the government are intending to do in these amendments is exactly what they want. It is
common sense, and they want to be part of the mainstream economy.

Senator Stephens brought up the issue of Ms Bowden. It was to do with the Australian Property Institute. She had apparently written to the minister for some reason or another to say this was going to be a compulsory acquisition. Let me make this clear: the headleasing arrangement is a voluntary arrangement. The framework we are putting in place simply allows the process to happen.

There are some issues associated with the creation of new land councils. I think it is a bit misleading to say ‘the creation of new land councils’. Yes, the legislation provides for the devolution of some responsibilities, not the devolution of all the responsibilities of a land council. We have already talked about plebiscites. The government previously used the term ‘substantial majority’, and all our feedback said: ‘We need some clarification. What does “substantial majority” mean?’ We have defined it as 55 per cent. Other senators on the other side think that is a bit low. I would have thought that we in this place would normally consider that to be a landslide, or some other name. We think that 55 per cent is very reasonable and very fair.

Some senators, including Senator O’Brien, have suggested that we restrict this to traditional owners only. This is the sort of selective democracy that we are gaining on the other side. We need to understand that the land councils are meant to represent all Indigenous people on Aboriginal land, not just the traditional owners. They understand that very clearly. Senator O’Brien’s assertion that this would cause outbreaks of violence is, I think, really off with the fairies. I certainly have not had any indications of that level of negativity on this matter. There have been allegations of bribery. There has been misinformation going around that we are going to threaten to stop basic services, education and housing if people do not sign up to a lease. That is absolute irresponsible nonsense.

This bill is the result of nine years of consultation and four separate reports. I have gone through the most comprehensive consultation list, and I would say that it would be very rare for any piece of legislation to have more than nine years of consultation and such a comprehensive process. The bulk of the recommendations in the bill have been drawn from a joint submission of the land councils who represent the traditional owners, the people of the Northern Territory, and the Northern Territory government. That is right: the Labor government in the Northern Territory—Aboriginal land councils and the Labor government in the Northern Territory. The principle of the township leasing program is based on a submission from the Northern Territory government.

This legislation seeks to provide ministerial power to override land council decisions, not to delegate. It simply offers natural justice for any aggrieved party in the arrangements. It simply provides the capacity for the minister to review land council decisions and to determine if a decision is a reasonable one. Frankly, I do not expect the minister to very often come down on the side of anyone other than the land councils. It would be in circumstances where somebody says, ‘We would like to devolve the process of saying “I would like to negotiate about a mining lease.”’ The land council might quite reasonably say, ‘We don’t think that you have the resources or the capacity or the competence to do that. It is quite a complex matter. You will need some legal advice. We do not think you are ready yet to have that.’ The plaintiffs can then say, ‘Look, Minister, we think we can do it.’ The minister can look at it, and all he will look at is whether or not the land council behaved reasonably. It is just about natural justice.
With respect to the removal of the 40 per cent funding guarantee, this bill provides for outcome based funding—the same as the rest of Australia. Outcome based funding is exactly what it is about. Any organisation goes towards outcome based funding. The land councils support it. They want to be held accountable for what they do, and they want to be funded on the basis of what they achieve. It is absolutely anachronistic. It has got to go.

This legislation also seeks to alter the administration of the Aboriginals Benefit Account and the composition of the advisory board. The royalty associations are being made more transparent by being required to report on the purposes for which payments are made. I think that is going to be a great thing for Indigenous people, and it will ensure that all Aboriginal people benefit, not just a few.

With respect to intertidal zones not contiguous with the coast, these are issues that I have had personal dealings with for many years. To understand the process, these are only the areas that are adjacent to pastoral leases. They have been claimed simply because they are claimable under the Aboriginal Land Rights (Northern Territory) Act. So if you are a pastoralist, you cannot have a barge come up over the low-water mark and unload cattle without going through the whole process of saying that you are using the land. It is an absolutely ridiculous process to have to go through.

We have been able to provide more choices for local people and a prospect for real market economy without changing the fundamentals of the act, which is inalienable freehold title and the traditional owners’ right of veto. Those are being maintained, they are fundamentals of the act and they are not being amended.

The choices now available will allow Aboriginal people to grow their economy, locking in prosperity through a greater number of benefits from this growth. They will allow traditional owners and other people on Aboriginal land to build a better future and to share in an economy that all Australians are benefiting from. I can see no reason why we should not support these amendments to support the prosperity of Indigenous people. An editorial in yesterday’s Sydney Morning Herald stated:

The amendments will never fix every problem or make everyone a winner. But if they can help even some communities to help themselves, they will be worthwhile.

Clearly, this bill will help many communities to help themselves. As such, it is far more than worth while; it is absolutely vital. The time for talking is over. Indigenous Territorians need action. By bringing in these changes, we can offer them a better future. I commend the legislation to this house.

Senator KEMP (Victoria—Minister for the Arts and Sport) (11.50 am)—Senators who wished to speak in this debate on the Aboriginal Land Rights (Northern Territory) Amendment Bill 2006 have now had a chance to put their views. Let me record my appreciation for the speech of Senator Scullion, which was in many ways quite a visionary speech and one which is strongly rooted in his very deep experience in the Northern Territory. I congratulate Senator Scullion for the work and the thinking which has gone into developing his own position on this bill.

The changes to the Aboriginal Land Rights (Northern Territory) Act are fundamentally designed to give Aboriginal people more choice. The act has been largely unchanged, as many senators have noted, since 1976. Many of its provisions are, of course, now outdated and paternalistic. I think this was a point that Senator Scullion made in his
remarks. It is time that the Aboriginal people were given the opportunity to make their own decisions. This legislation will help Aboriginal Australians in townships on Aboriginal land in the Northern Territory to enjoy the same opportunities as other Australians. They will be able to own their own homes and obtain secure title to land for business or community purposes.

We are not saying that these amendments are a panacea for the economic woes of Indigenous Territorians. Obviously, economic independence requires education, good health and decent housing. But changes to land tenure will indeed make a difference. Around one-third of Indigenous Australians own or are buying their own home. With our support, the proportion is growing. But on Aboriginal land in the Northern Territory this is not the case because of land tenure problems. Imagine the difference it would make if, over time, 10 per cent, 20 per cent, 30 per cent or more of these people enjoyed the benefits of homeownership. This is not about hurling into the unknown. The model that we are aiming for is the normal Australian town where people are able to make their own way in the world.

The reforms implemented by the bill before the Senate have been under consideration for nine years and have followed extensive consultations with all stakeholders. In October and November last year, the government made detailed public announcements about the changes. I can report to the Senate that the consultation process has led to a narrowing of differences among stakeholders. This next point is a particularly important point, and I draw it to the attention of Labor senators: almost all the measures in the bill are supported by the Northern Territory government, including the township leasing scheme, which it put forward, and the disposal of certain land claims, such as those to the intertidal zone.

I am also pleased to report that the Northern Territory land councils, which represent Aboriginal people living on Aboriginal land in the Northern Territory, also supported the majority of the reforms. In particular, most of the changes related to the streamlining of the mining provisions and improved administration and accountability were put forward by the Northern Territory government and the land councils. On behalf of the government, I want to compliment the land councils for their constructive engagement in the lead-up to the bill. They have shown enthusiasm for improving economic outcomes and a willingness to devolve decision making to local people. While they may have issues with the removal of the statutory funding guarantee for administration, they have accepted the concept of outcome based funding because they are prepared to be assessed on what they achieve for Aboriginal people in the Northern Territory.

The government is particularly pleased that, with some qualifications, the Northern Land Council supports the township leasing scheme. It advanced the argument that led to the proposed amendment to remove the five per cent cap on rental returns to traditional owners. Senator Scullion referred in his remarks to the constructive approach that the Northern Land Council is taking in relation to the administration of the permit system. While there are some areas where we differ, the mature relationship that we have with the land councils means that we will continue to listen to them and remain open to further sensible changes.

We have continued to take into account the views expressed by key stakeholders during the passage of this bill. In the House of Representatives, the government moved a number of amendments to the bill related to the mining provisions and the township leasing scheme based on suggestions made by the Northern Territory government. In this
chamber, we will be proposing further amendments—in particular, the removal of the rental cap for township leases.

In relation to the delegation of land council powers to regional groups, the government is not planning to fragment the current decision-making structures. If regional groups apply to the land councils to have powers delegated to them so that they can make decisions locally and the land council refuses, it is fair and appropriate that they have recourse to a review mechanism which will assess their capacity to exercise those powers. In such circumstances, if the land council has made a reasonable decision to refuse to delegate its powers, there is no reason to imagine that a minister would not support the land council position.

There have been suggestions that the government should split the bill to allow passage of some of the provisions of the bill while other provisions are subject to further consultation. The government believes that the whole bill should be enacted as soon as possible to provide Aboriginal people in the Northern Territory with the opportunities offered by the township leasing scheme.

I remind the Senate that entering into a township lease will be voluntary. No-one will be forced to agree to such a lease. However, we believe that the opportunity should be available as soon as possible, particularly given the fact that the communities are already involved in discussions concerning township leases. The Tiwi Land Council has signed an agreement with the Australian government to negotiate a township lease and the Galiwinku community in Arnhem Land is actively considering the opportunities of such a lease. Other communities have expressed interest, including communities on Groote Island. Splitting the bill would delay this considerable momentum for change that is building up at the community level.

We believe that there has been more than sufficient consultation on the reforms outlined in the bill. As I said earlier, the government has made changes to the bill to take into account views expressed by stakeholders, including changes in relation to the township leasing scheme. There will be continuing discussions with stakeholders on the implementation of that scheme and other aspects of the bill following its passage through parliament.

Some people in this debate have described this bill as paternalistic. It is the opposite. It is about allowing people living on Aboriginal land to make their own decisions. Indigenous Business Council chairman Joseph Elu once said that we should stop wrapping Indigenous people in cotton wool. Will some people make mistakes? Of course they will. Will the majority make the right choices? Undoubtedly.

After 30 years, the land rights act has been a great success in delivering almost half of the Northern Territory to Aboriginal traditional owners. It has not been successful in generating economic wealth and independence for the people who live there. This bill will help spread the entrepreneurial culture exemplified by people like the late Mr Lee from the Jawoyn Association in Katherine and other prominent Indigenous Territorians. This bill will help people to follow in their footsteps. I commend the bill to the Senate. It is a very important bill. It is one which has been widespread debate about. As I have outlined, the government has involved itself in very extensive consultations with key stakeholders. Now is the time for action and I hope that we can have a speedy passage of this bill through the Senate.

Question agreed to.

Bill read a second time.
Proposed Instruction to Committee of the Whole

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (12.00 pm)—Pursuant to contingent notice, I, and also on behalf of Senator Bartlett and Senator Siewert, move:

That it be an instruction to the committee of the whole that:

(1) The Aboriginal Land Rights (Northern Territory) Amendment Bill 2006 be divided into two bills, as follows:

(a) a Bill for an Act to amend the Aboriginal Land Rights (Northern Territory) Act 1976, and for other purposes; and

(b) a Bill for an Act to amend the Aboriginal Land Rights (Northern Territory) Act 1976, to restrict certain entitlements of traditional Aboriginal land owners and for other purposes.

(2) The first bill consist of the enacting words, clauses 1, 2 and 3 and Schedule 1, all items except: item 46, section 19A; items 50 and 51; item 52, section 21A; item 65, section 28C; items 172 to 186; and item 192, subsections 67A(12) to (17) of the original bill, renumbered as necessary; and that the second bill consist of:

Schedule 1, item 46, section 19A; items 50 and 51; item 52, section 21A; item 65, section 28C; items 172 to 186; and item 192, subsections 67A(12) to (17) of the original bill, renumbered as necessary.

(3) The following amendments be made to the second bill:

(a) title, insert the title as shown in paragraph (1)(b) of this order;

(b) after the title, insert the words of enactment; and

(c) after the words of enactment, insert the following clauses:

1 Short title
This Act may be cited as the Aboriginal Land Rights (Northern Territory) Amendment Act (No. 2) 2006.

2 Commencement
This Act commences on the day on which it receives the Royal Assent.

3 Schedule(s)
Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

(4) That the bill as amended by this order be printed.

I seek to have the Aboriginal Land Rights (Northern Territory) Amendment Bill 2006 split in order to allow passage of those sections of the bill that have been the subject of proper consultation and negotiation with the key stakeholders in the Northern Territory and to defer those aspects of the bill which have been introduced by the government since late last year that they are still seeking to amend on the run today. I notice there are more amendments from the government circulating in the chamber, which I think reflects the difficulties with their position. They claim now to be responding to input from stakeholders. I think that proves my central point, which is that, if they had had that contact, that negotiation, that discussion, with stakeholders earlier, we would have a much better package before us today. The government are picking up bits and pieces as they go, trying to make the package have some sort of coherence. I do not think they are there yet. I do not think, though, it is beyond the wit of the government and the stakeholders in the Northern Territory to get this right. But it is not right now. It lacks legitimacy. It lacks the consent of traditional owners. Those sections of the bill ought not to proceed.

I was going to remind the minister that Galiwinku is right next to Wagga Wagga, if he was looking for it on the map! But the first thing is this: those parts of the bill that
include amendments to the mining exploration and subleasing provisions of the act are broadly consistent with the joint submission made by the Northern Territory land councils and the Northern Territory government in 2003. Those amendments are strongly pro development and were achieved through a long process of consultation and negotiation. They demonstrate the capacity of all parties to negotiate to achieve appropriate changes which streamline economic development and protect the interests of the traditional owners. They have the broad support of the traditional owners and mining interests, and Labor has confirmed its support for those provisions.

I think when you examine what the minister said in his closing remarks you will see he makes the case for the consultation, the negotiation and the long process. That is right, Minister, but it is only partly right. It is right for that part of the bill. Those things that arose out of the negotiations in the Northern Territory are the part of the bill that Labor stands ready to pass today. But that same process of negotiation, of discussion, of gaining the consent of traditional owners, has not occurred with these other parts of the bill. Senator Scullion may shake his head. He did not do us the courtesy of turning up to the committee inquiry.

Senator Scullion—It’s not compulsory.

Senator CHRIS EVANS—Senator Scullion, if you had come to the committee, you would have heard the evidence.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Senator Evans, would you be kind enough to address your remarks through the chair.

Senator CHRIS EVANS—I just make the point, Mr Acting Deputy President, that Senator Scullion did not have the opportunity to hear the evidence from those parties. I want to reiterate: I do not think that it is beyond the wit of the government to get the consent of traditional owners to some of their objectives here. What has been lacking is a bit of goodwill. What has been lacking is the preparedness to spend the time to find a solution that allows traditional owners to maintain control of their land and facilitate economic development on that land through some sort of leasing scheme.

I have not yet met an Aboriginal person in the Northern Territory or elsewhere who has said to me they are not in favour of economic development. In fact, they always tell me quite the opposite. Senator Scullion and I are actually in screaming agreement. People understand that they need economic development to help their communities prosper. They want jobs, they want services, they want a decent supermarket in town and they want a mechanic where they can get their car fixed. They want all those services. There is no-one in this chamber who supports any sort of proposition that says that they should not get them. That will require, I think, both the nurturing of some economic enterprise in those communities and the resolving of some of the issues that exist in terms of land use. There is no question about that. But the question is about what then happens to the property rights of those landowners.

These people effectively have freehold title. This is their land—and you do not go and muck with their land without talking to them. You do not go and take away their property rights without talking to them. For the Liberal Party, the defenders of property rights, to be in here today saying we are effectively going to diminish people’s property rights, without consultation with them, without attempting to get their consent, I think will make a lot of past Liberals turn in their graves. This is fundamentally about dealing with property rights. You can get a better solution if you are prepared to work at it. You are not prepared to work at it.
What Labor are arguing for—and we have the support of the Democrats and the Greens on this, and I thank them for that—is to split the bill so that when we get to the issues that are more contentious, which have not had the benefit of negotiation and discussion or any sense of consent, we delay those sections of the bill so that the government can engage in that process. As I say, I do not think we are that far away on these issues. We are a long way away on how we treat Aboriginal people—whether we show them respect in dealing with them and dealing with their land rights—but the objectives of all in this parliament, and of Aboriginal people, in terms of economic development are very similar.

I think it is possible to get to a better result than the government have got to. To be fair to the government, they are making improvements. A lot of the changes and a couple of the amendments that the government have announced in recent times are things that I have been arguing for over recent weeks. I do not pretend that I had any influence on the government, but I do make the point that they have been arguments that we have been supporting. Some of those amendments do improve the bill, but the point is that you are not there yet—you are a long way from being there—and you still have the fundamental problem that you do not have the consent of the people whose land you are dealing with. That remains your fundamental problem. That is why Labor is opposed to proceeding with that part of the bill now—because you are again telling Aboriginal people what you are going to do to them rather than what you are going to do with them.

I will come to the voluntary nature of things in a minute. Clearly, we will get to some of those more specific debates. Essentially, what we are trying to do is to allow those things that have been agreed, that are pro economic development on Aboriginal land, that have been negotiated with the Aboriginal people and that have been delayed for too long, to proceed. We are keen for the government to take back the other sections of the bill, to negotiate with the Indigenous people and stakeholders—some of whom, along with the traditional owners, are very concerned about the implications of these provisions—and to come back with a package that the whole parliament can support.

One of the great things about the Northern Territory land rights legislation is that it had bipartisan support through this place. It has had a long history of bipartisan support. It is one of the most iconic pieces of legislation ever considered and passed by this parliament. To the credit of the Fraser government, it picked up the legislation, on the defeat of the Whitlam government, and passed it. As recommended by Justice Woodward, when he did his inquiry which led to the bill, we on all sides of politics have adopted the policy that we would not amend this bill without meeting a very strong test about Aboriginal and traditional owners’ knowledge of any amendments and, wherever possible, their consent to amendments.

That is the philosophy that underpinned the bill and that underpinned the Fraser government’s approach and approaches by all subsequent governments. It is the philosophy that underpinned this government’s approach to the first sections of the bill. The government had detailed negotiations and engaged with the land councils, traditional owners and the Northern Territory Labor government, and they came up with a good package—which would go through on the nod unanimously here today if the bill were split. But they also started to seize on some political opportunities late last year and sought to roll them into the whole package. So when the minister says that this has been the subject of long negotiations, he misleads the Senate. It is not true.
Senator Kemp interjecting—

Senator CHRIS EVANS—I know you do not know anything about it, Senator, and that they wrote you the notes. But, if you are honest, and I am sure Senator Scullion will tell you this—

The ACTING DEPUTY PRESIDENT—Senator Evans, please address your remarks to the chair.

Senator CHRIS EVANS—Certainly, Mr Acting Deputy President. The Senate needs to know that the level of consultation with and the level of knowledge and consent of traditional owners on matters contained in this bill are clearly split along the lines I am proposing that we split the bill. One section has been thoroughly negotiated and agreed; the other sections, which go to issues of leasing arrangements, the creation of new land councils, ministerial powers, funding protections for the land councils, the altered administration of the ABA and the title zones, have not been the subject of wide consultation and negotiation.

The Senate committee found that unanimously. In the report of the Senate committee that inquired into these matters, the Liberal senators who took an interest in the matter and attended the hearings found that. They did not go as far as we have in terms of calling for a split of the bill but, if you look at the report, it is clear that this does not have the consent of the Indigenous people—they do not know enough about it, they feel that it is being done to them without consultation and they are concerned by it.

As I said, my view is that the government ought to take it back and have another go at that section. I am not arguing for years of delay. I think with a bit of commitment the government could move quite quickly. Cyclone Mal, as the minister is known, can move quickly when required—some would say too quickly and with too little effect. If he could apply the same energies that he has brought to some other issues—ones that are slightly more negative for Indigenous people—it seems to me that this legislation need not be delayed inordinately. Labor have no interest in delaying it. We think that improved leasing arrangements in Indigenous communities is helpful for economic development.

So I am in the uncomfortable position, I suppose, that we agree on the objectives but we do not agree on the process. I do not usually like to argue about process, but in the end you have to make a decision about where you stand. That has been my practice over all my time in the Senate. It is unusual for me to be in this position. But the reality is that this is a very different piece of legislation and a very different issue for us. This is fundamentally about people’s property rights—the property rights of Aboriginal people in the Northern Territory. This bill will change the arrangements that apply to them on their land, without there having been proper consultation with them.

If we did that to people who own suburban blocks in Perth, I suspect, Senator Bishop, that we would have a riot on our hands. If we announced to them that we had put through the federal parliament a bill that interfered with their enjoyment of their backyard or their swimming pool, I suspect you and I would spend many months dealing with protests and complaints. But somehow, because these are the property rights of Aboriginal people, we can treat them in a different way. That is fundamentally what is wrong with this legislation. In dealing with these issues, we are not showing Indigenous people the respect they deserve and we are not showing enough respect for their property rights. That is at the heart of it.

I know it is a process argument in one sense, but it is a very important process ar-
argument. It is a very important argument that is at the basis of this parliament’s adoption of this legislation. At the start, we made it very clear—as did Justice Woodward and the House of Representatives committee that inquired into the act in 1999—that you need to be careful in amending the act and that you need to try as much as possible to ensure that traditional owners have full knowledge of and consent to what occurs. I think we can do better. We must do better. As I said, the committee, during a very short inquiry—having only one day available to it because of the workload—heard overwhelming evidence that people were concerned with the process the government was following and that they did not feel they had knowledge of what was being pursued.

I will come to a lot of the key issues that the minister alluded to later. I cannot cover them all here; this is essentially about trying to split the bill to allow the proper process to occur for those measures that have not been subject to proper consideration and negotiation with the traditional owners. The government’s key defence in all of this is that it is all voluntary and, therefore, they can pass whatever they like because, if the Aboriginal people do not agree, it just will not happen. Of course, that sounds all very good until you start examining what is happening on the ground. The reality is that the minister has already said to communities: ‘Sign up for the 99-year lease and you’ll get a new school and new houses. You’ll get the sorts of services that you are entitled to as citizens of this country—that is, access to education—if you sign up for the deal.’ That is not voluntary, in my view. That is not what I call voluntary.

The power relationship between the Commonwealth government and some of the poorest people in our community, people living in Third World conditions, is so unbalanced. To say that negotiation and bargaining between the powerful Commonwealth government and poverty-stricken Indigenous communities is somehow going to be fair is a complete nonsense. We have already seen, with the minister’s activities, an attempt to link the provision of basic services, basic rights of citizenship, like education and health services, to an agreement to enter into one of these leases. It is not about a voluntary contract. It is not about people being able to make intelligent decisions. It is about them facing the power of the Commonwealth and being coerced into entering into the leasing arrangements. And it is all so unnecessary.

Aboriginal people want economic development on their lands. They want services. They want normalisation of their townships so that they can get clean water, electricity, gas and access to shops and services. These are goals they share. They would even be interested in private homeownership—although a lot of them think that is a long way from being achieved. But, if that is part of the solution, great; if there are opportunities for private homeownership, I am sure they will take them. In dealing with these issues, they should not have to feel that their property rights, their land rights, have to be traded away in order to get that sort of development. They ought to be able to have a fair process of bargaining, a fair process which allows them to control what happens on their land.

What is completely absent from this bill is any detail about what input Indigenous people would have once they have signed up to the lease. There is no mention of whether they would have any control once the lease was signed. We are asking people living in abject poverty to sign up to agreements that sign away their land rights, their property rights, for 99 years without any knowledge of whether they will have any say at all over what happens on that land for the next 99
years. Unfortunately, for Indigenous people that is almost four generations. In signing up, they lose total control. That is a really difficult choice for them. The unfair power relationship between the Commonwealth and those communities is not something we ought to be endorsing. As I said, we can get a better outcome. We can get changes to leasing arrangements in Indigenous communities. We can get economic development. But it has to be done in a way in which there are some reassurances for Indigenous people that they will have some say over what happens on their land, and it has to be done in a way that ensures the voluntary nature of the agreement is protected.

Currently, I am not at all convinced that the provisions that allegedly provide for voluntary participation are anywhere near strong enough. The power relationship between the Commonwealth and these communities reminds me a bit of the Work Choices legislation, where an unskilled 18-year-old fronting up to an employer allegedly has the same sort of bargaining power as an employer in a time of high unemployment. It is just a nonsense. There is no fair bargaining arrangement. We want to ensure that Indigenous people are able to negotiate these leasing arrangements from a position where they have power over their land and where they find the legislation has not undermined them before they start.

The Commonwealth needs to take back the second part of this bill and negotiate properly and fairly. I do agree with a couple of things the minister said. They are not that far away from a lot of the Aboriginal groups in terms of these provisions because they share common objectives. But they are far enough away for it not to be appropriate for this parliament to approve the bill in this form at this time. If the Commonwealth were genuinely committed to the process and genuinely committed to respecting Indigenous voices and Indigenous representation, they would go back and work through some of the issues that remain in contention and bring back a bill that the whole parliament could support and which had the consent of traditional owners.

I think that is possible. As I said, I think that some of the amendments the government have made will improve the bill. But they are not there yet. They are not at a point where Labor could feel comfortable supporting the bill in its current format. Without that consent of traditional owners we do not think this parliament ought to be proceeding. We urge the Senate to split the bill and to allow us to deal with those matters that have been agreed to and to allow the government to deal properly with Indigenous people before proceeding with the other aspects. (Time expired)

Senator SIEWERT (Western Australia) (12.21 pm)—As you know, the Greens are jointly moving this amendment. I commend it to the Senate and urge the Senate to support it. I would like to touch on the issue of consultation. It continues to amaze me that the government can claim that there has been consultation over these controversial changes that we are trying to split. It amazes me that they continue to run the line that there has been consultation.

Unfortunately, I was unable to make it to the Senate Community Affairs Legislation Committee inquiry hearings into the bill. However, I have read the Hansard and I have read the submissions. It is quite clear from those that the land councils do not support the changes we are talking about. They do support the amendments that the Australian Greens, the ALP and the Democrats are supporting on mining—that is true. There has been extensive consultation with the land councils and with the communities, but there has not been on these other changes. I would
like to quote from the *Hansard* of the inquiry so that I can make it quite clear that the land councils do not support these amendments. The NLC do, in their evidence, support the mining changes. However, the NLC said:

... the NLC has very serious concerns regarding other amendments which (1) appear to breach or impliedly repeal the Racial Discrimination Act 1975 (2) appear directed at effectively implementing the 1998 Reeves report model by breaking up land councils and removing financial independence, and forcing them in effect to publicly disclose confidential minutes and to ‘delegate’ functions to small and unrepresentative corporations and (3) terminate non-contiguous land claims to the intertidal zone and rivers, and enable termination of claims to Northern Territory Land Corporation land. Some of these amendments have only recently been raised, have not been the subject of comprehensive consultation and do not have the consent of traditional owners as recommended by the ATSIA committee in 1999.

They went on to say:

The proposals that land councils be forced to delegate land use functions to small corporations and prioritise scarce resources to them are unworkable and inefficient and will promote dispute and jeopardise development outcomes.

Moving to the evidence of the Central Land Council—one of the other land councils that we are talking about—it was stated that, likewise, they:

... would like it noted on the public record that neither the land councils nor the traditional Aboriginal landowners have been consulted in respect of the whole-of-community leasing proposals nor the stripping of land council functions under the guise of delegation. The ... Land Council was briefed on these amendments and asked to provide comment on the workability of the package as a whole, but this is not consultation.

The Central Land Council, through their evidence and through their submissions to the committee, highlighted their very serious concerns and how they believe that the proposals are not workable. Let us put to bed this issue of whether land councils have been consulted over these amendments. Those are the words of the land councils. They have not been consulted and, to the very brief inquiry at which they were given a very short time frame in which to respond, they clearly articulated that not only have they not been consulted but they do not support the amendments, believe they are unworkable and will in fact undermine the very aims the government claims it is trying to achieve by promoting economic development.

I would like to reinforce the comments made by Senator Evans in terms of the voluntary nature of these proposals. It is not voluntary when funding will be provided by government contingent on them signing a headlease. That is coercion; it is not a voluntary agreement—and the sooner that issue is also put to bed, the better. I am tempted to believe that these controversial changes have been tacked on to this bill on purpose. The government went out and consulted very properly with land councils and communities on changes that were much needed. They did that over a long period of time. However, I believe that the government saw political advantage in tacking these amendments on to the bill in that they could then claim that there has been a lot of consultation over this bill. Quite clearly, the evidence indicates that there has not been appropriate consultation. There is not agreement from the land councils. The government can try and force these amendments through, but they cannot claim that they have community support.

We are very happy to support those elements of the bill which quite clearly have land council support, but we do not support the changes that will undermine the very aims that this government claims it is trying to achieve. I would be more than happy to support a package brought back by the government that indicates how it will deal with the issues that limit the economic develop-
ment potential of regional and remote Aboriginal Australia—those things such as education and training, lack of employment opportunities and lack of infrastructure support. All those issues need to be addressed and are not addressed by the proposals in this legislation. In fact, the land councils, when given their very limited opportunity to comment, said that the proposals will undermine workability, will undermine good governance arrangements and are not practicable or workable. I very strongly encourage the Senate to support this motion to split the bill and to go back and rework those flawed elements of the proposal.

Senator CROSSIN (Northern Territory) (12.27 pm)—I rise in support of this motion and I want to provide some comments as to why that is the case. Let us have another quick look at the beginning of the negotiations around this bill, and let us get on record clearly what is meant by consultation and what is simply meeting the land councils with draft amendments so that they can have a cursory look and a scan over what is proposed, rather than entering into genuine negotiations with this government.

We know that around the 2003-2004 mark the Northern Territory government entered into discussions with the land councils over the changes to this bill, the Aboriginal Land Rights (Northern Territory) Amendment Bill 2006, consisting of the workability and the mining, exploration and leasing sections. We know that a document that had the agreement of the Minerals Council and the land councils was sent to Minister Ruddock. My understanding is that the federal government were quite keen to approve and amend the act in accordance with the major stakeholders in the Territory, who had undertaken that long and extensive piece of work.

Then we had the Northern Territory government’s proposal that they would pick up on an idea that I think was mentioned at a conference in Jabiru by David Ross of the Central Land Council in relation to the 99-year lease proposal. My understanding is that it was one of many ideas that were put forward at that conference as a way of advancing economic development on Indigenous land. It is interesting that that is the one proposal that they picked up out of all of the many others that Mr Ross spoke about.

We know that there is a third tranche of amendments to this act—amendments about which there has not been full and frank consultation with Indigenous people and land councils. I refer to the ability of other Aboriginal corporations and associations to establish land councils in the Territory; the ability of the minister to compulsorily demand that land councils transfer some of their functions to these new bodies or corporations if they get established; that land councils will be required to be more accountable than they currently are in terms of their outputs and workloads; that land councils in fact will not be funded by at least 40 per cent of the Aboriginals Benefit Account but by a yearly grant at the behest of the Commonwealth government. We know that the land councils may well have been shown these amendments, but they were never, ever invited to engage in full, frank and honest negotiations about the changes to the land rights act.

We can talk about how ‘we have consulted Indigenous people’—and we strongly disagree with that. We can talk about how ‘this is an opportunity for Aboriginal people in the future to develop economic wealth and homeownership and advance their lot in life in this country’. But let us be really honest about what this means from this federal government. This is about a policy of assimilation. This is not about self-determination; this is about saying to Indigenous people in this country—and this bill applies only to
Indigenous people in the Northern Territory—‘You have to behave like whitefellas in this country. If your lot in life is going to improve, you need to jump on the bandwagon that all of us non-Indigenous people aspire to, and that is to own your own home.’

Indigenous people do not aspire to that. They live in quite a different cultural world. There are some out there who want to do that. I know of Indigenous people on Groote Eylandt who work at the GEMCO mine, who earn quite a lot of money and who would be keen to own their own home. But they can already do that under the existing section 19 provisions of the land rights act. This is about saying to Indigenous people: ‘If you really want to be a true Australian, you’ve got to act like the rest of us. And we all know that we think the first thing you’ve got to do to actually prove you’re successful is to own your own home.’ Well, that is not a measure of success for Indigenous people, but this government just does not get it.

What they ought to get is this: the one thing that Indigenous people hang on to, are proud of and want to maintain, not for 100 years or thousands of years but for tens of thousands of years, is their critical and vital link to the land. That is the core of their being. That is why they exist. They have an intrinsic relationship with the land, just as any Catholic has when they see the sign of the cross. It is the same spiritual relationship. Their land determines who they are in life, how they behave, who they marry, what language they speak and where they can and cannot go. That is why we have sacred sites. That is why we have restrictions around places like Uluru—not because it is a big rock in the middle of the desert and we do not want hundreds of thousands of tourists to destroy it each year but because it is the heart of the spiritual beliefs and operations of people in Central Australia.

This government just does not get it. So the very first time it wants to get up and butcher the Aboriginal land rights act, what is the very essence that it attacks? The land leasing provisions under this act, which provide the right for people to keep their title. But Aboriginal people want more than to keep their title. Really, it is a bit of a furphy for people to say, ‘You will still keep the title over your land,’ when it has been their land for 40,000 years. It was their land before we ever heard of Captain Cook or Matthew Flinders. It has always been their land; it has always been their title. It was not until whitefellas decided to emigrate from England and Ireland that we decided that it was not their land anymore. But it has always been their land. They do not understand the argument that they have to go through our courts of law to prove what was always theirs.

Now we are saying to them: ‘We’ve come up with a really good idea here. You’re the poorest people in the country; you desperately need more houses. We’ll provide you with a secondary boarding college on the Tiwi Islands because the other one is so badly run down that it ought to be bulldozed, but we’re only going to give it to you if you decide to give us your land under 99-year leases.’ Which means what? I questioned Mr Bree from the Northern Territory government and Mr Stacey from the OIPC but no one could give us the details about this. No one actually has the fine print. If you ask a different person on a different day: ‘What does giving up a 99-year lease to your township mean?’ you will get a different answer. Some people will say, ‘We haven’t quite defined what a township is for a place like Nguiu or a place like Galiwinku.’

Where do the boundaries start and end in terms of the township? Who is going to pay for the extra infrastructure if 50 new houses are built on a land lease at Elcho Island? Who is going to pay for the extra sewage
works or the electricity upgrades that will be needed in that community to service those new houses? I heard someone say last week, ‘Oh gee, that’s a problem we haven’t thought of.’ The local community council has not been involved in these discussions; the Northern Territory government have not thought about it; certainly the federal government have not thought about it. But I bet you London to a brick that if any of those communities sign on the dotted line for a 99-year lease this mob will run a mile and will not be prepared to put one extra cent into providing more sewage works or more electricity on Bathurst Island. The Tiwi Islands Local Government told me when I went there two weeks ago that it is a serious problem when you have this idea floating around in the heads of some bureaucrats and ministers from the federal government.

The local government does not have the money to pay for the new infrastructure. The Northern Territory government have not thought about it and are probably struggling to exist under their current budget. The view is: ‘Oh, I know, we’ve got the Aboriginals Benefit Account; let’s draw on that. There’s $100 million sitting in that account; let’s draw down on that.’ The government see that as a great slush fund in order to opt out of their responsibility to provide infrastructure and basic services to Indigenous people. The ABA was never and should never be used for that purpose. It should be used to negotiate gas pipelines. It should be used to negotiate train lines that run from Darwin to Alice Springs, as it has been used in the past—projects that provide genuine, long-term benefits and economic development for Indigenous people. It should not be used to build 50 new houses in a place like Elcho Island.

As a non-Indigenous person in this community, I am not asked to give up my land in order to provide basic infrastructure services. I do not have shares in any company, but if I did have I would not be asked to dip into the shares of any company that I might hold or any benefits I have from any company to pay for basic infrastructure services, but that is what we are asking Indigenous people to do. The Aboriginals Benefit Account has been set up to hold money that people have rightly obtained from the royalties from mining. It is their money to be used as they wish. It is not money to be used by the federal government to replace basic infrastructure and services. It should not be used by the government as an excuse to opt out of their obligation to put houses, health centres or boarding schools in communities. But that is what the government want to do and they are using this legislation as a way to get around that.

The other thing I want to say about the 99-year lease system is this: the government will put their hand on their heart and say: ‘We do not want to touch the permit system on Indigenous land. There is nothing in this bill that specifically amends the act to abolish the permit system.’ But if you actually think about the 99-year lease, where people will give up a township like Nguiu, they will not have any control over who comes and goes and they will not have any control over what establishments will be built there or not built there. Effectively, you do abolish the permit system. You cannot have what is in the little dream bubble of the federal government in this chamber—an opening up of lands on Indigenous communities—without effectively destroying the permit system. These are the kinds of negotiations that we believe ought to take place with Indigenous people. Some people in the Public Service will say to me, ‘Traditional owners will be able to negotiate certain conditions on certain leases.’ Are you telling me that the people on Elcho Island will have a right of veto over who sets up a business in their community? Is that what you are telling me? The answer is: ‘We
are not really sure; we have not quite worked out whether they will have that level of control.’

These are the kinds of things that we are saying to the federal government. Let us put a brake on this bill. Let us put a hold on this legislation. Let us run with those amendments we know have been negotiated and agreed between the major parties and let us take the time to put this bill off for a couple of months, to December perhaps—as Senator Evans said, we are not asking for this bill to be put off for years, just months—while Indigenous people get to ask those questions and while we get it really sorted out in our heads what getting a 99-year lease over your township really means. What right of veto do you still have as a traditional owner? Why is it that any profits from a 99-year lease will be held by a Northern Territory entity rather than going back into the community to be disbursed between traditional owners? Why is that not a proposal that has been discussed and negotiated? Indigenous people have not had a chance to put those ideas and those views down on paper.

We talk about a Northern Territory government entity that will hold and manage these land leases. This will be, I think, the first time in a very long time in this Senate chamber that we are agreeing to legislation that relies on consequential legislation which we have not yet seen. The government have agreed to that. They have actually said to the committee: ‘You can extend your reporting date until you have seen the transitional legislation. Take your time over this. This is significant; this is important. Let us take our time and do it properly.’ But when it comes to Indigenous people in the Northern Territory who will rely on the land leases to be held by a Northern Territory entity or authority, we have not seen that legislation. Who sits on that authority? Who will be responsible for that authority? The Chief Minister? Another minister in the Territory? Will there be dual authority and responsibility to the federal government? What powers will this authority have? What accountability back to traditional owners will they have? Will land councils be on this authority? Will traditional owners be represented on this authority? We cannot answer any of those questions.

I bet if I ask Minister Kemp those questions now he still would not know, because I do not think it has been worked out. So why should we be asked to put legislation through this chamber that requires Indigenous people to give up their land for 99 years? Why should we ask them to do that when we do not know the details? We do not know how it is going to operate. We do not know the cost. We do know, though, that for every area of land that will be surveyed in order to be leased we are looking at at least $1 million to undertake the survey. No-one has plotted the land and townships on Indigenous communities yet. They do not have township plots and lots. They do not have zoned areas. That is all going to have to happen and it will take big bucks to do that—big bucks when Indigenous people are really saying to us: ‘If you have a plan for this country, don’t put us in a position where you will make us give up our land to have basic infrastructure services. Put the money into health, education and jobs growth rather than this thought bubble that our lot in life can seriously improve if we have to give up our land to you whitefellas for 99 years.’ It is not going to work and it is not going to be viable.

If this federal government believes that it has undertaken the best, the brightest and the most thorough consultation that ever existed
in relation to this act, why is it that An-indilyakwa Land Council on Groote Eylandt and the Tiwi Land Council did not bother to appear before the Senate committee? They did not have one person who was able to appear before the Senate committee and champion how great this new proposal will be. We know that those two land councils like this idea. They have a very small, discrete area of land in which to start to trade and negotiate. But they might also have some ideas that can be shared with other Indigenous people in the Northern Territory. But this is a government that is not going to allow Indigenous people the time to enter into some serious negotiations about these changes.

Our suggestion to split the bill simply says that: put through the changes that you actually believe will be beneficial to Indigenous people and that they agree to and want to happen, and let us take our time and put through the other changes to the legislation after there has been some serious negotiation and consultation, after questions have been asked, after the fine print has been examined and after we have seen the Northern Territory consequential legislation that puts in place a Northern Territory entity.

Debate interrupted.

MATTERS OF PUBLIC INTEREST

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

Charitable Organisations

Senator MASON (Queensland) (12.45 pm)—Australians are a generous people. Australians are also generous in their donations and bequests to charities. I am proud to be a member of a government which has made it possible and easier for Australians to be generous to charities like never before. As a consequence, by some estimates Australians give as much as $3 billion per year to charities. More broadly, the not-for-profit sector within Australia has become big business indeed. Though estimates as to its size vary, BRW magazine, which has done some excellent work on the not-for-profit sector, estimates that the sector is worth $70 billion and employs 600,000 people. The Australian Taxation Office estimates that the sector is made up of 700,000 organisations.

The generosity of Australians towards charities is with very good reason. Australian charities do a wonderful job, and the list of great work being done in the charitable sector is endless. Australia’s charitable organisations have a commendable track record of rolling up their sleeves and helping those who cannot help themselves. As such, they have justifiably earned the trust of Australians.

The difficulty with many of the figures that I have just referred to is that these are only estimates. No-one really knows how many charities there are, how many people they employ and what assets they own. Part of the problem is that many charities do not report on their activities to the public. Earlier this year BRW magazine listed what it believes are Australia’s top 200 charities. But it was thwarted in an analysis of this list because 72 of those 200 organisations do not have annual reports. I must confess that I was amazed by this. This lack of transparency threatens to erode the donating public’s trust in charities.

The importance of trust to the charitable sector is something that the Treasurer, Mr Costello, touched upon recently in a speech with the intriguing title ‘Is faith a lost cause’. The speech was made in the aftermath of a well-publicised controversy which engulfed one of Australia’s best and most respected charities, the Red Cross, over its handling of its Bali appeal for victims of the terrorist bombings. The problem as highlighted by the
Treasurer is that the hard-won trust which the sector has built up is threatened by the type of inefficiency and waste that has given government a bad name. I am afraid that some in the charitable sector have not heeded the Treasurer’s advice.

Increasingly I find myself reading stories in the media about charities behaving in a manner that threatens this reservoir of trust among Australians. Stories which detail that commercial fundraising organisations or face-to-face fundraisers are asking for as much as 94 per cent of the proceeds they raise on behalf of charities pose a great danger to charities and the public’s faith in them, as do the findings of the Melbourne Herald Sun’s thorough investigation of the activities of these so-called charity muggers. Clearly, the sector must work more aggressively to improve itself and its efficiency in fundraising.

But it is unfair to place all of the blame upon charities. In 2003, during Senate estimates, I asked Mr Michael Carmody, the then Commissioner of Taxation, if the Australian Taxation Office reviews the status of a charity after that status has been granted to see whether it has been following the rules. Unfortunately, the answer was no. Effective reviews of charitable status are not regularly undertaken by the Australian Taxation Office. BRW’s Adele Ferguson put the potential consequences of this benign regulatory neglect more starkly, observing:

Without adequate supervision or transparency, the not-for-profit sector is a ticking bomb. It would take just two or three scandals to harm all the good that the other charities are doing. Even larger charities such as the Salvation Army concede that the sector needs reform ...

I have little doubt that the vast majority of organisations are doing the right thing and are doing great work. The problem is that we cannot sort out the many good not-for-profit groups from the handful of bad ones or those who are underperforming. It is my belief that this threatens the donor-charity trust relationship within the sector at large.

It is here that government needs to step in and provide clarity where confusion prevails. After all, the government does have a legitimate interest in the not-for-profit sector, as the sector is the beneficiary of a raft of taxpayer funded subsidies handed out by government. What is needed is a clear set of rules by which the charities sector must abide. At present, the not-for-profit sector is governed by a complex web of rules and regulations imposed upon it from a state and a federal level. Rules vary from state to state, and what rules there are are largely unmonitored and, sadly, rarely enforced. To put it simply, we must cut the red tape that currently exists and start providing structure and efficiency to charities law so that charities can do the same to themselves.

Attempting to fix up the charitable sector, however, is not an easy task. Any attempts are quickly subject to political demagoguery and scaremongering. When the government attempted to codify the charities law in 2003 with the seemingly innocuous charities bill, it was met with howls of protest from a vocal minority within the charities sector. Opposition to the bill centred on the misleading argument that it was a ‘gag on charities’. This depiction was enthusiastically adopted by the government’s political opponents and sections of the media who were largely ignorant of charity law in Australia or not interested in the facts at all. As the Treasurer pointed out in an opinion piece in the Australian Financial Review, though:

... if it — the bill — codifies the current law as laid down by precedent, how could this be a new restriction? How could this be a gag?
My suspicion is that it was not the law that was changing but that some charities had strayed from their original purpose, were operating at the edge of the law and were hoping that the law would change to fit their circumstances. This argument that any changes when mooted are simply about gagging charities, despite being incorrect, has been an effective tactic in suffocating debate. As a result, charities continue to operate within a framework of complex and conflicting rules and regulations because many in the community see necessary reform as detrimental to the charity sector. Three years later the same type of argument is still being pushed by those who would prefer to score cheap political points rather than engage in an intelligent debate about much needed regulatory reform.

On 12 July this year the member for Sydney, Ms Tanya Plibersek, wrote in the Sydney Morning Herald:

The Government threatened to introduce a bill to remove charitable status from organisations which engage in advocacy...

Ms Plibersek needs to get her facts straight. The government did no such thing. The issue here is not one of whether charities can engage in advocacy but, rather, how much advocacy and lobbying charities might engage in while still retaining their taxpayer funded subsidies; that is the issue.

For example, I have here a photocopy of the annual report for the Wilderness Society for the year ended 30 June 2005. The Wilderness Society are supposed to be about protecting the wilderness. They have in the back of the annual report a list of their expenditure. They spent more than $10 million. I looked very, very hard for any indication of protecting the environment. I did not find any evidence of weed pulling or the planting of trees. Indeed there is no dirt under the fingernails of those who work in the Wilderness Society’s office in Hobart.

The best I could find, out of more than $10 million, was $341,000 spent on community campaigning—it is about 3½ per cent of their budget—and $295,000 spent on scientific research, which is about three per cent. But that indeed is less than the Wilderness Society spend on postage and packaging. The community campaigning I referred to is even less than they spend on travel and accommodation. The big expenses for the Wilderness Society, according to their own chart, are salaries plus salaries on-costs—which are about 45 per cent of their total budget—and legal costs and something called ‘branch subsidy’. There is not much evidence here of saving koalas or saving the rainforests. This is a shopfront for political advocacy.

If you doubt me, Mr Acting Deputy President Hutchins, and I am sure you do not, you only have to look at a media release dated 8 October 2004 from the Wilderness Society. They say:

The only chance to protect Tasmania’s great forests is if a Latham government is elected on Saturday.

Voters can help achieve this by voting 1 Green, 2 Labor and placing numbers in order of preference on their ballot papers.

The Wilderness Society will have a strong presence at booths in the seat of Bass and will be handing out how to vote cards. We will be supporting the Greens in Dixon, Deakin, Latrobe and McEwen. Print advertising will occur in Richmond and Bass.

There is no problem with charities engaging in advocacy; the question is the extent to which they do it. Looking through the accounts of the Wilderness Society in their own annual report there is so little evidence of actual engagement with the wilderness or the environment. This is a shopfront for political activity.
In sharp contrast to the contribution of the member for Sydney there is the work of Senator Murray, who has completed some outstanding work on this topic. In his discussion paper entitled One regulator, one system, one law he makes the case for a simpler, streamlined system of charities law governed by one, ruling, regulatory body. As we have come to expect from Senator Murray, his arguments are well researched and based on an intimate understanding of the issue. While I do not agree with everything that Senator Murray says in his paper, I do acknowledge that it is a substantial and thoughtful contribution to the debate. I commend that contribution to people in this chamber. Certainly we agree on one thing, Senator Murray, and that is the need for reform, accountability and transparency in the charity sector; we agree on that.

The only way to give Australians the information they need to judge the efficiency and effectiveness of charities is to clear the red tape and lay down a set of new rules which adds greater clarity and requires greater disclosure on the part of charities. The more that commentators and elected representatives deceptively turn public opinion against this type of reform, the more they jeopardise the future of Australian charities. In March this year the BRW magazine listed 10 ways to fix the not-for-profit sector. Aside from setting up an independent regulator, some of the other significant initiatives warrant thought. Near the top of that list is introducing common accounting standards to the not-for-profit sector. This would seem to be something that surely everyone might agree upon.

One suggestion I have is that the whole issue of state laws regulating fundraising be placed on the COAG agenda. There needs to be greater harmonisation among the states so that charities only have to comply with a uniform set of fundraising laws throughout the country. This would greatly ease the administrative burden of charities which fundraise in different states. Ideally, the states should consider handing these powers over to the federal government but, failing this, the harmonisation of laws is a good alternative.

As politicians we know what happens when trust is eroded: the public become sceptical and they disengage. Charities have a good reputation but trust can very easily be lost. It is vitally important that the sector makes itself more efficient and transparent, lest the sector experiences a decline in trust. There is a role here for government to step in and promote high standards within the sector and to establish a clear, transparent regulatory regime that will allow Australian charities to thrive in the 21st century.

**Homelessness**

**Senator CARR** (Victoria) (12.59 pm)—I would like to speak in the matters of public interest debate today about homelessness in Australia. If there is any issue in which politics can make a big difference, surely it is homelessness. If there is any issue in which politicians can make a serious contribution to addressing a social wrong, surely it is homelessness. This is a group of people in Australian society that remains powerless and unrepresented in government at the national level because this group of people has no voice in the national government of this country, as this government has steadfastly refused to accept any responsibility for, let alone worked to address, the needs of homeless people in this nation.

This matter should come before us on a day such as today because, firstly, it is National Homeless Persons Week. It is appropriate for us to take the opportunity to remind senators of some of the facts about homeless people in Australia. Secondly, in the wake of last week’s interest rate rise it is
appropriate that, in an extremely tight rental market, we know that the desperation of homeless people will become more acute. We have seen a number of stories in the media over the last week about families losing their homes because they cannot afford to pay their rent or meet mortgage payments. Thirdly, this is census week, or rather yesterday was census day. The census is the only real source of statistics we have on homelessness in Australia, so our current statistics date back to 2001. We will have to wait until the middle of next year and perhaps even longer before the ABS comes forward with new statistics. I understand that the ABS has responded to criticism that the previous census underestimated the number of homeless in Australia, and I know that the ABS will be showing great diligence in trying to improve the way it counts Australia’s homeless during the current census.

I would like to take this opportunity to congratulate the ABS on their special efforts to capture the true size and nature of the homeless population in this year’s census. Specially trained collectors have been combing the nation, trying to get the most accurate count possible over recent days. Collectors are first faced with the challenge of simply finding homeless people. Imagine for a moment not having a home or indeed any reliable place at which to be contacted. It does not take much to understand that functioning in society without a reliable address is almost impossible. Secondly, the collectors face deep-seated suspicion from many homeless people. Many are afraid of government authorities for very good reason.

Gathering this basic data is not a simple task, but it is a critical one and is particularly important for those of us in this national parliament who are concerned about developing public policy to address the needs of homeless people. Without reliable basic data on the numbers of people living without a home, making the right policy and providing enough properly targeted services for this most marginalised group is equally very difficult. The challenge facing the ABS reminds us of the basic brutal realities of homelessness.

Based on the 2001 census data, we know that there are 100,000 Australians without a secure roof over their heads every night. Tonight, 100,000 Australians will not have a secure roof over their heads. Some 14,000 of those people have no roof at all; they will be sleeping rough, taking advantage of the starlight hotel. They are the people who are most likely to be underestimated in any official statistics, because they are the hardest to count. Another 14,000 will stay in shelters and refuges tonight. Twenty-three thousand are living in insecure boarding houses and 49,000 are basically couch surfing—relying on the charity of friends and relatives.

That the homeless are not seen and seldom heard explains why many Australians, when asked by community organisations how many people are homeless in Australia, as Mission Australia did last year, respond with an answer of about 20,000—one-fifth of the official estimates. Most Australians are not aware of just how desperate the situation is. The homeless remain hidden in Australia.

Let us think about what it means. For instance, in my home city of Melbourne the hidden homeless are said to be around 14,000. If you go to the other capital cities, there are said to be 15,500 in Sydney, 7,500 in Brisbane, 4,800 in Adelaide, 5,600 in Perth, 1,100 in Hobart, 1,200 in Canberra and 2,700 in Darwin every night. Canberra is probably one of the more prosperous cities in the Commonwealth and, if we think about how cold it was here last night, people are trying to survive outdoors in temperatures of minus seven degrees. Last night there were 70 people on the streets of Canberra.
We know that the causes of homelessness are complex. We know that domestic violence, for example, is the leading cause of homelessness for women. Almost half the homeless population are children and young people, and 10 per cent are under 12 years old, so it is no good saying that it is their fault. It is no good trying to assert that this is a problem that does not concern the rest of this society. We cannot eradicate all the causes of homelessness—I do not suggest that we will—but we can provide far greater assistance, particularly for crisis accommodation, so that in our capital city, for instance, 300 people will be in shelters and refuges tonight. We should be able to provide far greater assistance to those people.

In my home state of Victoria, 5,000 people will be crowding into refuges and shelters tonight. The same number will be turned away; they will not actually get a place in a shelter tonight. I am told we have a turn-away rate in homelessness services of around 50 per cent. It is even higher for women and children escaping domestic violence, with up to two-thirds of children accompanying their mothers being turned away from shelters.

Funding for homelessness services is provided by the Commonwealth through the Commonwealth and state Supported Accommodation Assistance Program—the SAAP agreement. In 2004 an independent evaluation of the SAAP agreement found that there needed to be a 15 per cent real increase in funding just to maintain the viability of existing services. But the Howard government completely ignored this review when it came to the renegotiation of this agreement last year. The Minister for Community Services, John Cobb, has of course tried to claim that the Commonwealth has put in additional funding under the new SAAP agreement. This is a claim that has been previously made by other ministers, such as Senator Patterson, but it is just plain wrong. The Commonwealth provided no new funding. Both the current and former ministers have talked proudly about the fact that the new agreement puts extra money into innovation. But these are being funded at the expense of the base funding for this program. There will actually be a fall in the base funding for this program from $178.5 million in 2005-06 to $175.3 million in 2006-07 and $175.8 million in 2007-08.

I am sure there would be no-one here who would argue against innovation, but it strikes me that there needs to be provision of actual services and improvement in those services, and effective services that represent greater value for money. Changing the way services are provided usually requires an injection of additional funding, particularly in terms of capital works for new building and more appropriate facilities and perhaps for the trialling of new strategies for the provision of outreach support. So it makes no sense whatsoever to fund these improvements by taking money away from existing services, which are already struggling to meet the demands of some of our most vulnerable citizens.

What makes even less sense, though, is the fact that, despite all the bluff and bluster presented by this government, total funding under this agreement is not even keeping pace with inflation. It strikes me that when the Commonwealth funding over the life of the agreement does not even keep pace with inflation—let alone with the wage costs—you have a situation where the level of support is actually declining. If the amount of money provided by the Commonwealth in 2005-06 was indexed by CPI, it would be contributing another $8 million over the five years of the agreement. If in 2005-06 funding was indexed by the wage price index provided by Treasury in the most recent budget papers, the Commonwealth would be contributing an extra $33 million over the
life of the agreement. These things are just not happening.

The Howard government might also point out that it has a program it calls the National Homelessness Strategy, although this has been one of the most misleadingly named programs in a litany of this government’s Orwellian, misleadingly named programs. Labor has looked at this program and I have asked a number of questions through the estimates process. Departmental officials, in their responses, can only indicate that the strategy is little more than a cost-shifting exercise by which the national government uses demonstration projects and then fails to fund them. These programs are then passed back to the states. Both the Commonwealth minister and officials have confirmed that the demonstration projects that the Commonwealth will be funding under the most recent round of the strategy will probably be left to the states and territories to support in the longer term. Of course, that funding will come out of the SAAP agreement. This is the same SAAP program which has already been demonstrated to be grossly underfunded, probably to the tune of about 15 per cent. It will now be required to fund the additional services that the Commonwealth has established but passed back to the states. I think we are entitled to ask, ‘How will this be done?’

It is worth noting that a large part of the problem facing homelessness services is that when homeless families get into crisis accommodation they are staying longer. They are required to compete with a growing number of people for fewer and fewer services. They are unable to move because there is simply no housing available. So the bricks and mortar issues of housing—as we sometimes put it—require urgent action. Australia needs another 138,000 affordable rental properties around the country to lift low-income earners into the private rental market and out of housing stress, and to reduce the risk of them falling into homelessness.

What you are seeing here is in the context of the Commonwealth-State Housing Agreement, which has seen a 30 per cent reduction in the level of Commonwealth support over the life of this government. We have seen some 50,000 fewer housing units actually available in this country. The demands are growing, yet the service provision is falling. The government does not even have a minister for housing. It is an argument that the government needs to take up, and I think the Commonwealth needs to fulfil its responsibilities. If this government cannot do it then I would put the view that at the next election the Australian people will get a government that will do it, and will change the existing regime.

Parliamentary Ethics Committee

Senator MURRAY (Western Australia) (1.14 pm)—Today my speech in this matters of public interest debate addresses what I consider to be a matter of great public importance: the democratic relevance of our parliament in the 21st century. My motive for doing so arises partly from my attendance, in April of this year, at the World Ethics Forum held in Oxford, England, although I have had a long interest in these matters.

The theme of the Oxford conference was ‘leadership, ethics and integrity in public life’, and the purpose was to highlight the crisis of integrity in world affairs and to suggest ways to improve matters. While it is acknowledged that advances have been made, the challenge to develop more effective measures to promote integrity and to combat corruption persists. Australia is part of this challenge, because it also needs more effective measures to promote integrity and to combat corruption. In a report in the Sydney Morning Herald on Monday by Matthew Moore it was said:
Australian governments are so practised at frustrating the democratic process that legislation is urgently needed to try to make them accountable, a report urges. Authors of the paper, including a former Liberal speaker of the NSW Parliament, Kevin Rozzoli, and a former Labor speaker from the Victorian Parliament, Ken Coghill, say an ever-growing desire to maintain political advantage has eroded the way democracy operates.

"Information is denied, processes are manipulated and accountability is deliberately frustrated," they write in their paper released yesterday, Why Accountability Must be Renewed.

"Ministerial accountability fails as governments seize and hold political advantage, putting partisanship interests ahead of the democratic rights of citizens and their entitlement to be treated with integrity, dignity and respect."

The promotion of integrity and ethics in public life, especially when applied to political governance, is essential. It is certainly essential to maintaining and improving healthy representative democracy. It is also essential to minimising corruption, a matter I addressed in my adjournment speech on 14 June this year. Drawing on papers presented by eminent speakers at the World Ethics Forum, I spoke about the importance of officials and companies upholding the United Nations Convention against Corruption.

In the context of ensuring our democracy remains a vigorous one, the particular issue I wish to focus on and revisit today is the need for the establishment of a joint parliamentary ethics committee. Such a body would oversee an enforceable code of conduct for ministers and members of parliament to help ensure political integrity and accountability. It would replace the current ministerial guide to conduct, which is not only insufficient to ensure that ethical standards in parliament are of the highest order but also inadequate to lift public trust in our system of government.

This is an issue that the Democrats have campaigned on for some considerable time, and it is embodied in my private senator’s bill, the Charter of Political Honesty Bill. The proposed code of conduct would clarify what is required of parliamentarians in the exercise of their duties. It would also act as a public statement on the minimum standards of behaviour that the public and the media can and should insist upon. Like other countries, it would necessarily establish an office of commissioner for ministerial and parliamentary ethics to enforce the code. It would allow any breaches of the code to be reported to the parliament by the commissioner and encompass appropriate disciplinary recommendations.

The Democrats regard this step as vital towards improving parliamentary standards and upholding the convention of responsible government. We also regard it as vital to addressing the crisis of trust in politicians—a crisis that is particularly disconcerting for the most potent institutional symbol of Australian democracy, namely, our federal parliament.

All members of parliament should be concerned at the findings of a study carried out by the Democratic Audit of Australia in May 2005, titled Public confidence in Australian democracy. It found that close to half of the survey respondents in most sociodemographic subgroups had little confidence in the federal parliament. Add to this their mistrust in politicians, the Public Service and the legal system and their perceived poor state of our democracy.

This may all be profoundly unfair at times, but this attitude is widespread. This crisis of trust bodes ill for Australian democracy. Our democracy cannot afford such distrust, particularly as it seems to be growing. As a result of attending the World Ethics Forum, I am convinced more than ever of the need for a code of conduct for our public officials. Britain did it in 1994. Under the
then Conservative Prime Minister John Major, the high-powered Committee on Standards in Public Life was established. It is funded by the Cabinet Office and produces an annual report as well as a series of papers on expected standards of conduct. There is still no equivalent in Australia, and there should be.

Britain’s committee has set down seven principles that public office holders are expected to uphold. They are expected to display selflessness so that no action will result in financial gain or other benefits for themselves or for families or friends. They are expected to show integrity to ensure they are under no financial or other obligation that could influence them in performing their public duties. They are required to maintain objectivity so that their choices are based on merit when, for example, making public appointments, awarding contracts or recommending individuals for rewards and benefits. They are required to demonstrate accountability in all their decisions and must submit themselves to appropriate scrutiny. Openness is expected, whereby reasons are to be given for all decisions taken and information only restricted when the wider public interest demands.

Honesty is also expected. Any private interests relating to their public duties must be disclosed and steps taken to resolve any conflicts of interest that may arise. Lastly, and at all times, leadership is essential. I should add here that these principles are a work in progress. They have been subject to both quantitative and qualitative research in Britain in 2002 and 2004, and they are currently again under review, with a report due later this year. They have been adopted widely, either in response to specific recommendations from the committee or as a matter of best practice.

There are some, probably many, politicians who would argue that these principles do apply to many politicians in Australian parliaments. However, I would argue that they apply in theory and that they are contradicted in practice. Certainly, academic studies confirm this. Professor Elim Papadakis of the Australian Research Council and Pippa Norris of Harvard University have both found that while our citizens support democratic ideals, they are critical of how they actually work in practice. If this were not the case then there would not be so much public suspicion about only the moneyed having access to and influence over the policy process. There is little doubt that strings-attached political donations are of concern to voters. Also, there would not be such disquiet about governments using taxpayers’ money for political advertising—something the Democrats have attempted to outlaw through our Electoral Amendment (Political Honesty) Bill.

Such a practice has certainly escalated under this coalition government. Remember the Work Choices campaign. That would have to have been the most flagrant abuse of executive authority with partisan advertising. Just read last year’s Senate Finance and Public Administration References Committee report into government advertising and accountability. That Senate report lays bare the aggressive misuse of money by this government, as well as its defiance of proper accountability measures.

There also would not be so many allegations of governments being involved in political pork-barrelling. For instance, read the recent report of the Senate Finance and Public Administration References Committee inquiry into Regional Partnerships and the Sustainable Regions Program. Its recommendations call out for the government to introduce greater probity, accountability and process improvement in these programs. We
also would not have government appointments being made on the basis of political patronage, rather than an independent merit based system like that which has operated in Britain, under the Nolan formula, for over a decade.

We also would not have a situation in which departing ministers and senior bureaucrats are able to take up consultancy work in areas closely linked to their portfolio interests. This is something that the Democrats have attempted to address through the introduction of the Ministers of State (Post Retirement Employment Restrictions) Bill. We would not have government activities being concealed when they ought not to be. Too often, commercial-in-confidence is put forward as a reason for the nondisclosure of requested information. We also would not have such concern about honesty and transparency, as revealed in the children overboard and wheat for weapons scandals. We would not have a freedom of information system that obstructs our citizens from having the power to access and independently scrutinise government information—and that obstructs the media as well. The Democrats’ Freedom of Information Amendment (Open Government) Bill remains on the current bills list to address this accountability deficiency. We also would not be without effective legislation that would offer comprehensive protection for whistleblowers to ensure that people in the public sector can speak out against corruption and impropriety. This is a matter that the Democrats have attempted to address through the Public Interest Disclosure (Protection of Whistleblowers) Bill.

In sum, all of these shortcomings in government accountability mechanisms damage Australian democracy. It is made worse because the party system works against the conscience vote, the ruling party’s members are subservient to the executive and self-regulation is erratic in its standards and enforcement. We have Australian governments that consider themselves bigger than the democratic system—arguably, reason enough for them to be put out to pasture.

It may appear that I consider a body akin to Britain’s Committee on Standards in Public Life, and its principles, to be the panacea to all the accountability problems I have encountered and outlined. I do not. Rather, I am of the opinion that such a process would go some way to turning around the public’s pretty grim attitude toward our politicians. It would go some way to assist in restoring public confidence in our parliament and in our Australian democracy. However, ultimately it is the quality and integrity of political candidates and political incumbents that will raise standards, and the way in which they conduct themselves.

In my Joint Committee on Electoral Matters Committee report into the 2004 election I have tried to show how political governance and systems could be improved. There should be an independent watchdog that could oversee matters of ethics and integrity in public life. When reading the West Australian on May 22 of this year, an article titled ‘Unchecked sleaze tarnishes Blair’ caught my eye. The Blair referred to, of course, is Britain’s Prime Minister, Tony Blair. And the sleaze refers to some of Britain’s latest political scandals—namely, the investigation into House of Lords seats being awarded in return for loans or donations to the Labour Party in Britain and the ‘cash-for-honours’ or ‘donations-for-gongs’ outrage.

What is interesting about this article is that it draws on comments made by the anti-sleaze watchdog, Sir Alistair Graham, the man appointed by Mr Blair to chair the Committee on Standards in Public Life. Sir Alistair Graham condemns Mr Blair for not
treat ing the standards seriously enough. He also warns politicians to change their behaviour, because a survey carried out by the committee revealed the public’s perception of them as pretty grim. This is the system working: a man appointed on merit to watch over standards in public life fearlessly criticising those who appointed him when they breach their duty.

The point is that having set standards for public life is not the only answer. However, having a reputable and autonomous watchdog to oversee their adherence is vital to the advancement of democracy in the 21st century. It needs to be accompanied by a committee which represents both houses of the parliament and in which members of parliament can reflect on recommendations from such a commissioner and deliver an appropriate remedy where that is possible. In Australia, the public deserves, if not demands, a more powerful commitment to honesty and accountability from our public office holders.

Returning to the way in which I began this address, we have had the release this week of a paper, and the timing of both my remarks and that paper are propitious. I saw an article by Michelle Grattan, the senior journalist in the gallery for many years, commenting on that paper, and it has had wide currency elsewhere. This is a cause which is not the property of any one political party or any one parliamentarian. It is a cause which needs to be taken up by many parliamentarians; it is a cause which needs to be taken up by the media; it is a cause which needs to be taken up by public interest groups so that we can see an advance in the standards in public life.

**Fuel Prices**

**Senator BRANDIS** (Queensland) (1.28 pm)—Overnight, the price of Malaysian Tapis crude oil reached $US82.07 per barrel. It is the price of Malaysian Tapis crude which determines the landed Australian price of oil and ultimately the cost to Australian motorists of petrol. In this day and age, almost all Australians are sophisticated enough to understand that with oil being an internationally traded commodity its price is set by the international market. It is not a matter over which domestic politicians have any influence whatever. Where domestic politicians influence the price of petrol at the pump is by the level of taxes and government charges. Last Thursday, at the first hearing of the Senate Economics Legislation Committee’s inquiry into petrol prices, the chairman of the Australian Competition and Consumer Commission, Mr Graeme Samuel, tabled a document sourced from the International Energy Agency which charts the base price of petrol, net of taxes and government charges, and the aggregate price of petrol, including taxes and government charges, across the 28 nations of the OECD for the March quarter of 2006.

The data show two things. First, the base petrol price is substantially uniform across the OECD. There is only a few cents per litre difference between the lowest base price, in some of the European nations, and the highest base price, in Japan and South Korea. Secondly, there is a very great deal of difference between the actual retail price of petrol because the tax regimes of the 28 OECD nations vary so much. Thus, the most expensive petrol, in Norway and the Netherlands, in the March quarter of 2006 cost on average $2.20 per litre, expressed in Australian dollars, while the cheapest, in Mexico and the United States, cost some 85c per litre. The base price varied hardly at all. The variable is that, while Mexican and American motorists pay direct taxes on petrol of between 10c and 15c per litre, Norwegian and Dutch motorists pay taxes of about $1.40 per litre. The data also show that Australians pay the fourth lowest petrol prices of the 28 nations of the OECD, behind Mexico, the United
States and Canada. That is simply because we have the fourth lowest level of petrol taxation.

It is often forgotten that the excise charged on petrol in Australia was reduced in 2000 and in 2001, in two stages, by a total of 8.5c per litre, to 38.1c per litre, and has been frozen at that level ever since. Petrol excise is a volumetric tax, not an ad valorem tax—in other words, the excise is a function of quantity, not price. Contrary to popular misconceptions, it does not increase when the price goes up. Indeed, although demand for petroleum is largely inelastic, to the relatively small extent to which higher fuel prices affect demand, increases in price actually reduce the amount of excise collected by decreasing the quantity sold. Treasury calculates that, as a result of the two decisions in 2000 and 2001—the significant reduction in the excise and the freezing of the rate—the pump price of Australian petrol is now about 16.8c per litre lower than it would otherwise have been.

So these are the key facts about the price of petrol: the base price is determined on an international market and is substantially uniform throughout the world; the retail price fluctuates widely among nations as a result of different domestic fuel taxation regimes; Australia has one of the lowest fuel taxation regimes in the world and, as a result, Australians pay less for their petrol than almost anyone else—as I said before, the fourth lowest of the 28 comparable economies of the OECD. When Australians see their petrol prices rise, as we are seeing at the moment and may see for some time into the future yet, it is important for us to remember that that is because of fluctuations in the international price which we cannot control, not because of any action of government, and that as the prices rise government does not collect any more revenue as a result—in fact, it collects less.

Nobody doubts that Australian families are hurting because of the increase in the price of petrol. I want to make these points today—rather elementary points about the petroleum market, to be sure—because we are at the moment witnessing in Australia, against the background of the rise in the crude oil price and the consequent pain of rising petrol prices, some of the most discreditable, contemptible, intellectually dishonest populist politics I have ever seen. Some Labor politicians, including the shadow Treasurer, Mr Swan, and Ms Gillard, with whom I debated this topic on Lateline last Friday evening, have even gone so far as to assert that the increase in the price of petrol is at least partly the government’s fault because it has not given the Australian Competition and Consumer Commission enough powers to oversee and investigate the oil companies. Disappointingly, some other politicians, including Senator Barnaby Joyce and Senator Andrew Murray, have joined the populist chorus. I am particularly disappointed with Senator Murray, who can usually be counted upon to be more intellectually rigorous and sensible. Even the Fairfax press has, uncharacteristically, fallen prey to the populist wolves, if the remarkably artless editorial in Monday’s Sydney Morning Herald is anything to go by.

I think I can claim to know something about the operation of the Australian Competition and Consumer Commission, having for some years now chaired the Senate Economics Legislation Committee, which has parliamentary oversight of the ACCC, and having, in my former life, very often appeared both on behalf of and against it and its predecessor agency, the Trade Practices Commission, in a number of large competition cases, several of which concerned the petroleum industry. I have nothing but disdain for the spurious claims of politicians like Mr Swan, Ms Gillard and others who
only offer sound-bite solutions to complex problems and whose uneducated views about the Trade Practices Act and the Australian Competition and Consumer Commission will not be taken seriously by anybody who knows what they are talking about. Their contribution to this discussion is not driven by a desire to inform the public or to improve public policy but by the basest political motives: to suggest that there is some way in which the Australian government, which has no influence over the price of crude oil and superintends one of the world’s lowest petrol tax regimes, is somehow responsible for higher petrol prices. So they set up a straw man and say that the government has not given the ACCC enough powers. That is not the case. The ACCC has plenty of powers, not merely to monitor petrol prices but to investigate and, where appropriate, to prosecute anticompetitive conduct within the petroleum industry.

In relation to price monitoring, the ACCC monitors price movements at some 3,600 sites across Australia, including sites in all capital cities and 110 regional cities and country towns. Comparing the current monitoring regime to that which existed under the old Prices Surveillance Authority, Mr Brian Cassidy, the Chief Executive Officer of the ACCC, told the Senate’s petrol inquiry last Thursday:

... I would argue that we have a more transparent set of arrangements now.

Only yesterday, the Treasurer, Mr Costello, announced a further extension of the ACCC’s price-monitoring function to include the price of ethanol-blended fuel or E10.

In relation to the enforcement of the substantive provisions of the act concerning anticompetitive conduct, and in particular price-fixing, the inquiry heard that the ACCC has since 2004 brought proceedings under section 45 of the Trade Practices Act on three occasions: in the Brisbane market, the Ballarat market and the Geelong market. In both the Brisbane case and the Ballarat case, the court found collusive conduct to have occurred and imposed substantial penalties: in the Brisbane case, $470,000 plus costs, and in the Ballarat case, $20,105,000 plus costs. In the Geelong case, the hearing has been finalised and the court has reserved its judgement.

When asked last Thursday whether he was satisfied with the powers of the ACCC to enforce the provisions of the Trade Practices Act, Mr Samuel repeatedly told the inquiry that he was well satisfied, that there was no deficiency in the act for want of which the ACCC was unable to do its job properly. Nobody who knows Mr Samuel—and I have come to know him quite well—could possibly describe him as a timid person; the opposite is true. Nor could anybody who is familiar with the culture of the ACCC suggest that it lacks a vigorous enforcement culture; once again, the opposite is the case. In fact, it is not uncommon to hear the ACCC criticised for being overzealously prosecutorial. The spurious, meretricious claims of politicians like Mr Swan and others that the ACCC lacks the powers to enforce the act have been specifically refuted by the very regulators whose task it is to do so and would not be taken seriously by any person with a thorough knowledge of the field.

Nevertheless, Mr Samuel and Mr Cassidy did make two observations which should be heeded—although neither of them was directed to the extent of the commission’s investigative powers. First, Mr Samuel expressed concern at a recent trend of decisions in the Federal Court, and in particular a decision of the Full Court of the Federal Court, in the case of Apco Service Stations Pty Ltd v ACCC, from which the High Court has recently refused special leave to appeal,
which has tended to limit the reception by the courts of circumstantial evidence to prove collusive behaviour in a section 45 action. Since collusive conduct is intrinsically surreptitious, that is understandably a matter of real concern to a regulator, since it can only properly commence proceedings if it is satisfied to an appropriate threshold of the likelihood of success.

If Mr Samuel is right, then the ACCC, in enforcing section 45, will be reduced to relying upon a whistleblower, a ‘smoking gun’ document which records a collusive arrangement, or the collapse of a witness under cross-examination in a section 155 examination. Its opportunities of proof should not be so limited, and I suggested to Mr Samuel that perhaps a provision analogous to subsection 46(7), which permits proof by inference alone in a section 46 case, might be included in section 45 as well. This is the first time that the ACCC has called attention to this issue.

The second reform Mr Samuel suggested is something upon which the government has already acted—the introduction of criminal sanctions for breach of the provisions of part IV of the act, as recommended by the Dawson report. The government has already announced acceptance of that recommendation, and an exposure draft of the bill has been, or is about to be, sent to the state and territory governments for consultation, in accordance with the Competition Principles Agreement.

But there is another area of reform of the Trade Practices Act, not mentioned last Thursday by Mr Samuel, which is awaited. Last year, the government introduced the Trade Practices Legislation Amendment Bill (No. 1) 2005. This was an omnibus bill which gave effect to the other recommendations of the Dawson report, including, among other things, the extension to the ACCC of search warrant powers and a further significant increase in the level of civil penalties for contraventions of part IV to the greater of $10 million, or three times the gain from the contravention, or 10 per cent of the corporation’s annual turnover, for each contravention. These would be amongst the most severe penalties for anticompetitive conduct anywhere in the world.

The bill did not pass the Senate in its original form. It was amended, in a manner inconsistent with the recommendations of the Dawson report, by a collaboration of Labor, Green and Democrat senators, together with Senator Barnaby Joyce. It is a crowning irony that those who are now making spurious claims about the powerlessness of the ACCC to enforce the Trade Practices Act against the oil companies are the very same people who last year blocked in this chamber legislation which would, among other things, have given the ACCC even greater powers than it now has and prescribed even heavier penalties for collusive conduct than presently exist.

Citizenship Visits Program

Senator ROBERT RAY (Victoria) (1.42 pm)—I was somewhat surprised when Senator Brandis was going through politicians and oil that he did not recall Mr Downer’s statement that, on invasion of Iraq, the price of petrol would fall. I guess if we wait long enough he may be proved right.

Today I want to speak briefly about the Citizenship Visits Program. This program was introduced in 1990 by the Labor government and it provides financial assistance to final year primary students and secondary students whose schools are located some prescribed distance from Canberra to enable them to:

... visit the national Parliament and take part in a program designed to enhance their understanding of the roles of the Houses and the Parliamentary system of government …
This program was administered by the other chamber via the Parliamentary Education Office and its costs were, until recently, shared by the parliamentary departments—not any longer.

On Monday, 22 May, the Finance and Public Administration Legislation Committee was informed that, as of the financial year 2006-07, funds for the CVP had been transferred from the parliamentary departments to the Department of Education, Science and Training in order to amalgamate the CVP payments with the educational travel rebate, as administered by that department. Further evidence given to that estimates hearing by the President and the Clerk of the Senate made it crystal clear that the initiative for stripping the parliamentary departments of this program funding came not from the Presiding Officers but directly from the Prime Minister.

In late November 2004, in the usual way, the Presiding Officers set about securing additional funding for the CVP. Happily, their request was agreed to just before Christmas 2004. Less happily, the Prime Minister’s letter of approval also encouraged the Presiding Officers to give consideration to a possible amalgamation of the Citizenship Visits Program and the Educational Travel Rebate Scheme. The Presiding Officers were urged to discuss the matter with the then minister for education, Dr Nelson, before giving the Prime Minister their view of this proposal in a fairly short time span. The Presiding Officers set about complying with the Prime Minister’s request. They wrote to Dr Nelson indicating their support for closer cooperation between the PEO and DEST but stressing their belief that amalgamation was not appropriate, given that the CVP had a primarily parliamentary focus whilst the ETR had a primarily tourism focus.

They sought a meeting to discuss the matter further—then, silence. They were totally ignored by Dr Nelson. There was no response, no meeting, nothing occurred. They then wrote to the Prime Minister informing him, in similar terms, of their views: support for closer cooperation but not support for amalgamation. The Prime Minister persisted with his desire for amalgamation, so it was back to the drawing board for the Presiding Officers. In October 2005 they again corresponded with the tardy Dr Nelson, reiterating their views:

It would seem to us to be most inappropriate for students to be thanking the executive government in relation to a program delivered by the Parliament ...

Having been ignored by Dr Nelson for some nine months, the Presiding Officers soldiered on regardless, but to no avail. The Prime Minister persisted. He disregarded the objections of the Presiding Officers. He wanted these programs amalgamated and placed within DEST. Of course, by mid 2006, it was a done deal.

I confess to being more than a little puzzled by the Prime Minister’s passion for amalgamation of these programs, and the transfer of funding. I had no idea that the Prime Minister cared so much for the work of the Parliamentary Education Office or the Citizenship Visits Program, so you can imagine my surprise when I was advised that ParlInfo failed to find any record of the Prime Minister speaking in the other place about the Citizenship Visits Program in the 16 years of the program’s existence—not one record. Yet, here he is, not only concerned but proactive. The big question is: why?

The Prime Minister, in his various letters, offers only that the two programs in question have ‘similar objectives’. Interestingly, in his letter to the President of 17 March this year, he speaks of his view that ‘the experience of
schoolchildren and teachers visiting Canberra for civics education should reflect the efficient provision of government services across agencies'. In other words, we really should explain to the kiddiewinks what Friedman-like economics is about, what accrual accounting is about and what great savings they have made by amalgamating. Can't you imagine the little forensic schoolkids asking the Parliamentary Education Office why there are two separate programs and they are not amalgamated! Of course, no efficiencies occur. The Minister for Finance and Administration cannot find any efficiencies here. What he is talking about in his letter is not parliamentary services; he is talking about government services. That is the real reason the Prime Minister made this move. That is the real agenda.

The Presiding Officers were actively opposed to amalgamation. The responsible minister was so uninterested he did not even acknowledge their multiple letters for some nine months. But when he eventually did reply, Dr Nelson did not assert that the Citizenship Visits Program was failing or that amalgamation would improve it. He did not assert that savings would be made—or of course, no-one has asserted that. He just sort of thought it was a good idea. He concluded his letter by saying—wait for it:

On the other hand, it could be possible to continue the two programmes separately:

Doesn't that reflect a lot of commitment! Thanks, Minister. Nine months waiting and we get that insipid response.

Members of parliament who have spoken about the program over the years—and there have been many, although not the Prime Minister—have been united in their strong support for its success in educating young Australians about the parliament. And therein lies the nub of this issue: the program educates students about the working of parliament, not the working of government. The distinction is obvious—and well known to those with even a rudimentary understanding of politics. But this episode is not about education; it is about politics and it is about campaigning.

While educating students and their teachers about the virtues of parliament is admirable, it is apparently not as desirable as educating students and teachers—that is, current and future voters—about the virtues of government. It is not as desirable as is taking control of a parliamentary program and, in due course, reshaping it to give your government MPs another big, bright campaigning opportunity. This is just another cameo depicting the arrogance and all-consuming mania of this government's desire for self-promotion, always at the taxpayers' expense. It is about keeping the backbench happy and preoccupied.

It is just another power grab. It is the executive usurping the role and functions of parliament. It is treating parliament with contempt. When we talk about treating parliament with contempt, this is something the current Prime Minister has had a lot to say about in the past. When it suited him, and I mean when he and his colleagues were in opposition, he was the great defender of the institution of parliament. He would routinely get up in the other place and launch into full-blown indignation and righteousness about what he claimed were examples of the then government treating parliament with disrespect.

Let us go back to 10 May 1993, when Mr Howard said the following:

... when it comes to any sort of respect for the institution of Parliament, this Government could not give a damn.

Later, he said:

I think it is nothing short of disgraceful—and it shows a quite contemptuous attitude of this
Government towards the processes of ... Parliament.
Then, on 9 February 1994, Mr Howard said:

His—
meaning the then Prime Minister’s—
sole objective has been to reduce the power and the role of parliament and to increase his own power, prestige and authority in this country.
A little later, in the same speech, he said:

... parliamentary respect and tradition is turned on and off like a tap according to the Prime Minister’s own political convenience.
How past words come back to haunt! It is quite ironic, isn’t it?

I want to make it clear today that in this transfer of operations I place no blame whatsoever on the Presiding Officers. They acted throughout with honour and dignity. They upheld the dignity of the parliament. But when it comes to the juggernaut of the executive rolling over parliamentary defenders, there is no defence. The Presiding Officers cannot fight the executive. They do not have the purse strings. They merely get wounded on its way through.

The real mystery is: why was this done? We do not know, you see. Who was slighted by the existing program? Who complained to the Prime Minister to make him intervene in the way he did? And why were the rest of the Howard government so indifferent to what was occurring? We will never know the answers. They will be covered up, like many other things. And, in the end, it is just another victory by the executive over parliament—just as it is another power grab.

I cannot believe it today, listening to the various ministers of the Howard government wanting to seize this or that state power. They want to take over the hospitals. They want to take over higher education. Anything that moves that they do not control, they want to control. You wonder where the philosophical underpinning of the Liberal Party has gone. I have only mentioned one minor aspect today. It will not be reversed and, in the long term, the Citizenship Visits Program will be perverted and bent to government propaganda purposes. I think that is a pity but, again, I make it clear that the Presiding Officers were defenceless in this particular action and no blame attaches to them.

Sitting suspended from 1.55 pm to 2.00 pm

QUESTIONS WITHOUT NOTICE

Wind Farms

Senator CARR (2.00 pm)—My question without notice is to Senator Campbell, Minister for the Environment and Heritage. Can the minister confirm that he will now be forced to reconsider exactly the same proposal for a wind farm at Bald Hills as the one he blocked four months ago? Isn’t the only change one whereby the company will now submit a management plan for the orange-bellied parrot so as to allay the minister’s concerns about the bird with a once in a thousand-year risk of flying into one of the 23 wind farms somewhere on the Australian coast? Isn’t this precisely what the Department of the Environment and Heritage told the minister he should ask for before he unilaterally vetoed the project in April? Isn’t it also a fact that the government has approved five wind farms with management plans in that area since 2001? Couldn’t this whole fiasco have been avoided if the minister had simply followed the law?

Senator IAN CAMPBELL—I think that the hypocrisy of the Australian Labor Party on this is quite overwhelming. Senator Carr’s comrade in the Victorian government Mr
Hulls knocked back a wind farm at Port Fairy and a wind farm at Ballan on the basis that they might kill 2.7 wedge-tailed eagles. This is a species that is not on a threatened species list, unlike the ones in Tasmania where we are down to 130 breeding pairs of wedge-tailed eagles, in northern Tasmania—and three have been killed in the last three months. The Labor Party is deeply embarrassed by the Victorian government’s duplicity and hypocrisy on this matter. This is a Labor Party that has hidden from the Australian people the truth about the impact of bird strike caused by wind farms. Mr Hulls’s and Senator Carr’s Labor Party comrades in Victoria refuse to supply to the Australian public or to the Australian government evidence that it had that the impacts on the orange-bellied parrot were potentially catastrophic. Senator Carr in his question continues to repeat what is clearly untrue in relation to the potential bird impacts. Yesterday in a debate he referred to a report given to me that said that the impact was one in a thousand years. That report nowhere says that. In fact, when the Victorian government wrote to the author of the report and asked them to confirm that their mathematics were correct on that, the response from the Biosis report author was, ‘No, that is not correct.’

Senator Carr—That is not true.

Senator IAN CAMPBELL—But if you repeat a lie often enough, as Senator Carr tends to seek to do—he works on the theory that if you repeat a lie often enough it might come true. But once a lie always a lie. I agreed to a request from the proponent that they withdraw their court action. They came to me and said, ‘Let us withdraw the court action.’ They tried to get a whole range of conditions on that.

Senator Chris Evans—You are big-noting yourself again.

Senator IAN CAMPBELL—I just wish we had some more turbines in here to put in front of the mouths of Senator Evans and Senator Carr because there is far more wind coming out their mouths than there is blowing around the Australian coast at the moment.

Opposition senators interjecting—

The PRESIDENT—Order! There is too much noise on my left.

Senator IAN CAMPBELL—What Senator Carr needs to understand—he is obviously confused over this and embarrassed, I suspect—is that the proponents withdrew the court action and said that they would like to put a new submission to me. They have not told me what will be in their submission and I will review the submission when it comes to me. I will certainly not prejudge it.

Senator CARR—Mr President, I ask a supplementary question. Why wasn’t it the case that during the minister’s 450-day quest in search of a parrot he did not think to ask this company for a management plan? Doesn’t the taxpayer now face a legal bill of $250,000 because of the actions of a minister who is more interested in political stunts than he is in acting in accordance with the law?

Senator IAN CAMPBELL—Senator Carr displays selective indignation about ministers who in the best interests of the Australian environment make decisions based on science and on the law. When his comrade Minister Hulls in Victoria—

Senator Carr interjecting—

Senator IAN CAMPBELL—stopped two wind farms in the last six months—

Senator Chris Evans—Based on science? What a joke!

Senator IAN CAMPBELL—Senator Carr turns a blind eye. That can only be described as rank hypocrisy and selective indignation.
Communications: Media Reform

Senator PATTERSON (2.05 pm)—My question is to the Minister for Communications, Information Technology and the Arts. Will the minister inform the Senate how Australian consumers will benefit from the Australian government’s media reform package? Is the minister aware of any alternative policies?

Senator COONAN—I thank Senator Patterson for the question and for her ongoing interest in delivering services for Australian consumers. Following the release of the government’s media reform package the question that at least senators on this side of the chamber would be most interested in is: what is in the package for consumers? Much of the coverage by media organisations has, unsurprisingly, focused on whether the package is a commercial win for one player or the other. I make no apologies, and this government makes no apologies, for the fact that consumers are the endgame in this process, and I believe that they will be the biggest winners. The package will begin delivering benefits to consumers as early as next year and will continue to improve the availability of media content as we move into the digital age.

By next year, a range of new services may be available over the two vacant allocations of digital spectrum. These services could include free-to-air, in-home, digital-only channels or even perhaps snack television—small segments of TV content delivered over a mobile device, much like a mobile phone. Both national broadcasters will be able to show a range of new and exciting content on their digital multichannels as soon as legislation is passed. Commercial broadcasters will be permitted to broadcast additional content to their main channel on a high-definition, digital multichannel by next year and by 2009 will be able to add to that with a standard definition multichannel. With these new services we aim to make the digital experience in Australia more attractive for consumers to contribute to the mosaic of matters necessary to drive digital take-up of television in Australia.

Transitioning to digital is what the driving need to reform the increasingly outdated media rules in Australia is all about—rules that constrain media companies from investing in new technologies or, indeed, diversifying into new areas. What is being proposed is an integrated and far-reaching package to transition the current media settings to the new digital environment by encouraging both new players and new services for Australian consumers. The package will deliver this increased flexibility within a framework which protects both diversity and local content.

I was asked whether or not I am aware of any alternative policies. I am certainly aware that the Labor Party has absolutely no credibility—

Senator George Campbell—Have you got an alternative?

The PRESIDENT—Order! Senator George Campbell, come to order!

Senator COONAN—in criticising the government in relation to the introduction of digital broadcasting in Australia. Labor, of course, did absolutely nothing while in government to prepare for the introduction of digital broadcasting.

Senator George Campbell—What about your broadband strategy? What are you going to do about Telstra?

The PRESIDENT—Senator George Campbell, come to order!

Senator COONAN—it still has no policies to speak of in this area, other than opposing government policy for the sake of it and clinging to outdated models for the in-
dustry which will ultimately damage the industry and provide absolutely nothing for consumers. It is time that Labor really got serious about this and started to put some effort—

Senator Sherry—We’re talking about Labor policy and we’re cheering it.

The PRESIDENT—Senator Sherry!

Senator COONAN—and some backbone into delivering policies—

Senator George Campbell—You should be called the ex communications minister.

The PRESIDENT—Senator George Campbell, come to order!

Senator COONAN—that will actually deliver services for the Australian people. We will continue to deliver policies that will enable—

Senator Patterson—Mr President, I rise on a point of order. I asked Senator Coonan a question. I am very interested in the answer, but I cannot hear it because of the noise from the other side. I ask that you would ask the other side to desist from making interjections.

The PRESIDENT—There have been consistent interjections from those on my left. I would ask you to cease making those interjections. I call Senator Coonan.

Senator COONAN—I was concluding by saying that we will continue to deliver policies that will enable industry to deliver for consumers into the future.

DISTINGUISHED VISITORS

The PRESIDENT—I would like to draw the attention of honourable senators to the presence in the President’s gallery of an Australian Political Exchange Council delegation from Japan, led by Mr Fumio Kishida. On behalf of all senators, I wish you a very warm welcome to Australia and in particular to the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Wind Farms

Senator WONG (2.11 pm)—My question is to Senator Ian Campbell, Minister for the Environment and Heritage. Isn’t the sole basis of the minister’s defence of his Bald Hills decision a single sentence from the Biosis report, that ‘almost any negative impact on the species could be sufficient to tip the balance’ against the orange-bellied parrot? Did the minister even bother to read the next sentence in the report, which says, in relation to blocking wind farms:

... such actions will have extremely limited beneficial value to conservation of the parrot without addressing very much greater adverse effects ... currently operating against it.

Doesn’t that sentence completely destroy the minister’s defence of this blatantly political decision? Can the minister tell the chamber why he has failed to tell the whole truth and, instead, has selectively quoted words to justify his political decision to veto Bald Hills?

Senator IAN CAMPBELL—I am happy to respond to, I think, a very sensible question from Senator Wong. It goes to two issues. Firstly: did I read the report? In fact, I read the whole report. I read all of the advice and thoroughly understood it. Having listened to what Senator Wong read into the record, it reinforces the case that a whole range of actions need to take place if Australia as a country is going to save this endangered species. In fact, if you go to the Victorian government’s website, there is one thing that you will find and one thing that you will not find. Firstly, you will not find a copy of the report that they had before Minister Hulls—

Senator Carr—What about your report?

The PRESIDENT—Senator Carr!
Senator IAN CAMPBELL—saying that the impact on this bird was potentially catastrophic. It was exactly the same advice, but Mr Hulls has refused to make that available to the Australian people. He continues to hide that from the Australian people because he does not want the people to see the scientific advice that was before him. What the Labor Party is saying is that, when a Labor Party minister makes a decision to stop a wind farm in a Labor electorate, it is based on science, but if I make a decision it is political. I refer the senator to someone who did in fact play politics with the Bald Hills wind farm, and that is a now retired, or defeated, member of parliament: Christian Zahra. I will table this document. Christian Zahra sent out a wind power station survey before the last election.

Senator Chris Evans—Is that why you used taxpayers’ money?

The PRESIDENT—Order! Senator Evans!

Senator IAN CAMPBELL—He promoted the fact that he had brought into the parliament a thing called the Local Community Input into Renewable Energy Developments Bill 2003. This was Christian Zahra’s private member’s bill, which I presume, if it had got to the Senate, Senator Evans and Senator Wong would have voted for. This bill would have ensured the very big subsidies that the federal government provides to wind power. I remind the Senate that this is a government that has supplied $3 billion worth of subsidies to produce 600 wind turbines. This government is, in fact, the best friend the wind energy industry has ever had. But Christian Zahra, a member of the Labor Party, made it very clear to his constituents—

Senator Wong—Mr President, I rise on a point of order going to relevance. It is very interesting hearing about the minister’s interest in someone who was once in the parliament, but the question was a very specific one, about one sentence in the Biosis report that the minister has conveniently edited from all of his answers in defence. It was a very specific question. The minister has made very little, if any, attempt to address the issue in the question. I ask you to remind him of relevance.

Senator IAN CAMPBELL—On the point of order, Mr President.

The PRESIDENT—Yes, on the point of order, Senator.

Senator IAN CAMPBELL—The senator’s question related to whether this was a political decision and I am addressing the issue of the politics. Furthermore, she says that I deleted one aspect from my defence. In fact, unlike Minister Hulls, I published the whole of the Biosis report on the internet and I call on Mr Hulls to publish his advice.

The PRESIDENT—I hear the points of order. Senator Campbell, I would remind you of the question and remind you also that you have a minute and a half to complete your answer.

Senator IAN CAMPBELL—I was talking about the fact that Christian Zahra had
reminded his constituents that there were very big subsidies paid by the federal government—and I am quoting from his brochure—to wind power generators and his bill would ensure that those subsidies would only go to those wind developments built in areas where the local community supports them. Without the federal government subsidies, these developments would not be economically viable. Christian Zahra was quite right on that.

**Senator Chris Evans**—That’s what you said in Denmark when you were playing politics.

**The President**—Order, Senator Evans!

**Senator IAN CAMPBELL**—Yes.

**Senator Chris Evans interjecting**—

**The President**—Senator Evans, I will not call you again. If you keep interrupting, I will warn you.

**Senator IAN CAMPBELL**—I certainly hope that Senator Wong will ask a supplementary question because I still have a lot of material here to address. Mr Zahra asked all of his constituents in the Bald Hills area, ‘Do you think that the growing number of wind power station developments will damage the beauty of the South Gippsland coastal area, yes or no?’ Then he said, ‘Do you support Christian Zahra’s private member’s bill, which will give local communities a bigger say as to where the wind turbines are built?’ When Senator Wong asks her supplementary, which I hope she does, I hope she will also say whether she would have voted for Christian Zahra’s bill if it had come before the Senate. Would Senator Faulkner have supported Christian Zahra’s bill? Would Senator Evans?

**Senator WONG**—I ask a supplementary question, Mr President. I, again, remind the minister of the sentence in the Biosis report in relation to blocking wind farms. It says that such actions would have an ‘extremely limited beneficial value to conservation of the parrot’. Given that, Minister, how can you possibly use the Biosis report to justify the decision in relation to Bald Hills? Have you done anything to take any action, in relation to that second sentence, to address the very much greater adverse effects operating against the orange-bellied parrot which pose the real threat to its survival?

**Senator IAN CAMPBELL**—The answer is yes. The Commonwealth government has spent in excess of $1 million on orange-bellied parrot recovery programs. The Victorian government, working in cooperation with the orange-bellied parrot recovery team, has in fact either stopped or moved 12 other developments in the potential habitat area. So there is substantial work going on to address all of those. I think that Senator Wong should refer to Christian Zahra’s pamphlet, which says, ‘There are many important industries in our area which can be badly affected by wind power station developments, like tourism, and appropriate—

**Senator Wong**—Mr President, I rise on a point of order going to relevance. The minister was asked a question about the Biosis report and he is answering in relation to something completely different—a petition. How on earth can that possibly be relevant? I understand the minister does not want to answer the question because he has no answer.

**Senator IAN CAMPBELL**—On the point of order, Mr President.

**The President**—Yes, on the point of order.

**Senator IAN CAMPBELL**—You cannot ask a question that accuses me of making a political decision and ignoring science and then not address both issues in the answer. If the senator wants to ask me a question, she cannot then dictate how I answer it. I will
answer it and address the accusations she has made and address the question she has asked.

The President—On the point of order, I think everybody would have heard, if they could hear over the noise in the chamber, that the minister did answer the second part of the question. He has 24 seconds left to complete his answer to that supplementary question. I remind all senators that interjections across the chamber are disorderly. Today has been rather noisy and I hope that you will cease making these interjections across the chamber.

Senator IAN CAMPBELL—I want to conclude by making the case that the Labor Party’s hypocrisy on this knows no bounds. The former Labor member for McMillan was going around telling constituents that many business groups and businesspeople are concerned about the effect of wind power stations and that the Foster chamber of commerce recently passed a motion objecting to the establishment of further wind power stations. The reality is that, if Christian Zahra had been re-elected, this mob would have voted to stop the Bald Hills proposal. (Time expired)

Office of Workplace Services Senator BRANDIS (2.21 pm)—My question is to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. Will the minister outline to the Senate how Australian workers’ rights are protected by a powerful, well-resourced and independent body, the Office of Workplace Services? Is the minister aware of any alternative policies?

Senator ABETZ—Before answering, can I acknowledge Senator Brandis’s very strong interest in protecting workers’ rights. Senator Brandis is spot-on: the Office of Workplace Services is a powerful, well-resourced and independent body charged solely with protecting workers’ rights.

Senator Carr interjecting—

Senator ABETZ—It is well resourced, with $97 million—

The President—Senator Carr, you are warned! I warned you yesterday. I have warned you today. Any further shouting across the chamber and I will name you.

Senator ABETZ—What those opposite do not understand is that there is a fundamental difference between union rights and workers’ rights. This body is well resourced, with $97 million over four years which funds over 200 workplace inspectors to protect workers’ rights. Since its inception nearly a decade ago, the office has returned over $38 million in underpayments to thousands of Australian workers. Yet now the Labor party bizarrely opposes this friend of the workers, with the Leader of the Opposition yesterday desperately trying to recover ground for the ACTU by saying that the public servants who work in the Office of Workplace Services are ‘snivelling little liars’. Why this bizarre and cowardly attack on the independent umpire? Today it is not about who said it but about why he said it. It is pretty easy and it is pretty clear: Mr Beazley does not like the exposure the independent umpire gave to the ACTU’s deceptive campaign. The independent umpire exposed the dodginess of their campaign, as a result of which—might I add—the ACTU have now changed their campaign and are going back to actors rather than the so-called real-life cameos, which were found to be false.

The irony is this: at the last election, guess who made a commitment to provide $40 million to this body? It was none other than the Australian Labor Party. They liked the Office of Workplace Services so much that Craig Emerson, the then spokesman, committed Labor to providing extra funding to this supposed organisation of snivelling liars. No
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wonder Craig Emerson is now on the back- 
bench. This is an example— 

The President—Order! Minister, 
when you are referring to a member in the 
other place, I would ask you to refer to them 
by their correct title. 

Senator ABETZ—Sorry—Mr Craig Em- 
erson. No wonder Mr Craig Emerson is now 
on the backbench. They now oppose the Of- 
fice of Workplace Services. They oppose 
the independent umpire because it exposed their 
sham advertising campaign—just like we 
have exposed their sham polls, their dodgy 
academics and their fake aggrieved workers. 
It was a campaign that Prentiss McCabe 
could be proud of! Possibly, they might even 
be embarrassed by the campaign that Labor 
have been running on this. What happens is 
this: the ACTU attacks the Office of Work- 
place Services, so Mr Beazley has to attack; 
the union yanks the chain and the Mr 
Beazley dog barks. That is what happens 
with the Labor Party. It is a classic case of 
Mr Beazley saying anything and doing any- 
thing in a desperate attempt to get into the 
Lodge. If Mr Beazley wants to become 
Prime Minister, he has to show integrity, he 
has to show leadership and he has to show 
honesty. To date he has failed to disclose 
those qualities to the Australian people. By 
trying to cover up for the shonky ACTU 
campaign, he has confirmed that he is wholly 
beholden to the ACTU. (Time expired) 

Wind Farms 

Senator O'BRIEN (2.26 pm)—My ques- 
tion is to Senator Ian Campbell, the Minister 
for the Environment and Heritage. Can the 
minister confirm that his department told 
him that to rely on the Biosis report to block 
the Bald Hills development would have 
ramifications for all coastal development— 
not just wind farms—from south-east South 
Australia through southern New South Wales 
and western Tasmania? Is it also true that the 
minister was told that a decision to veto Bald 
Hills on the basis of the Biosis report would 
be totally inconsistent with approvals— 

Senator Chris Evans interjecting— 

The President—Order! Senator Evans, 
talking across the chamber when a sena-
tor is asking a question is disorderly. 

Senator O'BRIEN—already granted for 
hundreds of wind turbines on the Victorian 
coast? Didn't the minister's department warn 
him of this before he alone decided that he 
would knock off the Bald Hills wind farm? 
By ignoring this advice, hasn't the minister 
now drawn a question mark over all coastal 
development along thousands of kilometres 
of coastline, overturned precedent in envi-
ronmental law and exposed taxpayers to 
costly legal action? 

Senator IAN CAMPBELL—I think the 
case was actually made very well by Senator 
Brandis in a most articulate intervention in a 
debate yesterday. 

Opposition senators interjecting— 

Senator IAN CAMPBELL—Certainly 
much better than mine! The point that Sena-
tor Brandis made, and I repeat it, is this: de-
partments do give ministers advice on a daily 
basis, I think it is fair to say. Ministers read 
the advice. They often seek third-party ad-
vise and take other soundings. A diligent 
minister will do that. 

Senator Conroy interjecting— 

The President—Order! Senator Con-
roy. 

Senator IAN CAMPBELL—Perhaps— 
and God help Australia if this ever hap-
pens—if Senator O'Brien does become a 
minister one day, he will simply receive de-
partmental advice and then, without thought, 
discussion or even reading it, tick the 'yes, I 
agree' box. He would be sitting in his desk 
being lazy. 

Senator Sherry interjecting—
The PRESIDENT—Order! Senator Sherry.

Senator IAN CAMPBELL—I will not do that. I will ensure that the Australian people know that they have a minister who can make up his own mind, based on the facts and without fear or favour. If Mark Latham had won the last election, Senator O’Brien might have indeed been the minister. The question that Senator O’Brien needs to address when he rises to his feet, no doubt, ask a supplementary question is this: would he have agreed with Prime Minister Latham, who said of Christian Zahra’s bill that it was to ensure that only wind farms that have local—

Opposition senators interjecting—

The PRESIDENT—Order! I have continually asked people on my left to come to order today, and obviously you are not listening. I would ask you again to come to order and allow the minister to try and answer the question.

Senator O’Brien—Mr President, I rise on a point of order: Senator Campbell is intent on introducing matters in relation to another matter of another former member of parliament. The question that I asked was about the way that this minister responded to his department’s advice. He draws a very long bow in trying to take this back to the Christian Zahra matter. I ask you to remind him of the question and to draw him back to it.

Senator IAN CAMPBELL—On the point of order: the senator asked a question about the departmental advice and the impact of my decision on other coastal developments. It is a very important question, and I am addressing it.

Senator Sherry interjecting—

Senator IAN CAMPBELL—He just accused me of—

The PRESIDENT—You have over two minutes to answer the question. I would remind you of the question and I would also remind senators—

Senator Sterle interjecting—

The PRESIDENT—including you, Senator Sterle—that other presidents and I on more than one occasion have said, ‘I can’t direct the minister how to answer the question; I can just remind him of relevance and of the question.’ You have two minutes and 17 seconds to complete your answer.

Senator IAN CAMPBELL—The question is, of course: if Labor stopped a wind farm proposal at Port Fairy, as Minister Hulls did recently, or at Ballan, which he did six months ago, where does Labor get off in relation to its hypocrisy in saying that those refusals would have no impact? I happen to believe my department is not right about that. I do not think there is a risk to other coastal developments, and one of the reasons I can actually demonstrate that they are wrong in relation to that is: since I made the Bald Hills decision, in fact, one wind farm proposal every fortnight has passed through the same process, so it can hardly be seen as a threat to wind power development. So both Senator O’Brien and my own department are wrong. But what Senator O’Brien should answer—and if he wants to address the—

Senator Sherry interjecting—

The PRESIDENT—Order! Senator Sherry, you are warned.

Senator IAN CAMPBELL—Senator O’Brien needs to answer: does he or does he not agree with Labor leader Mark Latham, who said on the front of Christian Zahra’s private member’s bill brochure, ‘Local people deserve a say about developments that affect them. That is why I support Christian Zahra’s private member’s bill on wind farms—the Local Community Input into Renewable Energy Developments Bill.’ That
was Labor Party policy at the last election. If you did not have community support, you stopped the development. A Labor government who put through Christian Zahra’s bill would have stopped the Bald Hills development, and Senator O’Brien would have actually voted for it. That I have got to say is rank hypocrisy. If you want to address the issue of the impact on coastal developments, I have got to tell you that the Labor Party policy—which has not been repealed; tell us if you have repealed this policy—that stands at the moment would have a massive impact on coastal development if you still stand by Christian Zahra’s bill; or you can get up and say that you no longer have this as your policy. It is your choice.

Senator O’Brien—Mr President, I ask a supplementary question: didn’t the minister’s predecessor, David Kemp, approve four wind farms in the safe seat of Wannon in October 2002? Is it true that as a condition of approving these wind farms, which were a proven threat to the orange-bellied parrots, the developer had to implement a management plan for the parrot? Isn’t this what the minister’s department advised this minister he should do in respect of Bald Hills, advice which this minister totally ignored? Hasn’t the minister ignored his department, broken legal precedent and threatened millions of dollars of coastal development all for the sake of propping up a Liberal Party mate in a marginal seat?

Senator Ian Campbell—Senator O’Brien and the Labor Party think it is all right for Minister Hulls and the Labor Party to close down a wind farm at Port Fairy or Ballan, in Labor electorates, but they seem to have trouble with me stopping one in Bald Hills. They seem to think it is all right to go around the same electorate and say, ‘We’ll stop this wind farm,’ and say to all the people of McMillan that Christian Zahra, Mark Latham and Senator O’Brien will stop the wind farm. But, when I did stop it because of scientific evidence and strong advice, that was no good. There are only two words for that sort of approach, and they are ‘rank hypocrisy’.

Hospitals: Long Stay Older Patients

Senator Humphries (2.34 pm)—My question is to the Minister for Ageing, Senator Santoro. Will the minister outline to the Senate the steps that the federal, state and territory governments are taking together to address the very serious issue of long stay older patients in public hospitals, and is the minister aware of any alternative views?

The President—I am sorry. Senator Santoro, I cannot acknowledge you because there is somebody walking between you and the chair. I would ask senators to remember standing orders about people wandering around the chamber. Senator Heffernan, would you take your seat.

Senator Santoro—I wish to thank Senator Humphries for his question because it enables me to talk about something that will keep even the Labor Party senators opposite very happy. I am sure that they would be the first to agree with me that older people in public hospitals have as much right as anyone else to receive the best possible care whilst they are in hospital. Senators will be aware of the COAG meeting in February. At that meeting, state premiers and the Prime Minister agreed to the Better Health for All Australians initiative. What this particular initiative did in terms of long stay older patients was to reduce unnecessary admissions, minimise lengths of stay and improve the transition to appropriate long-term care. I am sure that all senators would agree that they are laudable objectives which are being pursued.

Under this COAG initiative, the Commonwealth is providing $150 million over four years to the states and territories to en-
hance the care of people over 65 who have been long-term patients. I am happy to say that the state premiers and the state governments are very active and constructive partners in terms of this initiative. The Commonwealth’s commitment to this area has attracted very strong, favourable comment and support from the Labor premiers. The Senate will be interested to hear, for example, that New South Wales Premier Morris Iemma described the COAG agreement as:

Significant progress on tackling some of the blockages in our health system.

That is from a Labor Premier. I give credit to Labor people, including Labor premiers, whenever we need to give credit. Mr Iemma went on to say that the agreement:

... will in the long term provide for sustained improvement in the quality of services in our hospitals, as well as out in the community.

Tasmanian Labor Premier Paul Lennon said:

... we need to free up beds that are currently being used by people who could be better supported elsewhere in aged care facilities. Today’s decision will benefit older people as well as it benefits those waiting for an operation.

I say thank you to those fair-minded Labor people who are prepared to accept leadership in terms of federal initiatives that are of benefit to older Australians who are long-stay patients in hospitals.

The COAG agreement is in addition to the Commonwealth’s new national Transition Care Program to help older people leaving hospital to return home rather than enter residential care. Senators will be interested to know that under this program 2,000 places available for short-term assistance will be online by 2006-07 and will assist up to 13,000 older Australians who will need that sort of care.

In addition, the Pathways Home program is providing, through the Australian Health Care Agreement, $253 million to states and territories over five years to improve rehabilitation and step-down services to help older people return home. So, as you can see, Mr President, the Commonwealth and state Labor governments are in clear agreement about how to best care for older Australians during and after hospital visits.

Senator Humphries asked me, quite astutely, I thought, about alternative policies. I note a media report today that says:

LABOR is working on a revamp of its Medicare Gold health policy including new specialist hospitals for thousands of elderly people to prevent them clogging public hospitals.

Medicare Gold was rejected by the Australian public in 2004. Not long after that, Labor’s now shadow minister for finance, the member for Melbourne, admitted that Medicare Gold ‘would add a very substantial burden to future federal budgets’. And, in May this year, the Leader of the Opposition finally put what most people thought was the final nail in— (Time expired)

Senator HUMPHRIES—Mr President, I ask a supplementary question. Will the minister explain why the government will not be adopting the alternative policies of which he has spoken?

Senator SANTORO—I appreciate Senator Humphries’s supplementary question. As to why our government will not implement it, I can only quote Kim Beazley’s words on Lateline when he said:

We will not be taking Medicare gold to the next election ...

If that is good enough for Mr Beazley, it is good enough for the government. The ghost of Mark Latham has today emerged in the form of Medicare Gold ‘Mark’ II. Early in July this year, the ALP’s senior national president, Barry Jones, was quoted in the Financial Review as saying that Labor’s aged care policy was only ‘weeks away’. If this is indeed the agreed policy of Labor Party lu-
minaries, I think that all aged people in Australia will be very sadly disappointed.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I would like to draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from the federated states of Micronesia, led by floor leader, Senator Simiram Sipenuk. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Indigenous Communities

Senator BARTLETT (2.40 pm)—My question is to the Minister representing the Minister for Employment and Workplace Relations, and relates to a matter causing serious concern to Aboriginal communities throughout Far North Queensland. I draw the minister’s attention to a recent report in the Cairns Post quoting the CEO of Hope Vale Aboriginal community calling for a crisis meeting between all of the councils on Cape York and the federal Department of Employment and Workplace Relations over what he described as ‘profound problems with the changes made to the Community Development Employment Project that have created a nightmare for the cape’s Aboriginal communities.’ Is the minister aware of similar criticisms by the CEO of Lockhart River Aboriginal community, and the councillor at Meppoon community on the west of the cape, that the CDEP changes have undone years of work building up a ‘no work, no pay’ ethic in the community and that the government’s changes have resulted in sit-down money being paid in the community for the first time in years? What is the government’s response to these concerns? What action has the government taken to meet with Aboriginal people at the community level to work through the problems being caused by the CDEP changes to ensure they do not negatively impact on the economies and communities of Cape York?

Senator ABETZ—I can inform Senator Bartlett and the Senate that the minister is aware of the views that Senator Bartlett has expressed in his question. We are, of course, widely recognised as a consultative government; and so, of course, we will listen to those people that have concerns in this particular area. I should also say that, because we are a consultative government, we listened very carefully to some of the concerns about the way CDEP was being administered. Comments such as:

CDEP was ... a poor substitute for real jobs and not enough was done to provide the pathways for real outcomes. It sat there for 25 years and longer and the governments, irrespective of their persuasion, didn’t look ... beyond that.

They are the words of former Australian Democrats Senator Aden Ridgeway.

We as a government said CDEP should be put out to a competitive tender process. The organisations that have complained about the outcomes are, not surprisingly, those organisations that were not successful in that competitive tender process. I am advised that the competitive tender process was done on the basis of the normal sorts of qualities that are looked for—issues of governance, financial capacity and viability.

The government and the minister in particular make no apology for the fact that with our CDEP funding we are concerned about the individual outcomes for individual participants in the CDEP schemes. We are not about providing funding to particular organisations; that is not the aim of using taxpayers’ money. We want actual outcomes for individual participants. We want to engage those individual participants in a meaningful way in self-help, in community projects and in ensuring their genuine job readiness so
that they can participate in the ever-growing employment market in our country.

So whilst on one hand the government accepts that there will be concerns expressed by those organisations that did not successfully tender, on the other hand there are organisations that were successful and that are confident that they can deliver for the benefit of the Indigenous communities for which this money was made available. As to whether the minister would seek to have further discussions with the Aboriginal communities referred to by Senator Bartlett, I am willing to see whether the minister is desirous of adding to the answer that I have provided. If he is, I will get back to the honourable senator.

Senator BARTLETT—Mr President, I ask a supplementary question. I thank the minister for his response and I acknowledge the previous problems with the CDEP that he described. They were not just expressed by former Senator Ridgeway but by Cape York communities themselves. I ask the minister: how does so-called improving or reforming a program in a way that ends up giving people sit-down money help to address those problems which have been widely acknowledged? How does taking resources out of Aboriginal communities help to improve things for individuals in those communities? I also ask the minister to address one of the other concerns relating to this matter. Many Aboriginal people in the communities on the cape are asking whether there is a hidden agenda of the federal and state governments to close down some remote communities. Given the difficulty in improving your community, you may be wondering whether the government desires to close the community down the track. Can the minister give the Senate an assurance that there is no agenda or plan to do this?

An honourable senator interjecting—

Senator ABETZ—I am not sure who interjected that Senator Bartlett was doing well until he came up with the suggestion of a hidden agenda. Really, I do not think that suggestion does him any justice. I indicate to Senator Bartlett and the Senate that this is not about taking money out of the communities of Far North Queensland. Indeed, as part of our changes, the remote area exemptions were lifted, which means that more money for the CDEP schemes is being delivered into areas such as Far North Queensland. So rather than taking money out of these communities, I am advised that in fact extra money is going into those communities. Of course, the money is going in via a different service provider. I think that is at the heart of the difficulties regarding some of these organisations—they feel aggrieved that they are no longer going to be the service providers.

(Time expired)

Border Protection

Senator PARRY (2.47 pm)—My question is directed to the Minister for Justice and Customs, Senator Ellison. Will the minister please update the Senate on the Australian government’s commitment to the security of our border? Further, is the minister aware of any alternative policies?

Senator Abetz—This is a good question.

Senator ELLISON—As Senator Abetz said, this is a good question. He knows, because he is the minister for fisheries and is doing a great job in relation to initiatives to look after our fishing stocks. I thank Senator Parry for this very important question dealing with the border protection of this country, which is an absolute priority of the Howard government. We have demonstrated that further by including a $389 million package in this year’s budget to protect our fishing stocks from illegal fishing.

This threat is one which is of high priority to this government; thus we have seen a
staged implementation of that $389 million package. Just the other day, we put out a request for tender for a large armed patrol vessel, which will back up our Navy and Customs patrol boats, which are doing a great job in looking out for Australia’s interests. This mother ship will act as a floating platform to give support to our Navy and Customs vessels to free up their time so that they can go about interdicting those vessels suspected of illegally fishing and arresting those crew who are illegally fishing in our waters.

This vessel will be able to hold those crew members and also act as a holding facility for any vessels which are intercepted. That will free up our patrol boats to go about their essential duties. We have trialled this with great success with the *Oceanic Viking*, an 8,000-tonne vessel which we normally use in the Southern Ocean. So we thought we should have a vessel chartered for this purpose for the north—a large vessel to operate in our northern waters.

Of course, the reaction to this initiative by the opposition has been desperate, as you would expect it to be. What have we had in relation to border protection? Senator Ludwig said that it did not seem to be a sensible solution, which is contrary to what the Western Australian Labor fisheries minister, Mr Jon Ford, said. He said, ‘We shouldn’t be afraid of trying new ideas, because what we’re facing here is an environmental disaster.’ There you have a minister who is embracing a new initiative such as the one we have announced.

The member for Lingiari opposed the initiative—God only knows why. He represents a seat in the Northern Territory, so you would think he would have a keen interest in illegal fishing, and he is certainly out of touch with people such as the Australian Seafood Industry Council and the Kimberley Professional Fishermen’s Association, who have endorsed this plan to use a mother ship.

A request for tender worth $14 million will also be put out by the end of this month for the use of private vessels to assist us in towing back those illegal fishing vessels that we have interdicted. Again, this will free up the time of our patrol boats so that they can go about their essential duties in looking out for Australia’s borders.

Senator Parry asked me about alternative policies. Sadly, all that we get from the opposition is the word ‘coastguard’. We have had four different iterations of ‘coastguard’. Mr Beazley, the Leader of the Opposition, has said they are still committed to it and that we will be getting a fifth version. It is really interesting that his first version was costed at $895 million. His fourth version, at the last election, went down to $303 million. What does this involve? Three patrol boats? Three plus 10? Is it the sort of proposal that we saw from Simon Crean in November 2002 when he was Leader of the Opposition, or the one that was put forward by Mr Latham in 2004? Mr McClelland has tried to do an able job of defending that policy, but what did we have from Labor? An absolute hotchpotch of suggestions in relation to number and size of vessels. Importantly, they did not even know how much it was going to cost. They started out with just under $900 million; they are down to $300 million. (Time expired)

**Wind Farms**

*Senator ROBERT RAY* (2.52 pm)—My question is to the Minister for the Environment and Heritage, Senator Ian Campbell. Can the minister confirm that in September 2002, three months after lodging its proposal for a wind farm at Bald Hills, Windpower lodged a separate proposal for a wind farm at Wonthaggi, about 20 minutes drive up the road? Did the Wonthaggi proposal explicitly recognise that the wind farm posed a threat
to the orange-bellied parrots because the bird had actually been seen in the vicinity? Is it not true that, despite the proven threat, the government allowed that wind farm to go ahead without any conditions at all? Why is it that an application which explicitly acknowledges a threat to the orange-bellied parrots gets approved without conditions but another application for a wind farm 20 minutes up the road, which did not identify any threat, gets held up for 450 days and gets knocked off?

Senator IAN CAMPBELL—What Senator Ray’s question does not say but implies is that there was no explicit threat at Bald Hills. He would not know that unless he had read the documentation that I have read, and he certainly would not know it by reading the Victorian government’s documentation, which advised his comrade Minister Hulls that orange-bellied parrots do fly through the Bald Hills site. I again call on Minister Hulls to release publicly the Victorian government’s own report so Senator Ray and everyone else can read it. It says that the parrots fly through at the height of the rotor blades. In fact, the submission from the proponents at Bald Hills did not refer to the threat. The proponents said in their own submission, which is wrong, that there was no threat to the OBP at the Bald Hills site. So the submission of the proponents was wrong.

Senator Ray will no doubt go back to Victoria and ask Minister Hulls why he makes decisions about stopping wind farms in one part of Victoria for his own reasons and not stopping them in other parts. I have no doubt that he will engage in that. If Senator Ray wants to make accusations about my decision making at Bald Hills, I again refer him to his comrade Christian Zahra’s private member’s bill documentation with endorsement from Mark Latham and ask Senator Ray to, at some stage, let us know whether he supported Christian Zahra’s bill, which would have stopped the Bald Hills wind farm.

Senator ROBERT RAY—Mr President, I ask a supplementary question. In the 450 days that Minister Campbell was considering the Bald Hills proposal, did his own department at any stage draw to his attention Minister David Kemp’s decision in Wonthaggi, the reasons for it, and make comparisons between the Wonthaggi decision and the Bald Hills potential decision? Did his department ever do that, and did he consider it?

Senator IAN CAMPBELL—Senator Ray shows his ignorance. He has clearly not done the homework on this issue as he should have done. The department advised me to seek advice on the cumulative impact of wind farms. Even Christian Zahra in his own pamphlet recognises the fact that when you provide $3 billion worth of subsidies to wind farms you are going to have a big cumulative impact on migratory birds.

Asylum Seekers

Senator NETTLE (2.56 pm)—My question is to Senator Vanstone, Minister for Immigration and Multicultural Affairs. What is the minister’s reaction to the claim that up to nine humans who sought asylum in Australia were sent to Nauru and then returned to Afghanistan by this government have been killed and that two more have been attacked and had their children killed? Does the government accept that this tragic news means that they were wrong to reject these people’s claims or does the minister stand by her claim reported on the ABC news last night that their asylum claims failed, they accepted a $2,000 repatriation payment to return and the government has no further obligations? Will the minister now commit to investigat-
ing the tragedies unearthed by the Edmund Rice Centre?

Senator VANSTONE—Senator Nettle may not be aware, whereas I think most other senators and members are, of claims that have been raised in the past by the Edmund Rice Centre and which, as a consequence of them being serious claims, were followed up. In 2005 a number of visits were made by officers from the immigration department to the Edmund Rice Centre. I think on each occasion, but certainly on the second if I recall my brief properly, further information was requested and was not forthcoming. A number of further approaches were made, albeit not visits, and the information was subsequently not provided. As a consequence of that, we notified the Edmund Rice Centre in May of this year that that investigation would be closed because we did not have any more information.

What happened earlier this week? In an odd coincidence of facts, the day before there was to be a debate in this parliament on a bill relating to potential asylum seekers, the Edmund Rice Centre reappears publicly and asserts that nine people who have been returned, having been to Nauru, have been killed. Two names are provided and there is a further suggestion that a person who was returned no longer has his children surviving. To the best of my knowledge at this point, no other names have been provided. So, to take the Edmund Rice Centre claims as fact at this point is, with respect, jumping the gun and, following on a previous pattern, not necessarily a wise move. We did have a look at the two names that were suggested by the Edmund Rice Centre as being people that Australia had returned. I was advised by my department that one of them was part of the Australian case load on Nauru but the other was part of the UNHCR case load. So I will raise that matter with the United Nations High Commission for Refugees in Geneva and see what they have to say about the implied criticism of UN processing of people on Nauru.

It would not surprise me if, out of the millions and millions of displaced people from Afghanistan who have returned to Afghanistan with support from the United Nations since 2001 or 2002, not all of them at this point are alive. That may be the case. It may also be the case that some people who returned voluntarily and accepted a voluntary return package of $2,000 each have subsequently lost their lives in circumstances that we do not know. But without further advice it is impossible to say.

As to the question of voluntary return, I make the point that we work with the International Organisation for Migration. This is an internationally recognised body, it is internationally respected and it works with the UNHCR all over the world. One of the conditions of working with the IOM on Nauru is that there are no involuntary returns. So I will take the matter up with the IOM as well.

Senator NETTLE—Mr President, I ask a supplementary question. Does the minister accept that some people may have been coerced to return? I have been in contact today with two former detainees from Nauru. They do not know each other and do not speak the same language. They have both received formal repatriation offers and a promise of $2,000. They have told me that the department of immigration said to them: ‘You must go back. If you don’t agree you will be forced. Your case is closed, it will never be opened again and there is no way that you can stay. You have one month to agree and get the money. After this you go by force and get no money.’ Can the minister indicate whether or not this is an accurate reflection of what the department of immigration said to them and does the minister still claim that those who returned to Afghanistan and other
countries from Nauru did so voluntarily and that they were given a genuine choice?

Senator VANSTONE—Just for the record, Senator, you are not able to ascertain and you cannot possibly assert here that the remarks you have just made are in fact a correct reflection of what did or did not happen on Nauru. All the senator is saying is that that is what someone who was rejected has asserted. I have no doubt that some people who have been rejected will get together and make particular claims. It is true that there is a point at which voluntary return packages cut off. People would have been told: ‘This offer is open up until this date. If you don’t take it then, you don’t have a chance of getting it.’

As to the suggestion that people were told they would be forcibly removed, there has not been a forcible removal from Nauru. It is not the Australian government’s country; it is Nauru. There has not been one. You will not be able to show there has been one. If we were likely to ever have a forcible removal, why didn’t we do it with the remainder that were there? Has that ever occurred to you, Senator Nettle? (Time expired)

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

MINISTER FOR THE ENVIRONMENT AND HERITAGE

Censure Motion

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (3.03 pm)—by leave—I move:

That the Senate censures the Minister for the Environment and Heritage (Senator Ian Campbell) for:

(a) abusing his powers under the Environment Protection and Biodiversity Conservation Act 1999;
(b) undermining the administration of the Act; and
(c) exposing the Commonwealth to legal and financial risk.

In doing so, I indicate that Labor have rarely moved censure motions against ministers in this chamber. I think this is the first one we have moved following the last federal election. I regard it as a very serious charge and a very serious resolution. While government senators may not like the Senate seeking to hold ministers accountable, I would argue this is one of our core functions.

What we have seen over the last few weeks is confirmation that the process of approval of the Bald Hills project was politically corrupted. The minister did not exercise his judgement and his responsibilities according to the law; he exercised them according to the political needs of the Liberal Party. This is a classic case, a terrible case, of an abuse of the minister’s function and an abuse of his ministerial responsibilities, and the minister stands condemned for it.

Day after day the minister has been given the opportunity to defend himself. The minister was given an opportunity in question time yesterday and he could come up with no defence. He was given the opportunity to defend himself on an urgency motion yesterday, and it was the most pathetic attempt at a defence for a decision by a minister seen in this parliament. It was absolutely pathetic. He sought to discuss Senator Kim Carr, the Victorian Labor Party and a whole range of matters but he offered not one iota, not one shred, of defence for his decision-making process. Again in question time today the minister ignored every question, refused to answer and instead talked at length about a former Labor member of the House of Representatives and his activities, not once trying to deal with the issues.

The issues are clear and obvious to all. The minister failed to do his duty as minister. He is no longer able to hold this important
office, he ought to be sacked and he ought to be censured by this chamber because he failed to exercise his duties as he should have. It is an open-and-shut case to which the minister has no defence.

I invite people to have a look at his 10-minute contribution yesterday. It was pathetic. It had no basis for a defence at all. He even admitted that today by complimenting Senator Brandis for his defence of him. I thought Senator Brandis’s defence, a typical lawyer’s effort, was not bad given the material he had. But quite frankly it was outstanding compared to Senator Campbell’s effort. He fumbled around with no idea how to defend his decision because it is absolutely indefensible.

We know what is at the heart of this decision. We only have to go back to his letter to the residents of McMillan which was put out just before the last federal election—a letter from Senator Ian Campbell on official letterhead in his capacity as minister. We still do not know who paid for this campaign letter. We have not been able to ascertain from Senator Campbell how this was funded and I hope he might, during this debate, let us know. But Senator Campbell wrote a totally political letter which starts off discussing the election, makes a cursory reference to mandatory renewable energy targets and then he is into it by the third paragraph:

Labor’s Christian Zahra is sworn to support Mark Latham’s policy and that means many more wind farms in South Gippsland.

The minister sets himself up as the opponent of wind farms in South Gippsland. He goes on to say that unless you vote for us these developments will pick up. He goes on further to say:

... that when the Howard government is returned to office I will also ensure that the funding of any future renewable energy programs are contingent upon community involvement and support.

That is a direct message to those campaigning against wind farms in the seat of McMillan. Further, he goes on to say:

... should Christian Zahra, the Labor candidate, be elected that will be a sign that you are happy to play host to increasing numbers of wind turbines in your region.

In other words, ‘Vote for the Liberal candidate and I will make sure they don’t happen. I will put in the political fix.’ The now member for McMillan, Russell Broadbent, went around the electorate saying, ‘I’ve got a promise from Senator Campbell. He’s assured me the Bald Hills project will get knocked off if we get returned to government.’ The minister for the environment, in his capacity, wrote to everyone saying that he would be making sure that these developments did not occur. The Liberal candidate campaigned on it, it was reported in the press and the community members were all advised.

So you have the minister already committed to a course of action in relation to this project. When it comes before him, does he declare his interest? Does he make it clear that he is in no position to make an independent decision because he has already committed himself to a course of action? No. He abuses his position, does not stand aside and he sets himself up to make a decision on a proposition that he has already campaigned against. He has already promised the electors of McMillan that he will not be supporting propositions like this.

We have a minister who should have stood aside from making that decision in accordance with proper processes but he did not. What he did was wait 450 days when he was required to act within 30. What happened in that 450 days? He went in search of a dead parrot, something that would allow him to hang a defence around. Why did it take him 450 days? Because there was not a defence;
he could not find one. For 450 days he tried to avoid making the decision. He commissioned report after report after report. They all said to him, ‘There is no basis for that decision. You ought to approve it.’ Report after report, advice after advice. Why did he keep looking? The advice was not inconclusive; the advice was very conclusive. The advice said, ‘Approve the project.’ The advice said, ‘You have no basis for knocking it back.’ So what did he do? He said he needed another report. That report came back with no basis for knocking it off. He said he needed another report and said, ‘I will keep looking for 450 days until they force me into the courts before I make a decision.’

Finally he was dragged into the courts because he had failed to exercise his duties as minister. He had deferred making a decision. Finally he was called in and forced to come to a decision. His last roll of the dice was the Biosis report which we have obviously heard a lot about in recent times. The Biosis report again does not support the minister’s decision. Constantly he has misrepresented the report in this chamber and outside by selectively quoting. He could not even bring himself to finish the paragraph that he uses in his defence. Why? Because it undermines his whole case.

For the record, the remainder of the Biosis paragraph is this:
Our analysis suggests that such action—that is, blocking wind farms—will have extremely limited beneficial value to the conservation of the parrot without addressing the very much greater adverse effects that are currently operating against it.

In other words, knocking this wind farm over will do nothing to save the parrot. There are a whole range of measures that could be implemented but they do nothing to save the parrots, and this is the basis upon which he knocked off a $220 million project. This is the minister who is entrusted by parliament and entrusted in law to exercise his discretion according to law. He did not do that. He exercised it according to his desperate search for an excuse to defend his exercise of another science—not science as we understand it, not environmental science and not the science pertaining to the threat to endangered species, but political science: the political science of winning McMillan. That was the only science that underpinned this decision and the only thing that motivated the minister.

So, after 450 days and being dragged into court, he hangs on to one paragraph of a report that clearly says there is no defence for his decision. When that comes to a head he finds that only one parrot will die in 1,000 years. I suspect quite a few more will die of old age in that period. There is a 0.001 chance that, of the 15 parrots that might fly into the area each year, one may be killed in a collision with a turbine. The risk is minuscule. There are threats to the parrot but this is not one of them. The minister had very clear advice about that.

The thing that really condemns the minister is his own department’s advice, because they were very concerned about the path he was going down. They urged him time and time again not to go down that path because they knew that this would be subject to legal challenge, that it would be exposed for a rort and that the Commonwealth would be liable to be sued for damages. They gave him advice all right—senior advice signed off by a senior departmental officer in March this year. It recommended that the project should be approved. The senior officer, Gerard Early, advised that there was no evidence of any direct impact on the parrot and under the act there were no grounds to oppose the project.
That is not equivocal. That is not: ‘Minister, you can choose one path or the other.’ There are no grounds to oppose the project; there is just clear unequivocal advice from his department. It was not some mad left-wing scientist or someone with a vested interest in the issue but his own department exercising its responsibilities under the act. Mr Early’s advice specifically noted the significant consequences of using the Biosis report to block the project. To do so would cause serious uncertainty for coastal development along thousands of kilometres of coastline. It would dramatically lower the threshold of ‘significant impact’ under the environmental act—a case that Senator Brandis tried to argue yesterday, which was specifically rejected by the department. It was made very clear that by taking this action the minister undermined the operations of the act, undermined the threshold for ‘significant impact’, was putting at risk the department’s role in a whole range of other applications and was making its position totally inconsistent with other decisions it had made. For those reasons, the department strongly recommended that the project be allowed to proceed.

But the minister knows better. He says, ‘I am no Yes Minister.’ That may be true; he is no minister at all. No minister could act in the way he has. All the advice and all the reports said that this project ought to proceed. He had obligations to the Australian taxpayer and to this parliament under the act. All of those were swept away as he pursued his narrow political interests and those of the Liberal Party. When did it come to a head? It only came to a head because the proponents were again forced to go to court to get him to do his job and to seek to overturn his decision. What happened? Just as the case was starting the minister signed up to a deal that said he would reconsider the proposal. If you were so confident in your position and your processes and if you had the swagger and the global responsibilities and vision that the minister has, why would you fold at the first grapeshot? Because you did not have a case. The minister’s legal advice was that he had done the wrong thing, that he was going to cost taxpayers millions of dollars and that he ought to get out of it before it got so damaging that he was forced to resign.

So he got out of it. He did a deal with the company, which was obviously keen to pursue its claims. It just wants to get ahead and do business, so it settled on the basis that the minister would reconsider the decision on the basis of the law—the thing that he should have applied in the first place; the sort of advice that was provided by the department. They acted according to the law and they said that there was no basis whatsoever for the minister to proceed as he did. They knew the law; they knew the propriety; they knew what was expected of them in exercising their obligations under the act. But this minister did not exercise his obligations under the act; he sought to pursue the narrow political interests of the political party at the expense of doing his job. This is clearly established and on the record.

The pathetic defence that the minister has offered this week confirms that there is no defence. It is why he ran up the white flag at court on the first day and agreed to pay costs. He agreed on behalf of the taxpayers of Australia to pay for his arrogance, for his contempt and for his abuse of process. Every taxpayer listening to this ought to know that they are going to be digging into their pockets to pay to get this bloke out of trouble because of him putting in the political fix. We are all going to pay for it and, if he does not approve it next time, we will be paying damages. I have a funny feeling that at some stage the minister will find that the parrot has been saved by some other method. Perhaps mouth-to-mouth resuscitation by the minister.
will solve the problem and the wind farm can go ahead. I may be wrong, but I suspect that the legal advice is that he has to approve it this time or otherwise the damages claim will be so large that investment in this country will be threatened for a long time. The minister does not have one shred of a defence, other than to misquote and selectively quote a report that recommended he approve the project. He ignored advice after advice and report after report. For 450 days—a year and a half—he searched around, and the best he could come up with is that one parrot might get killed in 1,000 years.

I am an environmentalist. I do not pursue global quests quite as often as the minister does, and I do not big-note myself quite as much about that, but quietly, in my own way, I want to see species protected, apart from Liberal Party ministers. They are the only species that I think ought to be made extinct. Being an environmentalist is one thing, but it does not mean knocking back $220 million of investment on the possibility that one parrot every 1,000 years might fly into a rotor blade. It is complete nonsense! I know we should not go down the Monty Python road, and I will not, because the Long John Silver jokes, the dead parrot jokes and the cartoons have been done before. I could do it but it would just be mean, and it would distract from the fact that this is important. This is a very serious abuse of ministerial power and a very serious issue. The Commonwealth government and the taxpayers of Australia have been exposed to serious financial and legal risk. The proponents have twice had to go to court to get fair treatment. They have been denied natural justice time and time again by this minister because he does not want to have to give in on his political promise. I pay due credit to Senator Campbell. The one thing that he has been consistent on is that he is going to honour the political fix; he puts that above all else. He will not renege, until the next decision he has to make. Until the last ditch, he has been unprepared to ditch the political promise that he made. It is arrogance, it is an abuse of his power and he ought to be censured by this Senate.

Senator Campbell has abused his responsibilities under the act. He has abused the administration of the act. What credibility can the environment minister and the department have after this decision? If you are looking to get a decision out of this minister, the first thing you do is look up the electorate map of Australia and see where you might put something and whether it suits Senator Campbell’s interests. He is pro wind farms in certain seats, and he is very anti them in the other. He makes a big man of himself down in Denmark, in the south-west of WA, when it suits his political interests, but when it suits other interests he is all for wind turbines. The inconsistency of the decision making is just amazing. He says in his defence, ‘Labor would put more wind farms in McMillan than we would, but I have approved 600 in the last few months.’ Is he for wind farms or is he against? Are there going to be more under us or more under him? He is just totally selective. The only criterion he applies to applications for wind farms is politics. Political science is the only basis for the decisions he has taken.

Now the minister is going to reconsider his decision. The bloke that delayed for 450 days, who put the fix in and who refused to apply the act, is now, under the Howard government, going to be asked to make a fair decision according to law. You would have a lot of confidence in that, wouldn’t you? Will he stand aside this time? I guess not. This is the clearest example of a minister failing the parliament. (Time expired)

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (3.23 pm)—I have had the distinc-
tion of sitting here over a few years and listening to the odd censure motion by the Labor Party against Liberal ministers and I have had the odd opportunity in opposition to listen to opposition censure motions against Labor ministers, and I have got to say that that was probably the most limp-wristed and pathetic first speech in a censure motion that I have ever heard. I was sitting here waiting to see if they have got some reason to censure me, and during 20 minutes of bluster and repetition I sat here with my notebook waiting for Senator Evans to say something that I could actually take a note of and respond to, and the notebook is basically as blank as it was when he started.

Senator Carr—Don’t you wish you were still in the Democrats?

Senator IAN CAMPBELL—It does give me the opportunity, however, to run through the process and the reasons.

Senator Carr—See no evil; hear no evil.

Senator IAN CAMPBELL—We know that the Labor Party are not interested, because they have got very serious difficulties with the hypocrisy that is going on on their own side on this issue.

Senator Chris Evans—Two minutes of your defence and you are already off track!

Senator IAN CAMPBELL—Mr Deputy President, I look forward to being able to respond to this censure motion, but it is very difficult unless the other side maintains some sort of order. I note that Senator Carr has already been named in this session. One of the accusations is that the legal process was somehow not abided by, but the reality is that the legal process was gone through meticulously. The only reason that the proponent went to the court last week—and in fact approached us the week before and said, ‘We don’t want this to be in court anymore’—is because they did not have the chance before I made the decision to review the Biosis report. I happen to think that their having access to the Biosis report was an entirely fair thing.

I will repeat this; I did say it yesterday, but Senator Evans either is a slow learner or does not listen very well: the only reason they did not have access to the Biosis report—the cumulative impact assessment report, which is the report that assesses the combined effect of wind farms along that coast—was that the Biosis report was before me. The proponents knew it was before me; we told them very openly that I was considering this report. They did not seek a copy of the report. What they did was tell us that they intended to go to court to force me to make a decision. We said to them: ‘Look, there’s no need for you to go to court; I am reading the report at the moment. I should have completed reading it within a couple of days and, having read the report, would be happy to make the decision.’ That is the only reason—

Senator Carr—Did they go to court? Did they put any documents before the court?

Senator IAN CAMPBELL—It is very hard to speak when you—

The DEPUTY PRESIDENT—Senator Carr, I have you on the speakers list; you will have your opportunity to raise those issues then. Senator Campbell is entitled to be heard.

Senator IAN CAMPBELL—The only reason they did not have access to that report was because they forced me to make a decision before they possibly could have access to it. I think it is entirely reasonable that they have access to that report, and that is why, when they approached me last week and said, ‘We would like to get this out of court so we have time to consider the cumulative impact assessment report on the basis that you would receive a new submission from us,’ I thought that was an entirely reasonable and sensible thing to do. So for the Labor
Party to seek to make some sort of political mileage out of an agreement between the government and the proponent—a consent order to say, ‘Let’s move the process along; let’s ensure we have the opportunity to re-view this report’—is quite silly. It is hypoc-risy to accuse me of using politics in this process when in fact it is the Labor Party who is trying to politicise it.

In terms of the departmental process, the Labor Party accuses me of taking a long time and of shopping around for a report. The department came to me with their advice and said, ‘Minister, it would be appropriate to have a look at the cumulative impact of wind farms.’ They gave me the advice; it was their idea. They said, ‘We should commission a report.’ They said this in about May of 2005. In 2005 the department advised me that we should commission a report on the cumulative impact assessment. That seemed reasonable to me, and it would probably seem reasonable to any sensible person. One person who I am not sure is sensible or not, and who would be a lot closer to Senator Evans, politically, than I, made a statement in the House of Representatives a couple of years ago when he looked at the issue of wind farm development in the Gippsland area. He quoted the Australian Wind Energy Association, that said:

... 62 wind turbines are dotted along the Victorian coast, but plans have been lodged for about 1,000 to be operating between 2005 and 2006.

So we have 62 wind turbines dotted along the Victorian coast now, according to this—

Senator Sherry interjecting—

Senator IAN CAMPBELL—It is actually Christian Zahra that I am quoting from. He said in the House of Representatives in 2003 that there are likely to be 1,000 wind farms operating along that coast. The department, Christian Zahra and the Australian Wind Energy Association agreed on the incredibly sensible position that, with the cumulative impact of wind turbines on that coast, it was an important way to go. So the department advised me to do that. You can accuse me of some abuse of the process. So I said, ‘Yes, let’s do a cumulative impact report’, which they did, which then came to me in about March or April of this year.

Senator Sherry—Table all the advice.

Senator IAN CAMPBELL—Everything has been tabled in the court. Everything is out there. Senator Sherry says, ‘Table the advice.’ All of these documents are entirely before the Australian public. The only other document—if we go back to the capital ‘h’ hypocrisy of the Labor Party on this—is the advice to the Labor Party government in Victoria which said exactly the same thing about the cumulative impact on migratory birds of wind turbines on the Gippsland coast. That is a report from the Department of Sustainability and Environment in Victoria. It remains a secret report and it comes to the same conclusion that the Biosis report does, and that is that orange-bellied parrots transit through this location, that the turbines would be a substantial threat to the survival of that species and that a conservative approach needs to be taken to the development. That is the advice that the Labor Party are very embarrassed to see. We know that Mr Hulls will not release it. We know that the Labor Party’s hypocrisy on this knows no bounds.

The other point that needs to be made, when you have the Labor Party windbagging on about this issue, is that Christian Zahra’s bill remains, I presume, the Australian Labor Party policy. I think it would be in the interests of full disclosure of all the events for me to table the Local Community Input into Renewable Energy Developments Bill 2003. I will do so. I am sure that the Clerk of the Senate is wondering whether or not it is ap-
appropriate to table a House of Representatives bill that may have expired.

Opposition senators interjecting—

The DEPUTY PRESIDENT—Order! Senator Evans and Senator Sherry, Senator Campbell is entitled to be heard.

Senator IAN CAMPBELL—This is Labor’s policy. This is the policy supported by the Labor leadership. It has not been repealed, as far as I know. It says that it would repeal the section of the renewable energy act, a law of this parliament, and require that a power station, to be eligible for accreditation—that is, to receive the $3 billion worth of subsidies to the wind energy industry that Christian Zahra refers to—would need to meet a couple of conditions. One of the conditions is that, if a local power station were to be eligible to receive renewable energy credits, it would have to—and I quote from clause 1(2)(c) of the Labor Party’s legislation—receive approval of ‘the relevant local council or councils’. The relevant local council or councils did not approve this development, nor do any of the councils in the area. If the Labor Party’s policy had been in place, they would have stopped the Bald Hills wind farm. It was actually Christian Zahra’s policy, Mark Latham’s policy and, we presume, Kim Beazley’s policy to stop the Bald Hills wind farm.

What is the accusation against me? I assessed the proposal under the Environment Protection and Biodiversity Conservation Act, I made a determination that it would have an impact on a threatened species under the relevant section of the act and I said, ‘No, the development should not go ahead.’ The Labor Party were not going to go through an existing law; they were going to come in here, if Mr Latham had become Prime Minister—we presume that they would do that if Mr Beazley were to become Prime Minister—and bring into being the Local Community Input into Renewable Energy Developments Bill. They would have brought a whole new law into place. They would not have used an existing law and gone through a proper and correct legal process. They would have actually changed the law and effectively brought in retrospective legislation to stop the Bald Hills wind farm. You cannot really see greater hypocrisy than that.

The other point that needs to be made is that there is a substantial issue in Australia that does need to be addressed. Christian Zahra was right and the Australian Wind Energy Association is right. There are going to be more and more wind developments around Australia. We do have a substantial issue with climate change to address. It needs to be managed well. Wind energy does have a part to play. This government has, in fact, supported the construction of 600 wind turbines across Australia, and by and large they make a great contribution to a cleaner and more secure energy future for Australia.

The government have a comprehensive policy to address climate change. We do want to ensure that solar energy, wind energy, geothermal energy, geosequestration, capture and storage of carbon from coal—all of the prerequisites to a comprehensive climate change management program—are put in place. And wind will be a part of that strategy; it needs to be a part of that strategy. With the Labor Party we see this sort of crass politicisation of wind energy that is taking place. You have the Australian Labor Party down in Victoria saying, ‘We can’t have a wind farm in a Labor electorate. We cannot have a wind farm at Ballan, we cannot have one at Port Fairy, but we want one at Bald Hills.’ There is no science, no justification for it. They just say, ‘We’ll stop it if it’s in a Labor electorate and we’ll approve it if it’s in a Liberal electorate.’ It is pure politics—no interest in the environment, no interest in sensible and rational climate change policy.
just pure politics and hypocrisy from the Labor Party.

The coalition government’s credentials on preserving habitat and putting in place recovery programs for a range of species are now substantial. I think it was a very fair question today from Senator Wong when she asked: ‘What are you doing to address other issues? Are you in fact being selective and just saying, “We’ll stop a wind farm”?’ In fact, the coalition’s record is clear on its investment to seek to ensure that the orange-bellied parrot has some chance of survival. I remind the Senate that this is a species that is down to 50 breeding pairs. Before this debate hotted up and became controversial, most Australians probably would not have been aware of the impact that wind turbines have on migratory birds. It is in fact the case that wind turbines of the size of the Bald Hills ones will kill around 100 birds a year. That is one every few days. We have recently seen an assessment done of the Woolnorth wind farm in Tasmania. It was assessed that that wind farm would kill one wedge-tailed eagle a year, and it has killed one a month in the last three months. The wedge-tailed eagle is a highly threatened species, with only 130 breeding pairs left. So that is a massive impact on that species.

We have had a comprehensive policy put in place to ensure the recovery and viability of the orange-bellied parrot population. This has involved in total around $1 million of investment from the Commonwealth government. There is $80,000 a year for orange-bellied parrot recovery programs and $492,800 over three years to find and conserve key mainland habitat for the orange-bellied parrot. Further comprehensive work is being done on the King Island multispecies recovery plan to assist the orange-bellied parrot and there is a $29,000 program to bring cats under control on King Island. There are also orange-bellied parrot captive breeding programs. There is a range of programs adding up to over $1 million. So this is not a government that has just taken a recent interest in the orange-bellied parrot, unlike the Labor Party, who have chosen to make cheap politics out of it.

Senator Chris Evans—You are accusing us of making cheap politics out of it! What a hypocrite!

The DEPUTY PRESIDENT—Senator Evans, withdraw that comment, please.

Senator Chris Evans—I withdraw, Mr Deputy President.

Senator IAN CAMPBELL—This government has a longstanding record of work on not only this threatened species but also a range of species. I believe that we do have to ensure that communities are part of decision making when it comes to wind farms. Christian Zahra was quite right on this, though I think he chose to go about it the wrong way. I think retrospectively changing the renewable energy target program and effectively banning Bald Hills retrospectively, which is what the Labor Party pledged at the last election, was the wrong way to go.

The reason that I think communities should be engaged is that these wind farms do have a significant impact. They can have a significant impact on property values and a significant impact on tourism. Communities should be engaged. That is why I have proposed a national code for wind farms and I have put out a discussion paper. Every single state government has opposed it—and you do not wonder why when you have an environment minister like Mr Mark McGowan in Western Australia, who says in relation to community consultation on wind farms: ‘Sometimes when local communities don’t agree you have to roll over the top of them.’

Senator Ferris—Who said that?
Senator IAN CAMPBELL—He is the WA Labor minister for the environment. He said: ‘Sometimes when local communities don’t agree you have to roll over the top of them.’

Senator Sterle—Can you prove that?

The DEPUTY PRESIDENT—Order, Senator Sterle!

Senator IAN CAMPBELL—In relation to the siting of wind farms in his own state, Mr McGowan, the WA Labor minister for the environment, said: ‘Sometimes when local communities don’t agree you have to roll over the top of them.’

We believe that wind does have a future in Australia. We believe that it can make a contribution to renewable energy, but we also know that these large industrial wind farms do have massive impacts on communities and potentially massive impacts on the survival of threatened species. You can in fact have a renewable energy policy that builds renewable energy facilities that do make a positive contribution to the environment and minimise their environmental damage. You can in fact have a win-win if you manage it well. But if you do as Labor does and just play cheap politics with this issue, you will actually destroy the chance of the wind energy industry in Australia for all time. I want to work with that industry. I want to make sure that they have a sustainable industry here. Labor obviously wants to work against them.

The DEPUTY PRESIDENT—Senator Ian Campbell, when you were addressing the chair you were referring to a document and you may have interpreted the response of the Clerk as being that that document could not be tabled in the Senate. I inform you that it is possible to table it.

Senator IAN CAMPBELL—I table the document.

Senator CARR (Victoria) (3.42 pm)—If ever there were a case where a minister should not just be censured but also be sacked, it is this one. If we look at the speaker’s list for this debate today, we can see from the list of government speakers that those on the other side of the chamber know this to be the case as well. I have no doubt that Senator Ian Campbell would be somewhat disappointed. Over the six years that he was a parliamentary secretary, he would have had to come in here time and again and defend ministers and he would have seen ministers defend ministers. But, when a censure motion is moved against him, not one minister is put on the list to defend his actions.

The Leader of the Government in the Senate, Senator Minchin, is not on the speaker’s list. There is no minister from that front-bench on this list to defend the miserable action taken by the Minister for the Environment and Heritage, Senator Ian Campbell. Why? I put it to you, Mr Deputy President, that it is because they know that there is to be a fundamental redistribution of the front-bench as a result of this minister’s action. They know the truth of this matter—that is, that this minister not only deserves censure but also deserves the sack. It is only a matter of time before the Prime Minister sees the truth of that as well. They know the truth of the matter. Senator Minchin has not come in here to defend his colleague because he knows the truth of this matter.

The Australian political system and its environmental legislation provide for considerable latitude in the actions a minister can take—if he acts in accordance with the law. For example, he can draw upon precedents. In the case of this government, there were five other decisions by ministers for the environment to approve wind farms which carried out management studies. There was a case in South Australia involving the Stanwell Corporation. There was a case back in
2001, when the then environment minister, Minister Hill, approved a 130-megawatt wind farm at Woolnorth in Tasmania on the condition that the Hydro-Electric Corporation ‘prepare a plan to repair or mitigate damage to the habitat of the orange-bellied parrot’. The management plan approved by the minister allowed for six parrots to be killed every two years.

Minister Kemp approved a 150-megawatt wind farm in 2002, on 17 October, for near Portland in Victoria. He did so on the specific condition that Pacific Hydro prepared a management plan that mitigated against impacts in the event of orange-bellied parrot mortalities as a result of collisions with turbines. In 2002 and 2003, various ministers approved wind farms near Port MacDonnell in South Australia and Jims Plains in Tasmania—again with management plans attached. So the minister had plenty of precedents to call upon. In fact, the circumstances are such that this government has managed to ban wind farms where there are no orange-bellied parrots but to provide permission for wind farms to be developed where there are parrots.

We have a situation where the minister can also rely upon the advice of his department. We have here a clear case where Mr Gerard Early—a man who I have observed over many years at Senate estimates committees to be of considerable reputation within the Australian Public Service and a person who is known to not be a red hot radical but rather a moderate, considered and conservative public servant—advised the minister not in any equivocal way but in an unequivocal way that there were no grounds for him to act on this matter. In fact, the advice was that if he did he would be opening the government to legal challenge over a whole range of developments around the south-east coast of Australia. The minister chose to ignore that advice as well.

The minister, however, accepted the advice that he himself gave to the electorate of McMillan back in October 2004, during the federal election. It is clear what occurred. As we know, there was a federal election on 9 October 2004. On 12 October 2004, the local newspaper in McMillan, the *Great Southern Star* from Leongatha, provided us with details of the Liberal candidate saying, ‘When Ian Campbell arrived, the whole complexion of the campaign changed for me.’ Senator Campbell gave a commitment to do everything within his power under the EPBC Act to veto the Bald Hills project. That was a position that he made clear three days after the election. A statement was made in the local newspaper to that effect. It follows the articles that were published in other newspapers at the time and the letter that the minister distributed throughout the electorate during that election campaign. It is quite clear that the minister acted not on the basis of legal advice, not on the basis of departmental advice, not on the basis of precedent but on the political basis that he had committed to a position before he had considered the evidence.

The illusions of this minister, like so many broken pieces of china at a Greek wedding, were smashed by Justice Weinberg on 4 August, when he said that the decision of the respondent dated 3 April was to be set aside. He said that the matter was to be remitted to the respondent for reconsideration ‘according to law’ and that the respondent should pay the applicant’s cost, to be taxed in default of agreement. The minister has confirmed that that is the commitment he gave.

Senator Brandis—It was a consent order.

Senator CARR—As the senator representing the Perry Masons of the backbench has indicated, it was a consent order. And he caved in: he surrendered to it. That was the legal advice that he was finally forced to ac-
cept, because he had no defence at law for his actions and had to give in and agree that his position was indefensible, which was clear for anyone else to see. That position was clearly spelt out in the Senate estimates. It was clearly demonstrated in the Senate estimates that the minister’s position was totally indefensible.

What strikes me here is that the minister’s obligation to be fair and transparent in the way in which he administers the duties of his ministerial office has been fundamentally corroded by the political commitments that he gave during the election campaign. He has prostituted his office as a consequence of making those commitments to the electorate of McMillan, as part of the marginal seat strategy of the Liberal Party, rather than undertaking his office on the basis of the integrity and legitimacy of the legislative and regulatory processes that are available to him as a minister within this government.

Quite simply, we take the view that this minister has to go. Any analysis of the extraordinary events over the past two years makes it very clear that there are three basic problems in the way in which he has behaved: firstly, he has corrupted environmental approval processes for party political gain; secondly, he has twisted and misused scientific evidence provided to him in the approval process and he has been caught out doing so; and, thirdly, he has now been forced to backflip in the Federal Court and has exposed the Commonwealth of Australia to the potential of considerable legal liability. These are all serious failings for any minister and collectively they are grounds for dismissal. This Senate ought to censure this minister and the Prime Minister ought to sack him.

Let us go through the issues that I mentioned. On the matter of misusing his office for political advantage, it has become quite apparent that Senator Ian Campbell pursued these policies following the commitments he gave in McMillan during the election campaign. He saw an opportunity to use his office to swing a marginal seat in Victoria to the Liberal Party. Before he had even sighted scientific analysis against this proposal, he publicly announced that he would do everything in his power as a minister to halt the Bald Hills project.

The scientific evidence is that there were no parrots identified in the surveys undertaken. Over a 12-month period, the consultants undertook a study, and 10,441 birds were seen, but not one single orange-bellied parrot was spotted. There was no record of the orange-bellied parrot at Bald Hills. There was identified, 20 kilometres away, a habitat for the orange-bellied parrot. There was in fact a sighting 40 kilometres away from the proposed wind farm site, but there had already been a wind farm approved for that site. But in the case of Bald Hills the scientific facts were very clear. The minister commissioned advice, it did not suit his purpose and he chose to ignore it. He sought advice from the department and that did not suit him, so he ignored that. He ignored the legal precedent established by his own colleagues in previous Howard governments. He sought to buy time, 450 days of time. He sought to avoid the fact that he had to make a decision within 30 days. He chose to ignore that in his desperate bid, his desperate worldwide quest, to find a parrot that would suit his purposes with regard to Bald Hills.

The second line of defence that he chose to use was to white-ant the approval process. Despite his very best efforts, he could not find a mechanism to do that, because his own department confirmed the validity of the Victorian approval processes. Independent experts retained by his department reached the same conclusions. In fact, his expert went further, to an unwelcome extent. She argued
that the analysis was clear and that further research would be of no use to him. This is exactly what Senator Campbell did not want to hear. He did not want this project to proceed, no matter what the science said, and it did not suit him to have his own departmental officials tell him that he was dead wrong. That is what occurred. He went ahead anyway. He commissioned further advice, this time a general study of the possible impact of wind farms. He chose to look at 23 separate examples and still did not come up with the result that he wanted. This process was, of course, an attempt to buy time and defer decisions, but the proponent intervened with court action and forced him to make a decision. That decision was made, and it went against the company. It was finally overturned by the Federal Court on 4 August.

There is a problem here of a minister ignoring scientific advice, and we know that in this portfolio it is particularly important for the minister of the Crown to pursue evidence based policy. That is exactly what we have not got in this case. We have got a decision being taken by the minister on political grounds, not on scientific grounds. He wilfully defied the scientific advice, on the basis that he had already made a political decision. He sought to reinterpret that advice, to misrepresent that advice, to take evidence out of context, to twist it to his political advantage, and he has been caught out on that score as well. His hand-picked advice, the Biosis report, said that ‘almost any negative impact on the species could be sufficient to tip the balance’ against the parrot. However, the fundamental problem was to address that question at source, not by the rejection of this particular wind farm. That is what his scientific advice told him:

Our analyses suggest that such actions will have extremely limited beneficial value to conservation of the parrot without addressing very much greater adverse effects that are currently operating against it.

The real question that arises is: what action did the minister have to take to support his conclusions? He had no evidence to back up his decision, which had already been made. He fell back on twisting the evidence and relying on half-truths. Evidence was presented from the scientific research, and I quoted from it yesterday. Ashley Stephens, an officer of the Victorian Department of Sustainability and Environment, wrote to the authors of the Biosis report, asking whether the multiplied effect from tables 3 and 4 of the report meant that there was a mortality rate of one bird every 1,000 years. The senior zoologist confirmed on 7 April 2006 at 10.28 am, in an email response:

Yes you’ve calculated correctly.

So there was just no question about what the evidence was and what it meant, except for this minister. It fundamentally contradicted his major proposition. In the May estimates hearings, what did he try to do? He tried to bluff his way out of the situation again. He sought to abuse and denigrate members of the opposition. If I recall rightly, when I tabled that particular email he went so far as to suggest that I had acted improperly. I recall he even said that I was gutless. Whatever claims have been made against me, that is one that would not fit.

However, the Prime Minister has expressed some concern about the actions of this minister. For instance, on the Neil Mitchell program, which is broadcast on Southern Cross Radio, earlier this year Neil Mitchell asked the Prime Minister: ‘What about the moth?’ John Howard said to him, ‘The moth?’ The conversation continued:

NEIL MITCHELL: You’re going to stop a residential development at Melton because of a moth—the golden sun moth.
JOHN HOWARD: Who said that? I’m not aware of that. Who’s stopping it? A residential…

NEIL MITCHELL: You are.

JOHN HOWARD: I’m stopping it?

NEIL MITCHELL: Well, your minister.

JOHN HOWARD: My minister is?

NEIL MITCHELL: Ian Campbell is.

JOHN HOWARD: Well I will investigate that. He hasn’t taken any decision has he?

NEIL MITCHELL: No, he’s looking ... he’s considering whether the future of the moth is jeopardised.

John Howard then said: ‘Yeah, all right. I’ll have a look at it.’ Of course, the statement was made shortly thereafter that the housing development in Melton could go ahead.

We had a court fiasco, which was predicted, of course, to follow from such a trend of events. It was inevitable that the minister would get himself into such trouble. The end game is that it has highlighted the scandal within this government. The scandal within this government is that the minister for the environment is prepared to misuse his office, to prostitute his office, for political advantage and to do so to try to advance the marginal seat objectives of the Liberal Party in the state of Victoria. He has sought to ignore the clear precedents of previous ministers within the same government. He has sought to ignore the legal advice given to him. He has sought to ignore the unequivocal departmental advice given to him. He has now placed himself in the position where a Federal Court judge has told him that he must reconsider this matter according to law.

The wind farm has been set aside. He has agreed to pay the plaintiff’s costs. We all know that that does not occur in the Commonwealth of Australia unless the Commonwealth of Australia knows how weak its position is. I noticed in the press today, and the minister confirmed it in question time, that the very same project is now to be approved on the basis that the proponent comes back with a management plan, which, of course, is the position that should have been taken 450 days before the minister made his ill-fated decision on 3 April. The minister has found that his whole argument has been torn to shreds by the court in this country. The half-truths, the misrepresentations, the political hyperbole, have been exposed for the lies that they are. The minister’s position has been overturned at great expense to the Commonwealth. This is a clear case of there being no principles at stake because the minister has acted without principle. (Time expired)

Senator BRANDIS (Queensland) (4.02 pm)—I have been sitting here for the last 20 minutes listening in utter fascination to Senator Carr constructing for himself an ever-more implausible, elaborate, Byzantine conspiracy theory. As Senator Carr’s time counted down, I thought: ‘What a pity Senator Carr’s time is expiring, because, if he had another 10 minutes, I am sure he could have worked out a way to persuade himself that Senator Ian Campbell had something to do with the Kennedy assassination.’ Of course, Senator Carr, being an old-fashioned Stalinist, loves conspiracy theories. For Senator Carr, everything is a conspiracy. Senator Carr, I do not have any doubt that you believe it but, as the great Sir Isaiah Berlin once famously said, there is no a priori reason to believe that the truth, when discovered, will turn out to be interesting. Senator Carr, although I listened with rapt fascination to your elaborate baroque conspiracy theory, I am afraid the truth is much more prosaic.

What I am going to do in the time available to me is to take the Senate carefully, methodically, through the prosaic truth of the matter. But before I begin to do that—

The ACTING DEPUTY PRESIDENT (Senator Troeth)—Order! There is an
enormous amount of talk and laughter coming from the opposition benches. The Senate would be obliged if that ceased. Please resume, Senator Brandis.

Senator BRANDIS—Before I do that, let me at once nail the misconception upon which Senator Carr’s—and indeed Senator Evans’s—entire case against Senator Ian Campbell seems to rest, and that is that there was a determination by the Federal Court of Australia against the minister’s decision last Friday. That is not right. What there was last Friday was a consensual settlement of the litigation between Bald Hills Wind Farm Pty Ltd and the Commonwealth on the basis of which a Federal Court judge made a consent order—the most commonplace routine form of legal order—

Senator Wong—What about a costs order?

Senator BRANDIS—which, as you well know, Senator Wong—because unlike Senator Carr you do know a little about this—does not constitute, never constitutes, a determination by the court on the merits. Let us lay this to rest at the start. There has been no determination by any court on the merits of this case. What there has been is a negotiated resolution embodied in a consent order, and the use, as I tried to explain yesterday, of a formulaic expression in the consent order that it be remitted for determination according to law, which is purely a legal formula, does not constitute a decision by a court turning its mind to the merits of the question one way or the other.

Let us go back to the process, because the one thing that Senator Evans and Senator Carr did get right is that this is a question of process. The question on which Senator Ian Campbell stands or falls is the question of proper process. It seems to me that within that question there are three issues. The first issue is this: was the minister bound to follow the initial departmental advice, which it is common ground he did not follow? Plainly, the answer to that question is no, and I will explain why in a moment. The second issue is: was the minister entitled to commission and, having commissioned, to rely upon the study by Biosis Research Pty Ltd? Plainly, the answer to that question is yes. The third issue is: did the findings of the Biosis report support the minister’s conclusion? Plainly, once again, the answer to that question is yes.

Senator Forshaw—There’s a fourth question: why didn’t you ask the parrot?

Senator BRANDIS—You can satirise this, Senator Forshaw, but if you are reduced to satire and the sort of Monty Python burlesque on which the Labor Party has gorged itself throughout question time rather than turning your mind to the legal, factual and scientific issues that are raised by this debate then no doubt those who listen to the debate will judge your contribution accordingly.

Senator Forshaw—Madam Acting Deputy President, on a point of order: Senator Brandis should be addressing his remarks through the chair and not to me directly, and it was Senator Brandis who raised Stalin and the Kennedy assassination.

The ACTING DEPUTY PRESIDENT (Senator Troeth)—Senator Forshaw, in response to your point of order, Senator Brandis should be addressing his remarks through the chair and it is my understanding that he referred to you in the third person, which would indicate that it was through the chair. At this point I also ask opposition senators to refrain from interjecting.

Senator BRANDIS—Thank you very much indeed, Madam Acting Deputy President. I was not satirising Senator Carr when I made that remark either. What Senator Ian Campbell was obliged to do was discharge a statutory obligation set out in quite elaborate
detail by the terms of the Environment Protection and Biodiversity Conservation Act 1999. What he in particular was obliged to do was to make a determination under part 9 of that act as to whether the particular project that was before him for consideration, the Bald Hills wind farm project in southern Gippsland, on the coastline of Gippsland, should be approved. But he did not have carte blanche in making that determination. He was governed by certain statutory criteria.

In particular, he was governed by the criteria in section 18, which is one of the core provisions of the act and which contains the scheme for the protection of endangered species. It is common ground that the orange-bellied parrot is an endangered species. It is listed on the appropriate lists of endangered species. We are told—and nobody has called this into question—that there are only 50 breeding pairs of this particular animal left. Apparently, most of them are in southern Victoria. So nobody is arguing that this is not an endangered species.

Therefore, the protective obligations under section 18 of the act calling for a ministerial determination under part 9 of the act are invoked. Section 18(3) of the act, dealing with endangered species, says:

A person must not take an action that:

(a) has or will have a significant impact on a listed threatened species included in the endangered category; or

(b) is likely to have a significant impact on a listed threatened species included in the endangered category.

The act then provides for an elaborate process by which such a determination may be assessed. In particular, the minister is required to commission one of five different varieties of assessment. That is an obligation that lies on the minister or his delegate under section 87 of the act.

The minister, by his delegate, adopted one of the five alternative courses of action that were open to him under section 87 for the purpose of making an assessment. That was, under section 87(4), to decide to commission an accredited assessment process. Nobody doubts or suggests that the minister, by his delegate, was doing the wrong thing in doing that. What happened—because this is the way in which the act is administered—is that the accredited assessment process was commissioned by the Victorian government. That is the commonplace way in which this act is administered. State government environment departments are accredited authorities for the purpose of assessment processes under section 87(4) of the act. That was done.

On 19 August 2004—and hold that date in your mind, Madam Acting Deputy President, because something important turns on it in a moment—the Victorian Minister for Planning wrote to the Minister for the Environment and Heritage, providing a copy of the assessment report for the Bald Hills wind farm. It was on the basis of that assessment report, itself a document generated within the Victorian government, that the department, through Mr Early, the senior officer of the department, provided the initial advice to the minister that it seemed that the Bald Hills wind farm project should be approved, subject to conditions, and made that recommendation.

Nevertheless, the minister, in consultation with the department, considered that the assessment report provided by the Victorian state government was insufficient. So, on 25 May 2005, on the advice of his department and in consultation with it, the minister commissioned another report, the report from Biosis Research Pty Ltd, to address a different or more particular issue which had not been addressed sufficiently in the assessment report generated by the Victorian government. That was to undertake a study to assess
the cumulative impacts of bird strike from wind farms, including the Bald Hills wind farm, on priority Environment Protection and Biodiversity Conservation Act listed bird species, which included but was not limited to the orange-bellied parrot.

The minister, on the advice of his department and before making his decision, commissioned this further, more particular study. Why? You know, Madam Acting Deputy President, as a Victorian senator that there have been quite a number of these wind farms built along the shore of the Gippsland Peninsula. Whereas one wind farm in isolation might not pose a significant risk to migratory bird species whose routes of migration track through that area, if you build a multiplicity of wind farms along the migration path, depending on the heights at which the birds fly, trajectories and a range of other considerations that scientific experts know about but we do not, the greater the accumulation of wind farms in a given migratory bird area, the greater the risk to migratory bird species.

I think Senator Campbell was wise to heed the advice of his department to commission the further study by Biosis. The Biosis report was received, and this was its conclusion in relation to the orange-bellied parrot. I will read from page 47:

Given that the Orange-bellied Parrot is predicted to have an extremely high probability of extinction in its current situation, almost any negative impact on the species could be sufficient to tip the balance against its continued existence. In this context it may be argued that any avoidable deleterious effect—even the very minor predicted impacts of turbine collisions—should be prevented.

Rather than the one birdstrike in a thousand years that the Labor Party kept citing, if you read the relevant sections of the Biosis report, as I have done, you will see that under three alternative models the authors of that report predict a likelihood of about one birdstrike a year from wind turbines built in this locality. Under the three different models, there is one study that suggests fewer than one a year—about 0.87 a year; one that suggests about one a year; and one that suggests a greater frequency than one a year.

That is what we are talking about. We are talking about the likely incidence of one turbine collision producing the loss of an orange-bellied parrot per year; this being a species in which there are only 50 breeding pairs left in the world. I think most people would consider that the avoidable loss of one per cent of the population of this endangered species per year was something which, to apply the statutory words in section 18 of the Environment Protection and Biodiversity Conservation Act 1999, would ‘have a significant impact on a species’.

Relying on the Biosis report, and also relying on all of the other matters, Senator Campbell made an adverse determination. In doing that, he was acting within his statutory obligations. I do not want to embarrass Senator Carr in the eyes of his more intelligent colleagues such as Senator Wong, but Senator Carr would have had us believe that one of the mistakes that Senator Campbell made was that he did not follow the precedents. But you, Senator Wong, and you, Senator Kirk, both of whose legal skills I have considerable respect for, do not need to be told that an administrative decision maker always has to address the question before him on the basis of its own particular facts, and not be governed by precedents emerging from other circumstances in which there are materially different facts. He may have regard for guidance to precedents, but the one thing that is guaranteed to ensure that the decision of an administrative decision maker will be overturned is if the decision maker addresses his mind to the wrong question by slavishly applying a precedent involving different mate-
rial facts to the determination of the very question before him.

Senator Campbell did the very thing he was meant to do. He addressed himself to the particular case before him. He did not slavishly say, ‘Because we approved a different wind farm in a different part of the country, lying on land with different environmental characteristics in the past, we have to approve this one now.’ That is what he avoided doing, as he should have done. In making his determination to refuse the application under section 133(7), Senator Campbell was in fact fulfilling his statutory duty under section 136 of the act, which says, among other things, in subsection (2):

In considering those matters—that is, applying the statutory criteria I read before—

the Minister must—

I interpolate to emphasise the word ‘must’; he does not have a discretion—

take into account:

(a) the principles of ecologically sustainable development; and

(b) the assessment report relating to the action; and

... ... ...

(e) any other information the Minister has on the relevant impacts of the action ...

In the published decision which he made on 5 April 2006, Senator Campbell does list the various matters to which he had regard in the discharge of his statutory obligation under section 136 of the act—to have regard to the assessment report, but also to have regard to the other information available to him, which included the Biosis report. Ask yourself the question, Madam Acting Deputy President: if a minister has a statutory obligation to make determinations for the protection of endangered species, which include refusing applications for controlled projects, to use the statutory expression, ‘which may have a significant impact on a species’, and if he is seized of scientific conclusions to the effect that I have read to you, is he entitled to arrive at the conclusion that the project should not be approved? Of course he is. He might have been entitled to arrive at a different conclusion; I do not address that matter. But was he doing the wrong thing? Was he acting irrationally? Was he acting extra-jurisdictionally? Was he acting unlawfully in arriving at that conclusion, being seized of that scientific advice? Of course he was not.

There is one codicil to this story and it is this. You might remember, Madam Acting Deputy President, that I asked you to keep in mind that date—19 August 2004, the date on which the Victorian government’s environmental assessment, which became the assessment report, was transmitted to the minister. That is put forward as the case in favour of approving the Bald Hills wind farm. You saw the pile of papers he had before him in question time; it was about two-foot thick. It was all the material that was sent to him by the Victorian government, but what was not sent to the minister by the Victorian government and in fact was not before him at the time he made that decision was a submission received by the Victorian government on 19 December 2003 from the Victorian Department of Sustainability and Environment. That was something to which the author of the assessment report had had regard but it was not provided to the minister. This is what it said about the orange-bellied parrot:

The Bald Hills wind farm proposal will increase the level of threat to the orange-bellied parrot, an IFG listed species. The department agrees that the orange-bellied parrot is unlikely to utilise the site; however, it is highly likely that the OBPs commuting between habitat patches in South Gippsland will fly across the site. Their commuting flights are often at heights encompassed by the rotor swept area.
Senator MILNE (Tasmania) (4.24 pm)—
I rise today because I think that people across Australia must be asking themselves if the minister has really seriously taken into account his responsibilities under the Environment Protection and Biodiversity Conservation Act to make sure that: 
A person must not take an action that:
(a) has or will have a significant impact on a listed threatened species included in the endangered category; or
(b) is likely to have a significant impact on a listed threatened species included in the endangered category.
They would be asking themselves today: why is it that every single day threatened species, endangered species, across Australia are going to extinction and the government is not doing anything? I wonder if the government has asked itself why people are so sceptical about the minister’s decision in this case. It is because of the hypocrisy that is involved here.

If the minister was serious about his statutory obligations under the Environment Protection and Biodiversity Conservation Act he would rip up immediately the bilateral agreement he has with Tasmania. The EPBC Act accredits the regional forest agreement as taking into account, and fulfilling, all the responsibilities of the Commonwealth in terms of threatened species. As a result, as I stand here today there are chainsaws ripping down old-growth forests in Tasmania and sending any number of endangered species further towards extinction.

I have heard the minister say a couple of times that he is concerned about the Tasmanian wedge-tailed eagle. I have not seen him take any action to prevent the wedge-tailed eagle going to extinction, or the swift parrot for that matter. The minister will have an opportunity very shortly to show his real commitment to endangered species, and he will be able to stop the marina development put forward by Walker Corporation for Ralphs Bay. On the argument Senator Brandis has put forward today about the minister’s statutory obligations it will not be a problem. Under the EPBC Act the spotted handfish is critically endangered. It is listed under the Commonwealth act and it is in the vicinity of Ralphs Bay. I hope the minister will commission report after report in the same way he did in relation to this, and make sure that that development does not proceed because it will further endanger the spotted handfish.

The same goes for the pulp mill. We have very clear evidence that logging across Tasmania is sending these species to extinction. In fact, on 6 July Forestry Tasmania announced late in the day that an endangered wedge-tailed eagle’s nest had been cut down and destroyed by the logging industry. It shows that, regardless of whether the industry had best intentions or not, it is still destroying the breeding habitat of endangered species. At the moment in the Federal Court we have the case of Brown versus Forestry Tasmania, which is challenging the logging industry’s exemption from the federal threatened species legislation under bilateral arrangements with Tasmania. My colleague Senator Brown, when the EPBC Bill came into the parliament in 1999, stood up here and said:
In future, the great environmental issues of the day in Australia will be determined by what are called bilateral agreements. These are bilateral sell-outs of the environment, and I will tell you why. They involve the federal government entering into an agreement about such things as forests with the state and territory governments involved. It is a process of the lowest common denominator dictating national policy.
That is precisely what has happened. Threatened species legislation in Tasmania does not
exist because it comes under the auspices of
the regional forest agreement, which is de-
levered on the ground by forest practices
which allow for and see the destruction, as it
has turned out, of an active breeding nest of
the wedge-tailed eagle. In fact what has be-
come apparent is that the timber industry is
reducing the habitat of the eagles to the point
where Forestry Tasmania is trying to sub-
stantiate its claim that there are 457 breeding
pairs of eagles left in Tasmania. But the ex-
pert, Mr Mooney, estimates that, whilst there
may be a total number of 457 pairs, breeding
is severely compromised by habitat loss and
disturbance. The expert estimates that there
are only 250 active territories. That is the
situation at the moment.

What is Senator Campbell, if he is really
concerned about endangered species, doing
about the fact that every single day in Tas-
mania that is the case? The wedge-tailed ea-
gle is getting closer and closer to extinction.
He has been standing up here today telling us
that every month another wedge-tailed eagle
is going into the turbines in north-western
Tasmania. When that was drawn to the atten-
tion of his colleague Senator Hill, the former
minister for the environment, Senator Hill
went ahead and approved that wind farm
regardless of what people said about the im-
 pact on migratory species and the wedge-
tailed eagle. That was clear in the evidence
given at the time.

Why people are so frustrated about this
example is that it is a clear use of the EPBC,
the Environment Protection and Biodiversity
Conservation Act, for cynical political pur-
poses. There is no consistent application of
the act, and the bilaterals with the states
make it a joke anyway. In a sense I am grate-
ful to Senator Campbell for exposing to the
whole Australian community what a joke, how fundamentally flawed, the Environment
Protection and Biodiversity Conservation
Act is. It is irretrievable; you cannot amend it
to fix it up. We need new legislation in this
country that genuinely gives protection to
rare and endangered species. All the claims
made about this legislation for the last five or
six years have come to absolutely nothing.

There have been several assessments of it.
One such assessment was done by Andrew
Macintosh of the Australia Institute. He
pointed out that, of the 1,913 development
proposals referred to the minister from 2000
to 2006, only 462 were declared to be con-
trolled actions. In fact, the overwhelming
majority of them were declared to be ex-
empt.

The Australian community is being told
by Senator Brandis and Senator Campbell
that they take endangered species so seri-
ously that they apply the principles of ecol-
ogically sustainable development, one of
which is the precautionary principle. Where
do I see that being applied in relation to log-
ging in Tasmania? I do not. Where do I see it
being applied in relation to the Walker Cor-
poration proposal at Ralphs Bay? I do not.
Where have I seen it being applied to a
whole range of other developments that have
come before this assessment authority? I
have not seen it being applied. It is only be-
ing applied here because of a political situ-
a tion in Victoria.

What I thought was interesting was hear-
ing Senator Brandis quote from the conclu-
sion of the Biosis Research report. Let me
add the final sentence which Senator Brandis
did not read out. Let me read the whole con-
clusion. They said:

*Given that the Orange-bellied Parrot is predicted
to have an extremely high probability of extinc-
tion in its current situation, almost any negative
impact on the species could be sufficient to tip the
balance against its continued existence. In this
context it may be argued that any avoidable dele-
terious effect—even the very minor predicted
impacts of turbine collisions—should be pre-
vented.*
That is where Senator Campbell and Senator Brandis stopped. The final sentence says:

Our analyses suggest that such action will have extremely limited beneficial value to conservation of the parrot without addressing very much greater adverse effects that are currently operating against it.

So I put to the minister, to Senator Brandis and to anyone else from the government who is prepared to stand up and defend Senator Campbell: what action is the government now going to take to address the very much greater adverse effects that are currently operating against the orange-bellied parrot? What are they going to do to look at this issue? Or are we just going to see this as a sufficient reason to somehow suggest that the Commonwealth is taking the plight of this bird seriously?

The government knows full well that it can quote this report. It is not choosing to quote other reports that it got, such as the Latitude 42 Environmental Consultants report which found that the impact of the wind power project was likely to be minimal on local bird populations and that further species-specific studies were unwarranted. It looked at all sorts of things.

The department looked at it as well. The department’s point is that to veto the wind farm on the basis of the low likely impact on the orange-bellied parrot would be inconsistent with the approach taken to approve wind farms elsewhere. The department knows that Senator Hill and Senator Campbell, the minister, never ever took the same attitude to other wind farms. The department was rightly highlighting the fact that if you go down this path you will open up every other wind farm that you have approved to the same kind of scrutiny and questions will be asked about whether the minister took the same action with them that he has in this case—that is, to commission report after report. If those reports said that one per cent was going to be affected, why didn’t they stop those wind farms if they are going to stop this one? In fact, that is where this is likely to go. That is why the department is saying, ‘You’d better be consistent about what you’re doing here.’

As I pointed out in this chamber yesterday, when the wind farm at Woolnorth in north-western Tasmania was first approved, Senator Hill, as minister for the environment, refused to assess it on the basis of the cumulative impact of the wind farms then proposed for north-west Tasmania, South Australia and Victoria. He said he did not have and would not take responsibility for cumulative impact and he was looking at each one as a specific and separate case, which I pointed out at the time was completely ridiculous. When you have an endangered species which has a clearly defined migratory path, you cannot look at development applications as one-off applications; you do have to look at the cumulative impacts. Senator Hill, the minister for the environment of the day, said no.

Senator Campbell has now opened up a real can of worms. He has brought into question the appropriateness of previous decisions that ministers have made. He has demonstrated that he has been prepared to use the EPBC Act for political purposes. He has been prepared to commission extra reports on some bases but not on others.

Down at Recherche Bay, where we had the Southport Lagoon conservation area, there is a critically endangered plant there, the swamp eyebright. It exists in an area of less than 100 square metres. The minister was prepared to let a road go straight through that area, knowing full well that a road would lead to the extinction of that plant because people travelling on that road leave the road. It is a complete mess from four-wheel drives, as any Tasmanian senator would be.
aware. Senator Campbell knew full well about the swamp eyebright. Why didn’t he stop that road going through the conservation area? That would have protected Recherche Bay because without road access they could not log it. But did he take any notice of that? No, he fell back quickly on his bilateral agreement with Tasmania saying, ‘Under the regional forest agreement I don’t have to assess a logging road,’ even though the swamp eyebright is critically endangered. It is the one small place on the whole planet where it exists and it is going to extinction. What did he do about it? He did zero, zilch, nothing.

People are so critical and cynical about him because he has been so selective in what he does about endangered and threatened species. But what he has now done—and I am grateful for this—is open himself up in regards to every single threatened and endangered species across Australia. Senator Brandis so admirably read out the minister’s responsibilities as follows:

A person must not take any action that:

(a) has or will have a significant impact on a listed threatened species included in the endangered category;

On any endangered species in the country, if anyone takes any action any resident can come to this minister and say, ‘Why have you got a bilateral agreement with that state government which exempts you from taking this statutory responsibility under the act?’ That is what is flawed. Until he rips up those bilaterals that allow the logging industry in Tasmania to send these species to extinction, he has no credibility whatsoever. I am looking forward to the residents at Ralphs Bay asking him to take into account the critically endangered spotted handfish and to apply the same level of concern he has with the orange-bellied parrot at the Bald Hills wind farm to that particular development application.

Like the seat in question in Victoria—that is, Mr Broadbent’s seat—I am looking forward to the minister doing the same in Bass, because it is a very marginal seat in next years federal election. We have the proposed pulp mill there. Even though the minister is happy to have the bilateral that excludes assessing the logging and the impact it is going to have on threatened species, in the pulp mill’s own assessment report it identifies the endangered wedge-tailed eagle and swift parrot as being on the site. The Commonwealth has a role in assessing this project. It has exempted all the forestry activities associated with the project but they have to assess the project at its own site.

I am looking forward to the people of Bass contacting this minister and saying, ‘These are endangered species under the act. They exist on the site. You stopped this wind farm in Victoria because it might have an adverse impact of one mortality per year from all sites. What we know is that 12 species listed as threatened under the Commonwealth EPBC Act have been recorded or have the potential to occur within or adjacent to the proposed development areas.’ Michael Ferguson holds Bass by what, one or 1.5 per cent? It is something like that. So here we are in Bass and it is a marginal seat, and yet we are going to that find this passion from both the Liberal and Labor parties in this place evaporate when it comes to the plight of the endangered wedge-tailed eagle, the white-bellied sea eagle and also in relation to the swift parrot.

If you are so concerned, all of you, about the cynical way in which this minister has used the act, I look forward to seeing the same enthusiasm about rejecting the Gunns pulp mill proposal in Northern Tasmania because of the impact it will have on endan-
gered species in Tasmania at the site. I look forward to the tearing up of the bilateral, because what has been said in this place today from both sides says to me that both Liberal and Labor recognise that that bilateral agreement under the regional forest agreement is sending species to extinction in Tasmania.

The minister himself has said that they are going to extinction. He has said that they are highly endangered. Let members and senators take the action they need to take. This minister has sent shockwaves through the whole development community in Australia because what he has done is said that there is no certainty at all under EPBC legislation. He has opened up to communities, as it should have been all along, the right to take this minister and this government to task about development applications that do threaten endangered species across this country.

Senator Ian Campbell, the Minister for the Environment and Heritage, has let down all Australians in relation to endangered species but he has, to his credit, totally exposed this legislation as the joke that it is. Anyone who looks at the trends on endangered species and loss of habitat around the country would have to say that there is not one single environmental indicator that has improved since this legislation came into being some seven years ago.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (4.43 pm)—The problem in this instance is not with the Environment Protection and Biodiversity Conservation Act. In fact it is a very powerful piece of legislation and it fixes a long-term problem that there was in this country: that the federal laws to do with the impacts of development on sites of national significance or on species that were threatened and endangered were very weak. The problem with this legislation is that there is enormous ministerial discretion, and that is what you would expect in decisions that are as far reaching as matters to do with national significance are.

But this minister has used the act for political purposes, and that is why we are here censuring him today. He has used it cynically and in a way which has nothing to do with orange-bellied parrots, wedge-tailed eagles or any other animals which deserve protection. He has used it in a way that he has not in the past on worthy cases against development. In fact, as I said yesterday, 2,745 projects have been referred to the environment protection and biodiversity conservation laws and only four applications have not been approved. That is less than 0.15 per cent of those that have been brought to the minister. A significant number of those 2,745 projects involved threatened species, but the minister has been reluctant to knock back those projects. Instead, for the most part, he and ministers before him have put conditions on the projects to minimise the impact on threatened species.

What are the real threats to the orange-bellied parrot? I can remember debates about this in Victoria. Madam Acting Deputy President Troeth, you may also remember when the state government wanted to put a chemical storage facility just past Corio Bay, which was a habitat. The foreshore was a place that orange-bellied parrots are seen on a regular basis, and the state government was considering putting the Coode Island chemical storage plant down there. There was quite a lot of community backlash and a great deal of interest in this issue. That did not go ahead because of community concern about it and because it would have been a very serious threat to the orange-bellied parrot.

But you cannot say the same thing about the wind farm at Bald Hills. Enough has been said here already today about the report...
which was done for the minister which he used selectively, about the advice which was given to him by his department which he totally ignored, about the process that had been gone through by the state government and so on. We know that the threat to the orange-bellied parrot was very minimal indeed. The real threats are fragmentation and degradation of over-winter habitat by grazing, agriculture or urban development; competition with other seed-eating birds; foxes and feral cats; disease; and disorientation during migration from brightly lit fishing boats. These are the real threats, but is there anything in Minister Campbell’s actions which would ameliorate any of those threats? No. The other big problem for threatened birds is climate change, and it is ironic that here we have a project which might do something about climate change. In fact, it would reduce the greenhouse gas emissions that are produced in Victoria by 435,000 tonnes a year. This project, which might in some way assist to limit the threats on the orange-bellied parrot, is being used by the minister for political purposes. Through this decision, he is effectively sacrificing the orange-bellied parrot rather than protecting it. Rather than knocking back this project, what might the minister have done? He could have required that the wind farm minimise the impact on the habitat. The wonderful thing about wind farms is that they have very little impact indeed. In fact, you see photographs of cows grazing up to the base of the turbines. Given their size and their importance, they probably have the least impact on the environment of any development I can imagine. Nonetheless, the minister could have required there to be a minimisation of habitat disturbance. The minister could have said to the wind farm proponents that a percentage of the revenue from the wind farm was to be used on other sites to restore habitat or to create new habitat for the orange-bellied parrot. Mind you, they would have to be quite a way away from the Bald Hills wind farm because, as I understand it, the orange-bellied parrot does not move too far inland. I think two kilometres is about the maximum range from the shore and the Bald Hills site is a little further inland than that. Money could have been used to create more winter-feeding habitats and secure current habitats, but there is very little by way of understanding of what those actual threats are and where we could improve the long-term chances of survival of the orange-bellied parrot. The minister has effectively been very arbitrary in this whole approach. It is all about seats and appeasing the handful of people, as I understand it in this instance, who opposed the wind farm and who will always oppose wind farms. For some reason, these people see them as a blight on the landscape. I do not; I find them to be amazing pieces of technology which seem to me to be most elegant, and in that landscape I am sure I could point to many other constructions which are more offensive than a wind turbine.

One of the most problematic aspects of this decision is the damage that it has done to confidence in the wind industry. It has set the wind industry back I do not know how many years, but it would have to be a substantial period of time. I think wind farm developers are still reeling with the shock of this decision, knowing that future approvals might also be dealt with in this arbitrary political way and that there will be no certainty about what might be able to proceed and what might not. It costs a great deal of money to find a site and to get to the point where you can make an application for approval, and this would most definitely be a very strong deterrent on such developments into the future. A number of people from the wind industry have been quoted in the media over the last few months of this debate talking
about the process. Mr Bracks, for instance, said:

[The minister] took so long to do it that he had to
find the most flimsy of pretexts. This will not
stand up to scrutiny.

The chief executive of the wind farm developer Wind Power said the company had
spent millions of dollars on the project and
was seeking advice about any potential legal
action. As we know, that legal action was
commenced. This obviously panicked the
minister and forced him to start to think a bit
more about this and negotiate with the wind
farmer and the wind farm developer. He has
offered them another chance to make an
application, which is very generous indeed. I
understand that that application is no differ-
ent from the one that went before. So this is
just a face-saving device on the part of the
minister.

We are talking about this issue because his
decision making has been arbitrary, capri-
cious and political. We do not need that kind
of decision making from our ministers; we
expect better of them than that. Despite the
fact that the Democrats very strongly support
the EPBC Act—we are also very keen to see
the minister use it more effectively than he
has in the past and we would like to see a
few more projects knocked back that
threaten species in many ways—I cannot in
any way endorse what the minister has done.
I think it is unacceptable. If it was a minister
in any other portfolio we would do likewise,
but the particular arguments in this case
make it clear to me that he has misused his
ministerial powers. It is appropriate for the
Senate to remind him of that and to have this
debate.

It is very disappointing. We would like to
have an environment minister who took his
role seriously in protecting endangered spe-
cies. This minister has not done that. When
he comes to this chamber and says, ‘This is
what I’m going to do for the orange-bellied
parrot; this is how we will make sure that it
doesn’t become extinct,’ then we will be the
first to applaud him for that. But stopping a
wind farm where no orange-bellied parrots
ever go is not a way of doing that. If he is
serious about promoting himself as a minis-
ter who looks after the environment then we
would be happy to congratulate him for do-
ing that, but it is certainly not possible to do
that in this case.

**Senator ROBERT RAY** (Victoria) (4.54
pm)—What a fine speech by the Leader of
the Democrats here today. I am a little cyni-
cal about censure motions, and I have ex-
pressed that cynicism before. I have seen
really good censure motions in this chamber,
with unimpeachable evidence, and then the
political vote comes in and the motion goes
down. On other occasions I have seen very
shaky cases mounted in this chamber and the
censure motion has carried. We have always
said that it is not really the end result of the
censure motion but the process that counts.
Anyone listening to Senator Campbell’s de-
fence of his actions today, both at question
time and in this censure motion debate, has
cause to worry. How could someone become
a minister in cabinet yet perform in this
chamber so incompetently and so abysmally?
It is really scary. It frightens me. I like to see
politicians be professional. It is not true that
we always like to see them humiliated. But
humiliated is what we have seen today.

When did all this begin? I can tell you
precisely when this issue began. It began the
day the Australian Electoral Commission
handed down the new and final boundaries
of McMillan that turned it from a 53 per cent
Labor seat to a 52 per cent Liberal seat. That
is the genesis of this decision: when it be-
came a marginal Liberal seat. If you want to
see how political this issue is, go back to the
grubby correspondence that Senator Camp-
bell had distributed in the electorate of
McMillan back in October last year. This is on a letterhead; this has got the coat of arms on it. Under that it says, ‘Senator the Hon. Ian Campbell, Minister for the Environment and Heritage’. It is then signed at the bottom, ‘Senator Ian Campbell, Minister for the Environment and Heritage’. We know this was not paid for by the Commonwealth, because if it had been he would be in breach of proper accounting and legal processes. This was paid for by the Liberal Party. This is a political letter, and as grubby a political letter as I have ever read. Let me just quote one part of it:

If Christian Zahra really cared about his community, about you, he would have protested the issue with his Victorian Labor mates. If he was serious about protecting the visual amenity of the region that elected him, he would have moved an amendment to the renewable energy legislation when it came before the parliament in 2002. If he really wanted to stop inappropriate wind developments he would be fighting Mark Latham on this issue instead of jockeying for a position on the front bench.

It was all about politics. It was never about the national interest and never about the right thing to do. It was all about politics—not surprising when you consider Senator Campbell’s background in Western Australian politics. He was in the Crichton-Browne machine and then denied them and set up his own operation in Western Australia.

Look at the actual decision making: Senator Campbell went through 450 days on this particular project. Others are decided in half a minute and flicked off. But what he did, very clearly, was not only to ignore his departmental advice, which is his right; but I bet he never confounded that advice. He simply argued for more and more reports until finally a sliver of hope arrived and he ticked it off to meet his political requirement.

I pointed out in question time today the analogy of the Wonthaggi decision about a wind farm 20 minutes drive away. I do drive pretty fast, but I think for anyone it is 20 minutes from Bald Hills. So it is not far away. In that decision that Dr David Kemp had to make, there were orange-bellied parrots sighted near the Wonthaggi site. But, when that minister granted approval to go ahead, no conditions whatsoever were put on. Compare that with Bald Hills, where they have never sighted an orange-bellied parrot and one will probably never go near it. So why the difference in decision making? Is it true that Dr Kemp was an incompetent environment minister not attuned to protecting endangered species? I have not always been a fan of Dr Kemp, but I tell you what: as he is the smarter brother of the two, I would always rate him well and truly ahead of the political Senator Ian Campbell. You could not get a clearer contrast in decision making than what occurred then.

This really begs the question: who in this country is really serious about alternative power sources? Coming from Victoria, I can tell you that the Victorian government has been very serious about them. The Victorian government is leading the way in Australia in terms of solar development. Some new and exciting projects are under way in Victoria that are cutting edge world wide. The Labor Party have led the way—and we do not apologise for it—in endorsing wind power. Senator Ian Campbell comes into this chamber and says, ‘If you vote Labor, you will get five wind farms for every two the Liberals will approve.’ That is right, and we are proud of it. We are proud of the fact that we support alternative power. We are also at the cutting edge of changing the technology from the use of brown coal in Victoria. By far the heaviest polluter Australia wide is brown coal electricity production. We are at the cutting edge of technology that could cut the output of pollutants by up to 40 per cent
in that particular area. The Victorian government has been serious about this.

This also raises the economic development issue. How often have we heard Senator Minchin come into this chamber and say, ‘Labor is anti-development. Labor does not support economic growth’? I will tell you what: we do not sell out a $220 million project just for a few political reasons—to prop up someone in a marginal seat because a minor sector of that seat may change their vote on it. That is real weak politics.

I heard Senator Ian Campbell say today, ‘Why did the company approach me to remit the decision, to think about it again? Surely that shows that the company thinks I am a fair person.’ Can’t you just imagine going in to see Senator Campbell and saying, ‘We want to withdraw from the court case,’ and the first thing that Senator Campbell says is: ‘We’ll pay your expenses’! What a ridiculous proposition to put to this chamber.

I was rather amazed at the editorial in the Australian on Monday. The Australian is hardly a red rag; it is not noted for its Labor leanings and it is not a closet socialist publication. I do not have time to read the entire editorial, but let me read the last paragraph. It says:

It adds up to a confused message from the federal Government when it comes to wind power and a shambolic regulatory environment that can only discourage investment in renewable energy. As a first measure towards restoring confidence in the federal Government’s policy on renewable energy technology, John Howard should sack Senator Campbell as Environment Minister.

Hear, hear! It continues:

In his mishandling of the Bald Hills affair, Senator Ian Campbell has shown not only that he is inept when it comes to decision making but that he is willing to allow political considerations to influence his ministerial judgment. After dealing with Senator Campbell, Mr Howard must appoint in his place a minister who is committed to upholding a transparent process for assessing the environmental impact of development projects—whatever their nature—with the best interests of all Australians in mind.

Come on down, Senator Colbeck! Time for you to move up! Time for you to become a minister! At least we would know that the national interest would be protected, not just the petty political interests of the Liberal Party.

If you want to have a look at this political theme today, I ask you: did Senator Ian Campbell try to address any of the serious questions put to him? No, he did not. He spent most of question time and most of his defence on the censure motion talking about Christian Zahra—a Labor member who has lost his seat. It is as though Senator Campbell is excused from any misbehaviour whatsoever if that Labor member had a particular view. There is a massive difference between the behaviour of backbenchers who are trying to protect their own political interests and the national interest. One of the first things you learn in politics is: always put the national interest first—not out of principle, although that would be good, but out of self-interest—because putting the national interest first is what protects a ministerial career.

A lot of us on this side of the chamber wondered why Senator Ian Campbell was a parliamentary secretary for six years. We wondered why so many others came off the back bench—like Senator Ellison and others who are more advanced in their political careers—ahead of Senator Campbell. Now we know. We now know that the Prime Minister was highly suspicious as to how well Senator Ian Campbell would perform as a minister. His insight was, for once, very accurate. We in this chamber have all known that Senator Ian Campbell is a person who is subject to temper tantrums, to immature political behaviour and to the absolute bottom end of puerile approaches to politics. We all hoped
that he would make the step up and that, having been given a ministry, he would actually mature and leave the political never-never land that he was in and that he would actually become a proper political and ministerial performer in this chamber. He has failed the test and he has failed it absolutely.

You have got to ask yourself: where is the pastoral care in the Liberal Party that allows this behaviour to occur? Where is the guidance and leadership that should be guiding this minister down a proper path? It does not appear to exist. Apparently, you are just thrown into the deep end and you either swim or drown. This is not really just Senator Ian Campbell’s responsibility; it is the responsibility of Senator Minchin and the Prime Minister to give him some guidance in order for him to perform properly.

What this issue is all about is a minister behaving like a third-rate ward heeler, totally ignoring advice from his own department, manufacturing advice and misinterpreting it for political purposes—and we have to put a stop to it. But I will make one last prediction: I will bet anyone in this chamber that Senator Ian Campbell reverses his decision in the next few weeks. It does not take much courage to say, ‘You heard it here first’. He will change this decision because, if he does not change this decision, he will change portfolio in very quick order. I have this advice for the Prime Minister: make him change the decision and then remove him from the portfolio. I am not sure which one he is capable of handling, but it is certainly not the environment. We need an environment minister who is committed to the national interest, who will be fair and reasonable and who will put the best interests of Australia and its biological diversity well ahead of his own political interests.

Senator SCULLION (Northern Territory) (5.08 pm)—I rise today to speak to a censure motion that effectively has asked that this chamber censure the Minister for the Environment and Heritage for his actions in blocking the Bald Hills wind farm on the basis of its first application. I would like to congratulate Senator Brandis because he has led not only this chamber but also the Australian people very carefully through a step-by-step process, which was very easy to understand—no conspiracy—about how this minister has stuck very closely to the process and has followed the requirements under the Environment Protection and Biodiversity Conservation Act to the letter.

In fact, if the minister has failed in any way, he probably failed to automatically place a project—the value of which we just heard from Senator Ray—worth $220 million ahead of environmental considerations. Yes, he probably failed to do that, but his job is to ensure that he finds the balance—not just some vague balance you can pull out of the air—that is prescribed under the Environment Protection and Biodiversity Conservation Act. What we heard from Senator Brandis in this chamber today is that the minister absolutely held to the letter of the law of the Environment Protection and Biodiversity and Conservation Act.

We have had people from the other side stand up and say, ‘We can quote people like Mr Early.’ What was he relying upon? That is right: he was relying upon the Victorian government’s material, which we have now exposed today to be, whilst voluminous, missing a couple of important points. I note Senator Ray’s criticism of the previous environment minister, Dr David Kemp. Perhaps the mistake that former minister David Kemp made was that he also relied on the Victorian government. In hindsight, perhaps he should not have relied on that information to make the decision on Wonthaggi—only 20 minutes away from Bald Hills. I am quite sure that, if that minister were here today and
heard about the disingenuous way that the Victorian government provided that information, he would think that he should have been more cautious about what weight he put on the Victorian information.

The Minister for the Environment and Heritage thought that there were obviously some bits missing in the report, so he said, ‘This is in relation to quite a specific context, but there is another context under which I need to be provided advice.’ It is quite clear under section 133, part VII, of the Environment Protection and Biodiversity Conservation Act that it is the minister’s responsibility to seek further information. That is what he did. He said, ‘We will commission something that specifically prescribes what the impact of these wind turbines will be on four particular species’—one of which was the orange-breasted parrot. He sought the very best information—the very latest, most scientific information—which was obviously far more comprehensive and specific than the information provided by the Victorian government. After he considered that very specific information—the very best available—he made a decision based on good science. I do not understand why those on the other side are somehow criticising our minister for using the very best, very latest information that was based on the best science.

Senator Forshaw—Rubbish!

Senator SCULLION—It is not rubbish, Senator Forshaw. It might be absolutely beyond your ken that a minister would put aside financial and development pressure and considerations and put aside making arbitrary decisions and actually make a decision based on science. That might not be the way you do business, but it is the way we do business on this side. That is why we consistently have the support of the Australian people on these matters.

This minister and this government have a long history of following the process and making sure we get it right. Senator Forshaw, I know you are interested in this matter. From your wide reading on these matters, you will no doubt understand that it is a very delicate balance that one has to find between the pressures of development and the need to provide good environmental protection. The government, under successive ministers, including Minister Campbell—have very carefully sought information to get this balance right.

For your benefit, Senator Forshaw, the way the Environment Protection and Biodiversity Conservation Act works is that we follow a series of steps. I will mention an example which is perhaps a little out of your jurisdiction—the dugong recovery plans. This was a process that was laid down very prescriptively. Under the Environment Protection and Biodiversity Conservation Act, an application needed to be made to continue a number of fisheries that interacted with the dugong. A specific amount of time was given. It was said, ‘Under the current circumstances, that sort of fishing will not be allowed to continue for a certain time until a specific recovery plan is implemented.’ That is how the Environment Protection and Biodiversity Conservation Act works—just for your benefit, Senator Forshaw. Of course, that is quite consistent with the decision that the minister has made today.

Senator McLucas—Why didn’t he bring in any conditions?

Senator SCULLION—At the moment, all he has to do is simply refuse it. We did not make up the conditions for the Queensland barramundi industry, Senator McLucas. You should be aware of that. They decided to make another application. That is exactly what happened. You have to under-
stand the process. I know it is difficult, but stick with us.

Senator McLucas, I know that another thing that you are very keen on in Queensland is the turtle recovery plan. Exactly the same process was used for that. The very best and most recent scientific information was used. Several of those steps took place. This is not something that is completely new. What we are talking about here today is exactly the same process that has been used consistently by this government, this minister and ministers before him.

Honourable senators interjecting—

Senator SCULLION—While people on the other side may make turtle and dugong jokes, I say that this is a very important issue, because these are iconic species that we are talking about. That is why we care about this. If these were house sparrows, we would not be bothered. That is why the Environment Protection and Biodiversity Conservation Act is there: to directly protect some of our iconic species. Another recovery plan that I would point you towards is the albatross recovery plan, which very clearly laid out the specific pieces of information required. There were no less than three applications from the seafood industry, because this government said, ‘You will not be able to continue to catch tuna unless you come up with an amelioration plan.’

What is happening now is that in exactly the same circumstances the proponents of the Bald Hills wind farm are being asked to come up with a mitigation plan. I understand that that mitigation plan is coming in the near future. Senator Ray made a huge prediction that we will change our mind on this. This is a process that identifies changes in behaviour. If you change your behaviour and mitigate the damage towards the orange-bellied parrot then the application will get the go-ahead. That is a process that has been consistently applied by this government over time. I will add here that I admire very much Senator Brandis’s use of the English language. He has coined a new phrase: ‘the Monty Python-esque burlesque from the other side’.

There are a lot of threats to this bird that have not been discussed in this place. You would think that the only threat to this bird was from the wind farm. People keep saying, ‘One in 1,000 years.’ Let me tell those on the other side that they can giggle and they can laugh but to be associated with such a disingenuous comment should bring shame on them. One in 1,000 years is, according to the survey, absolute rubbish. There has not been any evidence to show that that is the case. Senator Carr got up and said, ‘One parrot in 1,000 years.’ That is absolute rubbish.

Senator Brandis talked about some modelling that was done in the Biosis report. This is a very recent report. The reason that you have to apply the precautionary principle is that reports like these normally provide a whole range of circumstances. In this report, the range was from 0.87 of a parrot—which is probably not really a parrot but a parrot with a bit missing—in one set of circumstances, to about one parrot in the next set of circumstances, to 1.39 of a parrot.

Honourable senators—Is that an Alan Jones parrot?

Senator SCULLION—Negative. If you look at the science, the interesting part of this is that the variability is in the capacity for a parrot to avoid the strike. It is called ‘avoidance’. In this report, it was worked out that there will be 98 per cent avoidance. There are other behaviours of this parrot, however, that may alter that. The reason that it is so hard to know how many there are is that it may migrate at night. This report clearly indicates that that may well be a scenario and that any impacts at all on this parrot are go-
ing to be extremely deleterious to its continued survival.

If you look at the whole range of scientific impacts discussed in this report and apply the precautionary principle, if it migrates at night there will not be 98 per cent avoidance. I have not had the opportunity this afternoon to do the numbers on that, but one would think that the number of parrots—or half parrots—endangered would increase substantially. This continued use of the phrase ‘one in 1,000 years’ is disingenuous. I will quote the study:

Given that the Orange-bellied Parrot is predicted to have an extremely high probability of extinction in its current situation, almost any negative impact on the species could be sufficient to tip the balance against its continued existence. In this context it may be argued that any avoidable deleterious effect—even the very minor predicted impacts of turbine collisions—should be prevented.

Senator Carr went on to tell me that parrots are very hard to find. We got plenty of parrot jokes from Senator Carr. He said that they are particularly hard to find. He said that we have only seen one 40 kilometres from Bald Hills. It is not the information that he provides but the information that he leaves out that is important. I would have thought that he would have read the report. The reason they are so difficult to observe is very specifically laid out in the report. Not only are there very few birds in the extended population but there are only a very small number of ornithologists able to identify the bird. Further, the terrain along much of the west coast of Tasmania—its habitat—is very difficult, and access to that terrain is also very difficult. Also, often when it is seen in the open it is because it is flying across Bass Strait, and unless you happen to have the right sort of ornithologist on the boat at that moment it is obviously going to be pretty difficult to observe. Further, the size of its habitat along the coastline of Tasmania is extremely large. Again, I point out the fairly disingenuous arguments being made by the other side. They are trying to provide real scientific evidence and failing. It is absolute gammon; it has absolutely no scientific substance.

We make a lot of fun of the orange-bellied parrot but the Victorian government’s own website states that several proposals over recent years have been stopped due to the risk to the orange-bellied parrot. In fact, the Victorian government ranks the orange-bellied parrot among the rarest and most endangered of world wildlife, alongside the giant panda and the Siberian tiger. The precarious position of the orange-bellied parrot was recently recognised by the World Conservation Union, which has included the bird on its red list of critically endangered species. It is extremely endangered.

Senator Webber—That’s why you’ve got to have a management plan.

Senator SCULLION—Indeed, and thank you for the interjection. We are now still waiting for a management plan to arrive. When the minister considers it, it is a possibility—as Senator Ray so wonderfully predicted—that it may be approved, as is the case with every one of these processes. If it is not, we would encourage people to look at some other way of ameliorating the situation and to make another application. As I said, it took several applications for the albatross, the turtle and the dugong, and the amelioration processes regarding the orange-bellied parrot and the turbines may well involve a series of steps.

I wonder exactly what we are doing here. What is the notion behind having this censure motion? This is the big issue of the day for the Labor Party. I wondered what the big issue for the Labor Party would be today. It has been the orange-bellied parrot and wind
farms for the first two days we have been back after the recess. As I mentioned yesterday, I think there is probably a little bit more to this. The key should have been when Senator Carr—the love child of the Victorian government—stood up. This is just a cover-up of the complete hypocrisy of the Victorian government and its complete failure to deliver any environmental outcomes.

Wind energy, which we are talking about with the Bald Hills project, is actually being developed simply because this government, the Australian government, has provided the mandatory renewable energy targets program. That is why it is being developed in the first place. As was mentioned earlier, the Bald Hills wind farm would actually have only mitigated about 175,000 tonnes of carbon every year. Talking about the benefits of wind farms, Senator Carr stood in this place and thumped his chest and said, ‘What a great job the Labor government is doing in Victoria.’ That is what this is about, isn’t it? It is about talking up the wind farms. Only a cynic like me would think about the Victorian government’s very recent decision to extend the life of the Hazelwood coal fired power station, which is going to see another 445 million tonnes of carbon going into the atmosphere. That has nothing to do with this debate at all—nothing at all! If you want to talk about a conspiracy, I think this is just trying to divert the public’s attention from the complete inadequacy of Victoria’s Labor government to provide a single environmental outcome in this matter.

The renewable energy target will put another 400 turbines into the Gippsland area and yet the net benefit will be only 27 million tonnes of greenhouse gases. Today’s sham of a censure motion is an absolutely pathetic attempt by Senator Carr to assist the Victorian government in diverting the public attention away from its abysmal record on both climate control and environmental protection. Instead of censuring the minister, we should congratulate him for holding to the process, for making sure that he was not influenced by development and for ensuring that we continue to deliver consistent outcomes and continue to protect our environment.

Senator BARTLETT (Queensland) (5.25 pm)—I want to speak to a few of the issues that are perhaps being lost in the flames being thrown backwards and forwards in this debate. We have before us a censure motion against the Minister for the Environment and Heritage with regard to a decision he made about a wind farm in Victoria. I have of course been quite critical of Minister Ian Campbell a number of times publicly, as he and anyone else who bothered to listen would know. I think he has acted in various ways across his portfolio somewhat erratic-ally, inconsistently and in a contradictory fashion. But that in itself is not grounds for censure.

There are a few mixed messages here that I want to take the opportunity to correct, particularly with regard to the nature of the EPBC Act. That act was actually opposed by the Labor Party and the Greens, and indeed we heard Senator Milne saying that the Greens’ view is that the EPBC Act should be repealed. Of course, the Greens opposed it in the first place. The simple fact is that if they had been successful in that position—and the Democrats had followed their line and not supported the heavily amended EPBC Act—then we would not be having this debate, because the federal minister would not have the power to do anything with regard to endangered species. So I think it is completely the wrong tack to attack the EPBC Act. Nobody, least of all the Democrats, has ever suggested it is perfect, but it certainly provides a mechanism for review of projects and proposals to see whether or not they impact...
on key national matters of environmental significance, including endangered species.

Another key part of that act, which did not exist previously, is the scope for third party rights, for other people to have standing. Again, we would not be having this debate if it were not for the strengthened federal environment laws, because it would not have been possible to take court action against the minister’s original decision. Court action is not ideal—it is very expensive—but the fact that people have the right to challenge a decision by the minister in this area is very important and it is a key protection that the Democrats put in.

Using this example to attack the EPBC Act is, frankly, misguided—unless it is just a deliberate attempt to run a political agenda. But it is a bit strange that we have the Greens saying the EPBC Act should be repealed. According to what Senator Milne said yesterday, it always depends entirely on the whim of the minister whether he is going to apply the act appropriately or otherwise. Well, this case proves that that is wrong, because there was the opportunity for court action to be taken to generate a situation where the minister agreed to review his decision, and his decision was set aside by mutual agreement through the court. It is particularly strange because, at this very moment, as Senator Milne herself knows and indeed alluded to, her Tasmanian colleague Senator Bob Brown is running an extremely comprehensive court case in Tasmania using the EPBC Act to try and protect some endangered species. It baffles me how this act can be completely hopeless, terrible, useless, appalling and should be repealed, and yet it is being used to attempt to protect endangered species.

I support Senator Brown’s court action, as does the Wilderness Society. They are on the record as saying that it is an important test case, that if it succeeds it will have very positive effects for the future of biodiversity and native forests throughout Australia. I do not know if it will succeed. It is attacking a particular component of the act. All I will say is that it is certainly not a sure thing but I hope it does succeed. If it does then we will have one Green Tasmanian senator using this act to make, according to their own words and those of the Wilderness Society, a major advance in protecting biodiversity and threatened species in forests around Australia, and we will have the other Tasmanian Green saying that the act should be abolished.

I think people need to move forward from their politically driven and politically motivated opposition to the EPBC Act from 1999. I will again use Senator Milne’s own statistics, which came from the Australia Institute report. I know that report, and I know the author quite well and broadly agree with his conclusions. The government has not been using the EPBC Act enough and it has not been using it strongly enough. Nonetheless, there were 1,913 proposals, according to the figures Senator Milne gave, and 462 of them were controlled actions. That is over 450 more actions and proposals than were previously overseen or intervened in by the federal minister. Out of a number of those controlled actions, many were approved, but many of them were approved with extra conditions.

I think Senator Scullion outlined the process of going through this approval mechanism using controlled actions, negotiating and assessing the potential impacts under matters of national environmental significance and how, even if the proposal still goes ahead, that can and has led to very significant pluses in environmental outcomes. Certainly, where conditions have been applied as a result of that process, that has also meant in some cases significant environmental out-
comes. So, the very statistics that are being used to say the act is useless actually reinforce the fact that it has had some positive results.

I do not for a minute say that it is perfect, as I said. I certainly think it needs to be used far more often and far more strongly. But the simple fact is that it is an extra mechanism that would not otherwise exist at all and which would allow a lot of these actions at state government level to go ahead and be put through without any decent assessment at all. It is a completely wrongheaded approach and it is not helpful in the context of this debate. Indeed, one could suggest it is somewhat ironic that people are complaining about how the minister does not use his powers to stop inappropriate developments and the one time he does use them he gets hauled over the coals for it.

There is no doubt, in my mind anyway, that there is a lot of politics involved in this—obviously from all sides but particularly in the decision that the minister came to—but the key thing, when you are looking at law, of course, is whether or not under law his actions are able to be justified. If they are not—if he did just pluck it out of the air with no justification, purely for political motivation—then of course there are grounds for a legal challenge, and that is what the proponents of the wind farm did. By agreement, the original decision has been set aside and there will now be further examination of it. All of that has actually shown a situation where the act has worked. I agree that the minister has certainly taken way too long in coming to a decision. That is certainly the case, and that is clearly problematic.

There was advice from the environment department about non-approval potentially having implications for coastal development. I am on record in this place a number of times calling on the minister to use the act more frequently with regard to coastal development. Certainly, in my own state of Queensland, we need better protection, and we need the environment minister intervening more to stop some of the coastal development, because communities and environments are being decimated. There are lots of places up on the Queensland coast—I have spoken about Mission Beach and Airlie Beach and other areas before in this place—where this not just massively impacts on communities but also causes real damage to threatened species and icon species, like the cassowary, and causes fragmentation of habitat. I want the minister to use his powers to stop coastal development more often—obviously, on a scientific basis. I do not want him to do so capriciously, but I think there is clearly a death of a thousand cuts happening with a lot of coastal developments, many of which are being referred as controlled actions under the federal act but which are nonetheless still going ahead. I think the cumulative impacts of all of those do need to be more strongly assessed.

Senator Milne also called on the minister to make the same decision on the spotted handfish with regard to a development in Tasmania. Again, I concur with her on that. The trouble is that she is attacking his decision on the orange-bellied parrot, which makes for a bit of an anomaly. She opposes the EPBC Act and wants to abolish it. If it were not there, if it had not been passed by the Democrats in 1999, there would be no power for the federal minister to do anything about the spotted handfish, whether he wanted to or not. So I do think it is important to clarify some of those inconsistencies. The situation now is that the decision is being reviewed by the minister and will be remade. Obviously, people will be watching that closely. I do not think that anyone could possibly suggest that a decision in this context is
not going to be political, because it has political ramifications one way or the other.

People use ‘political’ in this context as a dirty word. That is understandable, but the word ‘politics’ has a lot of different meanings. There is another meaning to it, which is paying attention to community views. As I have also said in this place a number of times, at the moment the Queensland government is planning to build a couple of—and one in particular—extremely destructive dams. The local community is very strongly opposed to this, as am I. It will clearly have heavy environmental impacts as well as social impacts, and it is economically stupid—not that you can appeal about that under the environment law. I think in these circumstances we need to have the safety net of the federal environment act that can ensure a minister moves in.

Of course, the act is not perfect and, of course, we will always be in a situation where the minister has some discretion. But, frankly, the minister has to exercise his discretion according to law. That always leaves a lot of leeway, but it is not a total blank cheque. There is a loophole in the act with which he can just exempt himself from it, as happened with Christmas Island, and that is unsatisfactory. But the minister does not have open slather under the act. He has to make his decisions according to the law, and if somebody believes he does not then, if they have standing, they can challenge them. I suggest that that situation is as it should be.

The attempts to link the minister’s less than perfect actions on this particular issue to the flaws in the EPBC Act are wrong and, frankly, unhelpful. We do need to strengthen that act. We do need to strengthen the actions of the minister under that act. But simply discrediting the act and discrediting the times when the minister does use his powers will not be particularly helpful. I should also emphasise that the statement made that the act has proved to be useless is simply not correct. It may have proved to be useless in terms of what people want to do in Tasmania—I do not know—but it has certainly proven on a couple of occasions to be very powerful in situations in Queensland.

An example is a decision made by the former environment minister in regard to another dam, the Nathan Dam, in which, because of the EPBC Act—and it would not have been able to happen otherwise—people were able to take that action to court to challenge it, and the action was successful. Because of that, it was made clear that under law, contrary to what has been said in this debate by some on this side of the chamber, the minister is required to consider the cumulative impacts of any proposal including, of course, the Nathan Dam. That principle was not challenged by the government, not appealed, so it now applies at law with regard to any other proposal, including the new dams that are being planned in Queensland. So the act has demonstrated significant benefit already. That is not to say that the Nathan Dam will not go ahead eventually, but it has certainly been held up for two or three years. It is a dam that both major parties supported. I did not. I hope it does not end up going ahead, but it is one case in which the act has proven to be very useful.

Another case is with regard to spectacled flying foxes in North Queensland, where a court challenge under the act was able to have direct positive consequences for the prevention of the slaughtering of that particular endangered species. More court actions have continued subsequently with regard to that. The third party rights of standing provisions in the federal act were forerunners that were key to ensuring that similar provisions are now in place under Queensland’s Nature Conservation Act, which have now been successfully used once again to try
and protect continued threats to the spectacled flying fox by orchardists in that area. I do think those aspects of the debate need to be put in place and put on the record. There have clearly been politics with regard to this decision, and that is perhaps not surprising because we are all politicians. Certainly, it took a lot longer than is desirable.

As to the issue of industry certainty, I am certainly a strong supporter of the wind industry, but I actually do not want industry certainty for coastal developments, for tourism resorts or for canal estates. I want them to know that they might not have success, I want them to think twice and three times before they go ahead with proposals and I want those proposals to be thoroughly examined by the strongest environmental mechanisms. We still need to strengthen this federal law, but it is a lot stronger than what was there before. That is directly a result of the Democrats strongly improving the EPBC Act in 1999 and not caving in to the, frankly, hysterical crusade launched against those who supported the legislation at the time which, judging from some of the comments made in the last day or so, is still continuing today. The minister’s decision, as I said, has aspects that are problematic. Whether or not it undermined the administration of the act and he abused his powers is a rather more open question than what many others in this debate have suggested.

Question put:

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

The Senate divided. [5.46 pm]
(The President—Senator the Hon. Paul Calvert)

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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 15 citizens).

by Senator McLucas (from 59 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 Senator Hogg (from 1,400 citizens).

Petitions received.

NOTICES
Presentation
Senator Allison to move on the next day of sitting:
That the Senate—
(a) notes that:
(i) record high prices of petrol in Australia are likely to increase due to recent wars in the Middle East, a diminishing number of significant oil reserves being discovered in the past decade and world-wide demand that is expected to exceed production sometime between 2010 and 2025,
(ii) Australian oil production has diminished and currently around 65 per cent of all oil consumed is imported, and
(iii) oil used in transport produces 17 per cent of Australia’s greenhouse gas emissions;
(b) notes also that:
(i) oil companies are still reluctant to market biofuels and are unlikely to meet their Biofuels Action Plans targets for uptake in the 2006-07 financial year, and
(ii) the Government has consistently undermined alternative fuels, imposing excise commencing in 2012, cutting excise on diesel, forcing onerous testing on small biodiesel producers and providing billions of dollars to the auto industry without leveraging fuel efficiency or alternative fuel conversions; and
(c) urges the Government to:
(i) release the report of its June 2006 review of the Biofuels Action Plan,
(ii) keep excise off alternative fuels,
(iii) mandate a proportion of petrol and diesel to be blended with at least 10 per cent biofuel,
(iv) fund compressed natural gas refuelling stations,
(v) provide incentives to motorists and auto manufacturers to take up alternative fuel and fuel efficient vehicles, and
(vi) invest in better public transport, bike and walk ways and freight rail.

Senator Carr to move on the next day of sitting:
That the Senate—
(a) condemns the Howard Government for its failure to address the widely acknowledge
affordability crisis in Australia’s rental and home ownership markets; and
(b) calls on the Howard Government to show leadership on this critical issue by working with state, territory and local governments, industry, business and the not-for-profit sector to develop a national housing strategy.

Senator Ludwig to move on the next day of sitting:
That the following matter be referred to the Legal and Constitutional References Committee for inquiry and report:
Temporary Business Long Stay (subclass 457) visas, with particular reference to:
(a) the general efficiency and effectiveness of the visa;
(b) the safeguards in place to ensure the integrity of the system;
(c) the Government’s performance as administrator of the visa system;
(d) the role of domestic and international labour hire firms and agreements;
(e) the potential for displacement of Australian workers;
(f) the difference between the pay and conditions of visa holders and the relevant rates in the Australian labour market;
(g) the Government’s labour market testing required before visa approval;
(h) the Government’s requirements of Regional Certifying Bodies for visa certification;
(i) the interaction of this visa with the Work Choices legislation; and
(j) any other related matter.

Senator Ellison to move on the next day of sitting:
That the following operate as a temporary order until 30 June 2007:
If a division is called for on Thursday after 4.30 pm, the matter before the Senate shall be adjourned until the next day of sitting at a time fixed by the Senate.

Senator Milne to move on the next day of sitting:
That the Senate—
(a) recognises that the global price of oil is likely to continue to rise because of dwindling global supply, ongoing demand including from the rapidly growing economies of China and India, limited and inflexible refining capacity, interrupted supply because of climate change related storms and infrastructure damage in addition to geo-political factors;
(b) endorses the development of a national strategy to reduce Australia’s dependence on oil; and
(c) calls on the Government to:
(i) establish a Council of Australian Governments process to begin redesigning Australian cities with a view to investing in public transport to reduce car dependence,
(ii) introduce mandatory vehicle fuel efficiency standards for all new motor vehicles, and
(iii) invest in the development of alternative fuels.

Senator Bob Brown to move on the next day of sitting:
That the Senate calls for an immediate ceasefire in Lebanon.

Senator Bob Brown to move on Tuesday, 15 August 2006:
That clause 2.2 of Determination 2006/11: Remuneration and Allowances for Holders of Public Office and Members of Parliament, made pursuant to subsections 5(2A), 7(1), 7(3), 7(3D) and 7(4) of the Remuneration Tribunal Act 1973, be disapproved.

COMMITTEES
Selection of Bills Committee
Report
Senator FERRIS (South Australia) (5.51 pm)—I present the seventh report of 2006 of the Selection of Bills Committee and move:
That the report be adopted.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (5.51 pm)—I move:

At the end of the motion, add:

“and, in respect of the Australian Capital Territory (Self-Government) Amendment (Disallowance Power of the Commonwealth) Bill 2006, the bill be referred to the Legal and Constitutional Legislation Committee for inquiry and report by 10 October 2006.”

Acting Deputy President Crossin, you will see that the committee did look at this referral but was unable to make a decision. The bill that is the subject of this amendment is a very important one. In effect, it takes away the authority of the legislature. Currently, the Howard government, in counsel, can override laws made by the elected government of the Australian Capital Territory. The bill would, of course, leave that power available to the Commonwealth parliament. It is an important piece of legislation and it ought to be before the Senate Legal and Constitutional Legislation Committee. It ought to be there, amongst other reasons, for there to be public input before the Senate considers the bill.

It is a very important case. Here is a piece of legislation which ought to and must have public input. It is a constitutional matter. It involves the balance of powers between the elected government of the Australian Capital Territory and the elected government of the Commonwealth of Australia. The contention in the legislation brought forward by the Greens is that only the parliament should override the Australian Capital Territory when its legislature makes laws—that that should not be a power held by the government of the day, the cabinet of the day, the Prime Minister of the day, the minister of the day; it should be a matter for parliament. It is a very serious matter when the Commonwealth government moves to override legislation which has been duly passed by another elected parliament in Australia. It should not be something left to just the government; it should be something that has to come before both houses of this parliament.

The committee ought to have made the decision to put this legislation before a proper committee for inquiry. You will remember that, quite recently, the Commonwealth moved to override the legislature on the business of same-sex unions and the laws that the ACT brought forward. There have been a number of other episodes where that has happened. On that occasion, it came before the parliament—it must come before the parliament—and we should make it clear that it can be only the parliament of Australia that can take such a serious move. I do not know what debate took place in the committee and I do not know what the vote in that committee was, but, quite properly, this matter is now before the whole of the Senate. I think it is a pure and good process, an essential process, that this Senate votes in a situation where a committee have been unable to make up their minds on a matter.

I am proposing, of course, that the government, the opposition and the other parties should join the Greens to ensure that this important legislation goes before the Senate Legal and Constitutional Legislation Committee for consideration. We are not making a judgement on the legislation, as you will understand, Acting Deputy President; we are simply saying: ‘Let’s have this legislation put before a committee for due consideration and to report back to the Senate. Let the people of the ACT and, indeed, the people of the Commonwealth of this great country of ours exercise their right to have a say. Let us be informed before we consider this piece of legislation.’ It is my intention to ensure that the legislation is considered before the end of this year. I appeal to the opposition and the
government to support this amendment so that the committee can look at the bill.

Senator LUDWIG (Queensland) (5.57 pm)—From Labor’s perspective, I say at the outset that we make no comment with respect to the content of the bill itself. That is a matter for Senator Brown. But, in terms of the process, we do support that the matter should be referred to a committee. Clearly, before this government took control of the Senate, these matters would have been, by agreement, referred to a committee for examination, but, since this government has gained the majority, it is now exercising—arrogantly, may I say—its authority to deny references to committees. Even with respect to this matter, Labor would have liked the opportunity to hear from the various interested parties and allow them to participate in the committee process.

As to the final outcome of a committee, sometimes we do not know where they might go. That is the purpose of a committee: to actually hold an inquiry and allow public input. But this government does not want public input into committees. This government does not want references to committees. In fact, this government not only denies references to committees—and it has a record in the last 12 months of denying more references than it allowed—but also has a record of foreshortening committee inquiries to ensure that proper scrutiny cannot be had.

This government needs to be held to account. Regarding the committee process, it should have agreed to allow this matter to go to the committee for examination and report, but the government is now exercising its might rather than its right and says no. There are other references that will come forward. Labor will bring forward other references either this week or next week, and again this government, I suspect, will take the same view and deny the Senate the ability to inquire into matters of importance—matters that should be looked into. Senators have a right to be able to bring forward reasonable references. This is not a reference in respect of a wide-ranging matter; it is a reference in relation to a private member’s bill. We have had references before that allowed committees to examine private member’s bills in this way. I am waiting for a response from the government as to why it has denied this reference in this way.

Senator BARTLETT (Queensland) (6.00 pm)—I am waiting for a response as well. The Democrats support this reference, not because we do or do not support the legislation but because we operate on the principle that, frankly, if any senator wants to refer legislation to a committee then, unless there is an extremely good reason not to, they should be able to. My understanding, going back quite a long way now, is that that has been the general convention. If there is a clear reason, like it has already been referred once before or it has already been passed through the chamber, then you do not refer it, but otherwise you do. I should emphasise that this is one of those practices which is very important, because it is a mechanism that ensures that the whole place does not become just a number-crunching tyranny of the majority. It is one of those circumstances where an individual can make a request. I am sure it has just been at the request of an individual senator that we have in the past sent legislation to a committee, including, sometimes, private senator’s bills.

To start putting in place a practice of refusing reasonable requests for legislation to be referred to a committee is, firstly, quite a dangerous precedent, in my view, and, secondly, yet another mechanism, and another example, of the Senate being slowly strangled. If any alternative views, any variances of opinion or, frankly, any different ideas are put forward that do not come from the gov-
ernment side, they are just dismissed as being of no significance at all. I think that is a very dangerous practice and it is a very dangerous direction that we are going in. Of course this is not the first example of it. It is just the latest example in what is becoming a very long list of treating the Senate with contempt, treating senators with contempt and treating anybody out in the wider community who is not part of the government with contempt.

It is also an unfortunate precedent. Of course, politics being politics—and I for one would love it to change dramatically in some of its fundamental aspects, but I do not hold out a lot of hope that that is going to happen quickly—the day will come when the current mob will not be in government and the other mob will be, and they will point to things like this and say, ‘You’ve done it; it’s now established practice,’ and everything moves one little notch lower. That is what we are doing here on a whole range of things: we are moving democracy down one little notch each time. Each notch lower that things are moved to, the harder it is to get them back up again and the more difficult things are to reverse. This is another example of that, and I think it is a very unfortunate example—and completely unnecessary.

What possible damage and harm could it do to the government to allow this sort of issue to be examined? We are supposed to be rethinking Federation at the moment. We are supposed to be rethinking the whole power structure between the states and the federal government. The powers and the role of the Australian Capital Territory and how it relates to the federal government are also important issues. Let us start looking at these things. Just because the bill itself is not going to pass does not mean that it is futile to examine the issues it raises. All these things contribute to the public debate—or they would, except for the actions of the government, which are basically to try and minimise public debate through the parliamentary arena, unless it is an area that they control.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (6.03 pm)—I think enough of the Senate’s time has been wasted this afternoon by the spurious censure motion against the Minister for the Environment and Heritage, so allow me to be brief but also to inject some reality and fact, as opposed to the hyperbole we have just heard. The simple fact is that the Australian people, in voting for the Constitution, clothed the Commonwealth with a power to make laws in relation to the territories. I invite honourable senators to check out section 122 of the Constitution. Following on from that, the Australian Capital Territory (Self-Government) Act 1988, the self-government act, entrenches the Commonwealth’s constitutional power to disallow ACT law through the Governor-General.

I might just ask, rhetorically: who was in power in 1988? I think it was Labor legislation. The Labor Party itself thought it appropriate that laws made by the ACT should be disallowable through the Governor-General. We have the situation once again where the Labor Party—for opposition’s sake; I do not know why—is willing to do a backflip on its previous principles and is willing to engage in what would be quite a fatuous discussion and investigation. The self-government act provides a simpler method of removing a law than the method suggested by the Greens which would require the making of other laws to override an unacceptable law. What currently exists is that the—

Senator Ludwig—You’re talking to the content.

Senator ABETZ—Senator Ludwig, I listened to your contribution in silence. I would invite you to listen to mine in silence as well. The simple fact is that the parliament still
has a say in relation to these matters by virtue of a disallowance motion. So if the parliament is of the view that the decision of the Governor-General, in overriding an ACT law, happens to be wrong in principle, or whatever, it is open to any senator to move a motion of disallowance and have it debated in the Senate. Indeed, that is what excited the interest of the Australian Greens with regard to the civil unions legislation in the ACT. We actually debated it in the Senate, and as representatives of the Australian people we said, ‘We happen to agree with the government’s decision in overriding that legislation.’ The parliament and every single senator in this place got a vote on that very issue.

So let us not have any nonsense or this hyperbole that somehow we are denying the democratic rights of this parliament to have a say and a vote. The structure that is in place, starting with section 122 of the Constitution, which the Australian people voted for, gives us the power. Then there is the legislation that was passed here about 20 years ago under a Labor government. It has been fully accepted until now, when we happen to have debated it and dealt with it in relation to civil unions. It has excited the attention of the Greens and others. We are of the view that there is an appropriate mechanism here and that further consideration of Senator Brown’s amendment is simply not warranted. It is a question of priorities. What should the Senate be spending its time on? What should the Senate committees be spending their time on? Senator Brown is undoubtedly looking to develop a mechanism whereby the overriding of the ACT civil unions legislation can somehow be undone. We as a government are very firm in our view and stance on marriage and our position is clear. The great thing about Australian democracy is that people will be able to cast a vote on these matters at the next election.

Question put:

That the amendment (Senator Bob Brown’s) be agreed to.

The Senate divided. [6.13 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes……….. 33
Noes……….. 37
Majority……… 4

AYES

Allison, L.F.  
Bishop, T.M.  
Brown, C.L.  
Carr, K.J.  
Crossin, P.M.  
Hurley, A.  
Kirk, L.  
Lundy, K.A.  
McEwen, A.  
Milne, C.  
Murray, A.J.M.  
O’Brien, K.W.K.  
Ray, R.F.  
Siewert, R.  
Sterle, G.  
Webber, R.  
Wortley, D.

NOES

Abetz, E.  
Barnett, G.  
Boswell, R.L.D.  
Calvert, P.H.  
Chapman, H.G.P.  
Eggleston, A.  
Ferguson, A.B.  
Fielding, S.  
Heffernan, W.  
Johnston, D.  
Kemp, C.R.  
Macdonald, I.  
Mason, B.J.  
Nash, F.  
Patterson, K.C.  
Ronaldson, M.  
Scullion, N.G.  
Trood, R.  
Watson, J.O.W.
The committee deferred consideration of the following bills to its next meeting:

- International Tax Agreements Amendment Bill (No. 1) 2006
- Tax Laws Amendment (2006 Measures No. 4) Bill 2006

Jeannie Ferris
Chair
9 August 2006

Appendix 2
Proposal to refer a bill to a committee
Name of bill(s):
Australian Capital Territory (Self-Government) Amendment (Disallowance Power of the Commonwealth) Bill 2006

Possible reporting date(s): 17 October 2006
Reasons for referral/principal issues for consideration
Examination of the bill as necessary.
Possible submissions or evidence from:
ACT Government, Opposition, Greens; Northern Territory Government, Opposition; members of the ACT community.
Committee to which bill is referred:
Legal and Constitutional Legislation Committee
Possible hearing date:
Possible reporting date(s): 10 October 2006

NOTICES
Postponement
The following item of business was postponed:
General business notice of motion no. 468 standing in the name of the Leader of the Australian Greens (Senator Bob Brown) for today, relating to the Tarkine wilderness World Heritage values, postponed till 10 August 2006.

FOOTBALL IN AUSTRALIA
Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.17 pm)—At the request of the Minister for the Arts and Sport, Senator Kemp, and Senator Lundy, I move:
That the Senate—
(a) congratulates the Australian Socceroos on their historic performance at the 2006 World Cup in Germany;
(b) also congratulates the outstanding results achieved by the Matildas recently on their qualification for the 2007 World Cup in China;
(c) congratulates the Football Federation of Australia for undertaking a comprehensive reform agenda in the sport of football, including the implementation of the recommendations of the Crawford report;
(d) acknowledges the important contribution of the Australian Sports Commission to the reform program and supports its development of young football players, particularly through the Australian Institute of Sport football program; and
(e) notes the commitment held by many Australians to football and supports the Commonwealth in its endeavours to support football in Australia.
Question agreed to.

AUSTRALIAN BOOK INDUSTRY AWARDS
Senator BARTLETT (Queensland) (6.17 pm)—At the request of Senator Allison, I move:
That the Senate—
(a) notes that:
(i) The Secret River by author Ms Kate Grenville, has been awarded the Australian Literary Fiction Book of the Year 2006 and overall Australian Book of the Year 2006 in the Australian Book Industry Awards and the Commonwealth Writers Prize; and
(ii) Far From a Still Life: Margaret Olley by author Ms Meg Stewart, has been awarded Australian Biography of the Year 2006; and
(b) congratulates Ms Grenville and Ms Stewart for their outstanding contributions to Australian literature.
Question agreed to.

DEATH PENALTY
Senator STOTT DESPOJA (South Australia) (6.17 pm)—I, and also on behalf of Senators Humphries, Nettle and Payne, move:
That the Senate—
(a) notes that:
(i) 11 July 2006 was the 15th anniversary of the entry into force of the United Nations’ Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty.
(ii) 57 countries have signed and ratified the Second Optional Protocol, including Australia, and
(iii) while Australia has ratified the Second Optional Protocol, this Parliament has not yet adopted the Protocol into domestic law;

(b) reaffirms its opposition to capital punishment; and

(c) on a bipartisan level, calls for the Australian Government, the Federal Parliament and the parliaments of the states and territories to work together to adopt the Second Optional Protocol into domestic law with binding force over the Commonwealth, the states and the territories.

Question agreed to.

COMMITTEES
Treaties Committee
Reference
Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.18 pm)—I move:
That the following matter be referred to the Joint Standing Committee on Treaties for inquiry and report by 15 August 2006:

The proposed security treaty or pact with Indonesia, with particular reference to:

(a) the long-term defence and security implications for Australia;

(b) the rights of West Papuans;

(c) Australia’s international treaty obligations; and

(d) any related matters.

Question put:
The Senate divided. [6.23 pm]
(The President—Senator the Hon. Paul Calvert)

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Question negatived.

MIDDLE EAST

Senator NETTLE (New South Wales) (6.26 pm)—I ask that general business notice of motion No. 478 standing in my name, calling for an immediate ceasefire in Lebanon and Israel, be taken as a formal motion.

Senator GEORGE CAMPBELL (New South Wales) (6.26 pm)—by leave—Labor cannot support the proposed notice of motion in its current form. Labor would like to place on the record its objection to dealing with complex international relations matters, such as the one we have before us, by means of
formal motions. Such motions are blunt instruments. They force parties into a black-and-white choice: support or oppose. They do not lend themselves to the nuances which are so necessary in this area of policy. Furthermore, they are too easily misinterpreted by some audiences as statements of policy by the national government. Labor is happy to work with the minor parties on notices of motion of this nature, but we will not be pressured into supporting notices of motion in the Senate unless we are completely satisfied with their content.

Labor is deeply concerned about the situation in Lebanon and appalled by the humanitarian impact of the conflict. For that reason, Labor is not prepared to reduce this most serious matter of war and peace and life and death to the level of petty political point-scoring, as those who have proposed this motion clearly intend. The problems in the Middle East are not something that can be reduced to a simple one-line motion. The opposition supports an immediate ceasefire which involves the cessation of Hezbollah and Hamas rocket attacks against Israel, the return of captured Israeli soldiers and Israel ceasing hostility. This should be followed immediately by viable and verifiable measures to disband and disarm Hezbollah, consistent with Security Council resolutions 1559 and 1680.

The government’s position on a ceasefire in Lebanon is simply not good enough. Foreign Minister Downer has said that a ceasefire would not achieve anything. It is hard to fathom what the minister was thinking; how can he seriously contend that a halt to the killing of innocent civilians would not achieve anything? Labor strongly calls on the government to reconsider their position on a ceasefire. Labor has clearly placed on the record its belief that it is acceptable for any state, including Israel, to engage in military attacks against non-military targets, be they civilian or economic. Labor supports a proposal for the introduction of a UN peacekeeping force or a multinational force to stabilise southern Lebanon and to give effect to UN Security Council resolution 1559.

Labor also remains gravely concerned about the safety of several hundred Australian citizens in south Lebanon, particularly those in the village of Aitaroun. Labor has called for the establishment of humanitarian corridors to enable Australians trapped in south Lebanon, and other innocent civilians trapped by the fighting, to have safe passage out of the conflict area. Labor has repeatedly called for immediate humanitarian assistance to Lebanon, in excess of the government’s allocation of $5 million, to help provide food, water and medical assistance to the hundreds of thousands of Lebanese citizens who are in need.

Clearly, there is now a need for urgent international diplomatic intervention. Labor strongly supports the negotiation of a just, enduring and comprehensive peace settlement in the Middle East. To this end, Labor supports the right to self-determination for the Palestinian people, including their right to their own independent state. Labor also recognises the right of Israel to exist in peace and security within secure and acknowledged borders.

Senator NETTLE (New South Wales) (6.30 pm)—I seek leave to make a statement.

The PRESIDENT—Leave is not granted.

Senator NETTLE—Really? Who denied leave?

The PRESIDENT—Two senators on my right.

Senator Ferris—you didn’t talk to us about it.
Senator Nettle—We did not know that the Labor Party were doing that.

The President—The question is—

Senator Nettle—I have not moved the motion yet.

The President—You have to move the motion now.

Senator Nettle—I move:

That general business notice of motion no. 478 be postponed till the next day of sitting.

What I am going to do is seek leave to postpone this motion, and I shall say why—that is, I am really genuine about making sure that we get a motion here which reflects the view of the Senate on the situation in Lebanon and in Israel. I am totally committed to working on a motion that we can all support, because this is about the Senate wanting to make a statement about the loss of life that is occurring. I have tried to make the motion really simple so that it could be supported, but if the Labor Party have additional things they would like to put into it, I am always open to discussion and more than happy to do that. So I will postpone this motion in order that we can have that discussion and have a statement from the Senate about the loss of life that is occurring.

The President—Are you seeking leave to postpone the motion?

Senator Nettle—That is right.

Question agreed to.

ASYLUM SEEKERS

Senator Nettle (New South Wales) (6.32 pm)—I move:

That the Senate—

(a) notes that the report by the Edmund Rice Centre into returned Afghan asylum seekers found that:

(i) as many as nine men returned from Nauru may have been killed, and three children of people sent back from Nauru are confirmed as killed, and

(ii) that many asylum seekers who were told by officials of the Department of Immigration and Multicultural Affairs that Afghanistan was safe, have faced renewed persecution and the dangers of on-going war upon return and that many of these people have been forced to flee again; and

(b) calls on the Government to:

(i) stop attacking the authors of the report, and

(ii) investigate the claims made in the report.

Question put.

The Senate divided. [6.36 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes………. 33

Noes………. 36

Majority……. 3

AYES


NOES

That the Senate notes that:

(a) on 7 August 2006, Australian David Hicks commemorated his 31st birthday, his fifth in detention at Guantanamo Bay, where he has been held for four and a half years;

(b) the United States Supreme Court ruling in Hamden v Rumsfeld held that military commissions are ‘[i]nconsistent with the Constitution and laws of the United States’ and thus ‘illegal’;

(c) in March 2006 the World Organization for Human Rights USA submitted a report to the United Nations Human Rights Committee, Torture, Arbitrary Detention, and other Major Human Rights Abuses by the United States: US Non-Compliance with the International Covenant on Civil and Political Rights (ICCPR) in the Context of the ‘War on Terror’;

(d) this report highlights how the Government of the United States of America (US) has deliberately and systematically disregarded domestic American and international laws regarding human rights and civil liberties as the report makes the case that the US Government is in clear violation of the ICCPR, one of the fundamental protections against government-instigated oppression; and

(e) the findings of this report suggest that the US Government is intentionally worsening the situation of the remaining Guantanamo detainees, including Mr Hicks.

Question put:

The Senate divided. [6.40 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes………

33

Noes………

36

Majority………

3

AYES

Allison, L.F.

Bishop, T.M.

Brown, C.L.

Conroy, S.M.

Faulkner, J.P.

Hurley, A.

Kirk, L.

Lundy, K.A.

McEwen, A.

Milne, C.

Murray, A.J.M.

O’Brien, K.W.K.

Ray, R.F.

Siewert, R.

Sterle, G.

Webber, R.

Wortley, D.

NOES

Abetz, E.

Barnett, G.

Boswell, R.L.D.

Calvert, P.H.

Chapman, H.G.P.

Coonan, H.L.

Ferguson, A.B.

Fierravanti-Wells, C.

Heffernan, W.

Johnston, D.

Kemp, C.R.

Macdonald, I.

Mason, B.J.

Nash, F.

Patterson, K.C.

Bartlett, A.J.J.

Brown, B.J.

Campbell, G. *

Crossin, P.M.

Forshaw, M.G.

Hutchins, S.P.

Ludwig, J.W.

Marshall, G.

McLucas, J.E.

Moore, C.

Nettle, K.

Polley, H.

Sherry, N.J.

Stott Despoja, N.

Wong, P.

Adams, J.

Bernardi, C.

Brandis, G.H.

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Colbeck, R.

Eggleston, A.

Ferris, J.M. *

Fielfield, M.P.

Humphries, G.

Joyce, B.

Lightfoot, P.R.

Macdonald, J.A.L.

McGauran, J.J.J.

Parry, S.

Payne, M.A.

Payne, M.A.
Ronaldson, M. Santoro, S.
Troeth, J.M. Trood, R.
Vanstone, A.E. Watson, J.O.W.

**PAIRS**

Carr, K.J. Scullion, N.G.
Evans, C.V. Minchin, N.H.
Hogg, J.J. Ellison, C.M.

* denotes teller

**Question negatived.**

**COMMITTEES**

**Economics Legislation Committee**

**Extension of Time**

Senator FERRIS (South Australia) (6.43 pm)—At the request of Senator Brandis, I move:

That the time for the presentation of the report of the Economics Legislation Committee on the provisions of the Intellectual Property Laws Amendment Bill 2006 be extended to 16 August 2006.

Question agreed to.

**JAPANESE ‘COMFORT WOMEN’**

Senator STOTT DESPOJA (South Australia) (6.43 pm)—I move:

That the Senate notes that 9 August 2006 marks the international day of action for the justice of the Japanese ‘Comfort Women’, who 61 years after the conclusion of World War II, are still yet to receive an apology or any official acknowledgment of the grave human rights abuses that were suffered at the hands of the Japanese military.

Mr President, I am happy not to divide on this motion, but I was wondering whether senators or parties would be willing to indicate how they are voting.

**The PRESIDENT**—The Greens, the Democrats and the Labor Party are voting in support of the motion.

Question negatived.

**INTERNATIONAL DAY OF PEACE**

Senator BARTLETT (Queensland) (6.44 pm)—At the request of the Leader of the Australian Democrats, Senator Allison, I move:

That the Senate—

(a) notes that:

(i) on 7 September 2001, the United Nations (UN) General Assembly declared that the International Day of Peace should be observed annually on the fixed date of 21 September, as a day of global ceasefire and non-violence, and

(ii) UN Secretary General Kofi Annan has repeatedly urged member states of the UN to support the observance of a global ceasefire on the day, arguing that a global ceasefire would:

(A) provide a pause for reflection by the international community on the threats and challenges faced,

(B) offer mediators a building block towards a wider truce, as has been seen in nations such as Ghana and Zambia,

(c) encourage those involved in violent conflict to reconsider the wisdom of further violence,

(b) provide relief workers with a safe interlude for the provision of vital services and the supply of essential goods,

( E ) allow freedom of movement and information, which is particularly beneficial to refugees and internally-displaced persons, and

(f) relieve those embroiled in violent conflict from the daily burden of fear for one’s own safety and the safety of others;

(b) supports the Australian organisations that intend to hold vigils, concerts and walks on 21 September 2006, in Melbourne, Sydney, Adelaide, Darwin and Brisbane;

(c) calls on the Government to actively support the observance of a ceasefire in Afghanistan, East Timor, Iraq and the Solomon Islands on 21 September 2006 by ensuring that Australia’s armed forces:
(i) do not engage in hostilities for the duration of 21 September, unless provoked to do so in self-defence,
(ii) promote the observance of a global ceasefire for the duration of 21 September, and
(iii) promote the practice of non-violence for the duration of 21 September; and
(d) requests that the Government encourage other nation states to follow its lead.

Question negatived.

AUSTRALIAN BOOK INDUSTRY AWARDS
Senator STOTT DESPOJA (South Australia) (6.45 pm)—I move:

That the Senate—
(a) congratulates the following winners of the Australian Book Industry Awards, held in Sydney on 26 July 2006, on their literary achievement:
(i) Australian Publisher of the Year 2006: Allen & Unwin,
(ii) Australian Independent Bookseller of the Year 2006: Riverbend Books,
(iii) Australian Chain Bookseller of the Year 2006: Readings Carlton,
(iv) Australian Book of the Year 2006: The Secret River by Kate Grenville,
(v) The Pixie O’Harris Award: Julie Watts,
(vi) Australian Illustrated Book of the Year 2006: Italian Joy by Carla Coulson,
(vii) Australian Biography of the Year 2006: Far From A Still Life: Margaret Olley by Meg Stewart,
(viii) Australian General Non-Fiction Book of the Year 2006: The Weather Makers: The History and Future Impact of Climate Change by Tim Flannery,
(ix) Australian Book of the Year for Younger Children (age range 0 to 8 years) 2006: Little Fur: The Legend of Little Fur Book 1 by Isobelle Carmody,
(x) Australian Book of the Year for Older Children (age range 8 to 14 years) 2006: Does my Head Look Big in This? by Randa Abdel-Fattah,
(xi) Australian Literary Fiction Book of the Year 2006: The Secret River by Kate Grenville,
(xii) Australian General Fiction Book of the Year 2006: The Broken Shore by Peter Temple,
(xiii) Australian Newcomer of the Year (debut writer) 2006: A Man’s Got to Have a Hobby by William McInnes,
(xiv) Australian Export & Rights Development Award 2006: Allen & Unwin,
(xv) Australian Marketing Campaign of the Year 2006: The CSIRO Total Wellbeing Diet by Dr Manny Noakes with Dr Peter Clifton,
(xvi) Australian Distributor of the Year 2006: Alliance Distribution Services,
and
(xvii) Australian Small Publisher of the Year 2006: Scribe Publications;
(b) acknowledges Mr John Marsden, who was awarded the Lloyd O’Neil Award for Services to the Australian Book Industry; and
(c) acknowledges the Government’s Books Alive initiative which ‘aims to encourage all Australians to experience the joys of reading’.

Question agreed to.

HUMAN RIGHTS IN BURMA
Senator STOTT DESPOJA (South Australia) (6.46 pm)—I, and also on behalf of Senator Payne, move the motion as amended:

That the Senate—
(a) notes that:
(i) 8 August 2006 is the 18th anniversary of the Burmese military regime’s murderous suppression of the pro-democracy movement,
(ii) while the pro-democracy uprising failed, international pressure placed on Rangoon led to the landmark 1990 parliamentary election,
(iii) the lack of organised, sustained international pressure on Rangoon allowed the military junta to ignore the parliamentary election results, which saw a landslide victory for the project-democracy National League for Democracy led by Daw Aung San Suu Kyi and this situation renewed military oppression in Burma which has lasted to this day.

(iv) military repression in Burma has led to more than 500,000 documented Burmese political and economic refugees living in India, China and Thailand, while undocumented Burmese refugees living in Thailand are estimated to be in the millions.

(v) thousands of people have died and continue to die under the rule of the Burmese military, and

(vi) Daw Aung San Suu Kyi and many hundreds of other political prisoners remain under detention within Burma; and

(b) calls on the Government to:

(i) urge the United Nations Security Council to pass a strong binding resolution addressing the urgent need for democratic reform and greater protection of human rights in Burma, and

(ii) make representations to the Chinese and Russian governments urging them to abandon any support they may have for the Burmese junta.

Question agreed to.

BUDGET

Consideration by Legislation Committees
Additional Information

Senator FERRIS (South Australia) (6.47 pm)—On behalf of the chair of the Employment, Workplace Relations and Education Legislation Committee, Senator Troeth, I present additional information received by the committee relating to hearings on the 2005-2006 additional estimates.

COMMITTEES

Scrutiny of Bills Committee
Report

Senator GEORGE CAMPBELL (New South Wales) (6.47 pm)—On behalf of the chair of the Scrutiny of Bills Committee, I present the fifth report of 2006 of the Senate Standing Committee for the Scrutiny of Bills. I also present Scrutiny of Bills Alert Digest No. 7 of 2006, dated 9 August 2006. Ordered that the report be printed.

BUSINESS

Rearrangement

The ACTING DEPUTY PRESIDENT (Senator Troeth)—I inform the Senate that the Leader of the Australian Democrats, Senator Allison, has withdrawn the urgency motion which she had indicated that she intended to move today.

AUSTRALIAN TECHNICAL COLLEGES (FLEXIBILITY IN ACHIEVING AUSTRALIA'S SKILLS NEEDS) AMENDMENT BILL 2006
First Reading

Bill received from the House of Representatives.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (6.48 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 COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (6.49 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—*

**AUSTRALIAN TECHNICAL COLLEGES (FLEXIBILITY IN ACHIEVING AUSTRALIA’S SKILLS NEEDS) AMENDMENT BILL 2006**

This bill is a measure of the great successes achieved to date in implementing the Australian Technical Colleges initiative. It is another example of a Howard Government election commitment which has been enthusiastically embraced by the community, by industry and employers. In fact they want more Australian Technical Colleges. And of course another example where those opposite got it so very wrong. Their failing to understand the fundamentals and reasons for establishing Australian Technical Colleges and their confusing references to State and Territory run TAFE’s are just some examples of their ineptness.

This bill clearly demonstrates how well the Colleges have been received by the communities in which they are to be established.

With Kym Richardson the member for Kingston’s unyielding support, the community and local industry in Adelaide South have secured a former school and buildings abandoned by the South Australian Government and which has stood vacant for seven years. This will now become a state of the art Australian Technical College providing a real choice for young Australians in the region. In north Brisbane the member for Petrie and Parliamentary Secretary to the Minister for Foreign Affairs, the Hon Teresa Gambaro has strongly supported her community and local industry in the establishment of an Australian Technical College which has also received the strong backing of the Redcliffe City Council and Commerce Queensland.

The New South Wales State Government’s ideological opposition to school based new apprenticeships or part time apprenticeships and their centralising of education and training rather than listening to local communities has meant the blocking of the establishment of Australian Technical Colleges in Lismore/Ballina, Queanbeyan and Dubbo. The NSW Government needs to stand out of the way of this initiative so that the local communities and employers in these regions can also share in the establishment of Australian Technical Colleges.

Already four Colleges are in operation, with another to commence later this year, and at least 20 expected to be in operation in 2007. Each of the Colleges is strongly supported by local industry. Industry and business people are taking a leading role in the management of the Colleges and have shown great support for the Australian Technical Colleges initiative.

This bill brings forward funds from later years to support the establishment of the Colleges in 2006 and 2007. This movement of funds does not reflect an increase in costs for the programme. The total funding appropriated under the Australian Technical Colleges (Flexibility in Achieving Australia’s Skills Needs) Act 2005 will remain unchanged, with $343.6 million being available over the period to 2009 to support the establishment and operation of 25 Colleges.

Twenty or more Colleges will be in operation in 2007, and many of these will have established new schools. Funding is needed for the establishment phase for these Colleges, so more expenditure will be required in 2006 and 2007 than originally planned, and less required in the later years.

This bill also provides for flexibility in the management of the appropriation by introducing a regulation-making power which will allow funding appropriated for a particular calendar year to be carried over to a future year or brought forward to an earlier year.

The Australian Technical Colleges initiative is an innovative programme that offers significant flexibility to allow each College to operate in a manner that best meets the needs of industry and students in the region in which it is established. Having the flexibility to expend funds as they are required is important for the continued success of the programme.

Passage of this bill will ensure the steady progression of the Australian Technical Colleges initiative which will allow up to 7,500 young Australians per year to undertake high quality education and training, relevant to a nation building trade career. The Australian Government is committed
to raising the profile of vocational and technical education. Attracting young people to the trades is vital for Australia’s future and is an important step in addressing the skills needs across a number of industries. The Australian Technical Colleges initiative offers a new approach to achieving this, and forms an important part of the Australian Government’s strategy for tackling skill shortages. The Australian Technical Colleges will promote trade qualifications as highly valued as a university degree and will develop a reputation that will show students and parents that vocational and technical education provides access to careers that are secure, lucrative and rewarding. I commend this bill to the Senate.

Debate (on motion by Senator Coonan) adjourned.

MINISTERIAL STATEMENTS

Afghanistan

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (6.49 pm)—On behalf of the Prime Minister, I table a statement on the Australian Defence Force commitment to Afghanistan.

Senator BARTLETT (Queensland) (6.49 pm)—by leave—I move:

That the Senate take note of the document.

I seek leave to continue my remarks.

Leave granted; debate adjourned.

DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator Troeth)—Order! It being 6.50 pm, the Senate will proceed to the consideration of government documents.

Australian Livestock Export Corporation

Senator BARTLETT (Queensland) (6.51 pm)—I move:

That the Senate take note of the document.

This document is the statutory funding agreement between the Department of Agriculture, Fisheries and Forestry and the Australian Livestock Export Corporation, often known just as LiveCorp. It details fairly briefly the amount of money involved with regard to section 68C of the Australian Meat and Live-stock Industry Act.

I believe that it is important to emphasise some of the facts surrounding the live export trade, because it is certainly an area where there is a lot of community concern. That concern has been raised many times in the mainstream media as well as in the wider media, and of course it has been raised a number of times in this chamber by me and other Democrats over the years. I note that the LiveCorp website shows some of the things they are spending their money on, one of which is another report which seeks to detail what they say are some of the facts with regard to the live export trade, particularly focusing on how many jobs they state the export trade generates.

According to this report through the LiveCorp website, the industry generates an estimated 9,000 jobs in rural and regional Australia. The numbers of live animals exported last year were: 573,000 cattle—over half a million—the majority to South-East Asia; and well over four million sheep, exported to the Middle East. Many senators and members of the public would recall some of the footage shown on 60 Minutes—indeed, I think it was one of the final stories done by the late Richard Carleton—detailing unbelievably cruel conditions in abattoirs in Egypt that Australian cattle were subjected to when they were sent there. The trade to Egypt was subsequently suspended while the government said they would look into it.

I would not be surprised if, having made that token effort, the government now recommence the trade with very little by way of significant changes occurring. The reason I believe that is that history shows that that is what happens. Time and again there is a particular incident that comes to the public at-
tention, there is a huge outcry and there are initial government and industry denials and eventually the evidence is so overwhelming that the government have to accept that with that particular incident there is a problem. They then suspend the trade or have an inquiry or do something else and use that to say that everything is fine. They will run the line that everything is fine until the next crisis happens. This has been a pattern that has been repeating for around 20 years.

I would like to examine the claims in the LiveCorp report, which was produced by Hassall and Associates, as I understand it. LiveCorp also had a report from Hassall and Associates five or so years ago. I might note that a long-time director of Hassall’s is Peter Frawley, who is a former chairman of LiveCorp, although he is not a director at the moment. Perhaps that is coincidental. But certainly there are very contrasting figures that have been put together by independent agricultural economists Dr Selwyn Heilbron and Dr Terry Larkin. They found that the live sheep export industry directly competes in the same Middle East market with Australian chilled or frozen sheepmeat industry products. We have this continual suggestion that, if we phase out live exports, there is no other alternative. Well, there is an alternative, because it already operates. Indeed, when the trade was previously banned in Saudi Arabia for a while, there was a massive increase in chilled meat exports.

The other aspect is the 9,000 jobs. This report suggested that the majority of those 9,000 jobs are for sheep farmers, stock hands, stock transport drivers, shearers et cetera, and they would continue to exist. That report also concluded that, if the sheep and cattle currently exported live were instead processed in Australia, a further $1.5 billion would be added to Australia’s GDP and an extra 10½ thousand jobs would be created. So the fact is that the live export industry is costing us jobs as well as involving enormous cruelty, and it is time that those facts were acknowledged instead of covered up. (Time expired)

Question agreed to.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Troeth)—Order! There being no further consideration of government documents, I propose the question:

That the Senate do now adjourn.

Voluntary Student Unionism

Senator McEWEN (South Australia) (6.57 pm)—I wish to bring to the attention of the Senate tonight some facts about the impact of the government’s so-called VSU legislation, legislation that prevents higher education institutions from collecting a universal fee for student services. It is now some eight months since this extreme legislation was rammed through the Senate after a guillotine debate. In the 12 months I have been a senator, there has been a lot of legislation go through the Senate chamber that I have disagreed with, but I think the so-called VSU legislation was a stand-out in terms of the government using its Senate majority to secure a particularly insidious outcome that might have satisfied a few government senators and members but which the majority of Australians did not ask for and indeed have never asked for.

Some people say that those members and senators who supported the legislation were motivated by revenge because they could not control the student organisations of which they were members, and active members at that. There is no doubt some veracity in that view, and it is a view that I have expressed myself, but with the benefit of a bit more experience in the Senate chamber I now take a more expansive, more generous, view of their underlying motivation. I believe that the
legislation was part of this government’s multifaceted agenda to create an Australia where fear rules in the workplace, where education only serves capital and is not seen as a social good in and of itself, where you are punished for being different and where government senators and members use their power to doggedly pursue a dreary, narrow-minded conservative ideology.

As we have seen time and again, when government members vote to restrict debate in this chamber or vote to refuse or curtail references to Senate committees, this government does all that it can to curb dissent, and shutting up the nay-sayers is of course a major tool in the armory of extremist conservative governments like this one. Where were the traditional repositories of dissent against conservatism in this country? Student organisations and trade unions. Which organisations have been targeted by this government? Student organisations and trade unions.

I would like to speak a bit about the effect of the government’s legislation on student unions in my home state of South Australia, where we have some 67,000 students enrolled in our three universities. I would also like to take this opportunity to acknowledge that, for one of our universities, Flinders University, 2006 is their 40th anniversary. Flinders University was named after a visionary and bold explorer, Matthew Flinders. It still has a deserved reputation for providing a progressive education experience for its students. During its 40 years, both staff and students at Flinders University have also participated in social activism in a way that has sometimes been, I have to admit, a little confronting for staid South Australians.

The infamous month-long occupation of the administration offices of the university in 1974, when students protested over assessment and disciplinary matters, springs to mind. The key role that Professor Brian Medlin and Flinders University students played in the Vietnam War moratoriums a few years earlier is another example of the engagement of students in progressive social movements. No doubt Professor Medlin, who unfortunately died last year, would be appalled to see what is happening to the student organisations at his former university.

With the introduction of the VSU legislation, the six student organisations at Flinders University have agreed to amalgamate into one organisation. Inevitably there have been job losses as a result, with the concomitant loss of a number of experienced and knowledgeable staff. But, as we know, the government do not care about people losing their jobs. We saw that when they introduced their ‘sack anyone for any reason, whenever you like,’ Work Choices legislation.

From the amalgamation of the student organisations at Flinders University the objective of both the university and the student body is that they continue to provide as many essential services as possible without having to charge students on a fee-for-service basis. These essential services—primarily welfare, financial counselling and advocacy—will rely on university funding to continue, funding that the university would previously have spent on actual education delivery. Unlike the government, the university and its student body understand that some students will always need additional non-academic assistance to continue and complete their degrees. Unlike the government, the university and its student organisations understand that those kinds of services will not be supported by private enterprise, and students who need welfare or financial counselling advice are unlikely to be in a position to pay for that assistance.

Students at Flinders University have also lost food discounts, some catering services
and the staff support and research provided to student advocates to enable those advocates to represent student interests at the university, higher education and community forums. Sadly, the future of the student organisation’s very innovative parent centre is in doubt. This centre provides low-cost occasional child care for students who are unable to access more regular child care because of their economic or other circumstances. Of the students who use the parent centre, more than 30 per cent come from identified low-socioeconomic backgrounds and would not be able to attend university if they did not have that childcare facility.

Whether the free employment services that each of the three university student unions provide for students will continue to be provided is also doubtful. Flinders and Adelaide universities are looking to merge their employment services, but they have to do this in a climate where there is no guaranteed income and where the $80 million too-little-too-late VSU transition fund that bought the vote of the doormats in the National Party is not being released until 2007 and is anyway being limited to sport and recreational facilities. The additional $10 million to encourage local businesses to maintain key services at regional campuses is simply an admission by the government that providing services to students on campus is a difficult proposition because students are sometimes on campus for fewer than 40 weeks a year. Student organisations had figured that out a long time ago and had adapted their business to suit the academic year. But now the taxpayer has to fork out another $10 million to prop up private businesses, all because of the government’s incompetence.

One of the very important services that student organisations provide is their annual orientation programs for new students. In my experience as an administrator in a student union, it is students from regional and rural areas and from overseas who most benefit from orientation programs and so it is those students who will be most disadvantaged when programs are inevitably cut because they can no longer be funded. Student organisations will find it difficult to provide the free or subsidised social and information events that are part of the orientation programs specifically designed to assist students in adapting to life away from home.

One of the earliest and, in my view, most disturbing casualties of the push to wreck student organisations is the curtailment of the ability of student unions to continue regularly publishing, or publishing at all, their student newspapers. At the University of Adelaide the student publication On Dit has a long and proud history of challenging the status quo—sometimes outrageously, I have to admit—but always from the point of view that if someone does not challenge the status quo progress is not possible. I find it very satisfying that many members of the press gallery in this building today were contributors to, or editors of, On Dit when they were students at Adelaide university. I do not think they are quite as radical now as they were then, but at least they still care about the responsibility they have to influence public opinion through the media.

At Flinders University the Empire Times also has a radical tradition. There is no doubt that student organisation newspapers sail close to the wind in terms of acceptable reporting, tastefulness and relevance from time to time, and conservative critics will find plenty of ammunition if they want to run the line that either On Dit or Empire Times have, at times, reported irresponsibly on important issues or, indeed, reported responsibly on very unimportant issues. However, the fact that student newspapers generate that debate is the important thing. In the past they have made us contemplate what is and is not the role of media in society. Empire Times has
been in publication for 37 years and, if it survives at all, On Dit will have been in publication for 70 years in 2007. That is a tradition that we should value; we should not be acquiescing to destroying it. To survive, student newspapers will have to become different kinds of publications and will undoubtedly have to accept advertising. And that, of course, will compromise their independence.

It is early days in terms of the impact of the VSU legislation on our student organisations and on our universities and the students who attend them. The full impact of this legislation will not be apparent until 2007 and beyond. In preparing this speech, I was heartened by the ‘never say die’ attitude—(Time expired)

Australian Defence Force

Senator SANDY MACDONALD (New South Wales—Parliamentary Secretary to the Minister for Defence) (7.08 pm)—As Parliamentary Secretary to the Minister for Defence I am honoured to observe the very best of the work that the Australian Defence Force does. That work is difficult and some of it goes unheralded. Some of it receives little media spotlight. I think most Australians are aware of our major undertakings, particularly in bringing stability to the Solomon Islands, East Timor, Afghanistan and the Middle East and in border protection. This night, nearly 5,000 Australian ADF personnel are in harm’s way, doing the jobs that need to be done for the security of our region or for global security.

However, many Australians do not know that we do much more in some very difficult circumstances around the world. This night, we have 25 personnel in the multinational force in the Sinai; 15 personnel connected to the UN peacekeeping operation in Sudan; three personnel in the UN office in Timor Leste; and 11 personnel who are currently deployed on Operation Paladin as a contribution to the UN Truce Supervision Organisation, UNTSO, in which we have been represented since 1956, supervising the truce agreed at the conclusion of the first Arab-Israeli war. Given the current conflict, these personnel are certainly in harm’s way and have been moved to a safe area away from southern Lebanon, but they continue to perform their duties. I take the opportunity of noting that an ADF officer, Captain Peter McCarthy, from my home town of Quirindi—his mother still lives in Quirindi—was killed in southern Lebanon in 1988.

We also have HMAS Ballarat, which I had the pleasure of farewelling to the Middle East under the command of Commander Mal Wise. She remains deployed in the Persian Gulf on a vital operational task in which she assists in detecting, deterring and intercepting vessels suspected of undertaking illegal activity within Iraqi waters. Protecting Iraq’s oil output is a very important part of the future economic building of that particular country.

Just last week, I visited Borroloola in the remote Northern Territory to look at a program called AACAP, which is the Army Aboriginal Community Assistance Program. This is a fantastic program. The Army is building housing and infrastructure and, more importantly at this time of high operational deployments and tempo, is providing training and health support for Indigenous Australians. Again, this particular work attracts very little attention.

So I was very saddened to hear the recent unfounded criticism of the Australian government’s response in evacuating our citizens from Lebanon. As the Prime Minister said yesterday in question time, this criticism comes from self-appointed spokespeople who bring no credit on themselves or on our society. I want to look at the facts of the Australian government’s response to the crisis in
Lebanon. It was a massive whole-of-government response and an operation led by the Minister for Foreign Affairs and his department, with very substantial assistance from the ADF.

This is what the Australian government achieved: around 5,200 Australians to date have departed Lebanon; around 4,600 evacuees have already returned to Australia; Lebanese Australians, upon return to this country, have expressed their gratitude to the Australian government and particularly to our ambassador in Beirut, Lyndall Sachs. We have chartered six ships, which have made 16-odd voyages to Cyprus and Turkey, and I would like to particularly thank the Turkish government for their cooperation in this regard. I spoke to the Turkish ambassador yesterday at lunch and made that point to him. Over 220 DFA T, Defence, AFP, Centrelink, Emergency Management Australia and DIMA officials have been sent to Beirut and other key locations in the region to support our diplomatic missions. Around 460 Canberra based staff have been working on our crisis management and consular assistance. In addition, Australia’s financial assistance in one form or another—in food and related assistance—total over $5 million.

Yesterday in question time, the Prime Minister gave his wholehearted support to our ambassador to Lebanon, Lyndall Sachs, and her officials. I second that support. They are working far from home and in a war zone, and it should not be forgotten that they have risked their own safety to do their jobs and help their fellow Australians. Those who criticise her from the safety of Australian shores should remember this: she stayed at her post in Beirut—and it is not a very safe place to be.

In particular, I am immensely proud of the assistance offered by the ADF through Operation Ramp, in the heart of the recent Israeli-Hezbollah conflict, which remains ongoing. Lebanon is some 15,000 kilometres from Australia. This clearly presents some immense logistical problems. As the Minister for Foreign Affairs said yesterday, we are not on the Mediterranean Sea. It would have taken a minimum of 2.5 weeks to sail a ship such as HMAS Kanimbla to assist in the evacuation. Clearly, deploying specialist personnel to support DFAT was the most effective contribution that the ADF could have made. The ADF has a proven capability in deploying specialist personnel.

We had Operation Pakistan Assist, which provided 140 personnel skilled in providing mobile medical assistance, and four Black Hawk helicopters in the wake of the Pakistan earthquake in October 2005. In the wake of the 2002 Bali bombings, a medical assistance team provided triage and on-site assessment of casualties, and aeromedical evacuation teams, a ‘fly away’ surgical team and a medical support team were also provided. And today with the announcement of a further deployment in Operation Slipper, which is the reconstruction task force in Afghanistan, we will shortly have around 500 ADF personnel there. Many of them are technicians and construction engineers who will be playing their part in rebuilding that country.

In the early days of the current Middle East conflict, Defence responded quickly to DFAT’s request for assistance and within 24 hours had deployed one Defence supplementation support team, which I think went on 19 July, and shortly afterwards, on 21 July, another supplementation team with its headquarters went also. The ADF is providing evacuation handling centre support in Larnaca and command support in Limesos in Cyprus. Until recently, Defence was providing support to DFAT in Mersin in Turkey. The Mersin evacuation reception centre was recently closed after completing its tasks, and I certainly want to thank the Turks for
the contribution that they have made in that regard.

Defence liaison officers were embedded in the UK joint task force headquarters. Defence also redeployed two Australian defence attaches, one from Abu Dhabi to Beirut and the other from Rome to Tel Aviv, to provide coordination and liaison support to the embassy staff. The Defence supplementation support teams are assisting the Australian Embassy in Beirut and the consular crisis centre in Larnaca in the implementation of contingency and evacuation plans. It has really been a whole-of-ADF effort. Also the RAAF C130s transported evacuees from Cyprus to Turkey. DFAT recently agreed to their release following completion of their evacuation tasks. An RAAF-chartered A330 also assisted in the evacuation of Australian foreign nationals to Australia.

I am highlighting the work of the ADF tonight to counter an ugly and developing trait that I see in this country of criticising and blaming others for perceived inaction. It has been called a culture of blame. On this occasion, however, the facts speak for themselves. It was a remarkable effort to evacuate 5,200 Australian citizens half a world away safely and quickly. I am proud of the Australian government’s response and I am particularly proud of the ADF’s substantial contribution. It was immediate and ongoing. We are a fortunate nation to have such splendid Army, Navy and Air Force personnel and I commend them, their leadership, training and equipment.

Non-Government Organisations

Senator SIEWERT (Western Australia) (7.17 pm)—I rise tonight to speak about a very important sector in our community, and that is the third sector, or the NGO sector, as it is often referred to. This sector is essential to the wellbeing of our society and the health of our democracy. I agree with comments made in this place today by Senator Mason that there is a need to review the relationship between the third sector and the government in respect of policy development, service delivery and funding sustainability. I believe that the government have an agenda to undermine and disempower the NGO sector, or at least to support only those that agree with them, so there is a need for a review to distance and take away government control over the NGO sector.

A strong third sector is absolutely fundamental to ensuring that we have a strong and vibrant democracy. The third sector is the imagination of the nation and it has always led the way. It is the group with the big ideas and the big policy changes. These come from the third sector. The community sector, as it is also known, is the ideas engine of our nation and the carer of our society. The government does not just fail to understand the contribution and the scope of the community or not-for-profit sector, but it is ideologically opposed and actively hostile towards the involvement of the third sector in advocacy and policy formation. It does not simply fail to understand the manner in which the third sector acts, but it seeks to deny the third sector a legitimate role in advocating for social change and it characterises the third sector as being single-issue, special interest groups out selfishly to get as many resources as they can for their little patch.

The Howard government simply wants the community sector to be cheap service providers and would be perfectly happy for the sector to deliver social services cheaper and more effectively than private business or government departments can, provided of course that they keep their heads down and their mouths shut. Since coming to power the Howard government has led a very clear and well-documented agenda to attack, undermine, compromise and silence the not-for-profit sector. This was first articulated in the
Prime Minister’s 1996 Menzies Lecture when, in talking about the non-government and voluntary sector, Mr Howard characterised it as comprising single-issue groups, special interests and elites. This was very much at odds with the finding of the House of Representatives Standing Committee on Community Affairs in 1991 when it reported on community organisations and stated:

An integral part of the consultative and lobbying role of these organisations is to disagree with Government policy where this is necessary in order to represent the interests of their constituencies.

Mr Howard’s comments signalled the start of a concerted campaign to undermine the role of the third sector in our democracy. Within the first few years of his government more than 50 per cent of the peak groups in health, education and welfare experienced significant cuts in funding, with 20 per cent losing all funding. It was very clearly demonstrated that these cuts related to groups that were involved in public advocacy: these were the groups that lost their funding. Not only did these cuts in funding occur to environmental organisations, but environmental organisations were being progressively excluded from a lot of the major advisory bodies that they had been participating in. Then we saw the second round of attacks on environment groups in 2005, when complete funding was withdrawn from the state conservation councils—and I can speak of this, having worked for a conservation council for a number of years.

Funding cuts are not the only strategies that the government uses to get at NGOs. There have also been forced amalgamations, the use of the purchaser-provider contracts which are replacing core funding and increasingly tie those organisations to government, and the inclusion of confidentiality clauses which then stop NGOs speaking out for their client groups, and this again restricts their advocacy. In the early 2000s the government—and Senator Mason also referred to this today—instigated a review of the Tax Act and proposed changes to the Tax Act which would exclude groups that were involved in advocacy. The NGOs and the community protested very strongly about this because an important part of a community’s activities is advocacy.

At the same time, the government employed the Institute of Public Affairs to develop a protocol on NGOs. It might be interesting to note some of the comments that the IPA had made about NGOs. It characterised them as ‘cashed up’, ‘a dictatorship of the articulate’, ‘a tyranny of the articulate’ and ‘a tyranny of the minorities’. Another comment was ‘mail-order memberships of the wealthy Left, content to buy their activism and get on with their consumer lifestyle’. The IPA was contracted by government—in a contract that I understand did not go through the normal guidelines as advocated by the National Audit Office—to come up with a protocol which we believe very strongly undermined non-government organisations.

It was with a sense of irony that I listened to the comments made by Senator Mason today, which I presume were the start of the government’s renewed attack on NGOs. He argued that there was a lack of transparency and said that accountability was threatening to undermine the good reputation of the not-for-profit or charity sector and that the government needed to step in to help them become more efficient and better structured. I wonder what it is that the government can teach NGOs about efficiency! Are they going to use their experience in how you deliver only 29c in the dollar to Indigenous communities to fund community programs? The NGO sector is used to running on the smell of an oily rag and is already efficient. NGOs have a long history of doing so much on very little. We are talking about charitable organi-
sations whose survival is dependent on convincing their supporters to voluntarily part with their spare cash to achieve some greater good. It is hard to imagine a more direct model of public accountability than that.

Senator Mason said today:

The problem is that we cannot sort out the many good not-for-profit groups from the handful of bad ones or those who are underperforming.

I have several comments to make on that statement. Firstly, the thing that the government seem to be upset about is their lack of control over this sector, particularly in relation to the criticism they received over their bad social environment policies. It is not the role of government to sort out who are the good ones and who are the bad ones, no more than it is their role to tell shareholders which companies they should invest in. Secondly, Senator Mason’s comments about the Wilderness Society demonstrate that his statement was clearly true—that is, they cannot sort out the good not-for-profit organisations from the bad ones.

I would like to quickly look at the Wilderness Society. If it were not for the Wilderness Society, which is probably the first cab off the rank for the government’s new concerted attack on NGOs, we would not have the Daintree protected, we would not have the Franklin River protected, we would not have Kakadu protected, we would not have Fraser Island protected—to mention but a few. Nearly every national park in this country has come about as the result of community action and defence by organisations such as the Wilderness Society. These people and groups are defending our natural environment with the strong support of our community.

The examples I just went through in terms of the Wilderness Society’s role in protecting some of our icon issues in Australia are examples of what they have done in the past. I wonder if the government is aware of some of the good work that they are doing now. For example, today I went to a presentation by Greening Australia on river recovery. Senator Ian Campbell launched this program—a very good program. He waxed lyrical about a very good program in the southwest of Western Australia called Gondwana Link. Surprise, surprise: the Wilderness Society are a major partner in that very project. They have developed the science which is the basis on which that program is being undertaken. It is a thousand-kilometre corridor which is protecting biodiversity and nature conservation across the south of Western Australia. Their science is directing the on-the-ground work that the other partners are undertaking.

Virginia Young, who is with the Wilderness Society, presented evidence to the national parks inquiry not long ago. I have to say that her evidence was amazing. The science that she presented to our committee was mind-boggling. They are in partnership with the ANU and others in undertaking science that nobody else is undertaking. They are funding and directing science to do with biodiversity in Australia—science that will underpin decision making on where national parks should go and how we can better refine how we carry out nature conservation and protection in this country; science that is absolutely essential in furthering environmental protection in this country. And they are the only ones doing it. I think it is fair to say that the degree to which they can bring science to bear and bring a series of experts to bear on this issue is mind-boggling. I would say that this is essential work in the protection of the environment in Australia and our ongoing democracy. Their advocacy, what they are doing, is absolutely essential if we are going to ensure environmental protection in this country. So I agree that there is a need—(Time expired)
Human Rights

Senator PAYNE (New South Wales) (7.27 pm)—When the Senate rose in June, I was part way through remarks—and I think that Senator Coonan was here at the same time, so she gets to hear instalment No. 2—regarding serious human rights issues in a number of countries, both in our region and further afield. That evening, I raised concerns relating particularly to the welfare of the Assyrian people of Iraq. As I mentioned at that time, representatives of Australia’s Assyrian community had met with a number of colleagues in the parliament, through the parliament’s Assyrian friendship group, in June. I now note that representatives from the community will next week address a meeting of the Human Rights Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade, which I chair and of which Maria Vamvakinou is the deputy chair.

There are very deliberate human rights violations that are both ruining and taking the lives of Assyrians in Iraq. They are obviously not the only human rights breaches that are occurring to a number of people in Iraq, but they are the ones on which I wish to concentrate this evening. Whether it is torture, kidnapping, extortion, harassment, bombings of their churches, the forcing of religious conversion, political disenfranchisement or the destruction of property, the whole range is being brought upon many of the Assyrian people in Iraq. Assyrians in Australia are justly concerned about the fate of their countrymen and countrywomen in that reconstruction process. I think it is important that we raise it and discuss it in this parliament.

I look forward to again meeting with members of that community under the auspices of the Human Rights Subcommittee next week and to the opportunities that our subcommittee and, indeed, this parliament can provide to advance human rights for all peoples in that country under the extraordinarily difficult process of rebuilding and reconstructing.

Since earlier this year, and specifically in relation to our own region, I have had very serious concerns about the fate of almost 30 ethnic Hmong in Laos—and that includes 22 children—who have been missing now for some months. They went missing in December last year. At the time, they were deemed illegal by Thai authorities. They were arrested while they were visiting a church from their refugee camp. They were deported across the river to Laos in December. There is a record of their names, their ages and their families. Unfortunately, Lao authorities deny that they have any information as to their condition and their whereabouts. Serious fears remain that the group, and the children in particular, may have been tortured.

I know that the Australian government, particularly via our ambassador in Vientiane, Alistair Maclean, has made serious representations to the Lao government. Concerned countries and organisations are pursuing all steps they can to confirm their whereabouts, their health and their safety and, where possible, hopefully, to return them to their families. It would be a very significant mark of the progress on human rights in Laos to see an open process of reconciliation with the Hmong people, most particularly because there have been recent reports of surrenders amongst rebels in the Hmong community. UN officials, diplomats and aid agencies are fairly routinely denied access to many of these people.

In April this year I raised a matter in estimates concerning reports of a massacre by Lao soldiers of unarmed Hmong. I think those reports bear further examination. They do point to a trend of very strong reactions by government to the Hmong community in
that country. That massacre together with reports of other deadly attacks by government forces and concern about the alleged arbitrary detention of children deepen concerns for this particular ethnic minority. They have groups who are living in hiding, some of whom are reportedly surrounded by Lao army units and in desperate circumstances. They are struggling to find food and have little access to medical care. I would hope that there can be in the near future a more open process of reconciliation with the Hmong which will assist Laos in particular in moving forward as a strong member of the South-East Asian community of nations and which will address some of these key human rights issues.

In a completely different part of the world and in a very different context, I also want to make some comments tonight about work in another parliament on human rights. I refer to the development of the British Conservative Party Human Rights Commission in the United Kingdom. In October last year, a British Conservative Party MP, Dr Liam Fox, announced the establishment of that commission. This is a major Centre Right political party, the British Conservatives, taking a very positive and entirely appropriate position on the key issue of human rights.

The reports of the commission are very interesting reading. They say quite clearly that in establishing the commission they recognise and acknowledge that self-determination, freedom and the rule of law should be at the core of responsible foreign policy for every political party in every state of the free world. That is an admirable aim and a very important objective. That is not just about altruism on the part of developed nations. Hopefully, it is about doing housekeeping in our own world—in our own nations and in our own parliaments—where it is appropriate. It is also a recognition that the fostering of freedom abroad will be much easier to do if we are genuinely protecting freedom at home. It is not only in our own interests; it is in the interests of humanity to both oversee and assist in the promotion and the protection of human rights around the world.

A globe that protects the interests of its citizens has greater security, improved economic opportunity and a much better prospect for international cooperation. Dr Fox and his successor as shadow foreign secretary, Sir William Hague, have realised this in the creation of the Conservative Party Human Rights Commission, which is chaired by Gary Streeter MP. Over the coming months their aim is for the commission to hold a series of hearings on different countries and themes. Their process is to gather evidence, to produce reports, to ask questions in parliament and to develop ideas on how a future Conservative government can put the promotion of democracy, freedom and human rights at the heart of its foreign policy.

In my reading, I found that they had their first hearings quite recently on Burma. In my earlier remarks on the subject of human rights, I referred to Burma in this place as well. Can I restate in that case—and it is timely to do it this week, given the anniversaries that we mark in relation to oppression in Burma—that Burma is a nation which is ruled by an illegal military junta; that a million people are internally displaced; that it is regular, not unusual, for reports to be received of systematic violence and sexual abuse against women, in particular by members of the armed forces; that thousands of villages and communities have been destroyed by authorities; that the HIV-AIDS epidemic in Burma is described by USAID and UNAIDS as one of the most serious in Asia; and that children are routinely and forcibly conscripted as soldiers and slaves.
The work that this parliament does in relation to Burma and that this government does in relation to continuing to remind the regime in Rangoon of our views is very important, as is the work of the Conservative Party Human Rights Commission in their endeavours to hold the military of Burma to account. I particularly commend Sir William Hague and the Conservative Party in the pursuit of that goal.

I spent a few days last week attending the 11th annual general meeting of the Asia-Pacific Forum of National Human Rights Institutions and a number of other meetings held in conjunction with that particular forum. It is the largest annual human rights event in our region. It has representatives from national human rights institutions, governments, NGOs and international organisations in attendance. This particular meeting was held in Suva under the auspices of the Fiji Human Rights Commission, which, I must say, is one of the most active and dynamic organisations that I have seen working in human rights in this region. It is a very impressive organisation.

Australia is represented around that table by the Human Rights and Equal Opportunity Commission. The president of the commission, John von Doussa, put a significant amount of time and effort into his attendance and participation in the forum. I commend HREOC for that. One of the bonuses and great opportunities of this particular gathering was the chance to see people like Dr Sima Samar, who is chair of the Afghan Independent Human Rights Commission. She is also a special rapporteur on the situation of human rights in the Sudan. When you compare the role of the chair of the Afghan Independent Human Rights Commission with the role of the chair of the Australian human rights commission, not belittling either or aggrandising either, you will see the extraordinary challenge that faces the world. (Time expired)

Senate adjourned at 7.38 pm

DOCUMENTS

Tabling

The following government documents were tabled:


Sydney Airport Demand Management Act 1997—Quarterly report on the maximum movement limit for Sydney Airport for the period 1 January to 31 March 2006.

Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]

Australian National University Act—


Academic Board Statute 2006 [F2006L02595]*.


ANU College Governance Statute 2006 [F2006L02603]*.

ANU College Governance Statute 2006—ANU College Governance Rules 2006 [F2006L02602]*.

Discipline Statute 2005—Discipline Rules (No. 3) 2006 [F2006L02597]*.

Australian Prudential Regulation Authority Act—Australian Prudential Regulation Authority (Confidentiality) Determination No. 10 of 2006—Information provided by general insurers under certain reporting standards [F2006L02578]*.


Civil Aviation Act—
Civil Aviation Regulations—Civil Aviation Order 95.8 Amendment Order (No. 2) 2006 [F2006L02504]*.

Civil Aviation Safety Regulations—Airworthiness Directives—Part 105—AD/A109/54—Tail Rotor Pitch Control Link Assembly [F2006L02607]*.
AD/A119/8—Tail Rotor Pitch Control Link Assembly [F2006L02608]*.

Customs Act—
Tariff Concession Orders—
0606806 [F2006L02583]*.
0607767 [F2006L02584]*.
0607776 [F2006L02585]*.
0607954 [F2006L02586]*.
0607960 [F2006L02588]*.
0608184 [F2006L02587]*.
0608284 [F2006L02589]*.
0608285 [F2006L02590]*.
0608338 [F2006L02591]*.
0608569 [F2006L02592]*.

Tariff Concession Revocation Orders—
60/2006 [F2006L02581]*.
61/2006 [F2006L02582]*.

Environment Protection and Biodiversity Conservation Act—
Amendments of lists of—
Specimens taken to be suitable for live import, dated—
21 July 2006 [F2006L02535]*.
26 July 2006 [F2006L02538]*.
Threatened species, dated 12 July 2006 [F2006L02537]*.

Notice of proposed accreditation of the Northern Prawn Fishery Management Plan Amendment 2006 (No. 1), dated 31 July 2006.

Export Control Act—Export Control (Orders) Regulations—Export Control (Fees) Amendment Orders 2006 (No. 1) [F2006L02614]*.

Export Market Development Grants Act—
Export Market Development Grants (Change in Ownership of Business) Guidelines 2006 [F2006L02474]*.


Financial Management and Accountability Act—Financial Management and Accountability Determinations—
2006/17—Arbink Account Variation and Abolition 2006 [F2006L02540]*.
2006/18—Art Rental Special Account Establishment 2006 [F2006L02556]*.
2006/19—Standing Committee on Recreation and Sport Consultant Account Variation and Abolition 2006 [F2006L02558]*.
2006/20—Sport and Recreation Special Account Establishment 2006 [F2006L02559]*.
2006/22—Federation Fund—Department of Communications, Information Technology and the Arts Special Account Establishment 2006 [F2006L02580]*.
2006/23—Federation Fund—Department of Transport and Regional Services Special Account Establishment 2006 [F2006L02593]*.


2006/25—Lloyd’s Deposit Trust Account Variation and Abolition 2006 [F2006L02562]*.

2006/26—Lloyd’s Deposit Trust Special Account Establishment 2006 [F2006L02564]*.

2006/27—Trustee Companies (ACT) Deposits Trust Account Abolition 2006 [F2006L02565]*.

2006/28—Childcare Centre Capital Replacement and Upgrade Special Account Variation 2006 [F2006L02567]*.


2006/30—Commonwealth, State, Territorial Disability Agreement Special Account Establishment 2006 [F2006L02569]*.

2006/33—Australian Government Actuary Account Variation and Abolition 2006 [F2006L02574]*.

2006/34—Actuarial Services Special Account Establishment 2006 [F2006L02576]*.

Food Standards Australia New Zealand Act—Australia New Zealand Food Standards Code—Amendment No. 87—2006 [F2006L02539]*.

Migration Act—Migration Regulations—Instrument IMMI 06/058—Organisations that may sponsor Short Stay Business Visitors [F2006L02571]*.

Navigation Act—Marine Order No. 10 of 2006—Coastal pilotage [F2006L02604]*.

* Explanatory statement tabled with legislative instrument.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Courts: Combined Registry Initiative
(Question No. 1775)

Senator Ludwig asked the Minister representing the Attorney-General, upon notice, on 10 May 2006:

With reference to the joint registry project to create a single point of entry for family law matters:

(1) What arrangements will be made for staff to retain their current positions.

(2) Will there be any staff losses following the creation of the joint registry or are there any proposals for shedding jobs as a result of the creation of the registry.

(3) How will the duties and responsibilities of retained staff be affected by the creation of the joint registry.

(4) (a) What consultations have been undertaken with staff regarding the creation of the joint registry; and (b) when and how were these consultations undertaken.

(5) Can an overview of the proposed changes and their impact on staffing be provided.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator’s question:

The Combined Registry is an initiative of the Family Court of Australia and the Federal Magistrates Court that has the support of the Australian Government. As both courts are responsible for the initiative they have provided the following responses to the questions:

(1) The purpose of the Combined Registry initiative is to reduce confusion for clients negotiating the family law courts, and to minimise duplication of administrative work to support the operations of the Family Court of Australia and the Federal Magistrates Court. The role of Family Court staff has evolved over time, and will continue to evolve, in response to changing client needs, but not as a direct result of the Combined Registry initiative.

The Courts will continue to review basic registry functions and look for efficiencies that will allow for a realignment of resources to place a greater emphasis on the needs of clients. The Combined Registry Program includes the ‘Alignment Project’, that will consider registry functions to ensure the alignment of staff support to the Combined Registry Model. The project will ensure that resources are aligned to meet the needs of judges, federal magistrates and clients.

(2) There are no proposals for shedding jobs under the Combined Registry initiative. There is no reason to expect that the number of applications filed in the Courts will diminish due to this initiative, so the volume of family law work for the Courts should be unchanged, pending the incremental establishment of the Family Relationship Centres. However, the Courts will continue to review their systems and processes over time to identify new efficiencies and continuing improvements in service delivery to maximise the value of the taxpayer funding allocated to administer the Courts. As has been the case in the past, for the Family Court and for many other agencies, this may result in a review of staffing structures and numbers over time.

(3) Under the Combined Registry initiative, client service officers will continue to provide client services to clients of both courts, but with a greater focus on the administrative needs and requirements of federal magistrates. Judicial support staff will continue to support the judicial officers of each court. It is anticipated that the Family Court’s registrars will play a greater role in supporting the work of federal magistrates, whilst still fulfilling a pivotal role in support of the Family Court’s
judges, and the role of the Family Court’s mediators is retained and enhanced under the changes to the Family Law Act 1975 (contained in the Family Law Amendment (Shared Parental Responsibility) Act 2006 that will come into effect on 1 July 2006.

Early project results are encouraging, and indicate significant improvements in the nature of staff’s work. For example, the establishment of the National Enquiry Centre to answer general Court enquiries has resulted in a reduction of more than 50% in telephone traffic to registry staff. Concurrently, the Family Court’s new less adversarial approach to hearing children’s cases has resulted in a reduction of more than 50% in the number of affidavits and subpoenas filed in children’s cases with the Family Court. Together, it is intended that these and similar efficiencies will enable the Court’s staff to focus less on general information enquiries and internal paper processing, and more on client relations and case coordination.

(4) The following staff consultations were conducted during the development of the Combined Registry initiative:
- September/October 2004 staff consultations – meetings held at the various registries;
- April to July 2005 – consultations with staff regarding the Combined registry Model – the meetings were held at most registries with some registries attending by video link;
- Courtside/Knowledge Matters articles – newsletters of the FCoA & FMC respectively;
- Staff Bulletins – Combined registry updates from the Program Managers; and
- The CEO of the Family Court of Australia toured all registry locations during April and May 2006 to deliver in person a ‘Future Directions’ presentation to staff, and to discuss with staff the implications of present reforms, including the Combined Registry initiative.

(5) The development and implementation of the Combined Registry initiative must be considered in the present context of much wider and significant reforms in family law. Contemporaneously, the Courts are adjusting to significant legislative changes, the establishment of Family Relationship Centres, and the Family Court’s less adversarial approach to hearing children’s cases. Each of these programs alone could be expected to have an impact on staffing.

In terms of the Combined Registry initiative, the scope of the initiative is significant, and involves a program of 16 individual projects to manage the proposed changes, as presented in Diagram 1.

<table>
<thead>
<tr>
<th>Project</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Telephony</td>
<td>Completed</td>
</tr>
<tr>
<td>Intranet</td>
<td>Stage 1 completed</td>
</tr>
<tr>
<td>Internet</td>
<td>Stage 1 completed</td>
</tr>
<tr>
<td>Communications</td>
<td>In progress</td>
</tr>
<tr>
<td>Single Casetrack</td>
<td>In progress</td>
</tr>
<tr>
<td>Streaming Model</td>
<td>In progress</td>
</tr>
<tr>
<td>Alignment of Registry Support</td>
<td>In progress</td>
</tr>
<tr>
<td>Rules Harmonisation</td>
<td>In progress</td>
</tr>
<tr>
<td>Single Application Form</td>
<td>In progress</td>
</tr>
<tr>
<td>Letters</td>
<td>In progress</td>
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<tr>
<td>Case Management Manual</td>
<td>In progress</td>
</tr>
<tr>
<td>File Transfers</td>
<td>Completed</td>
</tr>
<tr>
<td>Single Hard Copy File</td>
<td>In progress</td>
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<tr>
<td>Signage</td>
<td>In progress</td>
</tr>
<tr>
<td>Family Report Working Group</td>
<td>Completed</td>
</tr>
<tr>
<td>After Hours Service</td>
<td>Completed</td>
</tr>
</tbody>
</table>

Diagram 1. Projects Constituting the Combined Registry Program
Work completed to date under the Combined Registry Program includes:

- The Telephony Project - As detailed above, the National Enquiry Centre commenced operations on 3 April 2006.
- Stage 1 Intranet – Intranet infrastructure is completed, and the site is now on-line.
- Stage 1 Internet – The www.familylawcourts.gov.au site has been established.
- Communications – The Family Law Courts Design Style Guide details the design elements for family law publications and correspondence, name badges, business cards and with compliments slips issued, Marriage, Families, Separation brochure issued in Family Law Courts design, and the Family Law Courts Writing Style Manual provides guidance and advice to staff on the preparation of Court publications.
- Casetrack – The Requirements Specification for Casetrack (computerised operations system) finalised.
- Streaming Model – The process by which cases enter and proceed through the Courts’ system has been agreed, and will be piloted during June 2006 at the Brisbane, Melbourne, Parramatta and Canberra registries.
- File Transfers – project recommendations have been accepted and will be implemented with the agreed streaming model.
- Signage – Family Law Courts Registry signage installed at six registry locations to date.
- Family Reports – The recommendations of the Family Reports Working Group have been endorsed and the Preliminary Report process is presently being piloted in the Canberra, Sydney and Dubbo registries.
- After Hours Service – protocols have been established whereby the Family Court’s registrars provide the same level of after hours support to federal magistrates as they do for judges.

**Regional Forest Agreement**

*(Question No. 1786)*

Senator Milne asked the Minister for Fisheries, Forestry and Conservation, upon notice, on 11 May 2006:

With reference to Commonwealth funding to the Tasmanian forest industry as part of the 1997 Regional Forest Agreement (RFA):

1. $6 million was allocated to ‘roading to increase productivity’ (clause 101, p.33, RFA 1997): on what roads were those funds spent.
2. $3 million was allocated to tourism infrastructure: can a breakdown be provided of how those funds were spent (i.e. what amounts and on what projects).
3. $57 million was allocated to ‘new intensive forest management initiatives’: can a breakdown be provided of how those monies were spent (i.e. an amount per project/initiative).
4. $13 million was allocated to ‘the implementation of employment and industry development initiatives’ (p.3 RFA, clause 101 and Attachment 12): can a breakdown be provided of the expenditure of those monies.

Senator Abetz—The answer to the honourable senator’s question is as follows:

1. Upgrading of the Mathinna Plains/Mt Albert road in northeast Tasmania, constructing a new major link road between the Huon and Derwent valleys and upgrading of the Paradise Gorge section of the Tasman Highway west of Orford.
(2) $1.6M - The construction of the Freycinet centre and associated works. (Natural Heritage Trust Nature-Based Tourism Grant $382,000 and State funds $400,000).
$100,000 - Enhancement of the King Solomon’s Cave (State funds $180,000)
$100,000 - improving the Alum Cliffs walk
$100,000 - Improved visitor facilities at the Mersey River White Water Forest Reserve
$150,000 - Tasmanian Devil Education Research Centre at the Trowunna Wildlife Park
$300,000 - Improving the YARNS artworks in silk display in Deloraine in partnership with the Deloraine Folk Museum and Meander Valley Council. (Tasmanian Community Fund $250,000, Meander Valley Council $50,000)
$250,000 - A Sculpture Trail including sculptures at key attractions sites
$50,000 - An Aboriginal tourism project developed in partnership with the local Aboriginal community
$300,000 - A comprehensive signage, marketing and regional branding strategy for the region
$200,000 - Planning and project management costs
Total $3.15M

(3) $43.95M on plantation establishment
$2.55M on Blackwood Plantation enrichment
$350,000 on Silver wattle and Special Species Plantations
$3.1M on thinning of existing forests
$7.05M on supervision and support services
Total $57M

(4) Specific funded initiatives include:
$10M for Eucalypt plantation development including;
$6.35M on Eucalypt plantation development
$2.35M on in coupe roading and equipment for thinning
$1.3M for non-chemical pest management
$3M for specific industry development initiatives as follows:
$1.6M was provided to the Forests and Forest Industry Council to facilitate strategic industry research and development for new sawing and seasoning techniques, technologies for manufactured wood products and commercialisation of new technologies and processes.
$0.4M to Forestry Tasmania for planning and implementation of long rotation supply of special species timbers including a review of special species timbers location, potential resource and access.
$0.6M to Private Forests Tasmania for resource enhancement on private land
$0.4M to the Forest Practices Board for implementation of the Permanent Forest Estate monitoring requirements
Total $13M

Depleted Uranium
(Question No. 1791)

Senator Siewert asked the Minister representing the Minister for Defence, upon notice, on 11 May 2006:
(1) Have any weapons used in individual or joint exercises with the United States of America (US) or other military forces on Australian soil contained depleted uranium.

(2) What measures has the Government taken to verify that weapons containing depleted uranium have not been used in joint exercises on Australian soil or in Australian waters.

(3) Has the Government ever conducted environmental monitoring to verify that such munitions have not been used on Australian soil or in Australian waters.

(4) Is the Minister aware that such munitions have been used by US military forces in Okinawa and Puerto Rico without the knowledge of the host governments.

(5) Is it the case that none of the Abrams tanks purchased from the US Army contains depleted uranium armouring: if so, what form of armour is used.

(6) What is the Government’s understanding of the health effects associated with weapons containing depleted uranium.

(7) Which sources does the Government consider authoritative when considering the health effects of depleted uranium.

(8) Does the Government offer medical testing for Australian service personnel, specifically testing for depleted uranium and associated decay products, when these personnel are deployed in areas where depleted uranium has potentially been used; if so, what forms of testing are offered; if not, why not.

Senator Ian Campbell—The Minister Assisting the Minister for Defence has provided the following answer to the honourable senator’s question:

(1) See the response by the then-Minister for Defence (Senator the Hon Robert Hill) to Senate Question on Notice No. 2810 published in the Senate Hansard on 12 May 2004.

(2) In accordance with Defence Instruction (General) Administration 59-1, specific approval must be sought by foreign forces to use any munitions that are not in the Australian Defence Force (ADF) inventory on Australian Training Areas. The ADF does not have, in service, any ammunition containing Depleted Uranium (DU). The ADF and its contractors have reviewed documents and data pertaining to the weapons used on Australian Training Areas and has not found evidence of DU ammunition being used.

(3) Defence employs a risk based methodology to determine how scarce resources for environmental monitoring should be applied to the task of ensuring its training ranges are sustainably managed. DU munitions have never been in the ADF inventory approved for use on land, and the risks associated with those munitions that were expended at sea by the Navy are immeasurably small. Routine groundwater monitoring was, however, undertaken in 2005 at the Defence training area at Lancelin, 100km north of Perth, in Western Australia. This monitoring included testing for uranium and there was no evidence of elevated uranium levels.

(4) This is a matter for the Governments of the US, Japan and the Commonwealth of Puerto Rico and is not an issue that the Australian Government is in a position to comment on.

(5) Yes. The form of armour used on the tanks is a composite of advanced armour materials.

(6) Current scientific opinion is that DU at the levels found in an operational environment would not constitute a significant health hazard, except in the case of inhalation of significant amounts of finely divided DU, as might occur in and near a target during attack by DU weapons.

(7) Defence Health Services (DHS) uses information from many sources when preparing recommendations on health issues. In the case of DU, DHS has used information from the World Health Organization, the United Nations Environment Programme, the European Union, the Rand Corporation, Global Security, the Royal Society and numerous other published papers in order to determine the most appropriate advice to provide to you and deployed members.
(8) DHS has developed a testing protocol for ADF personnel who may have been exposed to DU in the Middle East Area of Operations. Those members have been offered urinary uranium screening, based on assessed exposure risk or health concerns of the individual. The Australian Nuclear Science and Technology Organisation undertakes the testing utilising scientifically sound industry methodology. All health screening test results to date are within normal levels.

**Dairy Structural Adjustment Package**

*(Question No. 1792)*

Senator Siewert asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 11 May 2006:

(a) Since their inception, how much has been expended on the Dairy Structural Adjustment Package and Supplementary Drought Assistance funding to the dairy industry; and (b) how have these funds been distributed regionally over time.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

Payments from the Dairy Structural Adjustment Package (DSAP), from inception on 1 July 2000 to 18 April 2006, are below. The breakdown of these payments is available on a State level only.

**DSAP**

<table>
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<tr>
<th>State</th>
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<tr>
<td>NSW/ACT</td>
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<tr>
<td>QLD/NT</td>
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<td>SA</td>
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</tr>
<tr>
<td><strong>Total</strong></td>
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</tr>
</tbody>
</table>

There is no specific Australian Government programme called Supplementary Drought Assistance.

**Fresh Milk**

*(Question No. 1793)*

Senator Siewert asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 11 May 2006:

(1) Is Coles ‘home brand’ fresh milk all produced in Victoria; if not, what proportions are produced in other states.

(2) Is Woolworths ‘home brand’ fresh milk all produced in New South Wales (NSW); if not, what proportions are produced in other states.

(3) What volume of Coles ‘home brand’ fresh milk is currently being sold in states other than Victoria.

(4) What volume of Woolworths ‘home brand’ fresh milk is being sold in states other than NSW.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

These questions relate to commercial information of private companies. The Australian Government does not have access to the information required to answer these questions.
Dairy Industry
(Question No. 1795)

Senator Siewert asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 11 May 2006:

With reference to the Dairy Australia report Australian Dairy 04.1 p. 3, which provides a graph of the total factor productivity on Australian dairy farms:

(1) Is this data available on a state-by-state basis; if so, can the figures for total factor productivity for dairy farms, state-by-state, from 1982 be provided.

(2) What specific research has been undertaken by Dairy Australia or other Government-funded bodies in relation to the employment levels in the Australian dairy industry over this period.

(3) Can details be provided on a state-by-state basis of employment data in the Australian dairy industry from 1982; if not, why not.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) This information is not available on a state-by-state basis.

(2) Neither Dairy Australia nor other Government-funded bodies have undertaken specific research into employment levels within the Australian dairy industry. However, the Australian Bureau of Statistics (ABS) has collected employment data.

(3) Details on a state-by-state basis of employment figures in the Australian dairy industry are available from 1985-86 onwards. This information has been provided by the ABS and is attached.

AUSTRALIAN BUREAU OF STATISTICS, LABOUR FORCE SURVEY
Annual average no. of persons employed (‘000 persons)

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"0" = rounded to zero; "-" = Nil
National Alcohol Strategy
(Question No. 1797)

Senator Allison asked the Minister representing the Minister for Health and Ageing, upon notice, on 16 May 2006:

(1) Given that the National Alcohol Strategy – A Plan for Action 2001 – 2003-04 expired on 30 June 2004, when will the National Alcohol Strategy 2005-2009 be: (a) finalised; (b) endorsed by the Ministerial Council on Drug Strategy; and (c) made publicly available.

(2) With regard to the National Alcohol Strategy 2005-2009, will funds be allocated towards the implementation of the strategy; if so: (a) how much; and when will the funds be made available.

(3) When did the National Health and Medical Research Council (NHMRC) last revise its guidelines for the use of alcohol during pregnancy.

(4) How does the NHMRC’s guideline for the use of alcohol during pregnancy compare with recommendations in other OECD countries, including the United States of America, United Kingdom and New Zealand.

(5) When will the NHMRC’s guideline for the use of alcohol during pregnancy be next revised.

Senator Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) (a) and (b) The National Alcohol Strategy 2006-2009 (the Strategy) has been finalised and was endorsed by the Ministerial Council on Drug Strategy (MCDS) on 15 May 2006.

(c) Electronic copies of the Strategy are now available on the department’s alcohol policy website www.alcohol.gov.au . Hard copies will be available from the department from June 2006.

(2) The responsibility for implementing the recommendations in the Strategy is spread across jurisdictions and across portfolios and stakeholder groups.

For the Commonwealth Government, a number of new and existing initiatives will contribute towards the implementation of the Strategy. In the 2006 Budget, the Government reaffirmed its commitment to increasing awareness and understanding of the harms associated with alcohol by providing $25.2 million over 4 years to update the Australian Alcohol Guidelines and conduct a national alcohol education and information campaign.

Also in 2006, funding of $5 million is being provided through my department for DrinkWise Australia to conduct education activities using their industry experience in promotion and advertising. This initiative provides an opportunity to raise awareness about the harms associated with alcohol misuse and encourage the responsible use of alcohol.

New standard drink logos have been developed by the alcohol industry to be displayed on alcohol beverages. The Australian Government has supported the development and planned implementation of these logos, which have now also received endorsement from MCDS. The new logos are more prominent and provide a clear message as to how many standard drinks an alcohol product contains. Once implemented by industry partners, the logos will provide greater consistency in standard drink messages across all alcohol products.

These new measures are in addition to the existing National Alcohol Harm Reduction Strategy (NAHRS). NAHRS provides $4.2 million over four years to inform Australians about the Australian Alcohol Guidelines, low risk drinking, and what constitutes a standard drink, to help people better understand the impact of alcohol on their health and to motivate them to monitor their drinking.
(3) The current Australian Alcohol Guideline for women who are pregnant or might soon become pregnant is set out in the document, Australian Alcohol Guidelines: Health risks and benefits, which was endorsed by the NHMRC in October 2001.

(4) In developing the Alcohol Guidelines the NHMRC considered the research evidence from all over the world. The information was assessed in the context of Australia’s unique circumstances and according to the strict rules of evidence to which the NHMRC adheres.

When considering advice on alcohol consumption across countries, the amount of alcohol in each standard drink or unit can vary. One standard drink equals: 10 grams of alcohol in Australia, and New Zealand; 14 grams of alcohol in the United States of America, and one standard unit contains 8 grams of alcohol in the United Kingdom.

**Australia:**

From Guideline 11 of the Australian Alcohol Guidelines

May consider not drinking at all

Most importantly should never become intoxicated

If they choose to drink, over a week, should have less than 7 standard drinks, AND, on any one day no more than 2 standard drinks (spread over at least two hours)

Should note that the risk is highest in the earlier stages of pregnancy, including the time from conception to the first missed period.

**New Zealand:**

According to a media release by the Alcohol Advisory Council of New Zealand dated 4 May 2006, “new guidelines clearly tell pregnant women and medical professionals that total abstinence during pregnancy is the only option”.

**United States**

According to information provided to the public through the internet site of the U.S. Department of Health and Human Services (www.dhhs.gov on 25 May 2006), a safe level of alcohol intake has not been established for women at any time during pregnancy.

**United Kingdom**

According to information provided to the public through the internet site of the Department of Health in the United Kingdom/England (www.dh.gov.uk on 25 May 2006) women who are trying to become pregnant or are at any stage of pregnancy, should not drink more than 1 or 2 units of alcohol once or twice a week, and should avoid episodes of intoxication.

(5) As part of its normal 5 year revision protocol, the NHMRC will commence the revision of the document during 2006. The process involves a detailed literature review and public consultation.

**Tasmanian Community Forest Agreement**

(Question No. 1798)

Senator Milne asked the Minister for Fisheries, Forestry and Conservation, upon notice, on 18 May 2006:

(1) (a) To date, what funds have been paid to Tasmania as part of the Tasmanian Community Forest Agreement (Supplementary Tasmanian Regional Forest Agreement); and (b) for what purpose were those funds allocated.

(2) (a) Has the $2 million allocated for the measure ‘Introducing new silviculture for old growth harvesting’ been paid to Tasmania; (b) what were those funds spent on; (c) have any of those funds been spent on aggregated retention harvesting in state forests; and (d) have any of those funds been spent on forestry operations associated with coupe SX07A.
(3) (a) Which companies or individuals have been the recipients of money allocated for the measure ‘Support for the hardwood timber industry’; and (b) what were the specific projects.

(4) Which sawmills have been the recipients of the funds allocated under the measure ‘Support for country sawmills’.

(5) What has the allocation under the measure ‘Communications program’ been spent on.

(6) Is the Government considering a proposal to spend the $2.2 million for the ‘Communications program’ measure on an advertising campaign aimed at promoting the Tasmanian forestry industry as being environmentally-sound; if so, when is a decision expected.

(7) (a) What funds have been allocated to Tasmania as part of the Intensive Forest Management program; and (b) how much of that has been spent.

(8) (a) Are any of the funds referred to in paragraph (7) intended to be used for converting native forests to plantations; and (b) have any of those funds already been used to convert native forests to plantations.

Senator Abetz—The answer to the honourable senator’s question is as follows:

(1) (a) As at 31 May 2006, $27.324m. (b) Research into Alternatives to the use of 1080, Research into Alternatives to Clearfelling in old growth forests, Communications, Intensive Forest Management and Agreement implementation payments.

(2) (a) Yes, $2m has been paid for Research into Alternatives to Clearfelling in old growth forests. (b) The payment fell due on the two Governments agreeing to the operating plan for ‘Research into Alternatives to Clearfelling in Old Growth Forests’. (c) Under the Operating Plan the funds will be spent on research, monitoring, management and safety aspects of this alternative type of harvesting and silviculture. (d) Some funds may have been spent on work associated with Coupe SX007A, operational decisions on which coupes will be harvested using this alternative silvicultural system are entirely the responsibility of Forestry Tasmania.

(3) (a) As at 29 May 2006 – Nil. (b) n/a.

(4) As at 29 May 2006 – Nil.

(5) On information brochures and advertising at the time the Tasmanian Community Forest Agreement was launched.

(6) No decision has been made yet as to what measures will be included in the balance of the ‘Communications program’.

(7) (a) $66m. (b) $11m.

(8) (a) In accordance with Clause 34 of the Agreement, the Intensive Forest Management program may involve new plantation establishment. Decisions on how these funds are expended are entirely the responsibility of the Tasmanian Government and it is required to provide an annual acquittal of both parties’ funds against items of activity. (b) I do not know if any of the funds have been used for this purpose at this point in time.

Nanotoxicity

(Question No. 1799)

Senator Milne asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 18 May 2006:

(1) Is the Minister aware that in its 2004 report on nanotechnology the United Kingdom’s Royal Society and Royal Academy of Engineering raised serious concerns about the toxicity of nanoparticles and the risks they pose to human health and the environment.
(2) Is the Minister aware that the Royal Society recommended that given the serious risks associated with nanotoxicity and the inability to predict the toxicity of nanoparticles from the known properties of larger sized particles of the same substance, nanoparticles should be treated as new chemicals and be subject to new safety assessments prior to their inclusion in consumer products.

(3) Is the Minister aware that nearly 2 years after the release of the Royal Society’s report, Australian regulators including the Therapeutic Goods Administration (TGA) and the National Industry Chemicals Notification and Assessment Scheme have yet to introduce new safety testing that recognises that the toxicity of nanoparticles cannot be predicted from the known properties of larger-sized particles of the same substance.

(4) Is the Minister aware that despite the absence of requirements for new safety testing of nanoparticles, the TGA has stated that there are close to 400 sunscreen products alone that contain nanoparticle titanium dioxide and/or nanoparticle zinc oxide that are currently commercially available in Australia.

(5) Is the Minister aware that many other consumer products now contain nanoparticles, including cosmetics, paints, furniture varnishes and clothing.

(6) What action will the Minister take to ensure that new regulations are introduced to protect the health of workers and consumers, and the environment, from the risks associated with nanotoxicity.

(7) What action will the Minister take to ensure that the health of consumers is not further compromised through the release of products containing nanomaterials that have not been subject to adequate, if any, safety testing.

Senator Minchin—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator’s question:

(1) I am aware of the United Kingdom’s Royal Society and Royal Academy of Engineering report and that it does raise issues around the potential toxicology of free nanoparticles and recommends the importance of research keeping pace with predicted developments.

(2) I am aware of the recommendations relating to regulatory issues and consumer products.

(3) The TGA and NICNAS fall within the responsibilities of my colleague the Hon Tony Abbott, MP, the Minister for Health and Ageing. I understand that these agencies are actively monitoring the potential impacts of nanotechnology, including potential health and safety risks.

(4) I understand that the TGA has examined the scientific literature and issued advice on their website about the safety of sunscreens and the materials used in them such as titanium dioxide and zinc oxide.

(5) Yes.

(6) I understand that relevant regulatory agencies are actively monitoring the research and developments in nanotechnology and will make assessments based on scientific evidence as to whether any additional actions are needed to deal with potential risks from nanoparticles.

(7) The responsibility for the safety of products crosses many portfolios at both the Federal and State levels. I have also established a Taskforce within my Department to examine options for the development of a coordinated national nanotechnology strategy including the health, safety and environmental impacts of nanotechnology. The Taskforce is due to report to me by 30 June 2006.

2,4-D

(2,4-D)

(Question No. 1800)

Senator Allison asked the Minister representing the Minister for Health and Ageing, upon notice, on 18 May 2006:

QUESTIONS ON NOTICE
With reference to the report in a recent edition of the Canadian journal Paediatrics and Child Health that the commonly-used weed killer 2,4-dichlorophenoxyacetic acid (2,4-D) is ‘persuasively linked’ to cancer, neurological impairment and reproductive problems:

(1) Is it the case that pesticides with the same active ingredient are being used in Australia; if so, (a) at what level is the active ingredient known as 2,4-D and (b) is this use domestic or agricultural.

(2) Is it the case that pesticides with the same active ingredient have been subject to reconsideration by the Australian Pesticides and Veterinary Medicines Authority; if so, is a draft report available for public comment; and (b) have any public health warnings been given, if not, why not.

**Senator Abetz**—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

The Minister for Agriculture, Fisheries and Forestry has answered these questions in his response to Senate Question 1801.

**2,4-D**

(Question No. 1801)

**Senator Allison** asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 18 May 2006:

With reference to the report in a recent edition of the Canadian journal Paediatrics and Child Health that the commonly-used weed killer 2,4-dichlorophenoxyacetic acid (2,4-D) is ‘persuasively linked’ to cancer, neurological impairment and reproductive problems:

(1) Is it the case that pesticides with the same active ingredient are being used in Australia; if so, (a) at what level is the active ingredient known as 2,4-D and (b) is this use domestic or agricultural.

(2) Is it the case that pesticides with the same active ingredient have been subject to reconsideration by the Australian Pesticides and Veterinary Medicines Authority; if so, is a draft report available for public comment; and (b) have any public health warnings been given, if not, why not.

**Senator Abetz**—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) (a). Yes, 2,4-D is used in Australia at rates varying between 0.3 kg ae/ha to 4.5 kg ae/ha depending on the particular weeds that are targeted. (ae = active equivalent). (b). The vast majority of use of 2,4-D in Australia is for agricultural applications. There are 136 registered products containing the active constituent 2,4-D. Of these 4 products are registered for use by consumers in the home garden.

(2) (a). Yes, the 2,4-D family of chemicals is presently being reconsidered by the APVMA. The large set of scientific studies relating to human health risks is still being assessed by the Office of Chemical Safety in the Department of Health and Ageing. That assessment is expected to be finished by the end of 2006. At that time a draft report will be made available for public comment. On 18 April 2006, the APVMA’s Preliminary Review Findings (Environment), Part One: 2,4-D Esters report was released for public comment. The period of public comment closed on 31 May 2006. This report dealt only with environmental aspects. Some interim regulatory actions in relation to the herbicide’s effect on native vegetation and other crops have already been taken or are proposed. (b). The APVMA has not issued public health warnings in relation to 2,4-D use because such warnings are not justified by the existing understanding of risk. The health-concern claims made in the Canadian journal article (Paediatrics and Child Health) are not based on new research as suggested but only on an examination of older studies. These studies have been under examination by international scientific bodies and regulatory authorities for a number of years, and conclusions reached do not agree with the Canadian journal article’s authors.
QUESTIONS ON NOTICE

The United States Environment Protection Agency (US EPA) released its Reregistration Eligibility Document (RED) for 2,4-D (salts and low-volatile esters) in 2005. EPA determined that all products containing 2,4-D as the active ingredient are eligible for reregistration. In 2004, the EPA concluded that “there is no additional evidence that would implicate 2,4-D as a cause of cancer”. In the 2005 report, it stated, “none of the more recent epidemiological studies definitively linked human cancer cases to 2,4-D”.

The European Commission Standing Committee on Plant Health completed a re-evaluation 2,4-D (acid and ethylhexyl ester) in October 2001. The evaluation concluded that it may be expected that plant protection products containing 2,4-D will satisfy the safety requirements of the Council Directive. The commission concluded that residues arising from the proposed uses have no harmful effect on human or animal health and no unacceptable effects on the environment subject to conditions outlined in its re-evaluation.

The APVMA, in consultation with the Office of Chemical Safety, has concluded that in view of recent international decisions supporting the safety of 2,4-D uses in relation to human health, there is no justification for issuing interim health warnings while the Office of Chemical Safety completes Australia’s own exhaustive assessment of the available scientific data during the remainder of this year.

The following point should also be noted. The Canadian regulator was criticised for not examining each 2,4-D product formulation for the presence of dioxins. The APVMA will include that step during the course of its review.

Old-Growth Forest Areas
(Question No. 1802)

Senator Milne asked the Minister for Fisheries, Forestry and Conservation, upon notice, on 22 May 2006:

(1) Why did the Prime Minister break his promise to protect 18,700 (ha) of old growth forest in the Styx and Florentine valleys and other areas adjacent to the eastern boundary of the World Heritage Area in Tasmania, instead protecting only 4730 ha.

(2) What were the ‘social and economic’ consequences of protecting these areas.

(3) Is it not a fact that fewer than eight direct forestry jobs were involved in the Upper Florentine.

(4) Is it a fact that the 1997 Regional Forest Agreement process identified the Upper Florentine as having World Heritage values.

(5) (a) Is it a fact that the Government promised in October 2004 to protect rainforest in the Weld Valley; and (b) how much forest was actually protected in the Weld Valley.

(6) Why did the Government break its promise to protect rainforest in the Weld Valley.

(7) Is it a fact that, despite protecting less forest in the Styx, Weld and Florentine than promised, the Government raised its compensatory funding to the industry from about $30 million to over $130 million.

(8) Why could not those additional funds have been used to protect areas such as the Weld, Florentine and Styx rather than to destroy them.

(9) Is it a fact that part of the $250 million package from the 2005 forest agreement is being spent on, or is earmarked for, building new logging roads into previously untouched old growth forests in the Weld and Florentine Valleys.

(10) Is it a fact that the Government is using taxpayers’ funds to break its promise and to destroy old growth forests with documented World Heritage values.

QUESTIONS ON NOTICE
QUESTIONS ON NOTICE

(11) Is it a fact that Commonwealth Government funds from the May 2005 forest agreement are being
used, or have been earmarked, for clearing more native forests on public land and converting them to plantations.

(12) (a) Did the Government agree to the further destruction of 16,000 ha of native forest on public land
and its conversion to plantations; and (b) what impact will this have on the endangered Tasmanian
wedge tailed eagle.

(13) Is it a fact that the Tasmanian wedge tailed eagle faces a 97 per cent chance of extinction in north-
eastern Tasmania due to the combined effects of land clearing and logging.

Senator Abetz—The answer to the honourable senator’s question is as follows:

(1) The question is based on a false premise.

(2) This was part of the overall package that secured thousands of jobs for Tasmanians in the forest
industry. However, it is not possible to quantify the exact number of jobs that relate to any particular
small area of forest as the jobs are related to the ongoing access to the legislated sustainable log
supply across all productive forest. The Stys and Florentine Valleys contain highly valuable timber
resources that provide direct and indirect jobs especially in the sawlog and veneer sectors, in an
area where few other employment opportunities exist.

(3) No.

(4) No.

(5) (a) Yes. The 2004 election policy said; In accordance with the Regional Forest Agreement, a re-
elected Coalition Government will negotiate with the Tasmanian Government to immediately
add over 170,000 hectares to the current reserve system. This will include the immediate pro-
tection of an additional 76,100 hectares of rainforest in the Tarkine, Southern forests (includ-
ing the Huon and Weld Valleys) and North East Tasmania.

(b) In addition to the 82% of the Weld Valley already protected, a further 60 hectares was added
under the Tasmanian Community Forestry Agreement.

(6) Not applicable – the Government did not break its election promise.

(7) No.

(8) The question is based on a false premise. Further, these areas will not be destroyed; they will be
managed sustainably and continue to provide environmental, social and economic benefits to Tas-
mania in perpetuity.

(9) No money has been earmarked for specific roads. Under the Tasmanian Community Forest Agree-
ment, the Tasmanian Government has committed $20 million for additional roading infrastructure
statewide, required to support the implementation of changed harvesting programs agreed under
the package. The construction of roads in these areas is consistent with Forestry Tasmania’s Three
Year Wood Production Plans, as required under the Forest Practices Act 1985.

(10) No. Further, these areas have all been ‘touched’ by fire or logging in the past.

(11) Within the context of the agreement the existing Permanent Forest Estate Policy would be revised
and tightened to phase out the clearing and conversion of public native forests over five years and
over 10 years on private land, capped to ensure at least 95 per cent of the 1996 native forest cover
is maintained, Commonwealth funding was made available. Plantation establishment is only per-
missible within the new constraints of that Policy.

(12) (a) No, see answer to question 11 (above).

(b) The wedge-tailed eagle’s habitat will be enhanced with the protection of a further 160,000
hectares under the Tasmanian Community Forest Agreement.
(13) No. Recent modelling by the University of Melbourne indicates that the major threat to wedge-tailed eagles is unnatural mortality as a result of shooting, road kill and other factors, and that forestry activities are of minor significance to future eagle populations. 

**Asbestos Dust**  
*(Question No. 1805)*

Senator Allison asked the Minister representing the Minister for Health and Ageing, upon notice, on 25 May 2006:

(1) Is the Minister aware that, following the recent Cyclone Monica, many buildings in the community of Maningrida have been badly damaged.

(2) Is the Minister aware that many of these buildings, including the school, contain asbestos.

(3) What information does the Government have on the risks to the community of Maningrida due to exposure to asbestos dust.

(4) What has the Federal Government done (or what does it intend to do) to protect the health of those people in the community, including the children who have returned to the school, who are now exposed to asbestos dust.

Senator Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) to (4) The convention for environmental health issues, including asbestos issues, is that state and territory governments have primary responsibility for localised environmental health issues of this kind. The Commonwealth’s environmental health responsibilities are ordinarily confined to environmental challenges with a national health impact.

The Department of Health and Ageing has been advised by the Northern Territory Government that the Maningrida School was assessed by Environmental Health Officers from the Northern Territory Government’s Department of Health and Community Services on 26 and 27 April 2006 as part of the overall assessment of the Maningrida community following Cyclone Monica.

During the assessment, one house (Lot 540) which had been destroyed was noted to have contained significant amounts of asbestos sheeting.

The Environmental Health Officers reported that Maningrida School was slightly damaged with a section of the roof having been blown off. No asbestos cement sheeting material was noted as being used in the school buildings.

While there is a possibility that small pieces of asbestos were distributed throughout the community by the cyclone, the Environmental Health Officers noted only two small pieces of asbestos lying in the grounds of the school.

Recommendations were made to keep people away from the asbestos-containing material and the procedures for its safe handling and disposal were described. This advice was provided through formal reporting within the disaster management process as well as directly to the CEO of the Maningrida community and the Officer In-Charge, Maningrida, Northern Territory Police.

**Alcoholism**  
*(Question No. 1807)*

Senator Allison asked the Minister representing the Minister for Health and Ageing, upon notice, on 25 May 2006:

(1) Is the Minister aware that a study published in a recent edition of the *Journal of the American Medical Association* has found that alcoholism can be treated successfully with the drugs Naltrexone and Acamprosate in combination with specialised counselling.
(2) Will the Government consider making such treatment available to treat alcoholism, particularly in Indigenous communities.

Senator Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) and (2) Australian clinicians have been treating alcohol dependence with combinations of counselling and drugs such as naltrexone and acamprosate since before 2001. The Commonwealth Government has supported clinicians by funding the development of treatment guidelines and other advice. For example recent publications include the Guidelines for the treatment of alcohol problems in 2003, and Alcohol & other drugs: A handbook for professionals in 2004 which both detail the best clinical practice for treating people with alcohol dependence and other problems using the latest therapeutic techniques including the prescription of naltrexone and acamprosate.

Both drugs are made in Australia and both are available through the Pharmaceutical Benefits Scheme and the Repatriation Pharmaceutical Benefits Scheme. From January 2001 to April 2006 Medicare Australia provided almost $20 million in rebates for acamprosate prescriptions and over $11 million for naltrexone prescriptions. Naltrexone is also used for treating some other conditions besides alcohol dependence.

To extend the impact of the Guidelines for the treatment of alcohol problems, the Government is currently funding the development of specialised treatment guidelines for Aboriginal and Torres Strait Islander Australians with alcohol problems. Like the mainstream guidelines, these will provide advice on clinical management issues but in a culturally relevant and sensitive manner and include advice on the appropriate use of pharmacotherapies such as naltrexone and acamprosate. A detailed dissemination strategy is planned to roll out the new guidelines to all health professionals that work with Aboriginal and Torres Strait Islander Peoples. This activity will add to the dissemination of the original mainstream Guidelines that included a television broadcast to rural health professionals.

Albury-Wodonga Hume Freeway Upgrade Project

(Question No. 1812)

Senator Allison asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 25 May 2006:

With reference to the Albury-Wodonga Hume Freeway Upgrade Project:

(1) What is the total amount expended on this project from its inception to and including the 2005-06 financial year.

(2) What is the latest estimate of the total cost of the project.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) Australian Government expenditure on the Albury-Wodonga Hume Freeway Upgrade Project, including the Bandiana Link, was $317.648 million up to the end of June 2006.

(2) The estimated total cost of the project is $524.0 million, which includes an Australian Government contribution of $518.2 million.

Land Transport

(Question No. 1813)

Senator Allison asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 25 May 2006:
(1) Of the estimated $2.2 billion spent on land transport in the 2005-06 financial year for road and rail projects, how much was allocated to:
   (a) road works;
   (b) the Hume Highway;
   (c) rail;
   (d) advanced planning of major road upgrades on new land corridors, including the Pacific Highway; and
   (e) advanced planning of rail deviations on new land corridors, including the proposed deviation, at 14 locations on the New South Wales north coast railway noted on page 37 of the 2004 AusLink White Paper.

(2) What are the Commonwealth receipts from each of the New South Wales and Victorian Governments for loan repayments for construction of an Albury to Melbourne standard gauge line that was completed in 1962.

(3) (a) What is the total amount in interest and principal to be paid on these loans; and (b) when are they due to be paid off.

**Senator Ian Campbell**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) (a) and (b) The Australian Government expects to spend $4,489 million on land transport infrastructure in the 2005-06 financial year. The Australian Government has budgeted $4,187 million for roads in 2005-06, of which $957 million has been allocated to the Hume Highway.
   
   (c) The Australian Government has budgeted $302 million for rail in 2005-06.
   
   (d) Australian Government funding for roads generally include funding for pre-construction activities such as planning, route selection studies, environmental assessment, design development and land acquisitions. The Australian Government has allocated $308m to the Pacific Highway in 2005-06, consisting of $268m for works in NSW and $40m for the Tugun Bypass in Queensland.

   A significant portion of this funding will be expended on pre-construction activities. The Australian Government also invests in strategic land transport research and technology activities, including carrying out corridor strategy studies to determine the future usage of the AusLink national network and providing grants to dedicated land transport research organisations. An amount of $9.4m has been allocated in 2005-06 for these purposes.

   (e) Following the release of the AusLink White Paper and the allocation of additional funding by the Australian Government the Australian Rail Track Corporation (ARTC) undertook intensive analysis and consultation with users to develop a coherent and integrated investment program to cover the full length of the north south corridor (Melbourne-Sydney-Brisbane).

   The investment program that has been developed out of the consultation process has shifted away from the construction of deviations and focussed on investment in passing loops, signalling and track strengthening (including the replacement of all timber sleepers) and is being implemented by a number of contracts entered into by ARTC.

(2) Loan schedules for the Rail Standardisation loan for 2005-2006, to be paid by 30 June 2006 are:

   NSW, $124,816.49 (Principal = $95,837.07, Interest = $28,979.42)
   
   VIC, $124,816.49 (Principal = $95,837.07, Interest = $28,979.42)

(3) (a) and (b) Total principal and interest for the loans are as follows (final payments are due in 2013):
(1) Are airports on the Certified Aerodromes Register required to have an emergency plan as part of their aerodrome manual.

(2) Are airport operators required to test this plan every two years.

(3) Can the Minister advise when the emergency plan was last tested at the following airports: (a) Adelaide; (b) Avalon; (c) Bankstown; (d) Brisbane; (e) Canberra; (f) Darwin; (g) Essendon; (h) Hobart; (i) Launceston; (j) Melbourne; (k) Moorabbin; (l) Perth; and (m) Sydney.

(4) Can the Minister also advise which Certified Aerodromes have not tested their emergency plan in the last two years.

(5) What action is taken when it is discovered that an airport operator has failed to meet the safety requirement.

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 30 May 2006:

(1) Yes. Civil Aviation Safety Regulation (CASR) Part 139 requires the operator of a certified aerodrome to have an aerodrome manual which includes an emergency plan.

(2) Yes. Aerodrome emergency exercises must be carried out at least once every two years, commensurate with the size and scale of operations at the airport.

(3) The emergency plan was last tested at the following airports in the months indicated.
   (a) Adelaide - March 2006;
   (b) Avalon - June 2006;
   (c) Bankstown - October 2004;
   (d) Brisbane - October 2005;
   (e) Canberra - June 2005;
   (f) Darwin - October 2005;
   (g) Essendon - June 2006;
   (h) Hobart - July 2004;
   (i) Launceston - April 2006;
   (j) Melbourne - November 2004;
   (k) Moorabbin - August 2004;
   (l) Perth - October 2005; and
   (m) Sydney - October 2005.

(4) Other than for the airports listed in (3), CASA does not have the information, and to obtain it would require a considerable commitment of resources. An aerodrome operator is not obligated to notify
CASA of an impending aerodrome emergency exercise nor of the conduct of an exercise. The conduct of an exercise is addressed during regular audits of an aerodrome’s operating procedures.

(5) Where an audit reveals that an aerodrome emergency exercise is overdue, a Request for Corrective Action will normally be issued to the aerodrome operator for non compliance with CASR 139.215, unless the operator can either (i) account for the delay by having requested an extension of time, or (ii) demonstrate that other mitigating circumstances have reasonably prevented the exercise from being conducted by the due date.

Canberra International Airport

(Question No. 1818)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 30 May 2006:

With reference to the lengthening and strengthening of the Canberra International Airport runway:

(1) What advice did the Government receive from Canberra International Airport about the damage that would be caused by the landing of Air Force One in 2003.

(2) On what dates and in what form was this advice received.

(3) Can the Minister confirm that the Government ‘prevailed’ on Canberra International Airport to allow the Bush visit to proceed.

(4) Were there any safety implications associated with the decision to permit Air Force One to land.

(5) What undertakings did the Government make to Canberra International Airport to repair damage at the time.

(6) What runway damage was caused by Air Force One.

(7) In relation to the runway damage: (a) what date was the damage first brought to the Government’s attention; (b) who was the source of this advice; and (c) what was the form of this advice.

(8) On what date did the Government commission an inspection of the runway.

(9) In relation to the inspection: (a) on what date was it conducted; (b) who undertook the inspection; and (c) what was the cost to the department.

(10) On what date did the Government first enter into negotiations with Canberra International Airport to fund the strengthening of the runway.

(11) On what date did the Government make a final offer to fund the works.

(12) Will the strengthening and lengthening of the runway allow for unrestricted operation of VIP and military aircraft; if not, what operational restrictions will be in place.

(13) Once strengthened, what will be the capacity of the runway in respect to: (a) aircraft size and weight; and (b) number of aircraft movements.

(14) (a) On what dates were funds for the project paid to Canberra International Airport; and (b) what quantum of funding was paid.

(15) (a) When did the strengthening commence; and (b) when will it conclude.

(16) Can details be provided of all Commonwealth payments to Canberra International Airport since its privatisation, including the purpose and quantum of each payment.

(17) Can the Minister outline the department’s professional technical expertise with respect to runway pavement, design, construction and maintenance.

Senator Ian Campbell—The Acting Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:
(1) Canberra International Airport did not advise the Government that the landing of Air Force One in 2003 would cause damage.

(2) Not applicable.

(3) The Government did not ‘prevail’ on Canberra International Airport to “allow” President Bush visit to proceed.

(4) No

(5) The Government did not give undertakings to Canberra International Airport to repair damage at the time.

(6) There was evidence of rutting in the runway pavement attributable to recurrent overloading of the runway by aircraft that exceeded the strength rating of the pavement, however this rutting was evident prior to the visit by Air Force One.

(7) The issue of any runway damage attributable to Air Force One has not been raised with the Government. The airport operator notified the Government of the deterioration of the runway pavement as a result of overloading of Canberra Airport’s main runway during a meeting circa August 2003.

(8) The Government did not commission an inspection of the runway.

(9) Not applicable.

(10) On 14 December 2005, the Department of the Prime Minister and Cabinet advised representatives of Canberra International Airport that the Government was prepared to provide funding for the strengthening work.

(11) 20 January 2006.

(12) The funding is provided for strengthening the existing main runway (and associated taxiways) at the Canberra International Airport to Pavement Classification Number (PCN) 62 to allow for unrestricted movements by aircraft up to Boeing 747 equivalent (but not an A380). To the airport operator’s best knowledge, this covers all VIP aircraft that have visited or intended to visit Canberra during the past 8 years.

(13) Refer to 12.

(14) (a) Funds in relation to the runway strengthening project were paid on 26 May 2006.

(b) The quantum of funds paid was $28.5 million.

(15) (a) The runway upgrade works commenced on 16 March 2006.

(b) The runway upgrade works are expected to be completed by 30 September 2006. A contractual obligation exists to complete the works by 28 February 2007.

(16) The following GST exclusive payments have been made since privatisation:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount (exc GST)</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000-01</td>
<td>$8.8 million</td>
<td>Runway Development Works</td>
</tr>
<tr>
<td>2003-04</td>
<td>$1,700</td>
<td>Repay overpayment for building application</td>
</tr>
<tr>
<td>2004-05</td>
<td>$3,300</td>
<td>Reconciliation payment for Airport Environment Officer</td>
</tr>
<tr>
<td>2005-06</td>
<td>$28.5 million</td>
<td>Runway strengthening grant</td>
</tr>
</tbody>
</table>

(17) The Department is able to draw on the technical expertise within the Civil Aviation Safety Authority (CASA) which has a regulatory function in relation to the design and operation of aerodromes.

**Civil Aviation Safety Authority**

*Question No. 1819*

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 30 May 2006:

**QUESTIONS ON NOTICE**
How many prosecutions has the Civil Aviation Safety Authority initiated pursuant to Civil Aviation Regulation 215, as contained in the Civil Aviation Regulations 1988, in the past four calendar years, by year.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

In the past four calendar years CASA has initiated one prosecution pursuant to Regulation 215 of the Civil Aviation Regulations 1988. The prosecution was commenced in 2004 and concluded in January 2005.

Discretionary Grant Programs

(Question No. 1820)

Senator O’Brien asked the Minister for Finance and Administration, upon notice, on 30 May 2006:

With reference to the Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies (June 2005):

(1) Does the department maintain a central discretionary grants register.

(2) For each department or agency, can details of all discretionary grant programs in the 2005-06 and 2006-07 financial years be provided.

Senator Minchin—The answer to the honourable senator’s question is as follows:

I can confirm that the Department of Finance and Administration maintains a Discretionary Grants Central Register (DGCR). Agencies update the DGCR with details of the discretionary grants that have been awarded to individual recipients.

The DGCR does not contain complete details of discretionary grant programmes as certain types of grants are excluded from the reporting requirements. These include payments to States and other Government Agencies, emergency payment programmes and grants under commercial industry development programmes.

As the Honourable Senator would be aware, each Portfolio publishes in its annual reports a full list of discretionary grants programmes, and publishes or makes available a list of grants recipients.

Singapore Airlines

(Question No. 1842)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 31 May 2006:

(1) Did the former Minister, Mr Anderson, write to his Singaporean counterpart in September 2002 advising he was ‘keen to provide opportunities for Singapore Airlines to broaden and deepen its involvement in our market’.

(2) Has Singapore Airlines’ involvement in the Australian market broadened or deepened since September 2002; if so, how.

(3) Has Singapore asked the Government to reconsider the issue of Singapore Airlines’ access to the trans-Pacific route as part of the review of the Australia-Singapore Free Trade Agreement; if so: (a) when and how was that request made; and (b) how has the Government responded.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) Yes.
Yes. The air services arrangements between Australia and Singapore, signed in 2003, allows Singapore Airlines to fly an unlimited number of flights between Singapore and any point in Australia and beyond to New Zealand.

The following tables show (a) the number of seats operated to and from Australia by Singapore Airlines since 2001 on a monthly basis, and (b) the number of passengers flown to and from Australia by Singapore Airlines since 2001 on a monthly basis. The data indicates a 17.71 per cent increase in the number of seats operated to and from Australia from the year ending September 2002 to the year ending September 2005, and a 10.41 per cent increase in the number of passengers flown to and from Australia from the year ending September 2002 and the year ending September 2005. The available 2006 figures indicate further increases.

Table A

INTERNATIONAL SCHEDULED AIR TRANSPORT - Data supplied by airlines

Seats operated to and from Australia

Singapore Airlines

<table>
<thead>
<tr>
<th></th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jan</td>
<td>204,112</td>
<td>211,432</td>
<td>215,146</td>
<td>224,584</td>
<td>241,001</td>
<td>262,722</td>
</tr>
<tr>
<td>Feb</td>
<td>153,260</td>
<td>187,678</td>
<td>190,844</td>
<td>190,581</td>
<td>217,402</td>
<td>232,174</td>
</tr>
<tr>
<td>Mar</td>
<td>201,488</td>
<td>202,080</td>
<td>213,548</td>
<td>204,145</td>
<td>242,602</td>
<td>N/A</td>
</tr>
<tr>
<td>Apr</td>
<td>199,200</td>
<td>195,034</td>
<td>201,722</td>
<td>205,782</td>
<td>244,071</td>
<td>N/A</td>
</tr>
<tr>
<td>May</td>
<td>207,328</td>
<td>201,094</td>
<td>156,484</td>
<td>212,953</td>
<td>253,204</td>
<td>N/A</td>
</tr>
<tr>
<td>Jun</td>
<td>202,612</td>
<td>201,054</td>
<td>159,076</td>
<td>206,985</td>
<td>251,567</td>
<td>N/A</td>
</tr>
<tr>
<td>Jul</td>
<td>210,640</td>
<td>209,862</td>
<td>199,544</td>
<td>215,172</td>
<td>260,242</td>
<td>N/A</td>
</tr>
<tr>
<td>Aug</td>
<td>210,758</td>
<td>207,496</td>
<td>199,994</td>
<td>215,784</td>
<td>255,147</td>
<td>N/A</td>
</tr>
<tr>
<td>Sep</td>
<td>204,860</td>
<td>201,538</td>
<td>192,550</td>
<td>210,421</td>
<td>243,638</td>
<td>N/A</td>
</tr>
<tr>
<td>Oct</td>
<td>212,672</td>
<td>209,824</td>
<td>201,866</td>
<td>215,606</td>
<td>252,926</td>
<td>N/A</td>
</tr>
<tr>
<td>Nov</td>
<td>200,874</td>
<td>210,766</td>
<td>213,504</td>
<td>232,665</td>
<td>253,872</td>
<td>N/A</td>
</tr>
<tr>
<td>Dec</td>
<td>231,540</td>
<td>223,224</td>
<td>226,146</td>
<td>241,280</td>
<td>263,368</td>
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</tr>
<tr>
<td>Total</td>
<td>2,439,344</td>
<td>2,461,082</td>
<td>2,370,424</td>
<td>2,575,958</td>
<td>2,979,040</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Table B

INTERNATIONAL SCHEDULED AIR TRANSPORT - Data supplied by airlines

Passengers uplift from and discharged in Australia

Singapore Airlines

<table>
<thead>
<tr>
<th></th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jan</td>
<td>161,922</td>
<td>177,732</td>
<td>184,321</td>
<td>192,564</td>
<td>199,323</td>
<td>222,687</td>
</tr>
<tr>
<td>Feb</td>
<td>125,971</td>
<td>156,847</td>
<td>155,736</td>
<td>157,821</td>
<td>166,882</td>
<td>185,602</td>
</tr>
<tr>
<td>Mar</td>
<td>143,263</td>
<td>163,487</td>
<td>147,869</td>
<td>158,059</td>
<td>166,838</td>
<td>N/A</td>
</tr>
<tr>
<td>Apr</td>
<td>148,621</td>
<td>155,479</td>
<td>106,263</td>
<td>160,449</td>
<td>167,201</td>
<td>N/A</td>
</tr>
<tr>
<td>May</td>
<td>135,849</td>
<td>147,663</td>
<td>86,197</td>
<td>141,653</td>
<td>154,031</td>
<td>N/A</td>
</tr>
<tr>
<td>Jun</td>
<td>149,409</td>
<td>159,795</td>
<td>117,588</td>
<td>156,338</td>
<td>181,898</td>
<td>N/A</td>
</tr>
<tr>
<td>Jul</td>
<td>166,382</td>
<td>173,106</td>
<td>164,237</td>
<td>176,043</td>
<td>202,305</td>
<td>N/A</td>
</tr>
<tr>
<td>Aug</td>
<td>155,003</td>
<td>158,284</td>
<td>154,524</td>
<td>160,843</td>
<td>179,684</td>
<td>N/A</td>
</tr>
<tr>
<td>Sep</td>
<td>162,193</td>
<td>161,231</td>
<td>157,550</td>
<td>162,833</td>
<td>181,655</td>
<td>N/A</td>
</tr>
<tr>
<td>Oct</td>
<td>161,863</td>
<td>174,813</td>
<td>160,657</td>
<td>171,667</td>
<td>190,917</td>
<td>N/A</td>
</tr>
<tr>
<td>Nov</td>
<td>152,225</td>
<td>169,333</td>
<td>168,665</td>
<td>183,923</td>
<td>191,463</td>
<td>N/A</td>
</tr>
<tr>
<td>Dec</td>
<td>190,440</td>
<td>191,995</td>
<td>193,385</td>
<td>206,644</td>
<td>230,573</td>
<td>N/A</td>
</tr>
<tr>
<td>Total</td>
<td>1,853,141</td>
<td>1,989,765</td>
<td>1,796,992</td>
<td>2,028,837</td>
<td>2,212,770</td>
<td>N/A</td>
</tr>
</tbody>
</table>
(3) Singapore has not directly asked the Government to reconsider the issue of Singapore Airlines' access to the trans-Pacific route as part of the review of the Australia-Singapore Free Trade Agreement. Nonetheless, Singapore has raised the proposed Open Skies Agreement as an item for discussion at the review. The Australian Government has explained to Singapore that its decision on access to the trans-Pacific route would not change for the present time.

International Air Carriers
(Question No. 1843)

Senator O'Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 31 May 2006:

(1) Which international air carriers have sought to expand services to Australia in each of the following financial years: (a) 2003-04; (b) 2004-05; (c) 2005-06; and (d) 2006-07 to date.

(2) In each case, how has the Government responded.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) Requests for capacity increases are generally made at a government to government level through the relevant aeronautical authorities rather than by airlines directly. A number of countries have sought air services consultations with Australia since financial year 2003 – 04 most of which have included a request for expanded capacity. Other talks have been initiated by Australia and some of these have subsequently involved a request by the other country for expanded capacity for their airlines.

(a) 2003 – 04 Consultations were held with Austria, Brunei, Hong Kong, India, Korea, Malta, Mauritius, Qatar, Singapore, the UAE and Vietnam.

(b) 2004 - 05 Consultations were held with Czech Republic, Egypt, European Commission, Fiji, India, Ireland, Mexico, Palau, Taiwan and the United Kingdom.

(c) 2005 – 06 Consultations were held with Brazil, Japan, Qatar and Vietnam. Consultations were also requested by Bangladesh, Canada, French Polynesia, Madagascar, Marshall Islands, Mauritius, Nepal, Pakistan, Qatar, Seychelles, Taiwan (scheduled for end of June 2006) and the UAE.

(d) 2006 – 07 nil

(2) The Government has negotiated either through formal talks or correspondence with a number of countries. A number of others which have sought talks, identified under 1 c) above, are included in the Government’s forward negotiating program for 2006 - 07.

Australia negotiates capacity in two ways, firstly specific capacity entitlements to its four major gateway ports of Sydney, Melbourne, Brisbane and Perth and secondly, the regional package which provides for unlimited capacity to and from all ports in Australia other than Sydney, Melbourne, Brisbane and Perth. Commercial arrangements may also be negotiated that provide opportunities for airlines of either contracting party to enter into code sharing arrangements with the airlines of the same country, the other country and/or a third country as either the marketing or operating airline. Code share capacity may or may not be limited.

A summary of the outcomes of the air services consultations since the commencement of the financial year 2003 – 04 is provided below (in alphabetical order by country). The outcome achieved represents a negotiated balance between the interests of both parties.
<table>
<thead>
<tr>
<th>Country</th>
<th>Outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>Unrestricted capacity for Australia</td>
</tr>
<tr>
<td>(7 October 2003)</td>
<td>For Austrian carriers:</td>
</tr>
<tr>
<td></td>
<td>- regional package</td>
</tr>
<tr>
<td></td>
<td>- increase in capacity to 3600 seats each way each week (ewew) to major</td>
</tr>
<tr>
<td></td>
<td>ports of Sydney, Melbourne, Brisbane and Perth, increasing to 4400</td>
</tr>
<tr>
<td></td>
<td>seats from April 2004, 5200 seats from April 2005 and to 5600 seats</td>
</tr>
<tr>
<td></td>
<td>from April 2006.</td>
</tr>
<tr>
<td>Brazil</td>
<td>New Air Services Agreement (ASA)</td>
</tr>
<tr>
<td>(February 2006)</td>
<td>Capacity of seven services (ewew) to any point in the other country</td>
</tr>
<tr>
<td></td>
<td>three all-freight services (ewew) for both sides.</td>
</tr>
<tr>
<td>Brunei</td>
<td>New Memorandum of Understanding granting Brunei access to Sydney</td>
</tr>
<tr>
<td>(March 2004)</td>
<td>and Melbourne</td>
</tr>
<tr>
<td></td>
<td>For Brunei capacity was increased as follows:</td>
</tr>
<tr>
<td></td>
<td>- Brisbane: from 1000 to 1050 seats (ewew) from 30 March 2004</td>
</tr>
<tr>
<td></td>
<td>- Sydney and/or Melbourne: 630 seats (ewew) from 30 March 2004 to</td>
</tr>
<tr>
<td></td>
<td>840 seats (ewew) from 30 March 2005</td>
</tr>
<tr>
<td></td>
<td>- Perth: from 800 to 840 seats (ewew) from 30 March 2004</td>
</tr>
<tr>
<td></td>
<td>For Australia capacity was increased from 3600 to 4000 seats (ewew)</td>
</tr>
<tr>
<td></td>
<td>from 30 March 2004 and to 4400 seats (ewew) from 30 March 2005.</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>New ASA</td>
</tr>
<tr>
<td>(June 2005)</td>
<td>Capacity of seven services (ewew) for both sides.</td>
</tr>
<tr>
<td>Hong Kong</td>
<td>No outcomes, talks resumed in April 2004.</td>
</tr>
<tr>
<td>(November 2003)</td>
<td>Capacity increased from 35 to 55 services (ewew) immediately, rising to</td>
</tr>
<tr>
<td>(April 2004)</td>
<td>70 services (ewew) by the end of March 2006</td>
</tr>
<tr>
<td>India</td>
<td>New ASA</td>
</tr>
<tr>
<td>(September 2004)</td>
<td>Un-used passenger capacity can be freely converted to all-freight capacity.</td>
</tr>
<tr>
<td></td>
<td>Capacity increased for the airlines of both countries from 2100 seats</td>
</tr>
<tr>
<td></td>
<td>(ewew) to 4500 seats (ewew) between Australia’s four main gateway ports</td>
</tr>
<tr>
<td></td>
<td>of Sydney, Melbourne, Brisbane and Perth and four major ports in India:</td>
</tr>
<tr>
<td></td>
<td>New Delhi, Mumbai, Calcutta and Chennai</td>
</tr>
<tr>
<td></td>
<td>Capacity will increase by 1,000 seats (ewew) per year to 6,500 seats</td>
</tr>
<tr>
<td></td>
<td>(ewew) in October 2006</td>
</tr>
<tr>
<td></td>
<td>Open freight.</td>
</tr>
<tr>
<td>Ireland</td>
<td>New ASA</td>
</tr>
<tr>
<td>(June 2005)</td>
<td>Capacity of seven services (ewew) to major ports of Sydney, Melbourne,</td>
</tr>
<tr>
<td></td>
<td>Perth and Brisbane for Ireland</td>
</tr>
<tr>
<td></td>
<td>Equivalent capacity for Australia</td>
</tr>
<tr>
<td></td>
<td>Regional package</td>
</tr>
<tr>
<td></td>
<td>Open freight.</td>
</tr>
<tr>
<td>Japan</td>
<td>No agreement by Japan to Australia’s request for increased capacity.</td>
</tr>
<tr>
<td>(January 2006)</td>
<td>Questions on Notice</td>
</tr>
</tbody>
</table>


<table>
<thead>
<tr>
<th>Country</th>
<th>Outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Korea</td>
<td>Increased capacity for the Republic of Korea:</td>
</tr>
<tr>
<td>(3-4 March 2004)</td>
<td>- with immediate effect, a total of 6,400 seats (ewew) to and from Sydney,</td>
</tr>
<tr>
<td></td>
<td>Melbourne, Brisbane and Perth</td>
</tr>
<tr>
<td></td>
<td>- with effect from March 2005</td>
</tr>
<tr>
<td></td>
<td>a total of 7,500 seats (ewew) to and from Sydney, Melbourne, Brisbane</td>
</tr>
<tr>
<td></td>
<td>and Perth</td>
</tr>
<tr>
<td></td>
<td>Equivalent capacity increase for Australia</td>
</tr>
<tr>
<td></td>
<td>Regional package</td>
</tr>
<tr>
<td>Mauritius</td>
<td>Access for Mauritius to all points in Australia</td>
</tr>
<tr>
<td>(September 2003)</td>
<td>Regional package</td>
</tr>
<tr>
<td></td>
<td>Capacity increase from two to three services (ewew) in total to Brisbane,</td>
</tr>
<tr>
<td></td>
<td>Melbourne, Sydney and Perth for Mauritius</td>
</tr>
<tr>
<td></td>
<td>Equivalent capacity increase for Australia</td>
</tr>
<tr>
<td></td>
<td>Open freight</td>
</tr>
<tr>
<td>Mexico</td>
<td>New ASA</td>
</tr>
<tr>
<td>(February/March 2005)</td>
<td>Capacity of four services (ewew) for each side</td>
</tr>
<tr>
<td></td>
<td>Mexico did not agree to any freight capacity</td>
</tr>
<tr>
<td></td>
<td>Regional package</td>
</tr>
<tr>
<td>Palau</td>
<td>Capacity of 600 seats (ewew) immediately, rising to 1200 seats (ewew) from April 2007.</td>
</tr>
<tr>
<td>(September 2004)</td>
<td>New ASA</td>
</tr>
<tr>
<td>Qatar</td>
<td>Capacity of three services (ewew) for each side</td>
</tr>
<tr>
<td>(October 2003)</td>
<td>No outcome, parties could not agree on the content of a total package</td>
</tr>
<tr>
<td></td>
<td>which included a capacity component.</td>
</tr>
<tr>
<td>Singapore</td>
<td>New ASA</td>
</tr>
<tr>
<td>(September 2003)</td>
<td>Regional package</td>
</tr>
<tr>
<td>South Africa</td>
<td>Open capacity between Australia and Singapore.</td>
</tr>
<tr>
<td>(Early 06 by correspondence – ongoing)</td>
<td>Australia accepted South Africa’s proposal to amend the current route schedule to allow for a more open route schedule. In addition, Australia has proposed third country code share arrangements.</td>
</tr>
<tr>
<td>Taiwan</td>
<td>Capacity increased by 400 seats to 4000 seats (ewew).</td>
</tr>
<tr>
<td>March 2005</td>
<td>On Abu Dhabi route; an immediate increase from two to four services (ewew)</td>
</tr>
<tr>
<td>UAE</td>
<td>Capacity increase on the Dubai - Sydney route for UAE airlines from</td>
</tr>
<tr>
<td>(March 2004)</td>
<td>seven services (ewew) to fourteen services (ewew) phased in as follows:</td>
</tr>
<tr>
<td></td>
<td>- with effect from November 2004 a total of 11 services (ewew)</td>
</tr>
<tr>
<td></td>
<td>- with effect from March 2005 a total of 14 services (ewew)</td>
</tr>
<tr>
<td></td>
<td>- giving a total of 49 services (ewew) to each of the major gateway ports of Sydney, Melbourne, Brisbane and Perth.</td>
</tr>
<tr>
<td></td>
<td>Equivalent capacity increase for Australia</td>
</tr>
<tr>
<td>UK</td>
<td>No additional capacity or improved intermediate options agreed</td>
</tr>
<tr>
<td>June 2005</td>
<td>Talks are to resume in July 2006</td>
</tr>
<tr>
<td>Vietnam</td>
<td>Capacity increase from five services (ewew) to seven services (ewew)</td>
</tr>
<tr>
<td>October 2003</td>
<td>Regional package.</td>
</tr>
<tr>
<td>Vietnam</td>
<td>Timing of capacity increases unable to be agreed.</td>
</tr>
<tr>
<td>April 2006</td>
<td></td>
</tr>
</tbody>
</table>

QUESTIONS ON NOTICE
Chicago Consul-General
(Question No. 1844)

Senator Allison asked the Minister representing the Minister for Foreign Affairs, upon notice, on 31 May 2006:

(1) (a) What is the annual salary of the Consul-General in Chicago, Mr Bob Charles; and (b) how does this compare with the average salary for consuls-general.

(2) (a) How many staff has the Consulate General in Chicago; and (b) how does this compare to the average staff allocation for consulate generals.

Senator Coonan—The following answer has been provided by the Minister for Foreign Affairs to the honourable senator’s question:

(1) (a) Non-career Heads of Mission or Heads of Post are paid at the SES Band 2.2 level, or the level paid to career Foreign Affairs and Trade employees at larger posts. Prior to 1996, non-career Heads of Mission or Heads of Post were generally paid at the level of a departmental head or SES Band 3 level. The Consul-General in Chicago is paid at the SES Band 2.2 level ($151,108 per annum).

(b) There are ten DFAT consuls-general. Four of these are paid at the SES Band 2.2 level.

(2) (a) Nine.

(b) The Consulate-General in Chicago has a similar Australia-based staff profile to other consulate generals in the United States.

Civil Aviation Safety Authority: Staff
(Question No. 1845)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 1 June 2006.

With reference to the answer to question on notice no. 360 (Senate Hansard, 4 October 2005, p. 85) relating to Civil Aviation Safety Authority (CASA) staff morale: Has a CASA staff survey been conducted ‘by June 2006’; if not, why not; if so: (a) when was the survey commissioned; (b) what were its results; and (c) can a copy of the report of the survey be provided; if not, why not.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

A staff survey has not been conducted.

This has been a period of extensive organisational change for the Civil Aviation Safety Authority (CASA) which has included considerable consultation with staff. This consultation includes the Chief Executive Officer (CEO) feedback facility on CASA’s internal intranet. This facility provides staff with the opportunity to provide comments directly to CASA’s CEO, Mr Bruce Byron and senior management on any issue. In addition, General Managers are required to provide staff with a monthly briefing which provides an opportunity for staff to provide feedback. During visits to CASA Field Offices, Mr Byron and other members of CASA’s Senior Management provide briefing as well as enabling further opportunities for CASA staff to discuss issues. These measures allow CASA management to monitor the views of staff on organisational changes and any other issues.
Single Vision Grains Australia
(Question No. 1851)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 1 June 2006:

With reference to evidence by the department to the Senate Rural and Regional Affairs and Transport Legislation Committee, on 24 May 2006, that it was ‘aware’ of work by Single Vision into alternatives to the ‘single desk’ before a newspaper report on 26 April and that ‘the report in the paper was by no means the first indication of it’: (a) on what date was the department first informed about this work; and (b) what was the source of this information.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

SVGA Chairman Murray Rogers wrote to the Minister for Agriculture, Fisheries and Forestry in February 2006 informing him of the work into export marketing of the Australian wheat crop. The Minister received this letter on 14 February 2006. The Secretary of the Department of Agriculture, Fisheries and Forestry was copied on this letter by Mr Rogers.

Grains Research and Development Corporation
(Question No. 1859)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 1 June 2006:

(1) On what occasions has the Minister met with Grains Research and Development Corporation board members since 1 January 2006.

(2) For each meeting: (a) what was the date; (b) where did the meeting take place; and (c) who was present.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

There have been no occasions.

Single Vision Grains Australia
(Question No. 1860)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 1 June 2006:

(1) On what occasions has the Minister met with so-called ‘interim’ directors of the unincorporated venture Single Grains, Mr Murray Rogers, Ms Christine Hawkins, Mr Grant Latta, Mr Ian MacKinnon and Mr Philip Young, collectively or individually, since 1 January 2006.

(2) For each meeting: (a) what was the date; (b) where did the meeting take place; and (c) who was present.

(3) On what occasions has the Minister met with so-called Chief Executive Officer of the unincorporated venture Single Grains, Mr Selwyn Snell, since 1 January 2006.

(4) For each meeting: (a) what was the date; (b) where did the meeting take place; and (c) who was present.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

The Minister met with Mr Grant Latta in Melbourne on 20 March 2006.
The Minister met with Mr Grant Latta, Mr Ian MacKinnon and Mr Selwyn Snell on 22 May 2006 at Parliament House. Mr Russell Phillips, General Manager, Wheat Industry Branch, Department of Agriculture, Fisheries and Forestry, and Mr Tony McMullan, Adviser to the Minister, were present.

Single Vision Grains Australia
(Question No. 1861)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 1 June 2006:
(1) On what date did the Minister become aware of work by Single Vision on alternatives to the ‘single desk’ for export wheat.
(2) How did the Minister become aware.
(3) On what date did the Minister inform the Deputy Prime Minister and Minister for Trade, Mr Vaile, about the work.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:
Mr Murray Rogers, Chairman, Single Vision Grains Australia, wrote to the Minister informing him of the work. The letter was received in the Minister’s Office on 14 February 2006.
The Minister discusses a range of issues relevant to his portfolio with the Deputy Prime Minister and Leader of the Nationals.

Single Vision Grains Australia
(Question No. 1863)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 1 June 2006:
Does the Minister have confidence in Mr Murray Rogers, Chair of the Grains Research and Development Corporation-funded Single Vision.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:
Yes.

Single Vision Grains Australia
(Question No. 1864)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 1 June 2006:
With reference to evidence by the Chair of the Grains Research and Development Corporation, Mr Terry Enright, to the Senate Rural and Regional Affairs and Transport Legislation Committee, on 24 May 2006, that Mr Murray Rogers, an ‘interim’ director of the unincorporated venture Single Vision, ‘is not involved’ in the Single Vision study of alternatives to the single desk for export wheat: why is Mr Rogers not involved.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:
Mr Ian MacKinnon, Deputy Chairman, Single Vision Grains Australia, wrote to the Minister on 4 April 2006, informing that Mr Rogers had taken a decision to stand aside from any further involvement in the Single Vision Grains Australia study into possible future wheat marketing arrangements to avoid any sensitivities surrounding Mr Roger’s involvement in the Cole Commission of Inquiry.
Foreign Flagged Vessels
(Question No. 1867)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 2 June 2006:

(1) Can the Minister advise which foreign flagged vessels are licensed to engage in the coastal trade.

(2) For each vessel: (a) what is its name, home port and registry; (b) has the vessel previously operated on a single or continuous voyage permit; and (c) does the operator of the vessel operate other vessels with single or continuous voyage permits.

(3) How is section 289 of the Navigation Act 1912, relating to the payment of Australian wages to seafarers engaged in the coastal trade, enforced.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senators’ question:

(1) and (2)(a) The foreign flagged vessels listed in the table below, which shows vessel names, home ports and flags of registry, are licensed in 2005-06 to engage in the coasting trade:

<table>
<thead>
<tr>
<th>VESSEL NAME</th>
<th>PORT OF REGISTRY</th>
<th>FLAG OF REGISTRY</th>
</tr>
</thead>
<tbody>
<tr>
<td>ANL Emblem</td>
<td>Limassol</td>
<td>Cyprus</td>
</tr>
<tr>
<td>ANL Esprit</td>
<td>Hamburg</td>
<td>Germany</td>
</tr>
<tr>
<td>Lowlands Prosperity</td>
<td>Antwerp</td>
<td>Belgium</td>
</tr>
<tr>
<td>Pacific Triangle</td>
<td>Monrovia</td>
<td>Liberia</td>
</tr>
<tr>
<td>British Fidelity</td>
<td>Douglas</td>
<td>Isle of Man</td>
</tr>
<tr>
<td>Samar Spirit</td>
<td>Nassau</td>
<td>Bahamas</td>
</tr>
<tr>
<td>Enterprise</td>
<td>Willemstad</td>
<td>Netherlands Antilles</td>
</tr>
<tr>
<td>Boomerang I</td>
<td>Limassol</td>
<td>Cyprus</td>
</tr>
<tr>
<td>Comandate</td>
<td>Monrovia</td>
<td>Liberia</td>
</tr>
<tr>
<td>Arafura Endeavour</td>
<td>Copenhagen</td>
<td>Denmark</td>
</tr>
<tr>
<td>Armada Cinta</td>
<td>Kuching</td>
<td>Malaysia</td>
</tr>
<tr>
<td>Biquele Bay</td>
<td>Singapore</td>
<td>Republic of Singapore</td>
</tr>
<tr>
<td>Kimberley</td>
<td>Leer</td>
<td>Germany</td>
</tr>
<tr>
<td>Basker Spirit</td>
<td>Bahamas</td>
<td>Bahamas</td>
</tr>
</tbody>
</table>

(2) (b) and (2)(c) The table below shows whether the vessels named in the table above have previously operated on a single or continuing voyage permit and whether the vessel operator operates other vessels with single or continuing voyage permits:

<table>
<thead>
<tr>
<th>VESSEL NAME</th>
<th>HAS THE VESSEL PREVIOUSLY OPERATED ON A SINGLE OR CONTINUING VOYAGE PERMIT?</th>
<th>DOES THE OPERATOR OPERATE OTHER VESSELS ON A SINGLE OR CONTINUING VOYAGE PERMIT?</th>
</tr>
</thead>
<tbody>
<tr>
<td>ANL Emblem</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>ANL Esprit</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>Lowlands Prosperity</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>Pacific Triangle</td>
<td>no</td>
<td>yes</td>
</tr>
<tr>
<td>British Fidelity</td>
<td>yes</td>
<td>yes</td>
</tr>
<tr>
<td>Samar Spirit</td>
<td>no</td>
<td>yes</td>
</tr>
<tr>
<td>Enterprise</td>
<td>yes, but not in 2005-06</td>
<td>yes</td>
</tr>
<tr>
<td>Boomerang I</td>
<td>no</td>
<td>no</td>
</tr>
</tbody>
</table>
QUESTIONS ON NOTICE

VESSEL NAME | HAS THE VESSEL PREVIOUSLY OPERATED ON A SINGLE OR CONTINUING VOYAGE PERMIT? | DOES THE OPERATOR OPERATE OTHER VESSELS ON A SINGLE OR CONTINUING VOYAGE PERMIT?
--- | --- | ---
Comandate/Boomerang II | no | no
Arafura Endeavour | yes | yes
Armada Cinta | no | yes
Biquele Bay | yes | yes
Kimberley | no | no
Basker Spirit | no | yes

(3) Section 289 of the Navigation Act 1912 provides that every seafarer employed on a ship engaged in any part of the coasting trade may sue to recover wages at current rates ruling in Australia for seafarers engaged in that part of the coasting trade. Section 293 of the Navigation Act makes the master, owners and agents of ships jointly and severally responsible for compliance with the requirements of the coasting trade provisions. When a licensed ship seeks to trade to places beyond Australia, section 289 provides that before Customs clearance is granted to a licensed ship, the ship’s master must produce to the Customs officer evidence of payment of Australian rates of wages. Further, section 289 provides that Customs clearance may be refused and the ship detained until the requirements of section 289 are fulfilled.

*Sea Terrier*

(Question No. 1869)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 2 June 2006:

(1) Is the Singapore-flagged tug *Sea Terrier* operating within the Port of Port Hedland.

(2) Does Singaporean maritime law or Australian maritime law apply to the operation of this vessel.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) Yes.

(2) While the vessel is Singapore-registered it remains under the flag State control regime of Singapore but as the vessel is bareboat-chartered to an Australian entity it is subject to Australia’s port State control regime and maritime safety and environmental law.

*Malu Sara*

(Question No. 1870)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 2 June 2006.

With reference to the unsuccessful search for the Department of Immigration and Multicultural and Indigenous Affairs vessel the *Malu Sara* in October 2005:

(1) Does Appendix B of the National Search and Rescue Manual provide that police are responsible for the coordination of search and rescue in respect of pleasure craft and fishing vessels at sea.

(2) Can the Minister confirm that the *Malu Sara* was not a pleasure craft or fishing vessel.

(3) Does Appendix B of the National Search and Rescue Manual provide that where police and the Australian Defence Force are not responsible for coordination of search and rescue of vessels, AusSAR (Australian Search and Rescue) is the responsible authority.
(4) Does the Inter-Governmental Agreement on National Search and Rescue Response Arrangements, made on 30 June 2004, provide that AusSAR has primary responsibility for coordinating search and rescue operations for persons on or from a ship other than a pleasure craft or fishing vessel in distress at sea.

(5) Can the Minister confirm that, consistent with the Inter-Governmental Agreement on National Search and Rescue Response Arrangements and the procedures outlined in the National Search and Rescue Manual, the search for the *Malu Sara* was the responsibility of AusSAR.

**Senator Ian Campbell**—The Acting Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

1. Yes.
2. Yes.
3. Yes.
4. Yes. The Agreement refers to the Australian Maritime Safety Authority (AMSA) as the Australian Search and Rescue Authority named in the Agreement.
5. Yes, the search was the responsibility of AMSA after the Queensland Police handed over coordination of the search in accordance with clause 14 of the Inter-Governmental Agreement on National Search and Rescue Response Arrangements and the procedures outlined in the National Search and Rescue Manual.

*Malu Sara*

(Question No. 1871)

**Senator O’Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 2 June 2006.

With reference to the unsuccessful search for the Department of Immigration and Multicultural and Indigenous Affairs vessel the *Malu Sara* in October 2005:

1. Can the Minister confirm the National Search and Rescue Manual provides that a maritime search and rescue incident is considered imminent or actual when an Emergency Position Indicating Radio Beacon (EPIRB) is activated.
2. Is it the case that at 2000 or 2011 hours on 14 October 2005 AusSAR (Australian Search and Rescue) was informed the *Malu Sara* was lost in the Torres Strait and had activated its EPIRB.
3. Is it the case AusSAR did not assume responsibility for coordinating the aerial search for the *Malu Sara* until 1218 hours on 15 October 2005, more than 16 hours after AusSAR was notified the vessel was lost and had activated its EPIRB.
4. Is it the case AusSAR did not assume responsibility for overall coordination of the search for the *Malu Sara* until 1930 hours on 15 October 2005, more than 23 hours after AusSAR was notified the vessel was lost and had activated its EPIRB.
5. Can the Minister confirm the National Search and Rescue Manual provides that the success of a search and rescue operation ‘depends on the speed with which the operation is planned and carried out’.
6. Why did AusSAR fail to assume responsibility for coordinating the search of the *Malu Sara* when it was informed on 14 October 2005 that the vessel was lost.

**Senator Ian Campbell**—The Acting Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

1. Yes, the National Search and Rescue Manual provides that a search and rescue incident is considered imminent or actual when it is apparent that persons are, or may be, in distress or when a re-
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quest for assistance has been received. In the maritime environment, this can be demonstrated, amongst other ways, by an Emergency Position Indicating Radio Beacon (EPIRB) being activated unless there is other information about whether persons are in distress or have requested assistance.

(2) Yes, AMSA was advised at 2011 hours on 14 October 2005 by the Queensland Police on Thursday Island that the EPIRB on board the Malu Sara had been activated to assist in locating the vessel, which was assessed as being in the vicinity of Mabuiag Island in the Torres Strait. The vessel or its occupants were not reported to be in distress at that time. AMSA was asked to provide position information for the vessel’s EPIRB transmission from its monitoring of the COSPAS SARSAT satellite system.

(3) Yes, the Queensland Police, which had responsibility for the overall coordination of the search for Malu Sara at that time, formally asked AMSA to assume responsibility for coordinating the aerial search at 1218 hours on 15 October 2005 after a search by surface vessels and a helicopter had not located the vessel or its occupants in the position indicated by the vessel’s activated EPIRB.

(4) Yes, the Queensland Police asked AMSA to assume responsibility for the overall coordination of the search at 1930 hours on 15 October 2005 after the aerial and surface search operations that day had not located the vessel or its occupants.

(5) Yes.

(6) AMSA did not fail to assume responsibility for a search on 14 October 2005. The Queensland Police advised AMSA at 2011 hours on 14 October 2005 that the vessel had lost its way in fog, but the vessel was in contact with its Thursday Island base and the Queensland Police on Thursday Island. The vessel or its occupants were not reported to be in distress and therefore no search and rescue operations were initiated on 14 October 2005. AMSA provided the Queensland Police with position information from the vessel’s EPIRB activation to assist in confirming the location of the vessel.

**Malu Sara**

(Question No. 1872)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 2 June 2006.

With reference to the unsuccessful search for the Department of Immigration and Multicultural and Indigenous Affairs vessel the Malu Sara in October 2005: can details be provided of all action taken by AusSAR (Australian Search and Rescue) following its receipt of advice at 2000 or 2011 hours on 14 October 2005 that the vessel was lost in the Torres Strait and had activated its Emergency Position Indicating Radio Beacon.

Senator Ian Campbell—The Acting Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

AMSA’s actions are detailed in the report by the Australian Transport Safety Bureau on its investigation into the loss of the Malu Sara, which was released on 19 May 2006. The report concluded that the decisions and actions of both the Queensland Police and AMSA in coordinating the search for Malu Sara and its occupants in the time following the loss of the vessel in the early hours of the 15 October 2005 were sound.

**Malu Sara**

(Question No. 1873)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 2 June 2006.
Is the Minister satisfied with the role played by AusSAR (Australian Search and Rescue) in the unsuccessful search for the Department of Immigration and Multicultural and Indigenous Affairs vessel the *Malu Sara* in October 2005.

**Senator Ian Campbell**—The Acting Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

Yes. The national search and rescue system operated as intended in the Inter-Governmental Agreement on National Search and Rescue Response Arrangements and the National Search and Rescue Manual. The Queensland Police initially provided advice to the vessel when the vessel was reported to have initially lost its way in fog and was seeking directions. AMSA cooperated fully in meeting requests by the Queensland Police for information and advice, including position information after the vessel had activated its Emergency Position Indicating Radio Beacon (EPIRB) so its location could be confirmed.

Queensland Police initiated a response when the vessel indicated that it required assistance in the early hours of 15 October 2005 and assumed overall coordination for the search when the vessel and its occupants could not be located in the morning of 15 October 2005. AMSA assumed responsibility for coordinating the aerial search when formally asked by the Queensland Police at 1218 hours on 15 October 2005 after a search by surface vessels and a helicopter had not located the vessel or its occupants. AMSA assumed responsibility for the overall search coordination when formally asked by the Queensland Police at 1930 hours on 15 October 2005 after an extensive aerial and surface search that day had not located the vessel or its occupants.

**Malu Sara**

(Question No. 1874)

**Senator O’Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 2 June 2006.

With reference to the unsuccessful search for the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) vessel the *Malu Sara* in October 2005:

(1) Can the Minister confirm the *Malu Sara* was a ‘Commonwealth ship’ within the meaning defined in the *Navigation Act 1912*.

(2) (a) On what day and at what time did AusSAR (Australian Search and Rescue) become aware the *Malu Sara* was a DIMIA vessel and therefore a ‘Commonwealth ship’; and (b) what was the source of this information.

**Senator Ian Campbell**—The Acting Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) Yes.

(2) AMSA was advised at 2011 hours on 14 October 2005 by the Queensland Police on Thursday Island that *Malu Sara* was a DIMIA vessel. The status of *Malu Sara* as a ‘Commonwealth Ship’ under the Navigation Act 1912 was irrelevant in relation to the coordination of the search operation for the vessel.

**Malu Sara**

(Question No. 1875)

**Senator O’Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 2 June 2006.

With reference to the Australian Transport Safety Bureau report into the loss of the Department of Immigration and Multicultural and Indigenous Affairs vessel the *Malu Sara* in October 2005: were the conclusions relating to the search and rescue operation informed by the Inter-Governmental Agreement
on National Search and Rescue Response Arrangements and the coordination protocols outlined in the National Search and Rescue Manual.

Senator Ian Campbell—The Acting Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

Yes.

Search and Rescue Operations
(Question No. 1876)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 2 June 2006.

With reference to evidence given to the Senate Rural and Regional Affairs and Transport Legislation Committee, on 20 August 1997, that AusSAR (Australian Search and Rescue) policy is that ‘clairvoyant information will be considered’ in respect to search and rescue operations:

(1) Can the Minister advise details of all AusSAR search and rescue operations since August 1997 that have utilised the services or advice of clairvoyants.

(2) Is it still AusSAR policy that ‘clairvoyant information will be considered’; if not, on what date was that policy abandoned.

Senator Ian Campbell—The Acting Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) None.

(2) AMSA has never had a policy that such information was relied upon to direct search and rescue operations.

Malu Sara
(Question No. 1879)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 June 2006.

With reference to the unsuccessful search for the Department of Immigration and Multicultural and Indigenous Affairs vessel the Malu Sara in October 2005: can a copy be provided of all transcripts of communications to and from the AusSAR (Australian Search and Rescue) Rescue Coordination Centre relating to the Malu Sara; if not, why not.

Senator Ian Campbell—The Acting Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

No, there are no transcripts of these communications. The preparation of such transcripts would represent a significant diversion of resources from AMSA's safety responsibilities that I am not prepared to authorise.

Private: Helicopter Flights
(Question No. 1880)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 June 2006:

(1) Can details be provided outlining the regulatory regime that applies to the operation of helicopter joy-rides operating from private property, including details of the rules that govern altitude and noise.

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(2) Is the Minister aware of privacy concerns held by rural property owners in relation to private helicopter flights.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) Aircraft operating anywhere in Australia, including over private property are required to comply with relevant CASA legislation. This includes the Civil Aviation Act 1988, Civil Aviation Safety Regulations 1998, Civil Aviation Regulations 1988 and Civil Aviation Orders. In particular, Regulation 157 of the Civil Aviation Regulations 1988 applies to low flying activities (attached).

It is difficult to provide concise advice in relation to the ‘joy-ride’ status of operations. Different standards are applied to the pilot and the helicopter depending on whether the flights are taken with friends and in a private capacity, or where there are fare paying passengers.

While helicopters are required to meet noise standards laid down in the Air Navigation (Aircraft Noise) Regulations, state government agencies are responsible for imposing noise related controls on helicopter landing sites situated on private property.

(2) I have not been advised of any privacy concerns held by rural property owners in relation to private helicopter flights.

Post-Budget Function
(Question No. 1907)

Senator Milne asked the Minister representing the Minister for Workforce Participation, upon notice, on 6 June 2006:

Did the Minister host a post-budget function after the release of the 2006-2007 Commonwealth Budget on 9 May 2006; if so:

(a) where was the function held;
(b) who was invited to the function;
(c) who attended the function;
(d) what was the cost of hosting the function;
(e) was the cost charged to the Commonwealth; if not, to whom was it charged;
(f) was a ticket price charged; if so, what was the ticket price;
(g) if no ticket price was charged, was a donation requested;
(h) how much revenue was collected by way of tickets charged or donations received; and
(i) to whom was the revenue paid

Senator Abetz—The Minister for Workforce Participation has provided the following answer to the honourable senator’s question:

The Minister did not host a post-budget function after the release of the 2006-07 Commonwealth Budget on 9 May 2006.

Civil Aviation Safety Authority: Light Sport Aircraft
(Question No. 1913)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 7 June 2006:

(1) What role is played by the Civil Aviation Safety Authority in regulating the airworthiness of light sport aircraft.

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(2) How do the new light sport aircraft rules announced on 23 December 2005 enhance the safety of light sport aircraft operators, passengers and other airspace users.

**Senator Ian Campbell**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) Under the new Light Sport Aircraft (LSA) rules, the issue of a Type Certificate by CASA is not required. Instead, a manufacturer is required to complete a Statement of Compliance stating that the aircraft complies with the design, production, airworthiness and quality assurance standards approved by CASA.

A special Certificate of Airworthiness for production LSA or an Experimental Certificate for kit built LSA is issued by CASA or an authorised person. The rules also allow for CASA to impose any additional operational limitations in the interests of safety.

In the event that a manufacturer goes out of business, CASA can appoint a suitable person to take over the regulatory functions of the manufacturer. If no suitable person is appointed then the special certificate of airworthiness for production LSA aircraft can be cancelled by CASA. These aircraft are then eligible for an LSA experimental certificate with limited flying privileges.

(2) The LSA rules mirror the United States Federal Aviation Administration (FAA) LSA aircraft airworthiness rules introduced on 1 September 2004. Transport Canada introduced similar rules in the 1990s.

The Australian regulations were not introduced to deal with a particular safety problem in the design, manufacturing and certification of sport aircraft as there is no history of these aircraft experiencing design-related accidents. However, the rules are intended to maintain safety of these aircraft by mandating an internationally recognised set of industry consensus standards and ensuring that LSA meet these standards. Since the aircraft are simple in design, CASA has agreed with the FAA that manufacturers can self certify provided that operators and new entrants satisfy adequate licensing, maintenance and registration requirements.

The Australian LSA regulations underwent a risk management assessment and these aircraft were found to pose a minimum safety risk as they are small, simple to operate, low performance aircraft with a low stall speed and low kinetic energy. The regulations require that these aircraft:

- are designed, manufactured, tested and maintained to the latest LSA standards;
- are manufactured under a quality assurance system that meets the LSA standards;
- receive service bulletins and mandatory service directives (similar to airworthiness directives);
- are required to have a specific make and model operating handbook and a flight training supplement; and
- are maintained and inspected in accordance with the manufacturer’s maintenance manual.

In addition, CASA can impose any additional operational limitations in the interests of safety.

The new LSA rules also require a placard to be displayed in a position easily visible by all persons on board the aircraft indicating that the aircraft has not been subjected to, or tested against, the requirements for the issue of a standard certificate of airworthiness. Each passenger must also be told by the pilot about the warning displayed on the placard.

**People Trafficking**

(Question No. 1916)

**Senator Allison** asked the Minister representing the Minister for Foreign Affairs, upon notice, on 7 June 2006:
1) Is the Minister aware that one third of the world’s human trafficking takes place in Asia and that 30 per cent of victims are children.

2) What efforts, if any, are being made to combat the people trafficking in Asia, particularly where the victims are children.

3) What provision is made in the current aid budget to combat this trafficking.

Senator Coonan—The following answer has been provided by the Minister for Foreign Affairs to the honourable senator’s question:

1) The Australian Government is aware that trafficking in persons is a significant problem in the region and that many of these victims are children.

2) The Australian Agency for International Development, AusAID, initiated a three and a half year, $12 million, Asia Regional Co-operation to Prevent People Trafficking Project currently being implemented in Thailand, Cambodia, Lao PDR and Burma, and indirectly in Indonesia, China and Vietnam. This regional initiative ends in August 2006 and will be replaced by a five year, $21 million, Asia Regional Trafficking in Persons Project that will develop on the achievements of the current project. The future project will facilitate a more effective and coordinated approach to people trafficking by criminal justice systems of governments in the Asia region. AusAID also funds an International Organization for Migration Regional Return and Reintegration Project in Southeast Asia, and has recently commenced a Pilot Thai Returnees Project for victims returning to Thailand from Australia. AusAID is also considering funding a Timor Leste trafficking project in the 06/07 financial year.

Since 1994, AusAID has funded 8 successful Child Wise projects ($1,519,484) in Asia as part of the Australian Government’s efforts to build institutional and legal capacity in the region to fight child-sex crime. AusAID currently funds two regional child protection initiatives, the Child Wise: Preventing the Sexual Exploitation of Children in ASEAN Tourism Destinations through Community and Professional Education ($590,000), and the Child Wise: ASEAN Regional Education Campaign.

The Bali process, co-chaired by Australia and Indonesia, has strengthened bilateral and regional political and operational cooperation in the fight against people smuggling and trafficking. Over the past year a number of Bali process workshops and practical activities have been successfully undertaken, including workshops on developing co-ordinated inter-agency National Action Plans to eradicate trafficking in persons, harmonising anti-people trafficking legislation and combating child-sex tourism. Activities currently on the Bali process forward agenda for 2006 include a further activity on child-sex tourism and a workshop on victim-centred approaches to trafficking in persons.

3) 05/06 Financial Year. AusAID will expend $3,833,554 of the 05/06 budget on combating trafficking in Asia. The funds have been expended against the Asia Regional Co-operation to Prevent People Trafficking Project ($3,436,034), the Asia Regional Trafficking in Persons Project ($28,720), the International Organization for Migration Regional Return and Reintegration Project in Southeast Asia ($123,900), and the Pilot Thai Returnees Project ($244,900).

06/07 Financial Year. AusAID has allocated approximately $5 million of the 06/07 budget toward combating trafficking in Asia. The funds will be spent through a number of projects including the Asia Regional Co-operation to Prevent People Trafficking Project, the Asia Regional Trafficking in Persons Project, the International Organization for Migration Regional Return and Reintegration Project in Southeast Asia, and the Pilot Thai Returnees Project.
Chicago Consul-General
(Question No. 1917)

Senator Nettle asked the Minister representing the Minister for Foreign Affairs, upon notice, on 7 June 2006:
Can details be provided of the remuneration package of Australia’s Consul-General in Chicago, United States of America.

Senator Coonan—The following answer has been provided by the Minister for Foreign Affairs to the honourable senator’s question:
Non-career Heads of Mission or Heads of Post are paid at the SES Band 2.2 level, or the level paid to career Foreign Affairs and Trade employees at larger posts. Prior to 1996 non-career Heads of Mission or Heads of Post were generally paid at the level of a departmental head or SES Band 3 level.
The Consul-General in Chicago is paid at the SES Band 2.2 level ($151,108 per annum).

Parliamentary Secretary to the Minister for Trade: Overseas Travel
(Question No. 1922)

Senator O’Brien asked the Minister representing the Special Minister of State, upon notice, on 8 June 2006:
(1) Can details be provided of all costs associated with the visit of the Parliamentary Secretary to the Minister for Trade to Vietnam in May-June 2006, disaggregated to show costs by category, including transport, accommodation, meals, security and other costs.
(2) Can details also be provided of costs associated with all personal and/or departmental staff and/or other persons who accompanied the Parliamentary Secretary on this visit.

Senator Abetz—The Special Minister of State has supplied the following answer to the honourable senator’s question.
(1) As at 28 June 2006, the Department of Finance and Administration (Finance) had paid costs total- ling $28,266.79 for the Parliamentary Secretary’s party as a whole. This includes $26,933.49 for transport, $719.63 for accommodation and meals and $613.67 for other costs.
(2) As at 28 June 2006, Finance had paid costs of $18,243.15 for the spouse of the Parliamentary Sec- retary and one personal staff member that accompanied the Parliamentary Secretary on this official visit. This amount is also included in the above figure advising of total costs met by Finance. The Department of Foreign Affairs and Trade has advised that no Departmental Staff accompanied the Parliamentary Secretary on this visit. Please note that the accounts for this travel have not been finalised and additional costs may be processed at a later date.

Minister for Trade: Overseas Travel
(Question No. 1923)

Senator O’Brien asked the Minister representing the Minister for Trade, upon notice, on 8 June 2006:
With reference to the Minister’s visit to Baghdad in February 2006:
(1) (a) What was the duration of the visit; (b) who travelled with the Minister; and (c) who did the Minister and/or his staff meet during this visit.
(2) Did the Minister and/or his staff contact representatives of the Australian wheat industry; if so: (a) who did the Minister and/or his staff contact; (b) when was this contact made; and (c) what was the purpose of the contact.
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(3) What outcomes can be attributed to the visit.

(4) If there were commitments given by Iraqi authorities in relation to Australian wheat growers having access to the Iraqi market, what was the nature of those commitments and in what form were the commitments made.

Senator Coonan—The Minister for Trade has provided the following answer to the honourable senator’s question:


(b) I was accompanied by the Hon Senator Jeannie Ferris, Mr Stephen Deady, First Assistant Secretary, Trade Development Division Department of Foreign Affairs and Trade, Mr Brad Williams, Chief of Staff, Office of Minister for Trade and Ms Alison Penfold, Trade Adviser, Office of Minister for Trade.

(c) HE Dr Ibrahim al-Jaafari, Prime Minister, Government of Iraq.

HE Dr Ahmad Chalabi, Deputy Prime Minister, Government of Iraq.

HE Mr Abd al Basit Karim Mawlud, Minster for Trade, Government of Iraq.

(2) No.

(3) Government of Iraq agreed to accept FOB tenders for Australian wheat from any entities except the AWB Ltd, pending the outcome of the Cole Inquiry.

(4) See answer to question 3 above.

Wheat Exports

(Question No. 1924)

Senator O’Brien asked the Minister representing the Minister for Trade, upon notice, on 8 June 2006:

(1) What representations have the Minister, Minister’s office and/or the department made to the Government of Iraq or its agencies on behalf of Wheat Australia.

(2) In each case: (a) when were the representations made; (b) who made the representations; (c) what was the nature of the representations; and (d) what outcomes can be attributed to the representations.

Senator Coonan—The Minister for Trade has provided the following answer to the honourable senator’s question:

Negotiations between Wheat Australia and the Iraqi Grains Board were a commercial matter between the parties. Wheat Australia was in contact with the Department of Foreign Affairs and Trade and the Australian Embassy in Baghdad and the Government facilitated contact and communication between IGB and Wheat Australia. The Government played no role in the commercial negotiations.

In reply to a question from Mrs Kay Hull (Member for Riverina), on 30 May I advised that Wheat Australia had completed a commercially acceptable deal to sell 350,000 tonnes of wheat to the IGB in Iraq. I also said that I had spoken to Dr Chalabi by phone on 18 May to support Wheat Australia’s efforts to sell Australian wheat to Iraq and to ensure that the framework of the negotiations was consistent with our discussions during my visit to Iraq in February 2006.

Wheat Exports

(Question No. 1925)

Senator O’Brien asked the Minister representing the Minister for Trade, upon notice, on 8 June 2006:
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(1) When did the: (a) Minister; (b) Minister’s office; and (c) department, first become aware of difficulties in the negotiations between Wheat Australia and the Iraqi Grain Board for the sale of 350,000 tonnes of wheat.

(2) (a) What was the nature of these difficulties; and (b) how were they brought to the attention of the: (i) Minister, (ii) Minister’s office, and (iii) department.

(3) In relation to these difficulties: (a) what requests were received for assistance in the negotiations; (b) who received those requests; and (c) in each case, what was the response made to those requests for assistance, including action taken by the Minister and/or department.

Senator Coonan—The Minister for Trade has provided the following answer to the honourable senator’s question:

Negotiations between Wheat Australia and the Iraqi Grains Board were a commercial matter between the parties. Wheat Australia was in contact with the Department of Foreign Affairs and Trade and the Australian Embassy in Baghdad and the Government facilitated contact and communication between IGB and Wheat Australia. Negotiations over details of the contract were matters for the parties. Government played no role in the commercial negotiations.

Wheat Exports
(Question No. 1926)

Senator O’Brien asked the Minister representing the Minister for Trade, upon notice, on 8 June 2006:

(1) Can the Minister confirm a report in the Australian Financial Review of 19 May 2006 that neither he nor his office intervened in negotiations between the Iraqi Grain Board and Wheat Australia about a 350,000 tonne wheat tender.

(2) Can the Minister confirm a reported statement by his spokesperson that the commercial negotiations were a matter for the parties.

(3) Can the Minister confirm his statement reported in the Australian Financial Review of 23 May 2006 that the responsibility of the trade portfolio ‘is to open up markets for exporters but not to negotiate contracts on behalf of them’.

(4) Did the Minister and/or his office and/or department have any contact with the Iraqi Grain Board in relation to the terms of the contract between the Iraqi Grain Board and Wheat Australia; if so: (a) what was the nature of that contact; (b) when was the contact made; (c) who made the contact; and (d) what outcomes can be attributed to the contact.

Senator Coonan—The Minister for Trade has provided the following answer to the honourable senator’s question:

(1) Yes.
(2) Yes.
(3) Yes.
(4) No.

Wheat Exports
(Question No. 1927)

Senator O’Brien asked the Minister representing the Minister for Trade, upon notice, on 8 June 2006:
(1) When did the: (a) Minister; (b) Minister’s office; and (c) department, become aware of the proposed price being negotiated by Wheat Australia and the Iraqi Grain Board for the sale of 350,000 tonnes Australian wheat.

(2) What discussions or other communications did the Minister, Minister’s office and/or the department have with representatives of the Australian wheat industry about the proposed contract price of the wheat.

(3) What action did the Minister, Minister’s office and/or the department take in response to these discussions or other communications.

(4) (a) When was this action taken; and (b) what outcomes can be attributed to it.

Senator Coonan—The Minister for Trade has been provided the following answer to the honourable senator’s question:

Negotiations on the tender between Wheat Australia and the Iraqi Grains Board were a commercial matter between the parties. Pricing was a matter between the parties and the Government was not involved in these commercial negotiations.

Minister for Trade: Overseas Travel
(Question No. 1930)

Senator O’Brien asked the Minister Representing the Special Minister of State, on notice, on 8 June 2006:

(1) Can details be provided of all costs associated with the Minister for Trade’s visit to Baghdad in February 2006, disaggregated by category, including transport, accommodation, meals, security and other costs.

(2) Can details also be provided of costs associated with all personal and / or departmental staff and/or other persons who accompanied the Minister for Trade on this visit.

Senator Abetz—The Special Minister of State has supplied the following answer to the honourable senator’s question.

(1) As at 28 June 2006, the Department of Finance and Administration (Finance) had paid costs totalling $38,197.88 for the Minister’s party as a whole. This includes $35,465.75 for transport, $2,262.29 for accommodation and meals and $469.84 for other costs.

(2) As at 28 June 2006, Finance had paid costs of $23,060.55 for two (2) personal staff members that accompanied the Minister on this official visit. This amount is also included in the above figure advising of total costs met by Finance. The Department of Foreign Affairs and Trade (DFAT) has advised that it will provide Senator O’Brien with details of the costs met by that Department for any DFAT staff that accompanied Minister Vaile.

As accounts for this travel are yet to be finalised, additional costs may be processed at a later date.

Clairvoyants
(Question No. 1932)

Senator O’Brien asked the Minister representing the Minister for Foreign Affairs, upon notice, on 8 June 2006:

(1) Can details be provided of any occasions since October 1996 on which departments or agencies for which the Minister is responsible have engaged or otherwise sought to rely on the opinions or advice of clairvoyants.

(2) For each occasion, can details be provided of the circumstances and any associated payments.
Senator Coonan—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

I anticipated this question.

DFAT
(1) Nil return.
(2) n/a.
ACIAR
(1) Nil return.
(2) n/a.
AJF
(1) Nil return.
(2) n/a.
AusAID
(1) Nil return.
(2) n/a.
EFIC
(1) Nil return.
(2) n/a.

Clairvoyants
(Question No. 1933)

Senator O’Brien asked the Minister representing the Transport and Regional Services, upon notice, on 8 June 2006:

(1) Can details be provided of any occasions since October 1996 on which departments or agencies for which the Minister is responsible have engaged or otherwise sought to rely on the opinions or advice of clairvoyants.

(2) For each occasion, can details be provided of the circumstances and any associated payments.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) There have been no occasions since October 1996 where the Department of Transport and Regional Services or its agencies have engaged or otherwise sought to rely on the opinions or advice of clairvoyants.

(2) Not applicable.

Conclusive Certificates
(Question No. 1949)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 8 June 2006:

(1) Since October 1996, on how many occasions has a conclusive certificate been issued in relation to departments or agencies within the Minister’s portfolio exempting a document or documents from disclosure under the Freedom of Information Act 1982 (FOI).

(2) For each occasion: (a) what was the date; (b) what was the department or agency of which the FOI request was made; (c) what officer made the decision; (d) what was the document or documents
excluded from disclosure pursuant to the certificate; and (e) was an appeal made against the decision in the Administrative Appeals Tribunal; if so, what was the case name and its outcome.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) On no occasion since October 1996 has a conclusive certificate been issued in relation to departments or agencies within the Minister’s portfolio exempting a document or documents from disclosure under the Freedom of Information Act 1982.

(2) Not applicable

Conclusive Certificates
(Question No. 1951)

Senator Ó Brien asked the Minister representing the Attorney-General, upon notice, on 8 June 2006:

(1) Since October 1996, on how many occasions has a conclusive certificate been issued in relation to departments or agencies within the Minister’s portfolio exempting a document or documents from disclosure under the Freedom of Information Act 1982 (FOI).

(2) For each occasion: (a) what was the date; (b) what was the department or agency of which the FOI request was made; (c) what officer made the decision; (d) what was the document or documents excluded from disclosure pursuant to the certificate; and (e) was an appeal made against the decision in the Administrative Appeals Tribunal; if so, what was the case name and its outcome.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) None.

(2) Not applicable.

Conclusive Certificates
(Question No. 1955)

Senator Ó Brien asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 8 June 2006:

(1) Since October 1996, on how many occasions has a conclusive certificate been issued in relation to departments or agencies within the Minister’s portfolio exempting a document or documents from disclosure under the Freedom of Information Act 1982 (FOI).

(2) For each occasion: (a) what was the date; (b) what was the department or agency of which the FOI request was made; (c) what officer made the decision; (d) what was the document or documents excluded from disclosure pursuant to the certificate; and (e) was an appeal made against the decision in the Administrative Appeals Tribunal; if so, what was the case name and its outcome.

Senator Minchin—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator’s question:

Since October 1996 one conclusive certificate has been issued in relation to documents included in a Freedom of Information request made to the Department of Industry, Tourism and Resources. The certificate was issued on 20 February 2001 by the Secretary of the Department of Prime Minister and Cabinet in relation to Cabinet documents. The applicant sought review by the Administrative Appeals Tribunal. The Tribunal considered that there were reasonable grounds for the exemptions claimed by the certificate. The name of the case is Sutherland Shire Council and Department of Industry, Science and Resources and Department of Finance and Administration.
General Practice Services
(Question No. 1963)

Senator O’Brien asked the Minister representing the Minister for Health and Ageing, upon notice, on 9 June 2006:

With reference to the Round the Clock Medicare: Investing in After-Hours GP Services policy statement released in September 2004:

(1) Has the Government committed to provide operating subsidies up to $200 000 per year for 10 new after-hours general practice (GP) services in the 2005-06 financial year.

(2) What is the location of each of these new services.

(3) For each new service, can details be provided, including the date the service commenced, the total subsidy paid and whether the service is co-located with a public hospital.

(4) Did any service in receipt of an operating subsidy cease in the 2005-06 financial year; if so: (a) what was the location; and (b) why did the service cease.

(5) Has the government committed to subsidise 15 new after-hours GP services in 2006-07.

(6) (a) Can details be provided of the planned location of these services; and (b) for each service, what is the expected commencement date.

(7) Has the Government committed to provide start-up grants of up to $200 000 over 2 years for up to 30 new after-hours GP services in the 2005-06 financial year.

(8) (a) What is the location of each of these new services; and (b) if the locations do not include those identified in the policy statement – Kallangur (Queensland), Tweed Heads (NSW), Ryde (NSW), Glenside (NSW) and Williamstown (Victoria) – and services in these locations have not received a promised $200 000 grant, why not.

(9) Can details be provided of each new service, including the date the service commenced, the quantum of the start-up grant and date of payment, and whether the service is co-located with a public hospital.

(10) Did any service in receipt of a start-up grant cease in the 2005-06 financial year; if so: (a) what was the location; and (b) why did the service cease.

(11) Has the Government committed to provide start-up grants for up to 30 new after-hours GP services in the 2006-07 financial year.

(12) (a) Can details be provided of the planned location of these services; and (b) for each service, what is the expected commencement date.

(13) Has the Government committed to provide up to 100 renewable supplementary grants of up to $50 000 a year for 2 years to established after hours services.

(14) How many grants were paid in the 2005-06 financial year.

(15) For each grant: (a) what was the date that the grant was paid; (b) what is the quantum of the grant; and (c) what is the location of the established after-hours service.

(16) Did any service in receipt of a supplementary grant cease in the 2005-06 financial year; if so: (a) what was the location; and (b) why did the service cease.

Senator Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) The Government has committed to provide up to 30 operating subsidies between 2005/06 and 2007/08, including 10 operating subsidies for after hours services in 2005/2006.
(2) The Nepean Division of General Practice received an operating subsidy to establish and operate a clinic at the Nepean Hospital. The Liverpool Division of General Practice received an operating subsidy to establish and operate a clinic at the Liverpool Hospital. I will be making further announcements about the locations of the remaining successful grants in the future.

(3) A funding agreement with Nepean Division of General Practice for $600,000 (GST exclusive) over three years was executed on 19 May 2006. A funding agreement with Liverpool Division of General Practice for $550,000 (GST exclusive) over three years was executed on 19 May 2006. Both of these clinics are co-located with public hospitals. As the funding is provided for establishment and operating costs, the projects include an establishment phase prior to the opening of the clinics.

(4) No.

(5) Up to 15 Operating Subsidies will be available in the 2006/07 round of Round the Clock Medicare: Investing in After-Hours GP Services.

(6) The 2006/07 round was advertised on 29 April 2006 and applications close on 30 June 2006. The quality and eligibility of applications will then be assessed and preferred applicants identified.

(7) The Government has committed to provide funding for up to 30 start-up grants in the 2005/06 funding round of Round the Clock Medicare: Investing in After-Hours GP Services.

(8) Agreements have been executed with each of Chevron After Hours Service (Tweed Heads), Melbourne Medical Locum Service (Williamstown) and Adelaide Central Eastern Division (Glenside). Negotiations are continuing in the other sites.

(9) In addition to the sites identified at (8) above, the following start-up grants have also been announced:

<table>
<thead>
<tr>
<th>Name of Organisation</th>
<th>Locality</th>
<th>Amount (GST exclusive) and date funding agreement executed</th>
<th>Co-located with a public hospital – YES/NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fountain Valley Medical Centre</td>
<td>Happy Valley, SA</td>
<td>$200,000 30.03.2006</td>
<td>NO</td>
</tr>
<tr>
<td>Gippsland Family Practice – Ramahyuck &amp; District Aboriginal Corp</td>
<td>Sale, VIC</td>
<td>$200,000 11.04.2006</td>
<td>NO</td>
</tr>
<tr>
<td>GP Network – Fremantle Regional Division of General Practice</td>
<td>Fremantle, WA</td>
<td>$200,000 13.04.2006</td>
<td>NO</td>
</tr>
<tr>
<td>Sunshine Health Care</td>
<td>St Albans, VIC</td>
<td>$200,000 01.05.2006</td>
<td>NO</td>
</tr>
<tr>
<td>Valewood Clinic</td>
<td>Mulgrave, VIC</td>
<td>$200,000 11.04.2006</td>
<td>NO</td>
</tr>
</tbody>
</table>

Start-up grants are provided for the establishment of new services and to extend existing services, therefore not all services have specific commencement dates. The first payment for each of these grants was processed upon execution of the funding agreement.

(10) No.

(11) Up to 30 start-up grants will be available in the 2006/07 round of Round the Clock Medicare: Investing in After-Hours GP Services.

(12) The 2006/07 round was advertised on 29 April 2006 and applications close on 30 June 2006. The quality and eligibility of applications will then be assessed and preferred applicants identified.

(13) The Government has committed to funding up to 100 supplementary grants.
(14) The initial payments for the first 37 supplementary grants announced on 23 May 2006 were processed upon execution of the funding agreements.

(15) See attached.

(16) No.

<table>
<thead>
<tr>
<th>Name of Organisation</th>
<th>Locality</th>
<th>Amount (GST exclusive)</th>
<th>Date funding agreement executed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ashgrove West Group Practice</td>
<td>Ashgrove West, QLD</td>
<td>$98,095</td>
<td>28.03.2006</td>
</tr>
<tr>
<td>Australind Medical Centre</td>
<td>Australind, WA</td>
<td>$100,000</td>
<td>23.03.2006</td>
</tr>
<tr>
<td>Ballajura Medical Centre</td>
<td>Ballajura, WA</td>
<td>$100,000</td>
<td>06.03.2006</td>
</tr>
<tr>
<td>Bannockburn Surgery</td>
<td>Bannockburn, VIC</td>
<td>$100,000</td>
<td>27.02.2006</td>
</tr>
<tr>
<td>Banora Village Medical Centre</td>
<td>Banora Point, NSW</td>
<td>$100,000</td>
<td>12.04.2006</td>
</tr>
<tr>
<td>Blackwood and District Community Hospital Bridge Clinic</td>
<td>Belair, SA</td>
<td>$100,000</td>
<td>11.05.2006</td>
</tr>
<tr>
<td>Bundaberg Medical Centre</td>
<td>Bundaberg, QLD</td>
<td>$43,000</td>
<td>10.04.2006</td>
</tr>
<tr>
<td>Bundaberg After Hours Medical Service</td>
<td>Bundaberg, QLD</td>
<td>$100,000</td>
<td>28.03.2006</td>
</tr>
<tr>
<td>Canning Division of General Practice - GP After hours</td>
<td>Armadale, WA</td>
<td>$90,909</td>
<td>02.05.2006</td>
</tr>
<tr>
<td>Darwin After Hours Medical Service</td>
<td>Stuart Park, NT</td>
<td>$95,500</td>
<td>31.01.2006</td>
</tr>
<tr>
<td>Eastern Suburbs Medical Service</td>
<td>Edgecliff, NSW</td>
<td>$100,000</td>
<td>08.03.2006</td>
</tr>
<tr>
<td>Eight to Eight Medical Centre</td>
<td>Port Macquarie, NSW</td>
<td>$100,000</td>
<td>28.03.2006</td>
</tr>
<tr>
<td>Family Care Medical Services (Aust) Pty Ltd</td>
<td>Spring Hill, QLD</td>
<td>$91,000</td>
<td>28.02.2006</td>
</tr>
<tr>
<td>Foster and Toora Medical Centres</td>
<td>Foster, VIC</td>
<td>$100,000</td>
<td>28.02.2006</td>
</tr>
<tr>
<td>Geelong City Medical Centre</td>
<td>Geelong, VIC</td>
<td>$100,000</td>
<td>08.03.2006</td>
</tr>
<tr>
<td>Goulburn Valley Division of General Practice</td>
<td>Shepparton, VIC</td>
<td>$100,000</td>
<td>03.05.2006</td>
</tr>
<tr>
<td>Gumeracha Medical Practice</td>
<td>Gumeracha, SA</td>
<td>$98,800</td>
<td>22.02.2006</td>
</tr>
<tr>
<td>Hazelbrook General Practice</td>
<td>Hazelbrook, NSW</td>
<td>$64,690</td>
<td>28.02.2006</td>
</tr>
<tr>
<td>Hepburn Health Service - Daylesford After Hours Medical Service</td>
<td>Daylesford, VIC</td>
<td>$100,000</td>
<td>08.05.2006</td>
</tr>
<tr>
<td>Hinchinbrook Healthcare</td>
<td>Ingham, QLD</td>
<td>$90,909</td>
<td>26.04.2006</td>
</tr>
<tr>
<td>Kiama Medical Practice</td>
<td>Kiama, NSW</td>
<td>$100,000</td>
<td>17.05.2006</td>
</tr>
<tr>
<td>Maffra Medical Group</td>
<td>Maffra, VIC</td>
<td>$99,950</td>
<td>26.04.2006</td>
</tr>
<tr>
<td>Mallacoota Medical Centre</td>
<td>Mallacoota, VIC</td>
<td>$100,000</td>
<td>28.02.2006</td>
</tr>
<tr>
<td>Mt Beauty Medical Centre Pty Ltd</td>
<td>Mount Beauty, VIC</td>
<td>$70,073</td>
<td>12.04.2006</td>
</tr>
<tr>
<td>Mt Hotham Medical Centre</td>
<td>Mt. Hotham, VIC</td>
<td>$99,887</td>
<td>16.05.2006</td>
</tr>
<tr>
<td>Orbost Regional Health</td>
<td>Orbost, VIC</td>
<td>$97,184</td>
<td>15.02.2006</td>
</tr>
<tr>
<td>Name of Organisation</td>
<td>Locality</td>
<td>Amount (GST exclusive)</td>
<td>Date funding agreement executed</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>--------------------------</td>
<td>------------------------</td>
<td>---------------------------------</td>
</tr>
<tr>
<td>Otway Division of General Practice</td>
<td>Camperdown, NSW</td>
<td>$99,978</td>
<td>16.05.2006</td>
</tr>
<tr>
<td>Perth and Hills Division of General Practice</td>
<td>Guildford, WA</td>
<td>$100,000</td>
<td>02.05.2006</td>
</tr>
<tr>
<td>Pittsworth Medical Centre</td>
<td>Pittsworth, QLD</td>
<td>$71,760</td>
<td>29.03.2006</td>
</tr>
<tr>
<td>Point Lonsdale Medical Group</td>
<td>Point Lonsdale, VIC</td>
<td>$100,000</td>
<td>08.03.2006</td>
</tr>
<tr>
<td>Regency Medical Centre</td>
<td>Sefton Park, SA</td>
<td>$100,000</td>
<td>26.04.2006</td>
</tr>
<tr>
<td>South East Alliance of General Practice</td>
<td>Capalaba, QLD</td>
<td>$100,000</td>
<td>15.05.2006</td>
</tr>
<tr>
<td>St George Division of General Practice</td>
<td>Hurstville, NSW</td>
<td>$47,273</td>
<td>10.04.2006</td>
</tr>
<tr>
<td>St Mary's Medical Centre</td>
<td>St Albans, VIC</td>
<td>$89,440</td>
<td>21.03.2006</td>
</tr>
<tr>
<td>Tatura Medical Centre Pty Ltd</td>
<td>Tatura, VIC</td>
<td>$100,000</td>
<td>28.02.2006</td>
</tr>
<tr>
<td>Western Australia Deputising Medical Service</td>
<td>West Perth, WA</td>
<td>$100,000</td>
<td>03.04.2006</td>
</tr>
<tr>
<td>Woy Woy After Hours Medical Service</td>
<td>Woy Woy, NSW</td>
<td>$97,600</td>
<td>21.02.2006</td>
</tr>
</tbody>
</table>

**Defective Administration Scheme**

*(Question No. 1971)*

**Senator O’Brien** asked the Minister representing the Attorney-General, upon notice, on 8 June 2006:

With reference to the Compensation for Detriment Caused by Defective Administration Scheme: for each department and agency for which the Minister is responsible, what is the total payment made under this scheme for each financial year since October 1996, by department and agency.

**Senator Ellison**—The Attorney-General has provided the following answer to the honourable senator’s question:

I refer the honourable senator to the annual reports of portfolio agencies where total payments, if any, for each financial year since October 1996 made under the Defective Administration Scheme are reported.

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**Defective Administration Scheme**

*(Question No. 1975)*

**Senator O’Brien** asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 8 June 2006:

With reference to the Compensation for Detriment Caused by Defective Administration Scheme: for each department and agency for which the Minister is responsible, what is the total payment made under this scheme for each financial year since October 1996, by department and agency.

**Senator Minchin**—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator’s question:
The only Compensation for Detriment Caused by Defective Administration Scheme within the portfolio of the Minister for Industry, Tourism and Resources is that administered by the Department of Industry, Tourism and Resources. The scheme was established in 1999. Since that time there has been two payments. The first payment, made in the 2001-2002 financial year, was for $80,168. The second payment, made in the 2003-2004 financial year, was for $190,221.

**Act of Grace Payments**
(Question No. 1983)

Senator O’Brien asked the Minister for Finance and Administration, upon notice, on 8 June 2006:

(1) What is the quantum of act of grace payments approved under section 33 of the Financial Management and Accountability Act 1997, by financial year, since the commencement of the Act.

(2) On what, if any, occasions has the Minister sought a report from an advisory committee under section 59 of the Act relating to an amount of more than $100 000.

Senator Minchin—The answer to the honourable senator’s question is as follows:

(1) January 1998 to June 1998 $59,559.50
    July 1998 to June 1999 $190,553.57
    July 1999 to June 2000 $1,186,355.55
    July 2000 to June 2001 $8,566,323.34
    July 2001 to June 2002 $1,021,121.52
    July 2002 to June 2003 $514,412.92
    July 2003 to June 2004 $10,043,615.66
    July 2004 to June 2005 $4,995,033.24
    July 2005 to Current $1,513,511.32

(2) An advisory committee report has been sought by the Minister on 23 occasions.

**Debts Waiver**
(Question No. 1984)

Senator O’Brien asked the Minister for Finance and Administration, upon notice, on 8 June 2006:

(1) What is the quantum of debts waived under section 34 of the Financial Management and Accountability Act 1997, by financial year, since the commencement of the Act.

(2) On what, if any, occasions has the Minister sought a report from an advisory committee under section 59 of the Act relating to an amount of more than $100 000.

Senator Minchin—The answer to the honourable senator’s question is as follows:

(1) January 1998 to June 1998 $708,483.88
    July 1998 to June 1999 $1,309,376,837.75
    July 1999 to June 2000 $46,750,963.08
    July 2000 to June 2001 $53,528,073.97
    July 2001 to June 2002 $56,951,736.20
    July 2002 to June 2003 $8,786,529.30
    July 2003 to June 2004 $23,862,909.93
    July 2004 to June 2005 $2,212,273.27

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July 2005 to Current $2,809,361.65

(2) An advisory committee report has been sought by the Minister on 23 occasions.

General Practice Services
(Question No. 2004)

Senator Allison asked the Minister representing the Minister for Health and Ageing, upon notice, on 14 June 2006:

(1) Are general practitioners required to inform young people of their right to apply for their own Medicare card if they are aged 15 or over.

(2) What data does the Government have on the proportion of general practitioners who inform young people of their right to apply for their own Medicare card if they are aged 15 or over.

(3) What data does the Government have on the proportion of young people who are aware of their right to apply for their own Medicare card if they are aged 15 or over.

(4) Are general practitioners required to display pamphlets outlining patients’ rights in their waiting rooms.

(5) What data does the Government have on the proportion of general practitioners who display pamphlets outlining patients’ rights in their waiting rooms.

(6) What data does the Government have on the proportion of patients who are able to book a longer than standard appointment if they require.

(7) Are general practitioners required to make patients aware that they are able to book a longer than standard appointment if they require.

(8) What proportion of general practitioners have processes in place to make patients aware that they are able to book a longer than standard appointment if they require.

Senator Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

Please note that responses (1) – (3) were provided by Medicare Australia

(1) No.

(2) None.

(3) As Medicare Australia has no reason to collect this information it does not have specific data on the exact proportion of over 15 year olds who are aware of their right to apply for their own Medicare card.

(4) The work practices of doctors are not under government regulation and it is the decision of individual practices whether they display pamphlets of this nature.

There are standards that most general practices in Australia follow in relation to the rights of and needs of patients. These are set by the Royal Australian College of General Practitioners (RACGP) in the Standards for General Practice 3rd Edition, which are used to accredit general practices.

There are no specific requirements in the Standards for practices to display pamphlets outlining patients’ rights in their waiting rooms. However, practices seeking or maintaining accreditation must respect the rights and needs of patients by providing respectful and culturally appropriate care.

(5) and (6) My Department does not collect information on the proportion of general practitioners who display pamphlets outlining patients’ rights in their waiting rooms, nor on the proportion of patients who are aware that they are able to book a longer than standard appointment if they require.

(7) The Standards for General Practice 3rd Edition requires practices seeking and maintaining accreditation to have a flexible appointments system to accommodate patients who need a longer consulta-
tion. Criterion 1.1.1 of the standards specifically requires evidence that practices inform patients that longer consultations are available on request. Accrediting bodies review practice documents and obtain patient feedback to assess this requirement.

(8) See (7) above.

The Department of Health and Ageing collects information on the number of practices accredited and seeking accreditation for the purposes of the Practice Incentives Program (PIP). As at May 2006, there were 4,745 general practices participating in the PIP which provided more than 80% of general practice services in Australia.

The proportion of unaccredited general practices that have similar processes in place is not known.

London War Memorial
(Question No. 2007)

Senator Faulkner asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 14 June 2006:

(1) How was a decision reached on which battles would be commemorated on the London War Memorial.
(2) What criteria were used to determine which battles would be listed.
(3) Who made the decision.
(4) Who was consulted about the proposed list of battles.
(5) Why were the battles for the Beaches of Gona, Buna and Sanananda not commemorated on the memorial.

Senator Ian Campbell—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

(1) The number of battle sites inscribed on the Memorial was limited by the extent of the display area. They were selected to be representative of the events of the two world wars and the three services.
(2) The battle sites reflect the geographic spread of service and sacrifice of Australians in the two world wars and the participation of all three services.
(3) Five military historians from the Department of Veterans’ Affairs, the Australian War Memorial and the three Services made the selection of the 47 battles.
(4) Representatives of the Department of Veterans’ Affairs, Department of Defence and the Australian War Memorial.
(5) The Papua New Guinea battles of Milne Bay, Rabaul, Kokoda, Markham-Ramu and Wewak are commemorated on the Memorial. It was not possible to list every site of importance to Australia or to concentrate on one particular geographic region.

Community Assistance Element
(Question No. 2009)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services on 13 June 2006:

With reference to the Community Assistance Element of the Textile, Clothing and Footwear Structural Adjustment Program:

(1) Is the Community Assistance Element administered through the Regional Partnerships program.
(2) Is the Community Assistance Element funded by the Department of Industry, Tourism and Resources.
(3) What funding is available under the Community Assistance Element for each of the financial years 2005-06 to 2014-15, by financial year.

(4) What amount has been expended under the Community Assistance Element in each of the following financial years, 2005-06 and 2006-07 to date, by financial year.

(5) (a) What departmental expenses have been incurred in relation to the Community Assistance Element in each of the following financial years, 2005-06 and 2006-07 to date, by financial year; and
(b) which department funds these departmental expenses.

(6) How many applications for funding have been received.

(7) (a) How many applications for funding have been approved; and (b) can details be provided, including the funding recipient, quantum of funding and date of announcement.

(8) How many applications for funding have been rejected.

(9) Can the Minister outline each step of the assessment process, including the role, if any, of: (a) the Minister; (b) the Minister for Local Government, Territories and Roads; (c) the ministerial committee announced on 15 November 2005; and (d) the department.

(10) Are the Strategic Opportunities Notional Allocation (SONA) guidelines applicable to the Community Assistance Element of the Textile, Clothing and Footwear Structural Adjustment Program; if so, can details be provided of all projects approved under the SONA guidelines; if not, why not.

Senator Ian Campbell—The Acting Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) Yes.

(2) Yes.

(3) Funding has been provided to the Department of Industry, Tourism and Resources (DITR) for the period 1 July 2005 to 30 June 2015 up to a maximum of $50 million. Funding limits for each of the three elements are not predetermined but are limited to a total of $5 million per year with unspent amounts being rolled over for use in subsequent years.

(4) No funds have been expended under the community assistance element for 2005-06 or for 2006-07.

(5) (a & b) No departmental funds have been expended on this element by either the Department of Transport and Regional Services (DOTARS) or by DITR.

(6) No applications have been received under the community assistance element.

(7) No applications have been approved.

(8) No applications have been rejected.

(9) The assessment process is based on that used for the Regional Partnerships Program. Area Consultative Committees help develop projects in areas that have been affected by the closing down of textile, clothing and footwear (TCF) companies and using the Regional Partnerships application form. When completing the application form, applicants are asked to demonstrate how the structural adjustment caused by the industry consolidation has impacted on the applicant’s community; and how the project will address the impact on that community.

When an application is received, DOTARS will undertake an assessment using the Regional Partnerships guidelines and the special considerations relating to this TCF element. DOTARS will prepare an assessment report including a recommendation relating to the project. This report and recommendation will be provided to DITR for decision by the delegate (who is a senior officer of that Department).
(10) The Strategic Opportunities Notional Allocation (SONA) guidelines are not applicable to the Community Assistance Element of the Textile, Clothing and Footwear Structural Adjustment Program.

**Tobacco Industry**  
*Question No. 2010*

**Senator Allison** asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 13 June 2006:

1. What is the value of research and development grants provided to the tobacco industry for each financial year from 2000-01.
2. For what purpose was or is the funding being used.
3. What is the projected value of these grants over the next four financial years.

**Senator Minchin**—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator’s question:

1. No research and development grants have been provided to the tobacco industry since financial year 2000-01.
2. Not applicable as no funding has been provided.
3. Not applicable as no funding has been provided.

**Aviation Fuel**  
*Question No. 2013*

**Senator O’Brien** asked the Minister representing the Treasurer, upon notice, on 14 June 2006:

1. For each financial year since 1997-98, can the following details be provided in relation to excise duty on: (a) aviation gasoline; and (b) aviation kerosene: (i) the projected revenue, and (ii) the actual revenue.
2. For each financial year, can details be provided of the relevant excise duty rate.
3. With reference to evidence by officers of the department to the Economics Legislation Committee on 4 June 2003 that ‘the aviation fuels’ excise is raised to provide funding for CASA and other air safety regulation’: can details be provided of the expenditure of aviation fuels excise for each financial year since 1997-98.

**Senator Minchin**—The Treasurer has provided the following answer to the honourable senator’s question:

1. The Government does not publish these estimates.
2. The relevant excise duty rate is published in Budget Paper Number 1 for each of the years in question.
3. See answer to (1). The expenditure of aviation fuels excise is a matter for the Minister for Transport and Regional Services.

**Grains Research and Development Corporation**  
*Question No. 2014*

**Senator O’Brien** asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 13 June 2006:

With reference to evidence by the Chief Executive Officer of the Grains Research and Development Corporation (GRDC), Mr Peter Reading, to the Rural and Regional Affairs and Transport Legislation
Committee on 24 May 2006, that ‘what the GRDC is doing is trying to gradually move out of breeding altogether’: (a) when that advice was first provided to: (i) the Minister, and (ii) the Grains Council of Australia; and (b) why is the GRDC moving out of breeding.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(a) (i) The GRDC is still finalising its strategy for wheat breeding. As the Board has not finalised the strategy, the Minister has not been informed.

(ii) The GRDC provides regular updates on its strategies to the Grains Council of Australia via the formal consultation process. The GRDC strategy for plant varieties, including wheat breeding, was discussed at the GRDC/GCA Consult meeting on 13 October 2005.

(b) The points raised by Mr Reading refer only to wheat breeding as the questions raised by Senator Nash were in relation to wheat breeding. The GRDC, along with its research partners, also invests in breeding programs in many of the leviable crops including barley, canola, lupins and pulses.

As mentioned by Mr Reading in response to Senator Nash’s questions, wheat breeding has been going through a transition period from purely public breeding programs to a mixture of public and privatised breeding programs. These changes have been driven by changing State government R&D priorities and the advent of Plant Breeder’s Rights legislation, which recognises intellectual property in plant varieties and helps to create a market. Most wheat breeding programs in Australia are now receiving income via an end-point royalty system. As these programs move towards self-funding over time, the GRDC anticipates that it will no longer be required to enter into new research agreements to fund wheat-breeding programs. The GRDC will retain its equity positions in the breeding entities and/or associated intellectual property. As mentioned by Mr Reading in response to Senator Nash’s questions the GRDC will be able to withdraw from further funding of breeding programs to redirect its funds into pre-breeding where there is true market failure and where potentially the major genetic gains will come from.

With the changes taking place in wheat breeding the GRDC also invests in independent plant variety evaluation, to provide growers with independent information on the performance of varieties coming from the breeding programs. Mr Reading referred to a transition phase of two to three years over which the GRDC hopes to transition from direct support to breeding programs and to be able to redirect these funds into pre-breeding and independent plant variety testing. The GRDC is confident that this approach will enable Australian grain growers to get access to the best wheat varieties. The GRDC and its research partners will continue to fund other crop breeding programs.

Single Vision Grains Australia Ltd
(Question No. 2015)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 13 June 2006:

(1) Has the Grains Research and Development Corporation sold Single Vision Grains Australia Limited to ‘interim’ directors of the unincorporated venture Single Vision or directors of Single Vision Grains Australia Limited; if so: (a) on what date; and (b) what consideration was paid.

(2) Has the Grains Research and Development Corporation gifted Single Vision Grains Australia Limited to ‘interim’ directors of the unincorporated venture Single Vision or directors of Single Vision Grains Australia Limited; if so: (a) on what date; and (b) why.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) The Grains Research and Development Corporation has not sold Single Vision Grains Australia Limited.

(2) The Grains Research and Development Corporation has not gifted Single Vision Grains Australia Limited.
(2) On acquisition of Single Vision Grains Australia Limited on 16 December 2005 from the Grains Council of Australia (GCA), the directors and members of the company were changed from those previously nominated by the GCA to the current directors and members.

This was consistent with the principles for the management and conduct of the Single Vision project, including the level of autonomy and guidance expected from the interim Board.

Single Vision Grains Australia Limited is a “public-purpose” company limited by guarantee, with limitations on the ability of its members and directors to use or distribute its assets. Its acquisition was necessary in order to gain access to the name ‘Single Vision Grains Australia’ and the website www.singlevision.com.au.

Single Vision Grains Australia Ltd
(Question No. 2016)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 13 June 2006:

With reference to the ‘unincorporated venture’ Single Vision (as described by the Chair of the Grain Research and Development Corporation, Mr Terry Enright, in evidence to the Senate Rural and Regional Affairs and Transport Legislation Committee on 24 May 2006):

(1) Are the ‘interim’ directors exposed to liability due to the unincorporated nature of the venture.

(2) Has the Grains Research and Development Corporation sought legal advice in this matter; if so: (a) on what date; (b) from what source; (c) on what date was advice received; (d) what was the cost of the advice; and (e) can a copy of the advice be provided; if not, why not.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) The interim directors of Single Vision Grains Australia are not exposed to any additional liabilities due to the unincorporated nature of the venture.

(2) The Grains Research Development Corporation’s in-house general counsel provided oral advice to the Grains Research Development Corporation Board and Management on 6 April 2005.

Single Vision Grains Australia Ltd
(Question No. 2017)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 13 June 2006:

With reference to evidence by the Chair of the Grains Research and Development Corporation (GRDC), Mr Terry Enright, to the Rural and Regional Affairs and Transport Legislation Committee on 24 May 2006 that in relation to the unincorporated venture Single Vision ‘we went to Grains Week and what we have now is what they asked for’:

(1) Is: (a) the GRDC; and (b) the Minister, aware of a statement issued by the Grains Council of Australia (GCA) on 8 July 2005 that says ‘the model being pursued by GRDC was not consistent with that developed by GCA during the second half of 2004 and early 2005’.

(2) Can the Minister explain how Mr Enright’s evidence is consistent with this post-Grains Week 2004 statement by the GCA.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) Yes.
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(2) The Grains Research and Development Corporation (GRDC) believes that Single Vision Grains Australia, as established by the GRDC, is consistent with the GCA’s request to GRDC in the Consult meeting of 4 April 2005. At the 4 April 2005 Consult meeting the GCA put to the GRDC a resolution:

*That GCA approach the GRDC to establish an organisation to act as a catalyst to progress cross-industry issues identified by industry and to seek participation from across the value chain.*

At its 6 April 2005 meeting, the GRDC Board resolved to provide seed funding, over 2 years, to establish an interim board to progress the key cross-industry issues identified by industry and to engage industry across the value chain to achieve significant, tangible results. At the appropriate time GRDC expects industry will take over resourcing and direction of a pan-industry organisation.

The GRDC then consulted the GCA on several occasions in selecting members of the interim board. The GRDC also sent a detailed explanation of the implementation of Single Vision to the GCA and each of its affiliates.

In addition, the GCA President was included in the selection process for the Chief Executive Officer of Single Vision Grains Australia.

The GRDC-GCA Consult meeting on 13 October 2005 then approved the minutes of the 4 April 2005 Consult meeting, which contained the resolution stated above.

**Growing Regions Conference: Sponsorship**

*(Question No. 2022)*

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 15 June 2006:

With reference to the Growing Regions Conference in July 2006, to be hosted by the Department of Transport and Regional Services:

(1) Are the Bureau of Rural Sciences, the Australian Bureau of Agricultural and Resource Economics and the Rural Industries Research and Development Corporation conference sponsors.

(2) Can details be provided of all related financial and in-kind support.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) The Rural Industries Research and Development Corporation (RIRDC) is a sponsor of the Growing Regions Conference. Both the Bureau of Rural Sciences (BRS) and Australian Bureau of Agricultural and Resource Economics (ABARE) provided in-kind support to the Conference.

(2) RIRDC provided $8000 sponsorship for the Conference. RIRDC will also mount a display of RIRDC publications and programmes at the Conference.

ABARE provided no financial sponsorship for the Conference. ABARE’s arrangement with the Department of Transport and Regional Services (DOTARS) for the Conference is an in-kind arrangement. ABARE distributed the DOTARS Growing Regions brochure at Outlook 2006 and DOTARS will be distributing information on ABARE national and regional conferences in satchels at the Conference.

BRS provided no financial sponsorship for the Conference. In-kind support for the Conference was provided by BRS through promotion of the Conference in the BRS external newsletter, BRS E-Clips, DAFF internal staff e-bulletin, calendar of events on the BRS website, the distribution of promotional postcards at the BRS seminar series and an email to stakeholders. Further in-kind support was provided through the participation of the BRS Executive Director at a Conference Steering Committee meeting.
Growing Regions Conference
(Question No. 2023)

Senator O’Brien asked the Minister representing the Minister for Families, Community Services and Indigenous Affairs, upon notice, on 15 June 2006:

With reference to the Growing Regions Conference in July 2006, to be hosted by the Department of Transport and Regional Services:

(1) Is the Minister’s department a conference sponsor.
(2) Can details be provided of all related financial and in-kind support.

Senator Kemp—The Minister for Families, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:

Yes. The Department of Families, Community Services and Indigenous Affairs is providing $5,000 in sponsorship to the Department of Transport and Regional Services for the Growing Regions Conference.

Civil Aviation Safety Authority: Remuneration Packages
(Question No. 2027)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 16 June 2006:

For each of the following financial years: (1) 2003-04; (2) 2004-05; and (3) 2005-06, how many staff in Civil Aviation Safety Authority have been or are currently in receipt of remuneration packages in the following bands: (a) $150,000 - $249,999 (b) $250,000 - $349,999 (c) $350,000 - $449,999 (d) $450,000 - $499,999 (e) $500,000 - $549,999 (f) $550,000 - $599,999 (g) $600,000 - $649,999 (h) $650,000 - $699,999; and (i) $700,000 and above.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The numbers of CASA staff in receipt of remuneration packages are as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>$150,000 - $249,999</th>
<th>$250,000 - $349,999</th>
<th>$350,000 - $449,999</th>
<th>Above $450,000</th>
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<td>0</td>
<td>0</td>
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Note: The Chief Executive Officer/Director of Aviation Safety’s salary is set by the Remuneration Tribunal and is not included in the above data.

Airservices Australia: Remuneration Packages
(Question No. 2028)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 15 June 2006:

For each of the following financial years: (1) 2003-04; (2) 2004-05; and (3) 2005-06, how many staff in Airservices Australia have been or are currently in receipt of remuneration packages in the following bands: (a) $150,000 – $249,999; (b) $250,000 – $349,999; (c) $350,000 – $449,999; (d) $450,000 – $499,999; (e) $500,000 – $549,999; (f) $550,000 – $599,999; (g) $600,000 – $649,999; (h) $650,000 – $699,999; and (i) $700,000 and above.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:
### QUESTIONS ON NOTICE

**Remuneration Bands 2003-04 2004-05 2005-06**

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<th>Remuneration Bands</th>
<th>2003-04</th>
<th>2004-05</th>
<th>2005-06</th>
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<tbody>
<tr>
<td>(a) $150,000 - $249,999</td>
<td>516</td>
<td>478</td>
<td>725</td>
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<td>(b) $250,000 - $349,999</td>
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<td>13</td>
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<td>(c) $350,000 - $449,999</td>
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