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The Journals for the Senate are available at http://www.aph.gov.au/senate/work/journals/index.htm

Proof and Official Hansards for the House of Representatives, the Senate and committee hearings are available at http://www.aph.gov.au/hansard

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

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

- **CANBERRA** 103.9 FM
- **SYDNEY** 630 AM
- **NEWCASTLE** 1458 AM
- **GOSFORD** 98.1 FM
- **BRISBANE** 936 AM
- **GOLD COAST** 95.7 FM
- **MELBOURNE** 1026 AM
- **ADELAIDE** 972 AM
- **PERTH** 585 AM
- **HOBART** 747 AM
- **NORTHERN TASMANIA** 92.5 FM
- **DARWIN** 102.5 FM
FORTY-FIRST PARLIAMENT
FIRST SESSION—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

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

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

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

Prime Minister  The Hon. John Winston Howard MP
Minister for Trade and Deputy Prime Minister  The Hon. Mark Anthony James Vaile MP
Treasurer  The Hon. Peter Howard Costello MP
Minister for Transport and Regional Services  The Hon. Warren Errol Truss MP
Minister for Defence  The Hon. Dr Brendan John Nelson MP
Minister for Foreign Affairs  The Hon. Alexander John Gosse Downer MP
Minister for Health and Ageing and Leader of the House  The Hon. Anthony John Abbott MP
Attorney-General  The Hon. Philip Maxwell Ruddock MP
Minister for Finance and Administration, Leader of the Government in the Senate and Vice-President of the Executive Council  Senator the Hon. Nicholas Hugh Minchin
Minister for Agriculture, Fisheries and Forestry and Deputy Leader of the House  The Hon. Peter John McGauran MP
Minister for Immigration and Multicultural Affairs  Senator the Hon. Amanda Eloise Vanstone
Minister for Education, Science and Training and Minister Assisting the Prime Minister for Women’s Issues  The Hon. Julie Isabel Bishop MP
Minister for Families, Community Services and Indigenous Affairs  The Hon. Malcolm Thomas Brough MP
Minister Assisting the Prime Minister for Indigenous Affairs  The Hon. Ian Elgin Macfarlane MP
Minister for Industry, Tourism and Resources  The Hon. Kevin James Andrews MP
Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service  Senator the Hon. Helen Lloyd Coonan
Minister for Communications, Information Technology and the Arts and Deputy Leader of the Government in the Senate  Senator the Hon. Julie Bishop
Minister for the Environment and Heritage  Senator the Hon. Ian Gordon Campbell

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

Minister for Justice and Customs and Manager of Government Business in the Senate

Senator the Hon. Christopher Martin Ellison

Minister for Fisheries, Forestry and Conservation

Senator the Hon. Eric Abetz

Minister for the Arts and Sport

Senator the Hon. Charles Roderick Kemp

Minister for Human Services and Minister Assisting the Minister for Workplace Relations

The Hon. Joseph Benedict Hockey MP

Minister for Community Affairs

The Hon. John Kenneth Cobb MP

Minister for Revenue and Assistant Treasurer

The Hon. Peter Craig Dutton MP

Special Minister of State

The Hon. Gary Roy Nairn MP

Minister for Vocational and Technical Education and Minister Assisting the Prime Minister

The Hon. Gary Douglas Hardgrave MP

Minister for Ageing

Senator the Hon. Santo Santoro

Minister for Small Business and Tourism

The Hon. Frances Esther Bailey MP

Minister for Local Government, Territories and Roads

The Hon. James Eric Lloyd MP

Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence

The Hon. Bruce Frederick Billson MP

Minister for Workforce Participation

The Hon. Dr Sharman Nancy Stone MP

Parliamentary Secretary to the Minister for Finance and Administration

Senator the Hon. Richard Mansell Colbeck

Parliamentary Secretary to the Minister for Industry, Tourism and Resources

The Hon. Robert Charles Baldwin MP

Parliamentary Secretary to the Minister for Health and Ageing

The Hon. Christopher Maurice Pyne MP

Parliamentary Secretary to the Minister for Defence

Senator the Hon. John Alexander Lindsay (Sandy) Macdonald

Parliamentary Secretary (Trade)

The Hon. De-Anne Margaret Kelly MP

Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs

The Hon. Andrew John Robb MP

Parliamentary Secretary to the Prime Minister

The Hon. Malcolm Bligh Turnbull MP

Parliamentary Secretary to the Treasurer

The Hon. Christopher John Pearce MP

Parliamentary Secretary to the Minister for the Environment and Heritage

The Hon. Gregory Andrew Hunt MP

Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry

The Hon. Sussan Penelope Ley MP

Parliamentary Secretary to the Minister for Education, Science and Training

The Hon. Patrick Francis Farmer MP

Parliamentary Secretary (Foreign Affairs)

The Hon. Teresa Gambaro MP
Leader of the Opposition
The Hon. Kim Christian Beazley MP

Deputy Leader of the Opposition and Shadow Minister for Education, Training, Science and Research
Jennifer Louise Macklin MP

Leader of the Opposition in the Senate, Shadow Minister for Indigenous Affairs and Shadow Minister for Family and Community Services
Senator Christopher Vaughan Evans

Deputy Leader of the Opposition in the Senate and Shadow Minister for Communications and Information Technology
Senator Stephen Michael Conroy

Shadow Minister for Health and Manager of Opposition Business in the House
Julia Eileen Gillard MP

Shadow Treasurer
Wayne Maxwell Swan MP

Shadow Attorney-General
Nicola Louise Roxon MP

Shadow Minister for Industry, Infrastructure and Industrial Relations
Stephen Francis Smith MP

Shadow Minister for Foreign Affairs and Trade and Shadow Minister for International Security
Kevin Michael Rudd MP

Shadow Minister for Defence
Robert Bruce McClelland MP

Shadow Minister for Regional Development
The Hon. Simon Findlay Crean MP

Shadow Minister for Primary Industries, Resources, Forestry and Tourism
Martin John Ferguson MP

Shadow Minister for Environment and Heritage, Shadow Minister for Water and Deputy Manager of Opposition Business in the House
Anthony Norman Albanese MP

Shadow Minister for Housing, Shadow Minister for Urban Development and Shadow Minister for Local Government and Territories
Senator Kim John Carr

Shadow Minister for Public Accountability and Shadow Minister for Human Services
Kelvin John Thomson MP

Shadow Minister for Finance
Lindsay James Tanner MP

Shadow Minister for Superannuation and Intergenerational Finance and Shadow Minister for Banking and Financial Services
Senator the Hon. Nicholas John Sherry

Shadow Minister for Child Care, Shadow Minister for Youth and Shadow Minister for Women
Tanya Joan Plibersek MP

Shadow Minister for Employment and Workforce Participation and Shadow Minister for Corporate Governance and Responsibility
Senator Penelope Ying Yen Wong

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

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

Shadow Minister for Agriculture and Fisheries
Gavan Michael O’Connor MP

Shadow Assistant Treasurer, Shadow Minister for Revenue and Shadow Minister for Small Business and Competition
Joel Andrew Fitzgibbon MP

Shadow Minister for Transport
Senator Kerry Williams Kelso O’Brien

Shadow Minister for Sport and Recreation
Senator Kate Alexandra Lundy

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

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

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

Shadow Minister for Immigration
Anthony Stephen Burke MP

Shadow Minister for Ageing, Disabilities and Carers
Senator Jan Elizabeth McLucas

Shadow Minister for Justice and Customs and Manager of Opposition Business in the Senate
Senator Joseph William Ludwig

Shadow Minister for Overseas Aid and Pacific Island Affairs
Robert Charles Grant Sercombe MP

Shadow Minister for Citizenship and Multicultural Affairs
Senator Annette Hurley

Shadow Parliamentary Secretary for Reconciliation and the Arts
Peter Robert Garrett MP

Shadow Parliamentary Secretary to the Leader of the Opposition
John Paul Murphy MP

Shadow Parliamentary Secretary for Defence and Veterans’ Affairs
The Hon. Graham John Edwards MP

Shadow Parliamentary Secretary for Education
Kirsten Fiona Livermore MP

Shadow Parliamentary Secretary for Environment and Heritage
Jennie George MP

Shadow Parliamentary Secretary for Industry, Infrastructure and Industrial Relations
Bernard Fernando Ripoll MP

Shadow Parliamentary Secretary for Immigration
Ann Kathleen Corcoran MP

Shadow Parliamentary Secretary for Treasury
Catherine Fiona King MP

Shadow Parliamentary Secretary for Science and Water
Senator Ursula Mary Stephens

Shadow Parliamentary Secretary for Northern Australia and Indigenous Affairs
The Hon. Warren Edward Snowdon MP
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The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 9.30 am and read prayers.

EXPORT FINANCE AND INSURANCE CORPORATION AMENDMENT BILL 2006

First Reading

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

That the following bill be introduced: A Bill for an Act to amend the Export Finance and Insurance Corporation Act 1991, 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—

EXPORT FINANCE AND INSURANCE CORPORATION AMENDMENT BILL 2006

This bill amends the Export Finance and Insurance Corporation Act 1991 by making changes to the governance arrangements of EFIC. These changes will result in its current board management structure reflecting more closely the board corporate governance model set out in the Review of Corporate Governance of Statutory Authorities and Office Holders conducted by Mr John Uhrig.

EFIC is Australia’s export credit agency. EFIC’s mandate is to profitably support the growth of Australian businesses internationally, particularly in the ‘market gap’ where private sector capacity is insufficient or unavailable.

This bill forms part of the implementation of the Government’s response to Mr John Uhrig’s Review of Corporate Governance of Statutory Authorities and Office Holders. The Government has been reviewing all statutory agencies in the context of Mr Uhrig’s recommendations, to ensure that we have the most effective accountability and governance structures across the whole of government.

The Government has assessed EFIC’s existing governance structure against the recommendations and principles of the Uhrig Review and identified that the board template is suitable on the basis that EFIC operates primarily as a commercial organisation and (except in relation to national interest transactions) its board has a high degree of power to act.

The changes are of an operational and enabling nature. The amendments do not impact EFIC’s functions, nor EFIC’s delivery of export facilitation services to Australian business. EFIC will continue to be focussed on assisting Australian businesses to enter and develop export markets.

On behalf of the Government, I would like to thank the current and previous EFIC boards. I am grateful for their extensive expertise and commitment in supporting the growth of Australian businesses internationally and I am confident that the board will continue their good work.

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

In Committee

Consideration resumed from 15 August.

The CHAIRMAN—The committee is considering the bill as amended and subject to request and opposition amendment (4) on sheet 5008. The question is that the amendment be agreed to.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (9.32 am)—When last we were consid-
erring this legislation, I formally moved amendment (4) standing in my name. This seeks to repeal section 44A of the principal act in accordance with a submission made by the Northern Territory land councils and the Northern Territory government in 2003, which the government argues is the basis of this legislation. The government has consistently argued that what it is doing in the proceeding of this bill is implementing the negotiated settlement between the land councils and the Northern Territory government. That is true to a large part. As we have said, there are two parts to the bill: that which was consulted upon, negotiated and agreed to; and the second part, which is the added-on ideological agenda of the government, which has not been subject to the same level of consultation and which certainly has not been done with the consent of the traditional owners.

Putting that argument to one side—we have debated it at length in this chamber already—this provision, section 44A, restricts a form of agreement that is wanted by both the land councils and the Northern Territory government. There has been no explanation as to why the government, in proceeding with this bill, did not include this aspect of the agreement. Nearly every other aspect of the proposals that came out of the joint submission from the land councils and the Northern Territory government were adopted by the Commonwealth, but this one was not. So Labor is moving to include that measure because we think it is an appropriate one, and I have not heard an argument from the government as to why it should not occur.

Basically, we are seeking to repeal section 44A of the principal act because we feel it imposes restriction on the negotiation of mining agreements. On the face of it, it seems to preclude exploration agreements which specify a formula for royalty payments when mining occurs. Currently exploration agreements negotiated by the land councils and the Northern Territory government include provisions regarding mining payments. They have been included in negotiations since the 1987 Native Title Act amendments because of the different approach applied in that act. If the owners consent to minerals exploration in the Northern Territory, they lose the right to object to the subsequent grant of a mining interest. In other words, unlike the regime under the Native Title Act since 1987, exploration mining agreements under the Aboriginal Land Rights (Northern Territory) Act have been in a conjunctive rather than a disjunctive form. Senators might be aware of the method that applies under the Native Title Act. It has been the subject of much debate in this chamber since 1993.

The joint submission by the land councils and the territories recommended that there should be no restrictions on the content of agreements, leaving all the parties to be governed by general commercial law. As I understand it, this recommendation was supported in all three major reviews of the land rights act, including the Reeves review, the national competition policy review and, of course, the report of the House of Representative Standing Committee on Aboriginal and Torres Strait Islander Affairs. In the absence of any coherent argument from the government it seems to Labor that this aspect of the agreement reached in the Northern Territory, which the government has largely given force to in its amendments to the land rights act, ought to also be reflected in these amendments. I urge the Senate to support Labor’s amendment.

Senator SIEWERT (Western Australia) (9.37 am)—I require some clarification. Can Senator Evans please confirm which amendment he has moved?

The TEMPORARY CHAIRMAN (Senator Brandis)—Senator Siewert, it is
opposition amendment (4) on sheet 5008, which was moved yesterday by Senator Evans.

Senator KEMP (Victoria—Minister for the Arts and Sport) (9.37 am)—I think Senator Evans has been speaking on amendments (5) and (6). Senator Siewert, in her usual sharp and incisive way, has noted that the discussion really related to amendments (5) and (6). Senator Evans, as indicated, did move amendment (4), but I do not think we discussed that yesterday. I am happy to deal with amendments (4), (5) and (6) at the one time, if that makes sense.

The TEMPORARY CHAIRMAN—That is a matter for Senator Evans, Senator Kemp. If Senator Evans was being irrelevant, nobody took a point of order. We have before us opposition amendment (4) on sheet 5008.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (9.38 am)—I apologise if I have confused the chamber. I thought I had moved amendments (3) and (4) together yesterday, but I am sure the Clerk’s advice is correct.

The TEMPORARY CHAIRMAN—Senator Evans, You moved amendments (2) and (3) together.

Senator CHRIS EVANS—I apologise. I thought we had dealt with that matter.

The TEMPORARY CHAIRMAN—Notwithstanding the fact that Senator Evans may have been addressing his remarks elsewhere, the question before the chair is that opposition amendment (4) be agreed to.

Senator SIEWERT (Western Australia) (9.38 am)—If we are dealing with the amendment that relates to ministerial approval, which is the amendment that I thought we were dealing with and the one that was moved yesterday, the Greens support it. Sorry for the confusion. This amendment relates to ministerial approval or variation of a delegation if a land council refuses to do so. The amendment, I believe, makes more rigorous the minister’s power to approve a delegation if a land council refuses to do so. That relates to the additional things that the amendment requires the minister to consider, such as that the body has a sound governance framework and prudent management and that the majority of traditional Aboriginal owners of the region represented by the body consent to the delegation. Those two are important considerations in that at the moment, as I understand it, the minister could approve a delegation to a land council that in fact may not have a sound governance framework and prudent management.

As the original land body is still responsible for the carrying out of its functions, it is important that, where decision-making powers are delegated, a land council does in fact have a sound governance framework and prudent management. This amendment gives more rigour to the decision-making process, gives more certainty to the land councils that the body that the powers will be delegated to in fact has a sound governance framework and gives the land councils more confidence that the powers being delegated will be appropriately used in a satisfactory manner. We support this amendment to give more rigour to that decision-making process.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (9.41 am)—I apologise for any confusion caused. In a sense, the confusion may have been caused because we debated yesterday the question of the regional bodies and the delegation of powers. As I was not successful yesterday, I suspect that despite the eloquent contribution of Senator Siewert, which might convince the government, we will go down on this one as well. Senator Siewert made the argument very well. Effectively, we are concerned that the government
is seeking to move to give regional bodies control over many of these matters. We have some concerns about what that will do to the efficient operation of land issues. We have some concerns about the potential for dispute and the potential for more uncertainty regarding development. Those concerns come from both the Aboriginal side of the argument and from the mining side. They are united in their concerns about the government’s direction here.

Given that the government was intent on going down this track, we thought that this amendment would be a positive measure, given that this amendment seeks to provide some clarity about the circumstances in which the minister should be allowed to use his powers. We sought to include a test which ensures that the regional body concerned has operated effectively and appropriately and that there is the consent of Aboriginal traditional owners. The government, on various other occasions, has sought to emphasise the issues of sound governance and prudent management. We think that this is an opportunity for the government to be consistent with its policies, and I commend the amendment to the chamber.

Senator KEMP (Victoria—Minister for the Arts and Sport) (9.43 am)—Senator Evans was right on one thing: I have not been persuaded by the eloquence of Senator Siewert, although I listened very carefully to her views. The amendment which has been moved has three parts, (a), (b) and (c). The first reads:

The Minister must not approve the request unless he or she is satisfied that:

(a) the body will be able to satisfactorily perform the functions and exercise the powers sought by the body;

This is in fact already in the act. The second part, (b), reads:

(b) the body has a sound governance framework and prudent management;

We believe that (b)—and this is the point that was raised by Senator Evans—is already encompassed in (a), so there is no need to specify that particular element separately. We do not agree with (c); we do not accept it. It reads:

(c) a majority of traditional Aboriginal owners of the region represented by the body consent to the delegation.

Let me outline our reasons for that. Bodies corporate which are delegated land council powers will be required to represent Aboriginal residents as well as traditional owners. Therefore, the consent of traditional owners to the delegation of the powers would not be appropriate; it would be inappropriate. It does not recognise, in our view, the rights of Aboriginal residents. Therefore, we will not accept amendment (4)(3)(c) because we do not agree with it. While we agree with (4)(3)(b), we believe that (b) is already encompassed in (a), as it is already part of the act. Senator Evans was quite right to remind the chamber that the government do place great weight on sound governance framework and prudent management, but we believe that is already encompassed in the bill as it stands. The government cannot accept this amendment.

Senator BARTLETT (Queensland) (9.45 am)—The Democrats support this amendment. The minister’s contribution has made me even more concerned that the government does not accept it. Obviously the views of all Aboriginal residents need to be taken into account, but the fact that the minister does not see it as necessary to be satisfied that a majority of traditional owners consent to the delegation is, I think, a serious problem.

It is a problem on two fronts, and I again refer to the evidence not only from the land
councils but also from the Minerals Council. They are the people who have to work on the ground with the reality. As one of the witnesses said to the Senate inquiry in Darwin, whatever the principles in the legislation are, people eventually end up getting mugged by reality. The Minerals Council’s concern was that this may risk putting in place a scenario where the minister agrees—for whatever reason, good motive or bad—to approve a request which does not have the support of traditional owners. That would put in place the potential for serious dissent. That would make whatever is being proposed far more likely to become unworkable, whether it is mineral exploration or anything else.

I would have thought that the whole basis of the principle behind land rights legislation would have to include the traditional owners. I do not mean it would have to include only them, but it certainly would have to be a sufficient condition to which the majority of traditional owners of the region consent. I think that it is very important in principle, but even if you wish to put principle to one side—and I do not—in terms of workability you are really putting in place quite a serious risk.

Remember that we are not talking just about the current minister and the current government. This legislation stays in place, once it is put in place, until it is amended. It could be that a future government or a future minister might be willing to use this power for less than benign intent. You would really be creating a potential situation where a minister could approve a request that is quite clearly against the majority views of the traditional Aboriginal owners of the region. That would set up a very unworkable situation, and I do not think it is wise to allow that potential to be there in the act when there is no need for it. There is no need for it, according to the evidence presented at the inquiry.

There is only one other point I would make, and I have made it a few times in my broader contributions. I do think it is an important point, and it goes to the submission of the Aboriginal and Torres Strait Islander Social Justice Commissioner. He detailed the commitments that the Australian government had publicly given with regard to the objectives of the Second International Decade for the World’s Indigenous People. Australia had agreed to act in accordance with and to promote those objectives, which include promoting full and effective participation of Indigenous peoples in matters which directly affect their lifestyles, traditional lands and territories, considering the principle of free, fair and informed consent.

With regard to Indigenous people’s traditional lands, I believe that the failure to accept this amendment sets up the potential for the government to be able to act outside of the consent—informed or otherwise—of Indigenous people regarding their traditional lands. I think it contradicts what the Australian government said it would do with regard to those principles, and that is a problem. As I said, I think it also raises some potential problems with workability. It is not going to occur every single time; I am not trying to suggest that this will lead to the collapse of everything. But, given that it is not necessary, I do not see that it is such a massive shift from what the government is wanting to do in its original legislation that it should be rejected. It is an extra impediment but I would see it as an extra protection. It is not like it is absolutely essential that we have to be able to use this power that has been put in subsection 28C(3). It is just an extra protection to ensure that, if it is used, it is used with the clear support of the local Aboriginal people.

We can all see the problem that would almost certainly arise if you had a minister in Canberra who agreed to something that was
opposed by the majority of traditional owners of the region. That would be a pretty bad dynamic. I do not know why you would want to allow even the potential for that to happen. It really concerns me, and the minister’s response concerns me further, if anything, because it contains the view—at least the way I heard it—that ‘we do not feel it is necessary to have that majority view’. That is a real problem.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (9.51 am)—Mr Temporary Chairman, I was hoping the minister would respond to that contribution. I want to reiterate the point that at the heart of this clause—and it has been at the heart of a number of the debates on the bill—is the question of Aboriginal traditional owners having a say over what happens on their land. The government’s proposition fundamentally undermines traditional owners’ say over what occurs on their land—this is their property. Every measure the government takes seems to be about undermining the ability of the traditional owners to have a say over that land. This amendment seeks to provide some protection for traditional owners.

One of the issues at the heart of Aboriginal law and culture is that no Aboriginal person seeks to speak for another Aboriginal person’s land. It is a very central tenet of their culture that you do not speak for another person’s land. But this legislation is all about trying to enshrine a system, a view of the world that is a Western view of the world, about how Indigenous people ought to maintain or exercise their control over their land. The government consistently undermines the rights of traditional owners. The fundamental point that I keep trying to make is that it is their property. This is not about native title rights. This is their property—granted by the Commonwealth in recognition of their dispossession. The land is held in the name of the Aboriginal people. It is their land.

So the government is not only seeking to make arrangements which govern their land but it is also constantly seeking to undermine the capacity of traditional owners to have control over matters that affect their land. While there are tensions caused by the movement of Aboriginal people into communities which are not on their traditional land—the coming together of various peoples into communities for economic or other reasons—we are attempting with this amendment, as with the general approach to the bill, to try and ensure some capacity for traditional owners to maintain, enjoy and exercise their rights over their land. It seems to me that the government could at least make a minor concession to try and recognise their rights and provide some protection for their rights.

Senator KEMP (Victoria—Minister for the Arts and Sport) (9.54 am)—Senator Evans, the reason I did not respond to Senator Bartlett—and I feel a little bit constrained in saying this—is that, Senator Bartlett, your interventions are long and sometimes rambling, I regret to say, and you repeat relentlessly the things that we have already discussed at some length. You have a particular view and the government has a particular view. I do not seek to impugn your motives and I do not think you should seek to impugn the government’s motives. We just have a different view. It is a view that some others across the political spectrum share and some do not. It is not simply a matter of suggesting that someone is acting in bad faith or anything else.

The point I make is that if a land council or a body corporate performs a function in relation to Aboriginal land, they must get the consent of the traditional owners first. I think you are missing that point, Senator Bartlett.
That point has been made throughout this debate, and there is not much more that I can add. You have a different view; we have a different view. We have thought hard about our view and, in weighing up the balance, we have come to a different position to yours. We give no ground to anyone in wanting to advance Indigenous interests. All of us recognise that action must be taken in this particular area.

Yes, there have been consultations, some of which have extended for nine years on this matter. At the end of the day, people have to reach a decision. The government have reached a decision. We have canvassed a variety of arguments. In the original reading, in the debate on the second reading and in the debate about splitting the bill these arguments have been long canvassed. We do not agree with you, Senators Bartlett and Evans, and we will not be accepting the amendment.

Question negatived.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (9.58 am)—I move opposition amendment (5) on sheet 5008:

(5) Schedule 1, page 60 (after line 21), after item 124, insert:

124AA Section 44A

Repeal the section.

The opposition also opposes schedule 1 in the following terms:

(6) Schedule 1, items 124A to 124C, page 60 (lines 22 to 29), TO BE OPPOSED.

I am in the happy position of having already spoken on these matters, so that will facilitate the work of the committee. As I indicated earlier, they try to pick up what was contained in the original agreement between the land councils and the Northern Territory government. Pending some explanation by the government that convinces me otherwise, we think these will improve the bill. They would carry out the original intent of the long negotiations to which Senator Kemp referred and would confirm the advice found in the various reports and inquiries into these matters over that long period of time.

Senator KEMP (Victoria—Minister for the Arts and Sport) (9.59 am)—The government will not be supporting (5) and (6). The government is not willing to remove from the act the provisions preventing compensation for the value of minerals being included in exploration agreements. Such compensation, as senators will know, is already provided through royalty equivalents paid to the Aboriginals Benefit Account.

Aboriginal people affected by mining receive 30 per cent of such royalty equivalents. The government have considered all views on this issue. We accept the point that a number of reviews have recommended the removal of restrictions. But that view is not shared by all stakeholders; all parties do not agree with that. Some seek the removal and others do not. The government have decided, on balance, to retain the restrictions. We cannot support (5) and (6).

While the mining industry agreed, I understand, to most of the package on exploration and mining reached between the Northern Territory government and the land councils, it did not agree with the removal of section 44A. As I said, on balance, the government has decided to retain the existing provisions. As a footnote to history, if I can put it that way, the provisions of section 44A which the opposition are seeking to remove were inserted in 1987 by a Labor government.

Senator Chris Evans—You’ve never amended any of your own legislation? These are cunning points you make.

Senator Kemp—Senator Evans, following expressions of bad faith and expressions
that somehow people have reached a conclusion which is not appropriate, it is quite interesting to draw on the historical experience and to see what was said by members of the Labor Party, whether they be members of the Labor Party in the Northern Territory at the current time—

Senator Chris Evans—No bad faith allegation was made.

Senator Kemp—Do not get tetchy about it. You raised the issue. I am a minister who likes to respond and to assist people. The truth is that it does undermine the argument that somehow this is a radical act, that the government are not accessible to arguments. The truth is that a previous Labor government reached a similar position to ours. We think that they were right at that time and we call on the experience of that time to support our current position. The Labor Party has changed its mind and we have not changed ours.

Senator Bartlett (Queensland) (10.03 am)—Far be it for me to suggest that the minister repeated the same points ad nauseam in his contribution. I think he is right, though, that it is worth looking at history and the whole act that we are debating, which was put in place back in 1976 by a Liberal government. History shows us that the big difference at that stage from what is being done now was that it was put forward in a bipartisan way, as have been many of the amendments since.

Whilst I shall refrain from impugning motives, not least because it is against standing orders—so I would have to withdraw it anyway—it does get more difficult not to do so when there is such a consistent, deliberate refusal to consider people’s views. In this particular example, we are talking about, in the minister’s own words, restrictions that are in place on Aboriginal people. I do not think it is any accident. If you look at the whole range of things that have been done through this process, anything that is a restriction on Aboriginal people has stayed in place and anything that gives extra power to the government gets accepted.

It seems particularly unfortunate that an area that would remove a restriction on Aboriginal people and that would enable more flexibility for them to negotiate with regard to mining activities is not being agreed to. It gives a lie to the government’s rhetoric that this is about opening up opportunities for economic development for Aboriginal people and giving them maximum flexibility and incentive, because it keeps in place a restriction on that. In dealing with every other part of this bill the minister has pointed to the Northern Territory government as a reason for the government doing what they are doing—because the Northern Territory Labor government support it. But on this occasion, when it is not convenient, the government do not support it. That is a real example of what the government’s motivation is here.

The Temporary Chairman (Senator Brandis)—The question is that opposition amendment (5) be agreed to.

Question negatived.

The Temporary Chairman—The question now is that items 124A to 124C of schedule 1 stand as printed.

Question agreed to.

Senator Chris Evans (Western Australia—Leader of the Opposition in the Senate) (10.06 am)—The opposition opposes items 173 and 174 of schedule 1 in the following terms:

(7) Schedule 1, item 173, page 69 (lines 7 and 8), TO BE OPPOSED.

(8) Schedule 1, item 174, page 69 (lines 9 to 21), TO BE OPPOSED.

This debate goes to the existing provision which guarantees 40 per cent of funds from
the Aboriginals Benefit Account being available to support the land councils’ activities. The government seeks to delete that provision. Labor, in moving this amendment, seeks to retain it. The government has previously accepted that this funding floor, as it were, to support the land councils’ operations has been appropriate. The provision removes that funding floor and seeks to determine it on the basis of estimated workloads. It is an approach that has been adopted with some other Aboriginal organisations.

We are concerned about this measure. We believe it removes a protection which helps to ensure the long-term viability and independence of the land councils in representing traditional owners’ interests. It seems to be another measure that is aimed at tightening government control over the land councils, and we are concerned that, as part of a package of measures, it is really about government control rather than effective representation of Indigenous landowners. The government talk about outcome based funding in supporting these measures, but the land councils have already moved to performance based funding under recent administrative changes. We think, as I say, that it is much more reflective of a government seeking to tighten control. We think the controls they currently have are adequate. We think the land councils are committed to accountability and proper process. We think there are broader roles for the land councils in terms of economic development, job creation and advocacy that this amendment has the potential to undermine.

We have seen with other community based organisations where governments have sought to tighten control of their funding that a by-product of this invariably is that advocacy and those types of functions tend to be restricted by the government’s tight control. I have seen it in the disability sector, where the government has moved against the disability organisations that promote advocacy as part of their function. I have serious concerns about the measure to remove the guaranteed floor of funding to the land councils, together with the government’s other activities in relation to the ABA, where the minister seeks to dip into the money whenever he needs to solve a political problem and access money which he cannot win through the cabinet processes. He seeks to dip into the Aboriginals Benefit Account and he argues that what he is doing is in the best interests of Aboriginal people and therefore he has the right to access those funds and use them as he wants. Again this is a reflection of the attitude ‘We know best, and we will do to you, not work with you.’

So I think this is part of an undermining of the independence of the land councils. I do not think that is a good thing. I think one of the great problems in Indigenous affairs in this country currently is the lack of Aboriginal voices, the lack of capacity for Aboriginal people to be represented, not only with the demise of ATSIC but also with the government tightening its control on legal services and on native title representative bodies. This is just another measure that seeks to restrict the capacity for independent Aboriginal voices and for advocacy, and that is why Labor is opposed to the government removing the funding floor. Independence of funding provides a great deal of independence in how you operate. The land councils are strictly controlled anyway in terms of regulations and accountability mechanisms, but this measure fundamentally seeks to undermine their independence and thereby undermine their capacity for advocacy on behalf of traditional owners. I do not think it is a move that should be supported by the Senate.

Senator SIEWERT (Western Australia) (10.10 am)—In my speech in the second reading debate I expressed the Greens’ concerns about this particular section of the act,
so we are supporting the Labor Party’s opposition to these items. We likewise are concerned about the undermining of the independence of land councils and the shift in the balance in decision making over how this money is spent. This measure concentrates further control with the government and with the minister rather than with land councils. It is undermining their ability to self-determine and their capacity to determine how these funds will be spent, when the government’s intention is supposedly to increase Aboriginal enterprise. The amendments proposed by the government to take further control of this account seem to us to be in fact undermining Aboriginal communities’ capacity to increase their ability to engage in economic development and increase their enterprise.

The concern we also have is that—as we have been through extensively in this debate—we do not believe the land councils actually support many of these amendments. They do not support the issue of headleases and the 99-year lease at this stage. They do not believe there has been enough consultation, and yet their own funds are being taken to put these provisions in place. These funds are going to be used to pay for the establishment and the administration of these leases. They are also going to be used to pay the rent on these leases. I do not believe that is fair. I do not think that is natural justice for the land councils and for traditional owners. We therefore do not support increasing the concentration of the minister’s control over these accounts. I do not believe that they are being used for what they were originally intended for. While I acknowledge that, as I understand it, the proportions of the allocations of the funds were fairly arbitrarily decided in 1974, I would have thought extensive consultation with the traditional owners, with land councils and with Aboriginal people would have been needed if the proportions of the allocations were to change.

As we have gone through the debate in this place, we have articulated fairly extensively that there has not been extensive consultation on many amendments in this bill, and this is certainly one of those on which there has not been extensive consultation. I do not believe the changes have the support of the land councils. In fact, I have heard very strong arguments that they do not have the support of the land councils. Therefore, we are supporting the Labor Party’s opposition to these items. We believe the formula at this stage should remain the same. If it is to change in future, that should be on the basis of decisions made by the traditional owners, the land councils and Aboriginal peoples. They should come forward and suggest to government what proportions should change in the future, after there has been extensive consultation. I do not believe we should foist on the community changes that they do not want, that they have not been adequately consulted about. It is rubbing salt in the wound to make communities pay for these changes that they do not want. So we will be supporting the Labor Party in opposing these items.

Senator BARTLETT (Queensland) (10.14 am)—The Democrats support the Labor Party’s opposition to these items. What the government seeks to do in this part of the legislation is give more power to the minister and take power away from land councils representing the traditional owners, and that is not something we accept. It will also provide just one more stick for a minister, whether the current one or a future minister, to basically keep land councils in line. The government will have the ability to imply threats—that it will cut budgets more significantly if land councils behave in a way that the minister does not like. I do not think that is acceptable in principle and, again, it is not in line with the supposed reason for the changes in this legislation, which are to im-
prove independence and development of opportunity and initiative amongst Indigenous people in the Territory.

Senator KEMP (Victoria—Minister for the Arts and Sport) (10.15 am)—The government, of course, has consulted very extensively on this bill. Senator Siewert, I think the way you define consultation means that you have to reach agreement. There can be extensive consultation without reaching agreement on every single point. I would not want the record to go uncorrected: there has been extensive consultation on very wide aspects of this bill, as I think has been repeated ad nauseam during this debate. What you are aiming for is that we should reach agreement. Sometimes it is just difficult to reach agreement on these matters, as I have indicated, and people of goodwill will differ.

My advisers tell me there was perhaps a misconception in one of the remarks made by Senator Siewert in relation to headleases. The advice I have received on the headleases is that funds used to start up a headlease are not land council funds. It is Commonwealth money equivalent to royalty payments administered by the Commonwealth. I think there may have been some confusion in your remarks, and I hope that may clarify it.

We can see no reason to retain what everyone around this chamber has agreed is an arbitrary figure of 40 per cent for payments, having regard to population rather than the functions performed. Land councils have regularly received more than the minimum 40 per cent of Aboriginals Benefit Account moneys to which they are entitled under the current legislation. They have been funded to enable them to perform their statutory functions on the basis of work to be done and outcomes to be achieved, and this will continue. Any money not required for land council administrative costs will continue to be used for the benefit of Aboriginal people in the Northern Territory. We therefore cannot agree with the Labor Party’s opposition to these items. I further point out that retaining the funding guarantee is really completely inconsistent with normal performance based funding, and my advice is that that is the basis on which all other statutory authorities are funded. Despite the arguments that have been put forward, of which the government have been aware and which we have listened to, we will not be supporting the Labor Party’s opposition to these items.

The TEMPORARY CHAIRMAN (Senator Brandis)—The question is that items 173 and 174 stand as printed.

Question agreed to.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (10.18 am)—by leave—I move opposition amendments (9) and (10) on sheet 5008:

(9) Schedule 1, item 189, page 71 (lines 27 and 28), omit “, (12), (13)”.

(10) Schedule 1, item 192, page 74 (line 16) to page 76 (line 28), omit subsections 67A(12) to (17).

This takes us back to a debate we had earlier regarding removal of intertidal zone provisions that excise this land from the claims process. We had a debate around this issue earlier in relation to the government amendment, so I will not go through it all again. I think this is really a measure by the government which highlights the problem with their approach. As the bill was going through the parliament, the government tacked on a little measure that removed one more aspect of Indigenous land rights. It was like, ‘We can tidy this little thing up by removing the intertidal zones that are not contiguous with Aboriginal land from the claims process.’

As I say, I spoke to this earlier. A number of these claims have actually been successful before the Aboriginal Land Commissioner, Justice Howard Olney QC. They were as-
sessed and recommended for acceptance. I think four claims have been approved and there are other claims that are outstanding. But there are actually four claims that have been granted by the land commissioner that have required ministerial sign-off. They date back to 2002, as I understand it, and successive ministers have failed to sign off on the land commissioner’s finding. The government say, ‘It just so happens that there is a bill going through the parliament, so we will tack this on and we will knock off those land claims and we will knock off those land rights.’ It is a classic example of government seeking to use the bill to again restrict or remove Aboriginal land rights because they can. The bill is going through, they have the numbers in the parliament and they will throw that into the mix.

What became clear in the earlier debate is that there was no notification to the claimants other than advice to the council. There was no discussion with the people who actually had their claims approved by the Aboriginal Land Commissioner. I spoke to one person who did not know about it until the Senate committee inquiry visited Darwin. This is a continuation of a mindset that says: ‘We have the power and we’re going to use it because it’s inconvenient to have these claims. We think they’re a bit messy. We think they might interfere. They are a bit difficult.’ Senator Scullion has raised a whole range of practical problems. I do not doubt that some of them are right.

But the point is that, because we can, we are going to restrict Indigenous people’s land claims, despite them having the capacity for such claims under the current act. We are basically going to wipe out land claims that have been granted. These are not massive issues to anyone, I suspect, except the claimants. There are intertidal zones not contiguous with Aboriginal land. That is not to say that it was not Aboriginal land previously; it is just that pastoral or other leases have been granted over the land that is adjacent to the intertidal zones, and Aboriginal people have already been dispossessed of that land. They were not dispossessed of the intertidal zone, but now we are completing the process of removing their ownership of their traditional land. We are fixing up the last little bit—taking away the last vestige of Indigenous ownership of these parcels of land.

I understand why the government are doing this. It is neat. It suits their involvement with some of the commercial interests, who are wishing to fish et cetera. It is easy to do. With the flick of a pen those rights are abolished and the claims granted by the land commissioner are wiped out. At the flick of a pen it is all fixed, no problem—it is a done deal. The issue in itself of these claims is not a huge issue, but the process reflects the attitude that we have the capacity to tell Indigenous people what to do with their land, the capacity to write off their claims to the land and the capacity to write off findings that say they have ownership of land. It reflects poorly on the government and their approach, and confirms for Indigenous people the sort of attitude the government have taken to their land rights—that is, that claims be dismissed by this parliament, because it can, without proper consultation and without proper process.

The government have failed to provide procedural fairness to these people. I think this is probably the shabbiest bit of the bill, as it is the shabbiest move by the government to exercise their power in extinguishing Indigenous rights. Labor are not going to sign up to it, and that is why we are formally moving our amendments. As I said earlier, we think the government should not be supported by the Senate on this, so we are moving amendments that effectively prevent that.
Senator KEMP (Victoria—Minister for the Arts and Sport) (10.24 am)—Senator Evans is absolutely right on one thing: we have been through these arguments before, and at some length. Senator Evans was quite right to refer to what I thought was the quite outstanding contribution that Senator Scullion made on this issue. I refer people to the comments that Senator Scullion made and to his experience with and understanding of what is a very complex issue.

I think we have a slight language issue here. Senator Evans referred to two grants that had been made. That is not correct. The land commissioner made recommendations in relation to two matters. The land was not granted, but there was a recommendation. I think there is a difference. There are no rights being removed, because those rights have never been determined.

Senator Chris Evans—The right to claim has been removed.

Senator KEMP—Yes, there was an ambit claim. You are quite right. There were ambit claims lodged in 1997 at five minutes to midnight—that is what we are talking about.

Senator Chris Evans interjecting—

Senator KEMP—There was an ambit claim, and everybody understood that. Because Senator Evans went over some of the same ground again, which he is perfectly entitled to do, I will therefore go over a little bit of ground again as well to point out that, in the government’s position on the disposal of certain land claims, it is supported by the Northern Territory Labor government. So the Labor Party has two positions on this issue.

Senator Chris Evans—They supported the last amendment, which you knocked off.

Senator KEMP—You did not mention that earlier; it would have been an interesting point to make.

Senator Chris Evans—It would have been a puerile debate.

Senator KEMP—No, it is an important debating point because—

Senator Chris Evans interjecting—

Senator KEMP—Well, hello! I use arguments which suit me—what a surprise! Gosh, what an absolutely stunning insight!

Opposition senators interjecting—

The TEMPORARY CHAIRMAN (Senator Brandis)—Order, Senator Evans and Senator Marshall!

Senator KEMP—Yes, I do tend to use arguments that suit me—I confess—and I guess it will continue. I made the point that we have been over these matters before. I am not sure that Senator Evans shed any new light on the Labor Party position. It is not a position that the government accepts. These were not rights; they were claims. Grants were not made; a recommendation was made. So there is, I think, a misunderstanding of the language. The government, for the reasons that have been given throughout this debate, will not be supporting the amendments.

Senator BARTLETT (Queensland) (10.28 am)—It is interesting the way language is twisted, as it is so often around this place, and that somehow or other this bill can be perceived as not removing a right. I congratulate Senator Kemp for his creative use of the English language, but it is blatantly obvious that what is being removed is a right. That is why the Democrats support these particular amendments.

As was made clear earlier on, this was obviously done without even bothering to consult directly with the people who would be affected, and by just notifying the land council, according to what the minister said earlier on in this debate. The minister had a bit of a shot at another contributor in this debate.
for suggesting consultation always means reaching agreement. That is certainly not what my view of consultation is, although, when it comes to law affecting the property rights of Indigenous Australians, getting their informed consent was supposed to be something the Australian government had committed to doing. Part of what the federal government says is their honest approach towards Indigenous Australians when dealing with policy matters that affect their land rights is meant to be to get their informed consent. Clearly, that does not apply anymore, and it is good to finally have that on the record.

One of the reasons I repeat some matters—much to the minister’s boredom—is because he refuses to respond to the concerns that are raised. I suppose that reflects this government’s approach to consultation, which is basically to just tell people what the government have decided to do. According to the evidence given to the Senate committee inquiry, that was the ‘consultative’ approach, so-called, with regard to some of the new ideas they came up with towards the end of last year. They went along and told the land councils what the government were doing. That is all they did and that was their idea of consultation. They did not even see the need to talk to traditional owners directly.

So by the minister’s own words, I guess, we finally have a clear indication that the idea of seeking the consent of Indigenous people is not part of the government’s policy. If it is not forthcoming, bad luck; they will just do what they want to anyway. Then they come up with the extraordinary idea that no rights are being removed along the way. It is bit like all those people volunteering to go back to Afghanistan, I suppose.

The Democrats support these amendments. I think that they are particularly important ones. It is worth noting, and it is appropriate to point out, the Northern Territory government’s position—the Northern Territory Labor government’s position, as the minister keeps pointing out. Indeed, I was very disappointment by the response of the Northern Territory Labor government’s representatives at the Senate committee hearing into the whole legislation but particularly this part of it. The Northern Territory government representatives made it quite clear that they did not like the prospect of Aboriginal people being able to claim or have rights over the intertidal zones and they did not like the idea of them getting any economic opportunity out of it. One of the representatives said that it was not so much that the NT government did not support economic development in Aboriginal communities but that they saw this not as economic development but rather the opportunity for rent seeking. What a terrible thing! Imagine rent seeking from your own land. It seems to be appropriate for everybody else in the community but, when an opportunity arises for Aboriginal people to have title over a particular piece of land and then seek to get economic gain out of it, then that is inappropriate because it might impact on another industry or cost the Territory government. That was in response to questioning from Senate Moore and it quite clearly demonstrated the NT government’s view that economic advantage is not favoured by the NT government.

We have heard the rhetoric that these changes are about increasing economic opportunities for Aboriginal people, giving them more incentives and chances to get more advancement because land rights have not worked well enough to give them economic opportunity. But, when you look at the detail in the legislation, things are being taken out that would have provided economic opportunity for Aboriginal people. The legislation is going in the opposite direc-
tion to what the Commonwealth government and the NT government say it is about. The minister has repeated ad nauseam—as ad nauseam of the things that I have repeated—that the position of the Northern Territory government on this is almost the same as theirs. They are almost equally culpable. It has been very disappointing. It seems like a traditional approach perhaps from the NT government of both sides. I guess it is just the nature of governments that they want to have control and they do not like other people having it. That is what this legislation does in so many parts: it takes control away from Indigenous people and, where the opportunity arises, it gives more power to governments.

Senator SIEWERT (Western Australia) (10.33 am)—The Greens too will be supporting these amendments, you may be shocked to hear! I agree with Senator Bartlett that a lot of the debate has hinged on words—‘consultation’ and what consultation is. I was told that my understanding of consultation may be different from the government’s. Yes, it is. What I have heard in talking to people about this and in reading what is here and in listening to the debate is that Aboriginal traditional owners in the Northern Territory feel that they have been told about these amendments rather than—according to my definition of consultation—having someone actually sitting down with them and talking about the issues and, hopefully, coming up with an understanding of an agreed approach.

This is particularly important when we are talking about traditional lands. We are talking about the traditional owners’ lands and I would have thought that in the 21st century, instead of just telling traditional owners what is going to happen to the lands, their agreement would have been sought. I think that the approach taken is the paternalistic approach that Minister Abbott talked about a couple of months ago. That is what I feel is happening here: traditional owners are being told, ‘This is what we think is best for you and this is what is going to happen.’ No matter how you dress it up, you cannot say that traditional owners agree with this approach. There is a mountain of evidence in Hansard and in the committee inquiry report that shows that they do not support this approach. No matter how you dress it up, you cannot get away from the fact that you are taking away their rights to try to claim this land and have their claims determined. No matter how you say it, that is taking away a right.

There have also been other word games played. A while ago I mentioned the Aboriginals Benefit Account and the fact that headleases will be paid for. I may have actually used the wrong term there, because the new leasing arrangements and the funding for them will initially be drawn from the Aboriginals Benefit Account. I may have used the wrong term in saying what will be paid for. If you are talking about the headlease and the arrangement for that, it may well be paid from a separate account. But I just referred you to the words that were in the committee inquiry report. So, no matter how you dress this up, this is about taking away rights, using word play to take away from Aboriginal people rights for self-determination, to make decisions over the land and to decide how best to promote economic development in their communities.

The government has come in and paternalistically told Aboriginal people how they think it best to improve economic development in their communities without addressing the real, significant issues that prevent that economic development. We will be supporting these amendments because we do not agree with taking away traditional owners’ rights, no matter how you dress it up. People will know that we do not support this bill as it stands but that we tried to support or make amendments that actually sought to improve
it, and these amendments do seek to improve what is, in our opinion, bad legislation. So we will also be supporting these amendments.

Question negatived.

The ACTING DEPUTY PRESIDENT (Senator Marshall)—The question is now that the bill be agreed to, subject to requests.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (10.38 am)—I indicate that Labor will be seeking to divide on this matter. We are very disappointed with the way that this debate has progressed. I understand that it is caballing for me to speak at this point, but we might divide on this question. I will do so because I think it is important that the opposition to the government’s approach be recorded in the Senate.

From my point of view, this has been one of the most depressing processes I have ever been involved in in the Senate because of the way we have been unable to get any proper engagement with the government about recognising the fundamental concerns that traditional owners and opposition senators share about the approach. It is disappointing also, from my point of view—in a personal sense—because, when I took on the shadow Indigenous affairs portfolio, I resolved to try to be constructive and engage with the government on solutions and ways forward rather than just be a critic of the government, and there is a lot to criticise. I have been seeking to get more bipartisan support because I think that, until we get some sort of national consensus around Indigenous affairs and return to a period where we sought to do the best by Indigenous people and assist them in their quest for improving their life opportunities, we will not make real progress. I think the sad thing is that under successive governments we have made very little progress in assisting Indigenous people to move into First World conditions and have First World health and education profiles and the rest.

That approach, I think, requires that people work with Aboriginal people so that we actually build a team approach rather than a paternalistic approach, where you tell people what is best for them. I am increasingly concerned that the government is going to what Mr Abbott calls the ‘new paternalism’ approach, which returns to a phase where governments tell Indigenous people what is good for them and try to impose upon them systems and solutions that the government has arrived at and that it thinks are best for them. Quite frankly, we tried that and it did not work. I have no confidence that it will work on this occasion.

I think the government has failed to learn those lessons. It does disappoint me because I was encouraged that the new minister had some energy and some interest in the portfolio. But, quite frankly, he has destroyed all hope and all respect he might have enjoyed amongst Indigenous people in a very short period of time. The sort of approach reflected in the government’s dealing with this bill is what has so disappointed and—I think it is not unfair to say this—insulted so many Indigenous people.

I thought that we should be able to get an outcome on this bill that was actually supported by all. I do not think we were that far away. A change of approach might have delivered that. Whilst the minister seeks to make debating points about who does and does not support it, the reality is that Indigenous people feel no ownership of this. They feel that no consent has been sought from them. They do not feel that they have been consulted. They do not feel that they are in any way involved in this process. They feel that the government has told them what it is going to do to them in controlling their land.
All of the rest of the detail is far less important than that. That is why we have concentrated so much on process and consultation—because it creates the atmosphere in which the detail is debated. They have not been engaged with the detail because they have not been given the opportunity. But the approach is what has been so insulting. It fundamentally represents a lack of respect for traditional owners.

I suppose that nothing brings home to me more the government control of the Senate than this debate. The parliament would never have passed the legislation in this form or in this way, whatever the balance of power was in the Senate, where a government did not have control. This is probably the best evidence as to why governments should not go unchecked. They would have been forced to do this properly rather than in the manner in which they have done it. I do not think the result would have been terribly different in terms of a lot of the detail. There might have been arguments about whether 99-year leases were appropriate and there would certainly have been very strong arguments about Indigenous control once the leases had been granted, in terms of how the subleases were applied—all of those things.

Some of those things will have to be considered because governments will have to get agreement from Indigenous people before they can move the leasing arrangements. But I have very real concerns about the imbalance of power that will apply when it comes to negotiating those things. The government’s intention clearly is to use its capacity to provide essential services like housing and schooling to get outcomes it wants in relation to the leases.

I think, though, that at the heart of this is the disrespect shown to Aboriginal people and the failure to understand the Aboriginal relationship to the land. In the eighties and the nineties we had members of the Liberal Party and the coalition who understood and respected that relationship. We had ministers like Ian Viner and Fred Chaney who retained a lifelong interest in Indigenous people and their progress and success. They very much understood—and I quoted Ian Viner in my speech in the second reading debate—that relationship to the land. That understanding of and respect for the Aboriginal relationship to the land is totally missing in the government’s approach on this occasion. They are seeking to impose Western solutions that suit government needs and priorities. I think that could have been matched with some respect for Indigenous ownership, culture, traditional owners and their relationship to their land. That could have got us a good result that was pro economic development without fundamentally showing disrespect to Aboriginal people and failing to respect their property rights, which is what has certainly happened here.

There is a lot more water to go under the bridge with these propositions. I think that some of the claims that were made earlier by the government about the revolution in private home ownership will prove to be more rhetoric than reality. Labor is fundamentally supportive of any measure that encourages economic development on Indigenous land and is certainly willing to support Indigenous aspiration for home ownership in their communities if that can be achieved. Of course, there are fundamental economic constraints on those aspirations that currently exist, such as the cost of housing, the lack of economic activity and the lack of employment—things that allow people to service mortgages.

Putting all of that to one side, what has characterised the debate and has most concerned those of us who are not part of the government is the lack of respect for Indigenous people and their property rights and the lack of any attempt to seek consent and co-
operation in moving forward with these issues. As I said earlier, previous ministers had an understanding and respect for Indigenous relationship to land, whereas the current minister traipses around the country, attends various conferences and describes Aboriginal relationship to land and community control over land as an expression of communism. He describes Indigenous culture and relationship to land as communism. That reflects the lack of respect and understanding of Indigenous control and relationship to their land.

We are having a debate about a change to the Aboriginal Land Rights (Northern Territory) Act, a change to the conditions that apply to Aboriginal land, and the minister responsible for the legislation, whose duty inside the government is to represent the interests of Indigenous people, provides the context with an allegation that communal ownership of land by Indigenous people and their relationship to land is an expression of communism and that it needs to be overthrown—that it is an outdated concept that needs to be overthrown. That is the context in which we have debated Indigenous land rights.

We have also had the context of the continual denigration of Aboriginal culture. We had a debate about violence, where the allegation was made that Indigenous culture is a defence for violence, paedophilia and the abuse of children. All of that serves to denigrate Indigenous people. Of course, no such defence occurs. There is no basis in Indigenous law and culture for child abuse or violence against women. The way that the minister and the government have sought to characterise Aboriginal people in that way has deeply offended them and has deeply hurt the debate about Indigenous culture and support for Indigenous culture in this community.

A lot of Aboriginal men who have spoken to me are very upset about the continual characterisation of Aboriginal men as paedophiles and abusers of women and children. That is terribly damaging. It offends them and it very much hurts them personally. I think there has been no attempt to provide the balance that is required in those debates. It is as though somehow child abuse and violence against women is a problem only of Aboriginal culture, when we all know that it is a very serious problem in non-Indigenous society. We also know that many of the people who are now committing acts of child abuse or violence are actually graduates from institutions run by non-Indigenous people where that sort of activity was taken against them. They are victims of child abuse or violence themselves and, as we know, those things tend to be repeated by the victims. So we actually have to accept some responsibility for some of these issues. As I said, that characterisation of all Aboriginal people has been allowed to develop.

The lack of a government voice in trying to provide some balance in that has been depressing. The failure of any of us in other parties in politics to get any traction with alternative views is a problem, but more important is the problem that Indigenous voices are unheard in our community unless they express views that suit certain interests. We really do have a problem with the lack of Indigenous voices being heard in this country. We have to find a way of allowing Indigenous people to be in the public debate, express their views and be represented. Currently they do not get representation and they do not have their voices heard, and that is seriously undermining the capacity for them to advance Indigenous people’s interests. We have to find a way to allow their voices to be heard.

I also have serious concerns about the way that the OIPC, the government department,
have been operating and about the attitude they have adopted with regard to Indigenous Australians. That is of increasing concern and it is something that I will be taking up in future weeks. I am deeply depressed about the way that this debate has gone. I think it has been disrespectful of Aboriginal people. The failure to try and seek their consent is a huge mistake by this government. I think we could have done much better and still made much good progress towards the joint objectives, the shared objectives, of Indigenous people and all politicians in this country, which are appropriate economic development for Indigenous people, opportunities for employment and improvements in their standard of living.

Labor will be opposing the bill. While we share much with the government in terms of intentions, the debate and the context in which it has occurred has meant that this has been a process that has shown disrespect for Indigenous people and their property rights. That is why Labor will not be supporting the bill.

Senator SIEWERT (Western Australia) (10.52 am)—It appears we are not having a third reading. I will not go over the ground I have already covered a number of times other than to use a classic example of where I think this bill is so wrongheaded—that is, whether this process is voluntary or not. I will use Elcho Island as an example. I know we probably bored this place silly yesterday, trying to get a definition of what is an essential service. Elcho Island has been required to sign onto this process in order to get 50 additional houses. These additional houses are not a luxury, above an essential service; they are an essential service. When you have overcrowding of 15 to 16 people in a house, it is an essential service to provide housing for those people. It is not an add-on; it is essential. In order for that community to get that additional housing, they should not be coerced into signing an agreement but they are being required to sign one to get those 50 additional houses.

This example clearly illustrates that this is not a voluntary process. This is being foisted on the community in order for them, presumably, to act in a way the government wants them to, which is to enter into these agreements. It is not voluntary. If they want access to desperately needed housing, it should not be essential to sign an agreement. This is a very clear example of the wrongheaded thinking in this legislation and why we will be opposing it.

I think Australians will look back in a number of years and shake their heads at how this country undermined such a fundamental piece of legislation in this country—that is, land rights legislation. A few weeks ago, I heard a radio program where overseas people were extolling the virtues of the progress Australia has made in land rights legislation. Some of us would argue that we still have not made enough progress in ensuring self-determination for Aboriginal and Torres Strait Islander members of our community; however, there has been some progress made and in the future Australians will look back and shake their heads at what has been done to undermine this landmark piece of legislation.

I believe what is happening today is a tragedy. The voices of Aboriginal Australians have not been heard or understood, and that is the crux of the matter. Maybe governments have heard them but they have ignored them. They have not understood how fundamental Indigenous people’s connection to land is and their right to be part of decision making. This government is acting in a paternalistic manner that I cannot support, and neither can the Australian Greens. This is a tragic day for this landmark piece of legislation in this country.
The TEMPORARY CHAIRMAN (Senator Marshall)—I will assist you by advising that there will be a third reading of the bill but not until the bill returns from the House of Representatives, so that will not be in this part of the debate.

Senator KEMP (Victoria—Minister for the Arts and Sport) (10.57 am)—I agreed very little with Senator Evans or Senator Siewert. Listening very carefully to them, I have no doubt about their passion, sincerity and deep interest in this issue. That is accepted; we do not debate that. It is a good thing that senators feel so passionately about these very important topics. Having accepted the sincerity and goodwill of opposition senators, it was particularly disappointing to listen to the attacks by Senator Evans on Minister Brough and his role. The minister brings a great reforming zeal to this area and a deep commitment to Indigenous affairs, and I accept none of the aspersions which were cast on him and his role. All of us accept there are serious problems in Indigenous affairs. No-one is not distressed by the statistics and the reports which come out. Senator Evans raised a wide range of issues far beyond this bill. Because of this distress that everybody feels, it is important that we ask, ‘What are we going to do about these issues?’

This bill is not the total answer to these issues. It deals with a number of important matters. At the end of the day—and I have made this point—people who come to this issue with goodwill may reach different conclusions. We should accept that a lot of these decisions are, on balance, decisions. Senator Evans said correctly that we are not too far apart on many of these matters. If we are not too far apart, how can it be one of the singularly most depressing days that he has had in the parliament? The fact is that the gaps in many areas have been narrowed. Yes, differences may appear. We may not have reached final agreement, but I wanted to put that on record.

I think each of the ministers that the Howard government has had in the area of Indigenous affairs has come to their task with passion and sincerity and has sought to improve the condition and standing of Indigenous people. I do not accept the criticisms that were made about the current minister. I think he is bringing great energy and passion to this area and will be a person who will long be remembered as one who was able to initiate some important reforms, as indeed have our previous ministers.

Let us get some perspective on this. The bill provides individual property rights to township residents through a voluntary township leasing scheme. The township leasing scheme, based on a Northern Territory government proposal, will enable Aboriginal people to own a home or business. It provides the same choices and opportunities available to all Australians. You may not agree with that position but that is the position we are coming from, and we believe that is a moral position.

The reforms include streamlined processes for approval of exploration, mining and other leases over Aboriginal land. There are further reforms in the bill: to improve the operation of the land rights in key areas; funding the land councils on their performance; ensuring royalty distributions are transparent; allowing the devolution of decision making to local Aboriginal people; and finalising long-standing land claims. So what is the disaster
there? Is there a moral position that is superior to some other moral position? We actually think what we are doing is important. It is bringing about important reforms to the benefit of Indigenous people.

The government is modernising the act to allow Aboriginal people to realise the economic potential of their land. The reforms do not affect the fundamental principles of inalienability, communal title and traditional owner veto. None of those things are affected. The bill does not affect those fundamental principles. I urge the Senate to support this bill. It is an important bill. I congratulate the minister on bringing this bill forward, and I hope that it will now have a speedy passage through this chamber.

Senator Bartlett—We are still in committee, aren’t we?

The TEMPORARY CHAIRMAN—I did look for you earlier. Senator Bartlett. The minister has summed up, but if you are seeking the call I will give you the call.

The TEMPORARY CHAIRMAN—I did look for you earlier. Senator Bartlett.

Senator BARTLETT (Queensland) (11.03 am)—I thought we were still in the committee stage. I wanted to hear the minister’s contribution in case it actually added something insightful to the debate, but perhaps I should not have.

Senator Vanstone—To be fair, that is how it works.

The TEMPORARY CHAIRMAN—Order! I have raised it. I have called Senator Bartlett.

Senator BARTLETT—The minister puts forward some wonderful lines. The use of language is very creative. I guess you have to admire people who can come up with language to create these impressions, these nice sounding things like ‘creating more opportunities for decision making at local level.’ Of course that can only occur with the permission of the minister and can occur in circumstances where it is against the wishes of the majority of the traditional owners. The concept of ‘finalising longstanding land claims’ sounds great, except it is actually wiping out longstanding land claims. These things are being portrayed as advancing the rights of Indigenous people.

The minister gets extra power to reduce the budgets of land councils. The minister gets extra rights to break up land councils even if it is against the wishes of the majority of traditional owners in certain circumstances. The one which has not been mentioned for a while is in relation to the 99-year leases. The lease payments are to come from the Aboriginals Benefit Account which, according to the minister’s own words earlier in this debate, are received by Aboriginal people as 30 per cent of mining royalty equivalents. So the money for Aboriginal people is already there from the mining royalty equivalents. It would be there to be spent to the benefit of Aboriginal people but it will now be used to pay the rent for these 99-year leases and will not be available for other things. Somehow or other, that is also meant to be an advance for the economic benefit of Aboriginal people.

A broader thing needs to be emphasised, and it does not give me any great pleasure to be proven right on this. I have said this in this place in a couple of speeches at the end of last year when the government announced their decision about what they were going to do with leasing changes, which they then instructed the land councils about and did not bother to talk with traditional owners about. Regardless of how good people think some of these changes are, if you make changes that affect the property rights and other rights of Indigenous people without consulting them—which is what has occurred and is on
the record as having occurred—and without seeking their consent, then your chances of it working are dramatically reduced. The fact that the government did not do that and still see no need to have done that shows a clear indication that their main motivation is not to make it work. If they were determined to make it work, they would have put that extra time into ensuring that happened.

I would point out that this year marked the start of the second International Decade of the World’s Indigenous People. Last week was the International Day of the World’s Indigenous People. The goals of this decade are to further strengthen international cooperation for solving problems faced by Indigenous peoples in areas such as culture, education, health, human rights, the environment and social and economic development. I quote the Social Justice Commissioner, Mr Calma, who said:

To achieve these goals indigenous people must be fully involved in the formation, decision-making, implementation and evaluation of processes on laws, policies, resources and projects which affect us; this is our right.

The evidence given to the Senate committee inquiry clearly shows that that is a right that is not recognised by this government. That is unequivocally a bad thing.

Question put:

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

The committee divided. [11.07 am]

(The Chairman—Senator JJ Hogg)

Ayes.......... 36
Noes.......... 32
Majority...... 4

AYES

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

NOES

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

PAIRS

Coonan, H.L. Lundy, K.A.
Minchin, N.H. Crossin, P.M.
Patterson, K.C. Stephens, U.
Vanstone, A.E. Sterle, G.

* denotes teller

Question agreed to.

Bill, as amended, agreed to, subject to requests.

Bill reported with amendments and requests; report adopted.

BROADCASTING LEGISLATION AMENDMENT BILL (No. 1) 2005 [2006]

Second Reading

Debate resumed from 23 June 2005, on motion by Senator Patterson:
That this bill be now read a second time.

Senator CONROY (Victoria) (11.16 am)—I welcome the opportunity to finally debate the Broadcasting Legislation Amendment Bill (No. 1) 2005 [2006]. I do note the absence of the Minister for Communications, Information Technology and the Arts in the chamber. I guess that the world of fast-moving telecommunications and broadcasting is leaving her a little lagging—like our broadband speeds.

Senator Fierravanti-Wells interjecting—

Senator CONROY—I will take that interjection, Senator Fierravanti-Wells—

Senator Fierravanti-Wells—Are you reading your speech?

Senator CONROY—Copious notes. It has now been 14 months since this legislation was introduced into the parliament. This is not a record—I will be fair to Senator Coonan—but it has been 14 months since this bill was brought before the chamber. This brief piece of legislation is important for television viewers in remote areas of Australia, where there are only two commercial services on the market. The bill will assist commercial free-to-air broadcasters to deliver digital television to Australians living in these areas. If commercial broadcasters take up the options made available with this bill, viewers in places like Kalgoorlie, Port Hedland and Geraldton will be able to experience the superior picture and sound quality of digital television. They will also have the benefit of an additional commercial television service. Labor welcomes these improved services for people living in remote Australia and will support the passage of this legislation through the parliament.

This bill is also important for another reason. It allows the Senate to examine the progress that Australia has made in the transition to digital television and the government’s recently announced policy changes in its media package. These are issues that I will return to later in my remarks.

First I would like to deal with the specific measures contained in this bill. The Broadcasting Services Act sets out a framework for the provision of digital services by metropolitan and regional television licensees. Digital television transmissions began in metropolitan areas in 2001 and in most parts of regional Australia in 2004. The rollout of the infrastructure for digital broadcasting has progressed well. Free-to-air digital TV is available to 85 per cent of Australian households. The state capitals and 31 regional centres have access to all of their existing free-to-air television channels in digital. However, the Broadcasting Services Act does not contain any provisions which set a date for the commencement of digital broadcasting in remote licence areas. This reflects the fact that population density is low in remote licence areas and, typically, many retransmission sites are required to reach the audience.

These factors make the transition to digital broadcasting very expensive for licensees in remote areas. This legislation aims to reduce those costs and to increase the incentive for incumbent broadcasters to invest in digital transmission facilities. In remote areas where there are only two commercial television licensees servicing the market, broadcasters will be permitted—either individually or through the establishment of a joint venture company—to broadcast a new digital-only service.

The new service will also broadcast the digital version of the existing analog services on the same channel. In other words, commercial broadcasters in remote licence areas will be able to multichannel. Currently this is not an option open to commercial broadcasters in non-remote areas. In order to reduce the costs of establishing a new digital service, the bill offers broadcasters in remote
areas relief from the high-definition quota. In metropolitan and regional markets, licensees are required to broadcast 1,040 hours per year in high-definition digital format. This bill allows remote licensees to elect to broadcast only in standard definition format. The ability to opt out of high-definition broadcasting will significantly reduce the costs of providing digital services in remote areas.

Labor understands that, on the basis of the provisions of this bill, Prime and WIN have indicated that they will form a joint venture company to introduce a new digital-only service in remote Western Australia in 2007. The new service will consist primarily of content from the Ten Network. Over time, these changes could lead to the commencement of digital services in other remote licence areas in the Northern Territory, Queensland, South Australia and New South Wales. Labor welcomes these measures to give broadcasters and viewers an incentive to invest in digital television and will support their passage through the Senate.

It is not only remote Australia, however, where policy changes are required in order to drive the take-up of digital TV. It is now more than five years since free-to-air digital television broadcasts began in this country. So far, take-up has been disappointingly slow. According to industry data, only around 20 per cent of households have purchased the necessary equipment to receive terrestrial digital free-to-air broadcasts. If you add in the households which receive digital television through pay TV, take-up rises to around 30 per cent, but not all of these households can receive the digital free-to-air channels.

Back in 2000, the government set a target to switch off analog broadcasting by the end of 2008. Of course, it has been clear for some time that there is no way this target can be met. The minister has been forced to accept this reality. Last month, as part of the government’s media policy framework, the minister announced that she has postponed digital switch-over until some time between 2010 and 2012. That is only a target; it is not a firm date. The minister has stated that she does not want to overstate the chances that Australia will achieve switch-over by 2012. The fact is that Australia can ill afford another slippage in the timetable for digital transition.

Earlier this month Senator Coonan stated that the new switch-over target aligns Australia with most comparable countries. While the targets may be aligned, digital take-up in Australia lags far behind comparable countries like the United States, Britain, Germany, Ireland, Canada, Norway and Sweden—just to name a few. If we are to achieve switch-over in a similar time frame, the government needs to aggressively drive digital. A complacent ‘she’ll be right’ approach will not get us there. So far the signs that the government will introduce the policy settings required to make switch-over by 2012 a credible objective are not good.

Last month the minister announced that the government will develop a digital action plan to drive take-up. That is right—the government has committed to a plan. After 10 years of the Howard government, five years of digital broadcasting, two years of this minister and 12 months of intensive consultations with the industry, we have a plan to have a plan. There is no detail on how switch-over will be coordinated. There is still no requirement that analog equipment be properly labelled so that consumers will know that it needs to be replaced or converted when switch-over occurs. It also remains unclear whether Australia will follow the US and phase in a requirement that new televisions include a digital tuner. There is still no plan to get community television on
to a digital platform. Australia must be the only country in the world where a consumer invests in digital television and they get access to fewer television services. What a stunning achievement!

Another significant policy gap is the fact that no details have been provided on what assistance will be available to ensure that the disadvantaged are not left staring at a blank screen when switch-over occurs. In the US, congress has allocated nearly $US1 billion to subsidise the purchase of set-top boxes. In Britain, up to £400,000 will be set aside from BBC licence fees to assist the disadvantaged to switch. The task of achieving digital switch-over is a huge policy challenge. In the UK, where 72.5 per cent of households have access to digital TV, it is estimated that only 40 per cent of televisions have been converted.

Most families have more than one television. Getting one set-top box into each household will not be enough to allow switch-over to proceed. So far the efforts of the government and the industry to garner community support for digital transition have been spectacularly unsuccessful. Late last year ACMA released research on the views of people who had not yet made the switch to digital. It found that 17 per cent of respondents had never heard of digital television, 45 per cent did not know if digital services were even available in their area, 42 per cent said that they were just not interested in switching to digital and 38 per cent were not aware that digital television will replace the current analog service. ACMA’s research demonstrates that a concerted campaign is required to inform consumers about the benefits of switching to digital and to explain the process of transition. Australia’s slow progress on digital means that consumers are missing out on services that are being taken for granted in other developed countries.

A delayed transition to digital also has the potential to damage our economy. Digital broadcasting is far more efficient in its use of spectrum. There are large gains to be made from freeing up the spectrum currently used for analog broadcasting for alternative services like wireless broadband or new television channels. This digital dividend—the benefit of redeploying the spectrum currently used for analog broadcasting—could be worth hundreds of millions of dollars to Australia. In Britain, the government has estimated that the digital dividend is worth up to £2.2 billion for the UK economy. It is an indication of the Howard government’s indolence on digital policy that it has not even bothered to estimate the benefits of full digital transition. Of course, it is no mystery why it has not done that sort of work; it would only highlight the real cost to Australia of the flawed policies that the government has pursued over the last few years which have held back digital television.

Rapid transition to digital is important for the local television production industry. As consumers around the world move to embrace digital applications, like interactive television, Australian producers must keep up or risk losing export markets. A lengthy transition to digital television also imposes a direct cost on the Commonwealth budget. According to the minister’s own figures, every year around $75 million is required to meet the analog broadcasting costs of the ABC and SBS and to assist regional broadcasters—$75 million every year because we cannot get our act together.

There is a clear economic imperative to get to digital switch-over as soon as practicable. Evidence from Australia and around the world has shown that the best way to drive digital take-up is to allow media companies to provide consumers with access to attractive new content. However, in last month’s media policy statement, the gov-
ernment made only modest steps in this direction. There will be new digital services but they will be carefully circumscribed ‘niche’ services to ensure that they do not threaten incumbent broadcasters. The minister has suggested that there may be a boating channel or a classified advertising channel. That is right: hundreds of millions of dollars worth of spectrum will be used for a boating channel. It is highly unlikely—with no disrespect to people who own boats—that many consumers will rush out to buy a digital set-top box to access a boating channel.

Labor is concerned that the conditions on the minister’s promised new and innovative services will be so restrictive that they will not be attractive to media companies or prospective viewers. We have already been down the path where the government tried to create a new category of digital broadcasting by legislation. It was called datacasting and it was a policy disaster. The Interactive Television Research Institute, based at Perth’s Murdoch University, has described datacasting as ‘the single worst digital policy implemented in any national digital transition strategy globally’. That is right: we are the worst in the world. This policy blunder must not be repeated.

The other suggested use of the unallocated spectrum is for mobile television. No doubt mobile television will appeal to many consumers. It will do nothing, however, to bring digital switch-over any closer. By definition, these services will not be available on the household TV. They may allow us to sit somewhere other than the footy ground, watching Hawthorn or Collingwood. Madam Acting Deputy President Troeth, you will be able to pull out your mobile TV and keep track of how Hawthorn are losing to Collingwood again. But these services will not be available on the household TV.

Labor does welcome the government’s decision to allow free-to-air broadcasters to run a second digital-only channel, or a multichannel, as it is known. Again, however, the government has sought to limit the potential of the new technology. Until 2009, broadcasters will only be able to multichannel in high-definition format. That means that you will not be able to sit there and watch all of the Hawthorn matches over and over again from each season in the last few years. I know that that may excite you, Madam Acting Deputy President, and that you are going to rush out and buy one of these set-top boxes to watch those Hawthorn replays over and over again, but I suspect that is not going to be a great turn-on for the rest of us. High-definition equipment is at least three times more expensive than standard definition equipment. Only around seven per cent of Australian households have HD equipment. It must be doubtful whether any commercial broadcaster will target a market that small.

There is only one measure in the media framework that promises to deliver attractive extra content to consumers in the short term. The government has agreed to relax the absurd genre restrictions which currently limit what the ABC and SBS can show on their digital channels. Labor welcomes this decision. Lifting the genre restrictions is a policy that the opposition has advocated since before the last election. Under the current rules, the ABC and SBS are permitted to multichannel. The ABC has used these provisions to establish ABC2 and SBS has launched a world news channel. The national broadcasters are to be commended for their determination to drive digital take-up, despite their limited resources. But the efforts of the national broadcasters to stimulate consumer interest in digital TV have been hamstrung by the genre rules. The ABC cannot show a national news bulletin, national cur-
rent affairs programs or drama on ABC2. Similarly, while SBS can broadcast foreign language bulletins on its world news channel, it is not able to broadcast English language bulletins from countries like Germany, Israel or New Zealand. The genre restrictions make distinctions which are arbitrary and illogical. For example, ABC2 is permitted to broadcast ‘public policy programs’ such as *Insiders* but not current affairs programs like *The 7.30 Report*.

In the UK, extra channels and interactive services offered by the BBC have made an important contribution to generating consumer demand for digital. Under its new charter, the BBC will be given a leading role in building a digital Britain. Labor believes that our national broadcasters need to be given the regulatory freedom and financial resources to undertake a similar task in Australia. As I said, the minister has announced her intention to relax the genre restrictions as part of her media package. There is, however, no need to wait before taking action to improve the incentive for consumers to invest in digital television. The Senate should act today. Taxpayers have invested over $1 billion so that the national broadcasters could make the transition to digital broadcasting.

When this bill enters the committee stage, I will move amendments to immediately lift the genre restrictions. I hope that all senators interested in driving the take-up of digital television will support those amendments so that the digital chains can be lifted from our national broadcasters, and so that Senator Troeth can get her Hawthorn channel and Senator Kemp can get his Carlton channel—although, given that they are going for back-to-back wooden spoons, I am not sure that you are really going to want to sign up to that, Senator Kemp. As you know, Collingwood supporters are always behind Carlton winning another wooden spoon. *(Time expired)*

**Senator MURRAY** (Western Australia) (11.36 am)—Following the second reading speech of the minister and the speech of the shadow minister, as the portfolio holder for the Democrats I want to indicate that the Australian Democrats also support the Broadcasting Legislation Amendment Bill (No. 1) 2005 [2006] because it makes sense. It makes sense for commercial television licences to multichannel and be exempt from mandatory high-definition television quotas. This is good policy, it is sensible policy and I regret that the bill was not brought forward earlier.

The big question is one that Senator Conroy also posed: why does this provision apply only to remote areas of Australia? Why can’t it be enforced nationally and in the major metropolitan areas? Possibly it is because the commercial television interests in large metropolitan areas have lobbied the government so long and so hard that it dare not move a muscle or make an amendment that would in any way get its media allies offside. In case government members think that is harsh, I should say that there seems to be a universal, quite well-informed opinion that the government is extremely sensitive to the media allies—often described as media families or even media moguls—so it only implements policy that makes sense in remote areas, where the advertising revenue streams are limited and where the big media players have little interest in fighting for limited revenue streams. I hope that is not the reason, but that is a widespread belief.

In the remote licence areas, the government is willing to implement a policy that the ACCC identified in August 2004 as being ‘in the best interests of a competitive marketplace and in the interests of the consumer’. Note that that opinion is from August 2004, exactly two years ago. The minister and her government were lobbied very hard by big media interests in the late 1990s
to ensure that the digital spectrum would be used only for high-definition television rather than multichannelling and datacasting. Everyone knows that high-definition television takes up substantial spectrum space and leaves too little room for multichannelling or datacasting or, to put it bluntly, more competition.

As the ACCC said in its 2004 report, the burden to prove that the benefits of a restrictive regulatory policy outweigh the costs should be on those who do not want change. The policy arguments put forward by the free-to-air television channels, except Channel 7, all supported high-definition television as the appropriate use of spectrum space and argued against multichannelling. The government’s current and proposed media policy do not allow open competition in the marketplace and do not provide conditions where a diversity of voices can be heard. Multichannelling would allow for diversity, it would allow for a relatively low entry cost into the media market—as would datacasting—and it would open the media market to niche competition.

So why until now has the government not supported multichannelling? Again, it is because the free-to-air media owners, looking at the American and British experience, knew that the coming of pay TV and satellite TV, along with broadband, would impact on their revenue streams. So the big media owners bought into pay TV and demanded that the government create a regulatory system that would allow them to get on their feet. That is not an uncommon position for people to advocate, and it has a long precedent. They demanded that the government implement policy which was at odds with the immediate opening of a free and competitive market. They did not want multichannelling in the metro areas because that would have been a threat to their immediate advertising revenue. That fear is apparently not borne out by independent studies into other media markets—the Australian market is a distinctive one—but that has not stopped the big players from arguing the point. So the free-to-air outfits fight over football rights and the antisiphoning list, but the bigger picture is missing. I know the government has been looking at it, but I know the government is also very alert to the sensitivities that surround this whole area.

So who benefits from high-definition television broadcasts? Just about nobody probably, except free-to-air television stations. They clog up the spectrum and keep competition at bay. I am really not too sure what benefits consumers get out of them. In 2004 the Seven Network commissioned a study of digital terrestrial television, known as DTT, by Spectrum Strategy Consultants, who are independent international consultants in media. The study pointed out that most mature television markets have multichannelling. More importantly, the consultants believed: … if commercial free to air (FTA) broadcasters resisted the market evolution in Australia it would be contrary to the interests of consumers and detrimental to the Australian broadcasting market.

That is on page 1. When the government put forward the digital framework in 1998, they excluded multichannelling from consideration. This was not because they believed that multichannelling was bad for consumers, bad for the local production industry or bad for advertisers; it was simply because they wanted to protect the fledgling subscription television industry. If that was the motive then and it is okay to lift it now, why just lift it in one sector of the market? Surely it is time to lift it throughout the market.

The participants in that fledgling industry were of course PBL and News Ltd, along with the now semi-government-owned Telstra, sometimes described—by government members and by others—as an albatross.
around the neck of government. This government has shown itself to be the friend of big media owners, and so have past governments. The government likes to help out, where it can, to make conditions surrounding any new media ventures conducive to success for these media companies run by the media families, especially if they turn out to be quite helpful in getting a government elected. Again, it might be unkind to impute such a motive, but if anyone studying media does not think that in the minds of politicians the attitudes and predilections of the media families are not vital then they are not aware of how the democratic process works, not only in this country but in most democracies. We all realise that that is not the working of a competitive marketplace. That gives some of the players an advantage while others are paralysed by regulation or legislation which has insufficient or no good public policy reasons behind it.

In 1998 the subscription TV industry might have been considered a fledgling one. In 2006, in the first week of January, I note that Foxtel posted an operating profit after interest and tax for the first time. I should confess that I am a Foxtel subscriber, and I think they provide a very good service. So the government’s cotton-wool approach to Foxtel has paid off; the company is in the black. With the proposed new media framework in the wings, the government is now, with this bill, moving tentatively towards multichannelling and, hopefully, it will do so in the metropolitan area at large.

There are arguments that multichannelling impacts on advertising revenues for free-to-air stations—probably it does. But why should free-to-air stations receive treatment different from others in other industries and other sectors in the marketplace? Competition is widely promoted as a desirable fact of life in Australia, and the competing access to media means that free-to-air stations will simply need to work smarter and harder or diversify their product to retain consumer support and to therefore attract the revenue that is necessary to survive. No industry should expect long-term favourable treatment from the government, certainly not in return for what might be anticipated to be favourable television coverage of government politicians and issues.

The recent House of Representatives Standing Committee on Communications, Information, Technology and the Arts report *Digital television: who’s buying it?* recommends that the program restrictions on multichannelling be removed no later than 2007—and that is only a couple of months away now. That is a fine idea and one which the Democrats support. However, everyone knows that multichannelling is a hard thing to achieve if there is not enough spectrum space. With the current requirements to provide the analog signal and high-definition television, there is too little spectrum space available to enable much multichannelling to happen.

As the ACCC pointed out in its submission to the Department of Communications, Information Technology and the Arts in 2004, any changes to regulation regarding the spectrum had to be dealt with as a whole and could not be addressed in an ad hoc manner. That is essentially a situation that has been widely understood within the committee that deals with this and indeed in the remarks of the shadow minister, and certainly the minister and her staff are not blind to that issue either.

This legislation gives an exemption to licensees in remote areas from providing high-definition television and it enables them to multichannel. It is unclear to the Democrats why the government cannot implement a similar policy in metropolitan areas to achieve the same ends or, at the very least,
Senator EGGLESTON (Western Australia) (11.47 am)—The Broadcasting Legislation Amendment Bill (No. 1) 2005 [2006] is great news for the future of digital television in remote areas of my home state of Western Australia, and I am very pleased to see this bill introduced. It will provide a framework to implement the model agreed with WIN Television and Prime Television for the conversion of their commercial television broadcasting services in remote and regional Western Australia from analog to digital.

Section 38B of the Broadcasting Services Act will be amended to allow remote area licensees, who have elected to provide jointly a third digital service, to multichannel the three digital services on a single radio frequency channel. Importantly, this will also include an exemption from any high-definition digital television quotas that might otherwise be applied. This will mean they will have the benefit of standard digital television multichannelling throughout Western Australia.

This will allow for the joint provision by WIN and Prime of a third, digital-only, commercial television service for people living outside Perth. This service will operate alongside the two current services received in rural, remote and regional Western Australia. It will simplify the digital conversion process. All areas outside Perth have in fact been classified as remote. This is great news for regional Western Australians, who will, for the first time ever, be able to access the same level of television services available to those in the metropolitan area of Perth.

It is also great news for WIN and Prime because it represents a significant cost saving for them. Instead of having to establish and maintain two or three sets of digital transmission infrastructure with capacity for high-definition digital television, they will be able to establish only one shared set of infrastructure without the additional cost of investing in high-definition digital television equipment and significant and costly additional satellite capacity. The point of that, of course, is that the Australian digital regime does mandate that television companies in metropolitan areas at least should broadcast a certain amount of programming in high definition.

This decision represents a balance between the public interest in having access to a greater range of television programs and the special circumstances of remote area commercial television broadcasters, who face significant cost pressures due to the wide geographic area they serve and the sparseness of the populations in those areas. The low population creates very special problems for broadcasters in remote areas. For example, in Western Australia the broadcasters in remote areas are only able to reach a market one-third or one-half the size of the large eastern aggregated regional markets, but the geographical areas they service are often 10 to 25 times larger and, therefore, of course require a larger number of terrestrial transmitters. In fact, the remote-regional WA licence area has a population of only half a million in an area covering 2.5 million square kilometres, whereas the northern New South Wales licence area has a population of 1.9 million in a region covering only 132,000 square kilometres. So it is a very different commercial equation.

In 2004, the Australian Broadcasting Authority reported that the profits for remote area broadcasters were significantly lower than for those in major regional markets. The
The annual average profit per station in 2002-03 for aggregated regional stations was $9.1 million, and for remote area broadcasters it was only $900,000. In the same period, the average profit per head of population was $21 in aggregated regional markets but only $8 in remote area markets.

The bill will also provide significant savings to taxpayers because funding assistance to the broadcasters under the Regional Equalisation Plan is reduced. As a result, the total level of assistance to the WA broadcasters is approximately $10 million less over eight years than the original estimate, which was based on the broadcasters providing high-definition television services from their terrestrial transmitters.

This bill was introduced into the Senate on 23 June last year but, because Labor and the Greens have not been prepared to grant it non-controversial status, and, due to the weight of the government’s legislative program, debate on it has not been possible until today, more than a year later. As a result of the extensive delay, item 3 of schedule 1 to the bill will be deleted—meaning that ACMA will be able to use its existing discretion to set a revised date for the allocation of a third commercial digital service. ACMA has indicated that it will set a date within six months of the bill receiving royal assent, and is already in consultation with WIN and Prime to set that date. WIN and Prime have been developing plans for the introduction of their digital television services in remote Western Australia. I am advised that that planning is now well advanced. Provided that this legislation is passed, the broadcasters are planning to commence the digital transmission of their current services in 2007, with the new third service starting shortly thereafter. As I said at the beginning of my speech, this bill is further proof of the Howard government’s determination to ensure that those people living in rural, regional and remote areas of Australia have access to high-quality services and do not miss out on the advent of digital television.

I will quickly refer to Senator Conroy’s remarks about the government’s slow progress toward a date for digital conversion. Senator Conroy is misrepresenting the situation completely.

Senator Kemp—It is not the first time.

Senator EGGLESTON—Indeed, Senator Kemp. Progress towards digital conversion has not been slow at all. It is a process under which agreements have to be reached with existing free-to-air television companies. And, of course, there has to be public demand, which is growing slowly. I am sure that once the public become aware of the benefits of digital television—better picture, the opportunity for multichannelling—then the demand for digital television will be very rapid indeed.

I spent some time in Sydney last Friday. I went to Foxtel in the morning. Foxtel offer a very large multichannelling digital service. They tell me that they now have one-third of the homes in Sydney on their service, which shows that digital television’s penetration is increasing. In the afternoon, I went to an exhibition that Sony had at the Hordern Pavilion, in Moore Park, where they were demonstrating their high-definition digital television product, which, I might say, was absolutely brilliant. The cost of the television sets is now dramatically reduced. As people realise the benefits and the quality of high-definition digital television, the demand for access to those services will grow very quickly indeed. Senator Conroy need not worry further about the conversion date, because, when we get there, the Australian public will be very happy to have digital television.

Senator HUMPHRIES (Australian Capital Territory) (11.57 am)—I am very pleased
to contribute to this debate on the Broadcasting Legislation Amendment Bill (No. 1) 2005 [2006]. I note that, until Senator Eggleston rose to speak, there had been something of a lack of discussion about the contents of the bill itself.

This bill is a rather narrowly defined piece of legislation. It is, I should say, a very important one for the people of rural and remote Western Australia, but it is not a piece of legislation that covers the gamut of issues that have been raised by other speakers in the course of the debate. Nonetheless, acknowledging that these debates are an opportunity for some broadening of the base of discussion, I am pleased to acknowledge the importance of these particular proposals for the people of Western Australia. Senator Eggleston has very amply explained how this will make rational use of the available spectrum in Western Australia and how it will ensure that viewers in remote parts of that state, where vast distances are a significant issue, will be in a position to receive a quality service which is more commensurate with that available to viewers in metropolitan areas of Australia.

I particularly note that this is part of a very important program of the federal government to ensure that we carefully and prudently manage what is a finite resource—that is, the allocation of spectrum for digital broadcasting and for broadcasting generally—and ensure that we have a capacity to provide a high-quality and competitive service, one that meets the needs and expectations of Australian consumers and pays regard to the changing technological environment in which the rollout occurs so that, by the time the switch-over occurs, sometime after 2010, it will be possible for Australians to say that they have state of the art access to digital television, to high-definition television and to a suitable range of options with free-to-air broadcasting that reflect best practice from around the world.

I believe that the plan the government has put in place—and the Digital Action Plan will give flesh to that plan, as outlined by the minister in her statement earlier this year—is an effective way of achieving that goal. I hope that those who complain about this plan and have some criticism of its direction will at least do the Senate and the Australian public the courtesy of spelling out very clearly where it is that they would take Australia, if not in the direction which the government has announced.

I heard in Senator Conroy’s speech that the Labor Party endorses some of the policies that the government has announced—for example, the lifting of the genre restrictions on ABC and SBS television. I also note that the Labor Party opposes much else that is in the government’s package, or at least criticises the timing of that package and the timing of the decisions made under that package. But I still have a very significant lack of clarity or understanding about what the Australian Labor Party’s alternative vision is for digital rollout in Australia for access to multichanneling and related issues. I hope—perhaps a little forlornly—that that will be made clearer by other speakers in the course of this debate. I further note the point that has been made already that this bill has been criticised for having taken too long to reach the floor of the Senate. But I observe that if it had not been for the Labor Party refusing to give the bill non-controversial status, it might have been able to be debated in this place long before now.

So we have a very important piece of legislation on the table for the viewers of Western Australia. This reflects an emerging and changing environment in that state, for people to be able to access services in a rational and sensible way. The model includes the
joint provision by WIN and Prime of a third, digital-only commercial television service under section 38B of the Broadcasting Services Act 1992, and it is applicable to the remote central and eastern licence areas as well as the north of the state.

There has been some adjustment of the timetable for rolling out the services to the people of Western Australia. I think it is important to observe at this point that that reflects the fact that the technology involved in these services and the cost-effectiveness of rolling out those technologies are matters of some sensitivity that need to be the subject of negotiation. It is pointless for government to mandate that certain services be provided when it is not economical to provide them. It is equally inappropriate for government to attempt to deregulate an environment in which there is substantial expectation on the part of existing operators that they will have certainty of a return on their own investment in services in this area. Adjustments of this kind have been necessary in this legislation and will be necessary into the future to ensure that what we have here is a sustainable provision of services to people across Australia.

Since the introduction of the bill, both WIN and Prime in Western Australia have continued to develop plans for the introduction of their digital television services in the remote parts of Western Australia. Both broadcasters have indicated that this planning is now well advanced and subject to passage of the legislation this year. I understand that they are planning to commence the digital transmission of their current television services in remote parts of the state in 2007. A third service by a third provider will commence sometime shortly thereafter. That is good news for the people of the state.

I made reference a moment ago to the Digital Action Plan. That is an extremely important framework for digital conversion in this country and particularly for bringing into focus the time when Australians will be told that analog broadcasting will end and digital broadcasting will be the exclusive way in which people receive free-to-air broadcasting. Despite criticism from those opposite, we need to acknowledge that this is a very delicate and sensitive matter which needs to be the subject of very careful discussion and consultation by the government. The Digital Action Plan has been under development for some time. It has been consulted about with stakeholders over that period and I understand it is due to be released later on this year.

The plan will certainly attempt to clarify the switch-over commencement date and the expectation of course that it will be between 2010 and 2012. It will commence a process for determining the switch-over mechanism so that everybody concerned is able to say with certainty what their obligations and time frame will be, both broadcasters and providers of television sets. The plan seeks to publish a task list identifying major tasks which should be undertaken, the time frames in which they should be undertaken and the stakeholders responsible for carrying out those tasks. It will include appropriate incentives for industry and consumers to foster digital television take-up. It will address issues involved in the conversion of self-help retransmission services, community television and television narrowcast services, and it will set out consultative and coordination arrangements for progressing the switch-over date.

This is an important timetable, not just for providers of services but also for consumers. Consumers need to have some idea of what life they might expect from televisions they purchase which have a limited capacity to receive digital broadcasts. They need to know at what point in time their televisions
which are based on obsolete technology will become unusable. So settling and clarifying that switch-over date is very important for them as well. No doubt, some people will think ahead to those issues and will want to know that, if they buy an analog television at this point in time, they will get three, four, five or six years life out of it before it needs to be replaced. I have a television at home which is quite a lot older than that. I expect that it will have to be replaced at some point. For me, knowing when that switch-over date is going to occur would be a very useful piece of information and I am sure it would be for many Australians.

It is important to implement a plan of this kind to move digital conversion forward and to reduce the costs of simulcasts to both government and broadcasters. Of course, most importantly, it is designed to free up spectrum so that these other uses that have been discussed in this debate, such as multichannelling and datacasting, can be implemented.

The Digital Action Plan will be an iterative process that will need to be developed cooperatively and in close consultation with stakeholders. It will need to be able to be updated, as we move closer to switch-over, as circumstances require. Other issues that it will need to address, either at the beginning or as time goes by, include measures to drive uptake and overcome barriers to conversion such as promotional and education campaigns; financial assistance, possibly, to some members of the community; a digital tuner mandate of some kind; equipment labelling requirements; obligations on broadcasters to assist in expediting conversion; and measures to address technical and standards issues. As I have indicated, those are complex matters which do need to have extensive consultation around them. It is also possible, of course, that further regulation in the form of amendments to broadcasting legislation or in some other form will need to be made to effect those changes. I welcome the process whereby that plan is being produced, but I remind members of the Senate that this process is not quickly and easily accomplished. Those who urge the government to move faster underestimate, I suspect, the importance of bringing all of the stakeholders along at the same time.

In recent weeks, the minister has spoken at some length about the importance of keeping Australia at the forefront of digital and other technological change. It is really not just about giving people clearer pictures on their television sets. It is much more complex than that. It is about providing for an information-friendly society—a society which is able to understand the benefits of technology and take up opportunities to use technology in order to be better informed, better in touch and better able to play a role in the world. I emphasise that this is important for Australia in a commercial sense—in the sense of Australians trading with the rest of the world and developing these technologies in conjunction with the rest of the world—and in order that, at the end of the day, we can say that we have best practice in this country so that Australians can benefit from that dedication to making sure that we have the best in this country.

In the media recently, the minister made comments about the way in which conversion to digital is the most fundamental change in broadcasting since the introduction of television itself 50 years ago and about the need for us to move out of an analog mindset when we look at the way in which services are provided. We need to ensure that the opportunities for new digital free-to-air services on the broadcasting services band are not overestimated. We acknowledge that it is a finite resource and that we must carefully decide how best to use this finite resource to the benefit of all Australians. Simply offering new television stations or allowing television
stations to offer their existing product perhaps at different times or in different formats is obviously an underestimation of the potential that the technology has to offer. We cannot fall into that trap. We must make sure that what we offer to Australians is absolutely the best thing for the take-up and sustainability of these technologies.

I was glad to hear Senator Eggleston say that he had visited Foxtel in Sydney recently. Colleagues and I made a similar trip to those studios in the northern part of Sydney—in Ryde—and we were very impressed with the enormous investment which is being made by Foxtel in subscription television broadcasting in Australia. It is an extremely important part of providing choice and diversity to Australians. I hope that that investment is handsomely returned, because it provides those opportunities of which I spoke before.

The government’s overall package, obviously, is about creating opportunities and ensuring that there is some opportunity for rationalisation of the way in which players roll out their services, not just in the broadcasting area but also with respect to other media opportunities and other media outlets. This is about giving the industry the capacity to diversify their services but have some certainty of the environment in which they do that. Again I say to those who think that the plan is wrong in some way and that the government’s package should be rejigged that they owe it to the Australian community to spell out exactly what they mean by that, where they would go, what changes they would make and, particularly, how they would effect the best in current and over-the-horizon technology to the benefit of all Australians.

I commend this bill. I think that the bill, as part of a broader package, is an appropriate way for Australia to grasp the future. I look forward to this plan benefiting the people of Western Australia in particular in this case but, overall, providing for Australia to be at the crest of a wave which will only grow larger and stronger into the immediate future.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12.14 pm)—The Greens also support this legislation, although we feel that Australian consumers have a long way to go in order to catch up with the use of broadband overseas. I concur with the arguments by previous speakers in favour of the Broadcasting Legislation Amendment Bill (No. 1) 2005 [2006]. Senator Eggleston said that the debate had been delayed for a year due to Labor and the Greens not allowing it non-controversial status. Just to clear up that matter, its non-controversial status would mean that no amendment were possible. The Greens have an important amendment to this piece of legislation because there is no provision for such an amendment elsewhere. However, that does not delay legislation.

The government has total control of the agenda. It has had control for the last year and could have brought this piece of legislation at any time. The problem is that the Senate is sitting less than at any time for many years, and government control of the Senate means that we are not being as diligent about legislation as was the case in the past. It is entirely the government’s fault that this legislation was not dealt with a year ago, that sitting times have not been made available or that the government’s priorities have been otherwise. For example, the legislation was consequent to a long debate on Monday in this place which led to a vote about the government effectively taking over the committee system in the parliament. The government thought that was more important than the broadcasting legislation amendment, as has been the case with many other debates that we have had in this place. It has only itself to blame for the delay.
I flag a consequent amendment to the Children’s Television Standards 2005 which would put a prohibition on the advertising of food or beverages unless the minister for health has authorised—by determination in writing, with such a determination to be tabled in both houses of parliament, together with a statement of reasons—that such an advertisement is beneficial to the health of children. In Australia, as in all wealthy countries around the world, we are faced with the enormous and distressing problem of obesity. The figures available—although a survey has not been done for 10 years in this country—show that 25 per cent of our children are overweight or obese and that the number will increase to 50 per cent by 2020.

There are consequent problems for people involved in health. We know about those problems and I will not expand on them at the moment. This calls for very deliberative action, and we have not had that from the government. In fact, what we have had is the assertion from both the Prime Minister and the Minister for Health and Ageing that parents should look after their children in a way that would prohibit obesity from occurring. All the studies show that that is just not adequate. For example, 70 per cent of mothers who have overweight children do not see that as a problem for their children—they do not see their children as being overweight. The approach in dealing with the increasing epidemic of overweight and obese children has to be one that governments as well as individuals use to tackle the problem. It has to be a multifaceted approach and it absolutely has to involve government intervention to prevent junk food from being pushed at kids. That includes television advertising.

It is abundantly evident, from studies here and overseas, that it is the increased intake of calories—eating more—by kids and indeed adults that is a major problem. In fact, one study in New South Wales—by the University of Sydney, I believe—showed that there has been an increase in physical activity by children in New South Wales over the last 10 years, while obesity has almost doubled. The problem is the increased intake of calories—that is, food, and in particular junk food. When you look at advertising, 80 per cent is for food and, of the advertising in children’s television hours, 99 per cent is for junk food. That is a terrible situation in light of the statistics in front of us. We should be following the course of Quebec and Sweden, for example, which prohibit junk food advertising specifically aimed at children.

Some of the best psychologists in the business are appointed by junk food advertisers to look at the minds of kids and work out how to best subvert their minds to get them to buy the products that are being shoved at them during children’s television hours. Mind you, this goes to all hours on television. The Greens amendment simply goes to children’s television viewing hours, but we should be looking more widely than that—at all television advertising which pushes junk food at the community in light of the awesomely bad predictions coming down the line about the epidemic of obesity. The problem is already with us, but it is getting much worse as the current crop of youngsters become the next generation of adults in our community.

The Greens amendments would simply prohibit junk food ads in children’s television viewing time. It allows for the minister for health—of course, expert advice would be attendant on this—to permit food advertising to children if it is healthy food. It would be a disallowable instrument to give such permission, but surely this is a commonsense approach, as far as TV advertising in kids’ special viewing time is concerned, that we only allow healthy foods to be promoted at that time. The minister says, ‘We should leave this to self-regulation,’ but, as
with cigarette advertising, you simply cannot do that when there is such a broadscale impact on the health of our nation and, in this case, the health of our nation’s children.

The food corporations are interested in the bottom line. They put enormous amounts of money into targeting advertising, as I said, using highly trained psychologists to work out how to get kids to buy the products on television during their viewing hours. For example, they have put enormous amounts of money into the pester factor: how to get kids to pester their parents so that when they are at the supermarket, or even when they are not there—at any time—they will say, ‘Hey, Mum or Dad, I want that,’ because it has been seen on television to be a good thing for them. The advertisers are far too clever to simply say, ‘You should buy such and such.’ They subvert that simple message, which might be more easily dealt with, by saying: ‘You’ll be much better than; you’ll catch up with your peer group if; your fellow children will think you are great if; or somebody that you look up to will think you are good if you buy this particular product.’ As legislators we have got to intervene in this.

I am speaking not just for the Greens, because a great number of community experts in the field in Australia have been calling for a prohibition of such things as highly sugared soft drinks, burgers, chips, snacks and chocolate bars which are thrust at kids. We know, from the statistics, that those kids who watch the most television buy more of the products. Kids who are exposed to these ads longer think chocolate bars are better. It is as simple as that. It works, and advertisers would not be spending $420 million plus a year advertising during this particular time for kids if they were not getting a much bigger return from doing so.

Amongst organisations in this country which the parliament—the government and the minister—should be listening to, calling for a ban on junk food advertisements during children’s prime viewing hours, are the Australasian Society for the Study of Obesity; the Australian Confederation of Paediatric and Child Health Nurses; the Australian Consumers Association; the Australian Dental Association; the Australian Medical Association; Nutrition Australia; the Public Health Association of Australia; the Royal Australian College of General Practitioners, the Royal Australasian College of Physicians, paediatric branch; the Cancer Council Australia; the University of Adelaide, Discipline of Public Health; the Women’s and Children’s Hospital, Adelaide; and Young Media Australia. These calls have been mirrored overseas by similar organisations—in fact, right around the world—including the British Medical Association, who have called for an outright ban on junk food advertising and expressed concern that imposing a voluntary period is not a strong enough action. It is not. It simply cannot work that way.

I put it to the Senate that we should get support for these amendments today. I put it to the Senate that it is incredibly important that we catch up, that far greater and more direct action be taken and that we as legislators have a responsibility—of course, we cannot be sitting at the dinner table in every house in Australia, nor would we want to. Parents have a responsibility, and so do schools and community organisations. Many kids watch four hours of television a day in this country and see five hours of advertising a week. But when it comes to making sure that somebody intervenes to stop hundreds of millions of dollars of ads contributing to those children becoming fatter, we are the ones responsible. Nobody else is going to do it. Madam Acting Deputy President, it is you, me and every other senator and member of the House of Representatives. We are where the buck stops.
I appeal to other senators to take these amendments very seriously because, if we do not pass these amendments, the Senate becomes responsible for passing up the option and the responsibility to stop this abhorrent practice of large corporations pushing junk food at kids in an era where obesity is rampant. It is going to get worse with all the consequent health problems—problems of self-image, self-esteem and confidence—for the kids who are involved. You cannot shake that off and say, ‘It’s not our responsibility.’ It is.

So whilst we are here legislating to improve and to make more modern the access to broadband services, which I agree with, the Greens have taken this opportunity to say, ‘Let’s look at our responsibility on advertising.’ The government brought in children’s standards two years ago but did not legislate in this area. The Greens feel very strongly about the amendments we will bring forward. I will talk about them again in committee. I hope that, as we will have time to consider them before the committee stage is over, members will take very seriously indeed these important amendments. After all, they affect the wellbeing of the young-sters of this country.

Senator ADAMS (Western Australia) (12.30 pm)—As the third West Australian senator to rise today to speak on the Broadcasting Legislation Amendment Bill (No. 1) 2005 [2006], I would like to say this is very good news for Western Australia. I see that there are two other West Australian senators in the chamber who are probably going to speak on the bill as well. It is with great pleasure that I rise to speak on this bill as it will have a profoundly positive effect on people in my home state of Western Australia, and in fact my hometown of Kojonup, which is located in the Great Southern region of the state. It is in rural areas like Kojonup where residents will, for the first time, be able to enjoy a level of television services similar to those currently enjoyed by viewers in Perth.

Perth residents have access to three commercial networks and two national networks. There has been considerable discussion amongst regional Western Australian communities regarding a potential third commercial television network for regional Western Australia—I have noticed several articles in our regional papers, especially the Kalgoorlie Miner. The bill allows for the implementation of the agreed model for the introduction of commercial digital television services in remote Western Australia. This includes all areas outside the Perth metropolitan area. This model includes a joint provision by WIN and Golden West Network of a third digital-only commercial television service under section 38B of the Broadcasting Services Act 1992.

Item 3 of schedule 1 to the bill currently sets 1 January 2006 as the cut-off date from which the Australian Communications and Media Authority, known as ACMA, can start the process to allocate the licence for the section 38B service. This deadline was intended to speed up the process and get these services delivered to remote WA. As the date for commencement has passed, the bill requires amendment. Since the introduction of the bill on 23 June 2005, both WIN and Golden West Network have worked quickly to develop plans for the introduction of their digital services. I understand that WIN and Golden West Network are ready to enact the service subject to the passage of this legislation. The digital transmission of their current television services in remote Australia will commence in 2007 with the new third service starting shortly after.

The amendment to the bill, deleting item 3 of schedule 1, will allow ACMA to set a revised date to commence the allocation proc-
ess for the third commercial digital service. Within six months of this bill receiving passage and royal assent, ACMA in consultation with WIN and Golden West Network will set a launch date. We will make a small amendment so a date for the implementation can be revised and then remote communities in Western Australia will be able to enjoy a substantially increased range of information and entertainment. Unfortunately there is the small matter of the totally unrelated amendments that Labor and the Greens are trying to move, effectively delaying the implementation of services to thousands of small communities across Western Australia, but I will get to that in a minute.

Firstly, I want to outline the positive effects for Western Australians contained in the bill. To simplify the digital conversion arrangements in Western Australia, all areas outside Perth have been technically classified as remote. This allows for the formation of one conversion scheme for all of regional and remote Western Australia. Areas such as Mandurah, Bunbury and Geraldton are probably unhappy to have the ‘remote’ tag, as they strive to promote themselves as major regional centres—and indeed they are—but for the purpose of this arrangement they will have to let it be.

The broadcasting law states that, if we introduce a new service in a market like regional Western Australia, a new service can only be provided in a digital format. This means that, to access the new service, people will need to buy a digital set-top box, which costs around $100 and can be connected to their old television, or they can buy a new digital television with an in-built digital tuner, with prices starting from around $1,000.

While Golden West Network and WIN have not finalised the type of programming that will appear on the third channel, other similar services provided in Tasmania and regional Victoria have provided Network Ten affiliated shows. With the current analog transmission, Golden West Network takes programming from the Seven Network while WIN mixes programs from the Nine and Ten networks. Interstate WIN is aligned to the Nine Network and it is expected that WIN can switch across to Nine programs when the third channel comes online, allowing the new digital channel to program through Network Ten.

In addition to the new service, the change to the law will also permit the current Golden West Network and WIN services to be transmitted on a digital channel with the new service. To assist with this digital conversion, the government will provide significant assistance—almost $20 million—to Golden West Network and WIN to further assist with digital conversion in regional Western Australia.

The digital conversion model in regional and remote Western Australia represents a significant saving for the broadcasters concerned. Instead of having to establish and maintain two or three sets of digital transmission infrastructure with capacity for high-definition TV, they will be able to establish only one shared set of infrastructure without the additional cost of investing in high-definition TV equipment and significant additional and costly satellite capacity. The digital television conversion model for regional and remote Western Australia represents a balance between public interest considerations and the special circumstances of remote area commercial television broadcasters. These broadcasters face significant cost pressures due to the wide geographic area that they serve and the sparse population. Delivery of high-definition TV to all viewers in this market would be a very significant cost to broadcasters. Viewers will also benefit from the new third digital ser-
vice, delivering a substantially increased range of information and entertainment.

The amendments will also provide significant savings to taxpayers, because funding assistance to the broadcasters under the government’s regional equalisation plan is reduced, corresponding with the reduced digital conversion cost to the broadcasters. The total level of assistance to the Western Australian broadcasters is approximately $10 million less over eight years than the original estimate, which was based on the broadcasters providing high-definition television services from their terrestrial transmitters. The new arrangements take into account the high cost per head of population of delivering television services in remote areas.

Remote area broadcasters have markets that are smaller in population—one-third to one-half of the large eastern Australian aggregated regional markets—but much larger in geographic area. They are 10 to 25 times greater than regional licence areas, and hence require a large number of terrestrial transmitters. Remote broadcasters also incur significant satellite costs for signal distribution and services for households with direct-to-home satellite reception equipment. The remote and regional Western Australian licence area has a population of half a million and covers an area of 2.5 million square kilometres. In contrast, the northern New South Wales licence area has a population of 1.9 million and covers an area of 132,000 square kilometres. At this stage a digital conversion model has been developed only for the remote and regional Western Australian area. However, the bill is also applicable for the remote central and eastern licence area.

The new third commercial service provided in remote Western Australia will be jointly owned and operated by WIN and Golden West Network, the incumbent commercial broadcasters for that area. A condition of all commercial television licences is that the licensee will broadcast within the specified licence area—hence, the new service is only authorised for reception in remote Western Australia.

I will now move onto the unrelated amendments by Labor and the Greens. I would like to remind the Labor Party and the Greens that this bill only concerns the introduction of commercial digital television services in Western Australia’s remote licence areas. There is nothing controversial about this bill. The bill and the amendment are about providing greater services to the bush. Why would Labor and the Greens want to prevent or delay this? It seems that Labor and the Greens have nothing better to do than move amendments that have no bearing on the bill.

The opposition amendment is seeking to lift the current genre restrictions on ABC and SBS multichannelling. The opposition should be aware that the Minister for Communications, Technology and the Arts, Senator Coonan, announced on 13 July this year that the government would introduce legislation to lift the genre restrictions on ABC and SBS multichannelling, with the exception of sport on the antisiphoning list. I am aware that this legislation will be introduced some time in the future. Therefore, this amendment by Labor cannot be supported, as it is the subject of legislation currently under development.

The Greens amendment, which Senator Brown has just spoken of, is seeking a ban on food and beverage advertisements during children’s television viewing times. There has been much talk about television advertising contributing to the increased obesity levels in children. At this stage, however, there is no concrete evidence that this is the case. When my children were young, we were living on a farm. If I recall, they got off the
school bus, changed their clothes and then went and did something on the farm. Their only TV viewing was just before it got dark. Rural and remote children are probably so busy with other activities—unlike their city counterparts—that they do not watch TV very much during the daytime.

It is my view that, while the federal government has a role to play in advertising regulation, obesity is a problem to be addressed by parents and individuals. The childhood obesity issue is a complex one. To suggest that a prohibition on advertising, as proposed by the Greens amendment, will be an effective remedy for this problem is overly simplistic. The Australian government also has a range of policies, programs and publications which aim to improve the dietary habits and physical activity levels of all Australians.

I note that broadcasters are already subject to a number of restrictions in relation to food advertising to children, including the content and placement of that advertising. The Children’s Television Standards, the instrument that this proposal seeks to amend, is administered by ACMA and already provide that a food advertisement must not contain any misleading or incorrect information about the nutritional value of the product. The Children’s Television Standards also provide that broadcasters must not broadcast advertisements that are designed to put undue pressure on children to ask their parents or other people to purchase an advertised product.

The standards also place a limitation on the amount of advertising to children, allowing no more than five minutes of advertising in each 30 minutes of children’s viewing periods. In addition to the Children’s Television Standards, the Commercial Television Industry Code of Practice strengthens the obligations regarding advertising to children and includes requirements that advertising must not encourage or promote an inactive lifestyle or unhealthy eating or drinking habits.

As senators may be aware, ACMA is undertaking a full review of the Children’s Television Standards in 2006. This review will ensure that children’s television needs are still being met in the most appropriate way and will include well-grounded, evidence-based research on the current debate over children’s obesity and the role of food advertising. I am aware that the review process will take 12 to 18 months to complete, with an issues paper for public comment to be released in the first half of 2007. There are also a number of industry and government initiatives underway to address the childhood obesity issue.

Debate interrupted.

MATTERS OF PUBLIC INTEREST

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

United Nations

Senator TROOD (Queensland) (12.45 pm)—It is probably fair to say that there are few international organisations which are more widely vilified, more widely admired and more widely misunderstood than the United Nations. For over 60 years, the UN has been an integral part of the landscape of modern international relations; yet controversy and confusion abound over its roles and responsibilities and over its value and effectiveness. For all this, however, I believe that we would all have cause for deep regret if the UN were to suddenly collapse or lose its capacity for effective action. It is time that we in the international community, and in Australia in particular, recognise the danger to the UN’s legitimacy and encourage a serious, renewed effort to address its weaknesses and shortcomings. The UN needs reform, and Australia is among those countries
whose voice could be important in bringing it about.

The vision for an international organisation of universal membership and broad mandate emerged from the ruin and wreckage of the Second World War. The charter was adopted at San Francisco on 25 June 1945, and the organisation itself came into existence four months later, with a membership of just 51 countries. The charter was as visionary as its agenda was ambitious:

- to save succeeding generations from the scourge of war …
- to reaffirm faith in fundamental human rights …
- to establish … respect for the obligations arising from treaties …
- to promote social progress and better standards of life in larger freedom.

In the 61 years since 1945, we have put a man on the moon, eradicated smallpox and unravelled DNA, the building block of life— all signal achievements— yet, in that period, there has not been one day without war or conflict somewhere in the world, not one week when basic human rights have not been systematically abused, and not one year when hundreds of thousands of people have not starved to death. Measured against these realities, the UN has certainly fallen well short of its high ideals.

But perhaps we should not be too quick to condemn the UN for its failures. The organisation now has a membership of around 200 countries. They exhibit a diversity of social values, political cultures and economic circumstances well beyond anything easily imagined by the UN’s founders. As a result, it is often a fraught exercise to secure agreement on any but the most anodyne of policy decisions. It is both comforting and, perhaps for some, rather frustrating that the UN has no ability to act of its own accord. It is a creature of the international community and it is beholden to it. It can do no more and no less than that community, or at least an influential section of it, may permit. If the UN has failed to address pressing issues on the international agenda and deserves criticism for its delinquency, then the international community also deserves censure.

Few things so vividly underscore this reality than the agonising search for a Security Council resolution in relation to the current situation across the Israeli-Lebanese border. As divided as the principal parties have been, it has taken weeks to arrive at an appropriate form of words for a resolution that will end the conflict. And even now it remains unclear whether the ceasefire will be fully accepted and followed by the combatants. Some will see this as a failure. More correctly, it is a reflection of the division of opinion on the issue. This has always been the UN’s burden—and it has often been costly, as the debacles in Somalia, Rwanda and Bosnia, among many others, testify.

Given the realities of UN policymaking, no country would be wise to place its security solely in the hands of the United Nations. Certainly I would not wish Australia to do so; but nor should Australia be uncritical of the UN’s failings. Some of its decisions and actions have been deeply offensive and have directly challenged the political and social values that we most cherish as members of a liberal democracy. The corruption within UNESCO in the 1980s, the disgraceful subversion of the role of the old Human Rights Commission, and the General Assembly’s 1975 resolution equating Zionism with racism all come to mind as examples. We cannot and should not stand by as uncritical observers when the UN acts in ways that challenge our interests or offend our values.

Yet we are part of the international community. Accordingly, we would be foolish if we did not recognise that there are occasions when the UN can serve our interests. As a
middle power with an inherently limited capacity to shape every event to its own ends, Australia can benefit from the multilateralism that is the essence of the UN way. Through the UN, norms of international behaviour are established and countries which are disinclined to play by international rules are encouraged to comply. Tensions can be dissipated and, occasionally, more serious conflicts can be avoided. The natural instinct of great powers to rule in their own interests is blunted, and Australia’s policy preferences can be accommodated through coalition building. All of these things contribute to order and security in an international system where anarchy is a constant threat to peace and stability.

The UN should not be approached in a suffusion of fuzzy and sentimental expectations that it will always deliver acceptable outcomes to challenging international problems. In today’s world we need a more hard-headed assessment of its benefits. We can see those benefits in the considerable contribution the United Nations has made towards resolving conflict through its peacekeeping activities. These now reach back over half a century and include missions in places as widely dispersed as Kashmir, Suez, the Congo, the Sinai, Namibia, and many more—including, of course, East Timor.

Brian Urquhart, a former Under-Secretary-General of the UN, once said, ‘Like penicillin, the UN came across peacekeeping while looking for something else.’ The international community should be grateful for this serendipitous good fortune, because UN peacekeeping is an important institution. It is of continuing relevance to the international community, as the new mission going into Lebanon vividly demonstrates. We cannot ignore the contribution which the specialised agencies make to the civilising of international life. The International Atomic Energy Agency, the World Health Organisation, the International Civil Aviation Organisation and the World Trade Organisation—to name a few—are all part of the UN system. Each in its own way frequently makes a valuable contribution to the management of international affairs.

But, for all the good it does, few of us should be under any illusion that the UN is not in need of serious reform. The management structure is bureaucratic, its decision making is ponderous, the Security Council is unrepresentative of the modern world, the funding mechanisms need an overhaul and much else is needed. It was to these ends that the Secretary-General, Kofi Anan, convened the High-level Panel on Threats, Challenges and Change in 2003. When the panel’s report, entitled *In larger freedom* appeared in March 2005, the Secretary-General hailed it as a:

... blueprint for a new era of global cooperation and collective action.

But, as so often before, the UN’s members were unable to summon the political will for change.

At the world summit in New York in 2005 little of consequence was achieved. Some welcome progress was made in relation to the protection of human rights, including the replacement of the disgraced Human Rights Commission with a new Human Rights Council, but in other areas the summit was an abject failure. No progress was made on Security Council or managerial reform and a stalemate was all that could be achieved on some urgent issues, such as nuclear non-proliferation. The summit was a disappointment, to say the least.

We cannot afford to allow this reform agenda to lapse. In a globalised world, where the so-called ‘problems without passports’ such as global terrorism, the proliferation of weapons of mass destruction, health pandemics, transnational crime and environ-
mental degradation all loom as threats, the UN offers an important line of defence against a slide into greater insecurity. We cannot rely upon the UN to solve these problems but, as the century goes on, the UN will struggle to serve the international community effectively if reform does not take place. The UN must be made ready for the growing challenges of the 21st century. We can be under few illusions that this will be easy. It will require a significant shift in UN policy, and no doubt will not be possible until a new Secretary-General is installed in 2007.

But it is in Australia’s national interests, and we are among several key countries uniquely placed to agitate successfully for reform. Australia was a forceful participant at the San Francisco conference when the charter was negotiated, and we became one of the UN’s founding members. We have provided a President of the General Assembly. We have maintained a very active diplomatic presence within the organisation’s key deliberative forums throughout its 61 years of history. We have consistently made strong contributions to many of its peacekeeping missions and the work of many of its specialised agencies. In short, we have the credibility needed to press for change, and we should work with others to advance its progress.

In concluding, I recall the words of the murdered second Secretary-General of the United Nations, Dag Hammarskjold. He once remarked:
The UN was not created to take humanity to heaven but to save it from hell.
The need for salvation is as real today as when those words were uttered half a century ago. For all the patience we must summon, for all the challenges we must confront and for all the frustrations we must endure as a member of the UN, all would be magnified many times over if the organisation were to lose its legitimacy within the international community. The current Secretary-General has noted that the United Nations has suffered a decline in confidence. He is right. A slide towards crisis can only be avoided by extensive reform. Australia should commit its power and purpose to this end—and do it sooner rather than later.

Military Justice
Senator MARK BISHOP (Western Australia) (12.57 pm)—I rise this afternoon in a rare mood and offer some form of commendation to the Department of Defence. I have been pleasantly surprised at the speed with which it has settled two high-profile cases of military justice. For more than six years, Lieutenant Commander Robyn Fahy fought to clear her name after having been stood down. Remarkably, little more than six weeks after Senate estimates, her case was settled. So too was the case of the mother of Air Cadet Eleanore Tibble. Her fight for justice lasted some 5 ½ years, following her daughter’s tragic death. Again, after a protracted legal battle, her case has been dealt with expeditiously. Could this cherry-picking of high-profile cases be at the behest of a red-faced defence minister? Was he embarrassed into swift action after Senate estimates, when his department’s officials were caught on the hop. This followed the public airing of Lieutenant Commander Fahy’s case. There too, Air Chief Marshal Houston, Chief of the Defence Force, called for a speedier resolution of military justice cases.

Today I would like to heed his call for urgent action. I would like to call for other less high-profile cases to be resolved expeditiously, this time with constructive media tion. The department’s cherry-picking approach to resolving high-profile cases might offer sweet success to Dr Nelson but it fails to stem the root cause of military injustices. There are still a number of cases before the
I would like to compare the government’s current approach to military justice with my proposed approach of constructive mediation. Let us look at the case involving Lieutenant Commander Robyn Fahy. Lest we forget, she was Australia’s first female naval officer. She topped her class in the late 1980s, but her brilliance failed to shield her from the ongoing brutality dished out by some of her peers. Lieutenant Commander Fahy’s nadir came in 2000, while serving at Stirling naval base. An apparent personality clash with her superior led to her suspension from duties. This was backed up by spurious medical reports indicating that the fault lay with Fahy. An attempt was then made to cashier her from the Navy on medical grounds. The first ground was a back injury sustained at sea previously. The second was a trumped-up and false diagnosis of mental illness. This second charge received widespread publicity. Indeed, an inquiry by the Medical Board of Western Australia found that the referral to a private psychiatrist by a Navy doctor not only was misleading and incorrect but also was made without examination and was simply plain wrong.

It was on the basis of this psychiatric report that Lieutenant Commander Fahy was to be discharged as unfit for duty. She remained suspended for 6½ long years on full pay. That was 6½ years in which there was nothing but delay and procrastination from Defence—for that is how it dealt with this case of military justice: in its business as usual, bullyboy way. At every move it challenged Commander Fahy’s attempts to seek redress. It fought her through the chain of command. It fought her before the courts. It even fought through mediation.

Not until the glare of the public spotlight became too intense did Defence decamp and concede defeat. This admission, by the way, came just after 6 pm on a Friday, by way of a media release circulated to the press gallery.
That was interesting timing, considering most journalists would have clocked off by 6 pm on a Friday. Again, could it be that Defence was trying to hide, for whatever reason, this apparent capitulation?

Let us look at an approach of constructive mediation. I will pose several questions. How much would have been saved in legal bills had Defence taken this alternative course six years ago? How much pain and suffering could have been avoided had this battle of attrition not been waged? It was a six-year battle which ultimately saw no winner—the losers being the victim, the taxpayer and the reputation of the department. This is not a one-off case.

I next turn to Mrs Susan Campbell’s fight for justice, following the death of her daughter Eleanor Tibble. At about the same time that Lieutenant Commander Fahy was starting her battle with Defence, Cadet Sergeant Tibble took her own life. She did so even though she had been cleared of some serious allegations. Again, when Cadet Sergeant Tibble’s mother sought redress, Defence went on the defensive. It spent the next 5½ years trying to thwart Mrs Campbell’s call for justice for her daughter. How many countless days of grief and frustration could have been avoided had Defence played it straight from the start and entered into constructive mediation? How much taxpayers’ money could have been saved with an initial round of mediation?

Let us look again at the cases of Fahy and Tibble, two bright, attractive women—one senior and proven, one junior and waiting to be tested—their careers in the military cut short, their plight attracting the spotlight of the media. Is it mere coincidence these cases were resolved only after they proved too embarrassing for the minister and his department? I would like to remind the chamber, in this context, of the valuable role Senate estimates played in outing the truth in the Robyn Fahy matter. I also remind my colleagues here how the government has tried to shut down this invaluable process whereby senators can seek the truth from government officials. Now budget estimates have been whittled down. It is a shame we will never know the details of how Defence settled these two high-profile cases. The minister has used secrecy as a subterfuge to settle them. This may protect the department from further scrutiny, but it fails to compensate victims for the invasion of privacy suffered while trying to achieve military justice.

What about those cases that never come under the glare of the media spotlight? As shadow minister for defence industry, procurement and personnel, I have seen many of these victims pass through my door in their attempts to find military justice. The first question I ask of them is whether they are prepared to stand outside the chain of command to seek this justice. Most put their careers first and justice on hold. It is with these people I remain most concerned. While it is good that Defence has settled the cases of Lieutenant Commander Fahy and the mother of Air Cadet Eleanor Tibble, albeit five or six years too late, I am here to represent all those whose complaints go unheeded, who seek justice and seem permanently denied redress. That is why I offer constructive mediation for these outstanding cases—to have Defence behave in a rightful fashion when a perceived wrong first appears and not behave with might, and an almighty legal budget, when the culture is threatened.

Military justice continues to haunt this government. It has seen six inquiries into the matter since gaining power 10 years ago. I believe the Senate committee which handed down the latest report, earlier this year, has set a precedent. For the first time, it will meet regularly to ensure its recommendations for reform, or government decisions on
reform, are implemented meaningfully. I keenly await the next time we meet, and I will be raising with the committee a number of these other, less high-profile cases for resolution. Perhaps then justice will be seen to be done. Then, too, the public’s confidence will be restored in the system. Only then will Defence be able to attract the bright young people it desperately needs in its forces.

Middle East

Senator NETTLE (New South Wales) (1.10 pm)—I rise today to speak about the situation in the Middle East. We are all greatly relieved to see the beginning of a ceasefire now in the Middle East. Let us hope that it can hold and that people can begin to rebuild their lives. The war has devastated Lebanon and caused significant damage to Israel’s northern towns. According to the Lebanese government, over 1,000 people have been killed and over 3,500 people have been injured, with nearly one million people being turned into refugees in their own country, being displaced, as a result of the bombing campaign. According to Reuters, 157 Israelis have died, 40 of whom were civilians killed by Hezbollah rocket fire and the rest of whom were soldiers. Most of them were killed whilst fighting inside Lebanon. A thousand people have been wounded in rocket attacks in Israel, and 450 soldiers have been hurt fighting in Lebanon.

This is a toll that we could have avoided. The United Nations has indicated that, of these casualties, nearly one-third were children. We now have a devastated country that needs rebuilding. Much of southern Beirut and southern Lebanon is in ruins. The airports, the roads, the bridges and the ambulances have been destroyed. The economy is in tatters and a major humanitarian disaster is on our hands. The Lebanon Council for Development and Reconstruction put the cost of the bomb damage in Lebanon at $2.5 billion to the end of July, and more damage has been inflicted since then, with major road bombings again occurring.

I am sure that many other parliamentarians, like me, have had members of the Lebanese community visiting them and talking with them and others about the destruction that has been wrought on the country and about their concerns for the capacity of Lebanon to rebuild. I had some women in my office last week who were talking with me about their concerns as people get ready for the winter in Lebanon. There is emergency food aid coming in for refugees right now, but this time is traditionally when they would be preparing their food for winter. If they are not able to do that, if they are not able to harvest the chickpeas, dry them out and store them for winter, this humanitarian disaster will continue into the winter.

People talk about their concerns for the rebuilding of the economy of Lebanon, an economy that relies very much on tourism. Having the new airport destroyed and having oil spills right across the Mediterranean has taken away the opportunities for tourism in the area and will have a massive impact in the area. I was hearing stories last week about a milk factory in Lebanon. Previously all of the milk in Lebanon was supplied by an Israeli company that operated in Lebanon. In recent years, a new organisation had been set up, a consortium of French and Lebanese, to provide milk for Lebanon. That organisation’s factory was targeted in the bombing. The capacity to have basic infrastructure and to rebuild the country is something that we need to be very concerned about. We as Australia can contribute to the reconstruction efforts, and we should be involved in them.

I was reading this morning on a United Nations website about a factory in the Bekaa Valley which made prefabricated homes for
temporary accommodation units for the US Army in Iraq and Afghanistan. The owner was reported talking about the bombing of his factory. He talked about the Israeli jets making several raids and he said:

When they saw one building was still standing, they returned and bombed again.

The job of rebuilding the country of Lebanon is massive, and we need to ensure that Australia is playing its part as outlined in the UN Security Council resolution.

On Sunday morning, just after the UN Security Council resolution had gone through and the ceasefire had been accepted in the UN Security Council—in the gap of time between the ceasefire resolution passing and the Israeli government agreeing that they would stop their aerial bombardment—I received a phone call from a good friend of mine, who told me about the bombing that had occurred in his wife’s town in the far north of Lebanon. The business of one of the uncles was destroyed; the business had provided all the groceries for that town. An aunt who was 60 survived the blast but received shrapnel wounds to her stomach and is covered all over her body with bruises. Her child was also injured by shrapnel. One of his cousins’ bedrooms was completely demolished—luckily, he had not been there. He had been getting ready to go for morning prayers at the mosque, otherwise he would have been there. He had been being ready to go for morning prayers at the mosque, otherwise he would have been there. It is a very densely populated area. Many people had moved there after previous conflicts because it was an area that had previously remained peaceful. The jets struck on Saturday night at a time when many people would have been in their homes.

Another friend of mine has a cousin in the Lebanese army who is based in the north, in Tripoli. Despite Israel’s claims of targeting Hezbollah, they bombed his barracks and killed many members of his unit. Luckily, he was not in the barracks at the time. Later, when he was sent down to the south with his unit, the Israeli jets bombed a bridge which he had crossed over two minutes previously.

I am sure we have all had these experiences in talking with the Australian-Lebanese community. A gentleman in my office last week told me about the phone calls that his family members had received—phone calls after midnight from people they believed to be Israeli agents; who knows—warning them not to take in Muslim refugees from the south. These were Christian families receiving these phone calls. He told me he had heard of a number of people around the country who had received these phone calls. That is not the kind of incitement that we want, wherever it is coming from.

People may have seen a story in the Australian on Saturday about the convoy of civilians and Lebanese security forces leaving a town in southern Lebanon. The United Nations escorted them for the first few kilometres as they went out of the town. The United Nations and Israel had been in discussions and they had been given the green light for that convoy to head out. Yet, once the United Nations escort left the convoy, the convoy was bombed, killing at least seven people and wounding 36.

We are still waiting for the report on the attacks on the UN peacekeepers, from the United Nations investigation. Part of the lessons we need to learn and part of the wrap-up from this experience is to ensure that there are investigations into any war crimes that have occurred in Lebanon and in Israel. We need to ensure that that is the next step that we take as the international community—ensure that these things are properly investigated.

Many people who will now be returning to their homes will be worried about the threat of cluster bombs that have been used
in the area and the unexploded ordnance that remains in the area. Part of the negotiations between Israel and Lebanon involved Lebanon asking for maps of the landmines that had been previously planted in southern Lebanon. The ceasefire could break down at any time. Israel has already said it reserves its right to continue its attacks on Hezbollah and Hezbollah has said it reserves its right to repel Israel’s continued occupation of Lebanon. These incursions and invasions into Lebanon have been going on for many years. Since Israel’s withdrawal from southern Lebanon in May 2000 there have been hundreds of violations of the blue line between the two countries. The United Nations Interim Force in Lebanon reports that Israeli aircraft crossed the line on an almost daily basis between 2001 and 2003 and persistently until 2006. In the past, Hezbollah has captured soldiers from the Israeli defence forces, and negotiations occurred to allow for those prisoners to be swapped and for those releases to occur. So we need to ask: why did this operate differently this time?

In the Haaretz in Israel on Monday there was a story about Prime Minister Ehud Olmert and the defence minister going to visit the family of the two soldiers whose capture supposedly sparked this conflict. They indicated that they were negotiating with Hezbollah and they believed they would be successful in procuring their release. This is something that could have been done a month ago. Israel has a history of negotiating with Hezbollah for the release of captured soldiers. If that had occurred a month ago, all those thousands of people would not have been killed and would not have been injured.

The calls for peace have been consistent from the Israeli peace movement members, who have been involved in massive demonstrations in Israel throughout this conflict, and from the Lebanese community in Australia. Unfortunately, our government in their contributions during the conflict did not hear these calls for peace. I was astounded to hear the Prime Minister talk about the right of Israel to continue with its aerial bombing campaign in southern Lebanon. He was making those comments at a time when 400 Australians were in the south of Lebanon. I was quite astounded to hear the Prime Minister of our country make such comments.

I have asked questions in estimates about this, and I received information that in 2004 Australia sold almost $10 million worth of military exports to Israel. I am waiting for the answers to questions that I asked about the more recent arms exports to Israel. It is important that we have this information. The role our Australian government should be playing should be neutral—that of a neutral broker in this issue to resolve the ongoing conflict in the Middle East. Unfortunately, our Prime Minister and our government have been arming one side of the conflict and have continued to support aerial bombing of areas that have included Australian citizens.

There are many lessons that the Australian government can learn from this particular conflict and the way in which we should be engaging. We all know that at the heart of all the problems in the Middle East is the ongoing occupation of the Palestinian territories. During the last month, the focus has been on the activities that have been going on in Lebanon, but such activities continue to operate in the Gaza Strip and in the West Bank, with the bombing of homes and infrastructure. We have seen members of the parliament in Palestine illegally captured by the Israelis and we have seen ministers in the government captured by the Israelis, and this continues to go on. But we have not had any focus on that over the last month because the focus has, understandably, been on the situation in Lebanon.
Senator Boswell—What about the rockets hitting Israel?

Senator NETTLE—I am sorry, Senator, that you did not hear me speaking about the loss of Israeli civilians. I am here to speak about the peace that is starting to break out in the region as a result of the ceasefire, a ceasefire that the Australian government and the opposition refused to support, and that the Lebanese government has, for over a month, been calling for. If the international community had heeded that call for a ceasefire three weeks ago, thousands of civilians would not have died. There are lessons from this that we as an international community and as the Australian people need to learn. They are lessons about the importance of peace and the role that we can play. Right now, the role we need to be playing is in rebuilding the infrastructure in Lebanon. The Australian government can make an enormous contribution to that. The Greens support Australia making a contribution to rebuilding the infrastructure in Lebanon—that is what we need to be doing. We support looking at and supporting investigations into war crimes that have occurred in Lebanon and Israel—that is what we need to be doing. We need to learn these lessons to ensure that we support peace in the region.

One of the very important lessons that we need to learn about how we can support peace in the Middle East is the need for us to continue to call on the Israeli government to end the occupation of the Palestinian territories and to abide by the international resolutions of the UN Security Council so that this issue can be resolved. We all know that we cannot get just, enduring and sustainable peace in the Middle East whilst occupations continue—not just the occupation that we see in Palestine. This area of the Middle East has suffered under foreign occupations that continue in Afghanistan and Iraq. We see these occupations acting as incitements whereby, unfortunately, we all become less safe. People in Israel, people in Australia, people in the United States and people in the United Kingdom become less safe because of these continuing foreign occupations. Unfortunately, they are situations that many in the Arab and Muslim worlds point to which fuel violence against the West.

So they are the lessons we need to learn from this conflict. We need to ensure that we work constructively for peace, and that means ending the occupations in Palestine and Iraq. We need to contribute to ensuring that we can have an ongoing and lasting peace in the Middle East. They are lessons that our government needs to hear and learn.

Ethanol

Senator BOSWELL (Queensland—Leader of The Nationals in the Senate) (1.25 pm)—I want to talk about ethanol but, before I do, I have to comment that that was one of the most biased, left-wing and anti-Israel speeches that have been heard in this house. At an appropriate time, I will go through that speech—

Senator Bob Brown—It is appropriate now.

Senator BOSWELL—It is not appropriate now, because I want to examine it in detail and make my response. I will do that at the appropriate time, but at the moment I want to address the problems of ethanol.

On Monday, the Prime Minister, John Howard, announced an energy package designed to assist Australian families with coping with the burden of high fuel prices at the bowser. The package consists of a number of initiatives which I commend, but we must acknowledge that petrol products come from a finite resource and that Australia needs alternatives. In Australia we are moving ahead, but nowhere near fast enough. Our current target, which is to be using 350 million litres of biofuels per year by 2010, is
outdated and should be increased to at least the volumes committed to by the major oil companies. Australia is currently spending the equivalent of 72 per cent of its current account deficit, some $12 billion, on importing petroleum products. That figure has blown out by a staggering 58 per cent in the two years since 2003-04. A major contributor to that has been the continuing decline in the production of Australia’s oil—from 31 billion litres in 2001 to just over 16.4 billion litres last year. We are now producing less, importing more and paying more for the imports.

What I am saying is not new. We have seen the price of petrol soaring at the pump. We have heard the anguish of families as they try to absorb the extra cost into their family budgets. We have put in place policies to help, but there is still more to do. In Australia, we are dependent on the four major oil companies to refine and distribute transport fuels. This is not a free market; it is controlled by four international companies. The independent fuel suppliers and retailers are doing their bit. They supply only about eight per cent of the transport fuel market, yet distribute three-quarters of the ethanol used—some 30 million litres.

The key to making an impact on Australia’s fuel consumption lies in the big markets of Sydney and Melbourne, and with the major distributors, Shell, Caltex, BP and Mobil. The ethanol fuel sales to the four oil majors for the first six months of this year represent less than 0.1 per cent of one per cent of total petrol sales of 20 billion litres. The reality is that the oil companies, with the exception, perhaps, of BP, are stalling the advancement of alternative fuels, with one exception—that is, LPG. And why is that? It is because they control the production and distribution of LPG.

Of the $1.5 billion package announced yesterday by the Prime Minister, $17.2 million was allocated to further development of a market for ethanol. Ethanol, as the E10 blend, is available. It can be produced at a cheaper price than petrol currently can. It can be blended into fuel to replace existing petrol, and pumped into vehicles with no modification. Australia has the capacity to produce 110 million litres of ethanol this year, yet, according to the government’s figures, just 25.1 million litres of ethanol has been sold in the last six months to June, along with a small amount of biodiesel.

Ethanol blended fuel can provide immediate price relief to motorists, yet E10 is only available at around 260 outlets of the nation’s approximately 6,300 service stations, which is less than two per cent. BP affiliated outlets account for 1,300 service stations but only 50 are selling E10. Caltex and its affiliates account for 1,790 outlets but only 41 currently sell E10. Shell offer E5 at 25 of their 1,110 associated outlets, and Mobil have virtually told the government that they are not even interested in talking to them. They say they have no pumps.

Only two per cent of the service stations affiliated with the four major oil companies sell ethanol blended fuel. It is only reasonable to ask: who are we afraid of if we will not insist that everything that can be done should be done? In the $1.576 billion energy package, which I applaud, $1.3 billion is for the LPG industry for conversions and forgone revenue. As a by-product of petroleum LPG is controlled by fuel majors and is already available at 2,300 service stations. An additional $76.4 million has been allocated to finding more oil.

The big winners in the package are the four major oil companies. They have not had to make one extra commitment to distributing alternative fuels to benefit from this
The ethanol initiatives in this package provide for up to $20,000 for the cost of converting retail petrol stations to supply E10. Again I commend the government on taking on a program already successfully operating in Queensland and providing the funding for it to go nationwide. This initiative, unfortunately, will not break the stranglehold the big oil companies have over supply and distribution into the major markets of Sydney and Melbourne. Franchised service stations can have the cleanest E10 tanks they like, but if the majors do not blend and distribute E10 then money is going to be wasted. This initiative is tinkering around the edges of the ethanol issue. The main game is compelling the major oil companies to blend and distribute E10.

The four oil majors have committed to the Prime Minister that they will distribute the annual equivalent of 89 megalitres at a minimum, and 124 megalitres of biofuels at the top end, by December this year. That is in three months time. So far there is little evidence that this promise will be kept. There has been a slight increase in the volumes of E10 sold since this time last year; however, the bulk of that increase can be attributed to independent operators selling E10 and passing on the discount to the consumers, and I am pleased to see that BP and Caltex are doing that now. The reality is that at the moment the major oil companies are still accounting only for about 10 million litres of biofuels in the transport fuel mix. That is a long way from the promised 89 million to 124 million litres. It is absolutely imperative that these targets are met. Until this happens the government will continue to question the commitment of the oil companies.

After the announcement last December, The Nationals reserved the right to take stronger action if the oil companies did not enter into agreements with Australian biofuel suppliers to provide fuel. I welcome the statement in Monday’s announcement by the Prime Minister that ‘the government will continue to explore practical measures that effectively mandate the availability of cheaper ethanol blended fuel for Australian motorists’. The oil companies have committed to 532 million litres of biofuel by 2010. If they do not achieve the first milestone in the process then there needs to be a more effective way of legislating this biofuel uptake obligation.

Over the past two years I have been advocating a volumetric biofuel obligation system similar to that which currently exists for renewable energy. The scheme, the MRET, the mandatory renewable energy target, is the mechanism by which the government compels the major electricity suppliers to purchase a percentage of ‘green’ electricity to sell to their customers. I believe this existing scheme should be expanded to include renewable transport fuel. It would be an enforceable mechanism to compel the oil majors to purchase an increasing percentage of their fuel supplies from renewable sources. It could start immediately and include targets that they have already nominated to the Prime Minister. Next year it could be 0.25 per cent of their total sales, which equates to about 125 megalitres, well within the fuel companies’ targets, and increase by 0.5 per cent each year until the companies are purchasing 10 per cent of their total sales as biofuels. The distribution and marketing arrangements would be their choice.

Within the last month, investors in biofuel projects have announced their intention to pull out of Australia and invest overseas, as they see the level of government support in other countries as more conducive to biofuel production than in Australia. The share price of the listed biofuel companies is also falling. Biofuel producers are ready to go with
new production facilities but have not yet been able to sign up the oil majors to serious off-take agreements. New biofuel production facilities are being designed to produce the volumes necessary to make a dent in Australia’s fossil fuel dependency. The economies of scale mean that to be viable a new plant will need to be producing between 80 million and 100 million litres a year. Compare that figure to the current consumption by the oil majors of about 10 million litres a year. One proposed plan will produce 400,000 litres of ethanol a day. That is the current annual ethanol purchase by Shell for the Sydney market. In America three plants of this size are coming online every week. Unless the oil majors come to an agreement with new producers, and soon, there will be very few new ethanol plants—or none—getting off the ground.

When the government first announced its biofuel target, there were three suppliers of ethanol in Australia. Five years later, there are still three suppliers of ethanol in Australia. Not a sod of dirt has been turned to start new ethanol plants. In 2002-03 more than 56 million litres of ethanol was blended into transport fuel in Australia. Now it is about 40 million litres, and 30 million of that is sold by the independents. The oil companies have been backsliding. There is plenty of talk about new business, new producers and new investment, but as yet none have come online.

Ethanol producers and their financiers need security. They need to know that there is a dependable need for the fuel. They need off-take agreements for their fuel from oil companies. So far, not one has been forthcoming to any new, prospective ethanol producer. They need to know that oil majors are serious in their commitment to the government and that the government is serious in its expectation that the commitment will be met. Support for biofuels as part of Australia’s solution to the crippling oil crisis is essential from government and business alike. Market forces alone will be too slow to provide the response to address this crisis. The government must be strong and unambiguous, and acknowledge that changes must be made to the way Australians view the availability of fossil fuels and embrace the home-grown alternatives. Consumers must be given the chance at more than a handful of retail outlets.

**Employment**

**Senator HUTCHINS** (New South Wales) (1.38 pm)—I am not sure whether people listening to today’s broadcast would be aware that the speech just given was by the Leader of the National Party in the Senate and a former parliamentary secretary. I do not know whether it is an infection that seems to be for Queensland Nationals—I do exclude my New South Wales colleagues from this. If you just listened to that speech, it just indicated what doormats the National Party are. We just had a speech that indicated that the government is clearly useless, incompetent in dealing with the four major oil companies and, in the end, gutless.

I am pleased to get the opportunity to speak today because I want to talk about the difficulties that a number of people are starting to experience in regional New South Wales in relation to employment opportunities. As a number of us here do, I cover parts of electorates that are held by non-Labor figures. Over the last few months it has been disturbing me that, despite the good news that we are being delivered on the jobs front, that is not my experience in regional New South Wales. There has been a spate of significant job losses only recently announced this week in Cowra. I will come to that in a moment. There has been very little said by any government senator or MP.
On the Central Coast of New South Wales, which covers two marginal seats held by the government—the seats of Dobell and Robertson—less than a month ago Coles announced that at some point this year they will close down their warehouse, which directly employs 440 men and women. I said ‘directly employs’; that is not including the truck drivers and the suppliers to that operation. They will lose their jobs. I remember when that warehouse was moved from Smithfield in south-western Sydney. A number of the men and women uprooted their lives and their homes to move to the Central Coast of New South Wales. But they have now been advised, some years later, that at a point this year those 440-plus jobs will be disappearing.

The member for Robertson, Mr Lloyd, has been able to secure some assistance from the federal government to alleviate the transition from employment to unemployment for these people. But on the Central Coast of New South Wales there are no jobs. I was there less than a month ago. An old truckie mate of mine there told me that a friend of his had advertised in the Central Coast Express Advocate that he was a qualified forklift driver, he had a significant amount of experience and he wanted employment. He told me that his mate had put that advertisement in that paper on the front page for some six months. He never received one phone call or inquiry to pick him up. You can imagine what is going to happen to the 440-plus that are going to be made redundant by Coles on the Central Coast in the coming few months.

At least Mr Lloyd did something about it. We have heard not one word from the member for Dobell, Mr Ticehurst. In fact, if you wanted to see Mr Ticehurst, you would have to go to a business park in Tuggerah and go up to the first floor to see him. He used to have his office in a shopping centre. Now he does not. He is isolated from his community. No wonder none of them can get to talk to him about their problems with employment.

Let me go to BlueScope Steel in Port Kembla, where 250 people have lost their jobs. What did the government do about it? What have they said about it? We know why they have lost their jobs; it is because of cheap imports. Let me tell you what 50-year-old Mr Necati Dun said. He was quoted in the Australian newspaper. He summed up the blow to families, including his, in the region. He spoke of the pain he felt as provider to two young sons. He said:

To take away from them because you are losing your job and not earning the wage you used to, it is a shock.

Two decades ago there were 20,000 jobs in Port Kembla. Now there are fewer than 5,000. And now this 50-year-old plant has closed down, getting rid of a further 250 people. No doubt that will include—as we all know, we are multiplying by three—over 1,000 more in the region. What has the government said about this?

I go to Lithgow. There is a department store in Lithgow called Braceys that has been operating continuously for 121 years. It has been selling clothing, footwear, manchester and toys. Just recently, it had to make the decision to close down its three-storey retail building. It employed 50 people and it will cut that number down to 20 people. At Nestle in Blayney, at the Purina factory, 30 to 40 jobs have been lost. There is no employment there. On the web today I looked at the local Blayney paper to see what jobs were being advertised. I have been advised that there is not one job in the Blayney paper. Thirty-one jobs are advertised in Lithgow. I looked at them, but I am not sure how many of the people who have been made redundant will be able to apply for them.

I go to Cowra. About 200 people have just been made redundant in Cowra. What is the
government’s response to these jobs being lost in regional Australia? Nothing. I looked at the *Cowra Guardian*. There are three jobs available today in the *Cowra Guardian*. There are jobs available for a schoolteacher, a car wrecker and some fruit and vegetable pickers. Do you think that those 200 people are going to be taken up by those employers?

They are people working directly for the abattoir. That does not include the truck drivers and the other suppliers to the company. Where is the government’s response to this in regional Australia? I am glad that we have two National Party senators here today, because at some other stage they may wish to respond to what I say.

I have been advised about another threat to employment in this country. One of the big logistics companies, TNT, is about to be sold by its Dutch-controlled company. TNT directly and indirectly employs 3,000-odd people, including subcontractors. Since they were advised that this was going to occur, the union representing those people has been seeking guarantees that there would be no job losses and that existing agreements would be honoured. They cannot get those guarantees. The union wrote to their international organisation, the International Transport Federation, and asked them to intervene for them and speak to the Dutch owners in Holland. Similarly, they will not give the guarantees that the Australian workforce requires.

So we have TNT—a major and iconic transport company in this country—on the verge of potentially closing down not only its city operations but its extensive regional operations in New South Wales and the rest of Australia, and jobs will disappear. It may be unfair to put it onto the government and say, ‘What are you doing about that,’ but this is coming. I invite my National Party colleagues, whom I regard mostly as honourable men and women, to respond to my queries at some time. What will these men and women do once they are put on the unemployment queue? There is nothing for them to do in Blayney, Cowra or Lithgow or on the Central Coast—just to name a number of places. What is your plan for these men and women and their families? Are they to drift to the cities and clog them up? We have heard allegations that there are too many people living in Sydney, Melbourne et cetera. What are they to do? There is no response from the government.

Mr Acting Deputy President Brandis, I say this genuinely, and maybe it will be seen as a political contribution: I am very concerned for these people, as I am sure you are too. I want a response from the government because, over the life of this government, we have seen what they have done. In the last few days we have heard concern expressed by the Australian Industry Group about the lack of skills in this country. The government slashed $13.7 million from the incentive program for regional and rural businesses to take on apprentices and employees. It underspent $28 million in Regional Partnerships programs in the 2005-06 period. I can tell you the unemployment figures: in Gosford-Wyong it is seven per cent, in Illawarra-Wollongong it is 7.8 per cent, and in the Mid North Coast it is 8.4 per cent. If those people do not drift to the cities, they will be stuck in the country where there are no jobs. Even the part-time member for Lindsay—and I imagine that she has to be part-time because it looks like she needs to be a full-time landlord—said on Radio National last weekend that Work Choices is fine if there is very, very low unemployment, but when there is very, very high unemployment you take what you are given.

The figures on unemployment that have been broadcast seem, to my mind, shonky. Senator Ian Macdonald, you might laugh. Let me just say this: the ABS statistics—and
they are the only ones I have—show that about 550,000 people are recipients of Newstart. ACOS estimates that nearly 160,000 have been transferred to Newstart because of Welfare to Work. So, with these figures, we have growing evidence that unemployment is being camouflaged and masked. I stand here today and genuinely ask the government what they are going to do in these regions other than facilitate some sort of payout to these men and women and their families. I want a program from the government that will find employment, create employment, for these people—not jobs delivering pizzas; not jobs where you work in cafe bars; not jobs where you have to buy a van or supply your own truck to be a courier; not mickey mouse jobs that are part-time or casual at best. I want the government to respond—

Senator Ian Macdonald interjecting—

Senator HUTCHINS—Senator Ian Macdonald, you will have your opportunity to respond. I want the government to respond and tell me where these full-time jobs are, particularly in regional Australia. I urge you all to consider this, particularly my colleagues from the National Party in regional New South Wales. You know as well as I do what is happening. I hope that you do not feel as restrained to be up-front with your government as uselessly as your Senate leader did about fuel not that long ago.

Programs for Young Indigenous Australians

Ethanol

Senator IAN MACDONALD (Queensland) (1.51 pm)—That was a presentation from a city based senator. I suspect he does not know what country Australia looks like. If he did and he got out into the country, he would find there are huge employment opportunities in rural and regional Australia. I suspect that Senator Hutchins, with all of the questions he is asking, might well ask the New South Wales state government, a Labor government, what it is doing to promote industry in rural and regional Australia—precious little, I will tell you. But the federal government is very much at the forefront and we have the best employment figures—not just in Sydney; not just in Melbourne—right throughout this country, including regional Australia.

I always mention, as I have several times in this chamber, how in the little town of Charleville in south-west Queensland the problem is not a lack of jobs; it is a lack of people to fill those jobs. Thank heavens for the section 457 visa because we are able to get Vietnamese families into Charleville who can keep up with the demand for the products from the goat processing factory and the kangaroo and wild pig processing factory.

This was not my purpose today. I was going to speak about another matter of particular importance to rural and regional Australia: the inability to attract professionals and tradespeople to those areas. For some reason, I got bounced off the list of speakers. I am not quite sure who runs these lists, but there seems to be some confusion. So I will not speak about that today because it would take more than the few minutes that are left to me to do that. In this very truncated time, I want to congratulate the Rabbitohs, the South Sydney rugby league organisation, for their Souths Care project. A number of people, led by Peter Holmes a Court and David Peachy, were around the parliament in the last couple of days promoting this initiative to encourage young Indigenous people, particularly from rural, regional and remote parts of Australia, into a worthwhile future.

The underlying goal of this organisation—and I particularly mention the David Peachy Foundation’s good work—is to encourage young Indigenous people to stay at school and move further forward with their lives. In
doing this, along with a number of other organisations—I particularly want to mention Peter Sjoquist, the guy who organises the CrocFests around Australia—they have a commitment to going into remote parts of Australia. I was at the CrocFest at Weipa recently. I did not see Senator McLusky there, strangely enough; in fact, there were very few Labor people there. There were a lot of Liberal state people there, the National Party candidate for Cook was there and I was there.

It was a great event at Weipa, and I do not want to politicise CrocFest. They also work towards trying to encourage young Indigenous people to stay at school longer, because that is where their future lies. I congratulate the South Sydney Rabbitohs, David Peachy and everyone who is contributing, along with the Commonwealth government funded agency, NASCA, to help young Indigenous people.

Briefly, I also want to congratulate Ian Macfarlane—that is, the minister, not the Reserve Bank governor—on the energy package that the Prime Minister announced recently. The issue of ethanol is always a complex one, but I know Ian Macfarlane, the Liberal minister, has been working very hard on that policy. He has come up with a great policy in a difficult area. I am delighted that a couple of the majors, Caltex and BP, have agreed to increase the number of outlets for E10 blend. I have been using E10 blend for some three years in my vehicle, and it is running as perfectly as it has ever run and it is a great fuel. In that small way, I hope I am making a contribution towards increasing the use of E10 blends—that is, increasing the use of ethanol.

I was distressed to find at estimates this year that Comcar had not been using ethanol, mainly because they could not get the right outlets and the supply. I am assured that Comcar is nearly all on E10 blends these days and, bit by bit, more people, like Comcar and me, are using E10, and in this way increasing the use of ethanol in fuel.

It is very easy to stand up publicly, criticise and get headlines about how much you support the industry, but it is much harder to get the work done and get sensible ideas through. I want to pay particular tribute to Joanna Gash, the member for Gilmore, for her work on the E10 issue. Joanna Gash is not on the front pages every day or in parliament making speeches, criticising the government; she is out there doing the work with the minister and the Prime Minister to get this E10 blend more widely used, to make sure that there are good alternative energy sources within Australia. Jo Gash looks after not just the energy aspects of Australia’s industries but also all of those people in her electorate who rely on ethanol and E10 for their jobs.

This whole push towards ethanol and E10 would have been made much easier if the Labor Party had not adopted, for political purposes, a stance of criticising ethanol and E10 a couple of years ago. The impact of the Labor leader publicly criticising the use of E10, telling lies about what it would do to your car—I have been using it for three years and it has not impacted on my car at all—and denigrating ethanol and E10 a couple of years ago has done untold damage and harm to the ethanol industry. I hope that people will understand that. I think the Labor Party have changed their minds at the moment. If they have, I congratulate them on it, but never again should they use actions like that as part of a political campaign.

QUESTIONS WITHOUT NOTICE
Skilled Migration

Senator McEWEN (2.00 pm)—My question is to Senator Vanstone, Minister for Immigration and Multicultural Affairs, who is
not in the chamber at the moment. So I will put my question and hope that she is listening.

Senator Chris Evans—Mr President, on a point of order, I think it reasonable for senators to wait for Senator Vanstone to arrive. Certainly the Leader of the Government in the Senate has not suggested that there are any changes to ministerial arrangements for today’s question time.

Senator McEwen—Does the minister recall the case of T&R Pastoral and the investigation into reports that it had misused the 457 visa scheme? Specifically, does the minister recall her advice to the Senate on 28 March 2006 that she was determined to ensure that examples of 457 visa abuses were dealt with and dealt with promptly? Does the minister further recall telling the Senate on 14 June that T&R was still being looked at by her department? Can the minister now explain why, five months after she claimed that visa abuse by T&R would be dealt with and dealt with promptly, we are still waiting to be advised on the progress of the investigation and its findings? Isn’t this proof of the minister’s failure to properly manage this program, and can she now finally update the Senate on the status of the allegations against T&R Pastoral?

Senator Vanstone—I might take the opportunity to apologise for being a few seconds late to question time—to you, Mr President, to the Senate as a whole and in particular to my opposition colleagues, since they are the ones who will be asking me questions today. Yes, Senator McEwen, I do remember the T&R Pastoral issue. It is a current issue. The investigation into that has finished. I think it was the week before we came back here, when it was very nearly finished. I had seen at least a part of the draft of the report and was unhappy with one assertion, and I wanted that assertion further checked. It was an assertion, incidentally, in favour of T&R, but I did not think that the few sentences there gave an adequate answer. In other words, you could have read this and still have been misbehaving. The statement, ‘It’s okay because of X, Y and Z’ that was made could have been true, but in the particular area that I was looking at—which was housing, the provision of housing and charging for housing—it could still have been true that they were not doing the right thing. It is possible to have two true statements; say only one and therefore mislead as to the other. So I asked for further work to be done on that.

Further work has been done on that; I have been verbally advised that the statement holds and the negatives that could have been there are not there. I will have to check and see whether the final report has come. It will be no surprise to indicate that there is an area where the people engaged on 457s are not doing the sort of work that they should be doing, and I am in the process of working out the best way to deal with that, both to ensure further that there are no problems in the future and also to maintain the production at T&R so Australian jobs are not lost. These are not competing interests; I think it is in everybody’s interest. But there are balancing interests to take into account, and I hope to have that matter resolved very soon.

Senator McEwen—I thank the minister for her answer, that the report was almost completed. However, it is nearly five months since the minister said that this was such a grave issue that it had to be dealt with urgently. As a supplementary question, can the minister advise why it has taken her so long to advise the Senate on the outcome of this investigation, and can the minister indicate what penalties or sanctions, if any, will be applied to T&R Pastoral? What action has the minister taken to ensure that T&R does
not continue its illegal use of 457 visas in the future?

Senator VANSTONE—The parts of an investigation that can be done by the department itself can usually be done, relatively speaking, quite quickly. But in terms of a skill assessment it needs to be done by MINTAC or another authorised body. We have been using MINTAC: I think that took some time, but I can have a look at the components in the flow process as to what has taken the time here. I can say that we are not approving further 457 visa holders for T&R at this point. As to righting the wrongs, I think that goes to the point that I have made to you, Senator. That is that my whole interest as the immigration minister is in building Australia and building Australian jobs, and if the process of compliance costs Australian jobs then I am going to think very carefully about the manner in which that compliance is implemented. But one thing we can do and are doing is not further approving 457 visas until we resolve this matter in the interests of the Australian employees at T&R. (Time expired)

Climate Change

Senator MASON (2.05 pm)—My question is to the Minister for the Environment and Heritage, Senator Campbell. Will the minister inform the Senate about greenhouse abatement measures put in place by the Australian government, and the Australian government’s international leadership on climate change? Is the minister aware of any alternative policies?

Senator IAN CAMPBELL—I thank Senator Mason for the question. Senator Mason is from the great state of Queensland. Issues of energy policy and climate change are deeply important to all Queenslanders, as they are to most Australians. Senator Mason will know that the Commonwealth government is committed to providing secure energy for Australia which will underpin secure jobs, jobs growth and living standards for all Australians, particularly for Queenslanders. But we are also equally committed to reducing the impact of human activities on the climate. We are committed to finding energy production through clean, low-emissions technologies.

For example, the government has recently extended the photovoltaic rebate scheme, a scheme that rolls out solar cells on private houses and schools across this country. We are on target to reach 12,000 solar facilities across this country. It is a practical, multimillion-dollar project to create solar energy as a standard form of energy across Australia.

Senator Mason also asks about international leadership. While Labor is still talking about Kyoto, the rest of the world has moved to beyond Kyoto and post Kyoto. I am very proud to announce that Mr Howard Bamsey, the head of the Australian Greenhouse Office, is co-chairing the key United Nations framework convention policy group on finding solutions and pathways forward to building a truly effective international climate change action plan.

Senator Mason also asks about alternative policies. Today we have finally seen the Labor Party’s program for a national emissions trading scheme released to the Australian public. It is Labor policy. We have been waiting for it for two years. The lazy Labor Party up here could not come up with a policy, but their comrades in the states have. This morning the plan to have a national emissions trading scheme was launched, and it was launched with all six states listed on the front cover. I started a sweep in my office and I said, ‘By lunchtime Mr Beattie will be out of this.’ This is so bad for Queensland and so bad for Western Australians. It will drive up power bills by imposing a new Labor carbon tax on energy emissions right
around Australia. Under this Labor Party policy typical household power bills will go up by around $300, industry will be driven offshore and coalmines will be closed down.

I said there is no way that Queensland would be a part of this scheme. I wagered that Mr Beattie would be out of this by lunchtime, and I got it wrong. What happened before lunchtime was that Premier Carpenter in Western Australia, who clearly cares about Western Australians, said, ‘Under no circumstances will I be part of it.’ So we can already, by question time, take the great state of Western Australia off this. They are gone. I have money on Mr Beattie being out of this by five o’clock because this is so bad for Queensland.

The impact of this plan for a carbon tax, backed by Mr Latham and now backed by Mr Beazley, is a 30-plus per cent decrease in the use of domestic coal in this country. Do you know what that will do to the Queensland coal industry? They sell $10 billion worth of coal in this country in any given year. That is a $3 billion reduction in coalmining in Queensland alone, wiping out thousands of jobs in the Queensland coal industry.

This government is about reducing the carbon coming from coal and using coal cleanly. That is how you get secure energy; that is how you get a greenhouse outcome. The Labor Party wants to stop coalmining and stop the use of a great Australian resource. I give Mr Beattie by five o’clock tonight to be out of this and destroy Labor’s stupid policy for a new carbon tax.

Skilled Migration

Senator CHRIS EVANS (2.10 pm)—My question is directed to Senator Vanstone, Minister for Immigration and Multicultural Affairs. Can the minister confirm information from her department on occupations filled by 457 visa holders that 43 waiters, 77 domestic housekeepers, 251 personal assistants and 1,594 elementary clerical workers entered Australia on the visa last year? Isn’t it the case that none of those occupations are on the list of skills shortages prepared and published by her department? Isn’t it the case that only 107 carpenters, 31 bricklayers, 25 plumbers and 13 plasterers were issued with 457 visas out of the total of 50,000 people who entered on that visa last year, and aren’t all those occupations actually on the skills list issued by the department? Don’t these figures prove that the 457 visa scheme has little to do with addressing skills shortages and is simply a free-for-all allowing some employers to seek new sources of cheap labour?

The PRESIDENT—That was a very long question, Senator.

Senator VANSTONE—Senator, if you indicate to me at some point after question time what the figures are to which you are referring—

Senator Chris Evans—they’re off your website.

Senator VANSTONE—Thank you, Senator, for saying they are off the website. But, for someone who is familiar with these visas, they might be figures in relation to nominations, which would be different from figures in relation to visas granted, and both would be different from the stock in Australia at any one time—that is, the flow is different from the stock. The senator, with respect, has not made the specific location of the figures on which he wants me to comment clear. I am very happy to have a look at it and give him an answer but I do need more information than that.

Opposition senators interjecting—

Senator VANSTONE—I am facing a situation here where there are senators behind their leader seeking to ask different questions from the leader’s, and it does make
it a bit difficult to focus on what it is the leader wants to ask. I will take this, having indicated to the senator that if he gives me the particular source document he is commenting on we can have a conversation about it at some point when I have the opportunity to give him a sensible answer.

I did hear in the question, ‘Isn’t this an excuse to bring in low-income workers?’ The average salary on this visa is $60,000. That is not regarded by anyone as a low salary. That is the average salary for this visa. The biggest user of the visa, I am still advised—I will check if this is right—is the New South Wales Department of Health, and the biggest category are health workers all around Australia. The last I heard was that Labor governments were not in the process of bringing in people from overseas to undercut the wages of their own workers.

Senator CHRIS EVANS—Mr President, I ask a supplementary question. I am surprised the minister does not understand a bit more about how the scheme is operating. The information does come from both her website and the Parliamentary Library. Can the minister confirm that thousands more visas are issued for work in occupations which are not and never have been regarded as having a skills shortage than in jobs where there are known to be critical shortages, such as the health sector, to which she referred? How can it be that the government granted a mere nine 457 visas to panelbeaters but 25 to caravan and camping ground workers? Since when has there been a shortage of Australians able to work at caravan parks? Doesn’t this expose the minister’s assertions about the 457 visas being used to plug skills shortages as actually false? They are not about skills that are in short supply.

Senator VANSTONE—What I have consistently said about the 457 visa is it is one of the most valuable visas to the Australian economy because it does allow skills shortages to be filled and to be filled quickly. But within that there is a tremendous range; people on salaries of hundreds of thousands of dollars are on these visas.

What appears to be a shortage nationally is not necessarily the same as a shortage for a particular company in a particular place. The senator might want to put the proposition—I would be interested if he does—that if you and your wife are in Perth and there is a job available in Queensland, and your wife is working and you are not, that your wife should quit her job and that you should move to Queensland for that job. The fact that there is not a national shortage does not mean that there is not a particular shortage in a particular area. (Time expired)

Family Relationship Centres

Senator TROETH (2.15 pm)—My question is to the Minister for Justice and Customs, Senator Ellison. Will the minister please update the Senate on the progress in establishing the Australian government’s new family relationship centres?

Senator ELLISON—I thank Senator Troeth for what is a very important question which concerns many Australians. In one of the most significant reforms to family law in this country in 30 years, we have now introduced the family relationship centres. On 3 July this year 15 centres opened. It is great to see that they are in action and to see the work that is being done. But we should remember what these centres are aimed at—at assisting families who are having relationship difficulties and, indeed, where relationships have broken down. Unfortunately it is a fact of life in Australia today that not all relationships are lasting and, in many of those situations, there are children involved.

I am pleased to say that, in relation to the 15 family relationship centres which have opened, over 2,000 telephone calls have been
received, 720 people have dropped into a centre for assistance with family relationship issues and some 1,020 interviews have been conducted with an equal percentage of female and male clients. As well as that, 255 clients have attended group sessions and the family relationships advice line has received some 8,600 calls. As well as the 31,000 information kits which has been mailed out some 10,000 kits have been distributed as a result of requests from people in relation to the new family relationship centres. I urge all senators to have a look at these kits because they spell out of the new family law system and, interestingly, they have on their cover Putting the focus on kids. It has in it some very important messages for people who are going through relationship difficulties and indeed the breakdown of relationships—and importantly so where children are involved. I think that this sort of material can be of great benefit to those people who are in that situation.

These 15 family relationship centres are located at Joondalup in my home state of Western Australia; Darwin; Townsville and Strathpine in Queensland; Wollongong, Penrith, Sutherland and Lismore in New South Wales; Mildura, Ringwood, Sunshine and Frankston in Victoria; Hobart in Tasmania; Salisbury-Elizabeth in South Australia; and here in Canberra—such is the diversity of the location of these relationship centres, and of course there are more to come. Next year we will see further relationship centres rolled out. The target is that we will have a further 25 in July 2007 and another 25 in July 2008, bringing it to a total of 65 family relationship centres across Australia.

This is a significant reform to family law in this country. It is an initiative which is designed to streamline and make less complicated the advice that is available to families who are having difficulties in relationships and, importantly, it is placing great focus on the children who are subject to those difficulties and, in some, cases separation. I commend all senators to take up the offer of the Attorney-General to look at these kits and at the good work being done by family relationship centres.

Skilled Migration

Senator WONG (2.19 pm)—My question is directed to Senator Vanstone, the Minister for Immigration and Multicultural Affairs. Can the minister confirm that under the current 457 visa program employers are under no obligation to offer positions to Australians before employing a temporary foreign worker? Doesn’t this mean that any employer can now look overseas for a temporary worker for any of the hundreds of classifications listed as ‘skilled’ under the regulations, even when there are unemployed Australians with the necessary skills available? Isn’t the 457 visa program no longer about filling skills shortages and all about opening up another source of labour? Did the minister effectively admit this in June when she conceded that the reason why we needed the increasing number of temporary foreign workers was to keep the wages of Australians down?

Senator VANSTONE—I thank the senator for the question. I do regret, however, the consistent reference by members of the opposition to temporary ‘foreign’ workers. ‘Foreign’ was never a pejorative in Australia but it has started to become one as a consequence of contributions made by the—

Senator Conroy interjecting—

The PRESIDENT—Senator Conroy! I heard what you said. Withdraw.

Senator Conroy—I withdraw.

Senator VANSTONE—We used to and we try to use the terminology of ‘skilled migrants’ and ‘temporary skilled migrants’ because we are a migration country. ‘Foreign
worker’ is becoming a pejorative that the Labor Party is particularly keen on pushing. For those interested in this point about temporary foreign workers, I encourage them to go to the House of Representatives Hansard and see one of Mr Beazley’s contributions on this point. Mr Beazley actually said that Australian parents were right to be frightened about their children being humiliated and their children being displaced by foreign workers coming to Australia who would work for almost nothing.

In the 21 years I have been in politics, and it is a long time, I have never heard a politician, let alone a would-be Prime Minister, say to Australian families: ‘Watch out for your kids—they’re coming to get them! And it’s the foreign people that are coming.’

Opposition senators interjecting—

Senator VANSTONE—Read the speech—it’s a fabulous read! But, guess what? It is not just any foreigners. Oh, no! Not the people from Bristol and Birmingham and Blackpool. It is the people from Beijing and Bombay and Beirut that we need to look at. And because Mr Beazley is not prepared to say that is what he means, what he says is ‘people from low-income countries’. That is the euphemism that is used. Then a press release is put out, just in case we were not sure which low-income countries we were talking about. So I do not welcome that part of the question.

The senator does not seem to appreciate the cost of bringing people into Australia. People do not want to bring foreign people from overseas into Australia at their expense unless they need them. It is just as simple as that.

Senator WONG—Mr President, I ask a supplementary question. I again remind the minister, and perhaps in response to the supplementary she could answer, that the primary question was about the fact that the government has removed the requirement that any positions be offered to Australians before employing someone under a 457 visa. I also ask the minister: hasn’t the removal of any requirement to offer such positions to Australians simply opened up the program to routing by unscrupulous employers? Can she confirm that employers have complained to her department about competitors using the 457 program to gain an advantage by employing temporary foreign workers on wages well below current market rates? Can she explain why the Howard government believes qualified Australians should be bypassed by employers looking to undercut wages?

Senator VANSTONE—I must say that historically this is an interesting proposition, that a party that has in the past been so attracted to the union movement and said the market cannot possibly work now realises that under a Liberal government the market actually works very well and workers are doing very well.

Senator Wong interjecting—

Senator VANSTONE—That is why, of course, they are walking away from the union movement—because the market is working very well, and workers are actually getting more.

Senator Wong—Mr President, I raise a point of order. How can the minister’s answer possibly be relevant under the standing orders to the question which was asked? The question was quite clear: in relation to the use of this program by unscrupulous employers to undercut wages and conditions.

The PRESIDENT—Senator Vanstone, you have 37 seconds.

Senator VANSTONE—Mr President, the good senator knows full well that people cannot come in on this visa unless they pay the award rate or the minimum salary level, whichever is the higher.
Senator Chris Evans interjecting—
Senator Wong interjecting—

Senator VANSTONE—She should understand that. I am sure the senator does. The confected rage and condescension suit you, Senator. It might fit your personality but it does not frighten me, Senator, so save it for someone else.

The PRESIDENT—Order! I remind those senators asking questions that at least they should give the minister the opportunity to answer the questions. Continued interruptions are disorderly, and if they continue I will take action.

Senator Chris Evans—Mr President, I rise on a point of order. While you are ruling on behaviour in the chamber I might draw your attention to the fact that the minister was directly addressing and abusing the questioner. I draw your attention to that behaviour while you are seeking to enforce standards in this place.

The PRESIDENT—It does not make any difference to what I said, Senator. I try to take note of everything that happens in the chamber. During that last supplementary answer both you and Senator Wong continued to shout across the chamber, and that invites reaction from the person who is answering the question.

Senator Chris Evans—Mr President, I rise on a point of order. While I appreciate your commentary on our behaviour, I draw your attention to the behaviour of Senator Vanstone: not speaking through the chair but actually addressing the senator and seeking to abuse the senator. I draw your attention to that and ask that you enforce the standards of the Senate.

The PRESIDENT—We all know that interjections are disorderly and we all know that senators should make their remarks through the chair. I remind everybody of that.

Health Workforce

Senator TROOD (2.27 pm)—My question is to my colleague from Queensland the Minister for Ageing, Senator Santoro. Will the minister advise the Senate of decisions made at the recent COAG meeting to provide more doctors and more nurses and a better trained and more responsive health service? Is the minister also able to advise of particular benefits to our home state of Queensland?

Senator SANTORO—I wish to thank my good friend from Queensland for the question and acknowledge his very keen interest and regular advice to me on workforce issues within the aged care industry and the health industry of Australia. The Howard government has a very proud record in the subject area that Senator Trood talks about. Since 2000 there has been a 30 per cent increase in the number of first-year places in Australian medical schools. Last year there were some 1,300 medical graduates around Australia and it is anticipated that, on current policies, there will be 2,100 medical graduates by the year 2011. This represents a 60 per cent increase thanks to the policies of the Howard government.

On 8 April 2006 the Prime Minister announced 400 new medical places and 1,000 new nursing places, and an increase in the Commonwealth contribution to nurse clinical training. At its meeting on 14 July 2006, COAG agreed to further contributions by the Commonwealth, such as an additional 205 medical places. The total amount invested by the Howard government in COAG health workforce initiatives is now around $300 million over four years. That is very significant. That $300 million includes funding for the following: a total of 605 new medical places, with 220 going to Victoria, 150 for Queensland, 110 for New South Wales, 60
each for WA and South Australia and five for Tasmania; and an increase in the Commonwealth contribution for nurse clinical training which works out to about $31 million over four years. In addition to that, there is a national health workforce registration scheme which will improve workforce mobility, safety and quality and reduce red tape. The government will also expand specialist training into a broader range of settings, including the private sector, by January 2008.

On the second part of Senator Trood’s question, relating to Queensland, I am pleased and very proud to report that the Howard government provides substantial funding to Queensland to assist with public hospital services. Up to $8 billion will be provided over the life of the 2003 to 2008 Australia health care arrangements, including around $1.7 billion for this financial year. That is a very substantial investment in the health care system of Queensland. Of course, everybody knows the state governments are responsible for administering their health systems. Under the Howard government, state governments like Queensland, Victoria and South Australia that are run by state Labor governments have basically wasted and squandered the money. In the case of Queensland, there have been countless examples over the last 12 months.

Senator Abetz—Dr Death.

Senator Santoro—One example was the example of Dr Death. Just last week the federal member for Dawson exposed yet more flaws in the supposedly tough new quality controls of the Beattie government that have supposedly been put in place following a series of Queensland hospital fiascos. As the Senate can see from the statistics I have quoted, the Howard federal government provides rivers of gold to the health systems of the various states, including Queensland, through GST revenue and special purpose grants—rivers of gold that are squandered irresponsibly by state governments such as the outgoing Beattie Labor government.

Illegal Forestry Imports

Senator Bob Brown (2.31 pm)—My question is directed to the Minister representing the Minister for Foreign Affairs.

Senator Abetz—I thought it was going to be forestry.

Senator Bob Brown—I am sorry?

The President—Order! Senator Abetz, interjections are disorderly.

Senator Bob Brown—I ask a question regarding forestry in Papua New Guinea. I ask the minister whether it is true, as stated in a new report from the Australian Conservation Foundation and the Papua New Guinea Centre for Environmental Law and Community Rights, that $400 million of illegal logging material is imported into Australia each year? Will the government stand by its pre-election commitments and statements from the current Minister for Agriculture, Fisheries and Forestry, Senator Abetz, that it will bring an end to this illegal influx of wood into Australia, which has some pretty terrible community consequences back in Papua New Guinea?

Senator Coonan—I thank Senator Brown for the question, which might have had a more responsive answer if it had been directed to the relevant minister, the Minister for Agriculture, Fisheries and Forestry. But I understand that Senator Abetz, as the minister, has acknowledged that that is correct.

Senator Bob Brown—Mr President, I raise a point of order. I will take your direction on that. The Minister for Agriculture, Fisheries and Forestry, Senator Abetz, is responsible for forests within this country. My question is to do with forestry in another country and the trade in goods. Senator

CHAMBER
Coonan’s portfolio covers both those areas and the question is properly directed.

**The President**—You have asked the Minister representing the Minister for Foreign Affairs and I am sure she will attempt to give you an answer.

**Senator Coonan**—I always try to give a very responsive answer. In answer to Senator Brown, I understand that Senator Abetz has already acknowledged that that is the case and that there will be a report coming out later this month that will deal with this issue.

**Senator Bob Brown**—Mr President, I ask a supplementary question. A report does not deal with the question of whether the government is going to move to end the import of illegally logged material from Papua New Guinea. That is what the minister can give an answer to the chamber about. Is the minister aware that last week four non-government organisation staff were beaten by police while doing fieldwork in Papua New Guinea? Is she aware that a senior lawyer representing communities fighting logging issues has received death threats? Is she aware that several Greenpeace activists have been threatened with arrest on trumped-up charges in that country? Is the government prepared to use its undoubted huge diplomatic strength to bring an end to the corruption in this industry in Papua New Guinea?

**Senator Coonan**—I again thank Senator Brown for the supplementary question, which contained a number of assertions and assumptions. I am astounded that Senator Brown seems to know what is in the forthcoming report. With the greatest of respect, I suggest that Senator Brown wait for the report so that he can see the issues that will be dealt with.

**Broadband Services**

**Senator McGauran** (2.35 pm)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Coonan. Will the minister inform the Senate about the broadband options available to Australian consumers today and the steps the government is taking to improve broadband availability in the future? Is the minister aware of any alternative policies?

**Senator Coonan**—I thank Senator McGauran for that very pertinent question. The fact that Australia ranks in the top five OECD countries for growth in broadband take-up demonstrates the value that Australian consumers place on broadband. Australian consumers are indeed a savvy lot. That has been proven with the explosion in mobile phone take-up a number of years ago. If they can see a valid use for new technology at an attractive price then they adopt it in droves. The government does recognise the strong consumer and business demand for improved broadband. That is why we have invested more than $3 billion in Connect Australia and the Communications Fund package to ensure that Australia can become a world leader in effective broadband use.

I also currently have under development a broadband blueprint which will be a uniquely Australian approach to encouraging broadband infrastructure investment in this country. The broadband blueprint will be a national framework for the rollout of next generation infrastructure for all parts of Australia, by both governments and the private sector. The blueprint will ensure that the rollout of next generation broadband is coordinated across jurisdictions with clearly delineated roles for state, territory and local governments that meet the needs of end users. This is a far-reaching and coordinated approach which will mark Australia as a world leader in the effective use of broadband.

**Senator Conroy interjecting**—
Senator COONAN—It is interesting that Senator Conroy interjects. I was asked about alternative policies, and I would welcome a debate if there were credible alternative policies from the opposition in this important area. Senator Conroy’s statements last week that ADSL2 Plus technology can only achieve speeds of three megabits a second have been branded by the telecommunications industry as codswallop. Several service providers of fast broadband, such as iiNet and Internode, have pointed Senator Conroy to the true speeds that ADSL2 Plus broadband is offering Australian metropolitan consumers today.

While it is, of course, deeply embarrassing for Senator Conroy that his comments have been branded as codswallop, Senator Conroy’s incompetence has also been noticed by his own side. A brief look across the ALP website clearly shows that the ALP’s Mr Lindsay Tanner believes he is the real shadow minister for communications. Not only are Mr Tanner’s last five media releases all communications related, they were all issued well before anything dribbled out from Senator Conroy’s office.

On payphones Mr Tanner was frontman. On the media reform package the comment came from Mr Tanner. On the issue of internet filtering, once again Senator Conroy was missing in action. It is not a good look for Senator Conroy to have Mr Tanner second-guessing him, calling the shots and relegating him to being the second-string opposition spokesman on communication.

Now, as we have seen over the last few days, while the Labor Party has taken the lazy option in communications of adopting any report and adopting any commentator’s views, this government does the heavy lifting in communications. We are getting on with the job of transforming the telecommunications sector to meet Australia’s present and emerging needs.

Skilled Migration

Senator MARSHALL (2.39 pm)—My question is to Senator Vanstone, the Minister for Immigration and Multicultural Affairs. Can the minister confirm that her department is negotiating a labour agreement with the meat industry in relation to temporary foreign workers? Will the minister commit to inserting an hourly rate for temporary foreign workers employed in the meat industry in that agreement?

Haven’t employers asked for such an hourly rate to be included, as a significant step towards stamping out the exploitation of temporary foreign workers in the industry? And why hasn’t the government acted already to make this change to protect temporary foreign workers and stop the abuse of the program? Will the minister also rule out approving any sub-agreement negotiated with individual employers that waters down the conditions or reduces the pay rate contained in the industry-wide agreement?

Senator VANSTONE—The answer to the question, ‘Are we in negotiations with the meat industry with respect to a labour market agreement?’ is yes. When we have an agreement, if that in fact comes about, I think the senator will be pleasantly surprised by a range of things that we would hope to see in the agreement, certainly including salaries. An agreement may be constructed in an umbrella format so that it is possible to have sub-agreements with individual companies but that will only be for the purpose of ensuring that companies who do not want other companies to know how they are structuring their staff are able to do that—that is, that they can have some confidentiality between them and the Commonwealth as to the numbers. There will be no sub-agreements at all
for the purposes of watering down any conditions.

Senator MARSHALL—I have a supplementary question, Mr President. Can the minister confirm that, instead of tightening up the use of temporary foreign workers in the meat industry, the government is considering expanding the occupations that can be filled by those workers? Won’t this mean that lesser skilled jobs will be filled by those on 457 visas? Doesn’t this show that under this government the program has less to do with plugging critical skills shortages but more to do with opening up sources of cheap labour?

Senator VANSTONE—In relation to the question, I refer the senator to the answer that I gave to Senator Wong—and that is that there is a minimum salary level involved here, and people cannot go below that.

I should correct an answer that I gave. I believe I told the Senate earlier that the average figure for this salary was $60,000. I regret I made a mistake. I have reread my brief and $65,000 is the average salary for this visa.

The reason that people want to bring in skilled migrant workers from overseas is because of the shortages, and the reason it is done without labour market testing goes back to a report commissioned by Senator Bolkus, as the Labor minister for immigration, who, in consultation with the industry and the unions, agreed that labour market testing for key activities was unnecessary.

Senator Carr—For labourers?

Senator VANSTONE—Perhaps what we will do is get some hearing provision for Senator Carr.

Senator Chris Evans interjecting—

The PRESIDENT—Senator Evans, I am on my feet.
However, Australian aid funds can be used to provide information on the risks associated with unsafe abortion procedures. AusAID is undertaking a limited review of the aid program’s family planning guidelines. The focus of the review is to streamline the procedures within the guidelines. In 2006-07 estimated funding for reproductive and sexual health related activities, including HIV-AIDS, is $116 million, which is 4.4 per cent of the total aid budget, excluding Iraq debt relief. So, in response to Senator Allison, the government is undertaking this review with the kinds of matters to which she alludes in mind, against the background of the government’s policy position and the real difficulties that are in the face of the kind of action that she implies should be taken.

Senator ALLISON—Mr President, I ask a supplementary question. I thank the minister for her answer and I ask whether this limited review may include possible change in the case of countries where abortion is not illegal. Can the minister provide the Senate with evidence that in some countries these terminations are involuntary?

Senator COONAN—In response to Senator Allison’s supplementary question, I think it is appropriate to wait for the review. It will then be obvious as to the basis upon which the government might take some action in relation to some of the practices that have been the subject of the substantive question. I would have thought that Senator Allison would have been well aware of the allegations that abortions are involuntary in some countries. I do not know whether Senator Allison was on a committee I was on a few years ago—certainly Senator Bartlett was on it—where that was the very subject of a particular inquiry. These matters are serious. They are matters of concern to the government, and the review will address those concerns.

Skilled Migration

Senator LUDWIG (2.47 pm)—My question is to Senator Vanstone, Minister for Immigration and Multicultural Affairs. Can the minister confirm that, in relation to the compliance measures for the 457 visa, the department currently visits 25 per cent of employers employing temporary foreign workers annually? I ask whether the department stated, in relation to these compliance visits, that:

... as we are there at the courtesy of the employer ... we do not as a matter of course take the employees away and interview them separately.

Isn’t it a fact that employers are warned before a visit and have the right to refuse entry to DIMA officers? Doesn’t this explain why thousands of these site visits have identified fewer than 10 cases of noncompliance? Hasn’t the government failed to protect the rights of temporary foreign workers and done little to deter those employers who want to abuse the program?

Senator VANSTONE—I think what the senator says is right. I will check the exact words, but I think the expectation of what has been said is correct. The department does plan to visit 25 per cent of the companies. That does not mean visa holders, because we might have one company that might have a few hundred. We are there at the courtesy of the employer. There is not a right of entry. My experience in this place, both on this side and that, is that whenever a minister wants to give a department right of entry into somebody’s home or workplace there is a tremendous civil liberties debate about who can bash down doors and just go in. But we can have that debate. If the opposition is suggesting that the immigration department should be given automatic right of entry to premises where 457 visa holders are expected to be working, I for one would welcome that. It would make life a lot easier. In terms of
We all have to work within limitations—that is, what we want to achieve and what other people’s liberties and rights are. That is why the parliament has always been very cautious about giving officials and compliance officials who are not at the most senior levels in the department the capacity to just arrive at someone’s door and say, ‘Here I am,’ and disrupt their business.

I do remember an occasion when, as a new minister, I was advised in advance of a number of immigration raids that were going to happen. They were looking for unlawful noncitizens, but they would have also picked up any people who were there on 457 visas as a part of the process. It was about a particular restaurant in Sydney. There was a furore that the immigration department would dare to go to a restaurant that was trying to serve lunch. If you are looking for people who are unlawful noncitizens, you do not go there overnight when they are closed; you go when the workers are going to be there—that is, when people will be serving tables et cetera. So, Senator Ludwig, there is a balance to be found here, but if you are indicating on behalf of the Labor Party that the balance is going to shift in favour of compliance and more power will be given to the immigration department to force entry into places to get information, we would—

Senator Chris Evans—He’s actually asking what you are doing to make sure you are satisfied.

Senator VANSTONE—By way of answering Senator Evans’s interjection, the question was raised in the context of, ‘Isn’t it true you don’t have this power?’ as if to say that if we did have it we would be better off. I am simply saying that, if that is the point that is being made on the other side, please tell us that you would like to give immigration officers more power to storm workplaces to understand what is happening.

I will simply repeat two things I have said here before. Firstly, this is one of the most valuable visas Australia has to grow Australian jobs. When there is a particular shortage in an industry or a company—there might be a piece of equipment that desperately needs fixing and there are few people who can do it or there might be some technology that needs installing and there are few people in the world who can do it and do it quickly—then people can be brought here and they can do the work. That means that Australian jobs are kept going and in fact grow.

The second thing that I have said is that if anybody has information about someone misusing this visa then they should give us the information and we will look at it. You only have to look at Western Australia, where about 90 per cent of the cases that we have sent to the Western Australian government for investigation have proved to be cases that should be looked at. What does that tell you? It tells you that we are unsure about 10 per cent of the cases but we send them anyway because we want to make sure that the people who are doing the wrong thing are caught.

Senator LUDWIG—Mr President, I ask a supplementary question. Does the minister agree that visiting companies and asking temporary foreign workers in the presence of their employer, ‘Are things going well?’ and ‘Is there anything you would like to talk to DIMA staff members about?’ is an ineffective compliance strategy? Isn’t that the description the minister’s own department gave of those visits? Can the minister confirm how many employers have been permanently banned from employing temporary foreign workers as a result of the department’s compliance activity?

The PRESIDENT—Could those senators in the chamber who are standing please resume their seats. It is rather disconcerting
during question time. Senator Campbell, could you hurry up, please, because it is disrupting the chamber.

Honourable senators interjecting—

The PRESIDENT—Senator Campbell, resume your seat!

Senator VANSTONE—It is not always the case that people are interviewed in front of their employers. In fact, I might go back to the T&R case. I indicated that the report on that case had been held over, because I believed that, while one sentence could be true, it still might not give them a clean bill of health. I had been told there had been an issue in relation to housing, and I have subsequently been given some details of that. I am glad that my suspicious mind did in fact ask for the report to be held over, because I will have a further look at the housing issue given what I have now seen. The reason I say that is in part related to Senator Ludwig’s question, because some of the things that some workers said were not said in the presence of their employer. So it is not always true that it happens that way. We can all take one extreme example and extrapolate it out to be the norm. I can assure you, Senator, that if you have examples of people being misused, let us know and we will investigate. (Time expired)

Illegal Fishing

Senator JOHNSTON (2.54 pm)—My question is to the Minister for Fisheries, Foresty and Conservation, Senator Abetz. Has the minister seen a report alleging that a large number of dolphins are illegally taken by Indonesian fishermen off the Western Australian coast? What is the government’s response to these claims?

Senator ABETZ—I acknowledge Senator Johnston’s strong advocacy within government in assisting in the fight against the scourge of illegal fishing in our northern waters. I am aware of the report to which Senator Johnston refers. Let me say clearly and categorically that I am concerned by the suggestions. Every dolphin caught by illegal Indonesian fishermen is one dolphin too many. That is just one of the many reasons that the Howard government is investing an extra $389 million in protecting our borders from fish poachers—an investment which I note that those on the other side, judging from their opposition to the new mother ship, consider to be too much.

There is no doubt that Indonesian fish poachers take dolphin—generally for bait. But there is absolutely no evidence that dolphin are being targeted, as this report asserts, because the shark stocks are running out. In fact, I am advised that, out of the 841 Indonesian vessels apprehended in the past four years, only three have been found to have dolphin on board and, interestingly enough, none of those vessels have been caught off the north-west of Australia.

Let me say this about that so-called report: this is not about dolphins; it is all about the impending decision of the Western Australian fisheries minister, Mr Ford, to try to justify the closure of the Western Australian small blacktip shark and grey mackerel fisheries. In fact, I am informed that this alleged report is nothing more than an internal working document. I invite the Western Australian government to outline when this alleged report was written, by whom, what their scientific qualifications are and whether or not there was any peer review of that document. I suggest that the document was not based on rigorous science. The allegation is that 3,650 dolphins were caught. Quick maths tells you that there are 365 days in a year and that if you multiply that by a convenient 10 then, bingo, you have the figure of 3,650. It is a lot of guesswork with no science whatsoever. I would be very interested to learn about the robustness of this alleged report.
Western Australian shark fishermen and the Northern Shark Industry Association Chairman, Rob Lowden, told the West Australian on 11 August—and he has also told me—that there is no need to shut down the Western Australian blacktip shark fishery because of illegal fishing activities. In fact, these sharks are not even targeted by the illegal fishers. The interesting thing about all of this is that when the Western Australian government leaked this alleged report to the media they presented them with a photograph which was allegedly from the department of fisheries. That is false and wrong. It also said, ‘Here is a picture of a dolphin in a net.’ Once again, that was false and wrong. The picture was from Coastwatch, and do you know what was in that net? Very sadly, it was not a dolphin but a dugong. That is what happens when a state Labor government seeks to rush out to make mischief to try to justify not backing its decisions with any science or any integrity. *(Time expired)*

**Senator Johnston**—Mr President, I ask a supplementary question. Could the minister further inform the Senate as to the management—or mismanagement as the case may be—of the WA fisheries by the Western Australian state government?

**Senator Abetz**—The point made by Senator Johnston is absolutely right. Those involved in the north-western shark fishery tell me that there is no need to close that fishery. What they are telling me is that they need a management plan. It is very easy for any fisheries minister to just close down a fishery as opposed to doing the hard work and getting the science together to develop a genuine and proper fisheries management regime.

What I suggest to Mr Ford and state Labor in Western Australia—as I have pleaded with them before on these issues—is this: do not rush to the media and then embarrass yourself by putting out wrong photographs and making wrong statements. Simply pick up the phone and I, as the fisheries minister, will be more than happy to cooperate so that we get a good, sensible regime of fish management right around the country.

**Skilled Migration**

**Senator Lundy** (3.00 pm)—My question is to Senator Vanstone, the Minister for Immigration and Multicultural Affairs. Is the minister aware of concerns about the operation of the 457 visa scheme in the IT industry? Is it the case that in June 2004 there were 5,000 foreign nationals working in the Australian IT industry—including 2,200 people younger than 30 years old with little or no prior work experience? Is it not also the case that around 2,000 locally trained IT graduates could not find full-time work in the industry? Isn’t this exactly what Dr Peter McDonald, who is the co-author of the ANU research which was released yesterday, meant when he said that we should consider the consequences of a policy of recruiting people on 457 visas at the same time as Australian graduates cannot get jobs? Or is it that the 457 visa program is so out of control that the minister is quite happy for employers to use these visas to hire cheaper, lower skilled temporary migrant workers instead of locally trained young Australian graduates?

**Senator Kemp interjecting**—

**Senator Vanstone**—I acknowledge the interjection by Senator Kemp. He is now in the business of counting the number of times that the word ‘foreign’ is used. It is in fact foreign in Australia to keep using the term ‘foreign’ as a pejorative term for people who come from overseas, but this seems to be the Labor Party’s new tactic. We have shifted from a dog whistle to a foghorn. We have now got a Leader of the Opposition who tells Australian parents, ‘Watch out, the foreigners are coming to take your children’s
jobs.’ If you are not ashamed of it, I am. You should be ashamed of it.

Opposition senators interjecting—

The PRESIDENT—Order! There are too many interjections, and I ask the minister to address her remarks through the chair.

Senator VANSTONE—Sorry, Mr President. When Mr Beazley says, ‘Watch out for your kids, because they will be humiliated by foreigners coming in and taking their jobs, and the foreigners will come from low-income countries,’ that is code for ‘not like us’. That is what he is trying to say: ‘Your kids will be dispensed with, because foreigners will come and take their jobs.’ That appears to be the only way the Labor Party thinks it can get any traction. I have got news for the Labor Party—

Senator Carr interjecting—

The PRESIDENT—Order! Senator Carr!

Senator VANSTONE—A temporary lapse of judgement by Senator Carr—and an indication of that judgement is the fact that the newspapers say that he voted for Mr Latham. Now to the question of IT workers. IT workers are amongst a significant cohort of people in the 457 visa category. It is simply not true to assert, however, that people who come in on 457 visas are new graduates who know nothing. It is extraordinary to hear Senator Lundy suggest that people under 30 have almost no skills. I think Senator Lundy needs to get with the program and look at the fact that there are young people in the IT industry who most likely have more skills than older people.

Senator LUNDY—Mr President, I ask a supplementary question. What does the minister plan to do to address the problems raised by Dr McDonald? Did the government fail to consider this issue when it axed the requirement for employers to demonstrate a local labour shortage before importing workers on 457 visas? Isn’t the minister’s failure to act now preventing young Australians from taking up employment opportunities in their chosen field?

Senator VANSTONE—The answer to the last question is: certainly not. It is clearly understood by, I think, all the academics involved in immigration that immigration adds value to Australia. It adds to the economy and it secures Australian jobs. It helps us to build a better and better Australia. Senator Lundy must have been absent when I pointed out that the reason that labour market testing has gone is that a former Labor senator, Senator Bolkus, called for a report on this issue, and the industry and unions worked together and said, ‘Get rid of labour market testing for key activities.’ It was kept for key activities and gotten rid of for the rest of the area. Then, for key activities, we looked at it and said, ‘Isn’t a better test a salary level and a skill level test rather than whether the employer can advertise in places and make sure that they cannot pass that test?’

Senator Wong interjecting—

Senator VANSTONE—I hear Senator Wong interject. If Senator Wong can find a caravan park attendant—as in a completely unskilled worker—on a 457 visa, I would welcome her letting me know.

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

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Skilled Migration

Senator WONG (South Australia) (3.06 pm)—I move:

That the Senate take note of the answers given by the Minister for Immigration and Multicultural Affairs (Senator Vanstone) to questions without notice asked by Opposition senators today relating to the 457 visa program.

CHAMBER
Today the minister was asked a great number of questions in relation to the government’s 457 visa, which is the visa the government says it has as a result of the skills shortages. It is a visa that is supposed to be about skilled workers and filling vacancies that cannot be filled by Australians. What we know from the minister’s answers, from her public statements and from her failure to answer a number of questions is that there is a vast gap between the government’s rhetoric—

The DEPUTY PRESIDENT—Senator Wong, resume your seat. There is too much noise in the chamber. Senator Wong.

Senator WONG—As I was saying, there is a vast gap between the government’s rhetoric about this being only about skilled migrants for areas in which there are skills shortages and the reality of what is happening on the ground. We already know—and the minister referred to it in her answer—that in the meat industry there have been a great many allegations about the misuse of this visa: suggestions that the visa is being used for classifications that it should not be used for and suggestions that people are being underpaid. In fact, the minister has had to ensure that her department investigated one particular company in South Australia, and we note that it has taken her department five months to do that. What we do not know is what has not hit the media and how often the sorts of abuses and misuses of this visa class which have been indicated by the media as occurring in the meat industry have occurred in other areas.

Senator Vanstone was also asked by the Leader of the Opposition in the Senate why it was that there were so many visas granted to persons working in occupations which were not on the list of skills shortages. The figures identified by Senator Evans included 43 waiters, 77 domestic housekeepers, 251 personal assistants and 1,594 elementary clerical workers. None of the occupations listed are on the list of skills shortages prepared by the department. I understand that the minister has taken some of the aspects of that question on notice, and I look forward to an indication as to why it is that there should be any visas in this category granted to persons with skills not on the skills shortage list if the justification for the granting of these visas is that the positions are not able to be filled by local workers.

The minister was also asked why it was that, of the some 50,000 people who entered Australia on this visa class last year, so few of the visas were issued in respect of occupations in which we do know there is a skills shortage in this country. That is largely, I hasten to add, as a result of this government’s failure to train Australians in its 10 long years in office. The sum total that we have been given is that, of those 50,000 people who entered Australia last year, there were 107 carpenters, 31 bricklayers, 25 plumbers and 13 plasterers. What comes to mind when you look at these figures is: why is it that occupations that are not listed on the department’s skills shortage list should be the subject of a 457 visa category? It is a very important policy question and, as yet, we are still waiting for an answer from Senator Vanstone about this issue.

There was another interesting figure that Senator Evans quoted—that is, that nine 457 visas were issued to panelbeaters. We know there is a bit of a skills shortage in Australia, but 25 visas were issued to caravan and camping ground workers. I do not know what other senators believe, but I certainly have not been inundated with constituents telling me that there is a skills shortage in the caravan and camping ground industry. One of the points that the minister has simply failed to properly address is the lack of a proper compliance system in relation to this
visa category and the fact that there is no obligation on an employer who seeks to engage a person through the 457 visa program to offer the position to an Australian worker before employing a temporary foreign worker.

The reality is that, even with the official unemployment rate being where it is, we have over two million Australians in this country who are officially unemployed, underemployed or only marginally attached to the labour force. We have millions of Australian workers who would be able to fill skills categories if they were given the opportunity and the support from this government to ensure that they had the skills to do those jobs. But this government is not interested in training Australians. It has demonstrated a complete lack of political and policy leadership over the last 10 years, including by this minister who, as I recall, in her term as minister in the portfolio actually reduced the percentage of funding of training and education in the 1996-97 budget. We are reaping what we sow. There are at least two million Australians who could potentially gain the skills to fill many of these areas. Instead, we have a government that is intent on bringing foreign workers into Australia. (Time expired)

Senator FERGUSON (South Australia) (3.11 pm)—One of the problems that we did not have when Labor was in power was the problem of 457 visas. One of the reasons that we did not have that problem was that, when the previous Labor government was in power, the economy was so shot to pieces that 11 per cent of Australians could not get a job at all. Under this government, because we have provided such a buoyant economy and we have reached the stage now where the unemployment levels in Australia are as low as they have been for 30 years, we have the problem that we have a lack of skills in some areas.

That was a never a problem for the Labor Party. They always made sure that there was plenty of unemployment. There were always plenty of skilled workers to fill the jobs that were available, because they ran the economy so poorly that there were always job vacancies and there were more skilled workers looking for jobs than there were jobs available. With the about-face, with the change that we have under the current government with the economy as it is, we have now had to introduce visas such as the 457 visa to try and fill some of the skills shortages that appear in certain industries—and they only appear in certain industries and there are specified skills.

I note that Senator Wong made a great deal of play about the meat industry and the workers under 457 visas who have come to South Australia, in particular. It is my home state—as it is for my colleagues Senators Bernardi, Chapman and Ferris, who are all in the chamber. There were tremendous skills shortages in the meatworker industry, and the 457 visas that have been introduced have helped us to fill those shortages. There have been complaints over a period of time about the wages and conditions and about the definitions of skills in that industry. There has been a problem in how skills in the meat industry are classified. Those problems have been brought about because the ABS and the department classify boners and slicers as unskilled, whereas the meat industry training authority classifies them as skilled.

Who is right and who is wrong? That is yet to be determined. But the confusion that existed because of the classification meant that these workers came in to fill those positions that could not be filled in Australia. The people who owned the meat companies and the abattoirs that were desperately short of employees got these people in to fill those places. The debate then started about which skill satisfied which criteria—do we take the
ABS and the department’s view or classification, or do we take the meat industry training authority’s classification? If people working under 457 visas were shifted out of their boner and slicer positions it would have serious implications for the jobs of many Australians, including those who are employed by this particular company throughout Australia. So the department has worked closely with the South Australian government to identify a resolution to this issue.

This would not be a problem except for the fact that this government has run such a successful economy. That is a point that should be driven home at every opportunity. Those on the other side of this chamber complain because, as a government, we have decided to introduce a class of visa that provides for people from another country to come and work to meet the shortages that cannot be met within Australia. On the other side of this chamber they complain bitterly because we are providing jobs for those people. It has filled a need within the industry that could not be filled anywhere else.

As the minister, Senator Vanstone, said in her answers today, 457 visas have been a tremendous success. Yet there is criticism from the other side of the chamber about the use of 457 visas to fill a need that has been created because of the buoyant economy. In the past, under Labor, people with other skills would have taken those jobs, because with 11 per cent unemployment they would do anything to get a job. They are now being employed elsewhere because of this government’s successes. Rather than making the noises that we hear coming from the other side, the opposition ought to reflect on the work that is being provided under 457 visas. (Time expired)

Senator LUNDY (Australian Capital Territory) (3.16 pm)—To follow on from the senator opposite, what he says does not make sense if you take into account the fact that 2,000 IT graduates cannot find work because they have been displaced by workers on 457 visas. The IT industry represents a very good example of where this system is failing, because it is not an industry whose employment standards have been based on awards traditionally; a lot of it has been done by independent contractors anyway. Therefore, it is highly susceptible to skilled migrant workers coming in on 457 visas and undercutting what is the going market rate for independent contractors in IT. When you look at what is going on in the IT industry, the government’s whole argument falls apart—that is, that these visas are only being used to fill the massive skills gap that they created.

Let us look at the link between the skills gap and the government’s policy. There is no doubt that the reason that so many skills gaps have been created is that the government, in stark contrast to all the other OECD governments, have actually reduced the investment in skills and education development in Australia over the last 10 years. Where everyone else is growing it, they are reducing it. That is absolutely ridiculous in a modern economy. I hear bleating from senators across the chamber that the skills shortage is a sign of the good economy. The skills shortage exists because there has been such poor investment in skills development in these areas over the last 10 years. That is what created the gaps in the first place.

There is a more sinister motivation for the government’s handling of 457 visas. It appears to be directly linked to what Minister Vanstone has put on record now—that is, that it is about keeping wages low. It is impossible to provide a fair assessment of what is going on with the 457 visa scheme without also taking into account the government’s aspiration to push wages lower, through their extreme industrial relations agenda. That is really the untold story, the part of the story
that the minister forgets to speak of when she answers the opposition’s questions. What is going on here is the potential for not just the displacement of local skilled workers—and we know there is the potential for that because of what has happened in the IT industry—but also the exploitation of skilled migrant workers coming to Australia. We know, because of what has happened in Canberra restaurants, that that potential is real. The government have been caught on the back foot, well and truly, because the exploitation of skilled workers has been exposed.

When Labor asks questions about the level of wages and the fear of displacement, it is about protecting the interests of Australian workers, yes, but also of migrant workers. What right do the government have to create a scheme that allows these people to come here and be exploited by Australian employers? We can look at the legislative program of the government to see that they have acted very quickly to try to shore up the massive gaps that have appeared in this scheme, including introducing penalties for employers for the first time ever. Let us get this clear: under the Migration Act there was no penalty on employers who breached the conditions of the 457 visa. There was no penalty whatsoever, except that they were not allowed to do it again. It seems to me that the Howard government are trying to move to beef that up a bit to try to preserve their reputation. There has been such poor management of the 457 visa scheme that employers have been able to exploit it to underpay migrant workers. That is unacceptable.

True to form, the minister marched in here the other day and said that they have uncovered, through the investigations into migrant workers, the fact that local workers have been underpaid as well. I presume there are now cases being prepared for prosecution, and penalties will apply and moneys will be owed. The minister does not mention that all those cases date from a time when the award system was still in place. This minister fails to mention that the government’s whole defence about maintaining the system falls apart if you apply Work Choices legislation. The fact that Work Choices destroys the award system means that they are destroying any sound basis for a skilled migration program to work effectively—one where migrant workers are not exploited and Australian workers are not unfairly displaced by people on lower wages. Let us state the facts: the government need to come clean and fess up that they have handled it badly. (Time expired)

Senator BERNARDI (South Australia) (3.21 pm)—It is interesting to listen to Senator Lundy talk about the exploitation of migrant workers or, as Mr Beazley describes them, foreign workers. It reminds me of a time that I think we all would rather forget, when xenophobic philosophies were being bandied around in the Australian political system. Unfortunately, it appears that that time is upon us again. I remind Senator Lundy that in May 2002, in a talk to Labor for Refugees, she said that it was ‘inconceivable’ that people were ‘willing to exploit the most base, racist of instincts’. And yet now we have the Leader of the Opposition, Mr Beazley, doing exactly that. He is on the record as saying:

… the only skilled migrants who should be coming into this country should be people who are coming in here for the full experience …

And yet he opposes 457 visas, despite the fact that over 87 per cent of 457 visa holders apply for permanent residence in this country. The minister is on the record as saying that the average salary of a 457 worker is $65,000 per annum. Ninety-three per cent of 457 visa holders surveyed by leading academics—who, incidentally, support the 457
visa program—are in professional or associate professional jobs or in skilled trades.

In my state of South Australia, as Senator Ferguson talked about before, the skilled migrant visa is absolutely in demand. It is not in demand from business only; it is in demand from the South Australian government. In fact, the South Australian government has more than quadrupled its state-sponsored skilled migration intake. The New South Wales Department of Health, of course, is the largest single sponsor of temporary 457 visas.

What I find really quite disturbing is the fact that the union movement are seeking to use 457 visas but also looking to do deals to undercut the wages of the people coming in. An article in the Australian of Friday, 20 January 2006, says:

The Australian Manufacturing and Workers Union and Australian Workers Union are in—negotiation with a labour hire company—to bring an initial batch of up to 400 skilled migrants from Southeast Asia …

The report says the workers would be offered a special pay proposal. It says that these workers would be offered by the union movement half the salary of an Australian worker and the other half of the salary would go into a union controlled trust fund. ‘Trust fund’ is the term that is used here; I would use the term ‘slush fund’. It does not say in the quote I have here, as far as I can see, exactly what it is going to be used for, but nonetheless this is of great concern. It seems that it is okay to try and underpay the workers if the union can control the rest of the money. I find that quite reprehensible—if it is true, I might add. I cannot rely on every media report, but nonetheless there it is. Mr Beazley is on the record as saying in 1998:

… a migrant finding a job in Australia, as we all know, creates jobs elsewhere in the economy …

In the town of Murray Bridge in South Australia, that is precisely what happened. No one complained when New Zealand workers were coming in to fill the requirements of T&R Pastoral and the abattoir jobs that Australians were not willing to fill. But, when we could no longer attract more migrants or trained professionals from New Zealand, we brought in some workers from China on 457 visas.

Let me tell you the difference that made to the Murray Bridge economy, a small regional economy. They sold out of bicycles. The bicycle shop virtually had to shut its doors. It had no more bicycles available because the workers bought bicycles. They sold out of white goods because the demand for white goods in rental properties was truly extraordinary. These people have settled into that regional economy, their children now go to schools there, they are learning English and they are making a great contribution to our society in South Australia. But do not take my word for it, because the Western Australian minister Tony McRae—(Time expired)

**Senator McEWEN** (South Australia) (3.26 pm)—I also rise to take note of answers given by Minister Vanstone, the Minister for Immigration and Multicultural Affairs, to the numerous questions asked of her today about the use and misuse of 457 visas—a whole lot of answers which again clearly demonstrated that the government has watched over an explosion in the number of people being brought into this country to work while at the same time it has overseen the vandalisation of our education system, a system that has been so neglected it has failed to deliver the skilled workers we need in Australia. The minister huffs and puffs and carries on with breathtaking hypocrisy about xenophobia, but she cannot hide the facts that, under 10 years of this government, 270,000 people have been brought into this country to work and 300,000 people have
been turned away from TAFE colleges. Just today we saw in the paper that university degrees are now costing somewhere in the order of $200,000, despite the Prime Minister's promise that he would not allow the cost of degrees to rise to $100,000. What a great way for our young people to start their working career: with a university HECS debt as big as their mortgage—if they can afford a mortgage.

And I have to ask: how are those Australian technical colleges going? I drove past one proposed site for an ATC—which, coincidentally, was in the marginal Liberal seat of Kingston in my state—on the weekend, and it looked pretty empty to me. In fact, it was so empty that it did not have any windows or doors; it was just an empty shell of a building with a nice sign out the front. But you can bet your last dollar, Mr Deputy President, that that ATC will be up and running some time before the next federal election, and no doubt it will be opened with a lot of fanfare by the Prime Minister and the member for Kingston. I bet that will be a priority for the government—but clearly the skills shortages in Australia are not, and addressing them by improving funding to our education system is not.

I do not think the misuse and abuse of the 457 visa system is a priority for the government either. We have heard that demonstrated today in the answer to my question about the investigation by the department of T&R Pastoral. Five months later, we are still waiting for a report. Five months later—when the minister promised us that this was an urgent matter and that she was going to investigate it and have something done about it—we are still waiting for a report.

We also heard answers today in response to facts that we discovered on the departmental website about the so-called skilled people being brought into this country to do jobs: waiters, domestic housekeepers and sales assistants, 2,720 elementary clerical workers over last three years and, of course, the infamous 25 caravan park attendants. Forgive me, I have spent a lot of time in caravan parks; I holiday in them often but, with due respect to caravan park attendants, I do not know what particular skills they have that need us to import these kinds of workers from overseas. How do we really know if we need to import caravan park attendants or those with any other kind of occupation when employers are not required to first demonstrate that they have sought to fill those positions with local workers?

What about our responsibilities to those people who come here under the 457 visa program? What responsibilities do the government have to ensure those people are not exploited by unscrupulous employers? They do nothing until the Labor Party and the unions raise all these issues of exploitation. It was the Labor Party and the unions who raised the issue of exploitation of Canberra workers. It was the Labor Party and the unions who raised the issue of exploitation of people in South Australia. But it was the minister herself who confirmed that the 457 visa program could be used for exploitation of workers when she infamously said:

… it opens up the industry to other pools of employees, which undermines the unions' ability to exploit high wages amid the skills shortage …

She actually admitted it. She admitted that the visa program can be used to drive down wages, to keep wages low in this country, to turn us into another America, to turn us into another country of low-wage workers. She has not denied it and she did not deny it today. All we get from this minister is more bluster and bluff about—(Time expired)

Question agreed to.
Climate Change

Senator MILNE (Tasmania) (3.31 pm)—I move:

That the Senate take note of the answer given by the Minister for the Environment and Heritage (Senator Ian Campbell) to a question without notice asked by Senator Mason today relating to greenhouse gas emissions.

I refer to the minister’s response to the initiative taken by the states in releasing a discussion paper proposing a carbon tax and a carbon trading scheme, effectively, around Australia. It would certainly be my preference that the Australian government take on this initiative and establish a cap-and-trade system for Australia, but that has not been the case. The government absolutely stubbornly refuses to take this action in spite of the fact that Australia’s greenhouse gas emissions in the electricity and transport sectors are rocketing out of control. The only reason that Australia will come in on its Kyoto target is that there has been a one-off benefit achieved by changes to land use and land clearing in Australia. It has nothing to do with initiatives that have been taken to reduce our emissions in the energy and transport sectors.

Senator Ian Campbell—That is totally not true.

Senator MILNE—Senator Campbell is saying that that is not true. I would like him to inform the Senate what the current level of emissions from both the transport and the electricity sectors are in terms of the 1990 levels. We heard from Minister Macfarlane today that there would be an absolutely horrendous cost to the Australian economy if anything was done about greenhouse in terms of a national trading scheme. In fact, Minister Macfarlane went on to talk about the enormous impacts. He spoke about the costings done by ABARE and continually referred to ABARE. What we have to recognise here is that ABARE has been a disaster in advising government on climate change for the entire period of discussion about global warming.

In fact, I would like to remind the Senate that Brian Fisher from ABARE travelled the world back in 1997 to attend conferences on the costs of Kyoto. He offered basically blanket dismissals of the scientific evidence for climate change and predicted staggering economic costs for any policies aimed at restricting emissions. What Australians did not realise at that time was that ABARE, whilst it is an Australian government funded economic forecasting agency, had a number of funding sources behind their research. For a contribution of $50,000, corporations could buy a seat on the steering committee overseeing its work. Contributors to ABARE’s global warming modelling included Rio Tinto, Texaco, Mobil Oil, Exxon, the Australian coal industry, the Australian Aluminium Council and Statoil, the Norwegian oil company. All told, ABARE was receiving, at that time, more than half a million dollars a year from the fossil fuel industry, and they were having a direct input into the modelling.

I am not in the least bit surprised today that the government is touting this ridiculous modelling ABARE have put out on the likely impact of an emissions trading system. They have added on a carbon tax, the costs of a trading system, to existing taxation and they have not done modelling on the likelihood that you would reduce some other taxes accordingly. For example, in Sweden, when they introduced a carbon tax, they took the excise off fuel so it actually ended up relatively cost neutral but was a mechanism that forced down demand. That is one of the ways in which it can be done.

At the time ABARE was coming out with this nonsense, something like 131 economists came out strongly and said that the economic modelling studies on which the
government is relying to assess the impacts of reducing greenhouse gas emissions overestimate the costs and underestimate the benefits of reducing emissions. They go on to say that economic instruments such as carbon taxes and trading emission permits within and between countries will be an important part of comprehensive climate change policy.

The point I want to make today is that the Australian government is persisting in undermining any efforts that are being made, in relation to setting a target for reducing Australia’s greenhouse gas emissions, on the basis of advice from ABARE, which has been consistently wrong on predicting the price of oil. And it is now completely wrong, and inexcusably so, on economic modelling in relation to this issue of carbon trading, and I think it is about time that the Australian community got some accountability—(Time expired)

Question agreed to.

PETITIONS

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

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

by The President (from 71 citizens).

Military Detention: Australian Citizens
To the Honourable the President and Members of the Senate in Parliament assembled. The Petition of the undersigned shows:
• that the treatment of David Hicks is not in accordance with Geneva Convention Guidelines applying to prisoners of war
Your petitioners ask that the Senate should:
• ensure that Australian citizen, David Hicks’, rights are met under the guidelines of the Geneva Convention as it applies to prisoners of war
• send a deputation to George W. Bush asking that David Hicks be returned to Australia
• ensure that David Hicks be entitled to a civil trial, in Australia, if he is charged with any crime

by Senator Kirk (from 972 citizens).

Petitions received.

NOTICES

Presentation

Senator O’Brien to move on the next day of sitting:
That the following matter be referred to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by the last sitting day in March 2007:
The administration of quarantine by the Department of Agriculture, Fisheries and Forestry and its ministers, with particular reference to:
(a) the effectiveness of current administrative arrangements for managing quarantine, including whether the community is best served by maintaining the division between Biosecurity Australia and the Australian Quarantine Inspection Service (AQIS);
(b) whether combining Biosecurity Australia and the AQIS would provide a better structure for delivering the quarantine outcomes that Australia requires;
(c) the legislative or regulatory underpinning of the import risk assessment process, in-
including the status of the current AQIS Import Risk Analysis Process Handbook;

(d) the methodology used by Biosecurity Australia for determining appropriate levels of protection; and

(e) the role, if any, of ministers in making final decisions on import risk assessments; and

(f) any related matters.

Senator Wortley to move on the next day of sitting:

That there be laid on the table by the Minister for Immigration and Multicultural Affairs (Senator Vanstone), no later than 10 am on 4 September 2006, the report on T&R Pastoral and its employment of workers on subclass 457 visas prepared by the Department of Immigration and Multicultural Affairs, which included an investigation, in the form of a labour survey carried out by the Meat Industry Training Advisory Council, and any other related documentation.

Senator Bob Brown to move on Monday, 4 September 2006:

That the Senate—

(a) notes:

(i) the high rates of violence against journalists in Indonesia for the period August 2005 to August 2006,

(ii) that the Alliance of Independent Journalists (AJI) Indonesia recorded 64 cases of violence against the press and journalists, occurring from the provinces of Aceh to Papua, with the most dangerous places for the press being Jakarta with 13 cases of violence, and East Java and Nanggroe Aceh Darussalam, both with 8 cases of violence, and

(iii) that AJI identifies the perpetrators as mobs and thugs, government figures, including district heads, regents, governors, ministerial staff, etc, and the police; and

(b) calls on the Australian Government to urge the Indonesian Government to respect the journalistic profession and ensure international standards for journalistic security as stipulated by the 1945 Constitution and the Indonesian Law No. 40/1999 on the press.

Senator Stephens to move on the next day of sitting:

That the Senate condemns the Howard Government for its failure to keep inflationary pressures in the Australian economy under control, including:

(a) appropriately addressing the skilled labour shortage;

(b) recognising that capacity constraints are choking the economy;

(c) adequately addressing the rising price of petrol; and

(d) the growing disparity between executive salaries and wages of working Australians.

Senator Siewert to move on the next day of sitting:

That the Senate—

(a) notes:

(i) that on 15 August 2006 the Minister for Transport and Regional Services approved a major brickworks on Commonwealth land at Perth Airport,

(ii) that non-aeronautical development at Perth Airport is currently exempt from state and local planning laws,

(iii) that there is evidence that the Swan Valley air-shed already contains concentrations of acid gases from existing brickworks which are impacting on the health of surrounding residents,

(iv) the concern of local councils, businesses, residents and the State Government about the adverse effects of this development on their communities and health, and

(v) that the Environmental Assessment Report tendered by the Department of the Environment and Heritage identifies serious deficiencies in the BGC (Australia) Pty Ltd proposal; and
(b) calls for:
   (i) a comprehensive assessment of airborne pollution in the Swan Valley airshed and the impact of this pollution on the health of local residents prior to any commencement of work on the brickworks, and
   (ii) the proponent to be required to address the serious deficiencies in the proposal, as identified by the Department of the Environment and Heritage.

Senators Moore and Allison to move on the next day of sitting:
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,
      (D) 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 their 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; and
   (c) calls on the Government to actively support the principles of the International Day of Peace on 21 September.

Senator Stott Despoja to move on the next day of sitting:
That the Senate—
(a) notes:
   (i) the comments by the Attorney-General (Mr Ruddock) on 14 August 2006 that: ‘[David Hicks’ repatriation] should happen as quickly as possible’ and ‘Were that not to be the case, we would be seeking his return in the same way we did with Mamdouh Habib... I would never benchmark myself but I do note that the United States... wants to have the matters that Congress has to deal with resolved before it rises for the mid-term election, which suggests November’, and
   (ii) that South Australian David Hicks has now spent more than four and a half years in detention in Guantanamo Bay; and
   (b) calls on the Federal Government to lobby for David Hicks’ immediate repatriation.

Withdrawal
Senator FERRIS (South Australia) (3.37 pm)—At the request of Senator Abetz, I withdraw general business notice of motion No. 493.

COMMITTEES
Selection of Bills Committee Report
Senator FERRIS (South Australia) (3.37 pm)—I present the eighth report of 2006 of the Selection of Bills Committee.
Ordered that the report be adopted.
Senator FERRIS—I seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—
SELECTION OF BILLS COMMITTEE
REPORT NO. 8 OF 2006
(1) The committee met in private session on Tuesday, 15 August 2006 at 4.19 pm.
(2) The committee resolved to recommend—
That—
(a) the provisions of the Tax Laws Amendment (2006 Measures No. 4) Bill 2006 be referred immediately to the Economics Legislation Committee for inquiry and report by 31 August 2006 (see appendix 1 for a statement of reasons for referral); and
(b) the Export Finance and Insurance Corporation Amendment Bill 2006 be referred immediately to the Foreign Affairs Defence and Trade Legislation Committee for inquiry and report by 9 September 2006 (see appendix 2 for a statement of reasons for referral).
(3) The committee resolved to recommend—
That the following bills not be referred to committees:
• International Tax Agreements Amendment Bill (No. 1) 2006
• Tax Laws Amendment (Repeal of Inoperative Provisions) Bill 2006.
The committee recommends accordingly.
(4) The committee deferred consideration of the following bill to its next meeting:
• Environment and Heritage Legislation Amendment (Antarctic Seals and Other Measures) Bill 2006.

Appendix 1
Proposal to refer a bill to a committee
Name of bill(s):
Tax Laws Amendment (2006 Measures No. 4) Bill 2006
Reasons for referral/principal issues for consideration
The significant tax concessions through restricting Capital Gains Tax to real property (land and income from land) for foreign residents. Capital gains on non-resident shares are therefore exempt.
The committee should look into the disaggregated cost of the two measures in schedule 4 into two components:
1. the narrowing of the tax base
2. the additional integrity measures
Possible submissions or evidence from:
Taxation Institute, Institute of Chartered Accountants, Taxpayers Australia, tax professionals noted in media reports, Treasury
Committee to which bill is referred:
Economics Legislation Committee
Possible hearing date:
Possible reporting date(s): 9 October 2006

Appendix 2
Proposal to refer a bill to a committee
Name of bill(s):
Export Finance and Insurance Corporation Amendment Bill 2006
Reasons for referral/principal issues for consideration
Examination of the bill as necessary.
Possible submissions or evidence from:
Committee to which bill is referred:
Economics Legislation Committee
Possible hearing date:
Possible reporting date(s): 4 September 2006
NOTICES

Postponement

The following item of business was postponed:

General business notice of motion no. 490 standing in the name of Senator Bartlett for today, relating to the importation of illegal timber and wood products, postponed till 17 August 2006.

MR DAVID HICKS

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.37 pm)—I move:

That the Senate calls on the Government to insist that citizen of Australia, Mr David Hicks, be treated the same as citizens of the United States of America—no more, no less.

Question put:

The Senate divided. [3.43 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes............ 33
Noes............ 36
Majority........ 3

AYES

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

NOES

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

PAIRS

Carr, K.J.  Coonan, H.L.
Conroy, S.M.  Ellison, C.M.
Crossin, P.M.  Vanstone, A.E.

* denotes teller

Question negatived.

HOBART INTERNATIONAL AIRPORT

Senator MILNE (Tasmania) (3.47 pm)—by leave—I move the motion as amended:

That the Senate—

(a) notes:

(i) that the proposal for a direct factory outlet and bulky goods retail centre at Hobart International Airport is for a 70 000 square metre development, which would make it the largest direct factory outlet in the nation,

(ii) the concern of Tasmanian businesses that the development will have a serious adverse impact on local businesses in a community of half a million people, and

(iii) that there is a denial of natural justice because of the refusal to release the social and economic impact statement on the proposal; and

(b) calls on the Government to:

CHAMBER
(i) immediately authorise and ensure the release of the social and economic impact statement on the proposal,

(ii) review the assessment process to remove the inherent bias that will see the Hobart International Airport Pty Ltd, acting on behalf of the developer, assess and summarise the submissions and then advise the federal minister, and

(iii) implement a regulatory framework for the development such that local businesses paying land tax are not disadvantaged by the Commonwealth land’s exemption from state and local government law.

Question put:

The Senate divided. [3.49 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes…………… 33

Noes…………… 36

Majority………. 3

AYES

Allison, L.F. Bartlett, A.J.J.
Bishop, T.M. Brown, B.J.
Brown, C.L. Campbell, G. *
Evans, C.V. Faulkner, J.P.
Forsaw, M.G. Hogg, J.J.
Hurley, A. Hutchins, S.P.
Kirk, L. Ludwig, J.W.
Lundy, K.A. Marshall, G.
McEwen, A. McLucas, J.E.
Mihe, C. Moore, C.
Murray, A.J.M. Nettle, K.
O’Brien, K.W.K. Polley, H.
Ray, R.F. Sherry, N.J.
Siewert, R. Stephens, U.
Sterle, G. Stott Despoja, N.
Webber, R. Wong, P.
Wortley, D.

NOES

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

PAIRS

Carr, K.J. Coonan, H.L.
Conroy, S.M. Ellison, C.M.
Crossin, P.M. Vanstone, A.E.

* denotes teller

Question negatived.

MEDICARE

Senator ALLISON (Victoria—Leader of the Australian Democrats) (3.51 pm)—I move:

That the Senate—

(a) notes the consensus statement released on 14 August 2006 on draft ‘Medicare Item 16400: Antenatal care in rural and remote communities’, which reflects the concerns of the Australian Nursing Federation, the Council of Remote Area Nurses of Australia, the Australian College of Midwives, the Association of Australian Rural Nurses, the Australian Practice Nurses Association, the Australian Nursing and Midwifery Council, the College of Nursing and the Royal Australian and New Zealand College of Obstetricians and Gynaecologists;

(b) acknowledges that the statement expresses concerns about the safety and quality of care that would be provided under the proposed new item within the current descriptor and explanatory notes, specifically:

(i) that safe and high quality antenatal care can only be provided by a qualified
health professional with appropriate education, that is, a qualified midwife, a nurse with midwifery qualifications, an obstetrician or a general practitioner with a diploma in obstetrics or equivalent qualifications, and

(ii) that the signatories to the statement do not support the inclusion of nurses without midwifery qualifications on the list of eligible care providers for the item number 16400 descriptor and explanatory notes; and

(c) calls on the Government to consider the safety and quality issues around the provision of antenatal care and to enter into a dialogue with health professionals about modification of the proposed Medicare item number to ensure that safe and high quality antenatal care is provided.

Question put.

The Senate divided. [3.53 pm] (The President—Senator the Hon. Paul Calvert)

Ayes........... 33
Noes........... 36
Majority........ 3

AYES

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

NOES

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

PAIRS

Carr, K.J. Coonan, H.L.
Conroy, S.M. Elliston, C.M.
Crossin, P.M. Vanstone, A.E.

* denotes teller

Question negatived.

BURRUP PENINSULA ROCK ART

Senator SIEWERT (Western Australia) (3.56 pm)—I move:

That the Senate—

(a) notes that:

(i) at least 10 000 petroglyphs have been destroyed by industrial development on Western Australia’s Burrup Peninsula, arguably the world’s greatest rock art site,

(ii) while alternative sites for industry exist, the rock art is unique and irreplaceable, and

(iii) the area has been nominated to the National Heritage List and this nomination is currently undergoing assessment; and

(b) calls on the Minister for the Environment and Heritage (Senator Ian Campbell) to use all Commonwealth powers available to ensure that no further loss of rock art
occurs while the heritage nomination is being determined.

Question put.
The Senate divided. [3.57 pm]
(The Deputy President—Senator JJ Hogg)

<table>
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<th>Ayes</th>
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<td>Noes</td>
<td>54</td>
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<tr>
<td>Majority</td>
<td>46</td>
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AYES
Allison, L.F.  Bartlett, A.J.J.
Brown, B.J.    Milne, C.
Murray, A.J.M. Nettle, K.
Siewert, R. *  Stott Despoja, N.

NOES
Abetz, E.        Adams, J.
Barnett, G.      Bernardi, C.
Bishop, T.M.     Boswell, R.L.D.
Brandis, G.H.    Brown, C.L.
Campbell, G. *   Campbell, I.G.
Chapman, H.G.P.  Colbeck, R.
Egglesston, A.   Ferguson, A.B.
Ferris, J.M.     Fierravanti-Wells, C.
Fifield, M.P.    Forshaw, M.G.
Heffernan, W.    Hogg, J.J.
Humphries, G.    Hurley, A.
Johnston, D.     Joyce, B.
Kemp, C.R.       Kirk, L.
Lightfoot, P.R.  Ludwig, J.W.
Landy, K.A.      Marshall, G.
Macdonald, J.A.L.  McEwen, A.
Mason, B.J.      McLucas, J.E.
McGauran, J.J.   Moore, C.
Minchin, N.H.    Parry, S.
Nash, F.         Payne, M.A.
Patterson, K.C.  Polley, H.
Polley, H.       Ronaldson, M.
Santoros, S.     Scullion, N.G.
Sherry, N.J.     Stephens, U.
Sterle, G.       Troeth, J.M.
Troid, R.        Watson, J.O.W.
Webber, R.       Wortley, D.

* denotes teller

Question negatived.

NOTICES
Presentation
Senator NETTLE (New South Wales) (4.01 pm)—by leave—I give notice that on the next day of sitting I shall move:

That the Senate—

(a) congratulates the University of Sydney on its decision to spend $30 million over 3 years to preserve student services supplied through the Student Representative Council and the Postgraduate Association;

(b) notes that:

(i) this decision may mean that construction of research facilities at the University of Sydney will be delayed,

(ii) despite this injection of much needed funds, there will still be an $18 million shortfall in funding for student services at the university over the next 3 years, and

(iii) there remains uncertainty regarding the ongoing funding of services; and

(c) calls on the Government to amend the Higher Education Support Act 2003 to allow universities to charge compulsory fees to students so students can provide and be responsible for the full range of student services they need.

Senator NETTLE (New South Wales) (4.02 pm)—by leave—I give notice that on the next day of sitting I shall move:

That the Senate—

(a) notes:

(i) that Sydney Airports Corporation Limited plans to build a massive 50,400 square metre retail development on airport land,

(ii) that non-aeronautical development at Sydney Airport is currently exempt from state and local planning laws,

(iii) the concern of local councils, businesses and residents about the adverse effects of this development on their communities and local businesses,
(iv) that the amended major development plan has been sent directly to the Minister for consideration without renewed public consultation, and

(v) similar concerns are being expressed by the community regarding non-aeronautical developments at other airports around Australia; and

(b) calls on the Government to:

(i) direct Sydney Airports Corporation Limited to undertake another round of consultation with the community and other stakeholders before the amended plan is considered by the Minister, and

(ii) ensure that the legislative response to the review of the Airports Act 1996 includes removing the exemption for non-aeronautical development and that such development is subject to relevant state and local planning laws to ensure appropriate consultation, development and public accountability.

MATTERS OF PUBLIC IMPORTANCE

Skilled Migration

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

The Minister for Immigration’s mismanagement of the 457 visa program, noting:

(a) The recent dramatic rise in the numbers of guest workers under the program over the last 1-2 years;

(b) The Minister’s statement that the increasing numbers of guest workers are required to keep wages low;

(c) The Howard Government’s failure to provide Australians with the training needed to meet the current skills crisis;

(d) The use of guest workers in unskilled jobs and in skilled occupations where there are qualified Australians available; and

(e) The Minister’s failure to ensure the rights of guest workers are protected.

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

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

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

Senator LUDWIG (Queensland) (4.04 pm)—I start by saying that this debate has been going on for seven years. It is not primarily a debate about long-stay business visas under section 457; the true debate is about this government’s inability to address the skills shortage in Australia over the last seven years, the inability of this government to manage the economy, the inability of this government to ensure that there would not be capacity constraints in the Australian economy and the inability of this government—its lack of vision, I think—to ensure that we would not be in the position that we face today.

The position is that the government has turned to the immigration department to use the 457 visa program, which was intended—upon its introduction by the Labor Party, under Paul Keating—to be a sensible measure to address short-term skills shortages in industries, and has turned it into a program with which you can try to fix, supplement or otherwise support the failure of the government to train Australians. It was a program to ensure that skilled Australians were available for the skills needed in Australia. If you look at the three-card monte, it has got to a point where a card says ‘457 long-stay business visa’, but when you turn the card over it says ‘guest worker’. For all intents and purposes, that is what the government has turned this program into. It should not be that, but this is
what the government has allowed it to become. That is why I have used those words. Unfortunately, the government has ensured that a sensible measure has been used wrongly, badly and inappropriately. It leads to only one path and it is the wrong place to put it.

If you draw all those threads together and look at the June economic outlook by BIS Shrapnel that started the process, they said:

While the difference between 3 and 4 per cent growth may sound minor, accumulated over a whole decade it amounts to a 10 per cent difference in the size of the economy. This is roughly the size of the output of Australia’s agriculture, mining and electricity sectors combined.

BIS Shrapnel warn:
A chronic shortage of skilled labour is set to act as a permanent constraint on Australia’s growth—and—

Australia has entered a new era of constrained growth. Businesses are already grappling with the problems of tight capacity, infrastructure bottlenecks and an acute shortage of skilled labour.

The government’s answer is not to address the skills shortage but to turn to a migration solution. But look at the statistics—this is where the rot set in under Mr Howard. In 1996 and 1997, the government reduced the VET grants, abolished real growth funding and reduced training expenditure by $240 million. In 1998, the growth through efficiencies policy effectively froze and brought to a standstill the Commonwealth VET funds, resulting in a loss of growth funding of around $377 million over the 1998 to 2000 period. When you shut the door so firmly and so hard, the flow-on effect is skills shortages across Australia. The government’s answer is a de facto guest worker program. Shame on you for that.

The Howard government’s main response to the skills crisis has been to massively increase skilled migration but, having found that it is not enough to fill the gap, you have sought other labour groups, including unskilled and semi-skilled workers, to try to fill it because it is a skills shortage across all of Australia in all of those sectors. You look at how many people you have turned away from TAFE—300,000; they are the statistics. You heard in question time today of the areas that you are seeking to use the 457 visa in. It highlights, perhaps with a full stop, the 43 waiters, 77 domestic housekeepers, 251 personal assistants and 1,594 elementary clerical workers who came here under that visa last year. Add to that the 107 carpenters, 31 bricklayers, 25 plumbers and 13 plasterers who were issued with 457 visas—out of a total of 50,000 people who entered Australia on this visa last year.

This problem is not brewing; it started under the Howard government. You do not want to recognise that it started under the Howard government. It did not only start in the migration area; it started in training, skills and infrastructure. All of the economic indicators point to a failure by this government to ensure that when we got to this point in time there would be enough skilled, trained Australians to undertake work and that the 457 visa would be used for the purpose for which it was intended—that is, to support short-term temporary skills shortages across Australia in those technical and professional areas and other areas of need where you would expect them.

You couple that with a compliance strategy that you could only call lax—a compliance strategy which is lax for one reason and one reason only: you do not want to expose how and why you are using the 457 visa system. As a government you do not want to highlight the fact that the 457 visa system is being rorted. We heard from the minister today, so it is clearly a case of her only now turning her attention to meatworks—and T&R might be the first. The report in the
minister’s possession—will she make it public? I am not sure. Will she ensure that the findings and recommendations are acted on? I am not sure. The minister did not give us an advantage today by indicating that that was her intent. So it is a case that this government, in ignoring—(Time expired)

Senator BOSWELL (Queensland—Leader of The Nationals in the Senate) (4.12 pm)—I listened very closely to Senator Ludwig and I did not think he made much sense at all. One of the reasons—and I think it is the basic reason—that we have to rely on 457 visas is that the economy of this nation has taken off. On top of that, the mining and minerals boom in Queensland and Western Australia has expanded to the point where you can walk in as a labourer and demand $100,000. Yes, you have to work maybe 10 or 15 days in a row, but then you might get 10 or 15 days off. This has sucked in all the skilled workers, and nowhere more than in North Queensland, where a person who drives a truck or is a skilled welder or carpenter can go and demand a job—not in a demanding way; people are begging them to take the jobs. We are seeing a migration of labour from the coastal towns like Mackay, Townsville and Cairns into the mines. When you walk around the engineering workshops in Townsville and see the people who make the mining gear and cars, you will find a number of them are on 457 visas.

Generally speaking, when you ask the employers what would happen without them, there is one answer: ‘We’d close down. Without these 457 workers we could not keep our business together.’ I can quote examples, name and verse, time and again, but it is more pronounced when you get to North Queensland. The reason we have had to fall back on 457 visas is that there is just no-one there to fill the jobs. We have an unemployment figure that is now under five per cent. Many of those who are under the five per cent do not want to work or are incapacitated. The economy has just sucked up so many skilled workers that there is a huge shortage. I would have thought, Senator Ludwig, that you would have got up and congratulated the government on their economic management and for sopping up all the unemployment, which was around 11 per cent when you left office. If you had been a bit fair you would have congratulated the government on the wonderful job they are doing in providing jobs for everyone in Australia. Let me tell you a little story from last week. Senator Ludwig, I am not sure whether you come from Charleville or Roma.

Senator Ludwig—I lived in Cunnamulla.

Senator BOSWELL—Cunnamulla; I was not far off. You will recall, because you are a western Queenslander, the town of Charleville. It relied heavily on wool. When the wool crash came in the early nineties, the whole town went into a tailspin. There were vacant shops, vacant houses and there was unemployment. It was terrible. The town was just holding on by its fingernails. Because necessity is the mother of invention and there were a number of feral goats around, the graziers decided that that was their last hope—they would have to farm the goats. From that developed an abattoir that employs 140 people.

Senator Ludwig, if you can give me the name of a meatworker who wants a job at award wages, he can be on the chain tomorrow. If he can get out to Charleville, he will be employed. The owner-manager of that abattoir has spent $14,000 in the last month trying to attract meatworkers, and he cannot. I declare my interest: I have a shareholding in an abattoir at Kilcoy. Kilcoy are employing 457 visa holders, as I believe everyone else is in the meatworks industry. Whether it is the banana industry or the meatworks,
people are just flocking to the big money in the mining industry—and why shouldn’t they? Good luck to them. They are leaving vacancies behind and those vacancies are being filled by 457 people.

If those 457 visa holders were not allowed in Charleville, that meatworks could not operate. They would not be able to put 140 people on the floor. That meatworks in Charleville has twenty 457 visa holders. They have come from Vietnam, and they have been accepted by the town as part of the town. Their kids go to the Charleville high school and their wives are part of the community. The community has welcomed them because they know without them they would not have an abattoir that pulls I forget how many millions of dollars into the town of Charleville and it would be back to being broken down, the way it was immediately after the wool crash.

If those 457 visa holders think they are being exploited, they can go and get a job somewhere else. If they think that they are not being paid properly, they can go and get a job somewhere else. But they are paid the award wage and they are paid overtime and holiday pay. Anyone, including you, Senator Ludwig, who wants to go there would be welcomed. I am sure that they would be prepared to show you the books. That is just one example of how these 457 visas are helping rural and regional Australia.

So, Senator Ludwig, what you are saying about the government is completely untrue. The government have done everything in their power to encourage people to get into trades. They have opened trades schools. But I am not going to blame the Labor government and the 13 years they were in office. People wanted their little darlings to have a university degree. They all thought everyone could go to university. Consequently, no-one took up trades. You were a second-class citizen if you were a tradie. Now you are one of the elite. Tradesmen have come into their own. They are sort of the new elite. They are the big money earners. You only have to stand by the boat ramp at Redland or Cleveland to see a boat worth $80,000 or $90,000 on a trailer pulled by a big four-wheel drive with ‘Fred Bloggs, Plumber’ painted on the side. Because he has the skills, he is earning big money. It is a question of supply and demand.

The 457 visas are terrific. Rural Australia wants them. When you get out into the smaller towns, the Vietnamese—or wherever else people come from—are accepted. They fit into the community. The community welcomes them. It is the only way we can sustain our productive industries, our meatworks or our haul-outs for cane. If you take those visas away, you will stall rural and regional Australia.

Therefore, I ask you to not simply get your riding instructions from the unions on AWAs and 457 visas. You come in here dutifully repeating the message that the union organisations give to you. But if you care to make yourself available for a week, Senator Ludwig, I would be more than happy to take you around and show you some factories so that you can see some of the benefits that 457 visas are giving to rural and regional Australia.

Senator BARTLETT (Queensland) (4.22 pm)—This is an important issue and I am pleased that it has been raised in this way. There are issues about the management of the 457 visa program that need to be addressed, but I also believe that the Labor Party are grossly overstating their case and, in many respects, unnecessarily and unhelpfully running down what is a valuable component of our migration system. It is a visa
that has been around for a long time, and it is one that I support. That does not mean that there are not issues in terms of how it is managed, and I think that there are some aspects of that that the government needs to look at more closely.

The position that Labor have put forward has some merit; there is some substance there. But overstating the case not only is creating an incorrect perception about 457 visas—and we heard from Senator Boswell about the very legitimate, extremely valuable and indeed essential role that 457 visas play in many parts of Australia, including regional Australia—but also has too much of an anti-migrant dog whistle about it for me. Given how much energy I and the Democrats have for many years put into promoting multiculturalism, supporting migration and ringing alarm bells whenever there is an anti-migrant type of campaign being run, I think that by overstating the problems here there is too much of an anti-migrant dog whistle about this whole campaign. That is something that the Labor Party need to be very careful about. I am not suggesting that that is their intent—I certainly do not suggest that that is Senator Ludwig’s intent—but it is nonetheless present and it comes through in some of the components of the way this campaign is being run, and that is a concern.

I also think that the use of the term ‘guest worker’ is not particularly helpful. It is a term that basically means whatever people want it to mean. Any person on a temporary visa who is employed could be called a guest worker. As I said, the 457 visa has been around for a long time. The key issue—and I am sure this is where Senator Ludwig’s concern is—is ensuring that those people are not exploited. There are some legitimate concerns about that, and I commend the work that some in the Labor Party and the union movement have done to address that exploitation and to try and pressure the government to do more to prevent it. That is a genuine concern, and this is where the government must acknowledge some problems and must do more to fix them.

The simple reality is that there has been a massive increase in the number of people who have come in on 457 visas in recent years. Remember that this visa has been around for a long time. The real issue is that the dramatic increase in visa numbers has made it much harder to police the visa and ensure that people are not being exploited—or indeed that people coming out here on it are not doing so under false pretences. In round figures, back in 2001-02 there were 37,600 457 visas issued. The next year, 42,400 were issued. The next year, 40,600 were issued. The year after that, 2004-05, there was about a 20 per cent increase in one year, up to almost 50,000. In the financial year just finished, there were nearly 72,000 issued, which is more than a 40 per cent leap in just one year. The practical reality is that such a huge leap over the space of two years is going to create enormous difficulties in policing it. That is where the federal government must do more. I believe that more must be done to ensure that the rights of people who are here on 457 visas are properly met.

We have had calls made by the ACTU and others saying that the skilled migration visas should be stopped immediately. That is a ridiculous overstatement, and it creates a completely false and unhelpful impression of the nature of skilled migration visas. It reinforces all those old myths and subconscious messages about migrants coming to take your jobs. Frankly, that is a whole line of thought and a whole line of political argument that has a pretty sad and dangerous history in Australia. We need to be careful about going anywhere near that turf.
That is not to say that there are not issues to do with ensuring that people are not exploited, are not paid dramatically less than the award wage and are not avoiding the requirements that they have to meet. If employers use the 457 visa according to its requirements then they will not just pay the minimum salary level and ensure that people meet the minimum skill level but also ensure that visa, transport and medical insurance costs are paid. Because those sorts of things are not cheap, employers are not likely to use a 457 visa if there is local labour around.

We all know that there are significant parts of Australia where there are not people available to do some of these jobs. Senator Boswell talked about abattoirs. Indeed, apart from 457 visa holders keeping abattoirs open, we all know—I hope—about the role that many refugees on temporary protection visas played in keeping abattoirs open in many rural and regional towns. Indeed, I would suggest that it is not too fanciful to propose that it was the work of some of those temporary refugee visa holders in abattoirs and in fruit picking and the like in the member for Forrest’s electorate in Victoria that exposed him to the fact that these refugees were hard-working and genuine people who simply wanted to get on with their lives and escape persecution. That may even have played a part in the stance that he took on refugee legislation in the House of Representatives last week. This sort of demonising of people as though they are coming in to take people’s jobs is unhelpful, and that needs to be avoided in this debate.

Nonetheless, there is no doubt that the federal government should be condemned, as stated in this MPI, for its ‘failure to provide Australians with the training needed to meet the current skills crisis’. I am not saying that we could have met all the requirements and that we would not have needed any 457 visas; obviously it has been used for a long time. But it is a massive increase in a short space of time, and it is coupled with the undeniable fact that, compared with other countries in the OECD, we have dramatically underinvested in education and training. That is just a simple fact.

It is not just a matter of people going to university, as Senator Boswell said. There may be a tiny bit of validity in that, but I understand that the greatest occupational category of people coming in on 457 visas has been nurses and other health workers—a lot of people with university degrees. So it is not just a matter of universities versus TAFE; it is a matter of complete underinvestment by the federal government in all forms of education and training. That is a matter of record and this is part of its consequences. Whilst I am strongly in favour of allowing migrants in—including from low-income countries—it is nonetheless not the best thing to have such large increases over a short space of time. That does make it more difficult to manage and it makes it more difficult for the workers too.

That leads me to another area where I think more needs to be done. I spoke in this chamber just a day or two ago about assistance to people who come here on 457 visas. I note that a report in the _West Australian_ earlier this year talked about the significant impact on schools when children arrive with their families under this visa category and they do not receive the same level of English language tuition and support that children of permanent migrants receive. We have always used settlement assistance for people who arrive on permanent visas, but 457 visas are for up to four years and they can be transferred to permanent visas. There is no point waiting until people have been here for four years to see whether or not they are going to settle and whether there are English language issues for their children.
We need to have more casework and outreach assistance for people who come here. That will cost more money as well, but it is an investment well worth making for the broader economic benefits that, as I am sure all the government speakers will agree, these migrants—temporary or permanent—bring to Australia. There are actions the government needs to take. (Time expired)

Senator CARR (Victoria) (4.32 pm)—Following that rather mealy-mouthed presentation on what is a very serious problem, I think it is appropriate to put in context exactly what is going on. We heard from Senator Boswell, who has a direct vested interest as an employer of people on this visa at an abattoir in Queensland. It is a direct conflict of interest, which I acknowledge he was only too happy to declare. But we ought to explain exactly what is going on.

Senator Scullion—Are you a member of a union?

Senator CARR—My associations are well known, and I say without any equivocation that I am on the side of workers in this matter. What we have here is a situation where the number of 457 visas granted has risen from 28,042 to 40,000 in one year. This is a program that has been fundamentally transformed under this minister. This is no longer a case of just meeting skills shortages; this is a case where the government is seeking to use this visa, in conjunction with its other draconian industrial relations policies, to drive down wages. It is being used as a device to break the power of working people in this country.

There could be no better example than what is occurring in the meat industry. We have given example after example, and this government has failed to respond to them in this chamber. I raised this matter earlier this week, and questions have still not been answered. The minister was only too happy to go on The 7.30 Report back in July and say, ‘I think there might have been some situations where people have tried to pay less than they should.’ Of course she said, ‘That is not something we condone.’ Of course when she gets caught it is not condoned. It is not condoned when it is exposed.

There are some 2,000 people on this visa in the meat industry at the moment. We have situations where workers are being asked to pay to agents in China as much as $10,000 to $20,000 to organise a visa. The workers then come to Australia and they are employed by a company, which often takes direct deductions for them for their housing and then undercuts their rate of pay, and then those workers have to meet the payment to the migration agent. People are being ripped off and are not provided with any protection by this government.

This is not a question of attacking migrant workers; it is a question of defending them. If the Democrats do not understand the difference, it is no wonder that they are being wiped out as a political force in this country. If they do not understand the fundamental difference in terms of human rights, of not allowing workers to be ripped off by this sort of program, then they are in a dreadful state.

This week and last week, the Minister for Immigration and Multicultural Affairs abused Labor senators who raised these questions. She has crowed about reports that she has drawn upon. Only yesterday she drew upon the report of Professor Peter McDonald from the Australian National University. She said that the unions and the opposition were wrong in their claims. What she failed to tell this Senate and the public is that the survey in the report that she drew upon was conducted in 2003 and 2004—before the transformation of this program under her administration. She failed to point out that this program did start as a relatively
benign and modest program aimed at meeting skills shortages, but it has been transformed by this government, which is waging war upon the working people of this country in their drive to push down wages.

This program has fundamentally been transformed by a government that is seeking to establish a guest worker program. It wants to put workers in a situation like that stated by the manager of the abattoirs at Bunbury. He has a number of people from Ghana employed at his plant. He was quoted in The Australian of Monday, 4 April 2005 as saying:

If they don’t work out or do the things required of them, you just inform Immigration and they go home.

That of course is the great advantage of this program for the unscrupulous. It is the situation that we have at the Wagstaff abattoir in Victoria. I have raised the matter at Senate estimates and have made inquiries seeking information, and I have had no response from this government.

This government is introducing a brave new world of 457 visas. It has done so throughout the last two years—importing guest workers to keep wages down. We now understand that the minister has been forced to agree with the states in various meetings with state ministers that there is the need for a major renovation of this program. She has admitted that up to 10 crucial aspects of the program are essentially flawed and require urgent and fundamental review—that is, the basic features of this program require substantive renovation. The minister has had to acknowledge that the 457 visa edifice is crumbling and is in danger of imminent and ignoble collapse—and so it should collapse.

The minister has conceded to the states that there is significant potential for breaches associated with the program. She has implied that sanctions in the regime are inadequate. I know that there have been at least 19 cases where sanctions have had to be applied. She has conceded that the kinds of breaches that are at risk of occurring include the underpayment of wages and breaches with regard to the housing of workers and occupational health and safety concerns. Contrary to her tirade against my colleague Senator Lundy in question time last week—when she declared that the problem of employer rorts in Canberra restaurants was negligible—the minister has had to admit to state ministers that the hospitality industry is a key problem industry with regard to 457 visas. The minister and the government have admitted that there are issues regarding the payment of wages to 457 visa holders, including the payment of overtime, the indexation of the 457 visa minimum salary levels and the deductions made by employers from workers’ salaries.

I think the minister said today that $65,000 was the average salary in the meat industry. Her departmental officials pointed out at Senate estimates that the minimum requirement was $42,000. That is a very substantial difference—not to mention the way in which you can get a figure of $42,000 to appear on a piece of paper. The fact is that the minister has been misleading the Senate on these fundamental questions. The minister has also had to agree that there is a need for information sharing between the Australian government and the states with regard to 457 visas, particularly on the question of determining skills shortages. I know of a recent situation in Victoria in the meat industry where the local area committee that was used as the basis for declaring the skills shortage in Victoria was drawn from South Australia so that the concerns that the Victorian government has expressed could be bypassed.

The minister has had to acknowledge that there is a serious problem with forum-shopping between various DIMA offices
with regard to the regional certifying bodies and employers seeking 457 visa sponsoring status. She has acknowledged these things in discussions with her colleagues at the state level. She does not do it in here. She tells us an entirely different story. The minister has agreed that measures for determining employer commitment to the training of Australians must be more robust. She also says that there is agreement that communication between DIMA and 457 visa holders needs to be improved. At the same time, the minister has also indicated that she wants to strengthen the English language requirements for 457 visas. I do not think you would get a clearer critique than that which comes from the minister herself in her discussions with state ministers—not what she says here, but what she actually says through the various interdepartmental and ministerial briefings.

The minister nails a whole list of problems and shortcomings that have now been identified with the operations of the regional certifying bodies. They have been admitted to by the minister. They include questions of accountability, of record keeping and of serious conflicts of interest. This is not the gentle, benign program that some senators here would like to have us believe it is. This is not a program which just brings in a few extra doctors and nurses. This is a program that, if it is not watched, could be used to fundamentally undermine human rights in this country. That is something that we should all be very concerned about. We should not be coming in here with mealy-mouthed defences and suggesting somehow or other that it is racist to suggest that people are entitled to decent wages and conditions, that their civil rights should be protected and that they cannot be threatened by unscrupulous employers who say: ‘You either cop what I tell you or we will get Immigration to deport you.’ The labour agreements that the minister is now seeking to negotiate are a measure of her concern—(Time expired)

Senator LIGHTFOOT (Western Australia) (4.42 pm)—Firstly, let me rebut what Senator Carr was saying, just a few moments ago, in assuming that people who come in on 457 visas are subject to bad wages and bad conditions. Also, when he began his contribution here this afternoon, he mentioned people of Chinese extraction who came into this country and had their expenses for travelling to this country taken out of their wages. It is illegal to do that. Let me also say that the average minimum gross annual salary for a number of IT and computer related occupations in Australia, based on a 38-hour week, is currently $57,300. That applies to 457 visa holders. The minimum gross annual salary, based on a 38-hour week, for other occupations is currently gazetted at $41,850. Senator Carr’s rather voluble tirade failed to mention that, with the advent of the increase in 457 visa holders coming to Australia, employment has actually risen. One expects that, but unemployment has also dropped dramatically.

In my state of Western Australia, in July 2005, unemployment was 4.8 per cent. It is now 3.1 per cent. On a pro rata basis I would propose that we have taken probably more 457 visa holders than any other state in Australia. The engine house of the nation is Western Australia. Queensland could lay some claim to that, but it is in fact Western Australia, based on per capita income. Someone said in Western Australia recently that WA contributes 110 per cent of gross domestic product. I do not think it is that much, but it is certainly around 30 per cent, with slightly less than 10 per cent of the population of the nation.

A significant part of this productivity is based on the skilled workers who come in to Australia, not the unskilled workers. Un-
skilled workers are not in this category. Of all the people who come to Australia holding these particular visas, 85 per cent are either professionals or semiprofessionals. Do they take away Australian jobs? Obviously not, if unemployment is falling in all of the states except South Australia, where it increased slightly over the year, and New South Wales, where it increased from 4.8 per cent to 5.1 per cent from July 2005. I imagine that that will be an election issue in New South Wales shortly.

That is not the fault of the guest workers—and I do not like using that term, because they are not guest workers, really—as they go to other parts of Australia. They do not go to New South Wales in excessive numbers. They do not go to areas of high unemployment. These people go only where they have jobs. These people do not form a queue for taking handouts on the dole. These people contribute to the Australian economy. These people add to the boom in Australia. These people want houses. These people want their children to go to school here. A great number of these people in fact apply for permanent residency here, and we welcome them. These people are skilled.

I will mention the reason that we need these people in Australia, with their particular skills. I will quote the Hon. Tony McRae, who is the Western Australia Minister for Citizenship and Multicultural Interests. When asked whether we need these people in Australia, on their 457 visas, he said that they are ‘absolutely essential for our economic sustainability’. This is a Labor minister rebutting and denying what we have heard from the other side. He is saying absolutely the reverse of what we have heard from the other side today about the skilled workers who are assisting in the maintenance of this boom—this golden decade of Australia’s unbelievable growth. The real reason behind the antipathy of the other side towards these workers is simply this: about 10 per cent of the private sector is unionised today. Ten per cent of the private sector workforce in Australia is unionised. A significant proportion of the other 90 per cent have AWAs, Australian workplace agreements, and others have no agreements whatsoever but are happy to work for excellent wages.

I said that Queensland and Western Australia were the engine houses of Australia—and I make some concession to Queensland there. Senator Ludwig submitted the topic in today’s matters of public importance debate. I do not have time to rebut all the things that he said, but I will try to deal with a couple of them. He said that there has been a dramatic rise in the number of guest workers under the program over the last one to two years. There has been an increase but it is due to the strength of the Australian economy, particularly driven by Western Australia and Queensland. That is why the workers are coming in. They are not coming in to join dole queues; they are coming in because there is a shortage of skills and they fill those skills shortages in many areas, not just in the mining industry. Senator Ludwig noted as his second point:

(b) The Minister’s statement that the increasing numbers of guest workers are required to keep wages low;

Wages have risen, in real purchasing power, with the arrival of these skilled workers. Skilled workers are not actually cheap wage-earners. As I have said, in the IT industry skilled workers are averaging $57,300 a year, based on a 38-hour week. In other areas they are earning $41,850, based on a 38-hour week. It is not a bad wage. How could it possibly be said that that has been driven down? Senator Ludwig noted as his third point:

(c) The Howard Government’s failure to provide Australians with the training needed to meet the current skills crisis;
The current skills shortage is a reflection of the strong economy. There is very low unemployment, particularly among skilled Australians. It is also a reflection of the slowing natural growth in Australia’s working age population. Investment in vocational education and training is actually at record levels. How can it be being neglected if it is currently at record levels? I do not have time to cover everything that Senator Ludwig raised, but here is one more point:

(d) The use of guest workers in unskilled jobs and in skilled occupations where there are qualified Australians available;

If they are being exploited, that should be reported to DIMA. DIMA is currently undertaking reports into this area. I would advise anyone who has discovered that skilled workers are being exploited to report it so that it can be investigated. But the instances are very few. (Time expired)

Senator LUNDY (Australian Capital Territory) (4.40 pm)—The Minister for Immigration and Multicultural Affairs has once again shown her incompetence in managing Australia’s migration program. It should be of great concern to this chamber that the very important 457 visa program has been so grossly mismanaged by Senator Vanstone. It is not a surprise to anyone here that the government’s new industrial relations laws have opened up a huge gap between the market rate for certain services and what is now the minimum rate. This widening gap is effectively pushing Australian wages down. As this matter of public importance notes, the minister herself has outrageously stated that the increasing number of guest workers is necessary to keep wages low. It is simply not acceptable that the skilled migration program, in combination with the government’s extreme industrial relations laws, be used to push Australian wages down. This not only creates hardship for Australian workers but also is an exploitation of skilled migrant workers, who come to Australia for the prospect of earning a decent wage for doing a fair day’s work.

The government’s approach is both wrong in principle and undermines the legitimacy of a skilled migrant program. I want to refer to evidence published in the People and Place journal by Bob Kinnaird which shows the negative impact that 457 visas have had on employment and training opportunities in the IT industry. Since 2001 the proportion of computer science graduates unable to find full-time work in their chosen profession has been at an all-time record high, and commencing enrolments by Australian students in IT courses have dramatically dropped. This is disgraceful, because we know that there are 5,000 or so skilled migrant workers in this area alone.

By allowing this to happen, the government is undermining a critical part of Australia’s economy now and in the future. The ICT sector is a part of every industry, as well as being a very important growth industry of its own. Young people opting out of this particular career path are basically putting themselves in a situation where they are being denied an opportunity. It all comes back to the fact that they are likely to be reading in the newspapers and hearing in the industry about the number of skilled migrant workers in IT and thinking: ‘I just can’t compete with those people, because they are being paid less than the market rate here. I do not want to do all that study and then have to compete for a lower salary.’

I also want to make note of the fact that the proportion of women in IT is lower than ever—in the undergraduate courses and among graduating students and participants in the IT sector. All these statistics represent very bad news and move against the need for Australia to develop our knowledge economy.
The temporary work visas should not be able to take opportunities away from anybody. The scheme is designed to fill legitimate skills gaps, and we have heard many times today that these gaps are actually a product of the lack of investment by this government in those industry sectors anyway. So it is gratuitous and misleading at best to come in here and say that somehow this is a comment that Labor do not support a skilled migrant program. We do, but we argue for it to be a legitimate program, solving a legitimate problem, not a device of the Howard government to manipulate levels of wages in this country and to permit exploitation of skilled migrant workers to achieve an industrial relations policy outcome for the Howard government. That is a disgusting tactic, and people are being deliberately hurt by this government because of it.

I am particularly concerned about the issue of exploitation of migrant workers. We have heard a number of examples from my Senate colleagues. I think senators are aware I have been involved in raising an issue here in parliament about specific exploitation of migrant workers in the hospitality industry, in restaurants here in Canberra. If we had not raised it, the minister would not have acted; the government would not have acted. I am absolutely convinced of that, and I think the evidence shows that to be the case. But, since I did raise it, there has been some activity. There has been a prosecution, for which a decision is pending; there are more prosecutions pending; and there has been a substantial amount of money paid to workers who were underpaid.

This week in the chamber the minister fessed up that there has been even more exploitation of workers—not of migrant workers this time but of local workers, of young people here in Canberra, who have been underpaid. What we know from public statements is that some 165 workers in some 55 restaurants have been underpaid. All that is on the public record is that 19 of the 55 restaurants owe some $62,000-plus to those workers, and we do not know the rest. We are still waiting on more information from the department. We are yet to get the full story. I remind senators that this is just in Canberra; imagine if the government did this investigation Australia-wide. It is very much the tip of the iceberg.

We also know that the Howard government is trying to brand these investigations as some type of evidence that the Office of Workplace Services is protecting workers’ interests. Nothing could be further from the truth, because they would not have done anything unless we pushed them. We know that now. And it is a massive own goal, because the investigations and prosecutions have been based on underpayment of award conditions—conditions from the same awards that have now been demolished by the government under the extreme IR changes. That changes everything.

I contend that, without an award providing that minimum standard, the skilled migration program will continue to be exploited by employers wanting to cut their wages bills. Ministers of the Howard government standing up and saying things like, ‘It’s about pushing wages down,’ is giving them explicit permission to exploit those workers. That is unacceptable and disgraceful behaviour as far as any public policy in relation to skilled migration or workplace relations goes. But there it is. It is on the record. This government is completely exposed. (Time expired)

**Senator PARRY** (Tasmania) (4.57 pm)—I think it is very important to clearly place on the record exactly what we are talking about. We are talking about bringing skilled workers into this country to fill a need, a void, a gap. The main reason is that this economy is running so well that we have a shortfall in
skilled workers within our own country. We have an unemployment rate now of 4.8 per cent, the lowest in decades. Senator Carr indicated that he is a friend of the workers. If he were a friend of the workers and if the Labor Party were a friend of the workers, they would be supporting the government’s policies to keep such a low unemployment rate and the policies we put in place to achieve it in the first instance.

The 457 visas are for skilled overseas workers to enter Australia. They are not for any other purpose but to bring in skilled overseas workers. We have a dire need for overseas workers. The issue of exploitation that has just been raised by Senator Lundy is one that this government has taken seriously. Senator Lundy must at least have some confidence now with this government that, when someone exploits the system, in any field, in any endeavour—and in this endeavour—that person is prosecuted if they are caught.

Senator Lundy—If we raise it in parliament, something will happen.

Senator PARRY—If evidence is presented to the right authorities, action is taken. Action is always taken on the presentation of evidence. It is okay to raise speculative things, but when evidence is produced action is taken. It just shows how responsible this government is concerning the 457 visas.

There are some important issues in this debate. There has been talk about low wages. There is an absolute minimum wage that must be paid to anyone on a 457 visa, and we cannot go below that. The average wage for 457 class visas is $65,000 per annum. I do not call that a low wage, not by any stretch of the imagination. The minimum wage that must be paid, as was stated earlier, is $41,850. In regional areas, the wage cannot go below the award. It cannot go below agreed award wages. It just cannot do that. The talk of low wages is a furphy. It is a scare tactic aimed at trying to disrupt this government.

Senator Scullion—It’s a nonsense.

Senator PARRY—It is a nonsense. I wondered today, as I was listening to the debate, why this matter has been raised. We have 457-class visas which are filling a vital need. We have low unemployment. We have a skills shortage. I really think it has been raised out of jealousy. I think the Labor Party are jealous. We have done a tremendous job. It is something we thought about. It is something we introduced and it is filling a vital need. If we did not have this class of visa, there would be a lot of serious implications for our workforce, our productivity and our manufacturing ability.

Senator Boswell articulated very clearly some practical examples of the need for this visa class in the state of Queensland, and that could be replicated, I am sure, in other places around the country. I was very impressed to hear the sincerity of Senator Boswell’s comments. He has had grassroots contact with people who have indicated that meatworks and abattoirs would be closed if they did not have the provision of the 457 visa class. That is a serious implication. Do we want to let business and industry wind down because we cannot get people to work in these particular workplaces? The reason they cannot employ people in these workplaces and the reason they cannot attract people is that there is a demand for employment across this country.

Let me give you some statistics from my home state of Tasmania. This issue goes to training as well. We have had a boom in the state of Tasmania. There have been implications that there has been no training and that the training in the country is not good enough. Apart from the Australian technical colleges that this government has been proud to introduce—and they are on the ground in
many parts of Australia—training has con-
tinued. We are filling a gap in the training
needs in this country. Let me quote some
statistics. In 2002 in Tasmania, 150 appren-
tice carpenter-joiners were going through the
apprenticeship training program. In 2006,
there are 700—that is a mammoth increase in
the number of people training. Whilst we
have this gap while people are training, we
are filling this void through a proactive gov-
ernment response: the 457 visas are allowing
industry and commerce to continue with
business as usual. Without that response, we
would not have business as usual.

If the Labor Party want to say that we
should not be using 457 visas and that indus-
try should be shut, go and tell the public that.
We do not believe that. We believe we
should be looking after every industry in this
country. We will use every particular facility
we can to do that, and 457 visas are just one
of those things to assist in this cause. At least
we are responsible and are ensuring that in-
dustry continues and does not lapse. I would
not like to have to go to the owners of busi-
nesses and to the workers and the people of
regional Australia and say: ‘I’m sorry, we
can’t get any workers. The Labor Party don’t
want us to bring in any skilled workers from
outside this country, so your business will
have to close.’ We are not going to do that.
We have a very proactive approach to enable
industry to continue. If we had the workers, I
am sure employers would be employing lo-
cal people within their towns and within their
cities, but that is just not the case. We do not
have the workers yet, but we will get them.

There are some other important issues that
need to be clarified concerning the 457 visa
program. Some great information has come
out from the minister. Whilst I am talking
about the minister, there is the suggestion
that the minister is not on top of this. The
minister has done a superb job. The minister
has run this program despite adverse condi-
tions and Labor’s commentary. When the
facts come out and the myths are exposed,
the fantastic job that the minister has been
doing in her portfolio will be proven. I am so
pleased we have a minister who has the
courage to do these things and look after the
industry of this country.

There have been some myths around this
issue. The myth about wages is exactly that.
To suggest that we are getting low-paid, un-
skilled workers into this country is an abso-
lute nonsense. It is a great pay rate that we
are introducing into this country for these
workers. It has been repeated time and again
that we need to understand some of the sta-
tistics—(Time expired)

COMMITTEES
Privileges Committee
Report
Senator FAULKNER (New South
Wales) (5.05 pm)—I present the 128th report
of the Committee of Privileges, entitled Per-
son referred to in the Senate: Mr Karl J
O’Callaghan APM, Commissioner of Police,
Western Australia.

Ordered that the report be printed.

Senator FAULKNER—I move:
That the report be adopted.

This report is the 48th in a series of reports
recommending that a right of reply be af-
forded to persons who claim to have been
adversely affected by being referred to either
by name or in such a way as to be readily
identified in the Senate.

On 2 August 2006, the President received
a submission from Mr Karl J O’Callaghan
APM, Commissioner of Police, Western
Australia, relating to comments made by
Senator David Johnston in the Senate on 14
June 2006 during discussion of matters of
public interest. The President referred the
submission to the committee under privilege
resolution (5). The committee considered the
Submission on 10 August 2006 and recommends that Mr O’Callaghan’s proposed response, as agreed by the committee and Mr O’Callaghan, be incorporated in Hansard.

The committee reminds the Senate that, in matters of this nature, it does not judge the truth or otherwise of statements made by honourable senators or the persons referred to. Rather, it ensures that these persons’ submissions and, ultimately, the responses it recommends accord with the criteria set out in privilege resolution (5). I commend the motion to the Senate.

Senator ROBERT RAY (Victoria) (5.07 pm)—Numerous rights of reply have been accorded to offended individuals by this chamber. I would point out that, just as it is the practice of this chamber to allow a right of reply to anyone who thinks they have been defamed or otherwise affected, a similar right exists in the House of Representatives. I do not know how many rights of reply we have allowed—perhaps 50, 60 or 70—but the House of Representatives have allowed only one. I think that is a pretty miserable attitude of theirs. Not only do we allow a right of reply in the Senate but we also have a tradition to allow a very robust right of reply. In other words, this chamber takes the view, down to the last person, that if we dish it out we will cop it back. I think that is very healthy.

There is a particular issue between Commissioner O’Callaghan and Senator Johnston. I do not want to try to arbitrate on who is right or wrong in this particular case. However, one aspect raised by Senator Johnston concerns me, although I do not necessarily say he is right or wrong in this specific instance. What worries me is the fact of police leaking against public officials and politicians when the latter err in some particular way. I do not argue here and you will never hear me argue that politicians should be above the law or above exposure when they breach the law—of course they should not.

But we in this chamber all know that state police forces love having politicians in the headlines with a speeding offence, a drink-driving offence or any other such thing. This happens ‘somehow’—we never find out exactly how. When these offences occur, the media is informed. The TV cameras are out there on a particular individual. It is also true that this occurs with other people in society that are well known, but it should not be allowed to occur. I am not, as I have said, arguing that politicians should be a protected species. A colleague of mine in this chamber, also from Senator Johnston’s state, committed an error through speeding. I was picked up for speeding years ago when I was a cab driver. I wonder how many people in this chamber might have been too.

Senator Abetz—What? Been a cab driver?

Senator ROBERT RAY—Senator Abetz, it is pretty hard not to. Of course, the media were immediately tipped off at every stage of my colleague’s case. They were always present; they always knew. And that is not the only example. It happens time and time again to federal and state politicians.

I read in the Australian this morning about another case. Angus Kennett, the son of the former Premier, committed some minor offence for which he was not arrested but was given a bit of a warning for being a naughty boy. That found its way into the media. The former Premier of Victoria, Mr Kennett, said of the incident:

… but it should never have been made public. “It’s a private matter and I can’t believe that the police force think it’s necessary to give information like this to journalists … It’s an appalling breach of a person’s rights.”
Hear, hear! The former Premier of Victoria is absolutely right. It was not necessary for the police force to put that information into the public domain.

We all know that from time to time these things emerge. Going back to the case of Mr Reith and the telecard, which was some years ago, those opposite know that Senator Faulkner and I knew all the details of that case. That was obvious from our cross-examination at an estimates hearing in May.

Senator Faulkner—And my question on notice.

Senator ROBERT RAY—Yes. But we did not name Mr Reith and we did not ask questions on notice that would identify him. We knew his son was involved, and we desisted. How did that information get into the public domain? How did it reach the newspapers? We now know that it was the AFP that put it there. They had done the investigation. I do not think they found any criminal activity, so it was leaked to a newspaper. Time and time again we see this occurring.

We cannot expect, when we commit errors—we are supposed to set the example for the community—not to be exposed. I accept that. But I think it is bad for the police to commit the leaking. I suspect it is illegal. I suspect it is against all their codes of ethics to do so, and I do not think they should be allowed to do it. It is really a question of police integrity. I do not know if that, in the present instance, is what Senator Johnston was going on about. Nevertheless, I think we should say that we oppose the police leaking these particular matters for ambush.

I have had to raise elsewhere the question of the combined state and federal police and ASIO raids on terrorist matters. Clearly, I am not going to say that I do not support those raids, and I believe that each of those search warrants was justified. I also commend the police these days for the way in which they execute them in a far more culturally sensitive way, as they have been doing recently. But in the instances I mentioned from my state of Victoria the cameras were there. Who tipped off the TV stations to be outside a home? After all, the police were executing a search warrant. It was not an arrest. It was a search warrant. You can imagine what all the neighbours thought when they saw the four or five TV channels outside.

The state police especially have a relationship with the media. They need to use the media to assist them with their inquiries and activities. But it should not extend, in these instances, to tipping off the media and having them expose people. That is not the way our society is supposed to operate, and it will lessen people’s confidence in the police force if we allow it to continue.

Question agreed to.

The response read as follows—

APPENDIX ONE
RESPONSE BY MR KARL J. O’CALLAGHAN, APM
COMMISSIONER OF POLICE, WESTERN AUSTRALIA
PURSUANT TO RESOLUTION 5(7)(b) OF THE SENATE OF 25 FEBRUARY 1988
On 14 June 2006 Senator Johnston made a number of accusations against the Western Australian Police Service and me personally.

The central theme of the Senator’s address was a desire to demonstrate that the WA Police Service is dedicated to engaging in partly politics. In support of this theory, the Senator refers to five examples:

The Prosecution of Paul Omodei
Mr Omodei was prosecuted and convicted for an offence relating to an incident whereby Mr Omodei discharged a firearm which injured his son’s thumb. Upon conviction Mr Omodei was fined and received a spent conviction.

The Senator argued that Mr Omodei should not have been charged because it was an accident.
According to the Senator, the only reason Mr Omodei was charged was because he is a Liberal party politician.

I should point out that it is not my practice, nor is it the practice of any sensible Commissioner to interfere in decisions concerning who should be prosecuted. I was unaware Mr Omodei had been charged until after the fact. Once made aware, at no stage did I interfere in the process.

**The Prosecutions of Jonathan Daventry**

Mr Daventry works for the Federal Member for Curtin, Julie Bishop. Mr Daventry was charged following an altercation between Mr Daventry and a 72 year old constituent, who suffered a fractured skull.

The matter proceeded to trial in the District Court whereby Mr Daventry was acquitted.

The Senator maintains that the only reason Mr Daventry was charged was because it was “political”. Once again I was only aware of Mr Daventry’s case after publicity that he had been acquitted.

More importantly the Senator failed to inform the Senate that the Office of the Director of Public Prosecutions (DPP) had conducted the prosecution of Mr Daventry. Surely had the DPP formed the view that there was no prima facie case against Mr Daventry or no reasonable prospect of success, the prosecution would have been withdrawn.

**The Prosecution of Mr McDonald**

Mr McDonald is a union official for the CFMEU who was charged with making threats at a construction site in 2003.

After the case had been heard but prior to the Magistrate handing down her decision, the charge was withdrawn by a police prosecutor.

Mr McDonald was charged before I became Commissioner of Police. I was not aware that Mr McDonald had been charged until after the charge was withdrawn. Like the Senator, I too want answers as to why this case was withdrawn in unusual circumstances. The matter is now the subject of an investigation by the Corruption and Crime Commission. The one thing of which I am certain, however, is that I did not intervene in this prosecution in anyway. The Senator describes the police conduct as “corrupt”.

I can only assume, given the theme of the Senator’s address, that he believes that the charge against Mr McDonald was withdrawn because he is a labor party affiliate.

Interestingly, had I intervened to procure the withdrawal of the charge against Mr Omodei, as the Senator implicitly suggests should have occurred, I would have been subject to the very same allegation that the Senator levels against me with respect to Mr McDonald’s case.

It is not surprising that I deliberately do not involve myself in decisions about who gets charged and who does not. Those are matters for the investigating officers and the DPP, if need be.

**Matt Birney**

In 2005, Mr Birney was the Leader of the Opposition in Western Australia. In May 2005, Mr Birney undertook a preliminary breath test and was found to have exceeded the legal limit. Mr Birney was taken into custody and tested a second time whereby a reading of 0.047 was returned, which is under the legal limit of 0.05. Mr Birney was not charged in the police force if we allowed to continue. an offence. Mr Birney also made a complaint against the police.

There exists a long standing arrangement whereby the Police Minister receives briefing notes concerning any operational matter of interest. The fact that the Leader of the Opposition had been taken into custody and complained about the conduct of the police was considered of significant interest. The WA Police simply provided the briefing note to the Minister. The WA Police did not make the information public nor did they advise the Minister to make it public.

The Senator also sought to make much of my radio interview where I indicated that I was unaware who had provided the information about Mr Birney to the Police Minister.

The briefing note was sent by my Ministerial Liaison staff not by me personally. When apprised of that fact, I immediately confirmed that that was the case to set the public record straight.

As a consequence of the controversy surrounding the provision of the briefing note to the Minister,
I sought advice from the State Solicitor’s Office as to the propriety of the practice. The advice I received confirmed that the practice is legitimate.

**Burglar Beware Advertisement**

In 2004, I appeared on a television commercial informing the public that DNA testing would be carried out in relation to every burglary.

Unbeknown to me at the time the advertisement was shot, there was a backlog in the testing of DNA samples. While DNA testing was being carried out, for a range of reasons, some of which that did not involve the WA Police, the testing was occurring at a slower rate than intended.

This situation prompted the Senator to advise Parliament that the “campaign was and continues to be founded upon a lie” and “amounts to a fraud being perpetrated upon the public of Western Australia.”

Historically, Western Australia has had a high burglary rate. The campaign was designed to reduce burglary by a combination of deterrence in warning criminals of the risk of being caught and detection by implementation of the new technology.

Various strategies have been used to address the delay. Recently, in one week alone, 150 DNA matches for burglary related offences occurred.

Objectively, there is no basis on which is can be said the campaign is either a “lie” or a “fraud”.

**Conclusion**

It is of concern that the Senator did not see fit to afford me natural justice before publicly denigrating my reputation and that of the Western Australia Police.

Parliamentary privilege was designed so as not to stifle robust debate and to encourage candour. Its purpose is not to enable politicians to unfairly denigrate a person or bodies reputation by advancing an ill-conceived theory with impunity.

**COMMITTEES**

**Scrutiny of Bills Committee**

**Report**

**Senator ROBERT RAY** (Victoria) (5.15 pm)—I present the third report of 2006 of the Senate Standing Committee for the Scrutiny of Bills. I also lay on the table Scrutiny of Bills Alert Digest No. 8 of 2006, dated 16 August 2006.

Ordered that the report be printed.

**Senator ROBERT RAY**—As senators are aware, the Scrutiny of Bills Committee considers legislation to ensure that it complies with the appropriate civil liberties and principles of administrative fairness. It does this by bringing to the attention of the Senate provisions of bills which may infringe upon personal rights and liberties or delegate legislative powers inappropriately or without sufficient parliamentary scrutiny.

The committee has considered only one bill in its Alert Digest No. 8 of 2006, the Environment and Heritage Legislation Amendment (Antarctic Seals and Other Measures) Bill 2006. In considering this bill, the committee has noted that the bill denies the right of the Administrative Appeals Tribunal to make any order staying certain decisions by the minister in relation to the variation, suspension or revocation of permits. The committee has consistently drawn attention to clauses which explicitly exclude review by relevant appeal bodies such as the AAT. However, in this case, the committee notes that the proposed curtailment of the AAT’s jurisdiction is limited to circumstances in which the minister considers that irreversible environmental damage would otherwise occur and that in those circumstances the variation, suspension or revocation of the permit should take immediate effect.

In its sixth report of 2006 the committee has noted the provision of further advice by the Minister for Justice and Customs, Senator Ellison, in relation to the commencement of certain provisions within the Customs Legislation Amendment (Modernising Import Controls and Other Measures) Bill 2006.

Ordered that the report be adopted.
COMMITTEES
Corporations and Financial Services Committee
Report

Senator CHAPMAN (South Australia) (5.17 pm)—I present a report of the Parliamentary Joint Committee on Corporations and Financial Services on the statutory oversight of the Australian Securities and Investments Commission, together with the Hansard record of proceedings.

Ordered that the report be printed.

Senator CHAPMAN—I move:

That the Senate take note of the report.

Statutory oversight of the Australian Securities and Investments Commission is a key role for the Parliamentary Joint Committee on Corporations and Financial Services. ASIC officers appear before the committee about every six months and I would like to thank them for their ongoing cooperation, especially on this occasion, as they were required to appear before our committee only about two weeks after appearing before the estimates committee discussing some of the same issues.

This report includes discussion on a number of issues relating to ASIC’s regulatory responsibilities which were raised with ASIC officials on 13 June 2006. Matters examined by the committee include: the Westpoint collapse; ASIC’s shadow shopper survey on superannuation advice; ASIC’s educational role; ASIC’s new memorandum of understanding with the Commonwealth DPP; the Vizard matter; and proposed changes to the business judgment rule.

An issue of great interest to the committee has been ASIC’s handling of the Westpoint matter. This corporate disaster has cost thousands of investors up to $400 million and many of those people have lost their entire life savings. When setting up their high-risk mezzanine investment scheme, Westpoint directors deliberately sought to put their activities beyond ASIC’s jurisdiction by exploiting an exemption in the current legislative provisions. This was achieved by issuing promissory notes of over $50,000. It meant that Westpoint companies were not subject to ASIC’s usual disclosure requirements and could not be brought into line for distributing what ASIC believed to be misleading information. The committee was particularly interested in ASIC’s response to Westpoint’s deliberate attempts to place themselves outside their regulatory reach. ASIC conceded that they had received warnings about Westpoint in 2001 and 2002. They told the committee that in 2003 an attempt was made to persuade Westpoint that they were not in fact legally justified in ignoring ASIC’s disclosure requirements, which was rejected by Westpoint. ASIC then sought to test the law in the West Australian Supreme Court, which also rejected ASIC’s claim that Westpoint’s products were in fact debentures and subject to ASIC’s disclosure requirements. Although the court ruling provided ASIC with the opportunity to wind the scheme up, there was no evidence of insolvency at the time and investors were still getting paid.

Of course, we now know that Westpoint was a house of cards that collapsed very quickly. In hindsight, ASIC might have opted to seek removal of the relevant legislative exemption rather than embark on a lengthy legal process. Unfortunately, Westpoint’s inherent fragility was not fully understood at the time. Now the damage has been done it is important that those responsible are fully investigated and, where appropriate, brought to justice. Although ASIC has not been prepared to comment on the specifics of the case, it has confirmed that the investigation will encompass the role of Westpoint directors, financial services licensees, advisers recommending the mezzanine schemes with
high commissions, KPMG’s role in auditing Westpoint’s accounts and other third parties. The committee urge ASIC to pursue this matter as vigorously as possible and encourages people who invested money with Westpoint to assist ASIC with its investigation. We are also very concerned about other similar schemes that are still operating. The Westpoint saga highlights the need for ASIC to be especially vigilant in monitoring the information provided to investors by these high-risk mezzanine schemes.

The other matter of principal concern this year has been the results of ASIC’s shadow shopper exercise on superannuation advice. This exercise surveyed the advice provided by 259 individual advisers, who were representatives of 102 licensees, and captured 306 examples of financial advice provided to real consumers. According to ASIC, the survey revealed that, given the client’s individual needs, 16 per cent of advice was unreasonable; one-third of advice suggesting a switch in funds lacked credible reasons; unreasonable advice was between three and six times more likely where a conflict of interest, such as high commissions, was present; and advisers failed to give a requisite statement of advice on 46 per cent of cases, although one-fifth of these were instances of verbal advice to stay in an existing fund. If this is the case, it is of major concern. ASIC identified the major problems as being advisers not examining existing funds before recommending new ones; statements of advice not adequately disclosing the reasons for recommended action; and advisers not disclosing the consequences of switching super funds.

Significantly, most clients who had received poor advice were not aware that this was so. One of the problems identified by the committee was the restriction on advisers to provide advice only on financial products included in their licensees’ approved product lists. Where advice is given in the context of a commission based fee structure, those funds that do not pay commissions to advisers often do not appear on approved product lists. This puts advisers in a catch-22 situation with regard to the requirement to assess the existing fund of a client if advising a switch to a different fund. This catch-22 may be a factor in the survey’s apparently unsatisfactory results.

The committee is of the view that any shift to fee-for-service arrangements will naturally extend the scope of approved product lists. This will in turn improve the prospects of consumers getting advice that is best tailored to their needs. The committee welcomes industry moves towards this fee structure and believes it will improve the quality of superannuation advice. However, many consumers cannot afford or are unwilling to pay fee for service, so the commission based fee structure will continue to operate and the situation needs to be managed properly. ASIC told the committee that financial product issuers would continue to be able to pay commissions to enable their product to reach the marketplace. They stated that commission based fees represent a potential conflict of interest that is best managed through disclosure.

Given this reality, exercises such as ASIC’s shadow shopper survey are very important in ensuring that investors get the best advice. Although ASIC told the committee that this survey did not identify the worst culprits—instead, it was used primarily for data capture—it should serve as a wake-up call for the industry. It shows a level of performance that suggests that many customers are receiving advice that will unknowingly cost them a significant proportion of their retirement savings. This is unacceptable. ASIC should repeat the exercise and identify repeat offenders. The committee has recommended that ASIC undertake a similar survey next year. If results have not signifi-
cantly improved, repeat offenders—those who have been found repeatedly and seriously to have breached the requirement to provide reasonable advice—should be publicly named.

Westpoint and the shadow shopper survey highlight the importance of investors being equipped to protect themselves by being financially literate. This was a theme that ran throughout our discussions with ASIC. The committee was told that ASIC had broadened its education campaign audience beyond publications such as the *Australian Financial Review* to include talkback radio and newspapers such as the *Daily Telegraph*. The committee believes that investors not realising when they have received bad advice, or being prepared to put all of their money into a single mezzanine finance scheme, suggests that many investors’ financial literacy is not what it should be when they are making vital financial decisions.

ASIC told the committee that they needed to be careful about overselling their message and putting people off. The committee understands this concern but believes that ASIC need to be more effective in teaching ordinary investors how to spot the pitfalls when making decisions about investing their savings. As important as regulation is for protecting investors, a very effective way of preventing investor losses is by educating the community on how to protect themselves. ASIC do have a very important role in that regard.

On 1 March this year ASIC signed a new memorandum of understanding with the Commonwealth DPP. This replaced the earlier memorandum agreed in 1992. We are aware of criticisms of the effectiveness of the collaboration between these two agencies. These have largely reflected concerns that ASIC should not have to seek DPP approval for criminal prosecutions and that the DPP did not respond to ASIC briefs in a timely fashion.

We recognise the appropriateness of ensuring that ASIC is not both policeman and prosecutor. ASIC also told the committee that the DPP’s responsiveness was improving year by year, which is an encouraging trend. The effectiveness of this very important relationship needs to be monitored. If the new MOU is not working then a new one should be agreed to. The committee have recommended that ASIC and the DPP regularly update them on the effectiveness of the new MOU.

The committee also discussed the Vizard matter with ASIC. The main topic of discussion this time was ASIC’s consideration of the possible perjury implications of the agreed statement of facts put before the court in their civil proceedings against Mr Vizard last year. We were informed that ASIC has assisted the Victoria Police in passing on to them the agreed statement.

We have also questioned ASIC on the proposal by the Parliamentary Secretary to the Treasurer to extend a defence contained in the Corporations Act known as the business judgement rule. This is based on the well-established legal principle that courts are reluctant to pass judgement on the merits of business decisions taken in good faith. The proposed extension of the business judgement rule would significantly broaden the defence by providing a general protection for directors, excusing them from liability under the Corporations Act, subject to certain conditions.

*The ACTING DEPUTY PRESIDENT (Senator Lightfoot)*—Senator Chapman, your time has expired.

*Senator CHAPMAN*—Mr Acting Deputy President, I seek leave to incorporate the remainder of my speech.

Leave granted.
The speech read as follows—

As many would be aware, regarding the Vizard matter, there have been suggestions that this statement possibly contradicted earlier evidence he provided to a Magistrate’s Court committal hearing in 2003. We were informed that ASIC had assisted the Victorian Police in passing on to them this agreed statement.

The committee notes in its report that ASIC’s consideration of the perjury question when negotiating their agreed statement of facts remains somewhat unclear.

I also note that despite reports to the contrary, Mr Vizard’s former accountant, Mr Greg Lay, has continued to refuse to assist ASIC with their investigations on this matter.

Proposed business judgment rule

The committee also questioned ASIC on a proposal by the Parliamentary Secretary to the Treasurer, the Hon. Chris Pearce MP to extend a defence contained in the Corporations Act known as the ‘business judgment rule’.

The business judgment rule is based on the well established legal principle that the courts are reluctant to pass judgment on the merits of business decisions taken in good faith.

Currently the business judgment rule only operates in relation to the duty of care and diligence and not to any other provisions of the Corporations Act or under any other law. That is, the business judgment rule does not currently apply, for example, to the duty of good faith, the duty not to misuse position or company information, and the duty to prevent insolvent trading.

The proposed extension of the business judgment rule would significantly broaden the defence by providing a general protection for directors, excusing them from liability under the Corporations Act, subject to certain conditions.

ASIC officials raised concerns about the practical operation of the proposed extension. They said that the proposed change could make it harder for ASIC to enforce the law and that ‘if there is a suggestion that the rule itself is somehow different [from the existing business judgment rule], our position is that we do not support that.’

It was also acknowledged that ASIC has not been asked for advice on this proposal.

Given the broad nature of the proposed extension to the business judgment rule and the enforcement concerns raised by ASIC, the committee formed the view that these concerns should be provided directly to the government so that it fully understands the enforcement issues when it considers the merits of the proposal.

Accordingly the committee has recommended that ASIC provide advice to the Australian Government on its concerns regarding the enforcement effects of the proposal to broaden the ‘business judgment rule’ as well as any other proposals that would have significant enforcement implications.

I note that earlier this week the Parliamentary Secretary to the Treasurer announced that the proposed extension to the business judgment rule is one of several topics that ‘merit a more focused approach, because of the scope and complexity of the policy issues they raise’. Accordingly the proposed extension will be progressed in conjunction with other reviews by Treasury, at which stage ASIC’s enforcement concerns should be given due consideration.

I conclude by thanking the committee secretariat for its good work and I commend this report to the Senate.

Senator WONG (South Australia) (5.27 pm)—I also rise to take note briefly of the report of the Parliamentary Joint Committee on Corporations and Financial Services on the statutory oversight of the Australian Securities and Investments Commission. I want to make some short comments in relation to the business judgment rule issue that Senator Chapman referred to. Can I say at the outset that we on the opposition side also add our thanks to the officers of ASIC for their assistance and appearance before the committee and for the provision of information as requested by committee members.

One of the issues that was raised in this hearing and also in the estimates hearings which preceded it was the government’s
floating of a proposed extension to the business judgement rule. It was of some concern to a number of committee members that it appeared that the government had not in fact asked ASIC, the regulator, for advice as to what the effect of extending the business judgement rule might be. The evidence of ASIC before this committee and also before the estimates committee, which is referred to in the report, was that ASIC retains substantial concerns as to the risks or difficulties that might be associated with enforcement should there be an extension to the business judgement rule.

What has been proposed by the parliamentary secretary—or floated by him—is an extension to the rule so that it would apply to a great range of duties in the Corporations Law, including the duty not to trade whilst insolvent. I do want to make the point that Labor is willing to have a discussion with ASIC, hopefully CAMAC—that is, if the government is actually going to ask CAMAC, which is supposed to be an advisory body, for its advice in relation to this proposed change to the Corporations Law—and also the business community about the merits of such a change.

However, we do note, as does the committee, the potential risks as to law enforcement difficulties which may arise from the proposed change. Some of these concerns have been raised not only by ASIC but also by the legal community. Clayton Utz is one law firm that has indicated some issues with this. It has stated that such a change would introduce a new defence to insolvent trading that could be significantly easier to establish than the defences currently available to directors, which could in turn lower the overall standard of company directors. The concern is being backed by the Corporations Committee of the Business Law Section of the Law Council, which has stated that such an extension of the business judgement rule to issues such as insolvent trading and the keeping of books and records is a significant policy change with potentially far-reaching consequences for the management of companies.

I am pleased that the committee members of the Joint Committee on Corporations and Financial Services have seen fit in this report to all agree to a recommendation that seeks that ASIC provide advice to the Australian government on any concerns regarding the enforcement effects of such a proposal. We welcome a discussion about these and other changes to the Corporations Law which have been floated by the government. However, I want to make this point: we ought to take a genuine cost-benefit analysis approach to consideration of these changes. I also point out that a reduction in the standards of behaviour, particularly as they would extend to insolvent trading, may have consequences for those, including other corporations and businesses, with whom a company transacts. So there is an argument, one would have thought, that it may in fact introduce a greater level of uncertainty for a great many businesses rather than simply alleviating the duties that apply to some.

I welcome the committee’s agreement to asking ASIC to explore and give advice to the Australian government on these enforcement related issues. I hope that the government will actually take that into account. I also place on record my hope that the government will actually refer this issue also to CAMAC, as a body that obviously has significant expertise in the area of Corporations Law, for advice so that this proposal can be properly considered.

Senator SHERRY (Tasmania) (5.32 pm)—I too want to make a contribution on the tabling of the report by the Parliamentary Joint Committee on Corporations and Financial Services on the statutory oversight of the Australian Securities and Investments Com-
mission, commonly known as ASIC. The Joint Committee on Corporations and Financial Services is charged with the oversight of ASIC, the consumer protection regulatory authority in terms of financial services in this country. Firstly, I want to thank ASIC. As the chair has indicated, ASIC are subjected to extensive questioning, not just at hearings of the Joint Committee on Corporations and Financial Services but at the estimates process. ASIC appeared not only at the hearing of 13 June but also at estimates hearings in May and February this year. They were subjected to questioning on the same, if not similar, issues across the board at those three hearings. On behalf of the Labor opposition in the financial services area, I would like to thank ASIC and generally congratulate them on their responsiveness at those hearings.

I would have to say that generally, in most respects of financial services regulation, Labor has been pleased with the approach of ASIC. There are a couple of exceptions, and I have some concerns which I will go to shortly. The report that has been tabled deals with some very important and current issues. The report certainly dealt with the Westpoint matter, which I want to go to in greater detail shortly; the recent shadow shopping exercise; what is known as the Vizard matter; and a number of other issues.

Firstly, I go to the Westpoint financial scandal. There are probably up to 4,000 investors in this country who have lost a substantial sum of money. The sum of money is likely to be in the range of $300 million to $400 million. Most of the investors in Westpoint are elderly Australians, many of whom are retired. Much of the investment in Westpoint took place through what is known as self-managed superannuation fund structures. Between 30 and 40 per cent of the investments in Westpoint were through self-managed superannuation fund structures.

Of particular concern to the Labor opposition is what I have described as the perfect storm of regulatory failure with respect to the Westpoint financial disaster. I call it a perfect storm because it is apparent that there were a number of failures across a number of regulatory agencies and at other points that led to this financial disaster. I am sure that many people have noted the media coverage of current proceedings involving Westpoint. I do not want to go to those in this forum. However, it is apparent that it will take some time, if not years, to unravel what occurred in respect of Westpoint. Even when that is finished, I think it is apparent that most of the investors in Westpoint will end up with very little recompense. The Westpoint investors—as I said, many of them elderly—face a very difficult set of circumstances. Not only will they have to wait for some years for the court outcome but, when that wait is over, I am sure that the level of recompense will be very small compared to the moneys that have been lost.

I come to the issues that are being canvassed not just through the committee’s oversight but also at Senate estimates. As I said, Westpoint is a good bad example of a range of failures that have occurred in our financial services regulatory area. Let me deal with ASIC first. My concern with ASIC’s approach is that ASIC have always argued that they did not have the legal power to regulate in this area—the issue of the promissory notes and the $50,000 exemption. Labor accepts that this was the case and still is the case today. Labor accepts that ASIC did not have the regulatory authority. However, that would not have prevented ASIC, once they were alerted to the regulatory authority. However, that would not have prevented ASIC, once they were alerted to the Westpoint issues and problems, from going to the financial planners who were recommending Westpoint and at least making inquiries and alerting them to the fact that they had concerns about the Westpoint investment. In my
view, if ASIC had done that, the planners would have been much more cautious about recommending Westpoint and there would have been a considerably lower number of people who would have placed funds in Westpoint. Unfortunately, some of the planners involved could not overcome the temptation of the commissions that were on offer for recommendations to go into Westpoint—and commissions are a much broader issue and problem in terms of shadow shopping and superannuation, which is also dealt with by this report.

In particular, ASIC were warned by the Western Australian government, specifically the Western Australian Minister for Consumer and Employment Protection, in writing in August 2002, January 2003, May 2003, June 2003 and March 2004. So they were warned in writing on no less than four occasions about issues relating to Westpoint. I do not believe ASIC were sufficiently proactive in following through on those complaints, so that is a criticism I make of ASIC. However, the government was also warned. No less a person than the Treasurer, Mr Costello, was written to by the Western Australian minister, and it took some six months before the Treasurer deigned to reply. On a very important issue of financial protection, it took six months for the Treasurer to bother to reply to the Western Australian minister.

I know the Treasurer is a busy man and has got lots of things on his plate—but to take six months to respond to a report about, at that stage, possible financial malpractice? I think the Treasurer needs to get a bit of focus in his office and give greater attention to matters that are referred to him by ministers—in this case, the Western Australian minister. It is interesting: the then parliamentary secretary, Minister Ian Campbell, who is now minister for environment and parrots, wrote back on behalf of the Treasurer and said, 'If required, the government will consider any recommendations ASIC make to improve consumer protection in this area,' and:

... the Commonwealth Government will consider legislative change should ASIC identify any regulatory gap.

ASIC had already identified the problem of the $50,000 promissory note exemption—the gap in regulation. I still cannot understand why, to this day—and we posed the question to Senator Coonan yesterday in question time—the government will not act to close this loophole. The ASIC chair, Mr Lucy, has called on the government to close the loophole. He is on the public record—add two zeros; $5 million, not $50,000—and yet the Treasurer has not acted to close this loophole in our financial services system to minimise and prevent the sorts of abuses and losses that have occurred to thousands of Australians, mainly elderly, as exemplified by the horrible Westpoint financial scandal.

Senator MURRAY (Western Australia) (5.42 pm)—I also rise to take note of this report as a longstanding member of the committee and I stress that the four speakers who have spoken to this report are all extremely active and informed members of the committee. That being so, I do not want to repeat the points already well made by the previous speakers to the report. I think they should be noted by the government, the wider corporate community and the regulator.

I want to repeat that ASIC should get credit for being so available and accountable. Its officers do not hesitate to appear before the corporations and financial services committee and estimates committee, with its full range of executives as required. In my experience, ASIC has been very accessible and open and, I might say, very mature in reaction to sometimes sharp and warranted criticism and so on. However, I confirm the
views Senator Sherry just expressed—that is, that ASIC cannot stand on its own.

There are times when the government needs to react with some speed and with some sense of both the import and the need for pre-emptive action. I refer particularly to the events in my own state known as the Westpoint scandal. Scandals like that, where a large number of investors—some very unsophisticated, some somewhat sophisticated—have lost their money, have in Western Australia resulted in state ministers losing elections and being turfed out of office and, indeed, in governments being shaken. I refer to the Court government, which was badly affected by what was known then as the finance broking scandal. It is a reminder to politicians that the electorate will take vengeance if it feels that the political world is not sensitive enough to real issues.

The chair of the committee remarked that Westpoint had proved to be a pack of cards and had collapsed. The difficulty with the Westpoint situation is that it is more than one pack of cards and you have to keep going back and unpacking the next pack of cards, and they will collapse and it goes on and on. With respect to that, the government needs to decide what it can do to assist the regulator to act and close down these matters earlier. In that regard, the one thing that is clear to me is that the issue of the imprecise and difficult regulatory hole left by this promissory note issue—as outlined earlier by Senator Sherry and as covered in the oversight report—does need legislative action. I would urge the government not to wait any longer, but to actually address that issue.

A second issue I wish to refer to briefly is the proposed revision to Corporations Law and issues of disclosure as announced by the government. Part of that is a desire to have another look at the business judgement rule. I am not at all averse to reviewing, refining and improving Corporations Law, and the government is entitled to do it—in fact it would be derelict in its duty if it did not. However, I want to caution that adjustments to the business judgement rule should be done with great care. I think we have to be very wary of changes, and that the business judgement rule is not loosened and weakened to the benefit of corporate executives and directors who might be a little loose on the ethical side.

A third issue I wish to briefly deal with is the issue of insider trading and what is known as the Vizard matter. In that area, I think insider trading is so hard to pin down that ASIC need to pursue this with greater vigour and with more determination than they have. In particular, I think a hands-off attitude to the areas of perjury or alleged perjury and a relatively hands-off attitude to the potential of Mr Lay being obliged to be a witness need to be readdressed. I would suggest that ASIC show more interest in that area than they are at present.

The last area I wish to touch on—and as I said my colleagues on the committee have covered many areas quite fully and I do not need to repeat them—is the issue of insolvent laws. The corporations committee has produced an excellent report on the way in which insolvent laws need to be revised, and in my view many of the problems that ASIC is dealing with could be beneficially affected if the consequent legislative changes proposed by that report were introduced into law. So that is an area where I think ASIC should be urging the government to get on with it and to assist in beneficial reform.

Question agreed to.

Public Works Committee
Report

Senator FERRIS (South Australia) (5.52 pm)—On behalf of Senator Troeth and the Parliamentary Standing Committee on Public
Works, I present report No. 12 of 2006, entitled *Tactical unmanned aerial vehicle facilities project, Gallipoli Barracks, Enoggera, Queensland*. I move:

That the Senate take note of the report.

I seek leave to incorporate a tabling statement in *Hansard*.

Leave granted.

The statement read as follows—

The report examines the proposed works which will support the introduction of the new Tactical Unmanned Aerial Vehicle (TUAV) and the establishment of the 20th Surveillance and Tactical Acquisition Regiment at Gallipoli Barracks, Enoggera, Queensland. The estimated cost of the proposed works is $17.45 million.

Defence is acquiring the TUAV system to enhance the reconnaissance and surveillance capabilities of deployed land forces. The capability is planned for introduction into service in 2008. Twelve TUAVs, comprising two troops of four air-vehicles each and four spare air-vehicles, will be accommodated in the facilities.

The 20th Surveillance and Tactical Acquisition (STA) Regiment will be established to operate the TUAVs at Gallipoli Barracks. This Regiment will include both the existing 131st STA Battery, a new 132nd Unmanned Aerial Vehicle Battery and a Combat Service Support Battery.

The TUAVs will not be flown from Gallipoli Barracks, but will use existing Defence training areas, such as the Shoalwater Bay Training Area. A flight simulator will be amongst the facilities provided at Enoggera and will be where most of the flight training of operators will be undertaken.

The proposed scope for the project will involve:

- the construction of three new purpose-built buildings and the refurbishment of one existing building to support the introduction and operation of the new TUAV;
- the refurbishment of eleven existing buildings and construction of one new building to support the establishment of the 20th STA Regiment, including the existing 131st STA Battery; and
- the refurbishment and extension of ten existing facilities to support the 25th/49th Battalion Royal Queensland Regiment.

The 20th STA Regiment and the 25th/49th Battalion Royal Queensland Regiment will effectively swap facilities as part of this project. This was shown to be a far more cost effective solution than construction of new facilities on a Greenfield site.

One building is proposed for demolition at the site, a steel portal frame structure containing no hazardous materials. However Defence has discovered some asbestos is the existing 131st STA Battery area and a specialist company has been engaged by Defence to report on how to best contain and remove it and to certify that the area is asbestos free.

Defence submitted that the newly constructed facilities would include a range of practical environmentally sustainable design initiatives to minimise and measure water and energy consumption. However, as much of the project involves the refurbishment of existing buildings, Defence anticipated that implementing these initiatives in refurbished buildings involved a capital expense that would not be recouped in reduced operating costs for the life of the building.

Defence will provide space in the facility for use by the Prime TUAV Equipment Contractor, Boeing Australia. Under its contract, Boeing will provide the installations and be responsible for the fit-out of these areas.

Office accommodation provided by the project will be designed for maximum flexibility, allowing for future internal churn or change in operational requirements at minimal cost.

Mr President, having given detailed consideration to the proposal, the Committee recommends that the Tactical Unmanned Aerial Vehicle Facilities Project proceed at the estimated cost of $17.45 million.

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

I commend the Report to the Senate.

Question agreed to.
Treaties Committee

Report

Senator WORTLEY (South Australia) (5.53 pm)—On behalf of the Joint Standing Committee on Treaties, I present the 76th report of the committee, Treaties tabled on 28 March and 10 May 2006. I move:

That the Senate take note of the report.

Report 76 contains the findings and binding treaty action recommendations of the committee’s review of six treaty actions tabled in parliament on 28 March and 10 May 2006. The committee found all the treaties to be in the interests of Australia. I will comment on all of the treaties reviewed.

The agreement between the government of Australia and the government of the Republic of Indonesia for cooperation in scientific research and technological development is a result of the Joint Standing Committee on Foreign Affairs, Defence and Trade’s report of May 2005 titled Near neighbours—good neighbours: an inquiry into Australia’s relationship with Indonesia. This treaty and the less than treaty status collaboration in science and innovation, research and technology agreement offer the potential to expand and promote the Australia-Indonesia relationship, to enhance knowledge and to increase scientific and personal links in a mutually beneficial way. The treaty does this by providing the basis for activities performed and funded by a range of Australian science agencies and their Indonesian equivalents.

The agreement between the government of the Republic of Namibia and the governments of the Commonwealth War Graves Commission provides for the maintenance of 426 war graves of members of the Commonwealth armed forces in Namibia. In addition, the agreement formalises the work already undertaken by the commission in Namibia. While there are no Australians among the identified Commonwealth graves, Australia is a founding member of the Commonwealth War Graves Commission and recognises the important role the commission undertakes in remembrance of the Commonwealth war dead through its contribution to the commission.

The agreement on social security between the government of Australia and the government of the Kingdom of Norway provides for enhanced access to certain Australian and Norwegian social security benefits and greater portability of these benefits between countries. The agreement includes the age pension, the disability support pension for people who are severely disabled and the avoidance of double coverage for superannuation. Norway will reciprocate with the age pension, the disability pension and pensions for survivors. This treaty is the 16th such agreement that Australia has made with other countries.

The agreement between the government of Australia and the government of the United States of America on cooperation in science and technology for homeland/domestic security matters establishes a framework to encourage, develop and facilitate bilateral cooperative activities in science and technology. The agreement strengthens Australia’s longstanding relationship with the US in the area of science and technology and enables Australian scientists and counter-terrorism agencies to benefit from collaborative research activities. Under the agreement, such activities would include development of threat and vulnerability analyses, staff exchange, prototype development and any events which have implications for domestic security, such as extreme weather conditions and pandemics.

The International Institute for Democracy and Electoral Assistance, or IDEA, statutes, as amended at the extraordinary council
meeting of International IDEA on 24 January 2006, improve the governance arrangements of the organisation. Established in 1995, International IDEA consists of 24 party states and is tasked with developing and strengthening democracy globally.

The committee heard that the 2003 amendments to International IDEA were not tabled in parliament. This did not provide an opportunity for the committee to be aware of the amendments and so review them. The committee heard that the 2003 amendments were made in preparation for International IDEA gaining observer status with the United Nations General Assembly. The 2003 amendments prohibited associate members and observers of International IDEA from voting or participating in the council’s decision making. The committee expects any future amendment to the current treaty action to be tabled in parliament as soon as possible.

The International Organisation for Migration has for 55 years, since its establishment, been involved in meeting the ever-growing operational challenges of migration management, advancing the international understanding of migration issues, encouraging social and economic development through migration, and upholding the dignity and wellbeing of migrants everywhere. The amendments to the constitution of the International Organisation for Migration will streamline organisational processes and further strengthen the organisation’s responsiveness and service efficiency. I commend the report to the Senate.

Question agreed to.

Appropriations and Staffing Committee Report

The ACTING DEPUTY PRESIDENT (Senator Lightfoot) (5.59 pm)—I present the annual report for 2005-06 of the Standing Committee on Appropriations and Staffing.

Ordered that the report be printed.

Senator ROBERT RAY (Victoria) (5.59 pm)—I seek leave to move a motion in relation to the report.

Leave granted.

Senator ROBERT RAY—I move:

That the Senate take note of the report.

This annual report goes to one area that I want to cover today and that is the key responsibility for security in this building. The responsibility for security lies essentially with the Presiding Officers and the Department of Parliamentary Services. One of the few windows for parliamentarians to supervise this is the Senate Standing Committee on Appropriations and Staffing. You will know, Mr Acting Deputy President Hutchins, that no such committee exists on the other side of this building. The other chamber has never replicated the initiative of having a staffing and appropriations committee. My close friend and colleague Mr Roger Price, the Chief Opposition Whip, has on several occasions suggested to the House of Representatives that they set up a committee to deal with staffing and appropriation matters. That has not yet been successfully achieved and therefore it really does devolve to senators to have their input at this particular level. We prefer to have it at this level rather than at the estimates committee because you can have a fairly frank exchange of views.

We have made a lot of progress, I think, as a parliament in protecting this as an institution. The building itself is quite iconic and will be a natural target for potential terrorists at some stage into the future. We know that. There is no secret about that, and so a variety of measures have been taken to make sure that this building is far more secure than it once was. We will always have in mind that we want this to be a people’s building. We want people to have access to the building, to have access to their politicians and to be able
to scrutinise the activity of their politicians. We do not want to do anything that totally inhibits that. On the other hand we do not want to be blase. I do find at times that some of my colleagues on both sides of the political spectrum are blase about security matters. I have to make the point that over 3,000 other people work in this building, so it is not a question of whether politicians will be vulnerable to potential future terrorist activity. The real point is that we have a duty and an obligation to protect the 3,000 people who work in this building. It cannot be just dismissed. It must be a duty of politicians.

We have seen a whole range of changes with personnel deployed and the wall built around Parliament House to stop a vehicle coming illegally into the building. But there are probably two remaining issues that we want to see addressed. Of course we know on 22 August the parliamentary road around this building is going to become one-way. That is quite a sensible development given all the other things that have been done around the building. But one of the things that have disturbed the opposition is that we were strong supporters of protecting the three slipways to the ministerial wing, to the House of Representatives and to the Senate side—very strong supporters because that was a very vulnerable area of the building. When the bollards were put in we supported the putting in of the bollards and we have defended the expense incurred by putting them in.

But one thing we never anticipated, by the way, was that 7,520 passes would enable access to the slip-roads. We always considered it was going to be a much, much smaller figure. That alone I think is a potential security breach into the future. A lost card et cetera with 7,000 passes floating around could well mean that the building becomes vulnerable. Work has been underway in the parliamentary services department and a submission is being made to the Presiding Officers to reduce that amount of access, and in some cases the pass will only give you access to one of the slipways rather than all three. But I think access should be limited to just two groups: the first group is Comcar and the second is the diplomatic corps. Essentially that is almost happening in a de facto way, with some exceptions, but it is a potentiality into the future that I am concerned about, so I would like to see it restricted to those two groups. You do not have to give the diplomatic corps passes. The security officer that is constantly outside the building can, by prearrangement, let the bollards down for the consular corps, and Comcars will have their own entry and exit through the bollards. That was the original intention, or what we understood was the original intention. It was never intended that there be 7,520 potential entrants.

The second concern I have is the pick-up and drop-off for staff. We have had this under consideration for over two or three years and it has always been pushed back. Everything else has been solved et cetera. We are told by the parliamentary services department that everyone can go to the public car park and be picked up and dropped off. That goes against human nature; that is not going to happen. We have tried to point out that people are not going to walk hundreds of metres through the basement areas, dodging forklifts and other impediments, to get to that car park if they are on the Senate or the Reps side. By the way, at the moment if you do go and get picked up on the parliamentary road, you go down the steps and you wait there in totally non-secure conditions, exposed to the weather elements et cetera. Even politicians have to do it if it is a hire car in a non-sitting period, because they cannot get through the bollards.

Treating staff in this particular way to me is not acceptable. We must find an alterna-
Several of us have suggested the alternative and that is using the Senate car park as the pick-up and drop-off point. That is going to be examined again, as I understand it, by the Department of Parliamentary Services and I hope we get a report soon. There are some objections to that. What is to stop people parking there illegally? We just follow the practice of any other restricted parking area and have a tow away policy. So if people illegally park there, like anywhere else in Australia, you get towed away and you then have to pay the fee—$300, $400 or $500—to retrieve your car. That soon stops it. The second argument is that if you do not have the boom gates maybe it will become a little more vulnerable to terrorists. I tell you what—Senator Faulkner and I could run through those two props that are keeping traffic out at the moment, let alone a terrorist who could just drive straight through. We know that.

There is a third, more serious, thing that we will contemplate. There have been various studies done as to vulnerability when it comes to bomb testing. That, again, has to be revalidated before we can properly proceed with a proposal to use the Senate basement. But remember this: it is undercover, it is accessible from the building and we could put in a waiting room or put chairs in the room that abuts that particular car park. Even though we have given some consideration to clearing the 70 car park spots out there, it is our judgement—Senator Faulkner’s, mine and that of a few others—that you can still make it a drop-off and take-off point without having to get rid of any of that car parking.

I do urge the Presiding Officers, especially the Senate President, to give this proposal serious consideration. We are often judged by how we treat and deal with our staff. To have them going across that slipway road and down the stairs in all weathers and at all times of day and night is, to me, not acceptable. We are not being asked to give up our own car-parking opportunities in the Senate car park. We are just being asked to share them. It is not much of the sacrifice for senators and senior staff in this building to do that, if it proves to be viable from a security point of view. I always put that caveat on. If it can be shown to me and to the rest of the committee that this is not a safe option from a bomb point of view then we will change our view. But it does have another corollary, of course. If it is not safe now, from a bomb point of view, then unfortunately we are going to have to spend more money to protect the Senate basement area, and in fact all basements in this building if that happens to be the case.

This report is very brief on detail, quite properly, with regard to these matters. We are going to keep a watching brief on this particular area. We are going to continue to support the Presiding Officers, who are often derided for the security measures. It is very easy to make cheap shots about the wall around the building or the bollards or anything else. We are not going to join that. We are, in a bipartisan way, going to support the Presiding Officers to protect the staff who work in this building.

Senator Faulkner (New South Wales) (6.09 pm)—I too would like to speak briefly to the annual report of the Senate Appropriations and Staffing Committee. I commend the report to interested senators. It deals with three areas: the security area, which Senator Ray has been addressing; the issue of the recent restructure of the Department of Parliamentary Services; and an issue relating to the appropriations to parliamentary departments.

The security issue is one of genuine concern to members, senators and all those who work in this building. I raised at a number of recent Senate estimates hearings my con-
cerns about the capacity of some 7,000-plus photographic pass holders to access the slip roads—in other words, to use a photographic pass to lower the bollards. I remind the Senate that at the estimates round on 22 May I asked the Secretary of the Department of Parliamentary Services this question:

So anybody who holds a photographic Parliament House pass can lower the bollards?

Ms Penfold responded to me:

That is right.

The questioning then went on:

Senator FAULKNER—Anybody?

Ms Penfold—Anybody who has one of those passes.

Senator FAULKNER—How many of those pass holders are there?

Ms Penfold—It is about 7,000, but I will get the exact number.

The precise figure is around 7,000: it is precisely 7,520 as we speak. The questioning went on:

Senator FAULKNER—So you are telling me that there are 7,000 passes washing around that can lower the bollards?

Ms Penfold—That is right.

I then said—and this is what I really want to focus on:

... I thought the original understanding was that there were going to be very severe limitations—Commonwealth drivers and the like—on who would have the capacity to use passes that could lower the bollards.

Ms Penfold—That was the initial thought.

And so the questions and answers went on. It is very hard to justify the expenditure on security measures around this building if some of the impact and effect of those security measures—in this case, the effect of the bollards—can be limited by the fact that 7½ thousand photographic pass holders can use their photographic passes to lower the bollards. This is a major problem. It is hard enough anyway to justify expenditure on security. This has been an ongoing debate, and it is always difficult. There are issues in relation to the fact that the parliament itself has had to find its own moneys, its own savings, to fund the security works around the building. But when you have 7½ thousand-plus passes that can negate the impact of these security works—in this case, can be used to retract the bollards—there is a problem. It needs to be addressed. It has been identified now for some time, and I would commend questioning on this in Senate estimates committees to anyone who is interested in this particular issue. I have had concerns for a long time. Senator Ray has had concerns about this for a long time. To be fair, government senators and others have expressed these concerns inside the Appropriations and Staffing Committee and beyond. They need to be addressed.

One of the difficulties in these sorts of debates is to publicly deal with some of the security problems around a building like this. But this has been a publicly identified problem, and it needs to be addressed. It is a challenge for the Presiding Officers and for the senior staff of the Department of Parliamentary Services, but it is a challenge that needs to be met.

We know that, on 22 August this year, Parliament Drive is no longer going to be a two-way street; it is going to revert to a one-way drive around Parliament House. That will have certain benefits, and there will be a disbenefit, as there always is in these things. It is going to take some people an awful lot longer to come into Parliament House and an awful lot longer for some people to exit. That consequence is inevitable when these sorts of changes are made.

I pointed out, and I note it here again, that when I first suggested that members, senators, staff and people who work in the build-
ing were going to be significantly affected by these changes—and I think everybody accepts that that is the case; we can have an argument about whether it is warranted or not but there are real safety concerns in relation, particularly, to the dropping off of people on Parliament Drive that properly those in authority have taken account of—I did raise the question as to whether it would affect all those who worked in the building. I did express concerns that it seemed that special arrangements were being made so that the Prime Minister, Mr Howard, would not be affected by Parliament Drive becoming one-way.

I am sure everyone is really pleased to know that there has been expenditure of public moneys, and I do not know how much at this stage but I certainly intend to find out, to ensure that the Prime Minister, when he takes the short trip from the Lodge—he does not live there that often, as we know; he lives in Kirribilli House, courtesy of the taxpayers—to the ministerial wing at Parliament House he will not have to go right around the building like everybody else, because the slip-roads at the ministerial entrance have been changed. The current exit road will now be an entrance road so the Prime Minister will not be inconvenienced; and the current entrance road will now be an exit road so the Prime Minister will not be inconvenienced. I am very pleased that that is the case; I would not want to see the Prime Minister having to drive all the way around Parliament Drive, a couple of kilometres, coming in the morning or leaving at night, like everybody else. I am so pleased that he will not be inconvenienced, but so disappointed—

Senator Robert Ray—What about the Treasurer?

Senator FAULKNER—We know how disappointed the Treasurer is, but let us not go there, Senator Ray; I am trying to be positive. When I originally focused on this at Senate estimates committees it was denied that this would be the impact of these changes. But we now know, for sure and certain, that everyone else is going to cop a little bit of extra time in travel, coming to or leaving Parliament House, and that may be justified. It certainly will mean some additional safety for staff being dropped off—I acknowledge that. But I am sure that we are all relieved that the Prime Minister is not going to be affected in any way.

Finally, I join with my colleague Senator Ray in focusing the attention of the parliament on the fact that the Senate Appropriations and Staffing Committee does an excellent job in these areas. A lot of this work, particularly in relation to security matters, is done behind closed doors. But we do have accountability mechanisms in the Senate in relation to the Department of the Senate and the Department of Parliamentary Services. There is one department, the Department of the House of Representatives, that has no scrutiny at all. There is no review of that department at all, and there has not been for the 105 years of the existence of the Commonwealth of Australia, and it is about time there was. (Time expired)

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—Senator Faulkner, do you wish to keep this report on the Notice Paper?

Senator FAULKNER—Do you think anyone else would like to speak on it?

Senator Robert Ray—We could speak again tomorrow night.

Senator FAULKNER—Because there is such interest in my remarks, I seek leave to continue my remarks.

Leave granted.


Senator FAULKNER (New South Wales) (6.20 pm)—I seek leave to move a motion in relation to the erratum.

Leave granted.

Senator FAULKNER—I move:

That the Senate take note of the erratum.

I point out to the Senate how unusual it is for such an erratum to be tabled, because we all know that the Department of the Senate so rarely makes mistakes and errors, and when one does occur, however minor, it is appropriate that the attention of the public is drawn to it. This relates to just one page, page 89, of the June edition of the important publication, Business of the Senate, which is, of course, closely read by most senators. I know senators are very interested as to why an erratum has had to be tabled today, and I inform the Senate that there has been a transcription error. In relation to the ‘Attendance of senators’ table, the names and attendance in the Senate records of two senators, Senator Brandis and Senator McEwen, have been accidentally omitted.

Senator Robert Ray—it is not only Kim Beazley that forgets.

Senator FAULKNER—Well, it is a transcription error. And as a result of this tabled document I can report to the Senate that Senator Brandis was present for all 22 of the sitting days. He was not absent for any day and he was not absent with leave for any day. And Senator McEwen was present for all 22 sitting days and was not absent for any day, nor absent with leave for any day.

Senator Robert Ray—What about Senator Campbell?

Senator FAULKNER—Well may you ask about Senator Ian Campbell. Unfortunately Senator Ian Campbell’s record is not as good.

Senator Robert Ray—No, but on public duty, of course.

Senator FAULKNER—Well, he attended 14 days out of 22. But you will be pleased to know, Senator Ray, that he was absent with leave for eight out of the 22 days. But I do not want to talk about Senator Campbell. I merely wanted to point out to the Senate that it was Senator McEwen who closely read this document and, by the time she got to page 89, realised that there had been a mistake and her name had been omitted. And how diligent Senator McEwen has been!

I found it extraordinary that Senator Brandis had not noted that he had been forgotten. That is the way it is sometimes in politics, but because of Senator McEwen’s diligence she was able to inform the Senate clerks that there had been a transcription error. And I am sure all senators are delighted it has been fixed. And someone should tell Senator Brandis that he too has now had his attendance record in the Senate corrected. I am sure you will find him somewhere, scurrying around the corridors doing whatever he normally does in the place. I am pleased to be able to report his perfect attendance record and the perfect attendance record of Senator McEwen.

Question agreed to.
PETROLEUM RETAIL LEGISLATION REPEAL BILL 2006
TAX LAWS AMENDMENT (REPEAL OF INOPERATIVE PROVISIONS) BILL 2006
SOCIAL SECURITY AND FAMILY ASSISTANCE LEGISLATION AMENDMENT (MISCELLANEOUS MEASURES) BILL 2006

First Reading
Bills received from the House of Representatives.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (6.25 pm)—These bills have been introduced together but after debate on the motion for the second reading has been adjourned I will move a motion which would have the effect of having the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

Second Reading
Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (6.25 pm)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

PETROLEUM RETAIL LEGISLATION REPEAL BILL 2006
At a time when high fuel prices are impacting on all Australians, I am pleased to introduce the Petroleum Retail Legislation Repeal Bill 2006 (‘the bill’). This bill is a central component of the Government’s Downstream Petroleum Reform Package (‘the Reform Package’). It will facilitate a more competitive retail fuel market with the potential for positive impacts on fuel prices at the pump.

The bill will repeal the legislation currently governing the retail petroleum industry, that is the Petroleum Retail Marketing Sites Act 1980 (‘the Sites Act’) and the Petroleum Retail Marketing Franchise Act 1980 (‘the Franchise Act’). These Acts have failed to keep pace with changes in the structure of the retail petroleum market and have created a sub-competitive retail environment, which imposes higher costs on Australian industry and motorists.

As part of the Reform Package the Government will also introduce a mandatory industry code, the Trade Practices (Industry Codes—Oilcode) Regulations 2006 (‘the Oilcode’), under Section 51AE of the Trade Practices Act 1974. The Oilcode will institute a more effective regulatory regime to allow all industry participants to respond and adapt to changing conditions in the retail petroleum market without distorting or reducing levels of competition.

The Sites Act restricts, via set quotas, the number of retail sites that the oil majors, that is BP, Caltex, Mobil and Shell, can own or lease, and operate either directly or on a commission agency basis. Current quotas are based on the volume of fuel each company has the capacity to produce at their domestic refineries and vary from 87 to 136 retail sites. The total number of sites under the quotas represents about five percent of all service stations nationally.

The Sites Act operates concurrently with the Franchise Act, as service stations run under a franchise agreement with an oil major are not subject to the Sites Act quotas. The Franchise Act sets out the minimum terms and conditions for these agreements, including tenure, renewals and associated disclosure requirements. No such legislated terms and conditions are afforded to small businesses operating under oil company, supermarket or independent retail chain commission agency agreements in this industry.

In 1980, the Sites Act and the Franchise Act were considered to be an appropriate response to limit the potential price setting activities of the oil majors and to promote a viable small business sector in the retail petroleum industry.
The market has, however, changed substantially since 1980: independent retail chains and supermarkets, whose operating structures are not constrained by the legislation, have entered the retail fuel market; fuel quality standards have tightened in line with global environmental best practice; and global supply capacity has been stretched as demand from China and India continues to grow.

In this commercial environment it is not surprising that industry rationalisation has also occurred. And at this point I would like to note that any change in the environment regulating the retail petroleum industry will not eliminate the rationalisation of retail sites that has been experienced by this industry over the past two decades. This has been driven by increased competition due to the factors I have just mentioned. However, I expect that rationalisation will eventually plateau as retailers compete on the even playing field facilitated by the Oilcode and the number of retail sites reaches an optimal level in response to the demands of the domestic market.

The existing retail petroleum legislation needs to be seen in the context of the entry into the market of the large independent retail chains and supermarket retailers, whose business structures are not constrained by the legislation. The legislation serves only to place an additional compliance burden on the oil majors and hinder the oil majors’ freedom of choice in the selection of appropriate business models at all retail sites. The legislation also retains the disparity between the conditions provided to franchisees, who generally run oil major-owned service stations, and those provided to commission agents, who tend to run service stations on behalf of the independent retail chains.

It is for these reasons that the Government is reforming the regulatory environment governing the retail petroleum industry. The Reform Package and in particular, the Oilcode, will deliver positive outcomes for the retail petroleum sector and for Australian consumers, including a streamlined regulatory framework.

The package will recognise the power imbalance inherent in the substantial interdependency between some small businesses operating under franchise and commission agency agreements and their wholesale fuel suppliers, whether those suppliers are the oil majors or the independent retail chains.

The Oilcode regulations will achieve this outcome through three key policy initiatives. It will establish minimum industry standards for fuel reselling agreements between wholesale fuel suppliers and fuel retailers to provide a baseline for negotiations on those agreements. These minimum standards build upon, and strengthen relevant provisions in both the Franchise Act and the more general Franchising Code of Conduct and will provide greater certainty and protection for all parties to fuel re-selling agreements.

The Oilcode will also introduce a nationally consistent approach to terminal gate pricing arrangements to improve transparency in wholesale pricing and allow access for all customers, including small businesses, to petroleum products at a published terminal gate price. This approach will not negate the ability of parties to negotiate individual supply agreements nor will it prevent the offering of discounts by wholesalers.

Finally, the Oilcode will establish an independent downstream petroleum dispute resolution scheme to provide the industry with an ongoing, cost-effective dispute resolution mechanism as an alternative to taking action in the courts.

The Oilcode represents a compromise on behalf of most industry participants and I note that there are still a few interests, representing some of the independent operators, and some of the small businesses in the industry, who remain concerned that the Oilcode does not prevent either below-cost selling or the provision of discounts to large volume customers in the wholesale market.

The Government does not seek to hinder discounting or other initiatives, such as shopper docketts, which have the potential to reduce the cost of fuel for Australians. Indeed, the introduction of such measures would hinder the competitive nature of the market and be contrary to the Government’s competition policy objectives.

Through the Oilcode, the Government will institute a more effective regulatory regime to allow all industry participants to respond and adapt to changing conditions in the retail petroleum market without distorting or reducing levels of competition.

CHAMBER
Consistent with this intent and to prevent market uncertainty and potential breaches of the Sites Act while this bill is under consideration of the Parliament, I will shortly table an amendment to the Petroleum Retail Marketing Sites Regulations 1981. This amendment will suspend the oil majors’ reporting and compliance obligations under the Sites Act. It will not affect commercial arrangements under the Franchise Act in any way.

The bill I introduce into the Senate today is the first step in long awaited reform in the retail petroleum industry. Coupled with the subsequent introduction of the Oilcode under the Trade Practices Act, it will allow all businesses in this industry greater flexibility when selecting the business structure for individual service stations. It will provide greater coverage of standard contractual terms and conditions for fuel re-selling agreements where there is a substantial degree of inter-dependency between the retailer and the wholesale fuel supplier.

The Oilcode will provide greater transparency and consistency for all market participants and consumers in terminal gate pricing arrangements. It will provide all industry participants with access to a low-cost alternative dispute resolution service.

Above all, the Oilcode will increase competition in the retail petroleum industry by removing the constraints the current legislation places on the oil majors and instituting a more effective regulatory framework for this industry.

The Downstream Petroleum Reform Package represents a significant improvement in the operating environment of the retail petroleum industry and I commend this bill to the Senate.

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TAX LAWS AMENDMENT (REPEAL OF INOPERATIVE PROVISIONS) BILL 2006

In 2003, in accordance with the government’s aim of reducing complexity in tax laws, the Board of Taxation commenced a project to identify inoperative provisions and to repeal those parts of the taxation law which were no longer required. In October last year the Board of Taxation reported that it had identified about 2,100 pages of inoperative provisions in the income tax law and recommended that they be repealed. In November last year the Treasurer accepted the recommendation of the Board of Taxation.

In April of this year, the Treasurer released a draft of the present Bill for public comment. On 22 June 2006, after consulting in relation to the proposed Bill, a revised version of the bill was introduced.

The bill repeals over 4,100 pages of inoperative tax law, including about 2,600 pages of income tax law. That amounts to almost a third of the income tax law and over half of the Income Tax Assessment Act 1936. The bill also repeals about 1,500 pages of other acts relating to taxation, including 48 sales tax statutes that are wholly inoperative. As such, this represents a major improvement in the shape of the tax law and a major reduction in the volume of the tax law.

Repealing inoperative material will significantly reduce the length of the law. It will make it easier to use and lower the compliance costs borne by those who use the tax law.

As well as repealing inoperative tax law, the bill also makes other improvements to the tax laws which will make them easier to use. For example, it replaces multiple definitions of some terms with a single definition. Rationalising definitions will bring greater consistency to the tax law and make it easier for taxpayers to understand and meet their obligations.

The bill also rewrites some remaining operative provisions from the 1936 Assessment Act into either the 1997 Assessment Act or the Taxation Administration Act 1953. This allows us to incorporate those provisions into the more straightforward structure of those Acts and to do so in the more contemporary language they use.

The flow-on effects of the repeal of inoperative provisions will provide further benefits for taxpayers and tax practitioners. The Commissioner of Taxation has advised that approximately 200 public rulings, which contain references to provisions which are being repealed, will be either revised or withdrawn. The Commissioner is also working with tax professionals to improve the readability from the ATO’s legal database of other public rulings affected by the bill.

Repealing the inoperative provisions and making these other improvements are important parts of
the government’s continuing efforts to reduce the complexity of the tax law. The government will look for similar opportunities in the future to improve the tax laws and reduce the regulatory burdens and compliance costs faced by business and other taxpayers.

Full details of the measures in this bill are contained in the explanatory memorandum.

SOCIAL SECURITY AND FAMILY ASSISTANCE LEGISLATION AMENDMENT (MISCELLANEOUS MEASURES) BILL 2006

This bill will make numerous minor amendments to social security, family assistance and related legislation, to improve the operational effectiveness of that legislation. It is a minor housekeeping bill that will remove anomalies, clarify the legislation in line with established policy and make technical corrections and refinements.

The bill introduces no significant new policy and has no or negligible financial impact.

Among the measures in the bill is one to make sure that child care benefit customers who use registered care for their children cannot be paid child care benefit that exceeds the actual fee they paid for that care. This new rule is equivalent to an existing limit in the legislation on child care benefit for care provided by an approved child care service.

In a further child care-related measure, a new rule is being set up for care provided by approved child care services, to mimic an existing rule for registered carers. It is being made clear that neither registered care, nor approved child care service care, will attract child care benefit if the care is provided as part of a compulsory education programme. Child care benefit should not be available while children are in the care of their teachers as part of their normal schooling.

The bill includes a measure to confirm that two members of a couple who are living apart on a temporary basis may generally be regarded as a ‘temporarily separated couple’, whether they are legally married or a de facto couple (noting that couples separated through illness or respite care are covered by different provisions). The temporarily separated categorisation allows the couple to attract a higher rate of certain payments such as rent assistance and remote area allowance. At present, only legally married couples fall within the definition, whereas the general social security and family assistance law treatment of de facto couples suggests this is an anomaly that should be corrected.

Minor anomalies in the income test for the low-income health care card are addressed by this bill. Notably, a portion of the income test that applied before some 2001 concession card amendments and that was unintentionally omitted from the new provisions is being reinstated. The correction will ensure that a social security pension or benefit is included in income, as comparable Commonwealth and other payments of an income support nature are already included. Similarly, two veterans’ entitlements payments of a similar nature, the Defence Force Income Support Allowance and the income support supplement, are clearly identified as income for the purposes of the card.

The bill corrects an inequity in the social security law, by aligning the definition of homelessness that currently applies for special benefit with the similar definition that applies for the larger customer groups of youth allowance and young disability support pension recipients. However, the existing additional requirements for special benefit homelessness, that the customer be unpartnered and not have a dependent child, will continue to apply.

Seven Acts relating to housing that are no longer operational are being repealed by this bill. This helps in maintaining the statute books when Acts become redundant.

Most of the remaining measures in the bill are technical corrections and refinements. Many of these are consequential on the commencement of the Legislative Instruments Act 2003 and reflect the new concepts and arrangements established by that Act.

Debate (on motion by Senator Ian Campbell) adjourned.

Ordered that the bills be listed on the Notice Paper as separate orders of the day.
CRIMINAL CODE AMENDMENT
REGULATIONS 2005 (No. 14)

Motion for Disallowance

Senator BOB BROWN (Tasmania—
Leader of the Australian Greens) (6.26
pm)—I move:

That the Criminal Code Amendment Regulations 2005 (No. 14), as contained in Select Legislative Instrument 2005 No. 298, specifying the Kurdistan Workers Party (PKK) as a terrorist organisation, and made under the Criminal Code Act 1995, be disallowed.

Senator Ludwig—It’s been a long day.

Senator BOB BROWN—Yes, it has
Senator Ludwig. I thank the clerk for reading out the business item. This is a motion to disallow the move by the Attorney-General to ban, in December last year, the Kurdistan Workers Party as a purported terrorist organisation. It is a difficult question and I should say at the outset that we need a mechanism for banning organisations that would create terror in our community. There was always going to come a point when there would be considerable debate about what is, or who is, or who is not, a terrorist organisation.

The Kurdistan Workers Party is globally known as representing the Kurdish people in Iraq, Turkey and Iran, and I should state at the outset that it is my belief that the Kurdish people deserve their day and their opportunity to become an independent nation, Kurdistan, if they wish to. But that is not the point here. The point is that there has been a proscription of an organisation and that has caused a great deal of concern amongst the many Australians who have Kurdish origins, and other community organisations.

A review of the move by the parliament’s joint intelligence committee subsequently supported the listing but called on the government to keep it under active consideration. The committee said that the government should take into account, firstly, the number of Australians of Kurdish origin who may support the broad aims of the PKK without endorsing or supporting its engagement in terrorist acts; secondly, whether it would be sufficient to proscribe the PKK’s military wing, the Kurdistan Freedom Brigade—Hazen Rizgariya or HRK—which was referred to in the Attorney-General’s statement of reasons; and, finally, the fluid state of moves towards possible ceasefires. That refers to moves towards a peaceful outcome of what has sometimes been violent confrontation between the Turkish authorities and the PKK in Turkey.

I will be looking and listening to find out whether the government has in particular looked at whether it would be sufficient to proscribe the military wing, because that would be a much easier matter for us to be dealing with today. The PKK is much more than its military wing. It is a political organisation and it has an enormous reputation for also supplying a lot of social wherewithal for the Kurdish people as well as being a political alternative for their aspirations.

The Greens do not think that the government should have the power to ban organisations by listing them as terrorist organisations per se. That should be in the hands of the parliament, or at least a court, and should be appellable. The definition of terrorism and the criteria used at the moment could encompass Nelson Mandela’s African National Congress or the East Timor freedom movement. Listings are based on secret advice from ASIO which cannot be tested in open court or viewed by the Australian public. Listings are more often about what the Bush administration wants rather than what is in the separate and different national interests of this nation. The government’s own Sheller review of the terrorism laws recommended that a fairer and more transparent process should be devised for proscribing an organi-
sation as a terrorist organisation, yet we have not had a response to that from the government.

Many Australians will remember the great controversy over the referendum banning the Communist Party half a century ago. The Australian people opted not to ban the party but instead to endorse basic liberty, freedom of speech and democratic rights of association in this country. The Kurdistan Workers Party should not be banned in toto. It is an encompassing organisation, as I have said. What is very poignant and very important to understanding the concern about the proscription by the government is that it was done after the visit here of the Turkish Prime Minister to discuss a trade deal and was very clearly in response to political pressure from the Turkish government, against the aspirations of the Kurdish people within Turkey. Many refugees who have fled Turkey because of their support for self-determination and for the PKK and who now live in Australia could be criminalised by this ban. Will evidence they have provided to the government to get themselves refugee status now potentially be used to put them under watch or to prosecute them?

Mr Howard says that the Kurds in Iraq are an important part of the new government, but here we are proscribing, at his behest, the Kurds across the border in Turkey and calling them terrorists. It is a double standard and it is something that should be dealt with much more clear-headedly than simply leaving it to the Attorney-General to proscribe an organisation after the visit of the Turkish Prime Minister. Recently, there have been prospects for peace in Turkish Kurdistan, and Australia should be a broker for that peace and should not be taking sides. We should be pursuing human rights and not putting trade in the way of resolution of conflict and the re-emergence of the human rights of all citizens in that region.

A large range of Kurdish and Australian community and legal organisations have asked the Greens and other parties to move this disallowance motion. This is an opportunity for the Senate to share their concerns. No evidence has been brought forward—and I would be interested to see that if the government has it—that the PKK poses any threat to Australia’s domestic national security. Groups who opposed this proscription include the National Association of Community Legal Centres, Liberty Victoria, the Australian Muslim Civil Rights Advocacy Network, the Federation of Community Legal Centres (Victoria), SAVE Australia Inc., the New South Wales Combined Community Legal Centres Group, the Brotherhood of St Laurence, the Refugee Advice and Casework Service, and the Civil Rights Network. Also opposing this proscription are the Australian Kurdish Association, the Anatolian cultural centre, the Kurdistan Women’s League of Australia, the Kurdish Resource Centre, the Australian Kurdish Youth Association, the Kurdish Association of Victoria and the Western Australian Kurdish cultural centre. So there is a great deal of concern and disquiet in the ranks of people who are studying this matter, not least those of Kurdish origin who are part of the Australian community. We believe that the proscription should be disallowed and, as I have said, we think the government should come back with a much more confined proscription, if it must, and argue that before the Senate.

Senator FERGUSON (South Australia) (6.36 pm)—I have listened to what Senator Brown has said on this disallowance motion. He has made a number of unsubstantiated allegations. Many of those allegations were inquired into by the Parliamentary Joint Committee on Intelligence and Security. He has made a number of allegations about unsanctioned allegations. Many of those allegations were inquired into by the Parliamentary Joint Committee on Intelligence and Security. He has made a number of allegations about unsanctioned reasons as to
why there was a listing. I just want to go through a couple of the processes for Senator Brown, so that he can understand that the committee investigated this organisation thoroughly, as it has all of the 19 organisations that have been proscribed by the Australian government.

I think it is important that Senator Bob Brown understands the process by which these and other organisations were listed or proscribed. The following process took place. An unclassified statement of reasons which detailed the case for the listing of the organisation was prepared by ASIO and endorsed by DFAT. The Chief General Counsel, Henry Burmester QC, provided written confirmation on 14 November 2005 that the statement of reasons was sufficient for the Attorney-General to be satisfied on reasonable grounds of the matters required under section 102.1(2) for the listing by regulation of an organisation as a terrorist organisation. The Director-General for Security, Mr Paul O'Sullivan, wrote to the Attorney-General on 23 November 2005 outlining the background, training activities, terrorist activities and relevant statements of the organisation. A submission was provided to the Attorney-General on 30 November which included copies of the statements of reasons from ASIO for proscribing the organisation, advice from the Chief General Counsel in relation to the organisation, regulations and federal executive council documentation. The Attorney-General signed a statement confirming that he was satisfied on reasonable grounds that the organisation was an organisation directly or indirectly engaged in preparing, planning, assisting or fostering the doing of a terrorist act, whether or not the act has occurred or will occur.

The Attorney-General wrote to the Prime Minister on 2 December 2005 advising of his intention to list the PKK as a terrorist organisation. The Attorney-General advised the Leader of the Opposition of the proposed listing of the PKK as a terrorist organisation by letter on 2 December, and he was offered a briefing in relation to the listing. On 9 December 2005, the Prime Minister wrote to the premiers of the states and chief ministers of the territories advising them of the decision to list the PKK as a terrorist organisation. All states and territories agreed to the listing of the PKK on the following dates: South Australia and the Northern Territory on 13 December; New South Wales, Queensland, ACT and Victoria on 14 December; and Tasmania and Western Australia on 15 December. The Attorney-General wrote to the chairman of the Parliamentary Joint Committee on ASIO, ASIS and DSD, as it was then known, on 2 December, advising of his decision to list the PKK as a terrorist organisation. The Governor-General made the regulation on 15 December. The regulation was lodged with the Federal Register of Legislative Instruments on 16 December. A press release was issued on 15 December, and the Attorney-General’s Department national security website was updated.

Senator Bob Brown has made a number of suggestions. Amongst the suggestions he made was that this is what President Bush wanted. Can I tell you, Australia is not the only country that has listed the PKK. We considered in detail the possibility of perhaps proscribing just the military wing. But we were advised that it was impossible to do that, because it was impossible to separate the activities of the organisation. I do not know that the PKK can be proscribed by the PKK! And I do not know that many members of the European Union could be considered close acolytes of President Bush, yet they have proscribed the PKK, along with the United Kingdom and Canada. It is not as though we are the only ones going out on a limb. In fact, the PKK has been listed by the
UK, Canada, the United States and the European Union.

Why has the PKK been listed? The statement of reasons for listing details terrorist activities involving the PKK over the past few years, including bombings in July and October 2005. There is a history of activity by this organisation, and it was included in the statement of reasons provided. Let me list some examples. The PKK has been involved in indiscriminate bombings in public, including the following incidents in 2005. There were several bomb attacks in July 2005, including a bomb attack on a passenger train in Bingol province which was followed by a small-arms attack on a second train that was sent to assist; this resulted in the deaths of six people, with 12 injured. There was a bomb attack in Cesme which injured 15 people. There was an explosion on a bus in Kusadasi which killed five people, including one British and one Irish citizen.

Since the PKK was listed under the Criminal Code on 15 December 2005, the following further attacks have occurred. There was a suicide bombing on 9 March 2006 which killed three people; an explosion in Istanbul which killed only one person; a bus attack on 2 April this year which killed several people; and a bomb attack on 12 May intended for a local politician which killed four children. So I think that the record or history of the PKK, or of the attacks that can be attributed to it, indicate that the government was right to proceed with the listing of this organisation. As is the case with the other listings that we have made, we have always looked as far as possible into whether there is any other way. Knowing the effect that listing the PKK has on people of Kurdish origin in the Australian community, if there was another way of doing it, we would do it. But we cannot. Recent events suggest that we have to be more vigilant than ever.

Senator Brown also mentioned the criteria that the Attorney-General uses. The Attorney-General may or may not have used the six criteria which ASIO uses, and which the parliamentary joint committee has adopted as being the criteria for listing. The six criteria were referred to in the report from 29 May by Mr Duncan Kerr. They were initially provided to the PJC by the Director-General of ASIO as part of a confidential exhibit. The criteria are not a legislative requirement under the Criminal Code. They are there as a guide. The only criteria that the Attorney-General is required to be satisfied about are under subsection 102.1(2) of the Criminal Code. It is in Australia’s national interests to be proactive and list organisations that are directly or indirectly engaged in preparing, planning, assisting or fostering the doing of a terrorist act. The listing process ensures that Australia is well placed to prevent terrorist acts occurring in Australia and to discourage any of these organisations from obtaining any sort of a foothold in Australia.

He also mentioned the Turkish Prime Minister’s visit to Australia in 2005 and suggested that that visit influenced the government’s decision to list the PKK as a terrorist organisation. The process for listing any terrorist organisation under this section of the Criminal Code is lengthy and is not done in haste. The government considered the listing over many months prior to the visit in December by the Turkish Prime Minister, and the visit of the Turkish Prime Minister did not influence the government’s consideration. This process had been under consideration for a considerable time. The only criterion that the Attorney-General took into account was that set out in section 102.1 of the Criminal Code. In fact, this was a question that I think I can say the PJC was concerned about and we did ask questions, and we found no evidence that the Turkish govern-
ment had influenced the proscription timetable.

The statement of reasons setting out the case for listing the PKK noted that the PKK’s membership is approximately 5,000—that was some of the information provided to us—based in northern Iraq and south-east Turkey. It also has a large support base in Europe, which no doubt accounts for the European Union’s decision to proscribe the organisation. The PKK’s funding is believed to come from criminal activity including extortion and smuggling and from fundraising within the Kurdish diaspora worldwide.

The Criminal Code that we have in place provides that the regulation listing an organisation as a terrorist organisation sunsets in two years after it is made. I think it is an important provision of the legislation because it means that within two years, if it can be proven or it can be seen that there is no longer a requirement for an organisation such as the PKK to be listed, then that will be reviewed—and it must be reviewed every two years. In the case of the PKK, this regulation will sunset on 15 December 2007, which is only some 18 months from now. This listing will be reviewed at that time. However, before then, under the relevant section of the Criminal Code, an individual or an organisation may apply to have the organisation de-listed within that period. So there are lots of provisions and safeguards in this bill that make sure that if proscription takes place like this it can be reviewed. There are a number of grounds which can be used for a delisting application. However, if the Attorney-General receives information which results in him ceasing to be satisfied that the PKK is an organisation which satisfies the criteria, he must make a declaration to that effect.

I do not want to go back over it, but Senator Bob Brown commented in detail and asked: why not proscribe only the PKK’s military wing? In circumstances where ASIO has information that only part of an organisation is directly or indirectly engaged in preparing, planning, persisting or fostering the doing of a terrorist act, that part only of the organisation will be proscribed. However, in the case of the PKK, that simply was not the case—in spite of the information that you might have received from the various organisations. I noticed that you listed a number of organisations that are opposed to the listing of the PKK; amongst those you listed are a number of organisations that are opposed to listing of any organisation. I can tell you that when we as the joint committee review any listing—and we have reviewed a number of listings now—the same organisations write in every time telling us that they do not believe in the proscription regime or giving reasons why particular organisations that are proscribed should not be proscribed in any way.

It is not an easy task, I would inform Senator Brown. It is not easy for any of us on the Parliamentary Joint Committee on Intelligence and Security to make some of the decisions we have to make. Some of the decisions we find quite easy, where they are very obvious. Some of them are less obvious and some of them are difficult. But, certainly, on a personal basis and as a member of that committee I would always err on the side of caution when it comes to terrorist organisations. I would err on the side of caution in protecting the Australian population and, indeed, in today’s climate, the worldwide population, from the activities of terrorist organisations. Some of those terrorist organisations glorify death while in fact the rest of the world believes in the sanctity of life.

Debate interrupted.
The Acting Deputy President (Senator Hutchins)—Order! It being 6.50 pm, the Senate will proceed to the consideration of government documents.

Preventative Detention and Control Orders

Senator Ludwig (Queensland) (6.50 pm)—I move:
That the Senate take note of the document.
I seek leave to continue my remarks later.
Leave granted; debate adjourned.

Response to Ombudsman's statements under section 486O of the Migration Act 1958

Senator Ludwig (Queensland) (6.50 pm)—I move:
That the Senate take note of the document.
In respect of the Department of Immigration and Multicultural Affairs, in the last 10 months it has been an interesting organisation to observe. It has started to turn the battleship around in the creek, if I can describe it that way. However, that was all thrown out with the arrival of 43 West Papuans on our doorstep; the department of immigration took a completely different tack. I do not blame the department of immigration. They came up with a new slogan, ‘People: our business’, and I think that they genuinely tried to turn the battleship around in the creek, but they had an anchor attached to it. Senator Vanstone was firmly holding onto that anchor and she has ensured that the department could not turn around and start to address the difficulties and problems that beset it.

If you go back and look at that whole period, you will see that, even back in 1999, Immigration produced a guide on work rights and came up with a review of illegal workers in Australia. It was intended that there would be measures to reduce the number of illegal workers in Australia and provide more employment opportunities for Australians and legal residents with a right to work. However, a lot of water passed under the bridge and many of the recommendations never saw the light of day. The department itself decided not to pursue them. But then, seven years later, we do find one on the Notice Paper. I will not go to the content of it. I will have an opportunity, hopefully this week or the next time parliament sits, to discuss it. It is about employer sanctions, to ensure that employers are doing the right thing in respect of employing people under visas. People should have visas that permit work rather than visas that permit holidays.

In fact, what we also talked about today was the 457 visa—the long stay visa. What we found, from the report by Mr Kinnaird, was that it was also about churning in that area. Much of the debate went to these long-stay business visas, the 457 visas, being utilised to bring in foreign workers from overseas. But what we found amongst the figures was that there was also significant employment in Australia of people whose visas had expired or who had different types of visas. There is utilisation of the 457 visa for employment purposes. In other words, they are pulling people out of a pool already within Australia. They have repeat goes at it. If you look at that, you would say, ‘Surely there is a better way.’

What this government has come up with is a system where the use of temporary 457 visas is not to fix shortages of skills in certain areas. They are now being churned—that is, these people are now gaining a visa with one employer and then being passed on, when that visa expires, to another. There might even be a third employer. It is not appropriate and it should not be done. But this government’s compliance mechanisms are weak and ineffecutual.
Their compliance mechanisms seem to include having DIMA turning up and saying, in front of the employees—the people who are on the visas—’Is everything okay?’ The alternative under the Work Choices legislation is a bit dim for those employees because, if they do not say yes, I suspect they will find that very shortly after DIMA leaves they will not have a job. If they do not have a job then they do not have a 457 visa. As a consequence, you would expect to get an answer that everything is fine. That compliance mechanism might get a tick from DIMA. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Commonwealth Ombudsman

Senator LUDWIG (Queensland) (6.55 pm)—I move:

That the Senate take note of the document. This document is as a consequence of some pretty dreadful outcomes for Cornelia Rau and Vivian Solon. People might recall that they were people who the Department of Immigration and Multicultural Affairs treated very badly. This Ombudsman’s report has been made under section 486O of the Migration Act to try to instil an oversight role into the decision making of the department.

Again, I do not hold the department fully responsible. The minister who presides over this department, you would have to say, has not had her eye on the ball. In fact, I would use even stronger words in respect of that, if I may. This incompetent minister has ensured that this department has not been able to gain the prestige that it really deserves. In the last couple of years some pretty awful outcomes have been visited upon people by the department under the stewardship of the minister. The sorts of issues that have come up relate not only, as I have said, to the Vivian Solon and Cornelia Rau matters but also to having detainees placed in a truck and transported across a desert for four or five hours without a rest stop—without a break, without water and without a toilet stop.

Those sorts of things, you might say, are pretty horrible. It is pretty abhorrent for Australia to hear that that is what we do to people we detain in our immigration detention centres. But it is not only that. The document then goes on to find that there are also some other pretty extraordinary things that we do in this area. In this area we now have the ability—or at least the Ombudsman does—to have a look at those matters and provide an assessment and recommendation which the department can turn to and look at. In particular, the minister can act upon it.

In this report, the Ombudsman recommends that removal plans be delayed until the paternity of Master Z is conclusively determined. I will not go to the details. But what it is now starting to do is inject a little humanity into the decision-making process. That is long overdue, certainly. What we now have is the Ombudsman looking at not only the legal issues but also the health and welfare issues. We have the Ombudsman looking more broadly at the overall matters that might go to how the department exercised its recommendations or view in respect of these people. This was an instance where Miss X had been detained with her de facto husband and children since November 2003. They were there because of the family overstaying their tourist visas. But we then also have other circumstances that might impinge upon that.

We do want an orderly and fair immigration system, but one that also has an injection of humanity. In this instance, we are starting to at least move that way. But of course, as I said earlier, we have a Minister for Immigration and Multicultural Affairs, Senator Vanstone, who really wants to throw it out. Within the last 10 months, the department...
started to look at a range of more humane practices—to ensure that kids were not in detention centres, that matters would be reviewed and that the Ombudsman would have an oversight role—but what we have is an immigration minister who wanted to bring about a designated unauthorised arrivals bill. Thank goodness, that was not proceeded with. What we had was a situation where we were going right back to where we started, where an immigration minister was again going to tell us that the Prime Minister would make determinations—or perhaps that Indonesia would do so—is a better explanation of the immigration policy in this country. At least we can now say that we have a system whereby the immigration department can now get on with business rather than having Senator Vanstone trying to run it. I seek leave to continue my remarks. (Time expired)

Leave granted; debate adjourned.

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.

Israel

Senator FIFIELD (Victoria) (7.02 pm)—I was interested to see an advertisement in the 16 August edition of the Melbourne Weekly Bayside. The advertisement attacked a number of parliamentarians. The advertisement is headed ‘Israeli Terror’ and it reads:

Helen Sharkey MP (Liberal, Caulfield) and federal MP’s Michael Danby (ALP) & Sen Mitch Fifield (Lib) all attended pro Israel rallies, in Melbourne in 17 Jul 06, at the same time as Aussies were being bombed in Lebanon. Perhaps they could explain why they attended an Israel rally when terrified Aussies were in mortal danger?

Why haven’t there parties expelled them for this appalling conduct?

That advertisement was placed in a Melbourne newspaper. Given that the ad called upon me to explain why I spoke in support of Israel, I am very happy to advise the Senate of why I did. The reason is that Israel is a beacon of hope and liberty in the Middle East. It is a great and robust democracy. At a time when it is being attacked by those who would seek to destroy it, Israel needs its friends. I am proud to say that, with Australia, Israel has a true friend. The Australian people will always stand by the Israeli nation and the citizens of Israel. I attended the rally to support freedom. I attended the rally to support the State of Israel and its citizens. I attended the rally to support Israel’s right to live in peace. But how is this peace to be achieved?

I had the privilege of leading a delegation to Israel in 1997, where I met Gideon Ezra. He was then a Likud MK and a former intelligence chief. He is now a member of Kadima and is the environment minister. When I talked to Mr Ezra he was at pains to leave me with one message. The message that he wanted to leave was: first comes security, then comes peace. Those words have really stayed with me since that time. In 2003 I was very fortunate to return to Israel as part of a government delegation and had the great privilege of meeting Prime Minister Sharon, as he was then. His message was the same: first comes security, then comes peace.

The rally I attended was essentially a statement of the facts, because in conflicts the facts actually do matter. The facts are not relative; there are facts and there are falsehoods. So what are the facts? The violence in the recent conflict began with attacks on Israel by Hezbollah—rocket attacks on Israel from the south of Lebanon by Hezbollah and Hezbollah incursions into Israel to kidnap two members of the Israeli defence force.
From Gaza in the south and from Lebanon, Israel has been under attack over the past few weeks by more than 3,000 missiles. Israel did not provoke these attacks. The aggressors are known by various names, but I do not think we should shy away from calling those aggressors what they are — terrorists and criminals — and Israel has every right to defend itself against them. Israel not only has the right to defend itself; it has an obligation to defend itself. Its right to take action in self-defence is enshrined in international law under article 51 of the Charter of the United Nations. To fail to defend itself would be a dereliction of its duty.

Could I say how angry I get at people who talk about the concept of proportionality — angry at armchair critics who I think have perhaps watched one too many episodes of The West Wing. It is as though Israel should be disadvantaged for having a more powerful and sophisticated military and for having a better civil defence system. It is as though a military conflict is somehow like a handicap horse race and Israel should have weights in its saddle bag to give poor old Hezbollah a sporting chance! If Australia were being attacked, I would not want my government’s response to be proportionate; I would want my government’s response to be entirely disproportionate. I would want my government to make sure that whoever attacked Australia did not have the opportunity to do so again or, at the very least, that they would think twice about attacking again.

I have absolutely no doubt that, if Israel had not responded in such a robust way, the UN Security Council would not have passed resolution 1701. The resolution is a little disappointing. It does not contain any requirement to disarm Hezbollah. It does not contain a requirement to return the kidnapped IDF personnel, but I have no doubt that the resolution is much stronger than it would have been if Israel had not defended itself in such a robust way.

If we ever doubt that Israel is facing an existential challenge, one only needs to turn to a letter which I received from the Embassy of the Islamic Republic of Iran last week. The cover note seems quite nice. It says:

The Embassy of the Islamic Republic of Iran presents its compliments to the Honourable Members of the Parliament and the Senators and has the honour to enclose the message from his Excellency the Supreme Leader of the Islamic Republic of Iran Ayatollah Seyed Ali Khamanei, presenting His Excellencies’ latest views regarding the crisis in Lebanon

The Embassy of the Islamic Republic of Iran avails itself of this opportunity to renew the assurances of its highest consideration.

I read the cover note and I thought: ‘That’s nice of a good embassy, taking steps to inform members and senators. I will read this very carefully with an open mind.’ I started to read the following references:

… the bloodthirsty Zionists and their bigheaded … American supporters …

and:

… the resistance of the people of Lebanon and the heroic struggles of Hizbollah …

After reading that sort of preface, I thought, ‘This isn’t looking good,’ but I persevered. I continued and read the following:

how long should the Islamic world tolerate existence of the scheming and evil Zionist regime?

… … …

Today it has become clear to all that attack on Lebanon was premeditated and part of a joint American-Zionist stratagem and is a major step toward domination over the middle east and the Islamic world.

It then went on to talk about the ‘evil and wicked Zionist regime’, ‘the value of jihad’ and the ‘savage wolf of Zionism and the aggressions of the great satan’.
When you read something like that you could be forgiven for thinking it is a dialogue sequence from the movie *Team America*, but sadly it is not. This is not a lame attempt at satire. These are the views of a sovereign government. These are the views of a nation which is very well armed. These are the views of a nation which has been supporting and arming Hezbollah, an outlawed terrorist organisation which is a state within a state. If ever anyone questions whether Israel has a right to defend itself strongly and robustly or stand against terrorism and seek to take out terrorist infrastructure, they only need to avail themselves of this kind note from the Iranian embassy in Canberra. I think the Iranian government perhaps needs a better advocate and spokesman in Canberra. If this is what they are peddling around the parliament of Australia, the only thing I can say is: it gives us a true indication of what it is that they stand for.

As if that was not enough, in the *Australian* today we read under an article headed ‘Iran gets laugh out of holocaust’ that Tehran is holding an exhibition of more than 200 cartoons about the Holocaust—200 satirical, joking, mocking cartoons about the Holocaust, in which six million Jews died. It says:

The display, showing 204 entries from Iran and abroad was strongly influenced by the views of Iran’s hardline President ... who drew widespread condemnation last year for calling the Holocaust a ‘myth’ and saying Israel should be destroyed.

He deserves widespread condemnation for calling the Holocaust a myth and for saying Israel should be destroyed. Israel is a beacon of hope. It is a beacon of peace. It is a strong, robust democracy. Australia has always stood by Israel. Israel has two great friends in the world: the United States and Australia. I was proud to stand on the steps of the Melbourne GPO in support of Israel and its right to exist, and democracy, freedom and the rule of law. Given the opportunity again, I would do so.

Hasluck Electorate: Brickworks

Senator STERLE (Western Australia) (7.11 pm)—I rise tonight to speak about the Howard government’s betrayal of the good people of Rose Hill, Hazelmere, Forrestfield, High Wycombe and also Mr Stuart Henry, the federal Liberal member for the electorate of Hasluck. Late last night, 15 August 2006, Mr Warren Truss, the Howard government minister for transport put out a press release approving a draft major development plan for the BGC brickworks on the Perth Airport site. This announcement must have come as a bitter blow for Mr Henry. It would explain why he was looking for people to blame. Mr Henry, unfortunately, has tried to blame the Western Australian state government for this decision.

On 30 June 2006, Mr Henry sent out a letter to his constituents in the electorate of Hasluck in which he tried to peddle the ridiculous claim that:

... State Government MP’s couldn’t put aside their political interests to strive for this community’s cause and concern.

Mr Henry knows that the submission of the Western Australian government on the BGC brickworks proposal to the Howard government stated clearly on page 2:

The State government submits therefore that the Minister for Transport and Regional Services under s94 of the Airports Act 1996 should refuse to approve the Draft Major Development Plan.

It is there in black and white and Mr Henry knows it, but he continues to sledge the Western Australian state government and imply that they do not care. Mr Henry is playing politics on this and he knows it.

Mr Henry knows that the only government that wants a BGC brickworks in Hasluck is the Howard government, of which he is a member. To be fair to Mr Henry, he has had a
go on this issue. He has got to his feet five times in the other place to plead with the Howard government ministers to oppose the brickworks proposal. In his letter of 30 June, he also told his constituents that the previous week he had taken the community’s concerns about the brickworks proposal directly to the Prime Minister’s office. I can imagine Mr Henry with his cap in his hand, on his knees begging for the brickworks proposal to be canned. But, unfortunately for Mr Henry and the people of Hasluck, his pleas were in vain and his words counted for nothing with the Prime Minister.

You have got to wonder why the Prime Minister would hang Mr Henry out to dry over the brickworks. The Prime Minister and his transport minister, Mr Warren Truss, listened to Mr Henry’s concerns and chose to ignore them. Considering that Mr Henry holds the seat of Hasluck on a wafer-thin margin of 1.8 per cent, this decision looks like political suicide.

As far as I can tell, there are three main reasons why Mr Henry’s pleas have fallen on deaf ears. The first reason is that Mr Henry has had to put up with Mr Wilson Tuckey, the member for O’Connor, working against him the whole time. In an adjournment debate on 9 November 2005 I quoted Mr Tuckey in a speech he gave in parliament on 11 August 2005, in which he said:

... Len is ... struggling to get a site to erect his brickworks on.

He then went on to say—and I am sure that Mr Henry was horrified to hear it:

... the Commonwealth government is, through the Airports Association, giving him some assistance.

I went on to describe Mr Tuckey’s comments as ‘Wilson’s little slip’. Just in case senators are concerned that I might have taken Mr Tuckey out of context, he got up again in parliament the next day and said:

... Senator Sterle referred to remarks I had made in this House on 11 August in support of this process as ‘Wilson’s little slip.’ It was no slip. Everything I said was deliberate ...

There you go. It seems Mr Tuckey forgot to tell Mr Henry that he and the rest of the Howard government were against him.

The second reason Mr Henry’s pleas were ignored might have been that the Prime Minister was forced to make a choice between Mr Henry and that great friend and benefactor of the Liberal Party Mr Buckeridge. There is a long history of Liberal Party ministers bending over backwards to help their mate Mr Buckeridge. Western Australians all remember the time Western Australian taxpayers lost $74,000 after the Liberal Court government sold Mr Buckeridge a block of land for less money than it had been bought for 10 years earlier and for less than half the value put on it by the state’s Valuer-General. Western Australians also remember the time the Peppermint Grove Shire Council issued a stop-work order against Len Buckeridge’s company Homestyle Pty Ltd when it was found guilty of departing from council-approved building plans, only for then Liberal minister Paul Omodei—now leader of the Western Australian opposition—to reject the advice of his own department and overturn the stop-work order. Western Australians also remember Liberal planning minister Richard Lewis ruling against the advice of the Wanneroo City Council and the Town Planning Appeals Committee to approve a concrete batching plant for Len Buckeridge’s company BGC, giving it a considerable commercial advantage over its competitors.

But why would Len Buckeridge get such preferential treatment from Liberal Party ministers? It might have something to do with all the money that he and his companies have poured into Liberal Party coffers over the years. Is it the case that Mr Henry is just
collateral damage in the war for campaign donations? I do not know.

The third reason that the Prime Minister might have ignored Mr Henry’s pleas is that Mr Henry’s voice carries no weight at all in the government party room. This is the most depressing reason for the people of Hasluck. The people of Hasluck have just learnt that their federal member carries no weight in the Howard government, of which he is a part. You would have to imagine that Mr Henry pointed out to the Prime Minister the concerns of the Howard government’s own Department of the Environment and Heritage in its environmental assessment of the BGC brickworks proposal. On page 21 of that report the department came to this conclusion: ... the Department is not satisfied that the information provided to date is sufficiently rigorous to conclude that the modelling addresses air quality concerns.

The report went on to say: Although BGC claims to have addressed the risks of the cumulative impacts from pollutants, uncertainties with respect to local pollutant loads and the effectiveness of proposed mitigation measures mentioned earlier, raises doubts about whether the BGC assessment accurately addresses the risks to public health.

I hope he told him, but if he did then the Prime Minister just did not care.

The people of Hasluck are already doing it hard. They have had to put up with three straight increases in their interest rates since Mr Henry was elected as their federal member. It costs $22 more to fill the tank of the family car since Mr Henry was elected as their federal member. And since Mr Henry was elected as their federal member—a member of the Howard government—the Howard government has approved a brickworks in their backyard. The Prime Minister and his government have taken the votes of the people of Hasluck for granted. At the next election they will have a chance to elect someone else, who will carry their voice with the weight it deserves.

Asylum Seekers

Senator BARTLETT (Queensland) (7.19 pm)—Today in the Age newspaper there was the report about the request from the foreign minister of Nauru, Mr David Adeang, expressing concern about the condition of Muhammad Faisal, who is one of the two refugees who have been kept on Nauru for close to five years now. The Nauruan government has made an urgent plea, according to the report, for this refugee to be evacuated to Australia because of serious problems with his health, particularly his mental health. Unfortunately, the barrier to Mr Faisal being able to come to Australia is because of the same reason that he is still stuck on Nauru—that he got a negative security assessment from ASIO last year. He is one of two—the other man being Mohammad Sagar—who have this fate of having been accepted, acknowledged and recognised as refugees and therefore obviously not being able to return to their home country of Iraq but also not being able to gain a visa to Australia because of this negative security assessment from ASIO.

This circumstance highlights perfectly why it is so unconscionable to send asylum seekers outside the reach of the rule of law, marooning them on Nauru. If these people had been processed in Australia and had received a negative security assessment from ASIO they would have been able to appeal that assessment to the Administrative Appeals Tribunal. They would have been able to use their legal rights under the relevant act to seek to find out why they had had a negative assessment and what grounds were being used to give them that assessment; why it was that they were deemed to be unsuitable by ASIO. All of those rights are denied to them, so they are stuck in a situation that I
think all fair-minded people would recognise as the absolutely intolerable nightmare of being denied entry to Australia despite being acknowledged as a refugee and being denied entry to any other country because, not surprisingly, if Australia will not accept them no other country will accept them either, and why would they?

Despite that situation, they have no way of finding out exactly what the grounds are that have given them that negative security assessment. If they were in Australia, they would have legal rights to ascertain those things. I would like to think that all Australians, certainly all fair-minded Australians, would recognise that this situation is unjust. It is patently unfair. These people have basically been denied the most basic of rights—the opportunity to find out the reason why they have in effect been convicted and sentenced to potentially a lifetime of being marooned on Nauru. It is not surprising, frankly, that the mental health of one of them is deteriorating significantly. Frankly, it is only a matter of time.

I met both of these men last time I was on Nauru, about a year or so ago, when there were still around 46, I think, asylum seekers stuck there. At that stage they had had their ASIO interview but had not had word back about the assessment. Because they already knew they had been assessed as refugees, they were expecting to be given word that they would be getting a visa quite soon. Instead they watched while all of these other people had been repeatedly told they did not have a claim suddenly got reassessed, thankfully, and then were given visas to Australia, and these men were left behind. They had been there since 2001 and through all of that time have seen well over 1,000 people come through Nauru. The majority of them over time, piece by piece, eventually move on to safety in other countries—the majority of them, of course, going to Australia. This is the perfect example of why it is completely unacceptable to put asylum seekers outside the reach of the rule of law and due legal process.

These two people were reinterviewed by ASIO a couple of months ago and again have had to wait with bated breath to find out what the reassessment will be. I can only hope that it is a positive one. If it is not a positive one then I will renew my call for the federal government to ensure that there is some mechanism for these people to have their assessment reviewed properly, fairly and independently, as would be the right of any person within Australia. It is not a matter of these people just getting a free card into Australia; it is a matter of the difference between them having a future and having absolutely no future and facing the prospect of being stuck on Nauru for the rest of their lives—as I said, something that does not necessarily thrill the Nauru government either.

For that reason it is doubly concerning that the federal government reportedly appears determined to go ahead repeating this mistake, this cruel approach, by transferring the latest arrival of eight boat people, who I understand are from Burma, via Christmas Island to Nauru. I hear the intent is to get them there as soon as possible. This approach is equivalent to that taken with Guantanamo Bay—placing people outside of the reach of the rule of law and outside of any legally enforceable due process. It also, I might say, is extraordinarily expensive to the Australian taxpayer and it serves no good purpose. We all have now seen quite clearly that other factors come into play when people arrive in Australia by boat seeking asylum, and the determination of how severely we punish people when they arrive here for having the temerity to seek asylum is not part of that solution.
I would also point to another group of people who are even more forgotten—those asylum seekers who are still marooned in Indonesia, particularly on Lombok, after being towed back to Indonesian waters from Ashmore Reef by the Australian Navy back in October 2001. They have now spent nearly five years in limbo in Indonesia without proper legal status and without the opportunity to be reunited with their families. Many of them, I think about 45, are Afghan people, from a country that our own government is acknowledging is so unsafe that it has to send extra troops there. Every report indicates how dangerous and unsafe that region is. Certainly my understanding is that most of these Afghan people are from trouble areas of Afghanistan.

Many of those were assessed, I acknowledge, by the UNHCR and found not to meet refugee convention criteria. But I would also state, and the UNHCR makes this quite clear in all of their guidelines and procedures, that they can make assessments of broader humanitarian reasons outside the narrow confines of the refugee convention, because the refugee convention is quite narrowly defined. You do not just have to demonstrate that you have a legitimate fear of persecution; you have to demonstrate that it is for specified reasons. So it can be quite valid and it does occur. Some of these people do have a legitimate fear of persecution but just not for the reasons that are in the refugee convention. It is quite credible to say that if those people return to Afghanistan or one of a few other countries—I think Iranians and Vietnamese are also in the camp on Lombok—they will be in severe danger.

If we think as a country it is okay to just tow people back to Indonesia, leaving them in a circumstance where they have no legal status or legal rights and where, if they return to where they have come from, they are at risk of severe harm or death, that is a sad state for our country to be in. These people are in the situation they are in as a direct consequence of the decision of the Australian government and a direct consequence, I might say, of legislation passed through both houses of parliament by both major parties back in 2001. It is easy to tow people away; then they are out of sight and out of mind. I think it is important that we do not forget these people.

Earlier this year I provided a petition to the immigration minister, Senator Vanstone, from a number of Australians urging that those people in Lombok not be forgotten and that we seek to ensure that they have some sort of future and are not also left in some sort of legal limbo where we can just wash our hands of them, Pontius Pilate like, say they are not our problem and leave them to an unknown and unimagined fate. Those are not the actions of a civilised country, and I would suggest they are not the actions of a country that is keen to try and ensure global or regional stability. I would urge the Australian government to reconsider its approach to the inhumane Pacific solution. (Time expired)

Rural and Regional Australia

Senator IAN MACDONALD (Queensland) (7.29 pm)—As one of the few senators in this parliament who actually lives and works in rural Australia, I want to thank John Howard and Peter Costello for what they have done for those of us who do live in rural, regional and country Australia—John Howard because he is quite clearly the most popular politician in the bush in Australia and Peter Costello, whilst he is also popular in the bush, perhaps is popular more because of the way that he has managed the economy and given prosperity to all Australians, including those of us who live in country Australia. Peter Costello has been to the bush a number of times—not often enough, I con-
tinually remind him. He should go out there more because when he does he makes a huge impact. John Howard regularly visits country Australia and has a very keen and astute understanding of the wishes of country people.

If Mr Beazley has been there in recent times then, as someone who keeps a fair bit of an eye on the news media, I have not been aware of it. I suspect he does not go there because he realises there are no votes for him in the bush and he avoids it like the plague—a bit similar, I might say, to Mr Beattie in our own state of Queensland. He is not terribly interested in what happens in the bush. He will easily give up the jobs of workers in the bush. The AWU would well know about this. I know that they do know and that they have had their fights with Mr Beattie, but to no avail—Mr Beattie will give up jobs in the bush. One instance I can pick off the top of my head is the forestry industry. Mr Beattie will do that because he has to pander to the radical Greens who live in Brisbane. Mr Beattie always thinks he needs their votes. I do not know why he has that view; it has not been necessary in the past couple of elections. It is quite difficult to understand why he does, but he does pander to a certain element of radical Greens in Brisbane and as a result gives away workers’ jobs in the bush.

In Queensland you do have a lot of country areas represented by members of the Liberal and National parties. There are a few currently represented by Labor, although I would suggest that after 9 September that will not continue to happen because I think country people—and, in fact, most Queenslanders—are at last waking up to Mr Beattie. You cannot just smile and say, ‘We’ll fix it,’ when he has had seven, eight or nine years to fix it and has not done a thing about it in that time. Country people do remember those things and they remember that the federal government, John Howard and Peter Costello have been very good to country people over the years.

But in spite of the actions and programs and different things that our government has done for the bush there is still a lot more to be done. It is an incontrovertible fact that in Australia you really do have two classes of people. You have people who live in the capital cities and major provincial cities as one class of people. They are the class of people who have access to very heavily taxpayer subsidised transport facilities: trams, trains and buses. They have access to health in much better ways than country people. They have access to culture, major concerts, major sporting events and infrastructure which is poured into the capital cities and major provincial cities at the taxpayers’ cost. It is a subsidised benefit that those Australians who live in the capital cities principally, and some of the provincial cities, have.

Then you have the other Australians who I think, at times, would feel that they are second-class Australians because they do not have a hospital down the end of the street and they do not have taxis running back and forward. They do not have a public transport system. If they want to get their kids to school very often it requires two or three hours travel or putting the kids into boarding school. If they want to see a specialist it usually involves quite distant travel, and then if you are needing treatment in the health area you need to be away from your home. There are reasons of course for this and I think that, in spite of those difficulties, most people who live in the country would not change their lot even if they had the opportunity.

This last weekend I was invited to the Access to Justice and Pro Bono Conference in Melbourne, organised by people involved with the Law Council. I want to thank Pat Mullins, a solicitor from Brisbane, who invited me along to make a contribution about
the difficulty that country people have in accessing justice. By country people I mean not only Indigenous people, who are very deprived when it comes to access to real justice, but also ordinary folk: workers, farmers, bankers, graziers and council employees out in country areas who really find it difficult to get to a lawyer of any sort. This is not a new phenomenon. I remember when I practised law in the country it was always very difficult to get solicitors to come and live in the country areas. That is a fact of life, because why would you do that when the alternative is to live in the city with all the concerts, operas, culture, sporting events, transport and health facilities that you need?

There is a way that we can encourage solicitors, doctors, engineers, administrators and teachers to live in the country, and that is by making it financially viable for them so to do. Years ago we had a zone tax system. We still have it, actually, but when the zone tax system started in 1945 the basic wage was, in today’s terms, about $7.40 per week and a zone allowance was given to people living and working in the country, as the ATO website says, ‘in recognition of the disadvantages that taxpayers are subject to, because of the uncongenial climate conditions, isolation and high cost of living in comparison to other areas of Australia’. At the time that the basic weekly wage was about $7.40, in today’s terms, the allowance that was given was $80 per year—so it was 10 times the average wage. Nowadays, the average wage is around $700 per week. If the zone allowance were 10 times that, it would be in the order of $7,000 to $8,000 a year. That would be an attraction for professionals, skilled people and other workers to live in the bush, with some of the disadvantages that that has, if they had that financial commitment.

What is the zone allowance these days? It is not $7,000 or $8,000. It is $338 per year. I think our government, which does have an interest in country Australia and in people living in remote Australia, needs to have a very serious look at fixing the zone tax rebate scheme so that it does do what it was originally intended to do—and that was to give people who put up with the difficulties of living in the country some financial remuneration for that. It is possible. There have been a lot of studies done on it. There has been a lot of thinking by bureaucrats that it is not possible, that it runs into problems with the Constitution—all those sorts of things. I do not think those objections carry weight. And I do not think most Australians would object to country people getting some financial assistance in lieu of the subsidised services they do not get because they do not live in the city. I urge the Treasurer and the government to look at this seriously. (Time expired)

Senate adjourned at 7.40 pm

DOCUMENTS
Tabling

The following government documents were tabled:

- Australian Radiation Protection and Nuclear Safety Agency—Quarterly report for the period 1 January to 31 March 2006.
- Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Personal identifiers 067/06 to 069/06—Commonwealth Ombudsman’s reports.

Commonwealth Ombudsman’s reports—Government response.

Treaties—List of multilateral treaty actions under negotiation, consideration or review by the Australian Government as at August 2006.
Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]


Australian Prudential Regulation Authority Act—Australian Prudential Regulation Authority Instrument Fixing Charges No. 8 of 2006—Access to the NCPD by NCPD insurers during 2004-05 and 2005-06 [F2006L02657]*.

Civil Aviation Act—Civil Aviation Safety Regulations—

Airworthiness Directives—Part 105—

AD/AS 355/60 Amdt 1—Tail Rotor Blade Trailing Edge [F2006L02681]*.

AD/ECUREUIL/71 Amdt 1—Tail Rotor Blade Trailing Edge [F2006L02682]*.

Manual of Standards Part 171 Amendment (No. 1) 2006 [F2006L02666]*.

Class Rulings—

CR 2006/73-CR 2006/76.


Commonwealth Authorities and Companies Act—Notice under paragraph 45(1)(b)—Acquisition of shares in Bryanston Freehold Limited.

Fuel Tax Determinations FTD 2006/1-FTD 2006/3.

Goods and Services Tax Rulings—

Addenda—


GSTR 2006/7 and GSTR 2006/8.

Erratum—GSTR 2006/5.

Motor Vehicle Standards Act—


Vehicle Standard (Australian Design Rule 82/00—Engine Immobilisers) 2006 [F2006L02665]*.


Remuneration Tribunal Act—Determinations—

2006/14: Members of Parliament—Travelling Allowance [F2006L02658]*.

2006/15: Official Travel by Office Holders [F2006L02659]*.

2006/16: Travelling Allowances for Members of the Australian Industrial Relations Commission [F2006L02660]*.

2006/17: Remuneration and Allowances for Holders of Public Office [F2006L02661]*.

Taxation Ruling—Old Series—Addendum—IT 2503.

* Explanatory statement tabled with legislative instrument.