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SITTING DAYS—2006

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RADIO BROADCASTS

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

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FORTY-FIRST PARLIAMENT
FIRST SESSION—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 Stephen Parry
National Whip—Senator Nigel Gregory Scullion
Opposition Whips—Senators George Campbell, Linda Jean Kirk and Ruth Stephanie Webber
Australian Democrats Whip—Senator Andrew John Julian Bartlett
Australian Greens Whip—Senator Rachel Siewert

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

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(1) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. John Joseph Herron, resigned.
(2) Chosen by the Parliament of Victoria to fill a casual vacancy vice Hon. Richard Kenneth Robert Alston, resigned.
(3) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.
(4) Chosen by the Parliament of Tasmania to fill a casual vacancy vice Susan Mary Mackay, resigned.
(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
<table>
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<td>Prime Minister</td>
<td>The Hon. John Winston Howard MP</td>
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<tr>
<td>Minister for Trade and Deputy Prime Minister</td>
<td>The Hon. Mark Anthony James Vaile MP</td>
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<tr>
<td>Treasurer</td>
<td>The Hon. Peter Howard Costello MP</td>
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<tr>
<td>Minister for Transport and Regional Services</td>
<td>The Hon. Warren Errol Truss MP</td>
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<td>Minister for Defence</td>
<td>The Hon. Dr Brendan John Nelson MP</td>
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<td>Minister for Foreign Affairs</td>
<td>The Hon. Alexander John Gosse Downer MP</td>
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<td>Minister for Health and Ageing and Leader of</td>
<td>The Hon. Anthony John Abbott MP</td>
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<td>Attorney-General</td>
<td>The Hon. Philip Maxwell Ruddock MP</td>
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<td>Senator the Hon. Nicholas Hugh Minchin</td>
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<td>The Hon. Peter John McGauran MP</td>
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<td>The Hon. Julie Isabel Bishop MP</td>
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<tr>
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<td>The Hon. Malcolm Thomas Brough MP</td>
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<td>The Hon. Kevin James Andrews MP</td>
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<td>Minister for the Public Service</td>
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<td>the Government in the Senate</td>
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<tr>
<td>Minister for the Environment and Heritage</td>
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(The above ministers constitute the cabinet)
### Howard Ministry—continued

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<td>Minister for Justice and Customs and Manager of Government Business in the Senate</td>
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<td>Minister for Fisheries, Forestry and Conservation</td>
<td>Senator the Hon. Eric Abetz</td>
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<td>Minister for the Arts and Sport</td>
<td>Senator the Hon. Charles Roderick Kemp</td>
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<tr>
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<td>The Hon. Joseph Benedict Hockey MP</td>
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<tr>
<td>Minister for Community Affairs</td>
<td>The Hon. John Kenneth Cobb MP</td>
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<tr>
<td>Minister for Revenue and Assistant Treasurer</td>
<td>The Hon. Peter Craig Dutton MP</td>
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<td>Special Minister of State</td>
<td>The Hon. Gary Roy Nairn MP</td>
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<tr>
<td>Minister for the Arts and Sport</td>
<td>The Hon. Gary Douglas Hardgrave MP</td>
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<tr>
<td>Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence</td>
<td>The Hon. Bruce Frederick Billson MP</td>
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<tr>
<td>Minister for Workforce Participation</td>
<td>The Hon. Dr Sharman Nancy Stone MP</td>
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<td>Parliamentary Secretary to the Minister for Finance and Administration</td>
<td>Senator the Hon. Richard Mansell Colbeck</td>
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<tr>
<td>Parliamentary Secretary to the Minister for Industry, Tourism and Resources</td>
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<td>Parliamentary Secretary to the Minister for Health and Ageing</td>
<td>The Hon. Christopher Maurice Pyne MP</td>
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<td>Parliamentary Secretary to the Minister for Defence</td>
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<td>The Hon. De-Anne Margaret Kelly MP</td>
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<td>Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs</td>
<td>The Hon. Andrew John Robb MP</td>
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<td>Parliamentary Secretary to the Prime Minister</td>
<td>The Hon. Malcolm Bligh Turnbull MP</td>
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<td>Parliamentary Secretary to the Treasurer</td>
<td>The Hon. Christopher John Pearce MP</td>
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<td>Parliamentary Secretary to the Minister for the Environment and Heritage</td>
<td>The Hon. Gregory Andrew Hunt MP</td>
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<td>Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry</td>
<td>The Hon. Sussan Penelope Ley MP</td>
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<td>Parliamentary Secretary to the Minister for Education, Science and Training</td>
<td>The Hon. Patrick Francis Farmer MP</td>
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<td>Parliamentary Secretary (Foreign Affairs)</td>
<td>The Hon. Teresa Gambaro MP</td>
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SHADOW MINISTRY

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

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

Shadow Minister for Consumer Affairs and Shadow Minister for Population Health 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 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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Wednesday, 13 September 2006

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

AGED CARE AMENDMENT (RESIDENTIAL CARE) BILL 2006
JUDICIARY LEGISLATION AMENDMENT BILL 2006
PRIVACY LEGISLATION AMENDMENT (EMERGENCIES AND DISASTERS) BILL 2006

First Reading
Senator MINCHIN (South Australia—Minister for Finance and Administration) (9.31 am)—At the request of the Minister for Ageing (Senator Santoro) and the Minister for Justice and Customs (Senator Ellison), I move:

That the following bills be introduced:
A Bill for an Act to amend the Aged Care Act 1997, and for related purposes; and
A Bill for an Act to amend the Judiciary Act 1903, and for related purposes.
A Bill for an Act to make provision for dealing with personal information in emergencies and disasters, and for related purposes.

Question agreed to.

Senator MINCHIN (South Australia—Minister for Finance and Administration) (9.31 am)—I move:

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

Question agreed to.

Bills read a first time.

Second Reading
Senator MINCHIN (South Australia—Minister for Finance and Administration) (9.31 am)—I seek leave to have the second reading speeches incorporated in Hansard.

Leave granted.

The speeches read as follows—

AGED CARE AMENDMENT (RESIDENTIAL CARE) BILL 2006

The Aged Care Amendment (Residential Care) Bill proposes a number of amendments to the Aged Care Act 1997 (the Act). The bill gives effect to changes to the treatment of income streams and assets that have been disposed of under the assets test for entry into permanent residential aged care.

The bill also clarifies current delegation practices in relation to Aged Care Assessment Teams.

Since coming to office in 1996, the Howard government has worked consistently to ensure that older Australians needing long-term care have access to a high-quality and affordable aged care system capable of meeting their needs and preferences.

This bill brings the treatment of gifting and income streams for aged care assets testing purposes into line with their treatment for pension assets testing purposes, as announced in the 2006-07 Budget. This builds on the Government’s changes to streamline administration in aged care that responded to the recommendations of the 2003-04 Review of Pricing Arrangements in Residential Aged Care.

The changes are designed to simplify the interaction of the aged care and pension arrangements for greater transparency and to facilitate wise financial planning for older Australians. They will also improve the sustainability of the aged care financing arrangements.

Currently, assets gifted by prospective residents are excluded from assessment for aged care assets testing purposes but are included in the pension assets test and such gifts can reduce the amount of age pension received. The current arrangements apply until 1 January 2007 and therefore people entering or moving between residential aged care homes up to and including 31 December 2006 will not be affected.

People who enter residential aged care or move to another aged care home from 1 January 2007 and
who seek an assets assessment through Centrelink or the Department of Veterans’ Affairs will have any gifts they have made from 10 May 2006 that exceed the allowable amounts included in that assessment.

The allowable amounts are those that currently apply for the pension asset test as well as for pension and aged care income assessment purposes—$10,000 in any financial year or $30,000 over five years.

Changes to pension arrangements announced by the Government in February 2004 mean that market linked income streams purchased from 20 September 2004 that satisfy certain conditions are granted ‘complying income stream’ status, which means that they qualify for the pension assets test exemption. At the same time, the then 100% assets test exemption for purchased complying income streams was reduced to 50% for products purchased on or after 20 September 2004. Complying income streams purchased before that date continue to be fully exempt from the assets test.

With the proposed amendments, from 1 January 2007 the exemption that applies to complying income streams for the pension assets test will also apply to the aged care assets test.

As the aged care assets test only applies on entry to an aged care home or on moving to another home, existing residents will not be affected while they remain in the same aged care home. These changes will also result in a more sustainable system in the long term, providing savings of approximately $71.7 million of administered costs over five years.

This bill also amends the Act to allow for the Secretary to the Department of Health and Ageing to delegate to members of the Aged Care Assessment Teams (ACATs) the Secretary’s power to extend the maximum number of days per year on which a person may be provided with residential respite care. This change will remove any uncertainty about the role of ACATs in this process.

The role of ACATs is to assess frail older Australians with complex care needs and assist them to access the most appropriate care services available. The Secretary currently delegates to designated ACAT members the power to approve a person to receive aged care services. ACAT members also currently assess the merits of applications for respite care extensions, but they do not have the delegated power to formally approve an extension. Currently, residential respite care is limited to 63 days per financial year for a care recipient. However the Secretary may increase the maximum number of days allowed by periods of 21 days where there is a need to do so, such as carer stress or absence, or because of the severity of the care recipient’s condition. This proposed amendment to the Act will give ACAT delegates the power to formally approve respite care extensions in addition to assessing applications for extension.

JUDICIARY LEGISLATION AMENDMENT BILL 2006

This bill has two main purposes. Firstly, it gives effect to purported orders made contrary to paragraph 39(2)(d) of the Judiciary Act 1903 by non-judicial officers of State courts of summary jurisdiction, by providing that the rights and liabilities of all persons are the same as if each such order had been an order made by the court in the exercise of its federal jurisdiction. Secondly, it repeals paragraph 39(2)(d) and subsection 68(3) of the Judiciary Act.

The effect of paragraph 39(2)(d) is that registrars and other non-judicial officers of State courts of summary jurisdiction do not have jurisdiction to make certain orders in federal matters, such as default orders. A corresponding provision, subsection 68(3) of the Judiciary Act, provides for similar restrictions in relation to the exercise of federal jurisdiction in criminal cases.

In December 2005, the Government was informed that registrars in the Victorian Magistrates Court had been purporting to exercise federal family law jurisdiction, contrary to the restrictions in paragraph 39(2)(d), by making consent orders in relation to family law matters. Consequently, all State and Territory Attorneys-General were contacted to remind them of the restrictions in the Judiciary Act. The Government also asked all State Attorneys-General to advise how widespread the practice was of non-judicial officers in State summary courts exercising federal jurisdiction in contravention of paragraph 39(2)(d).
While waiting for a response from State and Territory Attorneys-General, amendments were introduced in the Family Law Amendment (Shared Parental Responsibility) Act 2006 to effectively validate the ineffective family law orders as a matter of urgency. This provided certainty for parties involved in proceedings in which ineffective family law orders had been made.

It subsequently became apparent that in some States orders have been made contrary to paragraph 39(2)(d) in relation to taxation and other federal law matters. Parties to proceedings involving ineffective orders have acted on the assumption that the orders were valid and could be relied upon. Consequently, this bill creates new statutory rights and liabilities for parties that may be exercised and enforced in the same manner as valid orders of the relevant court. These provisions will provide certainty for these parties and avoid unnecessary legal challenges.

In order to prevent the situation arising again, the bill repeals paragraph 39(2)(d) and subsection 68(3) of the Judiciary Act. This will allow, subject to the Constitution, State summary courts to be constituted in the same way for the purpose of exercising federal jurisdiction as they are able to be constituted for the purpose of exercising State jurisdiction. State summary courts will be able to determine which officers, including non-judicial officers, can exercise federal jurisdiction. This will place State summary courts in the same position as State district, county and supreme courts.

Traditionally, stipendiary magistrates and lay magistrates both exercised summary jurisdiction in States courts. Stipendiary magistrates were legally qualified full-time adjudicators, while lay magistrates were not. There was concern then, as there still is of course, that persons exercising the judicial power of the Commonwealth should be suitably qualified. Paragraph 39(2)(d) and subsection 68(3) were intended to address this concern. However, today State statutes generally require magistrates to be legally qualified and State courts of summary jurisdiction have evolved considerably in the past 100 years. I am confident the States will ensure that both federal and State jurisdiction are exercised only by suitably qualified people.

Subject to the requirements of the Constitution, it is generally not desirable for the States to have to put in place different arrangements for the handling by State courts of matters in federal jurisdiction. This obviously reduces their flexibility to deal with what are no doubt busy workloads.

State registrars already make the same kinds of orders in State jurisdiction which the Judiciary Act currently prevents them from making in federal jurisdiction. These amendments will allow the States to determine which officers, including non-judicial officers such as registrars, can exercise federal jurisdiction. By doing so this bill contributes to achieving a more accessible, efficient and flexible civil justice system.

I commend this bill.

PRIVACY LEGISLATION AMENDMENT (EMERGENCIES AND DISASTERS) BILL 2006

The tragic Boxing Day Tsunami in 2004 provided many lessons in how to provide effective and timely assistance to Australians caught up in an emergency. To provide effective assistance, we have to identify those who need help and what help is appropriate. The tsunami, along with other subsequent emergencies and disasters, revealed practical problems for Commonwealth agencies, State and Territory governments, private sector organisations and non-government organisations regarding the extent to which personal information can be shared.

The Privacy Act 1988 contains provisions which allow disclosure of personal information in times of emergency and disaster. However, the Act contemplates that these provisions will be applied on a case-by-case basis after careful analysis of the circumstances. Clearly, in an emergency or disaster, where there may be many thousands of victims requiring urgent assistance, agencies and organisations do not have the luxury of time, or the resources, to consider each case individually.

These existing provisions have proven difficult to apply with confidence in situations involving mass casualties and missing persons. This has resulted in some agencies and organisations taking an overly-cautious interpretation, and has contributed to unnecessary delays in delivering
services and added to the trauma experienced by victims and their families.

Two recent reports, the Privacy Commissioner’s Getting in on the Act: the review of the private sector provisions of the Privacy Act 1988 and the Senate Legal and Constitutional Committee Report The real Big Brother: Inquiry into the Privacy Act 1988 have noted the need for clarification of the provisions of the Act in times of an emergency. I acknowledge the work of the Privacy Commissioner and the Committee in preparing those reports.

New Part VIA

There needs to be a seamless whole-of-government approach to the exchange of personal information in a disaster. The Privacy Legislation Amendment (Emergencies and Disasters) Bill 2006 inserts a new Part into the Privacy Act to establish a clear and certain legal basis for the collection, use and disclosure of personal information about deceased, injured and missing individuals caught up in an emergency or disaster occurring in Australia or overseas.

The effect of these amendments is to permit the Australian Government, private sector organisations and non-government organisations to collect, use and disclose personal information in the event of an emergency or disaster, despite the possible application of the Privacy Act or of specific secrecy provisions in other Commonwealth legislation. The bill will not apply to State and Territory governments and their agencies other than the ACT, but it will allow Australian Government agencies and private sector organisations and non-government organisations to disclose personal information to State and Territory Governments and their agencies.

We are hopeful that where State or Territory legislation prevents their agencies from sharing personal information with the Australian Government or with private sector or non-government organisations, States and Territories might consider corresponding amendments to their legislation.

Trigger provisions

These new provisions will be triggered when the Prime Minister or the Attorney-General makes a declaration for the purposes of the Privacy Act that an emergency or disaster has occurred in Australia or overseas. An emergency or disaster may only be declared where:

- at least one Australian citizen has been affected; and
- the emergency or disaster is such that it is appropriate that certain agencies, organisations and individuals be permitted to exchange personal information more freely than might otherwise be permitted by the Privacy Act.

Where the emergency or disaster has occurred outside Australia, the Attorney-General must consult the Minister for Foreign Affairs before making a declaration. The declaration will have effect for a limited time.

The bill does not attempt to define ‘emergency’ or ‘disaster’. The range of emergencies or disasters requiring urgent Government response is too vast and too varied to be susceptible to any sensible and comprehensive definition. However, it is envisaged that the Prime Minister or the Attorney-General will make the declaration as a part of a co-ordinated, whole-of-government response to an emergency or disaster.

Exchange of personal information

The bill will not allow unfettered dealing with personal information outside the existing regulation of the Privacy Act. On the contrary, the bill serves to clarify and enhance what is largely already permissible under the Privacy Act. The bill will allow collection, use or disclosure of personal information only where it will:

- provide people closely connected to an individual caught up in an emergency or disaster with information about their welfare;
- help to identify individuals;
- otherwise contribute to the response to the emergency or disaster; or
- assist individuals and law enforcement.

Secrecy Provisions

Given the objects of the bill, these amendments, of necessity, modify the operation of the Information Privacy Principles and the National Privacy Principles and relevant secrecy provisions in other Commonwealth legislation. However, rec-
ognising the special status of the intelligence agencies and the Inspector-General of Intelligence and Security, secrecy provisions applying to those agencies are excluded from modification under the amendments and will continue to apply unchanged.

In addition, there is a regulation-making power to exclude other nominated secrecy provisions from modification under the amendments where a sound policy case is made out to preserve those provisions even in an emergency situation. The bill also modifies the operation of common law duties of confidence, such as that which applies to the banker and client relationship.

No disclosure of personal information to the media

The amendments will not permit the disclosure of personal information to the media. If there is a need to involve the media to ensure a speedy and effective response to the emergency, then agencies and organisations must do so in accordance with the normal operation of the Privacy Act.

Offences

To ensure that personal information is not disclosed for unrelated purposes, the bill includes an offence prohibiting the further disclosure of any information received as a result of a declaration of emergency or disaster. This prohibition does not apply to persons closely related to an individual affected by an emergency or disaster, nor does it prohibit disclosure to the individual concerned or where that individual has consented to the disclosure. Naturally, the offence does not apply where the Privacy Act otherwise permits the disclosure.

Disclosure of information is optional

I want to stress that this bill merely enables the collection, use and disclosure of personal information in an emergency or disaster situation. It does not require any agency or organisation to disclose personal information. Agencies and organisations will retain their existing discretion under the Privacy Act not to disclose personal information. The amendments do not displace agencies' internal management processes regulating the collection, use and disclosure of information.

Consultation

These amendments follow from extensive consultation with stakeholders, both within government and in the private and charitable sectors. All have agreed that the amendments are necessary to enable an effective response to emergencies or disasters.

This bill will place beyond doubt the capacity of the Australian government and others to lawfully exchange personal information in an emergency or disaster situation. It reflects an expectation of the community that the Government will respond to emergencies and disasters quickly and effectively. The bill complements the existing core policy of the Privacy Act. The Privacy Act continues to apply in the absence of an emergency declaration; even in its normal operation, the Privacy Act usually allows the disclosure of personal information for legitimate government purposes.

I am confident that the amendments in this bill will assist search, rescue and recovery efforts and the distribution of services to victims and their families without derogating from the proper protection of personal information.

I commend the bill to the Chamber.

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

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

PETROLEUM RETAIL LEGISLATION REPEAL BILL 2006

In Committee

Consideration resumed from 12 September.

Senator FIELDING (Victoria—Leader of the Family First Party) (9.33 am)—I move Family First amendment (1) on sheet 5033:

(1) Schedule 2, page 4 (after line 13), at the end of the Schedule, add:

6 At the end of section 51AE

Add:
(7) The Oilcode must specify that where a wholesale supplier as part of the supply of the declared petroleum product:

(a) discounts the terminal gate price; or

(b) supplies or offers to supply a declared petroleum product at a price other than the terminal gate price;

the wholesale supplier will make available to the public each day on an Internet website maintained by or for the wholesale supplier:

(c) the price or prices including the amount of any discount and other individual components in relation to each particular price; and

(d) the criteria to qualify for the price or prices including any discount in relation to a particular price or individual component of each particular price.

Note: The terminal gate price is defined in the Oilcode.

Given that yesterday we went through quite a few amendments to this bill to make sure that we had more competition, not less, we need to make sure that independent service stations, predominantly smaller businesses, have the ability to see exactly what price they can buy at and what conditions they need to meet to buy at those prices. So this amendment from Family First is about disclosing product discounts, not about stopping discounting. This amendment is about making sure that all the purchasers, including independent service stations, know exactly what conditions they would need to meet to buy at a particular price. So this amendment is about having full price transparency.

I understand that the government may argue that the Oilcode requires the terminal gate pricing to be disclosed, but this issue is about disclosing discounts and making it quite clear to anyone wanting to buy petrol exactly what conditions or criteria they need to meet to get certain discounts. Rather than allowing discounts to be hidden and not shown, this is about making sure we have an open and level playing field for all service stations, including independents, so that they know what they have to do to get the very best discounts. Knowing the role that independent service stations play within the market in keeping prices low, I think this is extremely important. Family First wants to make sure that a structure is set up such that independents can survive. One of the ways they can survive is by being able to understand what discounts are being given by suppliers of petrol and knowing what conditions they would have to meet in order to achieve the same level of discounts.

In the last week we have heard clearly about how independents are buying at a level that is already higher than what other retailers are selling at, and they do not understand how that can happen. One way of addressing that is to have transparency of pricing, not just the terminal gate price but the discounted price. Independents need to be able to survive—their backs are already against the wall—and they need to understand exactly what criteria they need to meet to purchase petrol at the best possible price.

The amendment that Family First is putting forward would make sure that the wholesale supplier will make available to the public the price or prices, including the amount of any discount or any other individual components in relation to each price and—which is very important—the criteria to qualify for the price or prices, including any discount in relation to a price or individual component of each price. This is a common-sense amendment, as were yesterday’s, but again with this one I appeal to the Senate, I appeal to the government, to think about what is happening to independents and
the important role they play in the market in keeping prices low.

I was out talking to someone at an independent service station this morning and they were sharing with me how important it is to have independents out there to make sure that there is more, not less, competition. They have played a very important role in discounting and a particularly important role in allowing alternative fuels, such as ethanol. It would be wrong for Australia and this parliament not to ensure that independents can survive on a level playing field. I notice that the Comcars now have petrol cards for independent service stations. I would have to check whether senators and members also have such access. I have a petrol card for Shell, Caltex and BP, but I do not have one for independents. I am not sure how it would work; I would have to check. It is just that I have noticed that Comcars are able to buy from independents and buy the ethanol blends they have. This amendment is all about ensuring that independents understand the conditions they have to meet to get the very best price. It is fair and reasonable that they are able to do this. I appeal to all senators to support the Family First amendment.

Senator O'BRIEN (Tasmania) (9.38 am)—We agree that transparency in the Australian fuel market is critically important. Because we believed the powers of the ACCC were very important we supported Senator Murray’s amendment and moved our own amendment in the same terms to give the ACCC the power that it was seeking to monitor and deal with anticompetitive behaviour in the market. Unfortunately, the government chose not to support that amendment. We believe that Senator Fielding’s amendment will enhance transparency for the purchasers of fuel at the wholesale level. It will do no harm to the market at all; indeed, it will enhance competition by revealing the variety of means by which a retailer can access fuel potentially at a cheaper price. It will also reveal to the general public the nature of the market, the way in which discounts are obtained and limitations on obtaining discounts.

The government might argue that these discount arrangements are commercial-in-confidence. We think that this market is so important to the Australian community, to the structure of business costs and to the arrangements which keep this country moving, that we ought to support the amendment. As I say, we believe it does no harm to the market overall. To the extent that it may interfere with commercial arrangements, we believe that it is in the public interest that those arrangements be made as transparent as possible. We will be supporting this amendment. We urge the government to do likewise. I commend Senator Fielding’s comments to the chamber.

Senator MURRAY (Western Australia) (9.40 am)—I recall three decades ago having a very close look at the fair trading provisions in law in California and New York state. In both of those sets of legislation, and it may have been the case elsewhere—there was considerable academic and expert commentary surrounding them—I recall that they were very much focused on two fundamental and longstanding principles in competition law. The first is that you should have like terms for like customers. In other words, if you are of a certain volume, size, ability or credit worthiness you are entitled, as a matter of law and as a matter of principle, to have the same terms as someone of equivalent status. It is equivalent, if you like, to talking about antidiscrimination law. What antidiscrimination law says is that you should not discriminate against somebody—for instance, with respect to work—by age, by gender, by religion, by ethnicity; you should evaluate them on their merits. Essentially, the like terms for like customers approach
CHAMBER says that you evaluate each customer on their merits; you do not discriminate on unreasonable, immoral or biased grounds.

The second principle which is attached to that is that you should publish your terms and conditions, and your lists of terms of conditions should be freely available. That is a principle that is well established in Australian law, except in a few industries. One of the very worst—and I am absolutely appalled to this day, and I have written and spoken extensively about it for a couple of decades now—is the fact that shopping centre rents are a secret matter. Secret pricing is undertaken and is not publicly available. I have long been concerned about this matter.

There is a publication of mine in the Parliamentary Library, if anybody wants to go and have a look at it, about an issue that was raised in March 2004 during the Senate references committee inquiry into the Trade Practices Act. Just to express the principle: if you walk into a shoe shop as a customer, all the prices of the shoes and the various brands are available and are known to you. This amendment seeks to identify, for the buyers of petroleum products, the terms and conditions to which they are entitled with respect to their particular character—in other words, their volume, or their geographical location. Obviously, if an oil refinery has to deliver fuel for 300 kilometres, it costs them more to get that fuel to that customer than it does to get the fuel to a customer five kilometres away, and they are entitled to add a premium for that distance.

The Americans discovered years ago, in that instance I was outlining, that sellers were biased in terms of how they treated buyers. For instance, some buyers would get a facings allowance, which should have been available to others and was not; some buyers might get 45 days terms of credit, whereas the standard was 30 days, and that was not available to others; and so on and so forth. The Americans required that these principles should be clearly laid out by the seller on a non-discriminatory basis so that people had an appropriate way to be able to determine how to get the best price, whether by volume or by the terms that they were able to make attractive to the seller.

I think that this amendment encapsulates an absolutely critical, vital and—if I might describe it as such—universal principle with respect to the sale of goods under an advanced, fair competition regime. Certainly, you might quarrel with the wording here or there, but it does not alter the real impact of this amendment. For instance, it says, ‘the wholesale supplier will make available to the public each day’. I am not sure the public would need to refer to it each day, because it is more important for the retail buyers to be able to refer to it, but nevertheless it still must be available to the public. It must be a public list of the terms and conditions under which you supply product.

The amendment says ‘on an Internet website’. Not every buyer will have access to a website. Some of the sorts of small businesses that Senator Joyce was talking about earlier might not have website access, they might not have broadband way out in Woop Woop, so you could argue that an internet website is too limiting and the information should simply be available to the public. Nevertheless, as with the other amendment, the saving grace—if there are any inadequacies in this amendment—is that it says ‘the Oilcode must specify’. Of course, the Oilcode is capable of being expansive and descriptive and able to cover off areas which the amendment might not cover off.

The most important aspect of this amendment is that it seeks to address the issue of fundamental public concern—I accept, because I have heard the arguments contrary to
this, that it might not always be true—which is the common public and media perception that the market is manipulated by the oil majors and their various organisations. It may not be true but the only way to cure that perception, which is very widespread indeed, is for there to be a published list of terms and conditions in which the regulator, and indeed everybody concerned with these matters, can have confidence.

I have had a close look at and a think about this proposed amendment and I agree with the Labor Party. I believe that not only is the intent correct and not only are the precedents there in terms of long-established competition principles in modern market economies but the wording is sufficiently tight to enable it to pass into law without too many unforeseen consequences. With those remarks, and with a long history of my own and the Democrats’ concern and support for similar approaches in other bills at other times, it is consistent for us to support this amendment.

Senator Joyce (Queensland) (9.50 am)—Once more I agree with the intent of this amendment, but there are things that I would have changed. I do not believe there is a reason that everybody in the public needs to know the commercial-in-confidence agreements. I would suggest—and I will listen to the debate—that it would probably be better if there were an ombudsman who was actually separate in the review of this matter. Part (c), which says, ‘the price or prices including the amount of any discount’, gives away, even within independents, the discount one person is getting over another person. I hope in the future that can be changed. I think it would be better if it said ‘the price or prices including whether there is a discount or other individual components that relate to a particular price’.

People should know whether someone is getting a discount, but whether they should know the exact discount is another issue. I have no problems with an individual ombudsman who could respect commercial-in-confidence agreements. If an ombudsman were to know about the discounts then that would give you another body to oversee this area. However, the intent of what Senator Fielding is trying to do is correct. He is addressing a major problem that everybody has when you call into an independent service station and say, ‘What can I do for you?’ and they say, ‘You can help me buy petrol cheaper than what they are selling it for. If I can buy petrol at what they are selling it for then that would be a great outcome.’

I ask Senator Fielding to give consideration to whether, rather than the public knowing, we could put in place an independent ombudsman to have a view of that. The public should know whether there is a discount and the circumstances of a discount, but to tell everybody on a public internet site the price of a product that everybody is buying could work against them. There could be occasions where even other majors could say, ‘Now I know what the margins are of all my competitors everywhere,’ or one independent in a small town will know what the margin is of the person up the street. I ask Senator Fielding if he could just give consideration to whether we could have an independent ombudsman with that oversight who has the ability to keep some sort of corporate veil in place so that the person down the street from you is not going to have you on toast and know each day what your margin is. I fully support what Senator Fielding is trying to do, I want to support him, but I wonder if he could give some consideration—maybe calling on the assistance of Senator Murray as well—to having a look at what the opinion is on whether we could get some form of screening so that not every
detail of what a person is doing is out there for every person in the public to see.

Senator MILNE (Tasmania) (9.53 am)—I rise to support this amendment. The Treasurer has said loudly and often that he supports truth and transparency, and that is what this amendment is effectively asking of the companies selling petroleum wholesale in Australia. I think that it is entirely appropriate that they specify the discounts and the supplies on offer and put on the internet each day the price or prices, including the amount of any discount or any other individual components in relation to each particular price and the criteria to qualify for the price or prices.

The community really objects to the fact that, just before a long weekend or holidays, petrol prices go up. They really object to the fact that when the pressure goes on suddenly petrol can be discounted, and discounted differentially around the country. I think it would be a great leap forward if we could at least allow the community to see exactly what the oil companies are doing when they are selling their product into the market—then you would be able to get some transparency in what is going on. I think that this is workable. One of the great things about modern communication and IT is that it is not beyond the wit of companies to do this. I think it would be a valuable contribution to the debate because, whenever there is pressure on petrol prices and when this kind of inexplicable behaviour goes on, parliaments have yet another inquiry into petrol prices. Frankly, the community is getting pretty cynical about the 70 or so inquiries into petrol prices. I think that they think that politicians just have another inquiry looking into it to take the political heat off themselves and that is the end of it. To avoid ongoing inquiries into petrol prices, the obvious things to do to are to strengthen the powers of the ACCC, to improve the Trade Practices Act and to provide better transparency and disclosure so that the community can go to those websites and see exactly what is being proposed. I think it is a worthwhile amendment and I support it.

Senator MINCHIN (South Australia—Minister for Finance and Administration) (9.56 am)—With great respect to Senator Fielding and the bona fides of his motives, the government do not support this amendment. We think that this is an extraordinarily heavy-handed approach to this issue, but it is an opportunity to remind the Senate that one of the great virtues of this package of legislation is what it does to improve the arrangements with regard to terminal gate prices from what has prevailed for virtually the whole time the old-fashioned and out-of-date sites act and franchise act have operated. We accepted that in the second reading speech, and the explanatory memorandum made it clear that one of the motivations and great virtues of the legislation is to vastly improve arrangements for independents and others with respect to terminal gate pricing. As the second reading speech notes:

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.

It will overcome this problem we currently have of people in Western Australia and Victoria having an advantage over other states with respect to the arrangements that apply to terminal gate pricing.

Let us not forget that what we are doing with this legislation is a vast improvement on the current arrangements. We think we have the balance right. You must pay respect to the proper commercial arrangements that apply in all industries with respect to discounting. I am quite convinced that the very unfortunate and perhaps unintended conse-
quence of this amendment would probably be to, in effect, end discounting at the great expense of consumers. Let us not forget that it is all very well to have a proper and well-placed concern for independents and small retailers, but all trade practices arrangements in any nation like ours must have equal regard for the interests of consumers, and consumers are the beneficiaries of discounting to the extent that it occurs. We are not prepared to embrace heavy-handed red tape amendments which could possibly, and we think probably, result in higher petrol prices than might otherwise apply. This amendment would be, in our view, an undue infringement on proper commercial arrangements. It is one thing for this Oilcode to set out nationally transparent arrangements in relation to terminal gate pricing, but every day in the commercial world private parties come to arrangements on discounting; it is a common practice in lots of industries. Who are the beneficiaries of that? Consumers. We pay less for the product than we otherwise would.

The amendment would bring about extraordinarily heavy-handed arrangements—and I think Senator Joyce was trying to make this point—where the wholesale supplier would make available to the public each day on an internet website maintained by the wholesale supplier the price or prices, including the amount of any discount; other individual components in relation to each particular price; and the criteria to qualify for the price or prices. This is, quite frankly, extraordinary stuff. It is unduly heavy-handed. While we respect the motives, the government’s point of view is that it is unacceptable and blinds the Senate to the point that this Oilcode goes an enormous way to overcoming the current inadequacies with regard to terminal gate pricing. So the government are opposed to this amendment.

**Senator FIELDING** (Victoria—Leader of the Family First Party) (10.00 am)—I just cannot let that go. Here we are pulling the rug out from underneath independent service stations. They already have their backs to the wall and here is the government hell bent on seeing them disappear. This is a joke. I heard the minister saying that this will hinder discounting—'stop discounting'—were his words. That is so far from the truth that it is not funny. We are talking about a very serious issue here. Petrol and its supply are essential. Talk to people off the street. I did that this morning and you can see a video blog on my website of me talking to someone off the street.

This is an absolute joke. It is an indictment. This is a commonsense amendment that the government is paying lip service to. I cannot believe that there is only one National Party senator willing to speak on this issue. This is all about independent small businesses. Yesterday, in the committee stage debate on the Petroleum Retail Legislation Repeal Bill 2006, we also heard of amendments which would have protected and made sure that we had real competition.

This issue is starving independents of knowing what they have to do to reach a discounted price. We need to make sure we have a level playing field. We should not be pulling the rug out from underneath independent service stations. Talk to people out there. Talk to families and share with them. They do not know what is happening today. They have no idea what is happening in here today because this government has not shared with the public what we are doing here and what impact it will have down the track. So I appeal again to the government to have commonsense.

This is a fair and reasonable amendment to show that we have open and transparent pricing. It is an essential good. We cannot do
without it today and we need to make sure that we are allowing independents to survive in this marketplace. Again, I appeal to the government to support this amendment.

Senator MURRAY (Western Australia) (10.03 am)—I must just add a brief commentary to this debate. Quite plainly, the amendment does not stop volume discounting. Quite plainly, if you buy a million litres you are going to get a better price than if you buy 100 litres. The amendment does not stop that; it simply requires the supplier—of which there are very few, by the way, in Australia—to make their price list available to the thousands of retailers. So that is what will happen. If you buy a million litres you might get extended credit terms, a certain discount level and faster delivery. Those are the terms and conditions. If you buy 100 litres you will pay a lot more, wait a lot longer and probably have to pay cash. That is how it will be. This amendment is to do with the principle of laying out for customers like terms for like customers. So big people will still get much better terms and conditions than small people. That is the market. That is the world. That is how it operates.

I seldom refer to my own experience but I speak to you with the benefit of several decades of multinational retailing and an understanding of the principles that surround it. That does not prevent hard, capable negotiators from sitting down and bending the arms of the suppliers. It does not stop that at all. There is nothing in this that prohibits that. But this amendment requires that there be a properly available price list. It is required daily because that is the way the market is. The market in petroleum products—which by and large are commodities that are not highly differentiated—is priced on a daily basis. That is why the amendment says that it should be daily.

So I can understand the minister wishing to argue for a world of secret, backroom deals and cozy arrangements, because that is how it works at the present, but it is not a principle I or my party subscribe to. We believe that people who supply suppliers in a modern market economy must put up their price lists and must say what the terms and conditions are for varying types of customers. That is all this amendment is saying.

Senator O’BRIEN (Tasmania) (10.06 am)—The weakness in the government’s argument on this matter is demonstrated by evidence that the Senate Standing Committee on Economics has taken from various petrol retailers through its current inquiry, and also from the comments that various retailers have made on the public record about their inability to obtain the same terms as their competitors in the same small market—the same town. Some independents are saying that they are not able to purchase their fuel at the same price as their competitors who are being supplied by the large companies. So Senator Joyce ought to think carefully about the concern that he had because—although I understand that some people might think it is advantageous that on the occasion that they get a slightly better deal they do not want people to know about it—overall in the market place if one business is, for no reason other than the preference of the supplier, getting a better deal and that better deal is not available to the independents, Senator Joyce will be defeating the arguments that he has placed on the record about the need to ensure that independents are not forced out of the market. It is obviously the case that, if these arrangements have to be transparent, the ability to do different deals will not be available. That would be, I think, a better thing for the market.

I agree with Senator Murray that the suggestion that discounting would disappear is just not borne out by the facts. What happens
when there is fuel that needs to be sold, when the wholesaler needs to move fuel on because more fuel is coming and tries to encourage retailers to buy at a particular time in the cycle because of these needs? That is going to ensure that there is more urgency about marketing the fuel in stock, and that will have an impact on discounting. There are a variety of reasons why discounting will continue, and blanket suggestions that somehow this regulatory arrangement will mean the abandonment of discounting are demonstrably wrong, I think.

Let’s look at the situation in the Perth retail market, where service stations have to notify the public of their price each morning and may not vary it. Does that end discounting? No. Does it give the public a better knowledge of what is going to be available during the day? Yes. Does it mean that price boards do not vary several times during the day? Yes. Does that mean that buyers have better knowledge in the market? Yes. You can always mount an argument about why secrecy might end a particular advantageous circumstance in the market, but overall the benefits of transparency in this very, very important market outweigh, in our view, the concerns about the lack of transparency in some commercial arrangements. This is a very important commodity to the Australian market and to transport, and to the extent that we can have a clear understanding of what is taking place we will arm the consumer and the retailer.

Senator JOYCE (Queensland) (10.09 am)—I acknowledge the arguments of the minister on these issues. What we have today, though, is a clear statement by all that the terminal gate price is really not where it is at because, if we have to disclose the discounts, the discount is where it is at, not the terminal gate price. Everybody is in agreement on that issue. Having open and transparent disclosure of the terminal gate price really does not mean very much at all, because everybody is agreed on that here today—otherwise, they would not be arguing against this.

However, when I drive down the road past the car lots I do not see on a big sign the price that they have purchased every car for. When I go into a supermarket, I do not see the price they have purchased every product for. When I go into any form of retail outlet, I do not have free and unfettered knowledge of the price they purchased their product at. There is a position between the two, between having no knowledge and having unfettered knowledge. I have a concern that this amendment gives you unfettered knowledge of a product. I believe that creating a position for an independent ombudsman, on whom people could rely for commercial-in-confidence protection of their information and whose process for keeping the market fair would be reviewed and assessed by the parliament, is the middle ground that should be looked at.

As Senator O’Brien agrees with this without qualification, he therefore agrees, no doubt, that in any market, anywhere, everybody should have the ability to know exactly what price a person buys a product at. I am not saying I will not support this—I probably will—but I just say that it is clumsy and we could do it a lot better. There is a middle ground, and the middle ground is to have an independent ombudsman so that people could have some confidence that not everything about them is known to the public.

When I go to an independent service station, I need to know it is there, but just think about it. Let’s use another analogy: I can go into a jewellery shop and I can find out on the internet exactly what they purchased all their stock for. I can go into any store around town and I can find out exactly what they purchased their stock for. Is that a step too
far? I think it is. I think there is a middle
ground here. However, I have not put up the
resolution that shows the middle ground. The
overwhelming sentiment is that the terminal
gate price is used to manipulate and drive
independents out of the market. Independ-
ents can show you that they do not have the
capacity to buy fuel at the price that one of
the majors is selling it. That is obviously
intrinsically unfair and will throw them out
of the market. That is the issue that needs to
be dealt with.

So on this issue we have agreement now
throughout the room. Everybody has agreed
that the terminal gate price is not where it is
at. The terminal gate price is going to appear
somewhere, but it is the discounts that mat-
ter. Everybody has agreed on that point and it
is good to have that on the record. What that
obviously states is that we have to find some
mechanism to deal with the monitoring of
the discounting—not get rid of the discount-
ing but make sure that discounting is not
used as a predatory pricing factor to force
independents out of the market.

My reservations are that I do not believe
that everybody has a right to know the exact
price that people purchase a product at. Let’s
take it to an agricultural analogy—not that I
have any cattle, but imagine I do. When I sell
cattle, do I have to announce to everybody
what price I purchased them at? It does not
stand to reason.

Senator FIELDING (Victoria—Leader
of the Family First Party) (10.14 am)—I
think we have probably heard all we need to
hear on this issue, frankly. Quite clearly this
is just an attempt to undermine the independ-
ents even further. We need transparent pric-
ing. We could go on all day on this topic and
obviously not agree that we need transpar-
ency, so I think we should take a vote on this
issue now. We have heard all the arguments
for both cases that we are going to hear. We
need transparency in pricing.

The CHAIRMAN—The question is that
amendment (1) on sheet 5033 moved by
Senator Fielding be agreed to.

Question put.
The committee divided. [10.19 am]

(The Chairman—Senator JJ Hogg)

| Ayes ........... | 34 |
| Noes ........... | 34 |
| Majority ....... | 0 |

AYES

NOES


CHAMBER
PAIRS
Bishop, T.M.  Vanstone, A.E.
Conroy, S.M.  Campbell, I.G.
Evans, C.V.  Ferris, J.M.
Sherry, N.J.  Johnston, D.
* denotes teller

Question negatived.

Senator JOYCE  (Queensland)  (10.22 am)—I move amendment (2) on sheet 5045:

(2) Schedule 2, page 4 (after line 13), at the end of the Schedule, add:

4  Section 95A (at the end of the definition of goods)

Add:
; and (f) petroleum products.

Obviously, the Trade Practices Act has to have the power of review to be able to monitor what is going on in the pricing structure. We have just had Senator Fielding’s amendment. The reason I supported it is that, although it is clumsy, at least it gives us a starting position. I think we can do something better than that—and I think amendment (2) is something better than that. My amendment provides a monitoring ability in the Trade Practices Act. It puts in place some sense of belief in a commercial-in-confidence arrangement to look at fuel pricing. It is an addendum which adds petroleum products to a number of other things that are in section 95A of the Trade Practices Act. Obviously, there is our belief in the ability of the Trade Practices Act to have surveillance over a whole range of products. Why can’t we include petroleum products? We have made the statement in legislation that there are a range of other products that deserve the ability to be monitored, and I think petroleum products should be amongst them. It is a minor amendment.

Although I supported Senator Fielding’s amendment, the problem I have with it is that it shows everybody’s underwear, although at least it gets the ball rolling. If that amendment had been successful, I would certainly have supported a watering down to an independent ombudsman. But it might have been the only chance we had, so I supported it to at least get the ball rolling. This amendment gives a better process to something that is already in place and that the government is happy with. We already have Trade Practices Act monitoring of products in place, and this amendment adds petroleum products to the list of products.

I respect what the minister said about the previous amendment. Although I agree with the sentiment of a vast amount of what he said, we had to start somewhere; we had to get the debate to a point where we acknowledged that the terminal gate price is not transparent. Having everybody know the terminal gate price is of no real assistance, because the discounting mechanism is where the game is at. We have to have in place a mechanism that at least allows some sort of power of review, power of commentary, and the ability to look at what is happening, especially with regard to independents—and we have gone through why independents are so important.

First and foremost, the Trade Practices Act protects the manifest right of the Australian public to go into business at ground level—and that is a strong belief of anybody on the conservative side of government. It protects independents, who lead in price discounting and are absolutely instrumental in getting biorenewables out into the market. We know that. It gives people in small business the latitude to be master of their own ship, to be master of their own thoughts, to follow their own destiny, to properly connect themselves to the wealth of their own nation and to have a higher sense of freedom. When asked what they want out of their work, 95 per cent of people come out with a clear statement that one day they want to be their own boss. A lot of them never get there but they all have that
desire. I hope that has been plumbed on this side of the chamber and that we can give people that freedom and that innate sense that one day they will be master of their own ship. We need to protect the mechanism of people going into business, and the addition of petroleum products to section 95A of the Trade Practices Act will allow that to happen. It will be fascinating to listen to the debate. I hope that such a minor amendment can gather some support.

Senator O'BRIEN (Tasmania) (10.27 am)—I will preface my comments with a slight proviso. I would like the minister to tell me it is not the case that the ACCC already monitors petrol prices and that this amendment would therefore slightly expand the monitoring role to other commodities that might be described as ‘petroleum products’. That would potentially be the nature of the change, depending on the interpretation of the words ‘petroleum products’. If that is the case, I do not think we will be doing any great harm in passing this amendment. It would have been better if the committee had supported Labor’s amendment, which would have empowered the parliament to authorise a thorough investigation by the ACCC into petroleum products. I am of course disappointed that none of the coalition senators was prepared to support that proposal, and I am disappointed that the Treasurer chose not to exercise his powers to hold such an inquiry in all the time that he has been Treasurer, as he could have done under the legislation. So, on the understanding that the impact would potentially be to extend that monitoring process to a range of products beyond petrol—and I am not sure how widely the term ‘petroleum products’ would be interpreted—we do not think this amendment would do any great harm.

Senator MINCHIN (South Australia—Minister for Finance and Administration) (10.29 am)—Can I just assure the opposition that, on the basis of the advice that I have, it is the case that the ACCC already does have the requisite powers to monitor the pricing of all petroleum products, not just petrol—diesel and LPG, and all the rest of it, are covered. When Graeme Samuel, in his many statements, makes the point that there is that monitoring going on, he is referring to all petroleum products. On the basis of our satisfaction that section 155 of the Trade Practices Act already gives the ACCC the power to take requisite action to instigate an investigation if it believes that there is any anti-competitive conduct, conduct that has come to its attention as a result of the monitoring that it does, we cannot support this amendment.

We do not think it is an appropriate amendment. We think the powers that are sought by the passage of this amendment already exist. I think it is clear from other statements made by Mr Samuel as the requisite authority that, as he said—and I have read some of his evidence to our current Senate committee of inquiry—the ACCC really do not believe that there is, nor do they have evidence of, any widespread corruption, illegal conduct et cetera.

This is an industry—and we were just discussing this—where it is amazing how everybody knows, almost on a daily basis, the prices being charged for these products. If you asked anybody in the street, they would certainly know the price of a litre of petrol but they would be hard-pressed to know the price of a litre of beer or a litre of milk. So there is an extraordinary focus on this issue but extraordinary transparency in terms of retail pricing.

As I say, we think that the ACCC, really, because of this public interest in it, is exercising properly its current responsibilities with respect to price monitoring. It has the requisite powers to investigate and there
have been, already, a couple of actions taken by the ACCC of its own volition. So we think this is an unnecessary amendment and one that we cannot support.

Senator Joyce (Queensland) (10.31 am)—What we will have to do is get a copy of section 95A of the Trade Practices Act. There is a list of products in that section. I can see the minister has now got that list to have a look over it; I am trying to dig it up from my office as well. Obviously, this is a technical amendment. The minister might confirm whether petroleum products are in that list; I believe they are not, and that is the reason this amendment has been sought.

Obviously I do not pretend to be a bard of law but, if there is already the ability to monitor petroleum products, then there should be no problem in supporting this, because all you are really doing is reinforcing the position that is there. And I have here—thank you very much, Senator Murray—a copy of the act and I see that, at section 95A, it says that, for price surveillance:

“goods” includes:
(a) ships, aircraft and other vehicles; and
(b) animals, including fish; and
(c) minerals, trees and crops, whether on, under or attached to land or not; and
(d) water; and
(e) gas and electricity.

So, we see that petroleum products are not there. We want to put petroleum products on that list, to give greater effect to part VIIA—Prices Surveillance. That will give us, over a period of time, greater powers for monitoring petroleum products. That is why this technical amendment has been asked for and, seeing as petroleum products are not listed in 95A, as just described, I ask the committee to consider whether that amendment should be allowed.

Senator Minchin (South Australia—Minister for Finance and Administration) (10.33 am)—For the purposes of properly informing the committee or confirming what Senator Joyce is saying, there is this part VIIA—Prices Surveillance of the Trade Practices Act and that is what this amendment seeks to deal with. It refers to the definition of ‘goods’, and says that that includes:
(a) ships, aircraft and other vehicles; and
(b) animals, including fish; and
(c) minerals, trees and crops, whether on, under or attached to land or not; and
(d) water; and
(e) gas and electricity.

That is a rather interesting list of things! And it is Senator Joyce’s proposal that we add, to that rather odd and eclectic list, ‘petroleum products’. As I am—may I say, informally—advised, because I am no expert on the Trade Practices Act, I must confess, these goods are those which the minister may direct the commission formally to investigate with respect to pricing behaviour.

It is a very special and separate section of the act. I think it is about giving the minister certain authority to order investigations, and it is separate and apart from the general role of the commission in general price monitoring. Of course it needs to do that if it is to establish a base on which to exercise powers, under section 155, to initiate an investigation to see if there is any illegal or improper conduct. That is why it does that sort of widespread monitoring.

This is a quite separate exercise. This is an old prices surveillance regime which has been around for a long time. But really it is about the minister having certain authorities. So we do not see the purpose or need to add petroleum products to part VIIA—Prices Surveillance list—a list, as I say, that is a rather eclectic and odd group of goods—because we think the current arrangements
are working more than adequately, and I think Graeme Samuel would support that very much.

Senator MURRAY (Western Australia) (10.35 am)—Minister, I share your amusement. I am sometimes intrigued by the sorts of things that have found their way into legislation. There must be a history of some sort to this: ‘minerals, trees and crops, whether on, under or attached to land or not’. Can you imagine a crop that is under the land? I suppose that means potatoes and things.

Senator O’Brien—Or peanuts.

Senator MURRAY—Or peanuts, which interestingly are a legume, not a nut. So there we are. I also sympathise with the minister’s advisers, because I suspect the advisers available on this bill are not advisers who commonly deal with the Trade Practices Act either; that falls under a different agency and authority.

This particular amendment goes to the heart of the problem which is being explored by the Senate committee, which perhaps is groping towards a better understanding. The problem, as outlined in Mr Samuel’s evidence, is that the ACCC can presently only go so far in monitoring the conduct of petroleum suppliers and companies. Unless they have evidence of predatory or other behaviour which contravenes the act, they are only able to monitor prices on the basis of what information is publicly available or is supplied voluntarily by the companies. The issue that the Senate committee is grappling with is how to get more detailed, more insightful and more informed knowledge into the hands of the ACCC—effectively, to use the phrase which is commonly used, to get behind the corporate veil. One of the ways in which that can be done is to either assume or adopt ASIC type powers—which is the route down which I have been going—which work very effectively in areas like continuous disclosure reporting requirements and so on. The alternative is to have ministerial discretion. The problem with ministerial direction is that it becomes a political decision—a minister, to take a decision, has to receive evidence and effectively is saying, ‘We think we’ve got enough to nab you and we’re sending the ACCC after you.’ It is much better if the ACCC is in fact pursuing these matters as part of its normal regulatory activity.

When this list was originally compiled, it is my assumption that some of the items were particularly sensitive. I was not there when they were put in, but I suspect that they were areas of the economy which had particular attention applying to them. I can see the hands of The Nationals perhaps in items (b) and (c). Items (d) and (e) are definitely still current. Item (a) has probably fallen off the list a little except with regard to some specific areas. Unlike the shadow minister, whom I think is also operating in a system where trade practices issues are not a common feature of his particular responsibilities, I suspect it is not a question of this amendment not doing much harm but rather a question of the amendment giving greater power to a minister of the Crown to instruct the ACCC to attend to a particular area. Of course it does not mean that they automatically will, because, as I said, it is a political decision and a great deal rests on these sorts of decisions. If you were of the view that ministers should have this sort of direction, then the question is: what industries deserve to be covered?

If we are all in agreement that petroleum products are a crucial strategic as well as consumer good which is a necessity, then probably it does deserve to be on this list along with water, gas and electricity—and perhaps others deserve to be off the list. I would suggest to the minister, through the chair and without any impertinence, that—even though you are bound, I suspect, to re-
ject it by virtue of your brief—it is the sort of issue that the government needs to think about a bit more in terms of what should actually be on this list for ministerial direction and whether petroleum products may in fact qualify. I am grateful to Senator Joyce for drawing this to my attention. I must confess that, despite having trade practices law as one of my portfolio responsibilities, I have never looked at this before and I am absolutely delighted to find that minerals, trees and crops, whether on, under or attached to land or not, are subject to ministerial direction. I guess on balance, given that I am involved in the Senate inquiry and given that I think there is a need for added focus on this area, I would support the amendment because I think there is still that threshold determination: the minister will have to make a decision. It is not as if this implies an automatic function.

Senator JOYCE (Queensland) (10.42 am) — There are two key issues here. Obviously I do not have the advantage of having three advisers, so I am doing this from memory—and on a technical amendment you must give me some latitude. Under the TPA, part VIIA monitoring powers as directed by the minister are far greater than those the ACCC has. The powers he has under section 155 are greater. This does not mean that it is going to happen; it means that the minister has the discretion to make it happen if they so choose. I think the minister should trust himself on this one—that if he is required to use them then he will, and if he does not require them then he will not. It would be good for the Senate to pass an amendment to give the minister these powers. If we have a concern that we may have an overcentralisation of the market, that there may be an oligopoly type arrangement, then surely we should have the ability to give the minister the power of review. This is a funny circumstance because it is actually the Senate trying to hand greater powers to the minister: a power of review. The trouble with the ACCC is that it cannot really go on fishing expeditions. It cannot just go wandering off in the vain hope that it might find something. But this amendment would mean that, on the direction of the minister, they would have far greater powers in what they can ascertain and what they can catch in their net.

The purpose of this amendment is to deal with a market that is absolutely vital to the overheads of every Australian and the freedom of every Australian—that is, fuel—and to acknowledge the power that petroleum products have in our market. In acknowledging what a vital component petroleum products are in the running of our economy, we should have a greater power of review in that area and a greater power of monitoring. If the minister of the day at some future time decides not to exercise it, so be it. But they have the discretion; it is there.

I hope we get some support for this amendment. There is a difference in powers to what is there currently. It increases them and puts them at the discretion of the minister. I am not quite sure whether the National Party had their fingers over the other ones—it sounds awfully like they did. It is maybe with a sense of nostalgia that we dig up section 95A again and bring it into the 21st century. I am glad that the committee is now aware of this section. It was brought up in the inquiries—it did not descend on me like a dove—that wanting greater powers under part VIIA was one of the issues. The ministerial direction powers are what a lot of people had been asking for during fuel inquiries. This is the only section of the Trade Practices Act where we could deliver that.

I asked the committee to strongly consider this. I appreciate the motives that have been put up already. I hope that we trust ourselves to have the ability to deal with a minor in-
crease in power under section 95A. I hope that we trust ourselves to use it with responsibility, which I am sure the government will. I am sure the government intends to be responsible in its discretion on the use of this power. I hope it gives itself the responsibility to have that.

Senator MINCHIN (South Australia—Minister for Finance and Administration) (10.46 am)—To conclude, we are grateful to Senator Joyce for drawing our attention to this section, which I think is a hangover from the old Prices Surveillance Commission and got moved into this act. I think the senator is quite right in saying that I might suggest to the Treasurer that we should have a look at this list. It is an extraordinary list of items and it probably is timely that it be reviewed, but I would draw to the attention of the committee that the object of this part as stated in the act is to have prices surveillance—and that is defined in this act, and it is a very rigorous sort of regime that is different to the price monitoring which the ACCC does in the normal course of events—applied only in those markets where, in the view of the minister, competitive pressures are not sufficient to achieve efficient prices and protect consumers. It is a very particular regime. As I say, it is a rather eclectic list which has gathered over time—and I am not sure that we are necessarily particularly worried about the supply of ships in terms of prices surveillance at the moment!—so I think there is a good case for reviewing this list.

But I would also note that Mr Samuel himself made the point in evidence to the current Senate inquiry that there are 6,500 petrol outlets operating throughout Australia. There would appear to be vigorous competitive activity occurring in the sale of fuel, as reflected by the fairly vigorous price cycles that occur on a weekly basis, if nothing else. In the absence of price competition, you would not see the volatility of those price cycles. He is making it clear that he sees this as one of the most competitive industries we have in Australia. I am not sure that it automatically does fit into the quite strict and particular regime that is provided for in part VIIA of the TPA and, therefore, I am certainly not in the position to say that the government could support adding petroleum products to this list. But I am certainly happy to suggest to the Treasurer that he might want to review this particular list and bring it up to date.

Senator JOYCE (Queensland) (10.49 am)—I suppose that is where the quandary is. There is a strong belief that the market is being manipulated. If you just look at the fundamentals of where the price of diesel is—I know this is drawing a long bow, but it is interesting to have it on the record—the price of diesel in Iraq at the moment is 3c a litre. There is a lot of latitude between what we are buying it at and what they are buying it at. I know that there are government taxes, profits and transport, but the person in the street has some serious queries about how it comes about that all these oil companies, from 3c a litre in Iraq, go to $1.20 or $1.30 here and manage to arrive within a couple of cents of each other. That suggests to a lot of people that there might be some manipulation of the market.

This amendment does give greater powers. We are heading towards an oligopoly relationship. The proof of that is there for everyone driving down the street to see: that incredible scenario where, within an hour, they all move up by the same price on the same road—apparently without communicating it to one another. It is remarkable: petrol stations have an innate sense of what their competition is doing and they follow it innately! The argument goes through the public over and over again as to whether we can get more stringent on this. You have to look through the Trade Practices Act to find the
section that does it, because the sentiments about price surveillance that the public reflects to us are dealt with in this section. In the Trade Practices Act 1974, it might have been ships. There might have been a problem with peanuts and spuds—I do not know—but the belief of the public now is that there is a problem with fuel. This amendment does not change the world; it just hands the power to the minister to have a greater capacity to look through what is happening in the fuel market. If he believes that there is not a reason to do it, he will not. But if he believes that there is a reason to do it—and hello to the kids up in the gallery!—then he has those powers at his disposal.

I suppose the argument that we need to consider is: why would the minister not want those powers of review and the ability to say: ‘I am the minister, I can go on a fishing expedition. I can monitor this for a period. I can dig up every detail. I have the power. I have been elected by the Australian people. I have a responsibility of office to ensure that the people of our nation are being treated fairly, and I will do that.’ You do not have to worry about the ACCC stumbling across something or something being brought to their attention. He can actually say: ‘I’ve heard what the people have to say. They have a problem with this—bingo, here are the powers. We’ll have surveillance on the petroleum products for the period starting here and ending there, and we can clear the air on this one.’ Then no longer will we have to listen to talkback radio talking about people being touched, because the minister will be able to clearly lay down the law. I think the oil majors and the major retailers will sit up and pay attention, because it will no longer be under the direction of the ACCC. It will be under the direction of the minister. There is greater power under part VIIA and in using section 155 of the TPA. This can actually assist in providing clarity and confidence to the Australian motoring public about the fairness in the marketplace. I know it is an old analogy, but if they do not find anything then isn’t that a better scenario? They monitored it, they found nothing. Then you can go back to the Australian public and say: ‘We looked at it, the minister has looked at it and he found nothing.’ It is a scenario that suggests, ‘We do not want to give ourselves those powers, because we might find something,’ and that is the issue that is dealt with in this amendment.

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

The committee divided. [10.58 am]
(The Chairman—Senator JJ Hogg)

Ayes........... 35
Noes........... 35
Majority........ 0

AYES
Allison, L.F. Bartlett, A.J.J.
Brown, B.J. Brown, C.L.
Campbell, G. * Carr, K.J.
Conroy, S.M. Crossin, P.M.
Faulkner, J.P. Fielding, S.
Forshaw, M.G. Hogg, J.J.
Hurley, A. Hutchins, S.P.
Joyce, B. Kirk, L.
Ludwig, J.W. Lundy, K.A.
Marshall, G. McEwen, A.
McLucas, J.E. Mils, C.
Moore, C. Murray, A.J.M.
Nettle, K. O’Brien, K.W.K.
Polley, H. Ray, R.F.
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.
Senator O’Brien (Tasmania) (11.01 am)—The opposition support this legislation, and we agree that it is time to move on from the previous regime of regulation in this area. We are, however, extremely concerned that the competition model that underpins the new environment ought to be the best we can achieve. We are concerned that the Dawson reforms have not yet been given passage and that the Trade Practices Legislation Amendment Act (No. 2) has not yet been given passage. We would prefer that those things had happened before this new regime came into effect.

With that intent we understand that the government will be using its best endeavours to achieve that end by the time of our proposed operation of this legislation, which is 1 March 2007. We are caught in the dilemma of wanting three things to occur, but we are not prepared to stand in the way of the implementation of this legislation awaiting that. We think it is appropriate to set an operative date that gives the best possibility of the achievement of those three objectives.

I move opposition amendment (1) appearing on sheet 5055, which will have the effect of causing this bill, if passed at the third reading and going through the appropriate processes, to come into effect from 1 March 2007:

(1) Clause 2, page 2 (cell at table item 2, column 2), omit the cell, substitute:

1 March 2007.

Senator Minchin (South Australia—Minister for Finance and Administration) (11.03 am)—On behalf of the government I thank Senator O’Brien for indicating the opposition’s fundamental support for this bill and their acknowledgement that it will result in improved arrangements for the petroleum retail industry. These are timely. We also agree that the so-called Dawson amendments and our proposed amendments to section 46 of the Trade Practices Act are important and that they need to be put in place. We hope that we can pass them through this parliament as soon as practicable; certainly, there is much endeavour to bring that about.

Again, in that spirit, we are happy to accept the opposition amendment with respect to the start date and that the start date be 1 March 2007. We will not oppose the amendment. We accept the spirit in which the opposition has participated in this debate and acknowledge the importance of the Dawson reforms and the form of section 46.

Senator Murray (Western Australia) (11.04 am)—If I were to sum up my and the Democrats view on this bill in one sentence it is that we would support the legislation that is before the chamber if it were accompanied by the trade practices strengthening amendments that are required. We are not opposed to the bill; what we are opposed to is that it has arrived on its own.

I think I made it clear in the second reading debate, but I will restate it for the purposes of this amendment, that what we have argued for is that the Dawson trade practices bill, the trade practices bill which is designed
to strengthen the Trade Practices Act with respect to section 46 and the Petroleum Retail Legislation Repeal Bill 2006 should all have been dealt with cognately—or, if not cognately, at least sequentially, in the same week. We could then have dealt with this more easily.

Of course, we have particular views on the Dawson bill; we are strongly opposed to elements of it. We are delighted that, as a result of the effort of The Nationals, as I understand it, the Treasurer withdrew the alterations to third-line forcing, which were detrimental to a better competition regime. But we remain strongly opposed to the anti-choice, antiunion provision in the Dawson bill—which is not part of the Dawson committee’s recommendations anyway—and we remain deeply concerned about the changes to the merger decisions capacity of the ACCC commissioner and the ACCC tribunal. We think that could lead to forum shopping and to a less rigorous approach than is currently adopted. Of course, the Dawson bill itself may occasion quite a bit of debate when it comes forward.

With respect to the trade practices bill, which covers off small business amendments that strengthen the Trade Practices Act, we are likely to support the amendments. We just do not think they go far enough. We are not being bloody-minded about this. We would accept the will of the Senate, but what we want is the opportunity for the will of the Senate to be expressed so that with this bill, which deregulates the petroleum market and provides more competition among the oil majors, you would have an accompanying set of changes to the Trade Practices Act which introduce a stronger competition regime.

Restating our position in short, as I have just done—I have done it at great length elsewhere, particularly in my speech at the second reading stage—it is obvious that we would support the opposition’s amendment because it gives the government time to bring forward what it should. But of course it does not provide a guarantee that that will happen. That is my difficulty. As I have said previously in this debate, I have been both frustrated and upset by what I have seen as a spiteful approach whereby, because there has been disagreement within the coalition regarding these matters, the Treasurer and the cabinet have refused to bring forward a trade practices bill which should have accompanied this bill and should have allowed us all the comfort of knowing that, while independents were likely to face even stronger big company competition than they have to date, they would be better protected by a strengthened Trade Practices Act.

In conclusion, I support, on behalf of the Democrats, the amendment, but I do hope that the minister—because I am sure he has support for that view—will be prevailed upon to give a guarantee, a commitment, that these bills will be brought before the chamber prior to this date. If the minister could give us that guarantee and commitment on the floor of the chamber I would be much more comforted than we have been to date.

Senator MILNE (Tasmania) (11.10 am)—As Senator Murray has just indicated, the main concern the Greens have had with the repeal bill before us is precisely that it does not deal with the Dawson reforms and the strengthening of section 46 of the Trade Practices Act. We do not know when the government intends to deal with those matters. We are just being asked to take on good
faith the fact that they will be dealt with in a timely manner. If you were a cynic you could suggest that this amendment has been brought forward so that the government and the opposition can shelve this issue because they do not want to be forced to a division on the third reading. I am described at times as being cynical, but one could assume that.

Just this week we were reminded again of the government’s promise that within 100 days of a coalition government being elected a mandatory code of conduct would be introduced for the retail grocery trade. What has happened? We are two years into the government’s term and the 100-day promise seems to have been forgotten. The Prime Minister has done a triple backflip with pike on this issue. We simply do not know what they are going to do on the matter. I am disinclined to support a proposition that says: ‘Let’s get together as the opposition and the government and shelve this until March next year, until the heat goes out of it. Let’s just leave it until we get into an election year and see how the cookie crumbles and what people are saying about it. Let’s see how the oil companies and the independents have reacted to it and then decide how far we’ll go with the trade practices reform.’

We do not know what is contained in the bills and what is being proposed. I am not inclined to take the government at its word on this. For that reason—unless the Leader of the Government in the Senate, Senator Minchin, can stand up and give us a watertight guarantee that this matter will be dealt with and will come before this chamber before the said date, which is 1 March 2007—I am not prepared to support the amendment. It could be seen as a cynical ploy to quieten down this issue until the government repositions and decides what to do and how far to go on section 46 in an election year. On that basis I will be very interested to hear exactly what the government is proposing and to hear an undertaking that it will definitely come before the chamber before 1 March next year. Otherwise, I am disinclined to support the amendment.

Senator Joyce (Queensland) (11.13 am)—There is a requirement for greater protections for small business and however they come about is part of the process of parliament. It is a case of whether things happen now or later and whether, if the protection is put in place, it should be supported. I would happily see the heat go out of the debate. It is not about scoring political points; it is about getting a protection mechanism in place for small business. That is the driving issue. If we can achieve that it would be a good outcome. Obviously, I would support amendments that seek protection for the independents. I know there is a difference of opinion. Some people believe there is protection in the legislation and I believe there is not. I take my belief that that is the case from Senate inquiries and from the presentations of the peak body groups that have visited my office. What is the option? A delay is better than failure because in the period of delay there is a chance of other pieces of legislation coming together in such a form as to provide that protection. I would be inclined to support a delay if it meant that we had a better outcome for other protection mechanisms for small business.

Senator Minchin (South Australia—Minister for Finance and Administration) (11.15 am)—I am not in the practice of giving guarantees in this place that I cannot honour—that is certainly not the way I behave. I am not the lead minister on the Dawson bill or the section 46 amendments; they are a matter for the Treasurer. I am not involved in the detailed negotiation behind the timing of the debate on those bills, so I am simply not in a position here and now to give any such guarantee. But I have undertaken, in the words of Senator O’Brien, to ensure
that the government’s best endeavours will be directed towards ensuring the passage of those two pieces of legislation prior to the commencement of this provision on 1 March 2007 and the ALP amendment which we have accepted.

I will give my word to the Senate that I will certainly be active within the government to ensure that we do seek to achieve that objective, but I am simply not in a position to give guarantees that I cannot be sure can be delivered. I do undertake to use best endeavours to ensure that comes about. That is the government’s objective. Our detailed proposition with respect to the Dawson package is on the table. The details of our proposals with respect to section 46 are on the table. The Senate, the parliament and the community are well aware of what the government has in mind. I certainly, for my own sake, very much hope that they will be in place by 1 March 2007 and, within the government, I will seek to ensure that occurs, but I am not able to respond to the request to give absolute, unconditional guarantees.

Senator FIELDING (Victoria—Leader of the Family First Party) (11.17 am)—Let us try and get to the nub of the issue here. Family First believes that this bill will pull the rug out from independents. This amendment just delays that fact. I will support the delaying of it. It is better than actually having it happen earlier. But really, we have had no assurances at all in this chamber, so senators will have to think very carefully about how they vote on the third reading, given that we have had no assurances. In actual fact, if you went on form on the reform of the Trade Practices Act just recently, you would find that the government has been very mischievous in trying to tie helping small businesses to stopping collective bargaining from proceeding. It takes one minute to pass a bill in the lower house. The Senate has made it quite clear on collective bargain-
petition to be open and controlled, such that the big oil companies could not control and operate so many of the petrol sites. Quite clearly this bill, if it proceeds as it is, will pull the rug out from under the independents, which will not serve Australian families well. It will not keep prices down and Family First cannot support it.

Senator MILNE (Tasmania) (11.21 am)—The Greens will not be supporting the Petroleum Retail Legislation Repeal Bill 2006 on the third reading, for the reason that I articulated before. I believe that this bill facilitates the oil majors’ interests against the interests of the independents. I am not prepared to take the government’s word that it will deal with the tightening of the Trade Practices Act or the Dawson reforms before 1 March next year. Whilst I respect Senator Minchin’s undertaking that he will personally do all he can in the government, I am afraid that does not hold very much water, because the Treasurer will determine it and the members of the government in the Senate will do as they are told from cabinet direction. I have seen enough of this government to know that passing one thing on a lick and a promise that another thing will come at a different time when so much is at stake is just not something I am prepared to support.

I want to make sure that rural and regional Australia continues to be serviced by having appropriate levels of retail outlets. The only way that that is going to occur is by supporting the independents in the marketplace and I am not persuaded that that is going to occur. I am not persuaded that a delay is going to deliver the outcomes that we should have had from a package. Senator Murray was quite right—we should have dealt with these either as cognate bills or sequentially. That has not occurred. Obviously, the government has the numbers to do as it likes, but people out there in rural and regional Australia need to understand what this means for them.

On the north-west coast of Tasmania in a small place called Wesley Vale there used to be a small service station. It closed down. People in that whole district now have to go to East Devonport, Latrobe, Shearwater or Port Sorell to buy their fuel. That means that they are also purchasing other goods in those centres that they used to purchase locally, which is undermining the viability of their local store. That is the story across Australia and I am not persuaded that we are going to see anything other than acceleration of that, given what representatives of the independents have said when they have given evidence on this matter. That is why the Greens will be opposing the third reading. If indeed the government does deliver by 1 March next year on the Dawson reforms and on tightening the Trade Practices Act, that will be a good thing—although it still will not go far enough—and we will welcome that if it occurs. But after the performance of the government on so many of its undertakings that have not come to fruition, I am not prepared to take just a promise that a government minister will do all he can in cabinet. That is an insufficient undertaking for the Greens.

Senator JOYCE (Queensland) (11.24 am)—It is going to be a fascinating day because today the Labor Party will vote to put independents out of business. That is what will happen today. I saw the amendment and I was wondering what was going on, and now I have worked it out. This is interesting. It is clear that today Labor believe that the market reigns supreme and that there should be no protection for independents. That is all well and good until next week, when the cross-media ownership laws come in, when they are going to be saying, ‘We have to have protection.’ What they are saying is going to change. Today the market reigns supreme, today independents can go out of business, today Labor honour their promises to the major oil companies, and today the
major oil companies have pulled their chains and called in favours, but next week we will hear the whole palaver about how we have to put in protections and cross-media ownership laws, for which Labor might get some support but for which they may not.

The issue is that today Labor have been called into order—by whom? Why did Labor decide that they are going to let this bill go through? I think we all know that we could stop it. Why are they going to let this go through without any protections for independents? It is not looking after big Australian companies; it is looking after big multinational companies. Even one of the major retailers, Coles, is about to wander offshore and Labor have come in to bat for them. The Labor Party have come flying in over the horizon to be knights in shining armour. After all their rhetoric about how government control of the Senate is so bad and evil, on the one day they have the chance to show the Australian people that they can stand up for themselves and make a difference, they go to water, they fold.

I have to say of the conservative side that at least they are consistent. They seem to want to privatise everything—I do not know why—but at least they are consistent. The Labor side had the chance today to make a difference. That is what is so fascinating about today. That is what is going to go down in the annals. Today the Labor Party had the chance to sink a bill, to make a difference, and they chose not to because they got a phone call—ring, ring—that went, ‘These are the major oil companies on the line—toe the line or else.’ And they did. I hope there are fur and feathers flying everywhere in their caucus meeting, because they look like a complete and utter mess. They look like they are all over the shop on this issue and they are going to look completely and utterly foolish. They always taunt the National Party about being a doormat; who is the doormat today? And a doormat for whom? The multinational oil companies. They have Labor’s number, they have made the call and Labor are going to follow blindly. Later on Labor will be talking about extremism—it cannot get any more extreme than what they are about to do. Today they had the chance and the ability, in front of the Australian people, to make a difference. That one opportunity is about to slip past them. It is always the same with them; once they have that chance, they blow it.

We talk about the views of politics getting closer; today they merged. It is a sad statement. There must be the view in the Labor Party that support of multinationals over independents and Australian based companies is something that needs Labor Party support. The Labor Party are going to support the destruction of Australian businesses by multinationals. They have arrived at an interesting place. So let us have a vote; it is going to be fascinating. All that people have to know is that, the one time the Labor Party could have made a difference, they blew it. Next week when Labor debate the cross-media ownership laws, they should be called to account and have quoted back to them everything they have said during this debate. They should explain to people the inconsistency in their positions and how next week they are going to have a completely different position to this week.

Next week the Labor Party are going to be asking for greater controls and greater protections—and there are other people who might be asking for them as well—but this week they think there should be none. This week, because it has something to do with regional Australia, because their number is being called and because the issue could be deemed to be in other people’s interest, they are going to flush Australian independent businesses down the tube. There are no pro-
tections in here for independents, nor did the Labor Party ever suggest any.

All we have is an agreement that the guillotine will not fall today; it will fall on 1 March 2007. That is amazing! That is marvellous! That is going to change the world! That is a great step forward! Apparently the Labor Party believe that at that point of time some miracle will happen and all the ducks will line up in a row for them. I do not know, maybe that will be a common occurrence. Today they had a chance to make a difference and they did not. That is all that needs to be recorded.

Senator MURRAY (Western Australia) (11.31 am)—So that those listening who are not part of the Senate procedures can understand exactly the importance of the third reading vote, I will explain that the proposition before the Senate is that the bill, as amended, be passed. The rules of the Senate mean that in the case of a tied vote the proposal would be lost. So, if all non-government senators plus one senator from the coalition vote together the proposal would fail. Therefore, the decision of the Labor Party to support the bill is critical.

However, it is not for me to reflect on their vote, because they have to account for that with their constituency and their voters. The Labor Party, in conjunction with other non-government senators, have tried to put before the Senate, or have supported, propositions which would have strengthened this bill with respect to small business needs and would have strengthened the hands of small business in a market which will be more deregulated than it has been in the past. That is the importance of what is before us.

I and my party are always wary of great power, whether it be great political power or great corporate power, and in the petroleum market there are no players greater than the mighty transnational oil companies and our very own Australian supermarket chains. Therefore you need restraining mechanisms. In some respects this is a touchstone debate because, like me, the Australian people enjoy enormously the tremendous variety, quality and diversity of products and services provided by the great corporations which service Australia. Australians, like me, are very glad that there are big companies out there from which we can buy products and services. But, like me, they have a view—I believe I reflect a common Australian view—that small business has a value of itself, that competitors need to be promoted in variety and in number, and that independents and small and medium sized businesses add to the great fabric of our commercial and social construct. Because of that it is important that we devise legislative and policy mechanisms to ensure that the weak in the commercial world are able to fight fairly on the commercial stage.

Therefore it is incumbent on us to recognise that the handicaps that small business and independents face need to be recognised and adjusted. I will say again that the position of the Democrats is that we support this bill. We think that the time has come for the Petroleum Retail Marketing Sites Act 1980 and the Petroleum Retail Marketing Franchise Act 1980 to be repealed and replaced with different regulatory mechanisms. We support a revised Oilcode—subject to its final shape. That should be mandatory. We support the ACCC having greater powers and we support the Trade Practices Act being strengthened with respect to small business.

So in the ordinary course of events we would have supported this bill. I respect and acknowledge the commitment that the minister has made. I think he will use his best endeavours to bring those bills that we want—the two trade practices bills—to the Senate to be discussed before March 2007. But my colleague the Greens senator Senator Milne
is quite correct in saying that, however much we respect the honesty and truthfulness of Senator Minchin’s commitment, it is not in his power to give; it is in the power of the Treasurer and the cabinet. In fact, in shorthand, that is exactly what Senator Minchin said. He said that he can give a commitment here but in the end he must defer to the portfolio holder and to the cabinet.

In summary, we would support this bill if it were accompanied by strengthening provisions for small businesses with respect to the Trade Practices Act. As it is not, despite the fact that we hope it will happen, we will oppose the bill on the third reading.

Senator O’BRIEN (Tasmania) (11.37 am)—I said in the second reading debate that Labor supported the Petroleum Retail Legislation Repeal Bill 2006, and I outlined the reasons that we supported this bill in essence and the principle of the bill. That is not to say that we think the bill is perfect, but I remind senators that this bill replaces two pieces of legislation which are outdated and which serve no useful purpose: the Petroleum Retail Marketing Sites Act 1980 and the Petroleum Retail Marketing Franchise Act 1980. We support this legislation because well over 50 per cent of this industry by volume of sales is not covered by these acts.

Senator Joyce interjecting—

Senator O’BRIEN—That is, the acts we are replacing, Senator Joyce, before you get too excited. It is not covered by these acts that we are replacing, because the supermarket chains Coles and Woolworths are not covered by those acts. The rules under the legislation which exists today are inconsistent and unfair for market participants, and that is not good for anyone in the industry.

The Oilcode, which will be introduced with this legislation as a mandatory industry code under the Trade Practices Act, will finally bring the whole industry into a common regulatory regime with better protections for market participants and better protections for consumers. We are on the record as saying there is more that can be done and we have extracted as many concessions as we can from the government in the circumstances towards that end. The onus is on the government now to deliver in relation to those matters. But the Oilcode will improve protections available to commission agents and—wait for it—independent operators, who do not have the protections available to franchisees under the current arrangements. So we are not taking anything away from the independent operators by supporting this legislation; we are actually adding to the regime—not on the terms that we would prefer, but in this case we are not prepared to stand in the way—

Senator Joyce—That’s right—you’re not prepared to stand.

Senator O’BRIEN—of the implementation of this legislation and deny any form of protection to the independent operators on the basis that we will play some russian roulette about these other pieces of legislation.

We are on the record as saying changes need to be made. In fact, I moved an amendment which set out some changes that we believe need to be made to the competition regime, which were the same as those moved by Senator Murray, and we supported Senator Murray’s amendments. We will continue to support that position, but in the absence of an assurance that that is going to go through, we are faced with a choice: do we remain with an outdated, inconsistent and unfair regime which gives no protection to significant parts of the industry and has no impact at all on well over 50 per cent of the industry by volume? That is the choice that the opposition has, but what is the only re-
sponsible position that we can take? It is to bring the law up to date as far as we can.

I acknowledge that Senator Murray suggests that, if we vote with the minor parties and one of the coalition senators votes with us, we can block all of this and nothing will happen. That is the choice that we make. We prefer that there be an improvement. We do not say that it is enough. We do not say that it is the end of the improvement of the competition regime. I look forward to the support of all the minor parties and Senator Joyce when Labor wins the next election, because we will be in a position to implement it.

Senator Joyce—You’ve just said today it’s not worth voting for!

Senator O’BRIEN—Senator Joyce is very keen to attack the Labor Party’s position on this, but the fact of the matter is that he is part of a government that is implementing something that he is vehemently opposed to. So his cover is to attack the Labor Party when he should actually be attacking his own coalition, because it is implementing the regime that he is apparently so vehemently opposed to. We moved amendments to that regime, which they voted against. I guess Senator Joyce has to give himself cover sometime, but that is all that I can attribute to the statements that he makes.

In relation to this comparison between this legislation and media law (1) we are talking about a good versus the supply of information to the public (2) we are talking about a regime which currently applies to everyone, as distinct from this legislation, which leaves half of the market out, and (3) we are talking about something that impacts on the democracy of this country rather than markets. If he cannot see the difference in that, that is a matter for him.

In terms of consistency and supply, I could take the senator back to that decision that he made to support the privatisation of Telstra, but many people will do that—I do not need to today. I can only reaffirm that we will be supporting this legislation, not on the basis that it is the best possible outcome but on the basis that it puts in train something which we can improve on in government.

Question put:
That this bill be now read a third time.

The Senate divided. [11.48 am]

(The President—Senator the Hon. Paul Calvert)

Ayes……………… 44
Noes……………… 9
Majority………. 35

AYES
Adams, J.
Bernardi, C.
Brown, C.L.
Campbell, G.
Chapman, H.G.P.
Eggleston, A.
Ferguson, A.B.
Fifield, M.P.
Hogg, J.J.
Hurley, A.
Kirk, L.
Ludwig, J.W.
Marshall, G.
McGauran, J.J.J.
Moore, C.
O’Brien, K.W.K.
Patterson, K.C.
Polley, H.
Scullion, N.G. *
Sterle, G.
Trood, R.B.
Webber, R.

NOES
Allison, L.F.
Brown, B.J.
Milne, C.
Nettle, K.
Stott Despoja, N.

* denotes teller

Question agreed to.
Bill read a third time.

FINANCIAL TRANSACTION REPORTS AMENDMENT BILL 2006

In Committee

Consideration resumed from 7 September.

Bill—by leave—taken as a whole.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.51 am)—Mr Chairman, before we start the committee proceedings I table a supplementary memorandum relating to the government amendments to be moved to this bill. The memorandum was circulated in the chamber on 5 September 2006.

Senator LUDWIG (Queensland) (11.52 am)—I have an amendment but I will not move it at this time. I have some questions, arising out of those amendments, that I would not mind a response to. It was pointed out in a submission by Allens Arthur Robinson that the restriction of cash dealers to ADIs in sections 17FA and 17FB would lead to noncompliance with special recommendation VII. When asked whether this was the case, the response from the Attorney-General's Department, as far as I can see, did not quite answer the question. The Attorney-General’s Department said in section 4 of its answer to the first question on notice that the limitation in the FTR Act framework meant that special recommendation VII obligations could only be applied in a more limited class than would be the case when the AMLCTF bill is enacted at a later date. As you can see, that does not quite answer the question.

I will go on to other things while you reflect on that. Perhaps it is worth while to talk a little about this issue. This bill amends changes to the Financial Transaction Reports Act which were enacted last year by the Anti-Terrorism Bill (No. 2) 2005 but have not yet gone into operation. The bill before the Senate is regrettable in that it has amendments to a poorly drafted piece of legislation which the government rushed through in 2005. But it is less than a year since we passed the Anti-Terrorism Bill (No. 2) 2005 into law and already we have returned to fix this piece of legislation. Not only that, but we have also brought in further amendments to fix it again—and it seems to be only on an interim basis, in any event. I am happy for that to be clarified further in the committee stage.

It seems to me that the provisions in the ATB have not yet even come into force. Already, the government has been forced to concede that there are significant problems not only in the bill itself but also in the explanatory memorandum that further amends that legislation. It has gone so far that it seems to me that the government now concedes that this legislation as it stands, without this amendment, would destroy legitimate businesses when it goes into operation.

It would be helpful if we understood as well—and you might want to take this question on notice during the committee stage—what feedback has been received, from what industries, to indicate that, and when it was
received by industry. It seems to me that industry was not consulted in the first instance. In addition to that, if this is going to be, as I understand it, an interim solution, will it then be resolved in the first or second tranche of the AMLCTF legislation? Is it going to be rectified or covered again in the first tranche? The bill is currently in an exposure draft, on which the government has received submissions, but it has not yet been introduced into this chamber.

The provisions introduced by the Anti-Terrorism Act, which this bill amends, implement the special recommendations of the Financial Action Task Force, FATF, in relation to combating terrorism funding. FTAF is an intergovernmental body designed to develop and promote policies to combat international money-laundering and terrorist financing. To that end, as we know, there are 40 recommendations on anti money laundering and, since September 11, a further nine special recommendations in relation to the financing of terrorist activity.

The history of the situation so far is that in 2003 the Minister for Justice and Customs, Senator Ellison, promised that we would have an updated financial transaction report brought into line with those special and general recommendations. It is now more than three years since that promise to bring the legislation before the parliament. The minister could indicate in this debate when that bill is likely to be brought forward. As I understand it, there is a commitment for that legislation to go to a committee as well for a further look. The minister could also provide assurances that that will be the case and that there will be sufficient time for that committee to have a look at the legislation in toto.

It is a substantive piece of legislative drafting. I understand the department has been drafting it for some time—and I think that would be an understatement—with the draft legislation going back and forth between industry and the department. So the additional factor would be that the committee does have sufficient time to hear from industry—in other words, we need to allow sufficient time for it to be advertised and for us to hear from industry as to what issues may arise in respect of the bill, and then to allow the committee sufficient time to report back to parliament. If it is the intention of the minister to have the matter passed before the end of the year, time is now running out.

The other matters I will come to shortly, when I seek to move the amendment that I have made. But I will first give others the opportunity to participate in this debate and deal with some of the questions I have raised, if there are any to answer at this point; if there are not, I will go on with some other issues.

Senator MURRAY (Western Australia) (12.00 pm)—Just before the minister responds to Senator Ludwig, I wish to say that I hope it is the intention of the government to refer the final bill to a committee. In his response, I would ask the minister to consider whether the appropriate committee would be the Senate Standing Committee on Legal and Constitutional Affairs or the Joint Committee on Corporations and Financial Services, because obviously the bill is of great interest from a corporate law perspective and from the perspective of matters which arise through the APRA regime, all of which have been matters of interest to the joint committee. Maybe you are not in a position to give an answer now or today, Minister, but you need to think carefully as to which committee you send it to.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.01 pm)—I wish to make it clear that the government does believe that this bill, when it is introduced, should be referred to a commit-
I believe the Senate Standing Committee on Legal and Constitutional Affairs would be an appropriate committee to deal with the bill. There was an exposure draft which we referred to that committee. It was done for the reason that this is a complex area and we wanted to give the committee a preliminary opportunity, if you like, to look at the legislation and to look at issues in the broad, so that the Senate Standing Committee on Legal and Constitutional Affairs now has a fairly good appreciation of the issues involved in this. I think that, for that reason, there would be benefit in sending the final bill, as introduced, to that committee. That is my thinking on that. Of course, it is up to the Senate as to what it refers, and I will not pre-empt that decision, but that would be the government’s view in relation to that.

In relation to the time line, Senator Ludwig has asked that there be adequate time, and it is certainly planned to introduce the bill in these sittings. The bill has the appropriate status for that to happen and I believe that the committee would have the time to look at the bill.

There has been extensive consultation in this process: two exposure drafts, which is quite unusual. The two exposure drafts have been the subject of comment by industry. Consultation is ongoing. Indeed, part of the consultation that was conducted in relation to this particular bill formed part of the broader consultation for the more general aspects of the legislation which we will be dealing with later.

In relation to Senator Ludwig’s other queries, I think that, of the question on notice he mentioned, I can say that, in relation to special recommendation VII of the Financial Action Task Force on Money Laundering, the amendments to restrict division 3A of part II of the FTR Act to authorise deposit-taking institutions will not achieve full compliance with special recommendation VII. I think that answers the question that Senator Ludwig posed.

That further compliance which is needed will be done under the bill—if I can call it this—which is dealing with the wider issue of anti-money-laundering reform. It will be dealt with when it is brought into the parliament. The amendments to schedule 9 of the Anti-Terrorism Bill (No. 2) 2005 are meant to provide an interim solution to the issues identified by the non-bank money remittance businesses. That is how we are approaching it with special recommendation VII.

In relation to the submissions by the private sector and when they were received, some of the government amendments that we are moving today are the product of consultation with the private sector, and I can indicate those when I deal with each of the government amendments in turn. If Senator Ludwig’s question is a broader one, dealing with all the submissions that we received and when they were received, then we will have to take that on notice.

Senator Ludwig—No, it’s a narrower one.

Senator ELLISON—Then I think I can address that, Senator Ludwig, when we come to each of the amendments in turn. As for the date we received them, I would have to take that question on notice. But I think I can cover that when we deal with the government amendments shortly. I think that covers all the issues we were dealing with.

The TEMPORARY CHAIRMAN (Senator Lightfoot)—The question is that the bill stand as printed.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.06 pm)—Having dealt with those other issues, I now seek leave to move government amendments (1) to (5) together.
Leave granted.

Senator ELLISON—I move government amendments (1) to (5) on sheet RB308:

(1) Schedule 1, page 3 (after line 25), after item 4, insert:

4A After subsection 17FA(1)

Insert:

(1A) For the purposes of paragraph (1)(b), if:

(a) an ADI (the first ADI) is acting on behalf of, or at the request of, another ADI (the second ADI); and

(b) the second ADI is (whether or not as a result of one or more previous applications of this section) acting on behalf of, or at the request of, a person who is not an ADI;

then:

(c) the first ADI is taken to be acting on behalf of that person; and

(d) for the purposes of providing customer information in relation to that person, the first ADI is entitled to rely on the information provided by the second ADI.

(2) Schedule 1, items 9 and 10, page 4 (lines 5 to 15), omit the items, substitute:

9 Subsection 17FA(3) (definition of customer information)

Repeal the definition, substitute:

customer information, in relation to an international funds transfer instruction transmitted out of Australia, means the following information about the ordering customer on whose behalf, or at whose request, an ADI sends the instruction:

(a) the ordering customer’s name;

(b) any one of the following:

(i) the ordering customer’s full business or residential address (not being a post office box);

(ii) if the ordering customer is an individual—the ordering customer’s date of birth and the country and the town, city or locality of the ordering customer’s birth;

(iii) a unique identification number given to the ordering customer by the Commonwealth or an authority of the Commonwealth (for example, an Australian Business Number or an Australian Company Number);

(iv) a unique identification number given to the ordering customer by a foreign government;

(v) a unique identification number given to the ordering customer by the ADI that the ordering customer originally asked to send the instruction;

(c) either:

(i) if the money is, or is to be, transferred from a single account held by the ordering customer with the ADI that the ordering customer originally asked to send the instruction—the account number; or

(ii) in any other case—a unique reference number assigned to the instruction by the ADI that the ordering customer originally asked to send the instruction.

10 Subsection 17FA(3)

Insert:

unique reference number, for an international funds transfer instruction, means a combination of any or all of the following:

(a) letters;

(b) digits;

(c) characters;

(d) symbols;

which distinguishes the instruction in a way that, either:

(e) alone; or

(f) in conjunction with any other information in the instruction;
enables the ADI that the ordering customer originally asked to send the instruction to identify the ordering customer.

Examples:
(a) a combination of a BSB and account number;
(b) a reference number generated by the ADI that the ordering customer originally asked to send the instruction.

(3) Schedule 1, page 5 (after line 1), after item 16, insert:

16A Subsection 17FB(6) (subparagraph (b)(ii) of the definition of customer information)

Omit “date and place of birth”, substitute “date of birth and the country and the town, city or locality of the ordering customer’s birth”.

(4) Schedule 1, item 17, page 5 (lines 2 to 5), omit the item, substitute:

17 Subsection 17FB(6) (subparagraph (c)(ii) of the definition of customer information)

Repeal the subparagraph, substitute:
(ii) a unique reference number assigned to the instruction by the ordering organisation.

(5) Schedule 1, page 5 (after line 5), at the end of the Schedule, add:

18 Subsection 17FB(6)

Insert:
unique reference number, for an international funds transfer instruction, means a combination of any or all of the following:
(a) letters;
(b) digits;
(c) characters;
(d) symbols;
which distinguishes the instruction in a way that, either:
(e) alone; or
(f) in conjunction with any other information in the instruction;

enables the ordering organisation to identify the ordering customer.

Examples:
(a) a combination of a BSB and account number;
(b) a reference number generated by the ordering organisation.

19 At the end of Division 3A

Add:

17FC Transmission into or out of Australia—intermediaries

This Division does not require the provision of customer information in relation to an international funds transfer instruction if:
(a) the instruction is transmitted by an ADI into or out of Australia; and
(b) the transmission into or out of Australia occurs in the course of, and for the purpose of, the transmission of the instruction by or on behalf of another financial organisation from a place outside Australia to another place that is also outside Australia.

20 Paragraph 29(4)(ba)

Omit “a cash dealer”, substitute “an ADI”.

21 Section 42A

After “3A”, insert “, 3AA”.

This amendment will ensure that there is no gap in the legislation if an Australian bank which is asked to send a funds transfer instruction to a foreign bank is not able to deal directly with the foreign bank but has to deal through an intermediary bank in Australia. The amendment will provide that the intermediary bank is taken to be acting on behalf of the original customer and not the originating bank and will have the obligation to ensure that the relevant information accompanies the funds transfer instruction. The intermediary bank, however, will be able to act on any information it receives from the originating bank. It will not have to make its own inquiries of the original customer. That is a technical amendment and one which was
identified during the drafting of this legis-
lation.

The second amendment is the product of a
suggestion by the Australian Bankers Asso-
ciation. This deals with the definition of cus-
tomer information. This meets industry’s
request to amend the definition of customer
information in section 17FA(3) to better re-
fect the wording that will be used in section
67 of the Anti-Money Laundering and Coun-
ter-Terrorism Financing Bill. This
amendment also inserts the definition of
‘unique reference number’ into section
17FA(3). This definition is consistent with
that term as it will be defined in the
AMLCTF Bill—that is the bill to be intro-
duced.

Amendments (3) and (4) are again some-
what technical. Amendment (3) is the result
of a request from AUSTRAC. It amends sec-
tion 17FB(6) paragraph (b)(ii) to omit date
and place of birth and substitute date of birth,
the country and the town, city or locality of
the ordering customer’s birth. Amendment
(4) is another technical amendment that is
consequential on government amendment
(2). That amends section 17FB(6) paragraph
(c)(ii) to now provide that a unique reference
number assigned to the instruction by the
ordering organisation be included in the in-
ternational funds transfer instructions. The
reference to the term ‘unique reference num-
ber’ is consistent with the definition of that
term as it will appear in the Anti-Money
Laundering and Counter-Terrorism Financ-
ing Bill.

The final government amendment deals
with four aspects. The first inserts the defini-
tion of a unique reference number into sec-
tion 17FB(6). This definition is consistent
with the terms in which it will be defined in
the AMLCTF Bill. That is a technical
amendment recognised by government draft-
ers. The second aspect of amendment (5)
inserts a new section, 17FC. This amendment
will ensure that the provision of complete
customer information in an international
funds transfer instruction is not required
where that is transmitted from a place out-
side Australia to another place outside Aus-
tralia and merely passes through Australia.
This was a suggestion made by the Aus-
tralian Bankers Association. It is a technical
amendment and one which we think is a
worthwhile suggestion. We have accordingly
taken it up. The next aspect of amendment
(5) deals with a drafting error. It amends sec-
tion 29(4)(ba) that was inserted into the Fi-
nancial Transaction Reports Act 1988 by
schedule 9 of the Anti-Terrorism Bill (No. 2)
2005 to refer to an authorised deposit-taking
institution rather than a cash dealer to ensure
consistency with the amendment to restrict
division 3A of part II of the FTR Act to
authorised deposit-taking institutions only.
That is a technical amendment and one
which has been recommended by the draft-
ers. The final aspect of amendment (5)
comes from a suggestion by AUSTRAC—
and that is to amend section 42A, amend-
ment of schedules by regulations, to include
a reference to schedule 3AA as inserted into
the FTR Act by schedule 9 of the ATA, the
Anti-Terrorism Act (No. 2) 2005. Again, this
is a technical amendment. That deals with all
of the government amendments that are pro-
posed. I commend those amendments to the
committee.

Senator MURRAY (Western Australia)
(12.12 pm)—Through you, Mr Temporary
Chairman, to the minister, I am going to ask
the minister to take something on board
which I think needs to be attended to. I am of
the opinion that this bill needs to pass as rap-
idly as possible and that we need to get on
with the anti-money-laundering legislation as
fast as possible, for obvious reasons that I
enunciated in my speech in the second read-
ing debate and elsewhere. But I want to draw

CHAMBER
your attention to amendment (3). Through the chair, Minister, I have come across a large number of residents and citizens of Australia who do not know their date and place of birth. I was exposed to that first of all, and most materially, with respect to the Senate Community Affairs References Committee inquiry into child migrants. I have discovered since that there are many circumstances—it probably runs into thousands; it is not a question of hundreds—where such individuals exist.

In the old days, the term used was ‘foundling’—abandoned children. Abandoned children did not know when they had been born or to whom they had been born. Often they knew where, of course, because they were found in a particular locality—unless like Moses they floated down a river, in which case you would not know where they had come from; although I understand that they did find that out in the end. This is a serious issue. I have had adult Australians who were child migrants, who believed themselves to be Australians, weeping in my office at the humiliation of being made to justify who they were and not being able to produce a birth certificate. If they had a birth certificate, it might have been wrong because they were put into an institution and the details about them were made up.

There have been instances of people who came into this country as child migrants being employed by and serving in the Australian armed forces—including in places like Vietnam—and later on, as adults, going overseas, losing their passport, applying for another one, not being able to prove who they were and being refused re-entry into the country in which they grew up. It really is a material issue for a small but sizeable number of Australian residents and citizens.

I would like to request through the chair, if the minister would take my remarks on board, that the department refer to the Senate Community Affairs References Committee’s reports on child migrants, Lost innocents, and Australian children in institutions, Forgotten Australians. With institutionalised children, including foundlings and people who do not know the details of their birth, birthplace and parents, we are talking about over 500,000 Australians last century. That is a sizeable proportion. My feeling is that some kind of protocol, process or mechanism is needed to deal with these circumstances if and when they arise, such as a statutory declaration process or some other means which addresses this problem. By my remarks, please do not infer that I am opposed to your amendment; I am not. I think it is perfectly reasonable for it to be as detailed as it is, but some people just will not be able to comply, and I suspect now and again it is going to prove a problem.

Really, my request through the chair to the minister is to take my remarks on board and think about whether this issue should be addressed in the forthcoming bill, which is to go to a committee, or addressed by some sort of regulatory or administrative process or means, because I suspect it will arise. It arises right now when people want to get married—they cannot say who they are and where they came from—when people apply for a passport, when they apply for bank facilities and so on. It is a problem, and the Senate has recognised it is a problem in its reports. I think, with respect to this sort of measure, the government should be alert to the fact that it might arise as a problem and you need to think about it.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.17 pm)—I will deal with that issue. Does the current legislation allow for the situation that Senator Murray has mentioned? I am aware of those cases that I have come across personally where people who have come to Aus-
tralia from another country do not have that
detail available as to date and place of birth,
and I accept that it is an issue out there for
some people. We do not want to disadvan-
tage them because of that. The section which
deals with this in the Financial Transaction
Reports Act 1988 is section 17FB(6), which
puts it this way:

customer information, in relation to an interna-
tional funds transfer instruction transmitted into
Australia, means the following information about
the ordering customer on whose behalf, or at
whose request, an ordering organisation sends the
instruction:

It then lists the details that are required:

the ordering customer’s name—

You do need that, and that is straightforward.
It goes on:

(b) any one of the following:

(i) the ordering customer’s full business or
residential address (not being a post of-

(ii) the ordering customer’s date and place
of birth;

(iii) a unique identification number given to
the ordering customer by a foreign gov-

(iv) the identification number given to the
ordering customer by the ordering or-

So there are four requirements there which
are alternatives. I would suggest that, where
you have someone in this position, who does
not have their date and place of birth, the
other three criteria could be met and any one
of them would suffice, according to the
wording of the section.

That said—and I would submit to the
committee that it addresses the concern
raised by Senator Murray—certainly I will
take on board the comments by Senator
Murray in dealing with this change to the
legislation to ensure that in the private sector,
as much as we can ensure it, no-one is disad-
vantaged in the application of this legislation
and no-one is disadvantaged who is in the
position of not knowing their date and place
of birth because of reasons beyond their con-
trol. Certainly they should not be disadvan-
taged. I think the legislation does accommo-
date it because it prescribes it in the alterna-
tive, but I still take on board Senator
Murray’s point. That is something we will
bear in mind when we are looking at this.

Senator LUDWIG (Queensland) (12.20
pm)—I will deal with a couple of issues. The
Anti-Terrorism Bill (No. 2) in this instance,
in terms of the amendments, moved to a po-

son where there would be compliance with
special recommendation VII. I am wondering
whether the government accepts that posi-
tion. Now we are retreating from full com-
pliance with SR VII to the position where,
because of the lack of consultation in the
original bill, we have consultation which
puts it in a position where industry will be
substantially affected. I know those indus-
tries are cash dealers, but perhaps the gov-

ment could give a more concrete example
of who they are and, in particular, to what
extent their businesses would be disrupted by
this amendment. Perhaps they could also
indicate whether or not there was a matter
raised by the ABA or how it came to the at-
tention of the department or the minister that
there was a problem that needed to be re-
treated from or rectified. How long will it
take before you will be fully compliant with
SR VII, given that you now say, even after
this bill, you will still not be compliant with
it?

Senator ELLISON (Western Australia—
Minister for Justice and Customs) (12.22
pm)—At the outset, I think it is fair to say
that the government never said in the Anti-
Terrorism Bill (No. 2) that we would be fully
compliant with special recommendation VII.
That piece of legislation was always ac-
knowledged as being an immediate response
which was needed, and further work would be done on the special recommendations made by FATF. Indeed, today I have said that, even after this bill, further aspects of special recommendation VII will be incorporated in the wider response. Certainly, I see the whole area of anti money laundering as being a work in progress. The area in which financial institutions work is ever changing—the products, the packages that people invest in and the way people structure their financial affairs. There is always something coming up in the financial sector which needs to be addressed, especially with emerging technology.

I would make very clear to the chamber that I would not regard the passing of any bill in relation to anti money laundering as being the final response. Further work will always be needed. With respect to special recommendation VII, it is fair to say that the government certainly said that, notwithstanding the Anti-Terrorism Bill (No. 2), further work would still be done. This is the further work that is designed to respond to special recommendation VII, and there will be further aspects which will complete our response in the final legislation.

The other question Senator Ludwig asked is: was there some submission from the private sector and, if so, what did we receive? I am not so sure that that applied to special recommendation VII. I will take that on notice. I think the work on special recommendation VII was as a result of further drafting by the government, but I will take that on notice and just make sure. But, if there was a submission from the private sector, we will advise the chamber of that.

Senator Ludwig (Queensland) (12.24 pm)—I am happy for the chamber to be provided with the answer but, as I understand it, I do not think this fixes the problem with SR VII. I think you will agree with that, Mr Temporary Chairman. The main problem was the exclusion of ‘cash dealer’ from the section and the substitution of ‘ADI’. I thought that had to do with an objection raised by the ABA which related to hub and spoke transfers. My understanding is—and this is partially taken from the EM itself—that a customer goes to bank A and wants funds transferred to bank B. Bank A sends the transfer instructions to a related bank, bank C, which has a corresponding banking relationship with bank B.

Under the amendment, for the purposes of the legislation, bank C is taken to be acting on behalf of the customer, who is entitled to rely on the customer information provided by bank A. Apparently, this fixes an error which would have required bank C to verify the details of the customer before sending on the instructions. The AGD said they would consult with the ABA as part of their response to original questioning by me. It looks as though, in that instance, the ABA found another hole—or, alternatively, the department, in looking at this area, turned up the issue. But are these amendments designed to address the issues that were raised by the ABA in the Senate committee? Was the ABA consulted on the final wording of the FTR amendment to this bill? If not, then an explanation of where it came from would be helpful. What other industry bodies were tacking changes onto this particular bill? That is in relation to amendment (1).

What I am concerned about is that we do have to meet the 40 recommendations from FATF, plus the nine special recommendations. The OECD report earlier this year did not give Australia a very—in my words—good report. Since that time, there have been the Anti-Terrorism Bill (No. 1) and Anti-Terrorism Bill (No. 2) which, in part, were brought about to address some of the deficiencies discovered, including the fact that
we, at that time, were not fully compliant with any special recommendations.

The minister says that it is a work in progress, but it has been a work in progress since November 2003 and it is still not finalised—in fact, it is significantly not finalised when we have a second tranche as yet unseen and an unknown date as to when it will be brought forward. We still have not finalised the first tranche and it is now 2006 and counting.

As to the government’s response that it is a work in progress, I am concerned that there is a requirement to meet the 40 plus nine recommendations to be fully compliant. The OECD will revisit this issue to establish whether meeting the 40 plus nine recommendations by, I think, later this year, is a reasonable timetable. You can correct me about that if I am wrong, Minister. You would certainly know better than me.

In that sense, it is not a work in progress. We do have to meet those 40 plus nine recommendations. As you would expect, as there are developments over time, legislation does change. It requires amendment and updating. But at least bedrock legislation has to be put in place, and it needs to be bedded down. You might find a slip, an error or a correction. That is not unusual. You might find that new circumstances have arisen or new procedures by industry might require amendment or change, but that is not a work in progress. It is part and parcel of the role of government to ensure that legislation remains up to date and relevant to the people who use it. But we have not got to the bedrock legislation, which I do not think should amount to a work in progress. It should in fact be here by now. It concerns me that, in an ad hoc way, we are still amending the legislation again today, when it has not even come into being. I asked a couple of questions in all of that, but I will deal with amendment (2) shortly.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.30 pm)—With regard to the more general issue that Senator Ludwig mentioned in relation to the transactions between banks where you have an intermediary, suggestions were made by the Australian Bankers Association which were taken on board. I understand that the private sector was consulted in relation to the wording of this bill, and I think that that covers what Senator Ludwig has said. Other countries, such as the United States and the United Kingdom, have been dealing with the same issues we have and are in the process of implementing their responses to the 40 recommendations from FATF, plus the nine special recommendations.

In a visit recently to London and Washington it was made very clear to me that they also regarded this as very much a continual work in progress and that you would never reach a specific point in time where you could rule a line through things. The complexity of it is demanding, and that is why we have gone very carefully with the private sector. I have said repeatedly that we do not want to render the financial sector of Australia uncompetitive because of inappropriate regulation. We do not want to burden that sector with such regulation and red tape that internationally we are not competitive. They work in a very global environment, if I can put it that way, and it is essential, therefore, that we achieve a balance between security needs, on the one hand, and the needs of the private sector, on the other.

To give you an example of one of the things that FATF requires, and one of the issues that we are dealing with: for credit card transactions FATF requires the full details of the customer and the number. On the one hand, this sounds like a good suggestion,
and there are security aspects to it, but, on
the other hand, does it really achieve that
which it sets out to? We have said—and you
have seen this recently with changes to credit
card details—that when you get a receipt
your full number is not on it for security rea-
sions: so that people cannot hack into your
credit card and commit credit fraud. One of
the things I would say when somebody
comes along and says, ‘This is what you’ve
got to do,’ is that you have to go a bit further
and see what ramifications there may be in
providing the full details. Are you exposing
the cardholder to possible fraud by doing
that? That is just one very small aspect of
what is a very big area of reform, and that is
something we are taking up with FATF, for
instance. FATF has suggested that and said
that that is a good way to go. I think we need
to have a good look at that and make sure
that it is the best way to go, because it could
have the reverse effect by publishing the de-
tails in such a fashion that a person’s identity
could be stolen.

Senator MURRAY (Western Australia) (12.33 pm)—I want to add my voice very
briefly to the call of the shadow minister for
more haste in this area. I accept and respect
the conundrum the minister and the govern-
ment find themselves in. You have privacy
weighted against security weighted against
commercial needs and the competitive needs
of the nation. Frankly, we need a less than
perfect anti-money-laundering regime rather
than none at all—and I recognise that we do
have an anti-money-laundering regime, be-
cause that is what the financial transactions
act is all about. But I am of the view that the
need to limit the availability of finance for
global crime or global terrorism—and some-
times they are one and the same thing, as the
minister well knows—is greater than our
need to make haste slowly. Global crime and
global terrorism are an immediate threat, and
I want to add my voice to urging the minister
and his department to come forward with
legislation as fast as possible, even if it does
not meet the full requirements that have been
put to us by the task force. It is better that, in
this matter, we make rapid progress that
might be less than perfect than make slow
progress.

Senator LUDWIG (Queensland) (12.35
pm)—As we have said right from the start
with this, we do not oppose the introduction
of anti-money-laundering legislation that
fights the financing of terrorism. It is a
scourge and should be limited and got rid of.
We do not object to the government bringing
the legislation forward in a reasonable state,
having consulted with business to ensure that
it does not tie them up with red tape.

When you look at the way this has been
handled, you will see that the No. 2 bill
brought in the legislation, and the govern-
ment limited the ability of the original com-
mittee to deal with it. As a consequence, we
had a range of submitters. The government
then came back to amend it, even before it
came into place. So I suspect that business is
going annoyed, or at least finding that the
sands are shifting underneath them all the
time, because the legislation is changing and
not being brought forward.

We then had more changes, which appear
to be me to be straight from the ABA sub-
mission to the committee with perhaps some
add-ons from other industry sources as well.
So we had a situation where, having the
committee hear from the government, there
was no change and the bill went through. We
then came back before it was enacted with
even more changes—even late changes
through a supplementary EM. You would
have to say, upon reflection, that this process
is less than perfect and in fact smacks of
really ad hoc changes and a bandaid solution,
because it is only an interim solution. We are
still waiting for the final bill, but it will deal
only with the first tranche of the entire area. This is all turning into quite a saga. There are a couple of analogies I would make, but I will refrain from doing so. It is a serious issue.

The opposition is concerned about ensuring that small business, medium business and even big business are not tied up with red tape, particularly in this area, but it does require a considered, meted change to ensure that it is effective and that business is consulted. In the consultative process the changes that are brought forward need to meet business expectations in the fight against the financing of terrorism. So far the process has not been all that satisfactory.

Amendment (2), instead of requiring just a full business or residential address, provides that a range of identifiers can be used. We do not object to that change; it is sensible to bring it forward to ensure that there are a range of identifiers, such as full business or residential address. Perhaps the minister can provide an explanation as to why the changes regarding subsection b(i) were required. It is just not clear on the record, at least to me. And in subsection b(ii), why do we need to clarify that the ID code must be unique when a unique reference is subsequently defined later on?

While the minister seeks an explanation I turn to some broad issues. As I have said, the saga of this bill is not yet over. These amendments are largely to correct problems in the bill that came about through lack of consultation in the drafting process in the first place. In fact, half of the corrections seem to come straight from the comments made by the Australian Bankers Association. Labor certainly agrees that those concerns should be taken into account by the government when drafting legislation, but of course while keeping in mind the purpose of the legislation—that is, to fight terrorist financing.

The government has gone about this in a backward sort of way. The correct process, I would have thought, would have been to consult with stakeholders, bring the bill forward and deal with it through the committee process—for those people in the wider community who still have a legitimate interest—rather than wait until the last minute to amend an already amending bill. I have to say that, in my experience, this department’s attitude to consultation with industry has been less than perfect on a range of issues. In fact, I have even been assured by AGD at a committee hearing that they would lift their game in the consultative process. That was in relation to a different bill, and it may even have involved a different part of AGD. Perhaps the minister can pass it back to AGD that they should think through the consultative process a little more broadly so we do not end up spending more time than we need to when debating this issue in the chamber.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.41 pm)—The changes as provided for by amendment (2) were the result of industry’s requests to amend the definitions that Senator Ludwig has referred to. That was the reason for the amendment. I might just say that I have received very positive feedback from the industry in relation to the way in which the Attorney-General’s Department has handled the consultation process. I think it is fair to say that was across the board from different sectors of the financial industry in this country. As I have said, we plan to introduce the broader bill in these sittings. An exposure draft, which is almost in its final form, will be introduced in these sittings—I cannot be clearer than that—and it will naturally go to a committee. These amendments are the result of industry suggestions and we thought they were sensible.
Senator LUDWIG (Queensland) (12.42 pm)—I do not think we are going to be able to complete our consideration of this in the time available, but we should be able to come back to it today. There is not much left to consider. As I understand it, it will take only 10 or 15 minutes. There is one last issue which the minister can take before we report progress, which goes to amendments (3) and (4). Presumably ‘place’ was too broad. I would like an explanation as to why the amendment refers to the country and the town, city or locality. I think it goes partly to a matter raised by Senator Murray. According to the EM, it brings us in line with section 17FA(3)(b)(ii). Would the minister look at whether section 17FA(3) is the definitions section and whether subsection (b)(ii) exists? It only goes as high as (b), which provides that a unique reference number may include digits. I may have missed that, but there may be another—and I hate to mention it—drafting issue. I suspect that can be corrected on the run, if I am right. If I am wrong about that maybe I am being pointed to the wrong place by the legislation. Perhaps the minister can take that on notice.

Amendment (5) relates to section 17FB and provides for a unique reference number. It appears straightforward and consequential. Amendment (6) also involves the issue of hub and spoke, as I understand it. I would like an explanation as to whether that is the case. The system identified by the ABA basically says that if the FTA is transmitted by an ADI—

Progress reported.

MATTERS OF PUBLIC INTEREST

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

Middle East

Senator BOSWELL (Queensland—Leader of The Nationals in the Senate) (12.45 pm)—In the last week of the last sittings, the Greens’ Senator Nettle spoke of the situation in the Middle East. I said at that time that I would respond because Senator Nettle’s speech seemed very one-sided in its criticism of Israel’s defence in the face of attacks by Hezbollah. In Australia Hezbollah is registered as a terrorist organisation. In her speech, Senator Nettle made a number of claims that are either distorted, inaccurate or complete fantasy. For example, Senator Nettle claimed:

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.

Senator Nettle implied that Israel targeted the bombing out of concern to protect its commercial interests. Even if there used to be a company in Lebanon with a monopoly on the supply of milk products to the Lebanese people, it could not have been Israeli. Lebanese law renders it illegal for any citizen to have any contact with Israelis. Senator Nettle betrays an ignorance of the basics of life in the Middle East.

Senator Nettle also argued that the recent deaths in the Hezbollah-Israel conflict could have been avoided if the Israelis were prepared to trade the only Lebanese citizen jailed in Israel for murdering four people, for its two soldiers. This is an extremely one-eyed view. The deaths could have been avoided if Hezbollah had been disarmed according to UN Security Council resolution 1559, or even if it had not fired rockets from and next to residential buildings throughout Lebanon. Senator Nettle told the Senate:

We now have a devastated country that needs rebuilding. Much of southern Beirut and southern Lebanon is in ruins.

A simple Google search reveals up-to-date satellite photographs of Beirut which show...
the damaged part of Beirut is limited to exactly those areas Israel said it was targeting: the Hezbollah stronghold in one small area, plus the strategically important runways—but not the buildings of Beirut airport—and other specific targets designed to prevent a rapid resupply of Hezbollah by Iran and Syria.

Senator Nettle talked about Israel attacking some Lebanese army positions, despite its claim to be targeting only Hezbollah. But she failed to point out that Israel attacked some Lebanese army radar stations after they were allegedly used, in coordination with Hezbollah, to guide the missile that damaged an Israeli ship in the first days of the violence. You never get the full story from Senator Nettle, only the bits that suit her view of the world. You never hear the well-known fact that Hezbollah frequently launched rockets from positions adjacent to the UN, putting everyone nearby in danger. This is confirmed by one of the soldiers tragically killed in that accident. According to reports, before his death, he wrote:

... we have on a daily basis had numerous occasions where our position has come under direct or indirect fire from both artillery and aerial bombing. ... This has not been deliberate targeting, but has rather been due to tactical necessity.

The tactical necessity was because of Hezbollah actions against Israel in the immediate area. The Canadian soldier also wrote in his email that the UN position afforded a view of the ‘Hezbollah static positions in and around our patrol base’.

While Senator Nettle claimed that Israeli ‘incursions and invasions into Lebanon have been going on for many years’, she failed to mention the constant cross-border attacks carried out by Hezbollah since Israel withdrew from every inch of Lebanon in 2000. Twenty-seven Israelis were killed by Hezbollah between the Israeli withdrawal and—but not including—the 12 July attacks by Hezbollah. These attacks have taken the forms of rockets, anti-aircraft fire into Israel, small arms fire, mortars and stabblings. Hezbollah had made frequent incursions into Israeli territory to kill Israeli soldiers on border patrol, as well as civilians going about their business. Senator Nettle incorrectly stated that Israel fired on a convoy that had previously been granted Israeli permission to move. An Israeli press release after the accident pointed out that the deaths were tragic, but that Israel had specifically warned the convoy against leaving, as it was conducting operations in the area. Senator Nettle said:

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.

She then went on to say:

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 ...

So Senator Nettle, the Greens senator from Down Under, gets up in this parliament and virtually judges the Israelis guilty of war crimes. The incident referred to is yet another example of Israel attempting to prevent civilian deaths by warning civilians away from conflict but being blamed for their deaths when the civilians disregarded all warnings and drove into a conflict zone. Of the aid convoys that were authorised and coordinated by the IDF throughout this entire period, not a single convoy was hit by IDF fire.

Senator Nettle also incorrectly claimed that:

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 ...

In fact, throughout the conflict, there was near total consensus in Israel that Israel was
doing the right thing. Even the left-wing press reported that a peace rally in Tel Aviv was attended by only 2,500 people. I am advised that the recent Tel Aviv rally was noticeable for the presence in significant numbers of Balad supporters. Balad is an Arab political party in Israel whose leader, a member of Israel’s parliament, praised Hezbollah terrorists as heroes in recent weeks as well as before the conflict started.

Finally, Senator Nettle talked about Australia selling some $10 million worth of defence related products to Israel. She said:

Unfortunately, our Prime Minister and our government have been arming one side of the conflict...

Surely Senator Nettle does not expect Australia to also arm Hezbollah, a terrorist organisation fighting against a close friend, ally and fellow democracy. Australia’s position on this is very clear: Israel had the right to protect itself from terrorist attacks and the Australian government fully supported the exercising of this right. I urge Senator Nettle to be far more judicious in her comments on Middle East affairs, and to check her facts and informants carefully.

Meat Industry: Mr Aaron Leslie Willis

Senator CARR (Victoria) (12.54 pm)—I would like to take note of a matter that goes to the Australian government’s New Apprenticeships program that provides subsidies to employers who take on trainees under the scheme. The meat industry is widely acknowledged as an industry which is characterised as involving very hard work that is often very dangerous and which has an exceptionally high injury rate for workers. All too often we see a situation where businesses close down, taking with them workers’ entitlements and seeking to act in a manner which is unacceptable to the rest of the economy. Just this week with the abattoir at Cowra we saw that ASIC had been very slow to act, we saw the operations of the government’s Office of Workplace Services—which is clearly not speaking to ASIC—and we saw a situation where the Australian Taxation Office had failed to talk to other agencies. Some have likened the regulation of this industry to the Australian government not being able to track a bleeding elephant through snow.

This is what we saw in the tragic case of a young trainee in the meat industry. This case, like others, raised serious questions about the Australian government’s approach to the welfare and safety of young people who receive training under the New Apprenticeships program, particularly in the meat industry. This is the story of a young man of just 18 years of age by the name of Aaron Leslie Willis, who was employed as a trainee by Midfield Meat International in Warrnambool in my home state of Victoria. Young Aaron had successfully completed year 12 in 2004. He was a good student. He was also the chess champion of his school, Warrnambool College, and he represented the college in interschool chess tournaments. Aaron was good at art. He was seeking a career in computer animation and graphic design. He took on a meat industry traineeship to get a bit of money together so that he could further his studies. All this came to an abrupt end on 31 May 2005 when, at the Midfield abattoir in Warrnambool, young Aaron fell three metres into a mincing machine. Fortunately, I hasten to add, the mincer was not operating at the time and so he was not actually minced. Unfortunately for Aaron, he hit his head and suffered a serious injury. He was knocked unconscious and taken to Warrnambool Base Hospital, where he remained unconscious for at least 18 hours. After the accident Aaron began to have severe and frequent epileptic seizures. He died, apparently following a seizure, on the night preceding the morning...
of Thursday 25 May 2006, when his body was found by a housemate.

Aaron’s cause of death has never officially been confirmed, but what is apparent to me is that the accident that preceded his illness occurred at Midfield Meat. Furthermore, when the accident occurred and an ambulance was called for Aaron, under the Victorian workplace safety legislation the company was supposed to pay for the cost of the ambulance—but it failed to do so. Midfield Meat refused to meet the cost of Aaron’s medical attention. When he died, Aaron was still paying off the bill for the ambulance transportation. Midfield Meat also charged him for the boots that he was wearing at the time of his accident. And there is still more: on the day after the accident, when Aaron was still lying unconscious in hospital, Midfield Meat sacked him and terminated his training contract. I say that that is an action contrary to Victorian law.

In addition to these unlawful actions, Midfield Meat failed to advise young Aaron of his rights regarding workers compensation, which was also required under Victorian law. So Aaron was unemployed, he was suffering the ongoing effects of a serious head injury and he was also not made aware that he could make an application for compensation for that injury. Aaron spent the last year of his life trying to exist on Youth Allowance and he died in debt. Aaron had a loving mother and a family who were bereft at his death. So his mother approached his union, the Australasian Meat Industry Employees Union, the AMIEU, and the union has undertaken to take up the case with specific regard to the treatment of trainees at Midfield Meat.

The company’s training practices deserve close scrutiny on several counts. First, how was it that Aaron Willis was able to fall into a mincer in the first place? Did the machine have a guard? It should not be possible for young apprentices, or anyone else for that matter, to fall into a mincing machine. Midfield’s occupational health and safety practices need to be looked at, especially with regard to how the company exercises its duty of care for young employees and trainees. On this question, the matter was referred by the union to WorkSafe Victoria. On the basis of what it terms ‘preliminary inquiries,’ WorkSafe Victoria has decided not to investigate Aaron’s death and the accident that led to his death.

It is understood that the company provided the authority with a version of events that differed from the account given by Aaron’s workmates who were with him at the time. It seems that the Victorian authority has chosen to believe this official account. It is unfortunate that WorkSafe Victoria has not taken a more proactive attitude in this case. Aaron has passed away, but there is the safety of other trainees and workers to think about—now and in the future. The union has recorded a number of other accidents at Midfield. Just in the last year, three workers have lost fingers while working in the abattoir.

Have the relevant Commonwealth authorities lifted a finger to check whether Midfield is treating its trainees properly—trainees that attract a Commonwealth subsidy of between $1,250 and $2,500 per annum? The answer, as far as I can ascertain, is a big no. And has the Department of Education, Science and Training, DEST—the department that administers the traineeship program with regard to employer subsidies—looked into the sheer number of trainees that Midfield takes on each year? According to information that I have been provided with, Midfield takes on, and presumably gets Commonwealth subsidies for, over 100 new trainees each year—more than 100 at Warrnambool, when its total workforce at that abattoir is only 500.
This is remarkable. Surely these figures call for investigation of what is actually going on. Why is there such a voracious need for training at this particular abattoir at these levels? Has DEST looked into whether Midfield is genuinely providing training? And what happens to the 100 youngsters at the end of their training every year? Where do those people go? I am advised that the company lets them go, and takes on another 100. It has an extraordinarily high churn rate. Has the department ever sought an explanation? Has the department ever asked itself: should we be using taxpayers’ money to subsidise this number of trainees, over and over again, at the one firm?

We are entitled to ask whether this is money down the drain. This is surely nothing more than a rort. Surely this is an exercise in getting cheap labour by way of a Commonwealth subsidy. These 100 workers are paid training wages. In the case of Aaron Willis, he received the princely sum of $352 a week—that is the annual equivalent of a little more than $18,000. And Aaron, as a trainee, attracted a Commonwealth subsidy for Midfield of $1,250 for the year. The company would have received that as an up-front payment.

Aaron commenced work with Midfield in February 2005. Did the company repay the Commonwealth the appropriate proportion after they sacked Aaron on 1 June, on the day after his accident, less than halfway through his year of training? How many other trainees does Midfield sack before they have completed the year? These are all questions that I seek answers to.

If you deduct the subsidy from his wages, Midfield Meat employed Aaron Willis at a cost of less than $17,000 a year. He was classified and paid as a casual so there would have been no holiday pay on top of that. The on-costs would have been minimal—as was the care, concern and responsibility that Midfield accorded to this young man.

There have been other cases of young apprentices and trainees dying as a result of workplace accidents. One was the sad case, in 2003, of 15-year-old Joel Exner, who fell off a roof he was working on and died because he had not been given a safety harness and had not received safety training. Joel was on his third day at work. Then there is the case of 17-year-old Dean McGoldrick, who died three years earlier when he fell from scaffolding on a building site. In January 2004 Daniel Maddely, aged just 17, was killed while using a powerful boring machine used in plastic moulding. There are no doubt many other cases. So I ask: what does DEST or the Australian government do to ensure that the kids whose training it subsidises are not exposed to dangerous workplaces and callous employers?

Finally, there is another practice of Midfield Meat that ought to be mentioned. And there is another decision by the Australian government, regarding this employer, that needs to be examined in the light of the facts that I have recounted here. Midfield Meat International has received approval from the immigration department, DIMA, to bring into Australia 100 extra skilled workers from China. That is 100 workers on top of the 100 subsidised trainees it takes on each year—and of course lets go. I find that extraordinary. What steps did DIMA take before it gave approval to Midfield for these 100 workers to be employed on 457 visas? Did it look into the training practices that the Commonwealth has been subsidising at this company?

I am aware that DIMA has suspended the granting of 457 visas for the meat industry, pending the development of a possible labour agreement. Nonetheless, the question remains: will Midfield be a party to the la-
bour agreement that will allow the resumption of the granting of 457 visas to foreign meatworkers? Will Midfield be able to import its 100 workers, or even more workers, under the new agreement? Will Midfield be allowed to do that, despite its record in training local workers which, if the union figures are right, can only be described as profligate and wasteful in the extreme? Midfield not only turns over and throws out 100 or so trainees a year; it apparently cannot be trusted to look after the safety of trainees while they are on the job.

What all this shows is that the Howard government’s oversight and management of the Australian labour market, especially skills acquisition and training, can at best be described as careless. The government has neglected skills and training development, it has turned a blind eye to rorting and illegal practices amongst employers and it has failed abjectly to line up its training policies and priorities against its policies regarding the importation of cheap labour. It has in effect connived with employers—including employers like Midland Meat—to take blatant advantage of sloppy administration of programs across several departments. It has enabled bosses to rip off workers—local workers and foreign workers—and to hire them on the cheap.

Perhaps worst of all for these workers, the young people like Aaron, Joel and Daniel—kids who had ambitions and dreams—this government has stood by and done nothing after young Australians have lost their lives. Kids will go on losing their lives unless the government lifts its game. A Labor government will not sell kids short. It will make decent, safe, high-quality training a top priority. And Labor will ensure workers are imported only when genuine skill shortages can be proven to prevail. Anyone brought in from overseas to work in Australia should be guaranteed fair wages and conditions, equivalent to those applying to local jobs. Only Labor cares about trainees, young workers—all workers. That is what Labor is all about.

Cluster Bombs
Gunns Ltd

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (1.09 pm)—I first draw the Senate’s attention, following Senator Boswell’s criticism of Senator Nettle, to the vote in the Senate just last week on a motion I moved on cluster bombs, which read:

That the Senate deplores the manufacture, sale and use of cluster bombs like those now deployed in Lebanon.

We all know of the carnage there, particularly the carnage of civilians, including children, after the war. I simply did need to draw attention to the Hansard, which recorded that the government used its majority, including the vote of Senator Boswell, to vote that motion down.

I want to talk today about managed investment schemes, particularly those relating to plantation forestry in Australia. There is a lot of coverage of this issue in today’s press, and particularly contributions from the proposers of a mega pulp mill in Tasmania, Gunns Pty Ltd. The first thing I need to say here is that plantations have all sorts of breaks. For example, if you are planting a vineyard in Victoria, you need planning approval. If you are putting in a blue gum plantation, you do not. Unlike many other forms of investment in the land, plantations siphon off more than money from the taxpayers. They siphon off water and they can deliver chemicals downstream to otherwise pristine water catchments. When I talk about siphoning off water, it is 25 per cent for land that has plantations on it over the first couple of decades, and yet it is not costed. Everybody
else pays for water but the plantation investors get it free of charge.

This is basically six big corporations in Australia. I am not talking about farmers here but six big investment corporations. They move in on farmland, they can bulldoze the farm and they can bulldoze the bails, if it is a dairy farm. They can bulldoze the house, the dam, the lot and end up with an unimproved capital value gain in terms of paying rates. But what the federal government has done is to hand a multimillion-dollar subsidy to the explosion of plantations across the nation.

Most people will have heard Senator Abetz talking about the fact that we pay twice as much for imported timber as we get for the export of timber. What he does not add is that we export twice as much timber as we import. The fact is that Australia is losing out here. The other fact that needs to be stated at the outset is that Australia has over 1.5 million hectares of plantations, much of it mature at the moment, and can meet all its basic wood needs—paper and housing timbers included—from that plantation estate. So we are not planting plantations for this nation’s need; they are being planted to be exploited for profit and export. For Gunns, that export involves a proposed pulp mill to ratchet up its profits at the expense of the taxpayer.

I need to shorthand this by saying that in 2005-06 the Tasmanian native forest logging industry got some $296 million in taxpayers’ subsidies from the Howard government. Think what other industries could do with that. Included in that is $60 million which Senator Abetz announced in this chamber would be allocated for an improvement to the road to the pulp mill for Gunns in Tasmania. What a windfall for Gunns Pty Ltd.

Yet we have in today’s press, in the *Australian*, the CEO of Gunns, John Gay, who is a multimillionaire, complaining that if there is not to be a continuation of the tax rip-off which these managed investment schemes involve then Gunns will not go ahead with the pulp mill—which I can tell you vast numbers of Tasmanians, particularly those in the region, do not want, because it is going to pollute not only the air and the local environment but Bass Strait as well. If that does not go ahead then Gunns will want to maraud Tasmania’s native forests at a greater rate, and you can read into that ‘at even lower royalties’. They are being hugely subsidised compared with royalties of just 15 years ago—millions of dollars a year—by the Tasmanian taxpayers through failure to levy royalties on the native forest estate.

Mr Gay’s statement today exemplifies that there will be an impact—an impending impact—on the native forest estate in Tasmania through the Gunns pulp mill. There are two things here. Firstly, the Resources Planning and Development Commission must change its purview in its assessment of the pulp mill to take into account that impact on the forest or its failing to do a proper impact assessment. Secondly, the minister for the environment, who I am glad to note is with us at the moment, must assess the impact of this pulp mill on Tasmania’s native forests and their wildlife under the requirements of the Environment Protection and Biodiversity Conservation Act.

It is high time now. It would be irresponsible if the government did not move to get an independent audit of these managed investment schemes. A minimum $300 million of taxpayers’ money each year is poured into them, money which is therefore not going to hospitals, schools or housing. It is going, largely, to six big investment companies like Timbercorp and Gunns, and there is no audit. There absolutely must be an audit. Can you imagine superannuation schemes getting such largesse without an audit?
An example of some of the management problems which are beginning to emerge is Radiata Plantations Ltd. The public is now being given notice of its liquidation and wind-up. It has a portfolio of 5,000 hectares in south-east Australia—that is, New South Wales and Victoria. This was subsidised massively by taxpayers through the managed investment scheme tax deduction. The understanding I have is that there is virtually no marketable timber on its land—certainly nothing reflecting the prospectus of that company. It is to be noted here that the unsecured grower-investors, who were attracted by the prospectuses, will be last cab off the rank in the wind-up. This is a very worrying trend indeed and points again to the need to protect investors in these schemes.

Mr Acting Deputy President Forshaw, you will know that the prospectuses of the plantation investment companies offer the inducement of a 100 per cent tax deduction in the year of payment to the companies but the year prior to investment talk about a 12 to 15 per cent return. Dinkum? Is that really what will be seen with companies increasingly moving into low rainfall areas which simply cannot produce the volumes that would lead to a return like that? Many of these prospectuses—for example, for Gunns—are for investment in north-east Tasmania. Senator Milne has just pointed out to me that the scientific projections are for an eight per cent fall-off in rainfall for north-east Tasmania over the next 40 years. Has the impact of the loss of productivity been taken into account for those people investing in these tax attractive schemes? Many of these people think they are doing the environment a good turn. Not only is what happening of detriment to the environment—because, I reiterate, these plantations are not necessary to this nation’s future or to save native forests—but they are taking over rural land, which has other—

Senator Scullion—To grow things.

Senator BOB BROWN—Exactly.

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—Order!

Senator BOB BROWN—They are taking over other rural land which grows things. They are taking over dairy farms, potato farms, agricultural grazing land and so on—and prime land, at that. The farmers in many rural communities say that these managed investment schemes pervert the market—

Senator Ian Campbell—Cows create greenhouse gases—

The ACTING DEPUTY PRESIDENT—Order! Senator Campbell!

Senator Ian Campbell—This guy’s lost it!

The ACTING DEPUTY PRESIDENT—Order! Senator Campbell!

Senator BOB BROWN—The minister for the environment says I have lost it, Mr Acting Deputy President. I say to you that this minister is charged to ensure not just that the EPBC is respected in regard to the pulp mill and a proper assessment is done there—

Senator Ian Campbell—This guy—

The ACTING DEPUTY PRESIDENT—Order! Senator Campbell! You have been interjecting—

Senator Ian Campbell—He should come to order.

The ACTING DEPUTY PRESIDENT—Order, Senator Campbell! Be quiet.

Senator Ian Campbell—You’ve lost it.

The ACTING DEPUTY PRESIDENT—I ask you to withdraw that. You have just cast an aspersion on the chair, and I ask you to withdraw it.

Senator Ian Campbell—I withdraw.

The ACTING DEPUTY PRESIDENT—The debate will continue, uninterrupted. Interjections are out of order and your conduct
is out of order. Senator Brown, resume your remarks.

Senator Ian Campbell—I take a point of order, Mr Acting Deputy President. Senator Brown is not directing his remarks to you—he is directing them across the chamber at me and he should be called to order.

The ACTING DEPUTY PRESIDENT—Senator Campbell, I listened carefully to Senator Brown’s comments and he did direct his remarks through me in response to your interjection. There is no point of order.

Senator McLucas—I take a point of order, Mr Acting Deputy President. It is a point of order that goes to respect. I understand that the standing orders require that, when a senator has to withdraw a comment, he or she should stand in their place. Senator Campbell did not do that.

The ACTING DEPUTY PRESIDENT—Yes, I take the point of order, Senator McLucas. I noticed that, but I was standing at the time. Senator Campbell did withdraw the remark. I will let it go at that. I call Senator Brown.

Senator Ian Campbell—I’m not allowed to stand in my place.

The ACTING DEPUTY PRESIDENT—Order, Senator Campbell!

Senator BOB BROWN—The minister for the environment’s regard for this place is equivalent to his regard for the environment of the nation.

Senator Ian Campbell—Here we go again! Recalcitrant!

The ACTING DEPUTY PRESIDENT—Order! Senator Brown, could you return to the matters which you are addressing in your speech.

Senator BOB BROWN—As you know, Mr Acting Deputy President, and as the minister will know, farmers in many rural communities are protesting—170 of them protested in north-west Tasmania just two weeks ago—about the way in which these managed investment schemes pervert the market, lay waste to valuable land and disrupt rural communities.

Victorian dairy farmers who have refused huge offers to sell their land—one can imagine the pressure this puts on people on family farms—have dubbed the scheme ‘tax subsidised social annihilation’. Mr Bob Loone, a highly respected councillor at Meander Valley, near Launceston, said that research showed that plantations created only one job for every seven displaced in farming. This government’s tax breaks are displacing people on the land. Mr Loone went on to say that, for every million in tree sales, $10 million was lost by no longer using the land for higher income activities such as dairying and cropping.

There are studies available which bear that out, and we should take note. Dairy farmers who need to expand to stay competitive cannot match the price that plantation companies can offer because of the tax breaks. The Australian Financial Review has reported that, in the town of Delegate, councillors and local farmers who at first welcomed the timber company Wilmott Forests now have signs up that say, ‘People not pines’, because they are being swamped by these forest pines. This is just removing locals off the land. Mr Chris Smith, a dairy farmer and Colac Otway Shire councillor said:

What annoys us is investors think they are doing something clean and green for the environment and feel warm and fuzzy and all they are contributing to is the decline of the rural sector and ultimately a pulp industry that’s going overseas.

Another dairy farmer, Rob Leishman, said that more than 60 farms in south-western Victoria had been bought up by the timber companies over the past two years, taking out more than $75 million to $100 million in income from the area. This is having a very
serious impact on the ability of local communities right across southern Australia to survive, and they are up against it unfairly. The government is promoting those big companies—and I say again: there are six, in principle—by giving them hundreds of millions of dollars in undeserved tax breaks which the rest of the family farmers, some of whom have been on their farms for four or five generations, simply do not get.

Senator Ian Campbell—That’s rubbish!

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—Order! Senator Campbell!

Senator BOB BROWN—The environment minister says that what those farmers are saying is rubbish.

Senator Ian Campbell—I’m saying what you’re saying is rubbish!

The ACTING DEPUTY PRESIDENT—Order! Senator Campbell!

Senator Ian Campbell—I will listen closely in question time to see if you interject on him.

The ACTING DEPUTY PRESIDENT—Senator Campbell!

Senator BOB BROWN—He would do well to listen to the rural communities and take note of their heartfelt feelings at the way they are being cheated by this government’s process. I draw the attention of senators to a letter from Sam Paton and Associates to the Treasurer on this issue. The letter gives a very fair analysis of the situation, including the disproportionate amount of funds going to the corporations who put out the prospectuses for these management plans as against those to the investors. The situation does need an independent assessment. It is crying out for an independent assessment. (Time expired).

Indigenous Communities

Senator BERNARDI (South Australia) (1.25 pm)—Much has been said in recent times about the state of Indigenous communities within this country. There is clear evidence of social discord and substance abuse, including alcoholism and petrol sniffing. There have been numerous accounts of horrendous sexual and physical abuse of Indigenous children, and some have spoken of the spiralling levels of domestic violence towards women and the culture of unacceptable behaviour.

All Australians have been horrified by the accounts of systematic sexual abuse across generations of children—boys, girls and even babies. As in the wider community, much of this abuse is perpetrated by seemingly respectable men. These are the grandfathers, the fathers, the uncles and trusted family friends. For too long the shocking incidence of violence has been simply ignored in a culture of silence that has been complicit in allowing these sickening crimes to continue.

Partisan political point-scoring will not help these vulnerable children. Governments of all persuasions have struggled with this issue, and full praise must be directed towards the Minister for Families, Community Services and Indigenous Affairs, the Hon. Mal Brough MP, who has recognised the depth of the problem. He has had the courage to publicly enunciate the problem and he has had the strength to confront the real issues in an attempt to bring about lasting change. But lasting change will only be achieved with a bipartisan commitment to stamp out this violence. It is simply too important to play partisan politics with people’s lives.

Of course, we are all aware that abuse occurs in many communities; however, Indigenous communities face particular challenges. They face high levels of unemployment, a
high rate of illiteracy and they often lack educational opportunities. There is often an absence of good role models for children in these communities. All too often the very worst example is set by those closest to these children. There is a tremendous need for positive role models for Indigenous children in this country. Where a void exists in this regard children desperately look for role models elsewhere, often identifying with Indigenous sports men and women, international basketball stars, NRL and AFL football players, sporting champions and, in many cases, musicians.

As Indigenous children idolise their heroes, as do children all over the world, this provides an opportunity to break the culture of violence and abuse by providing them with the opportunity to engage in music and to participate in sport. Today I want to talk about the potential for sport to positively change the lives of vulnerable Indigenous children. Sport can show them that there is another side to life. It can empower them and teach them about respect, teamwork and responsibility, not to mention its ability to provide many health benefits as well.

Indigenous children need an outlet, something worthwhile through which they can contribute, learn and participate in a positive way. Sport provides this opportunity. Just let me clarify for the record that I am not just some city senator who has suddenly decided to speak out on this issue. Through my work as a board member of the Australian Sports Commission I have seen firsthand the positive role that sport can play in enriching the lives of Indigenous children. Sporting programs have been implemented in many Aboriginal communities and have led to a direct improvement in school attendance, participation, productivity and to a reduction in substance abuse.

I recall a couple of years ago that the Australian Football League produced a report entitled *The AFL and Indigenous Australia*. While it related specifically to Australian Rules football, the report detailed case studies that showed amazing advances in the quality of life of Indigenous children who played football. The positive results range from an increase in self-esteem and a sense of purpose to improvements in academic achievement levels. In addition, there was a corresponding reduction in many of the anti-social behaviours that are endemic in many Aboriginal communities. It sounds simplistic but participating in sport can enrich Indigenous children’s lives in immeasurable ways.

Often, and especially in the case of remote communities, much of the success of sporting programs is due to the dedication and commitment of certain individuals who see these programs through and who contribute so much of their own time in helping young Indigenous people regain a sense of hope. One place where this has occurred is in the remote Queensland town of Doomadgee. Located inland, below the Gulf of Carpentaria, Doomadgee has a total of 1,100 inhabitants. There are two shops and there is one school. I was there recently with an Indigenous army unit, as part of the Australian Defence Force Parliamentary Exchange Program.

In Doomadgee, the beacon of light has been lit by a local businesswoman, Brenda, and her son Phil. Brenda is the owner of the Doomadgee Bakery, and I was fortunate to hear her story about an Indigenous youth swimming club that she, together with her son Phil, started. About four years ago, Brenda recognised the need for local children to have something to look forward to. There is not a lot to do in this town. There is no local cinema; there is no bike track. When the parents were not available to the chil-
The local school had a 25-metre pool that was closed outside of school hours to anyone except the local nurses and policemen. If the children wanted to swim out of school hours, they had to go to the local river. Brenda saw an opportunity here to make a difference in the lives of these children. She lobbied to have the pool opened after school so that her son Phil could begin training these kids to swim to a competitive standard. It took about two years but, finally, the school principal allowed the children to use the swimming pool after school; however, he did it on one condition, which has been enforced successfully. The condition was: no school, no pool. This led to the establishment of their swimming club, the Doomadgee Dynamites, and the children have embraced the opportunity with zeal.

The response has simply been amazing. In a recent regional competition, eight of the Doomadgee Dynamites won a total of 32 medals. By all reports, the behaviour of these Indigenous children has also improved markedly. The effect of regular, disciplined training has led to these kids being more disciplined in other areas of their lives, particularly in their behaviour towards others. The strict 'no school, no pool' rule was strongly enforced by Phil and has led to higher attendance rates at school. In the rare event that the kids actually strayed from this, they would often ask to do a 'make-up job', like cleaning the entire pool, in order to be let back on the swimming team.

As in Doomadgee, the 'no school, no pool' policy has been utilised in Halls Creek, Western Australia, where the young children must adhere to this policy in order to be allowed to use the brand new swimming pool that was completed there earlier this year. Halls Creek, as senators may know, was one of the Indigenous communities whose serious social problems came to light recently. Among numerous chronic issues, it is hoped that the 'no school, no pool' policy will help address the level of school truancy in Halls Creek. Interestingly, health authorities have also stated that many of the eye, skin and ear problems that are suffered by Indigenous children can be helped by regular swimming in chlorinated water.

But let me return to Doomadgee. By his devoting time and by sharing his expertise and knowledge with Indigenous children, coach Phil has built up a level of respect that has seen 228 Indigenous kids join the swimming club to receive lessons. Importantly, that also means 228 children have been attending school regularly. Even the local football team joined the Doomadgee Dynamites in order to broaden their training methods.

People like Phil and Brenda have selflessly donated their time and resources. Their steadfast commitment to be a cause of positive change in the lives of children in Doomadgee needs to be recognised. For the record, the swimming season in Doomadgee begins this week, and the Doomadgee Dynamites will be getting back into their training regime. I know that Phil and Brenda will once again help children recognise their own level of self-worth and just what they can achieve.

This is but one example of how participation in sport can enrich the lives of children and give them a sense of accomplishment, responsibility and pride. But, sadly, not all rural and regional towns have positive mentors like Brenda and Phil. Indeed, Brenda lamented to me the lack of a dedicated sporting coach for other sports that Indigenous children could participate in. It is clear to me that Indigenous children need other sporting outlets to help them improve themselves.
We should not confine ourselves to thinking only of the traditional sporting games. The next generation of adult Australians idolise their AFL and NRL heroes, just as we did. But they are also aware of the opportunity provided by the so-called ‘extreme’ sports—BMX biking, rock climbing, skateboarding and the like. This presents a wonderful opportunity to engage remote communities in affordable and flexible sporting pursuits. Every family can afford to buy a skateboard. In terms of sporting infrastructure, the provision of a skate park is a cost-effective sporting decision. Once it is built, it needs little or no maintenance. It requires little or no supervision of the children for them to enjoy themselves in a healthy, challenging and popular sport.

I am proud to be part of a government that is committed to providing support for sport in Indigenous communities. Under the stewardship of the Minister for the Arts and Sport, Senator Rod Kemp, we have backed up our commitment with an $11.7 million funding program for services across Australia in 2005-06, with the aim of increasing Indigenous participation in sport and physical recreation and improving access to facilities and equipment. This funding includes $9½ million for community based projects—projects that give further hope to communities just like Doomadgee.

The Australian government has also committed nearly $20 million over four years to create sporting academies, based on the Clontarf Football Academy approach in Western Australia, for young Indigenous people. This measure would create up to 20 sporting academies across the country. It is designed to build on Indigenous people’s interest in sport to improve their educational outcomes. The Minister for Families, Community Services and Indigenous Affairs, Mal Brough, is trialling a number of projects that involve high-profile sporting organisations, such as the National Rugby League and the Australian Football League, to work with Indigenous communities in remote areas of Australia and to use the players as mentors and role models for the children in these areas.

It can be very tempting when we are faced with difficult decisions and policy initiatives to try to score political points—either our opponents try to score them against us or we try to score them against our opponents—but this government is committed to severing the link between Indigenous communities and physical, emotional and substance abuse. It is simply too important for the future of our Indigenous communities to try to score political points in situations like this. This is about giving hope and opportunity to the next generation of Indigenous leaders. I believe that sport can play a key role in defining their future direction and the future success of Indigenous communities in this country.

Mr David Hicks

Senator KIRK (South Australia) (1.38 pm)—I rise this afternoon to talk about a matter that I have followed closely since I have been a member of the Senate—namely, the situation faced by one of my constituents, Mr David Hicks, who has been held in US custody in Guantanamo Bay for five years, three of those without charge.

As most people know, Mr Hicks is one of 10 Guantanamo detainees who, until the recent United States Supreme Court ruling in Hamdan v Rumsfeld, were due to appear before military commissions. The US Supreme Court in Hamdan ruled that these commissions were contrary to law. The court reaffirmed the need for fair trial standards for detainees in US custody, declaring that any trial must meet minimum standards of due process found in US and international law.
Following the US Supreme Court ruling, our Prime Minister, Mr Howard, has said that Australia is happy for the US government to explore alternative methods for trying Mr Hicks. Later today our time, the Bush administration will put before congress a bill to allow detainees to be tried by military tribunals. This week, I have written to several US senators, asking that they reject the administration’s bill. The military commissions that the president is asking congress to authorise are a step backwards. The proposed military commissions do not comply with US or international law. Consequently, they will only lead to more delay through court challenges rather than to fair trials for those who are accused.

There are a number of problems with the proposed bill. For instance, it misstates what current law requires in several respects. One example of this is finding 7A, which speculates that court martial procedures would ‘compel the government to share classified information with the accused’. As I understand, the military rule of evidence 505, which regulates courts martial, permits the military commission to withhold the identity of witnesses from the accused and to provide only declassified summaries of classified information to the accused. I do not see how this rule is inadequate to protect national security interests, particularly since the United States has been using this rule to protect classified information for some time. In my letters to the US senators, I urged them to support applying military rule of evidence 505 to military commissions. In my view, at the very least any rule passed by congress should allow the accused to see all the evidence that goes to the jury.

At least two provisions in the administration’s proposed bill allow unreliable evidence to be admitted. Section 948r(c) of the bill provides that an accused person’s coerced statements can be admitted against him at trial, provided the military judge does not determine that they are unreliable. The very nature of coerced statements, as you would know, Mr Acting Deputy President Brandis, is such as to render them unreliable. This section seems to be an attempt to provide the appearance of fairness even though the practical effect is to permit the jury to consider unreliable evidence.

Another section allowing the admissibility of unreliable evidence is section 949a(b). This section would allow hearsay to be admitted, no matter how unreliable, as well as other unreliable evidence. As I understand it, the hearsay rules used in US federal and military courts contain numerous exceptions, including a flexible catch-all exception allowing hearsay to be admitted only where it has been found to be reliable. No lesser standard should apply to detainees tried at military commissions. No interests are served by fostering convictions on the basis of unreliable evidence. Another matter that is of concern to me is the fact that counsel must be US citizens. I see no reason why an Australian attorney who is a member of a bar in the United States should not be permitted to represent Mr Hicks if he so chooses.

If the administration’s bill is passed, it would amount to an abrogation by the US of the Geneva conventions. Congress has already authorised rules and mechanisms for trying people detained in a time of war. These are, of course, the uniform code of military justice and courts martial. These rules have been effective to prosecute battlefield cases for more than 50 years. They should be similarly applied to those held in Guantanamo Bay who, after all, will be tried for violating the law of war.

A common argument for departing from fundamental due process standards is that it is impracticable to try al-Qaeda terrorists ‘before tribunals that include all of the pro-
cedures associated with courts-martial’. In fact, section 2(6) of the administration’s bill asks congress to endorse such a finding, even though it is demonstrably untrue, as shown by a recent Department of Justice news release. According to this Department of Justice news release, there have been 261 convictions for terrorism and related offences between 11 September 2001 and 22 June 2006 in the federal court, where the procedures used are very similar to those used in courts martial. As these convictions demonstrate, it is possible to convict those involved in terrorist acts without departing from US and international standards of fundamental due process.

We are now all waiting to see whether or not this bill is passed through congress. If it is successful then of course these laws could also be subjected to challenges in the court. Given the delays inherent in this process, it could mean that Mr Hicks is in custody for several more years whilst these challenges go ahead. Therefore, we may find ourselves in the same position we were in nearly five years ago: Mr Hicks is still in detention and there is no process in place for a proper trial.

The US administration continues to give assurances that Mr Hicks’s trial will be resolved speedily. Despite the ruling in Hamdan, Prime Minister Howard appears no less enthusiastic about going along with whatever President George Bush wants to do. President Bush has acknowledged that Guantanamo has damaged the image of the United States and should be closed. There can be no justice for Mr Hicks if congress gives its stamp of approval to the military tribunal system proposed in this bill. In the end, the only solution for the American government may be to transfer Hicks back to Australia. As we know, Britain has secured the return of its citizens and is currently trying them before British courts. Spain, France, Canada, Russia and Afghanistan are all doing the same. Even the Americans themselves removed their citizens and ensured that they faced a fair trial at home. We have to ask: why does the Howard government refuse to take seriously the option of trying Mr Hicks under Australian law? As justification for not demanding his release, the Prime Minister argues that Mr Hicks has not broken any Australian laws and therefore cannot be tried by an Australian court. The Attorney-General, Mr Ruddock, has said:

The only basis upon which Hicks could be brought back to Australia under our existing law is to be freed—that is the only basis.

On the contrary, a legal opinion prepared by leading Australian constitutional lawyers from the Gilbert and Tobin Centre of Public Law said:

The Australian legal system has, and always has had, all the tools necessary to prosecute Hicks in Australia.

According to this opinion, Hicks would be potentially liable for conspiracy to commit grave breaches of the fourth Geneva convention, in contravention of Commonwealth legislation, namely the Geneva Conventions Act 1957, together with engaging in hostile activity in a foreign state and allowing himself to be trained in the use of arms or explosives. These are both in contravention of the Crimes (Foreign Incursions and Recruitment) Act 1978 (Cth). Even if it is found that Australian law is deficient, a law could be enacted by this parliament with retrospective effect to enable Mr Hicks to be tried under Australian law before an Australian court.

The extent to which the Prime Minister is not only denying these possibilities but potentially jeopardising them by engaging in public commentary about Mr Hicks’s guilt is very disturbing. Is the Prime Minister not aware that by talking about ‘crimes that Hicks has committed’ is effectively pronouncing Hicks guilty? The laws concerning
sub judice in this country are clear. They apply equally to the Prime Minister as they do to everyone else in the Australian community. A breach of these laws can be a cause for a mistrial or, even more seriously, no trial at all.

If Mr Hicks is as dangerous as the Prime Minister claims, there are also currently laws on the statute book which would allow his activities to be monitored here in Australia. In the Anti-Terrorism Act (No. 2) 2005, passed by this parliament just last year, the Australian Federal Police can apply to a court for a ‘control order’ over an individual’s conduct and activities. As we are aware, just recently such an order was imposed upon Mr Jack Thomas. A control order can be issued by a judge where it would substantially assist in preventing a terrorist act or where a person has trained with a terrorist organisation that is listed in the Criminal Code. The laws are also retrospective, allowing people who may have had links to overseas groups in the past to be subject to these orders. How does a control order control a suspected terrorist? A control order can prohibit or restrict a person from being at specified areas or places, communicating or associating with certain people, accessing or using certain forms of technology, including the internet, possessing or using certain articles or substances and carrying out activities, including work activities.

On a practical level, such a control order could require Hicks to be put under house arrest, forced to wear an electronic tracking device, report to someone at a certain time and place, allowing himself to be photographed and participate, with his consent, in counselling or education. A breach of a control order carries a penalty of five years in prison and, whilst each control order can last up to one year, the order can be reissued again and again allowing someone to be continuously controlled. The fact that the Howard government has consistently denied the possibility of imposing Australian law on David Hicks demonstrates, I believe, its lack of faith in the Australian legal system and little, if any, commitment to protect Australian citizens who are charged with offences abroad.

It is time for the Australian government to acknowledge that one of its citizens has received a raw deal from the US administration and demand that Mr Hicks be returned home and, if necessary, subjected to the force of Australian law.

Sitting suspended from 1.50 pm to 2.00 pm

MINISTERIAL ARRANGEMENTS

Senator MINCHIN (South Australia—Leader of the Government in the Senate) (2.00 pm)—I wish to inform the Senate that Senator Vanstone, the Minister for Immigration and Multicultural Affairs, will be absent from question time today and tomorrow. Senator Vanstone is representing the Australian government at the United Nations High Level Dialogue on International Migration, in New York. During Senator Vanstone’s absence, Senator Kemp will answer questions on behalf of the portfolio of Immigration and Multicultural Affairs—

Opposition senators interjecting—

Senator MINCHIN—and he will do it admirably well, I am sure—and Senator Santoro will take questions on behalf of the portfolio of Education, Science and Training.

QUESTIONS WITHOUT NOTICE

Defence

Senator HOGG (2.01 pm)—My question is to Senator Ian Campbell, the Minister representing the Minister for Defence. Can the minister confirm reports that the government has dumped a $400 million Defence contract to upgrade the FA18 Hornets with radar and electronic sensors? If this contract has been
cancelled, can the minister advise when and why this decision was taken? What capability would be lost to Defence if this project were cancelled, and would it lead to a loss of air superiority in our region? Out of the total budget for the project, how much public money has already been spent? Are there any provisions for damages in the contract so that taxpayers could recover at least some of the money if the project is abandoned?

Senator IAN CAMPBELL—I thank Senator Hogg for a very important question about a project that is very important to the future security of Australia and our air defence capabilities. Senator Hogg would no doubt be aware that Defence is seeking to acquire joint direct attack munition guidance equipment. The focus of that is to enhance the accuracy of its inventory of iron bombs. The new equipment converts a standard iron bomb into a highly accurate guided weapon through the use of global positioning systems, generally known as GPS. The improved accuracy reduces risks of collateral damage and produces much greater effectiveness from each load of weapons on our aircraft. The improved accuracy of smart bombs’ use of global positioning systems will increase weapon effectiveness while also minimising the risk of collateral damage, as I have said. I can report that recent tests of the joint direct attack munition systems have been successful. Senator Hogg has asked in relation to the amount of money that has been spent to date. The total investment to date in specific development, integration and testing of the system for the Hornet is just under $94 million, and no decision has been made on the future of the ALR2002B program at this time.

Senator HOGG—Mr President, I ask a supplementary question. In light of the minister’s response that no decision has been taken, can the minister confirm that the current provider was selected against the advice of Defence? Can the minister also indicate when the government will make a decision about whether to proceed with this important project?

Senator IAN CAMPBELL—I think those issues are not covered in the brief that I have got here, but I am happy to seek further information and provide it to the Senate.

Crime

Senator FERRAVANTI-WELLS (2.04 pm)—My question is to the Minister for Justice and Customs, Senator Ellison. Will the minister inform the Senate of measures being implemented by the Commonwealth government to address the problem of crime and the fear of crime?

Senator ELLISON—I thank Senator Ferravanti-Wells for what is an important question, one dealing with crime prevention. We have strong measures for law enforcement, but it is essential that we look at preventing crime and look at the reasons for the rate of crime that we have in Australia. This $64 million program is one which targets communities. We have always said that there is no better way to deal with a problem in the community than to resource that community to come up with a solution to the problem that it has within its own area, and that is what this program does. The National Community Crime Prevention Program is designed across a range of measures—whether it is the community safety stream, the community partnerships stream, the Indigenous stream or the security related stream—to assist those communities who want to help themselves in reducing crime.

I must say that there was great interest expressed in this program when I attended a function last night, the commencement of the colloquium of the International Centre for Crime Prevention being held in Australia, the first for this region. Great interest was expressed in the way we were doing this. We
have announced 86 grants in the first two rounds and we are in the process of announcing the grants in the third round, and I hope to have that completed in the very near future, and we will go on to the fourth round and call for applications. I would urge all senators to look to their own communities to see if there is anyone that they think could benefit from a program such as this.

I have visited a number of these programs around the country which have targeted young people at risk, especially where there is potential for drug abuse. To give you an example, a project that was assisted—Warilla Pride Incorporated, just south of Wollongong—targets young people who are chronic truants in danger of leaving school at an early age and falling foul of the law. What we are looking at is how we can deal with tutoring and providing mentoring for these young people, so that they do not embark on a lifestyle of offending, and even trying to steer them back into the education stream so that they can fulfil their lives and make a useful contribution to the community.

It is very important that we do that at that early intervention stage, and we have done that with people even younger than that, at primary schools, with an antibullying initiative. We are increasingly seeing evidence that we need to target children at an age even younger than we thought before, and we are doing this in relation to drug education programs and also in relation to behavioural problems. That is why targeting bullying at primary school is so important, because it can lead to antisocial behaviour later in life.

This program has great support across Australia; wherever I travel, I see that people have responded to this in a very positive fashion. What does inspire me is the great work being done by many Australians working in a voluntary capacity in areas such as crime prevention. I urge all senators here to take advantage of this program which offers great benefits to the community.

**Housing Affordability**

Senator CARR (2.07 pm)—My question is to Senator Minchin, the Minister representing the Prime Minister. Does the minister recall saying in question time yesterday that conditions have never been better for young couples trying to buy their first home? Is the minister aware that the Howard government has presided over the worst ever first home buyer affordability in New South Wales, Queensland, Western Australia, Tasmania and the Australian Capital Territory? Is the minister aware that the proportion of first home buyers now in the market is less than 17 per cent, well below the 21 per cent level when the government came to office? Is the minister aware that first home buyers now spend 28 per cent of their total income on mortgage payments, higher than at any time under Labor? Isn’t it really the case that first home buyer affordability has never been worse than under the Howard government? Why are so many couples and families currently unable to buy their own home?

Senator MINCHIN—This is really a repeat of what was put to us yesterday, and I can only repeat what I said yesterday, which is that housing affordability is a function of many things. It is indeed a function of interest rates. We are proud that interest rates are much lower under us than they were when we came to office, and they have certainly been much lower on average over our period in office than they were under the previous administration’s period in office. They are also a function of the extent to which state governments are prepared to release land and the extent to which state governments impose taxes, levies and charges on the development of new housing estates. We have seen in recent weeks reports of the extent to which state governments are price gouging
on this issue. They are posing enormous state levies, charges and taxes on housing developments. They are not keeping up with the pace of demand in relation to land release. They are making it more difficult for first home buyers.

There is, it must be said, increased demand for housing because we have had such a strong economy during our period in office. The economy has been remarkably strong as a result of our fiscal management, our ending of Labor’s $96 billion debt and the consistent growth that we have had. We have had record low levels of unemployment. Many thought we would never get below five per cent unemployment. That has put many more families in a position where they can afford new housing.

Obviously, we have had a period where prices for housing have been higher than the general rate of inflation. That is terrific for those with houses, and many Australians feel extraordinarily confident about their financial position because the equity in their house has increased considerably. The flip-side is that, if the general pricing level rises—combined with the very inadequate policies of the state Labor governments in relation to land release, taxes and charges—then having the capacity to get into the housing market is made somewhat more difficult. That is why it is very important that we continue to have the fiscal restraint which we have displayed to ensure that we minimise the impact on inflation and, therefore, on interest rates so that we maximise the affordability of housing for young Australians.

We have had reasonably substantial increases in the price of housing because of the demands that flow from a strong economy, the immigration policy that we run and the return to higher fertility rates which is occurring under the Treasurer’s bold leadership on this issue. That does mean that there is a huge premium on governments running the sorts of economic policies which minimise upward pressure on interest rates. Whatever those opposite may say, there is an onus on state Labor governments to do their utmost to ensure that young families have access to housing at affordable prices.

Senator CARR—Mr President, I ask a supplementary question. Minister, rather than blaming the states, wouldn’t it be appropriate to address what the Commonwealth can do? In particular, now that the government has failed to keep its promise of record low interest rates and the Prime Minister has realised the stupidity of his plan to undermine the value of existing houses with a massive land release program, what exactly is the Commonwealth government doing to help young Australian families buy their first home?

Senator MINCHIN—Implicit in that question is the typical Labor Party approach of having a bob each way. On the one hand, they say prices are too high and that is our fault; on the other hand, if we talk about the states and their land release programs, they say that is terrible because it would affect the price of housing. You cannot have it both ways. This is why they are in opposition. They simply have no coherence in their economic policies. They have a bob each way on absolutely everything. They complain about private health insurance. They do not like private health insurance at all, but then they cry crocodile tears and run a scare campaign that premiums will go up if we privatised Medibank Private. It is classic Labor Party incoherence on economic policy.

Internet Content

Senator FERGUSON (2.13 pm)—My question is to the Minister for Communications, Information Technology and the Arts. Will the minister inform the Senate how the government is taking proactive measures to
Senator COONAN—I thank Senator Ferguson for a very important question and for his ongoing interest in the protection of Australian families online. The Australian government will do all we can to ensure all internet users are protected from inappropriate and offensive content online. We have introduced a robust regulatory system backed by strong legislated criminal actions to ensure that perpetrators of this content are caught and punished. We have taken measures to educate Australian children and families about the dangers that lurk online. Our most recent efforts in this regard form part of the government’s $116.6 million Protecting Australian Families Online package. It includes a consumer information campaign to raise awareness about offensive content online and the centrepiece of the package, the National Filter Scheme.

This scheme will provide a free filter to every Australian family to install on their home computer. These filters can be set at different levels for each child in a family, with an individual username and a log for each user. The free filters will also be offered to Australian libraries so that they can ensure that there are child-friendly computers available for use. The government considers that PC based filters are currently the most effective means by which to protect children online. This is because they are the only filters that not only block offensive content online but also extend the protection to offensive emails, peer-to-peer file sharing and conversations taking place in chat rooms.

I received a lot of letters from colleagues, constituents and other interested parties on the issue of protecting children and families online. One letter that I received particularly interested me. The person was writing to urge me to consider following the United States example by implementing hardware based filters in computers in primary and secondary schools, which is akin to the government’s ISP model. The person writing the letter touted the US example as an exemplary one that had the capacity, and I quote, ‘to eliminate all access to pornographic sites as well as the sending of pornographic email’. He also drew attention to the capacity of these filters to block, and I quote, ‘unwanted communications including the internet, internet messaging and peer-to-peer technologies’. Who said this? None other than the former New South Wales education minister and the current Speaker of the New South Wales Legislative Assembly, Mr John Aquilina, MP. I am always pleased to receive endorsement and support for good policy initiatives, but I am even more pleased when that support comes from the ALP itself. That is right; despite those on the other side of the chamber refusing to support our package, I have found support for our proposal from within their own ranks. I think that those opposite should take a leaf out of Mr Aquilina’s book and should abandon a policy that simply does not deliver an effective blocking of peer-to-peer and other traffic on the net. Our policy does not take a bandaid solution; it is one of the most serious issues facing Australian families, and this government has a comprehensive solution.

**Sydney Airport: Regional Airlines**

Senator O’BRIEN (2.17 pm)—My question is to Senator Ian Campbell, the Minister representing the Minister for Transport and Regional Services. Is the minister aware that the Productivity Commission has recommended that landing slots at Sydney airport currently reserved for regional airlines on weekday mornings should be replaced with flights from international or domestic airlines to allow an additional 4,000 passengers to
move through Sydney airport? Does the government support this recommendation? Does the government further accept the commission’s advice that the current arrangements represent, and I quote, ‘a significant efficiency loss’ and should be changed? Isn’t it a fact that the only other Sydney airport that regional airlines could fly into is Bankstown airport? Can the minister rule out diverting these regional passenger flights to Bankstown airport?

Senator IAN CAMPBELL—I thank Senator O’Brien for a question that is clearly very important not just to the users of Sydney airport but also, because of the pivotal nature of Sydney in Australia’s aviation system, to all Australians. The Productivity Commission report has just been released publicly. It is a draft report. The public have been invited to examine the report and to make comment either in writing or through public hearings, which will be held late in October of this year. The commission is seeking responses by no later than 13 October, so I encourage anyone who has an interest in the important issues that Senator O’Brien has raised to take that opportunity to make their feelings known on these issues. The commission has determined that, at this stage, the public hearings to discuss the draft report will be held in Melbourne on Monday, 24 October and then in Sydney on Monday, 30 October. So those are two dates which people with concerns should note. Following the public hearings, the commission’s final report will be prepared and will be forwarded to the Australian government by 6 January 2007.

Senator O’BRIEN—Mr President, I ask a supplementary question. Given the expeditious response to the Productivity Commission’s report on the Tasmanian Freight Equalisation Scheme, why does the government not immediately rule out the option canvassed by the Productivity Commission to move regional flights from Kingsford Smith airport in the morning peak period? Can the minister explain what the effect will be on regional passengers of forcing regional airlines into using so-called shoulder landing periods? Will the government commit to putting the wellbeing of regional Australians ahead of corporate greed, stand up to Max Moore-Wilton, and rule out betraying regional passengers now and not wait for this sham of a process to conclude?

Senator IAN CAMPBELL—I think anyone who describes the process that I just outlined as anything other than sensible and robust, allowing full engagement by the public, really does not understand it. This government stands on its record of supporting communities in regional areas. The Labor Party focus on the cappuccino strip in the inner suburbs of Sydney, Melbourne and Canberra. This government has invested very heavily in regional areas. The Labor Party can be judged on their support for regional communities by their focus on abolishing programs like the Regional Partnerships program. We know that they want to abolish the Regional Partnerships program and that they want to abolish the Natural Heritage Trust. They do not like regional Australians. They do not like people who live in remote Australia. To show some interest by raising this scare campaign will bring further scorn on the Labor Party, more than they are getting already in regional Australia.

Nuclear Energy

Senator CHAPMAN (2.22 pm)—I direct my question to the Minister for the Environment and Heritage, Senator Ian Campbell. I ask the minister: can the world tackle the problem of climate change without nuclear energy?

Senator IAN CAMPBELL—It is absolutely clear, if you analyse the challenge that faces the world—one of the most substantial
challenges that has ever faced this world: the challenge, no less, of providing roughly dou-
ble the amount of energy that the world re-
quires in the next 50 years. That will be re-
quired to ensure that people who do not have
access to energy get it: the roughly four mil-
lion people a year who die under the age of
five in sub-Saharan Africa; the many mil-
lions of people in our own region who do not
have access to energy. I think we would all
hope across the aisle that the world could
produce that extra energy. But also, to face
up to the massive challenge of addressing the
prospects of dangerous climate change, we
will need to transform how we produce and
use that energy and do so with substantially
lower greenhouse gas emissions across the
globe over the next few decades.

Across the world, you will need to ensure
that all of the known technologies, including
nuclear, play a part. You will need to have a
substantial increase in the amount of renew-
able energy produced in the world from solar
and wind energy. You will need to use geo-
thermal. You will need to plant more trees.
You will need to stop deforestation. You will
need to use energy efficiency measures. You
will need to capture and store carbon from
fossil fuel burning. You will need to clean up
fossil fuels and you will need to switch,
wherever you can, to gas—but you will also
need to significantly expand the use that is
made of nuclear energy, which has almost
effectively zero emissions in terms of green-
house gas, across the globe.

There is only one leader of a major politi-
cal party anywhere in the world who would
say that that is wrong, that you have to put
your hands over your ears and a blindfold
over your eyes and not talk about nuclear
policy. That, of course, is Mr Beazley—who
leads an opposition and a political party that
is absolutely bereft of energy policy and is in
all sorts of confusion and division, if not ut-
er disarray, in relation to Australia’s role in
the nuclear fuel cycle. The cat has been
belled by none other than the opposition
spokesman on energy issues and resources,
Martin Ferguson, who said in the Financial
Review this morning:
I am concerned that the antinuclear campaign in
the community has stooped to the low levels of
pillorying one of Australia’s iconic research insti-
tutions, ANSTO. It is one thing to run an antinu-
clear campaign—
I think he is talking about his environment
spokesman in relation to that—
derpinned by sound science, logic and belief; it
is yet another to engage in ludicrously muttering
about ANSTO and the Lucas Heights nuclear
facility, which is so important to the Australian
community for its contributions to nuclear medi-
cine, to industry and to the future of high technol-
ogy manufacturing in this country.
It is a very erudite article which I recom-
 mend to all senators, particularly those oppo-
site. He goes on to say:
To suggest that ANSTO is incompetent, unsafe or
highly dangerous is not only misinformed but is
disingenuous.
Who was he referring to, to steal another
Abetzism? He was referring to none other
than Ms Jenny Macklin, the deputy leader of
his party, and other Labor Party people who
went out and attacked ANSTO, called them
incompetent and referred to an issue at
ANSTO as recently as 15 June.

It is time that the Labor Party got real on
Australia’s future energy needs and the im-
portance of the climate change challenge to
the world, left its ideological baggage at the
doors and realised that nuclear energy does
have a role in the future providing clean en-
ergy, that Australia has a role in that nuclear
fuel cycle and that we should look at it in a
modern, sophisticated and well-informed
manner.
Climate Change

Senator NETTLE (2.26 pm)—My question is to Senator Minchin, the Minister representing the Prime Minister. Does the Prime Minister agree with former vice-president of the US, Al Gore, that ‘global warming is the greatest crisis that the world has ever faced’? Al Gore has said:

The scientific community has endorsed the validity of the science in the movie.

What is the Prime Minister’s and the government’s response to this comment? Will the Prime Minister be seeing Al Gore’s new film, An Inconvenient Truth?

Senator MINCHIN—I am not privy to the Prime Minister’s viewing habits. I think I saw some comments in which he said he did not think he would find the time to see Mr Gore’s movie. I think, indeed, the relevant minister, Ian Macfarlane, was even less enthusiastic about seeing Mr Gore’s movie. I would not personally want to subscribe to this view, but there is a view that Mr Gore may well be campaigning for the next US Democrat presidential nomination and this film may well have something significant to do with that. Indeed, somebody very disparagingly referred to Al Gore as the Northern Hemisphere’s Bob Brown, except he has an executive jet.

In all seriousness, the government from the Prime Minister down and certainly in the form of Senator Ian Campbell, the environment minister, does take the issue of climate change seriously. We accept, of course, that the climate is changing. We accept that there is evidence of warming. We accept that CO₂ emissions play a part in that warming. We are, as the senator well knows, not convinced that signing up to the Kyoto protocol will do anything to deal with that. Indeed, if the Kyoto protocol were implemented absolutely in full, I think it puts off a certain temperature being reached by six years. That is all that it would in fact achieve.

While we have committed through our own programs, and we are investing considerable sums of taxpayers’ money, to contain the growth of CO₂ emissions in Australia, we are on target to meet the targets we set for Australia—whereas countries that have actually signed up to the Kyoto protocol are well short of ever meeting their targets. They have overshot them. Denmark, for example, is currently 25 per cent over and above its target; Austria, 22 per cent; Ireland, 20 per cent; Spain, 36 per cent—all these countries of Europe. We keep getting lectured by the Europeans about this issue. Many of them benefit from the fact they have nuclear power. As Senator Ian Campbell was just saying, nuclear power is one of the answers to this—but of course Senator Nettle and her colleagues are totally opposed to nuclear power. These countries have the advantage of nuclear power, which does help them contain their emissions, but, on all the evidence, they are going to go way over their Kyoto targets. Through the sorts of programs and policies we have put in place and that Senator Ian Campbell is currently managing we are on target to reach our Kyoto targets. We also think that it is critical to ensure that the world understands the importance of adapting to climate change.

While it is proper, reasonable and sensible for us to do what is appropriate to help contain greenhouse gas emissions, as the former Director of the National Climate Centre, William Kininmonth, made clear in the Australian this week—and I commend his article to all senators—‘CO₂ is only one of a number of greenhouse gases. Water vapour is in fact the principal greenhouse gas.’ The climate is changing. The climate has been changing since the globe was formed. Mr Kininmonth made the point that it is not that long ago we had an ice age. This is a period in between
ic e ages. The critical issue is to ensure that we sensibly contain our emissions. The Prime Minister has made a fundamental commitment to that objective. We are investing some $2 billion in programs to—(Time expired)

Senator NETTLE—Mr President, I ask a supplementary question. How can the government claim to be serious about the threat of climate change when government subsidies to the fossil fuel industry massively outstrip subsidies to the renewable energy sector? Following the Go Green campaign, launched by Rupert Murdoch in his Sun newspaper yesterday, about the need to address climate change, will the Australian government increase our mandatory renewable energy target to create an environment that is conducive to the renewable energy sector to avoid more solar and wind companies leaving Australia and going overseas? Or is this government still suffering from what former Vice-President Al Gore described as ‘category 5 denial’?

Senator MINCHIN—We will responsibly deal with this issue, but not in such a way as to drive jobs and industry offshore. There is absolutely no point in Australia bringing in policies which simply mean that industries and jobs move to India, China or somewhere else. That is not dealing with this issue in the way that we are. That would be utterly futile. In fact, it would increase the level of greenhouse gas emissions. We are the government which introduced the mandatory renewable energy target. We are proud of that. But we made clear our reasons for holding the target at the level that it is currently at. I repeat that the government will continue to put in place affordable, sensible and appropriate policies to help contain emissions and, at the same time, we will ensure that we do our utmost to adapt to the reality of climate change.

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Health and Ageing: Dementia

Senator PAYNE (2.32 pm)—My question is to the Minister for Ageing, Senator Santoro. Given that National Dementia Awareness Month commenced last Friday, will the minister outline to the Senate the impact of dementia on older Australians and their families in particular? What initiatives have been announced by the government to address the impact of this very serious condition?

Senator SANTORO—I thank Senator Payne for her question. Can I also thank her for her exemplary co-chairmanship of the Parliamentary Friends of Dementia group here in the parliament and also recognise the efforts of her co-chair, Sharon Grierson MP, from the Labor side of this parliament. They both do a wonderful job in coordinating the efforts of members of parliament and senators when it comes to raising awareness of issues relating to dementia. So I again say thank you to Senator Payne and Sharon Grierson for the great work that they do as co-chairs of that parliamentary group. On Friday I had the pleasure of launching National Dementia Awareness Month in Sydney. Many senators of course will know people, often within their own families, who either suffer from dementia or care for people with dementia. These carers are Australia’s true national heroes.

Mr President, you may be aware that dementia is not a specific disease itself; rather, it is an umbrella term for a series of conditions that degrade a person’s ability to think and also to learn. Currently, an estimated 200,000 Australians are afflicted by some form of dementia. With the ageing of the population, the number of Australians living with dementia is estimated to reach 265,000 by 2020 and around 500,000 by 2050. This debilitating condition is soon expected to
overtake depression as the leading cause of disability within our country.

In the 2005 budget, the government identified dementia as a national health priority and announced a $320 million allocation over five years for more research, improved care and very significant intervention programs. This funding includes $225 million for 2,000 dedicated extended aged care at home places to enable people with dementia to remain living in their homes rather than enter residential care.

It also includes $25 million for new workforce training initiatives. Many dementia patients with challenging behaviours may first present to police or other community workers, who need to understand the condition much better than they currently do. For aged care workers, 17,000 dementia-specific training places will be made available under the aged care workers initiative. That is 8,000 more places than were originally announced in the 2005 budget, which indicates significant efficiencies within that program.

I am also pleased to say that the Howard government has made a substantial investment of $7.2 million in establishing Dementia Collaborative Research Centres. These centres will bring together scientists, clinicians, care givers, service providers and families. By pooling their collective knowledge, we hope that they can identify the best ways to address the growing problem of dementia.

The government are also assisting 40 smaller community organisations throughout Australia by providing local community dementia support grants. The grants provide funding for community awareness activities, producing information kits, educational workshops to help raise awareness, improve services and also promote early intervention. At Friday’s launch, I was happy to announce funding of more than $2 million to the Dementia Service Development Grants program. The idea is for the government to give money to organisations with projects that aim to improve the delivery of dementia related services. The government take their responsibilities towards Australians living with dementia, their families and carers very seriously. We are working in partnership with the community—and I am happy to acknowledge here today, also in a bipartisan way with the opposition—to ensure that the human dignity of those suffering from dementia is recognised and respected in the way our community cares for them when they are most in need.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I would like to draw to the attention of honourable senators to the presence in the President’s Gallery of Dr Bouthaina Shaaban, Minister of Expatriates, from the Syrian Arab Republic. On behalf of all senators, I wish you a very warm welcome to Australia and, in particular, to our Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Defence

Senator CHRIS EVANS (2.37 pm)—My question is directed to Senator Ian Campbell, the Minister representing the Minister for Defence. Senator Hogg has raised with me the fact that Senator Campbell, in answering Senator Hogg’s question regarding reports of the government’s cancelling of the FA18 Hornet’s electronic warfare protection project, in fact, read a brief relating to a quite different Defence project regarding the smart bomb. While I accept that Senator Campbell made an honest mistake in reading a document he did not understand, totally unrelated to the question asked of him, I invite him to have a second go, and respond to front-page newspaper reports that the $400 million project will be dumped as an expensive failure.
Has the electronic warfare project, the one originally asked about, been abandoned? And, if so, at what cost to taxpayers? And what does that mean for the jobs of the people working on the project in Adelaide?

Senator IAN CAMPBELL—The answer is that there are a number of programs operating under that. There are two projects, which are related. Of the project that Senator Evans is referring to, we understand that—and I do have further information that I promised to give Senator Hogg and, Mr President, you will know that I—

Senator Carr—You’ve got to read the right brief. You’ve read the wrong one instead.

Senator IAN CAMPBELL—I said that I did not have in front of me the brief that had the information.

Senator Carr interjecting—

The PRESIDENT—Senator Carr, come to order!

Senator IAN CAMPBELL—There is a brief, and it refers to two projects, and I referred to both of those projects, and I said to Senator Hogg that I would add any information I had at the end of question time, and you have a note by your right hand, Mr President, that says, ‘Yes, I do have some further information and will be seeking the call after question time.’ But since Senator Evans wants to give me the opportunity to add that information now, I will. As I have said, there is no decision made in relation to that project—

Senator Chris Evans—Which project?

Senator IAN CAMPBELL—the ALR-2002B—at this time. This element of the Hornet upgrade program aims to improve the FA18’s ability to detect radar. BAE was selected by Defence as the preferred radar warning receiver for the program. I think there was an implication made in Senator Hogg’s earlier question that it was not the preferred system, but it was in fact preferred by Defence, as the project was regarded as better value for money.

With these Defence contracts, they are seeking to ensure that the FA18’s air combat capability is enhanced. And you go through a process of developing it, integrating it and testing it. And, as I have said, that has cost $94 million. Defence now advises that the remaining schedule and technical risk in maturing the program for the Hornets is not acceptable. But the government will ensure that the air combat capability of the FA18 Hornets is not compromised.

BAE Systems Australia is developing a radar warning system, the ALR-2002, to be fitted to some ADF aircraft. BAE Systems Australia has informed Defence that it has approximately 140 people working on the radar warning projects and those engineers who are involved in the project are highly skilled and can be redeployed to other areas within BAE. So, in response to Senator Evans’s questions about potential job losses at BAE, Defence has been assured that there will, in fact, be no job losses.

Senator CHRIS EVANS—Mr President, I ask a supplementary question. I thank the minister for his second go at the question but, given that he provided information that there will not be a loss of jobs but there would be no decision taken, I am a bit confused. Has the government decided to abandon this project? If not, when will it make the decision? And what will be the cost to taxpayers if the decision is made in accordance with the advice from Defence which, as he informed us, was that the schedule risk was not supportable? So, given you have had firm advice from Defence that the project basically should be abandoned because it is a complete dud, what will be the cost to tax-
payers and when will you formally abandon the project?

Senator IAN CAMPBELL—That, of course, is a decision that is before government. I have already answered the question in relation to the costs of the project. What is remarkable is that on the one hand you have Labor, who presided over an historic reduction in Australia’s defence capabilities, a reduction in total Defence outlays from 9.4 per cent down to 8 per cent, and the greatest mismanagement of a Defence project in the history of the free world in the Collins class submarine project—one of the worst-managed projects—and on the other hand you have a government that has been steadfastly improving our Defence expenditure, improving our defence capability, improving the size and effectiveness of our Defence Force. And yet, when a process has gone through to develop an improvement for our air capabilities, the Labor Party have the audacity to criticise it. They should pull their heads in.

Indigenous Affairs

Senator BARTLETT (2.43 pm)—My question is directed to the Minister representing the Minister for Indigenous Affairs. Is the minister aware that, today, in Parliament House, Bishop Saibo Mabo, the Deputy Chair of the National Aboriginal and Torres Strait Islander Executive Commission of the National Council of Churches, launched the latest component of the ‘Make Indigenous poverty history’ campaign? Does the minister support the call of the National Council of Churches for the federal government to adopt the Millenium Development Goals to apply specifically to Australia, so that, as has been done for poverty-stricken people in other continents, the goal can be set to lift Indigenous Australians out of poverty by 2015?

Senator KEMP—Thank you, Senator Bartlett, for that question. Senator Bartlett, I think any fair-minded Australian viewing the situation of many of our Indigenous people would feel that major action had to be taken. And one of the things that I think has puzzled most Australians over the years is that the position of many people in the Indigenous community has not improved. This government, above all, is very concerned about that. You would have been aware, Senator, of the great lead, I believe, that Minister Brough is taking on this particular issue.

The thing that surprises me as an observer of the scene is how little help we get in these issues from the Labor Party, from your party and from the Greens. But we get a lot of somewhat pious comments every time this government tries to take action in this area. You will be very much aware, Senator, that a recent bill that went through this parliament dealing with providing rights to property in Indigenous towns was vigorously opposed by you and the Labor Party.

I see a government that is greatly concerned about how we can deal with the problems of Indigenous policy. I see a government that is very productive in coming forward with programs to address what are very serious issues. We would always hope for bipartisanship in this area, but the truth is that, every time I have had any involvement in this area and in putting bills through the parliament, I am often struck—

Senator Robert Ray—we noticed this over Mabo.

Senator KEMP—you treat this in a cavalier way, Senator Ray, and that is the problem with the Labor Party: basically, you treat these things in a very cavalier fashion. You are typical of the problem of Labor, to be quite frank. Let me tell you that this government is very concerned to lift the position of Indigenous people. What I would urge you to
do is to provide as much support as you can
to the very important initiatives that Minister
Brough and others have made in this area.

Senator BARTLETT—Mr President, I
ask a supplementary question. I remind the
minister of my actual question, which was
whether the government would adopt the
Millennium Development Goals to apply
them specifically to Australia so that we ap-
ply the same goals to our own people who
are in extreme poverty—Indigenous Austra-
lians—as we are signing up to for people in
other countries. If the minister could answer
the question, it would be appreciated. Is the
minister seriously suggesting that the gov-
ernment’s action in reducing the rights of
traditional owners in the Northern Territory
as to what happens on their land is going to
take them out of poverty? Is it possible for
the minister, for once, to answer a question
about the outrageous inequality faced by In-
digenous Australians without resorting to
cheap, petty partisan point-scoring?

Senator KEMP—Having been the vic-
tim, on many occasions, of cheap, petty
point-scoring from you, Senator Bartlett, I
am astonished that you would make that
comment. Governments by themselves can-
not fully address many of the complex issues
behind Indigenous disadvantage. The whole
of the Australian community, as I mentioned,
are looking for ways to make a difference.
But the churches themselves need to be pre-
pared to tackle the hard issues and what they
can contribute to turning the situation
around. I think that some of us would like
the churches to speak out more vigorously on
the issues of violence and child abuse, and
that is a subject that cannot be avoided if you
are talking about Indigenous poverty.

The Democrats are very good at trying to
cast blame and aspersions on others. The
truth is that you have been in this chamber
for a very long period of time, and the con-
tribution you have made and the initiatives
you have taken to effectively address this
problem have, I might say, been minimal.
(Time expired)

Telstra

Senator LUDWIG (2.48 pm)—My ques-
tion is addressed to Senator Coonan, Minis-
ter for Communications, Information Tech-
nology and the Arts. Does the minister recall
Senator Joyce’s demands one year ago that
the government strengthen Telstra’s universal
service obligation as a condition of his sup-
port for the sale of Telstra? Is the minister
aware that, despite these demands, Telstra
now plans to slash at least 39 payphones,
more than 10 per cent of the total, in the Ma-
ranoa electorate? Is the minister also aware
that these cuts include the removal of a num-
ber of payphones in Senator Joyce’s home
town of St George? Doesn’t this make it
clear that the minister’s earlier commitment
to Senator Joyce about maintaining services
in the bush was nothing more than a hollow
public relations exercise?

Senator COONAN—I thank Senator
Ludwig for the question, because it is gives
me the opportunity to disabuse him of the
basis upon which he puts that question. I
have seen some media reports on Telstra’s
payphone reduction program today, and there
is absolutely nothing new in them. We had a
whole session on payphones recently. Tel-
stra’s plans to remove up to 5,000 payphones
were first revealed earlier this year, not re-
cently, and Telstra is about one-quarter of the
way through its program. It has become ap-
parent that, in most cases, the removals are
where there are already multiple payphones
at one site. It is important to note that there
are more than 60,000 payphones in Australia
and, given the significant growth of mobile
phone use, it is not surprising that the use of
some of the payphones has dropped.
However, payphones continue to be an important community service for many people—I am sure Senator Joyce would agree with that; I agree with that—and that is why the government regulates Telstra to ensure that payphones are reasonably accessible to everyone in Australia. Telstra cannot just remove payphones from where they feel like doing so. There are at least 7,500 unprofitable payphones in Australia that Telstra cannot remove because of the universal service obligation, which I am sure Senator Ludwig would be very pleased to be aware of. On top of this, there are tens of thousands of profitable payphones that remain in operation. Obviously, there are surplus payphones in some areas of Australia that are not necessary for Telstra to meet its community service obligations, especially where multiple payphones are on one site.

Senator Ludwig is completely wrong when he suggests that the universal service obligation is not being met. It is abundantly clear that phones that come within the categorisation of universal service payphones cannot be removed because of the regulation. As you would be aware, Mr President, the government does not have to own Telstra to regulate it. We certainly do not have to own Telstra to ensure that the universal service obligation is maintained. The government will not allow Telstra to leave communities stranded without payphones and Telstra cannot do this under the current regulation, so we are committed to maintaining the universal obligation and it will not be watered down.

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since 2001 and the second within a year. As a result of analysing this carcass, biologists now estimate there to be a substantial number of foxes in Tasmania. We should not underestimate what it would mean if foxes became established. The cost of damage to the agricultural sector would be to the tune of millions of dollars each year and, of course, there would be unquantifiable damage to Tasmania’s natural environment.

The Howard government is committed to doing all it can to help eradicate foxes from Tasmania before they become fully established, but the Tasmanian government have prime responsibility in this area. In their budget this year the Tasmanian government cut funding to the Fox Free Tasmania Taskforce by half. Then they wrote to the Commonwealth government just a few weeks ago asking us to put in roughly the same amount that they had cut from the fox eradication budget. Talk about cost shifting at its absolute worst.

The Howard government is prepared to provide an additional $1.04 million over two years, in addition to the $472,000 set aside this financial year, to help fund the fox eradication program. But the Tasmanian Labor government must reinstate the funds that it has cut from the Fox Free Tasmania Taskforce. If it did that it would mean in excess of $3 million extra to fight the scourge of foxes in Tasmania by almost tripling the current budget. We have made a very generous offer to the government of Tasmania. We have put it on the table in an effort to address this issue.

I met recently with the Tasmanian Minister for Primary Industries and Water, Mr Llewellyn, and I was reassured by his attitude at that meeting, although I hasten to add that I have not had a formal response as yet. I am glad that in Tasmania the problem is still at a level where we can eradicate foxes for good. I look forward to hearing from Minister Llewellyn and the Tasmanian government on what can be done to fix this problem once and for all.

I might say in conclusion that the scourge of feral animals throughout Australia, particularly in Tasmania, poses a very real environmental problem, more so than any forestry or other activity that certain other parties get fixated about. If you want to look at the real environmental damage that can be occasioned, forestry is not the issue; feral animals is. I would be delighted if those who pretend to be concerned about the environment actually engaged themselves on the real issues that matter.

**Special Broadcasting Service**

Senator CAROL BROWN (2.57 pm)—My question is to the Minister for Communications, Information Technology and the Arts. Is the minister aware of the announcement by SBS of its intention to introduce advertising during its programs? Can the minister indicate whether the government supports this policy change? Is the minister aware that the SBS Act only permits ads within programs if there is ‘a natural program break’, such as at half-time in the soccer? Does the minister believe that the act allows SBS to put ads in the middle of news, current affairs, documentaries and movies? Has the minister obtained any legal advice on this issue? What steps is the minister taking to ensure that SBS complies with its obligations under the law?

Senator COONAN—I thank the senator for the question. I can tell the senator, because she raised a series of issues—

*Senator Faulkner interjecting—*

*Senator COONAN—Presumably she would like some answers—if Senator Faulkner would stop the din. SBS has a legislated cap of five minutes of advertising per hour. This legislated cap has not changed. All that*
has changed is that SBS management have announced that they will change their program break structure to allow limited program promotion and advertising within rather than between programs. SBS expect to raise additional funds from this change, which will be used to boost news and current affairs programming and increase the production of Australian multicultural drama and documentaries.

Surely this is good news both for SBS viewers—indeed, for Labor senators, if they take an interest in these matters—and certainly for the local production sector. SBS is permitted to and does, of course, show a limited amount of advertising, and has done for some time. This will simply alter the times and manner in which advertising is shown but not the quantity. Under the SBS Act, SBS may only broadcast advertisements before or after programs or during the natural program breaks. As I have said, advertising is limited to no more than five minutes in an hour. I do note that the SBS board is required to develop and publicise guidelines in relation to advertising and to include them in its corporate plan, explaining how this will contribute to the achievement of SBS’s objectives. I understand that this process is underway. It is the board’s responsibility to ensure the new arrangements will comply with the requirements of the act. I note that the SBS board has directed management to ensure the new regime, which will be implemented over the next six to 12 months, will be constructed so as to preserve the SBS viewing experience—which we all value, those of us who watch it—and to be consistent with the SBS Act and charter. So far as I am in a position to say, SBS complies with the requirements under its charter, the requirements under its act and any imputation to the contrary is simply incorrect.

Senator CAROL BROWN—Mr President, I ask a supplementary question. Can the minister explain why the government is permitting SBS to become a de facto fourth commercial television network and can the minister rule out similar plans for the ABC?

Senator COONAN—I did not hear the bit about the ABC; I did not hear the second part of the senator’s question. But it is a gratuitous and quite irresponsible comment for the senator to have suggested that SBS would become yet another commercial station. SBS has a very clear charter, a very clear act and those requirements are adhered to.

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

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS

Telstra

Senator LUDWIG (Queensland) (3.02 pm)—I move:

That the Senate take note of the answer given by the Minister for Communications, Information Technology and the Arts (Senator Coonan) to a question without notice asked by Senator Ludwig today relating to Telstra and payphones.

The minister failed to convince me but clearly failed to convince Senator Joyce. What we now have is Senator Joyce who has been conned, mugged and done over by the Minister for Communications, Information Technology and the Arts in relation to the Telstra payphones. You now have a complete list from Maranoa which tells us the sorry tale that Senator Joyce has allowed to occur. He has not only been conned by his minister; he is going to con the people out there who need these phones and who use them.
What Telstra says—clearly he and the minister must both now believe this—is that not only has the demand for payphones dropped but everyone has a mobile phone to deal with their telecommunications needs and we do not need payphones any more: we do not need payphones in the bush to be able to service requirements; we do not need them in places from Roma to Mitchell to Wallumbilla. Two payphones in St George are gone—one near the church; you might know that one, Senator Joyce, and one near the showground, where people might obviously require a phone. Of course, there is Thallon—you might know that place near William Street, Senator Joyce—there is Barcaldine, where two have gone; there is Jericho; and a swag have gone from Charleville. There is Augathella; the Augathella motel has lost its phone. Blackall has lost a swag. Then there is Longreach, Warwick, Tara—and so it goes on. Telstra has hung up on the bush and Senator Joyce has hung up on the bush. What we have is the minister, with Senator Joyce’s compliance, hanging up on the bush because the regulations are now no more than hot air. That is what they are.

We have allowed Telstra to remove 5,000 payphones and it is still planning to dump more when it gets privatised; I have no doubt about that. But Telstra, in the universal service obligation, is only required to maintain a third of its 32,000 phones, so the government has given the green light—Senator Joyce has also voted for that—to hang up on the most vulnerable in our community. We will end up with a situation where schoolchildren who do not have a mobile phone, people living in the bush who do not have a mobile phone and plenty of others—the elderly in the community—who will not be able to afford a mobile phone, who will then have been given a green light to say, ‘I don’t have any telecommunication needs at all.’ We warned Senator Joyce and we warned the minister—

Senator Joyce interjecting—

Senator Sterle interjecting—

The DEPUTY PRESIDENT—Senator Ludwig, resume your seat. Senator Joyce and Senator Sterle, it is disorderly to exchange disrespect across the chamber. That is what it sounds like to me from here. Desist from your comments across the chamber. Senator Joyce, if you want to be added to the list of speakers, I am sure you can organise it, as can Senator Sterle.

Senator LUDWIG—Clearly what the minister and Senator Joyce have signed up to is then going to rip the heart out of the bush with the removal of these payphones. What we are going to have is the minister and Senator Joyce hanging up on the bush—not only some nebulous bush but his own neighbourhood. You can imagine that payphones provide a lifeline to many people in Australian society but they also play a role in ensuring that those who cannot afford a mobile, or do not want a mobile, have the ability to access a payphone. That is another fundamental role which a telecommunications carrier such as Telstra should be able to provide to Australians.

Senator Joyce has made sure, by signing up to Senator Coonan’s Telstra plan, that we will not have the universal service obligation as good as it should be. To be fair to Senator Joyce, he was probably either sucked in by the persuasiveness of Senator Coonan or, in fact, mugged by her—one or the other. That is his choice in this. I think that, if he had known the truth, he would not have hung up on the bush. If he had been able to say, ‘This is going to be the result where we get lists out of Maranoa and not only Maranoa but places like Rockhampton—’ (Time expired)

Senator EGGLESTON (Western Australia) (3.08 pm)—Senator Ludwig is mislead-
ing the Senate when he says that Telstra has cut services to country people in need of payphones in particular and also that the agreement which Senator Joyce and others reached with the government over the sale of Telstra, which in fact has improved telephone services to regional areas, has been abrogated. Nothing could be further from the truth. In fact, the services to country areas have been greatly improved since the agreement was reached to sell Telstra. In particular, the need for payphones to be retained in regional areas has been recognised and Telstra will be maintaining payphone services where needed in country areas because Telstra is required to provide a payphone service under the universal service obligation which—as I am sure Senator Ludwig knows—means that Telstra has to maintain a certain minimum standard of phone services in regional areas. In fact, there are something like 60,000 payphones in Australia. While some payphones have been removed because they were unprofitable or because there were several payphones in the one area, nevertheless, where needed, payphones have been retained in regional Australia. Payphones continue to be recognised by the government as an important community service for many people and that is why the government requires Telstra to ensure that payphones are reasonably accessible to everyone in Australia and, in particular, to people living in regional areas.

Senator Ludwig, as I said, is doing no more than getting up to the ALP’s old trick of claiming that, with the sale of Telstra, services to people in regional areas will be diminished. Nothing could be further from the truth because we have the universal service obligation, which requires that a certain basic telephone service be available to people throughout this country. In addition, we now have other telecommunications companies coming into regional areas offering services. So, in fact, the services to people in regional areas are being not only maintained but also enhanced through competition.

In June this year, the government increased Telstra’s obligations in relation to the removal of payphones. The government also increased the responsibilities of the regulator, ACMA, in monitoring Telstra’s obligations in that regard. For Senator Ludwig’s information, Telstra is now required to undertake stricter consultation processes, identify all of its universal service obligation payphones in regional and rural areas and rewrite its universal service obligation standard marketing plan for payphones. Considerable progress has been made with these initiatives, which will, as I have said, ensure that payphones are maintained where needed in regional areas. Telstra has also engaged its low-income measures assessment committee to agree on new arrangements for payphone consultation processes and complaints mechanisms. Through the enhancement of the USO process, communities can now feel assured that they can not only identify where USO payphones are located but also feel confident that they will be adequately consulted if there is a proposal to remove or relocate a payphone. While Senator Ludwig is a great proponent of the ALP’s position that the government will reduce services to rural Australia, I can say that that is not the case and reassure those people throughout rural Australia who are listening to this broadcast that Senator Ludwig is wrong and that the government will maintain and enhance the telecommunications services provided to people of regional Australia.

Senator STEPHENS (New South Wales) (3.13 pm)—I would also like to make some comments about the answers from the Minister for Communications, Information Technology and the Arts relating to payphones. I think that if those people who are listening to this broadcast heard Senator Eggleston’s
contribution they might possibly be reassured—until they heard what is really happening. Where Senator Eggleston reassured people that, under the universal service obligation, Telstra is required to take into account the response of parliamentarians, community groups and individual members of the public, we have heard quite clearly from the community of Dysart. The mayor of Dysart, Cedric Marshall, said yesterday, as quoted in today’s Courier Mail, that Dysart would be left with insufficient payphones. That is a small community that is losing six payphones. Councillor Marshall also said:

We wrote to Telstra to make the point that we did not want them taken out of Dysart.

But that had no effect. I think that, while Senator Eggleston is being a bit disingenuous about the rhetoric of consultation, we know that that is not really what is going on and that there are communities that are losing their telephones for no good reason other than the important reason that was quoted to me in a letter from Mr Ian Peters, the Area General Manager Capital South East Region of Telstra Country Wide, when he said:

The cost of operating a payphone has continued to rise, resulting in over 50 per cent of Telstra’s payphones now losing money at a cost of approximately $30 million a year to our shareholders.

This is really about keeping Telstra shareholders happy so that we can maintain a high price for the T3 shares, and just abandoning the concerns of country people.

I live in a rural community and travel around regional New South Wales, and in the last six months I have discovered—and I am sure that there are others who would support this observation—that not only are things pretty difficult with Telstra and Telstra coverage but my mobile coverage in rural New South Wales is getting worse and worse. That is obviously a concern for people like Senator Nash, as well, because today she has lodged a petition from 441 petitioners asking for the Senate to take action to ensure that necessary funding is provided for the construction and erection of a mobile telephone reception tower in the district of Gooloogong in New South Wales.

It is not easy to look after regional electorates. It is certainly not easy to maintain a business if you are living in a regional community and it certainly does not help when every part of the telecommunications system seems to be under attack. The idea that there is some kind of potential for competition in regional communities—small communities, where there is a very thin telecommunications market—really does not stack up in the longer term. We know that payphones are an important part of the cultural life and cultural infrastructure of small communities, and we understand and acknowledge that Telstra’s plan to slash 5,000 of its 32,000 payphones in country towns and cities over the next seven months will have a dramatic effect on the lives of families continuing to struggle under this government.

An example is Jindabyne. Jindabyne is in an extraordinary situation. There is a massive influx of visitors and tourists during the ski season and there is a very real need for additional telephone services. They are being severely hit in this raft of cuts by Telstra. That is the kind of community that will see a significant impact from this really shortsighted policy. I suggest we need to look very clearly at Telstra’s obligations under the universal service obligation to ensure that payphones are maintained where they are required.

Senator RONALDSON (Victoria) (3.17 pm)—One thing we can say about Senator Ludwig is that he certainly cannot be accused of pedantry, because he was not displaying any signs of learning in that speech. In fact, it was a most inaniloquent speech.
It is very interesting that the person who would probably know most about payphones in St George, Senator Joyce, just advised me that the very process that this government put in place is working there, because the consultation that they required Telstra to undertake actually took place. The consultation was with the mayor. Senator Joyce has not had one complaint about those payphones. They were not profitable. Consultation took place with the community and they were removed.

That is exactly what we have forced ACMA and Telstra to do: make sure that when those payphones are removed it is done in consultation with the community. That is the way the system works. But what amuses me most about the Australian Labor Party is that they now have another shadow minister. Poor old Senator Conroy—my friend Senator Conroy—is now the shadow shadow shadow minister, because Senator Ludwig is now getting involved in communication matters.

Why doesn't the Labor Party give Senator Conroy a go? On this side of the chamber we think it is about time he was allowed to fulfil his position as a shadow minister. Everyone else is jumping over the top of him—Mr Tanner and Senator Ludwig. They are all having a crack at it and it is about time that he was allowed to do his job.

There are 60,000 payphones in Australia, as Senator Eggleston said. I was trying to think of the number of unprofitable payphones but I was suffering from a bit of lethologica. I think there are 7,500 payphones which cannot be removed because of the universal service obligation. But this government has made absolutely sure, when discussing any of these matters in relation to communications, that it talks to the people who are affected.

Is Senator Ludwig really saying to us that he does not think that consultation should take place? Is he saying that consultation should not take place? There was a bit of echolalia there, I will admit. Is the Australian Labor Party going to put these payphones back? Senator Ludwig, through you Deputy President, are you going to put them back? Let the record show that Senator Ludwig had his head down reading from his papers and refused to answer my question: are you going to put the payphones back? Clearly not, because Senator Ludwig has his head buried in his papers and refuses to answer the question. Is the Australian Labor Party going to change this policy by putting them back? No.

The only way you could possibly change this is to take away the community consultation. Is that what the Australian Labor Party intends doing? Is that what we are going to get? Clearly, that is the situation.

If you look at the record of this government in relation to our commitment to regional and rural Australia, it is second to none. The Minister for Finance and Administration is at the table and he knows—he is even more acutely aware than the rest of us—the extraordinary amount of government funding, taxpayer funds, that have gone into regional and rural telecommunications.

For 13 years under the previous government nothing was done. We had the analog debacle. If you look at what has been said by the Australian Labor Party over the two years since the last election, you will see that they are still totally devoid of a communications policy. There is absolutely nothing. The only thing that we have got from the Australian Labor Party that is expansive in relation to this is the fact they have so many shadow ministers. (Time expired)

Senator HUTCHINS (New South Wales) (3.22 pm)—I had the opportunity to receive a document from my colleague Senator Sterle here, and it was an excerpt from an article written by Matt Price. This is a de-
scription of what you might think would be a Queensland National Party MP:

… a riddle wrapped in a mystery inside an enigma swallowed by a joke covered in bananas sprinkled with peanuts dipped in ethanol.

It is unfair, because that does not describe a current Queensland National MP; it describes a former Queensland National MP, Bob Katter—but it could well describe most of them. I wanted to take note of Senator Coonan’s answer, because this afternoon Senator Ludwig asked a direct question of the Minister for Communications, Information Technology and the Arts in which he clearly mentioned Senator Barnaby Joyce. Where is he at the moment?

**The DEPUTY PRESIDENT**—Senator Joyce.

**Senator HUTCHINS**—Senator Joyce. Where is he? He had an opportunity to respond to the allegations made in question time about him. He had plenty of opportunity. You heard him raving over there, Mr Deputy President. You heard him getting worked up over there. He was accused of being a windbag by some on our side. He was accused of being Lord Haw-Haw by some on our side. Where is he? Where is Senator Joyce? Where is Windy? He is not down here to defend himself.

**Senator Patterson**—Mr Deputy President, on a point of order: it is not appropriate to use nicknames for Senator Joyce.

**The DEPUTY PRESIDENT**—Yes. The senator should be referred to as Senator Joyce.

**Senator HUTCHINS**—All I am referring to is the fact that there were interjections made about Senator Joyce this afternoon where he was called ‘Windbag’, where he was called ‘Windy’ and where he was called ‘Lord Haw-Haw’. These were all interjections made across the chamber to Senator Joyce. You saw him—he was getting a bit excited. But where is he this afternoon to defend himself? Where is he to defend the constituents of Maranoa? Mr Bruce Scott, the member for Maranoa, proudly states that he has nearly one-half of Queensland as his electorate—yet, under the proposals that Telstra is putting forward, 39 of those payphones are going to be taken out of that electorate.

Here he is—Senator Joyce is back. Maybe he will get an opportunity to speak and defend himself, because all he did was rave this afternoon. Where was Senator Joyce when Telstra made the decision to get rid of these 39 payphones? Two are in his own town of St George. What did he do? What has he said? He has been over there having a rant and a rave, like the windbag that he has been accused of being this afternoon. He has said nothing to defend his constituents. Let me remind you what Senator Joyce said last year when he was asked whether he was going to sell out rural Australia so that he could vote with the government to sell Telstra. Let me remind you what the sell-out merchant said last year:

I’m down for a yes—that is, to vote for Telstra—providing that when we see the legislation it provides what has been stated, with real teeth on some of these basic service issues—there can be no watering down of that.

Now Senator Joyce may get an opportunity to respond to allegations he has sold out his constituents. Mr Deputy President, call him up now. Let him have a say. All he has done is be a doormat for Telstra and a doormat for the government. Thirty-nine payphones are going to be taken out of the electorate of Maranoa, where he lives—two in his own town—and what is he doing about it? The doormat that the National Party have become, the great Country Party that they used to be, what are they doing now? They are...
standing over and letting themselves get tickled on the tummy. That is all, because the minister is not doing anything about this.

What about the people without the payphones? People will not have access to them. What about the mobile service coverage? What about the 12,000 jobs that people like Senator Joyce signed up to get rid of? Where are they going to be in regional and rural Australia? What has he done about it? All we have are these sell-out merchants in the National Party who have not looked after their constituents. We call on the government to stop these cuts. They must be stopped to make sure that regional and rural Australia can continue to operate. (Time expired)

Question agreed to.

Climate Change

Senator Nettle (New South Wales) (3.28 pm)—I move:

That the Senate take note of the answer given by the Minister for Finance and Administration (Senator Minchin) to a question without notice asked by Senator Nettle today relating to global warming.

On The 7.30 Report on Monday, Al Gore, the former Vice-President of the US, talked about the risks that climate change poses here in Australia. He talked about the low water availability that we have, which is most affected by global warming. He talked about growing water shortages in Brisbane, Sydney, Canberra and Perth. He talked about an increase in fires and about the Great Barrier Reef being killed by the warming of the temperatures and the acidification of the oceans because of the 70 million tonnes of CO₂ that are dumped there by all of us worldwide every day. He spoke of stronger storms occurring in Australia—the category 5 cyclones like we saw in March and April. He said:

All of these things are predicted to get worse still until we turn the earth’s thermostat down, which means reducing the pollution that’s causing it to go up.

Last week, in response to the latest figures from the Bureau of Meteorology about drought and rainfall, my colleague Senator Milne talked about climate change not being the only cause of the dry weather and the extended droughts in Australia but as exacerbating the problem, about Melbourne having its driest winter in 20 years, regional water storage levels being low, Perth having record low winter rainfall, much of New South Wales remaining in drought, Canberra’s water storage being low and the scarcity of water in south-east Queensland that we all saw being a feature of the state election campaign up there last weekend.

Senator Milne said that it is time for the Prime Minister to take climate change seriously. It is the greatest security threat of our time, and failing to act now with a sense of urgency will condemn Australia to economic and social dislocation along with environmental disaster. She said that farmers are already leaving the land because of climate change. Perhaps the Prime Minister should start talking to them.

While the latest figures for Sydney from the Bureau of Meteorology show that the winter that we have just had is the ninth consecutive winter with above-average temperatures, to the west of the Great Divide in New South Wales we have had a winter of extremes, with hot days and cold nights. It has been both the 10th warmest winter on record and the 12th coldest winter on record. Last month was a very dry month across the state to the west of the Great Divide, and much of New South Wales is still in drought.

What is going on in relation to climate change in New South Wales? Perhaps not just the Prime Minister but also the Labor Premier of New South Wales, Premier Morris Iemma, need to see Al Gore’s film, be-
cause the Labor government in New South Wales has proposed 15 new coalmines, 10 expansions of existing coalmines and a new coal loader in Newcastle. The coal lobby—that is, the New South Wales Minerals Council and the Minerals Council of Australia—predict that, by 2020, coal consumption will be 50 per cent higher than it is today.

The proposed mine at Anvil Hill in the Hunter Valley will produce up to 10.5 million tonnes of coal a year and, when burnt, this will produce greenhouse gas emissions greater than the emissions from the entire transport sector of New South Wales. The new coal loader proposed for Newcastle will increase the coal exports of New South Wales by 66 million tonnes a year, twice the amount used by New South Wales in a year. As a result of this and other expansions, the capacity of Newcastle, which is already the world’s largest coal export port, will grow by 80 million tonnes a year to 166 million tonnes a year.

Between 1996 and 2001, the number of coalmining jobs in the Lower Hunter Valley in New South Wales fell by 27 per cent, and in the rest of the Hunter the number fell by 18 per cent. Mining of all kinds, but mostly coalmining, makes up just two per cent of employment in the Lower Hunter and eight per cent in the rest of the Hunter. At the end of 2004, there were 99 mines producing black coal in Australia and 51 of them were in New South Wales. New South Wales and Queensland produce nearly 97 per cent of Australia’s saleable output of black coal as well as 100 per cent of Australia’s black coal exports.

Electricity generation produces one-third of Australia’s greenhouse gas emissions and 97 per cent of these emissions are produced by just 24 coal-fired power stations. The greenhouse pollution produced by these power stations is equivalent to the annual emissions of about 40 million cars—that is, four times Australia’s actual car fleet. Coal accounts for approximately 35 per cent of Australia’s greenhouse gas emissions and is the fastest-growing source of greenhouse gas emissions in Australia. So in New South Wales we need to see the proposal for 15 new coalmines set aside and we need to invest in renewable energy so that we can be part of a future for New South Wales. (Time expired)

Question agreed to.

PETITIONS

The Clerk—A petition has been lodged for presentation as follows:

Mobile Phone Services
To the Honourable President and Members of the Senate in Parliament assembled,
The Petition of the undersigned shows:
That in the township and district of Gooloogong, NSW, there is poor to nil mobile telephone reception. This is a matter of grave concern to the undersigned given the need for safety in a remote place like ours, the need for personal and business communication, and the need for travellers to be able to communicate whilst passing through this area.
Your petitioners request that the Senate:
Provide the necessary funding for the construction and erection of a mobile telephone reception tower in our district.

by Senator Nash (from 441 citizens).
Petition received.

NOTICES

Presentation

Senators Hogg, Ludwig, McLucas and Moore to move six sitting days after today:
That the Senate—
(a) congratulates the Beattie Government on its re-election on Saturday, 9 September 2006;
(b) notes that the Liberal Party campaign was dominated by self-flagellation and that
the National Party campaign was clearly spring-bogged; and

(c) recognises government senators for their contribution through ‘Dorothy Dixers’ and speeches in the Senate in maintaining Labor in government in Queensland.

Senator Milne to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) 27 September 2006 is the 50th anniversary of the first of the nuclear tests at Maralinga,

(ii) the nuclear tests resulted in fallout over most of Australia, and especially contaminated great tracts of traditional land, transforming an independent and physically-wide ranging people into a semi-static and dependent group, the damage being radiological, psychosocial and cultural,

(iii) the Royal Commission into British Nuclear Tests in Australia concluded that, at Maralinga, ‘attempts to ensure Aboriginal safety’ during the tests ‘demonstrate ignorance, incompetence and cynicism on the part of those responsible for that safety’,

(iv) the test site remains radioactive and that there are unresolved issues about compensation for the traditional owners,

(v) approximately 16 000 servicemen exposed to radiation during the tests never received recognition of hazardous service and survivors receive limited ongoing support, and the high mortality and illness rates of these men have not yet been adequately acknowledged or explained,

(vi) the Government breached its own standards for the disposal of long-lived radioactive waste disposal by burying plutonium-contaminated debris in shallow, unlined trenches,

(vii) the Australian Radiation Protection and Nuclear Safety Agency described the ‘clean-up’ as marred by a ‘host of indiscretions, short-cuts and cover-ups’;

(viii) the radioactive waste legacy will inevitably be a cost unfairly borne by future Australians; and

(b) calls on the Government to recommit to international nuclear non-proliferation, including ruling out the export of Australian uranium to countries that are not signatories to the Nuclear Non-Proliferation Treaty and ruling out the development of uranium enrichment plants in Australia.

Senator Chris Evans to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to amend the Social Security Act 1991, to assist those who have had their pension cut because of lengthy delays in the construction of a new home due to the national shortage of building tradespeople. Social Security (Helping Pensioners Hit by the Skills Shortage) Bill 2006.

Senator Bartlett to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) 26 September 2006 marks the 5th anniversary of the guillotining through the Senate of seven separate pieces of legislation amending the Migration Act 1958,

(ii) some aspects contained in these pieces of legislation have caused enormous suffering and hardship to asylum seekers who were fleeing persecution, and

(iii) 5 years on, numerous reports and inquiries have uncovered multiple cases of damaged lives due to flaws in the legislation and in the culture of the Department of Immigration and Multicultural Affairs, and repeated failures to ensure that the rights of asylum seekers and refugees are protected and that their cases are processed fairly;

(b) expresses the view that some of the changes made to the Migration Act in the
wake of the Tampa incident undermined basic legal principles such as equality before the law, procedural fairness, transparent accountability of the actions of Commonwealth officers and protecting against refoulement; and

(c) calls for reform of the Migration Act to ensure greater fairness, transparency, accountability and compliance with Australia’s obligations under international law, and an end to the Pacific solution, mandatory detention and temporary protection visas.

Senator Coonan to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to amend the law relating to broadcasting, and for other purposes. Broadcasting Legislation Amendment (Digital Television) Bill 2006.

Senator Coonan to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to amend the Broadcasting Services Act 1992, and for other purposes. Broadcasting Services Amendment (Media Ownership) Bill 2006.

Senator Ellison to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to amend the Crimes Act 1914, and for related purposes. Crimes Amendment (Bail and Sentencing) Bill 2006.

Senator Minchin to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to amend the law relating to prudential regulation for the purpose of facilitating trans-Tasman cooperation, and for related purposes. Financial Sector Legislation Amendment (Trans-Tasman Banking Supervision) Bill 2006.

Senator Humphries to move on the next day of sitting:

(1) That the following matter be referred to the Community Affairs Committee for inquiry and report by 27 October 2006:


(2) That in undertaking this inquiry the committee may consider:

(a) any relevant bill or draft bill introduced or tabled in the Senate or presented to the President by a senator when the Senate is not sitting; and

(b) any other relevant document.

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

That the Senate—

(a) notes the imposition of new restrictions on the distribution of foreign news in China;

(b) condemns any move by the Chinese Government to impose unfair restrictions on foreign press freedom; and

(c) calls on the Minister for Foreign Affairs (Mr Downer) to investigate the matter.

LEAVE OF ABSENCE

Senator Ferris (South Australia) (3.34 pm)—by leave—I move:

That leave of absence be granted to the following senators:

(a) Senator Ian Campbell for 14 September 2006, on account of government business overseas;

(b) Senator Vanstone for 13 September 2006 and 14 September 2006, on account of government business overseas; and

(c) Senator Johnston for 14 September 2006, on account of parliamentary business overseas.

Question agreed to.

NOTICES

Postponement

The following items of business were postponed:
General business notice of motion no. 543 standing in the name of the Leader of the Australian Democrats (Senator Allison) for today, relating to climate change in the Pacific region, postponed till 14 September 2006.

General business notice of motion no. 547 standing in the name of Senator Bartlett for today, relating to Islamophobia in Australia, postponed till 2 sitting days after today.

COMMITTEES
Employment, Workplace Relations and Education Committee

Extension of Time
Senator FERRIS (South Australia) (3.35 pm)—At the request of the Chair of the Employment, Workplace Relations and Education Committee (Senator Troeth), I move:

That the time for the presentation of the report of the Employment, Workplace Relations and Education Committee on the provisions of the Higher Education Legislation Amendment (2006 Budget and Other Measures) Bill 2006 be extended to 9 October 2006.

Question agreed to.

Economics Committee

Meeting
Senator FERRIS (South Australia) (3.36 pm)—At the request of the Chair of the Economics Committee (Senator Brandis), I move:

That the Economics Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 14 September 2006, from 3.30 pm, to take evidence for the committee’s inquiry into the provisions of the Tax Laws Amendment (2006 Measures No. 4) Bill 2006.

Question agreed to.

FOSTER CARE WEEK
Senator BARTLETT (Queensland) (3.36 pm)—by leave—I, and also on behalf of Senators Siewert and McLucas, move the motion as amended:

That the Senate—

(a) notes that:
(i) 10 September to 16 September 2006 is Foster Care Week in New South Wales,
(ii) foster carers need access to training particularly to assist them to work with the growing number of children with special needs coming into their care,
(iii) approximately 80 per cent of the children coming into care have significant emotional and social issues and disabilities, and
(iv) many foster care agencies in Australia are struggling to meet the demands of foster carers and children in their care, due to the serious funding constraints and the lack of foster and kinship families;
(b) urges the responsible governments to:
(i) provide better funding and support to ensure that foster carers are given the specialised needs training they urgently require to cope with the growing number of children with special needs who are placed in their care, and
(ii) reassess funding mechanisms to better align subsidy levels with the cost of caring, and
(iii) give better recognition to the role of kinship carers in funding, legislation and regulation; and
(c) acknowledges the exceptional services provided by foster and kinship carers.

Question agreed to.

RELIGIOUS INTOLERANCE AND RACIAL DISCRIMINATION
Senator STEPHENS (New South Wales) (3.37 pm)—by leave—I, and also on behalf of Senator Mason, move the motion as amended:

That the Senate—

(a) notes, with deep concern, the existence of religious intolerance and racial discrimination in Australia and the threat which this poses to the cohesion of Australian society;
(b) condemns all manifestations of racism wherever they occur; and
(c) expresses its unequivocal condemnation of all forms of racial and ethnic hatred, persecution and discrimination.

Question agreed to.

**MIGRATION LEGISLATION AMENDMENT (COMPLEMENTARY PROTECTION VISAS) BILL 2006**

**First Reading**

Senator BARTLETT (Queensland) (3.37 pm)—I move:
That the following bill be introduced: A Bill for an Act to introduce complementary protection visas, and for related purposes.

Question agreed to.

Senator BARTLETT (Queensland) (3.38 pm)—I move:
That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

**Second Reading**

Senator BARTLETT (Queensland) (3.38 pm)—I move:
That this bill be now read a second time.

I seek leave to table the explanatory memorandum and have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

This Private Senator’s Bill is one of a number of Migration Act Amendment Bills which I will table in the course of this parliamentary year. This bill seeks to introduce a formalised system of complementary protection into the Migration Act to provide an alternative system of protection for those who do not meet the Refugee Convention definition of a refugee, but who have compelling humanitarian or safety reasons why they cannot return to their country of origin.

This gap is due to the fact that the protection of the Refugee Convention does not always cover a range of situations. For example, cases where people:

- are stateless;
- have come from a country enveloped in civil war;
- have been subject to gross violations of their human rights for reasons other than those in the Refugee Convention;
- would face torture on return to their country;
- have come from a country where the rule of law and order no longer applies.

The Democrats believe that a statutory model of complementary protection will provide a clearer, fairer and more efficient mechanism to deal with many of the difficult cases which currently have nowhere else to go but to the desk of the Immigration Minister as a request for the exercise of ministerial discretion.

The purpose of this bill is to specifically address a significant inadequacy in our immigration law which has seen hundreds of people suffer needlessly, often for very long periods of time, while their cases are being determined through a system which lacks any transparency or certainty.

To appeal to the Minister to use the discretion under section 417 of the Migration Act, an applicant must first go through the refugee status determination system and have failed at the primary and review stages. This system is grossly inefficient and a waste of resources. It is a system that is neither accountable nor transparent and is open to abuse. It is also not a system which provides as reasonable guarantee that the protection needs of its applicants will be properly and independently assessed. Many of the problems with the system of ministerial discretion have been detailed at length in the report of the Senate Select Committee on Ministerial Discretion on Migration Matters, which was tabled in March 2004.

The grounds for the granting of Complementary Protection would be derived from our international treaty obligations, in particular the Convention Against Torture and the two Stateless Conventions which set out specific obligations for States.
This is not a system that is new and untested. In fact Complementary Protection has a long history in most other western countries, including the United Kingdom, Canada and the United States of America. The European Union is moving to adopt a consistent form of Complementary Protection as part of its process to harmonise asylum law.

Numerous reports and inquiries have seen submitters argue for an alternative system of protection for asylum seekers and refugees. Australia also noticeably lacks a Bill of Rights or Human Rights Act under which protection might otherwise be availed.

The Democrats believe that this legislation would ultimately produce better results in a faster and more efficient process which will not see people languishing in indefinite detention nor suspended in limbo for years while waiting for a just outcome. It will also seek to ensure that the rights of asylum seekers and refugees are able to be protected under law, rather than relying on an opaque system of ministerial discretion with no form of legal redress.

I commend this bill to the Senate.

I seek leave to table four other explanatory memoranda to accompany other bills relating to migration reform which I introduced over the last month. I also seek leave to continue my remarks later.

Leave granted; debate adjourned.

EDUCATION IN AFGHANISTAN

Senator Allison (Victoria—Leader of the Australian Democrats) (3.38 pm)—I move:

That the Senate—

(a) notes the reported comments by President Karzai, on 8 March 2006, that ‘From fear of terrorism, from threats of the enemies of Afghanistan, today as we speak, some 100,000 Afghan children who went to school last year, and the year before last, do not go to school’;

(b) notes the report by Human Rights Watch, Lessons in Terror: Attacks on Education in Afghanistan, which reports that:

(i) attacks against schools, teachers and students in Afghanistan have risen markedly in late 2005 and the first half of 2006, with more attacks having been reported in the first half of 2006 than in all of 2005, including at least 17 assassinations of teachers and education officials, and more than 204 attacks on teachers, students and schools which have led to hundreds of schools being shut down or destroyed,

(ii) the majority of primary-school-age girls in Afghanistan remain out of school and, at the secondary level, gross enrolment rates were only 5 per cent for girls in 2004, compared with 20 per cent for boys, and

(iii) attacks on education have a disproportionate effect on the education of girls as some attacks are motivated by ideological opposition to girls’ education specifically, and parents often have a lower threshold for pulling their daughters out of school than boys, given greater social restrictions on girls’ movements and legitimate concerns about sexual harassment and violence; and

(c) calls on the Federal Government to use gender equality in access to education as one measure of the success of efforts by the Afghan Government, supported by the international community, to rebuild security and stability in Afghanistan.

Question agreed to.

MR BARRY HEMSWORTH

Senator Nettle (New South Wales) (3.39 pm)—I move:

That the Senate—

(a) notes that Mr Barry Hemsworth has been the elected union delegate at Botany Cranes in Sydney for the past 10 years;

(b) congratulates Mr Hemsworth on his commitment to ensure the safety of all workers at the site;

(c) condemns the decision by Botany Cranes to sack Mr Hemsworth on the basis of his
insistence that employees be properly trained;
(d) condemns the fact that other employees face fines of up to $28,600 each if they attend a meeting to discuss Mr Hemsworth’s sacking on the basis of his insistence that employees are properly trained;
(e) notes that Mr Hemsworth and other employees in similar situations no longer have access to unfair dismissal proceedings if they are in business with fewer than 100 employees; and
(f) calls on the Government to repeal the unfair industrial relations laws that see employees face intimidation, unsafe work practises with no avenues of redress.

Question negatived.

CHILD CARE

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.39 pm)—I move:

That the Senate—

(a) notes, with concern:
(i) that child care workers remain among the lowest paid Australians, earning as little as $541 per week,
(ii) that women working in child care are likely to accumulate some of the lowest levels of superannuation in Australia,
(iii) that a politician who entered parliament at the 2004 election, aged 30, and who retires at 65 would have received a superannuation lump sum of $670,211 but would now receive a lump sum of $1,117,000 under the new 15 per cent contribution regime, and
(iv) the statement by the Prime Minister (Mr Howard) that low wages adversely affect the gene pool of those drawn to particular occupations; and
(b) calls on the Government to address the wages paid to child care workers before supplementing the salary advantages paid to politicians.

Question put.

The Senate divided. [3.44 pm]
(The President—Senator the Hon. Paul Calvert)

Ayes............ 7
Noes............ 47
Majority........ 40

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

NOES
Adams, J. Barnett, G.
Bernardi, C. Brandis, G.H.
Brown, C.L. Calvert, P.H.
Campbell, G. * Chapman, H.G.P.
Colbeck, R. Crossin, P.M.
Eggleston, A. Ellison, C.M.
Faulkner, J.P. Ferguson, A.B.
Ferris, J.M. Fifield, M.P.
Forshaw, M.G. Hogg, J.J.
Humphries, G. Hurley, A.
Hutchins, S.P. Joyce, B.
Kirk, L. Lightfoot, P.R.
Ludwig, J.W. Lundy, K.A.
Marshall, G. Mason, B.J.
McEwen, A. McGauran, J.J.J.
McLucas, J.E. Moore, C.
Nash, F. O’Brien, K.W.K.
Parry, S. Patterson, K.C.
Payne, M.A. Polley, H.
Ray, R.F. Ronaldson, M.
Stephens, U. Sterle, G.
Troeth, J.M. Trood, R.B.
Watson, J.O.W. Webber, R.
Wortley, D.

* denotes teller

Question negatived.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw to the attention of honourable senators the presence in the gallery of former distinguished senator the Hon. Tony Messner, minister of the Crown and former administrator of Norfolk Island. Welcome back to the Senate.

Honourable senators—Hear, hear!
MACQUARIE MARSHES

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

That the Senate calls on the Government to review the threats to the Macquarie Marshes, New South Wales, as a matter of urgency and to take due action to rescue the marshes as a national environmental priority.

Question put.

The Senate divided. [3.52 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes............ 29
Noes............. 32
Majority........ 3

AYES

Allison, L.F. Bartlett, A.J.J.
Brown, B.J. Brown, C.L.
Campbell, G.* Crossin, P.M.
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. Nettle, K.
O’Brien, K.W.K. Polley, H.
Ray, R.F. Siewert, R.
Stephens, U. Sterle, G.
Stott Despoja, N. Webber, R.
Wortley, D.

NOES

Abetz, E. Adams, J.
Barnett, G. Bernardi, C.
Brandis, G.H. Calvert, P.H.
Campbell, I.G. Chapman, H.G.P.
Colbeck, R. Ellison, C.M.
Ferguson, A.B. Ferris, J.M.*
Fierravanti-Wells, C. Fifield, M.P.
Heffernan, W. Humphries, G.
Joyce, B. Kemp, C.R.
Lightfoot, P.R. Macdonald, I.
Mason, B.J. McGauran, J.J.J.
Minchin, N.H. Nash, F.

Parry, S. Patterson, K.C.
Payne, M.A. Ronaldson, M.
Santoro, S. Troeth, J.M.
Trood, R.B. Watson, J.O.W.

PAIRS

Bishop, T.M. Eggleston, A.
Carr, K.J. Coonan, H.L.
Conroy, S.M. Boswell, R.L.D.
Evans, C.V. Johnston, D.
Murray, A.J.M. Vanstone, A.E.
Sherry, N.J. Macdonald, J.A.L.
Wong, P. Scullion, N.G.

* denotes teller

Question negatived.

NATIONAL DISABILITIES ADVOCACY PROGRAM REVIEW 2006

Senator SIEWERT (Western Australia) (3.55 pm)—I move:

That there be laid on the table by the Minister representing the Minister for Families, Community Services and Indigenous Affairs, no later than 3.30 pm on Thursday, 14 September 2006, the National Disabilities Advocacy Program Review 2006, carried out by Social Options Australia.

Question put.

The Senate divided. [3.57 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes............ 30
Noes............. 32
Majority........ 2

AYES

Allison, L.F. Bartlett, A.J.J.
Brown, B.J. Brown, C.L.
Campbell, G.* Crossin, P.M.
Faulkner, J.P. Fielding, S.
Forshaw, M.G. Hogg, J.J.
Hurley, A. Hutchins, S.P.
Kirk, L. Ludwig, J.W.
Lundy, K.A. McEwen, A.
Milne, C. McLucas, J.E.
Moore, C. Moore, C.
Nettle, K. Nettle, K.
O’Brien, K.W.K. Polley, H.
Parry, S. Ray, R.F.
Patterson, K.C. Siewert, R.
Stott Despoja, N. Stephens, U.

CHAMBER
That the Senate—

(a) notes that:

(i) it has been 19 months since Ms Corinella Rau was found imprisoned unlawfully in the Baxter detention centre,

(ii) Ms Rau has still not received compensation for her wrongful imprisonment or the effects of her treatment in detention,

(iii) the Government appears to be effectively forcing Ms Rau to sue it in court, rather than negotiating an agreement or agreeing to an arbitrated settlement, and

(iv) this same issue was raised in the Senate more than 6 months ago; and

(b) calls on the Government to:

(i) negotiate a generous compensation agreement with Ms Rau for the ordeal it inflicted upon her,

(ii) ensure that this compensation agreement is completed within 3 months, and

(iii) avoid a situation where Ms Rau is forced to take legal action and endure years in the courts.

Question put.

The Senate divided. [4.00 pm]

(The President—Senator the Hon. Paul Calvert)

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<th>AYES</th>
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AYES

Allison, L.F. Bartlett, A.J.J.
Brown, B.J. Brown, C.L.
Campbell, G. * Crossin, P.M.
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. Nettle, K.
O’Brien, K.W.K. Polley, H.
Ray, R.F. Siewert, R.
Stephens, U. Sterle, G.
Stott Despoja, N. Webber, R.
Wortley, D.

NOES

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

PAIRS
Bishop, T.M. Eggleston, A.
Carr, K.J. Coonan, H.L.
Conroy, S.M. Boswell, R.L.D.
Evans, C.V. Johnston, D.
Murray, A.J.M. Vanstone, A.E.
Sherry, N.J. Macdonald, J.A.L.
Wong, P. Scullion, N.G.

* denotes teller

Question negatived.

NOTICES
Presentation

Senator Patterson to move on the next day of sitting:

(1) That the following matter be referred to the Community Affairs Committee for in-
quiry and report by 27 October 2006:
Legislative responses to recommendations of the reports of the Legislation Review
Committee on the Prohibition of Human
Cloning Act 2002 and the Research In-
volving Human Embryos Act 2002 (the
Lockhart review).

(2) That in undertaking this inquiry the com-
mittee may consider any relevant bill or
draft bill based on the Lockhart review in-
troduced or tabled in the Senate or pre-
sented to the President by a senator when
the Senate is not sitting.

COMMITTEES
Scrutiny of Bills Committee
Alert Digest

Senator ROBERT RAY (Victoria) (4.03
pm)—I lay on the table Scrutiny of Bills
Alert Digest No. 10 of 2006, dated 13 Sep-
tember 2006. I move:

That the Senate take note of the document.
In tabling the committee’s Alert Digest No.
10 of 2006, I would like to draw senators’
attention to two bills on which the committee
has made comment: the Fuel Quality Stan-
dards (Renewable Content of Motor Vehicle
Fuel) Amendment Bill 2006 and the Law and
Justice Legislation Amendment (Marking of
Plastic Explosives) Bill 2006. The committee
has noted that both bills provide for indefi-
nite commencement of certain provisions.
The committee’s longstanding view is that
parliament is responsible for determining
when laws are to come into force and that the
commencement provisions should contain
appropriate restrictions on the period during
which provisions might commence.

The Fuel Quality Standards (Renewable
Content of Motor Vehicle Fuel) Amendment
Bill 2006 provides that the amendments in
schedule 1 to that bill would commence only
on ‘a day or days to be fixed by proclama-
tion’. The committee is wary of provisions
which enable legislation to commence on a
date to be ‘proclaimed’ rather than on a de-
terminable date or within a specified time.

The committee’s preferred approach is re-
lected in the Office of Parliamentary Coun-
sel Drafting Direction No. 1.3, which states
that a clause which provides for commence-
ment by proclamation should also specify a
period or date after which the act either
commences or is taken to be repealed. It also
provides that any proposal to defer com-
menecement for more than six months after
assent should be explained in the explanatory
memorandum.

The committee is equally wary of provi-
sions which link commencement to an uncer-
tain event. The committee accepts the need
to defer commencement in certain circum-
cstances, such as the entering into force of an
international convention—as in the case of
the Law and Justice Legislation Amendment
(Marking of Plastic Explosives) Bill 2006—
or the passage of complementary legislation.
However, the committee generally expects to
see a fixed date, or a period of time, by which that event must occur to trigger either commencement or repeal. The committee also expects the explanatory memorandum accompanying a bill to explain the reasons for including uncertain commencement provisions.

The committee also notes that, in this particular case, the government announced its intention to accede to the convention—the Convention on the Marking of Plastic Explosives for the Purpose of Detection—in 2004, some two years ago. While the committee appreciates that such processes can be lengthy, this merely underscores the committee’s concern regarding the degree of uncertainty created in the wider community by such open-ended commencement provisions. The committee would prefer to see appropriate safeguards incorporated in the bill itself or a clear statement of the time frame within which the convention is expected to come into force included in the explanatory memorandum.

Question agreed to.

Senators’ Interests Committee
Documents

Senator WEBBER (Western Australia) (4.06 pm)—On behalf of the Committee of Senators’ Interests, I table documents, including correspondence and minutes of the committee, in relation to two matters considered by the committee over recent weeks. I move:

That the Senate take note of the documents.

On 11 July 2006, Senator the Hon. Eric Abetz wrote to the committee raising a number of issues in relation to statements of interests lodged with the Registrar of Senators’ Interests by the Leader of the Australian Greens, Senator Bob Brown. These issues concerned a bank account operated by Senator Bob Brown to receive donations to help finance legal action to stop logging in the Wielangta State Forest. Senator Abetz asked the Committee of Senators’ Interests to consider the following matters: (1), the issue of Senator Brown effectively soliciting anonymous donations by permitting online donors to withhold their names, and by not insisting that donors making direct bank transfers provide their names; (2), the issue of tardy disclosures; and (3), the issue of whether Senator Brown should have registered the proceeds of individual items at a fundraising auction.

In addition to asking the committee to examine and comment on these issues, Senator Abetz also asked the committee to consider a number of punitive or corrective actions. The committee has carefully considered the issues raised by Senator Abetz, including whether there were grounds for the committee to raise any of the issues as matters for inquiry by the Privileges Committee as possible contempts. The committee by majority decision resolved not to proceed down this path but to consider Senator Abetz’s correspondence as a submission made under standing order 22A(1) in relation to the form and content of the register and the registering of interests more generally.

As the committee pointed out in its reply to Senator Abetz, which I have just tabled, its role is not to police compliance by individual senators with the resolutions. It does not have enforcement powers. Compliance is encouraged through publication of the register on the one hand and, in serious cases, by the contempt jurisdiction of the Senate. The committee’s explanatory notes express the principle, inherent in the resolutions agreed to in 1994, that final decisions on the appropriate interpretation of the resolution are the responsibility of individual senators. Senators are responsible for making their own judgements about whether a conflict of interest exists or may appear to exist.
The relevant parts of resolution 3 on registrable interests require that senators’ statements:

shall cover the following matters:

... ... ...

(k) gifts valued ... at $300 or more where received from other than official sources ...

There is thus no explicit requirement for the individual sources of gifts to be identified. If senators choose not to identify the source of registrable gifts or, alternatively, choose to accept registrable gifts from anonymous sources, this is an exercise of judgement for which the senators concerned are responsible.

Members of the committee are mindful, however, that despite the emphasis on individual senators’ responsibility to interpret the resolutions and register their interests accordingly, those resolutions do not require the source even of substantial gifts to be identified. Therefore the committee intends to examine over the next few months whether the definition of registrable gifts under the resolutions, as currently framed, strikes the appropriate balance between senators’ private interests and their public duties.

In the meantime, the committee has decided to amend its explanatory notes for the guidance of senators in two respects. The first is to remind senators that it is their responsibility to arrange their affairs to ensure that they receive timely information from third parties so as to avoid being found in contempt by knowingly failing to comply with the time frame for notifying alterations of interests. The Senate recently agreed to amend the resolutions to extend this time frame from 28 to 35 days as recommended by this committee earlier this year in its second report of 2006. The recommendation was prompted, in part, by difficulties experienced by senators whose share portfolios are managed by third parties which provide periodic activity reports that may involve notifiable alterations. The same principle applies to statements from financial institutions which may contain details of registrable interests such as monetary gifts.

The committee also reminds senators that interests clearly involving two distinct registrable interests should be registered under the two headings. It has added another example to the relevant part of the explanatory notes to help senators make these decisions.

Time does not permit me to go into the detail of the committee’s response to Senator Abetz with regard to his requested remedies, but senators may now read it for themselves. It is important to stress that the committee is not empowered to enforce compliance with the resolutions by individual senators. Its role under standing order 22A is to oversee and report on arrangements for the compilation and maintenance of and accessibility to the register.

The second matter considered by the committee was the unauthorised disclosure of Senator Abetz’s correspondence to the committee, which was quoted in detail in an article by Louise Dodson, entitled ‘Brown blip growing on Coalition’s radar’, published in the Sydney Morning Herald on Tuesday, 8 August 2006.

In accordance with the resolution of the Senate of 20 June 1996, which sets out procedures to be followed by committees affected by unauthorised disclosure of proceedings, documents or evidence, the committee took appropriate steps to identify the source of the unauthorised disclosure. The article appeared on the first day of the spring sittings before the correspondence, along with other meeting papers, had even been distributed to committee members. In view of this, committee members were not asked for an explanation for the disclosure, but explanations were sought from the committee’s
staff and Senator Abetz. I have tabled those responses.

Senator Abetz advised the committee that a copy of the correspondence was inadvertently given to the journalist concerned by a temporary member of his staff filling in for his press secretary who was then on leave. Senator Abetz outlines the circumstances in his response and also conveys the unidentified staff member’s apology to the committee.

All senators will be aware that the unauthorised disclosure of documents submitted to a committee may be treated by the Senate as a contempt. They will also know that the Privileges Committee has conducted numerous inquiries into unauthorised disclosures of committee proceedings involving varying levels of harm caused as a result. The 1996 order of the Senate I referred to earlier was augmented last year by a sessional order which requires committees affected by unauthorised disclosures to make a more rigorous assessment before raising them formally as matters of privilege. The sessional order was adopted after a comprehensive inquiry by the Privileges Committee into the whole issue of unauthorised disclosures. The sessional order includes more detailed guidance for committees on the types of matters which should or should not be raised as matters of privilege. The Senators’ Interests Committee has applied these orders to the case in question. Although the committee was able to identify the source of the unauthorised disclosure, and although the publication of the article pre-empted its consideration of the correspondence and added a further level of difficulty to the matter, thereby affecting the committee’s ability to deliberate dispassionately, its ultimate decision to publish the correspondence by tabling it today places this case within the category identified in the sessional order as not warranting raising as a matter of privilege. In coming to this decision the committee was greatly assisted by the guidance provided by the two orders and did not find it necessary to seek advice from the Privileges Committee as contemplated in the sessional order. I commend the documents tabled on behalf of the Senators’ Interests Committee to the close scrutiny of all senators.

Senator LIGHTFOOT (Western Australia) (4.16 pm)—I wish to address the first of the subject matters of which Senator Webber took note here this afternoon, particularly with respect to Senator Brown’s lack of disclosure of relevant interests to the Register of Senators’ Interests, dealt with in the document that has just been tabled.

Recently, Senator Brown disclosed that his RJ Brown Forest Account, Wielangta Fighting Fund, had received $17,000 in five anonymous donations. They were in the amounts of $10,000, $5,000, $1,000 and two of $500. When this was exposed, Senator Brown traced the donations and subsequently provided the names—only the names—of four donors. But, in reality, no-one knows who, for instance, ‘Michael Emery’ is—someone who anonymously gave Senator Brown $10,000—or who most of the other donors are. Senator Brown still says that he has not been able to trace who gave him $1,000. To comply with the spirit of the disclosure regime, Senator Brown should give not just the names but also the addresses of all donors to his fund. If he cannot say who anonymously gave him the $1,000, my view is that he should also donate that amount to consolidated revenue. I also draw the Senate’s attention to a privacy consent on the Wielangta Fighting Fund’s website eGive, or donations page, which allows donors to have their name and contact details withheld from the fund. Surely this is contrary to the spirit of the Senate’s disclosure regime.
Another issue concerns Senator Brown’s failure to disclose the purchasers of his ‘personal effects’ at a fundraising auction last February. In an article reproduced on the Bob Brown Wielangta Landmark Trial Website, Senator Brown boasts that, while takings for the auction were anticipated to be between $35,000 and $50,000, a sum much larger was obtained, namely $75,000. He goes on to boast that this was because of a donation element in all the bids. In other words, Senator Brown effectively obtained donations of $25,000 to $40,000 but has failed to disclose the identity of the ‘donors’.

The inflated prices paid for the Brown memorabilia included $700 for a constituent’s letter and $1,000 for a circular rock. This rock was reportedly returned to Senator Brown. How can this not amount to a gift of $1,000? Why should the donor not be disclosed? Because fundraising auctions can be a means of laundering donations, the Australian Electoral Commission requires political parties to disclose successful auction bidders and their bids. Surely Senator Brown should do the same to the register.

Another concern is the tardiness of Senator Brown’s disclosures. His disclosure, received by the Register of Senators’ Interests on 26 May 2006, details over $160,000 in donations to the Wielangta Fighting Fund between 1 July 2005 and 30 April 2006. Donations received as early as July 2005 were not disclosed until January 2006. For instance, a $20,000 donation from Tara Hunt, a Canadian living in the United States, on 25 August 2005 was not disclosed until January 2006—that is, nearly five months later. And donations made as early as January 2006 were not disclosed until May 2006. Incredibly, on 31 July 2006, Senator Brown belatedly disclosed a $12,500 loan made to him some 18 months earlier, in January 2005. Senate resolutions require changes of interests to be notified to the register within 35 days of the change occurring. While some latitude has traditionally been shown towards senators who have missed the deadline by even a month or two, I am not aware of a senator being so tardy in disclosing so many items.

In light of the above cases of Senator Brown flouting the spirit of the disclosure regime, I welcome the move by the Committee of Senators’ Interests to examine whether the current definition of gifts is appropriate. I particularly welcome the committee inquiring further into the need for mandatory identification of donors of registrable gifts. In other words, Senator Brown’s inadequate disclosures and stretching of the rules have necessitated the consideration of new, tighter rules.

The senator’s hypocrisy on disclosure issues makes his actions less excusable. Not only has Senator Brown vociferously opposed the government’s electoral reforms—while himself accepting $17,000 in anonymous donations—he has failed to live up to the standards he has himself espoused. In May last year, somewhat presciently, he told the Senate:

... when an error like this is made, the one who makes it—it may be me next; I do not know—ought to come into the Senate and give an explanation. There is a general understanding not only of the common obligation we have to abide by standing orders but also of the frailty of the system insofar as it is easy to overlook something. But overlooking a $6,000 gift to a senator and then studiously overlooking it in the wake of it having been drawn to public attention shows something other than just an oversight. This was not an oversight; this has been a studied breach of the rules for some months now. It concerns me greatly that it appears that it will go through to the keeper.

That is the end of the quote by Senator Bob Brown. I say Senator Brown should live up to these standards. I therefore call on him to abide by the letter as well as the spirit of
resolutions on the disclosure of senators’ interests by: firstly, disclosing who gave him $1,000 in cash on 20 December 2005, or donating this amount to consolidated revenue; secondly, disclosing the names of bidders whose successful bids—in excess of $300—raised $75,000 at an auction of his personal effects held on 2 February 2006, noting Senator Brown’s own words that there was a ‘donation element in all the bids’; and, lastly, providing the addresses of both donors to the RJ Brown Forest Account, Wielangta Fighting Fund, and of successful auction bidders.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.25 pm)—I thank the Standing Committee of Senators’ Interests for deliberating on this matter and for finding that Senator Abetz had no case when it came to warranting a reference to the Privileges Committee. What has arisen as a result of the approach by Senator Abetz—and I will come back to it in a moment—is a reprimand, at minimum, of Senator Abetz for breaching confidentiality, which is a far more serious thing, I might say, than any of the potential charges that Senator Abetz levelled over my fundraising to defend the Wielangta Forest in Tasmania.

Let me start at that point. Some years ago it seemed to me that the Wielangta Forest of 10,000 hectares—with its rare, ancient and endangered species, including the wedge-tailed eagle, the Wielangta stag beetle and the swift parrot, all of which are federally listed—ought not be destroyed because it would be a breach in many ways of this nation’s heritage rights and this government’s responsibility to protect those nationally endangered species. In the absence of anybody else doing it, I as a senator for Tasmania took on the interests of my constituency to challenge this matter in the Federal Court. I can say that after 37 days of hearings—I thought it would be three days at the outset—the costs of that court case are going to approach half a million dollars for me. If costs are awarded, it will be a much bigger sum, I should imagine, because Forestry Tasmania has been defending the case and it has been joined by the Commonwealth and the state.

This is a matter of huge public interest and responsibility. I did not take it lightly and I did not have the wherewithal to carry through with that case without assistance from a very willing, committed and devoted public to those forests. Having undertaken the campaign, I set about getting public assistance in order to stay in the court and not be knocked out simply—as other people in Tasmania have been—by a lack of funds in seeking justice for the forests and wildlife. I have to thank from the bottom of my heart everybody who has donated and will continue to donate as we raise funds to pay for this case.

That said, yes, I was late in beginning to register the matter to the pecuniary interests committee, but I have put all the information before the committee. It was not drawn to my attention that I was late. I made a commitment voluntarily to put all this before the committee when it was arguable that it may not have been necessary. Senator Abetz, as Minister for Fisheries, Forestry and Conservation, has effectively joined the court case on behalf of the Commonwealth and taken me to task for fundraising. I point out to the chamber that I am up against a Commonwealth which had a revenue last year of $231 billion, a Tasmanian government with $3.4 billion and Forestry Tasmania with an operating revenue of $185 million, and not one of the entities, including Senator Abetz, has been exposed to one dollar of personal risk—nothing at all. That is a very different circumstance to the situation I am in where I personally take responsibility. Through the prodigious work of staff and people who have assisted we have raised money, and I have put all of that fundraising on the record.
As soon as I did that, of course, it alerted the Minister for Fisheries, Forestry and Conservation, Senator Abetz. I submit that this has been driven by his own personal interest in defending the loggers of Tasmanian forests, not least Gunn’s Pty Ltd, whose intention it is to stay logging in Wielangta Forest with all the consequent destruction that will occur. Senator Abetz is curiously missing from the chamber today. Senator Lightfoot was sent in to defend the indefensible action that Senator Abetz has taken in this case. Let me refer to a couple of the cases in point.

Mike Emery was apparently an anonymous donor who came into a bank and put $10,000 into this fund. Now, I have seen him once in the last few years. He is a scientist, he is not rich, he loves the Tasmanian bush and he has put $10,000 into trying to protect the Wielangta Forest, through this legal avenue. If only the commitment that he has for Tasmania were to be replicated by Senator Abetz.

If you look down the list, Madam Acting Deputy President Crossin, as you know and as the committee has pointed out, I needed to name no-one. There are no rules to say people should be named. I have volunteered their names. But when you look down the list, which I just read today, a staffer of mine has put $300 in. My neighbours up the road at Liffey have put in $300. The elderly lady who lives next door on the down side has put in $1,000. My neighbour in Hobart, in fact my landlord, has put in $1,500. So there you go: my doctor gave $500; my lawyer gave $10,000; and Dr Connie Harris, that fantastic fundraiser in North Sydney, gave $2,000 from her own funds. Tara Hunt, who was described by Senator Lightfoot as a Canadian living in the United States, but who actually lives in Randwick, gave $20,000. That is the only donation which needed to be registered if we were talking here about donations to political parties. And why is that? Because Senator Abetz earlier this year moved legislation in here so that no donation of $10,000 or less to political parties and politicians election campaigns had any longer to be disclosed.

We opposed that. I continue to oppose that but what gross and petty hypocrisy from Senator Abetz that he comes in here and says, ‘I’ll protect my interests and my party’s interests by allowing anybody who donates $10,000 to us to be hidden.’ Then he brings before this committee donations of $300, $1000 and a couple of hundred dollars from citizens because they went to a bank and their names were not registered. I might add I have traced all those donations except one and that is the $1,000 that Senator Lightfoot spoke to. It was put into a bank on the mainland. I do not know who that was. That has no influence over me, but I love the person who donated it. Thank you, whoever you are, anonymous friend of Australia’s forests and wildlife for donating to this worthwhile fund. I note also that Senator Abetz, in his letter to the committee, has said:

I ask the committee to determine that the acceptance of anonymous donations in excess of $300 should be disallowed and that any such amounts inadvertently received be payable to the Commonwealth as occurs with anonymous donations received within the purview of the Commonwealth Electoral Act.

Anonymous donations of up to $10,000 can be, as I said, given under that act.

I move:

At the end of the motion, add “and asks the Government to legislate that gifts or donations to members of parliament or political parties of $300 or more, which are anonymous, be payable to the Commonwealth for disbursement to Australian charity”.

Let me take on Senator Abetz directly. Let us test whether the government wants to have anonymous donations of up to $10,000 given to the Treasury for disbursement to Austra-
lian charities. Let us test whether Senator Abetz really meant what he said or whether he was just simply carrying out a vendetta.

*Time expired*

**Senator IAN MACDONALD** (Queensland) (4.35 pm)—This is not an issue which I have been at all involved in. I just happened to be listening to Senator Lightfoot deliver what I thought was a very reasoned speech and I imagined that Senator Brown would get up and apologise to the Senate for his failings. I think what Senator Brown’s speech just showed is how the rules are made for everyone else but not for him. I find there is hypocrisy in the actions that people like Senator Brown take. He is always so pious, always so pure, the conscience of the parliament and the Senate, always berating everyone else for actions said to be a little untoward. *(Extension of time granted)* I just wanted to point out to the Senate, and anyone who might be listening to this, how we always get these lectures from Senator Brown telling the rest of us how we should behave and how the parliament should operate, but when it comes to Senator Brown complying with the rules, not only does he not comply but he will not even apologise to the Senate for his indiscretions.

The subject of Senator Brown’s discussion just now was a justification of yet another one of the stunts that he involves himself in when it comes to the Tasmanian forests. Of course, any of us who understand the issue of Tasmanian forests look at it in a democratic way. We think that the people of Tasmania are the ones who should make the decision on this, and the people of Tasmania quite clearly gave their ruling at the last federal election when the Liberal Party, which supports sustainable forestry in Tasmania, won two seats and an extra senator. If that is not an indication to Senator Brown and anyone else of the support of the Tasmanian people for the very sustainable and cautiously managed approach that the federal government, and indeed the state Labor government, take to the management of the Tasmanian forests then I am not sure what is.

I will finish my remarks by saying, again, that the piousness, the lecturing and the moral consciousness of the parliament that Senator Brown so often exudes in this chamber is shown to be nothing more than a bit of rank theatre from Senator Brown because, when the rules are made, Senator Brown seems to think that he is able to ignore them and have special dispensation.

**Senator MILNE** (Tasmania) (4.40 pm)—I rise today to enter this debate with regard to the Wielangta fighting fund and I note the crocodile tears that I am seeing in the Senate this afternoon. I want to address this issue of a moral imperative because that has been something that we have heard from the coalition side. In Tasmania, we are seeing species driven to the brink of extinction. We are seeing, in particular, the swift parrot and the wedge-tailed eagle, not to mention the stag beetle, being driven to extinction because of forestry practices. That is not just my assertion; it is something that Forestry Tasmania, in their own reports, admit to in relation to the wedge-tailed eagle in the north-east of the state. Yet we have a senator supposedly representing Tasmania and supposedly representing conservation—that is, the Minister for Fisheries, Forestry and Conservation—standing up in here and actively condemning people who are giving their time and effort and, in the case of people making donations, their money, to protect threatened species.

We have just had Threatened Species Week in Australia and what we have found is that habitat loss, combined with alien invasive species and exacerbated by global warming, are leading us into the third major era of mass extinction. We have a senator who has the gumption to take on the fact that...
the EPBC Act does not give protection to threatened species in Australia. The Minister for the Environment and Heritage refuses to use his powers under the act to protect threatened species such that people have to go to court in this country in order to try to bring the issue of what is happening to threatened species into the public arena and to expose the weaknesses in the legislation.

The extraordinary thing about Senator Brown—and I have known him since the 1983 Franklin campaign—is that I have known him to mortgage everything he owns to put into campaigns for conservation. I have seen him fly from one end of the country to the other in a state of near exhaustion in order to attend fundraiser after fundraiser to put funds into campaigns to save threatened species and special areas of the country. Only last weekend he was up at the Macquarie Marshes, where the government is very happy to facilitate the large cotton growers taking the water out of those marshes and allowing them to die. Yet we have the ridiculous situation in this Senate where Senator Abetz comes in here and tries to make an issue of the fact that Senator Brown has made the disclosure, as is required, that he opened a bank account in which to put the donations to pay for the case that he is taking to court to try to protect Wielangta and expose the fact that the Commonwealth is refusing to protect the threatened species in that area. Report after report has come out showing us that soil carbon in native forests and old-growth forests desperately need to be maintained. The minute those forests are knocked down, that soil carbon is released into the atmosphere. Where is the minister for conservation? Where is the minister for environment? They are nowhere—absolutely nowhere.

Apparently there is no moral imperative in the government to protect threatened species. There is no moral imperative in this government ever to act in the public interest. Instead, the interest they are protecting is that of Gunns corporation. Senator Abetz, the minister for forestry, is actually the minister for Gunns. The action he has been taking in supporting the managed investment schemes is a thinly disguised effort to support Gunns in their operations. Gunns have come out and said that they cannot build their pulp mill. The economics for that pulp mill are so shaky and so lacking in viability that the only way they can build it is to rely on the taxpayers, via Senator Abetz and his colleagues from Tasmania, pouring money into support of Gunns and converting native forests.

We have had government senators pointing the finger when there has been clear disclosure, and yet, during the debate that we had on changing the rules about donations, Senator Abetz stood up and said, ‘From now on the government believes it is entirely appropriate for anyone to be able to donate $80,000 to $90,000, without disclosure, to any political party in Australia. Anyone can do that by donating $10,000 to each state branch of the Liberal Party, the Labor Party or any other party.’ Senator Abetz has brought into this chamber legislation that allows big business to give $10,000 to branches of the Liberal Party in every state—and none of it has to be disclosed. But he is suddenly desperately interested in finding out who is donating money for forest conservation in this country. What is more, Senator Brown is keen to see that that disclosure is there on the record in the disclosure register.

After the next election I think people will recognise that we have no disclosure laws in this country, because if you can give $90,000 without having to disclose where it has come from then effectively you have no disclosure. Today, in this Senate, we saw the impact of the four major oil companies watching the government jump—and the opposition with
them, saying ‘How high? Let’s get rid of that legislation that restricts the oil majors and the two major supermarket chains.’ That has happened already. Big business has stopped the initiative of the Greens to get rid of junk food advertising on children’s television. Where did that come from? It came from the major food outlets for those junk foods.

So let us not come in here and listen to the complete nonsense we have heard this afternoon. Instead, let us think about the moral imperative we all have, as members of the human species, to recognise that we are in the midst of a species extinction and that it is our responsibility to protect ecosystems and build resilience in ecosystems so that we can at least try to withstand what is going to happen, and what is happening already, as a result of climate change. Instead of that, this government sees no moral imperative to protect threatened species. This government sees no moral imperative to stop, and mitigate as much as possible, the worst impacts of global warming.

The government sees no moral imperative to abolish this ridiculous donations scheme we have for elections, instead of having public funding for elections and banning corporate donations altogether, which would be the most democratic thing to do. Instead, we have a government which has overseen a regime which facilitates secret donations from shadowy sects or anybody else who wants to give $90,000 to a political party. And at the same time this government tries to persecute those who wish to donate whatever savings or whatever they can towards doing what the government ought to be doing through legislation.

If you want to have a debate about moral imperatives let us bring it on. Let us talk about intergenerational equity. Let us talk about responsibility to our children and grandchildren on species extinction and global warming. Let us talk about personal integrity and let us have any one of you stand up and tell us whether, in the public interest, you have ever mortgaged anything you owned. I will bet there is not one single person on the coalition side who has ever mortgaged anything and dared risk it in order that the public interest was served. Senator Brown ought to be congratulated for the fact that, over more than 20 years, I have known him to do this time and time again. He has put everything he owns on the line—in some cases to the point where all of his colleagues and friends have been desperately concerned about what is going to happen—in order to be able to pay money back and in order to support the campaigns and get the outcomes that we need.

So I think it was a foolish move to come in here today and to attack the integrity of Senator Brown, who stands head and shoulders above just about anyone else I could think of in terms of the personal commitment and sacrifices he has made to a cause that he believes in.

The ACTING DEPUTY PRESIDENT (Senator Crossin)—The question is that the motion moved by Senator Webber be agreed to.

Senator Bob Brown—I did move an amendment to the motion.

The ACTING DEPUTY PRESIDENT—Thank you, Senator Brown. We were unsure whether you had done that or whether you were simply referring to amendments moved during the electoral matters debate. Do you have your amendment in writing, Senator Brown?

Senator Bob Brown (Tasmania—Leader of the Australian Greens) (4.52 pm)—The amendment I moved earlier read as follows:

That the Senate asks the government to legislate that gifts or donations to members of parlia-
ment or political parties of $300 or more, which are anonymous, be payable to the Commonwealth for disbursement to Australian charity.

The ACTING DEPUTY PRESIDENT—
The question is that the amendment be agreed to.

Senator Wong—I seek some direction from you, Madam Acting Deputy President. This is an amendment to the motion to take note of the report? Am I to be clear on that, and is that within the scope of the original motion?

The ACTING DEPUTY PRESIDENT—
My understanding is that it is within the scope to do that. Therefore I will put the question of Senator Brown’s amendment to Senator Webber’s motion. Those of that opinion say aye; those against say no. The noes have it.

Senator Bob Brown—The ayes have it.
Question negatived.

Senator Wong—Senator Brown, this is a complete stunt you’ve just pulled here.

Senator Bob Brown—I note Senator Wong’s difficulty, and I do not want to put the opposition into that position. All I want to note here—if I have leave to do so, I will dispense with this matter in one minute—

The ACTING DEPUTY PRESIDENT—
If you want to speak, you will need to seek leave.

Senator Bob Brown—I seek leave to speak for one minute.

Leave granted.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.53 pm)—I appreciate the difficulty for the opposition. We will overcome that by simply noting that the government is opposing this amendment. What demonstrable hypocrisy from Senator Abetz, who brought legislation in here to keep donations of $10,000—and, as Senator Milne said, of up to $90,000—hidden from the public view. He attacked me for one donation of $300 that was anonymous—I do not know where it came from—and said that this should be taken by the government and kept by the Treasury. Now I have said: let all anonymous donations flowing to members of parliament and to the Liberal Party be taken by the government and redirected to Australian charities. Fair enough? That is what Senator Abetz wanted, but when he got the test in here the government said no. What hypocrisy from Senator Abetz and what hypocrisy from the government.

Senator WEBBER (Western Australia) (4.55 pm)—by leave—As Chair of the Senators’ Interests Committee, and also on behalf of the opposition, as was outlined by Senator Wong earlier, we were unclear initially whether Senator Brown was making a point or seeking to move an amendment. We have just now seen it, and it is not our habit to support things that we have not had time to give due consideration to. However, I would like to remind the chamber and place on the record yet again that Labor has always stood for a robust disclosure regime in Australia. In fact, it was the Labor Party that initiated it.

Senator IAN MACDONALD (Queensland) (4.55 pm)—by leave—What absolutely and abject hypocrisy from Senator Brown in his comments about Senator Abetz and the government. He has put forward a motion that is ill-conceived and would not work. With respect to you, Madam Acting Deputy President, I would suggest that the amendment is not an amendment to this motion to take note. I did not bother to take the point at the time, but it is clearly an unworkable amendment, it is clearly one that has not been thought through and it is clearly one that is not relevant to the motion before us. This government has been open and accountable with most things, and I repeat the point I made earlier: that Senator Brown is
so pious, so precious on all of these things, but when the rules apply to him and he is caught out he suggests that they do not apply to him. He does not even apologise to the Senate for his breach of the rules that everyone else is forced to abide by. *Time expired*

**The Acting Deputy President (Senator Crossin)**—We have already put Senator Brown’s amendment. The noes had it—it was lost. The question now is that Senator Webber’s motion be agreed to.

Question agreed to.

**Public Works Committee Report**

**Senator Scullion** (Northern Territory) (4.57 pm)—On behalf of Senator Troeth and the Chair of the Joint Standing Committee on Public Works, I present the following reports:

- Report No. 14 of 2006—Facilities Upgrade to the Shoalwater Bay Training Area, Rockhampton, Queensland; and

I move:

That the Senate take note of the reports.

**Senator Ian MacDonald** (Queensland) (4.57 pm)—Again, I will not keep the Senate for long, but these reports came to my attention because they highlight two things: first of all, the good work that the Joint Standing Committee on Public works does—and beautifully and well chaired, I might suggest, by Mrs Moylan—with a number of senators involved in that, including Senator Troeth. Secondly, this gives me the opportunity to highlight the subject matter of these reports tabled today—both adding to the government’s contribution to the economies of Townsville and Rockhampton in the way of additional investment in defence forces in those areas.

The particular report on the facilities for troop lift helicopters at the RAAF base in Townsville has lead the committee to recommend that the provision of those facilities proceed, at an estimated cost of $20 million. Townsville is now quite clearly the lead defence city in Australia and these additional facilities, for the troop lift helicopters at the RAAF base, will add to that recognition. Townsville is well placed, with Lavarack Barracks and a very substantial air force base and the very substantial other defence facilities in the area, to accommodate the troop lift helicopters. These new facilities highlight the Howard government’s investment in the defence of Australia, an investment that is well supported by the people of Townsville.

The defence communities in Townsville are a very significant and very much involved part of the city’s community. As I mentioned earlier, they have a significant impact on the local economy and make Townsville a city that continues to thrive in all aspects of lifestyle, economy and its support for the military forces.

Townsville has a long and proud history of involvement with Australia’s defence forces. I mention briefly the Howard government’s commitment to keep the Jezzine Barracks site as a very significant memorial to past defence activities in the area. That commitment by the government to transfer a very significant piece of land at the Jezzine Barracks to the general public came with an offer of $20 million, providing it was matched to the extent of $10 million by the Townsville City Council and $10 million by the Queensland state government. The Townsville City Council have indicated that they will be matching that commitment by the federal government. Unfortunately, we are still yet to hear from the state government on whether it will match that commitment. I certainly hope they will do that.
I will refer briefly to the other report, on the facilities upgrade to the Shoalwater Bay Training Area in Rockhampton, Queensland. I note the recommendation of the committee that the Department of Defence:

... continue its close ongoing consultation with all relevant groups and organisations with regard to the facilities upgrade of the Shoalwater Bay Training Area.

I note the second recommendation:

... the committee recommends that the proposed facilities upgrade to the Shoalwater Bay Training Area, Rockhampton, Queensland, proceed at the estimated cost of $11.16 million.

The Shoalwater Bay training area is a world-class training area that you, Mr Acting Deputy President Brandis, would be well aware of. It is used not only by Australia’s defence forces but also by our allies regularly because it is seen as one of the best training facilities anywhere in the world. As well as being good for the Australian defence forces, the investment in Shoalwater Bay is another continuing investment in the Central Queenslnd area. The city of Rockhampton certainly benefits from the economic spin-off, not just from the $11.16 million in this capital works upgrade but also from all of the activity that continues each year to operate out of the Shoalwater Bay training area. The involvement of the defence forces in the area—the presence of the troops and those at the training area—do add to the economy of Rockhampton in a very significant way—

(Time expired)

Senator SCULLION (Northern Territory) (5.03 pm)—Mr Acting Deputy President, I seek leave to incorporate a statement in Hansard.

Senator Wong—Mr Acting Deputy President, I am not sure that we have seen the document. I am not sure what Senator Scullion is referring to. Perhaps he could clarify that.

Senator SCULLION—It is a short tabling statement by Senator Troeth.

Leave granted.

The statement read as follows—

Report No. 14 of 2006—Facilities Upgrade to the Shoalwater Bay Training Area, Rockhampton, Queensland

The fourteenth report of 2006 addresses the proposed facilities upgrade to the Shoalwater Bay Training Area, Rockhampton, Queensland, at an estimated cost of $11.16 million.

The Shoalwater Bay Training Area is an area of approximately 454,000 hectares, located 80 kilometres north of Rockhampton, Queensland. The Shoalwater Bay Training Area provides a highly effective training location for the Australian Defence Force’s three services, and a focal point for major national and multilateral combined arms exercises. These exercises commonly involve defence forces of the United States, New Zealand and the Republic of Singapore.

The facility enhancements to the Shoalwater Bay Training Area involve the construction of an Exercise Control Building and an Urban Operations Training Facility to support the upcoming Exercise Talisman Sabre 2007.

The committee visited the Shoalwater Bay Training Area in July this year, conducted a site inspection of the area and public hearing which was well attended by the local community. The committee investigated all aspects of the works paying particular attention to the nature of activities within the area; environment and heritage concerns; and consultation.

The committee noted that submissions to the inquiry and evidence provided at the hearing raised concerns with the consultation process. Defence assured the committee that it, through HLA Environment, had undertaken all consultation as listed in its statement of evidence including community meetings, escorted tours of the training area, and specific indigenous community consultation.

In this regard the committee recommends that the Defence continue its close ongoing consultation with all relevant groups and organisations with
regard to the facilities upgrade of the Shoalwater Bay Training Area.

Environment and heritage concerns for the inquiry included the use of depleted uranium; and sites of heritage significance within the training area. Defence assured the committee that there is no depleted uranium used within the Shoalwater Bay Training Area by Australian or international forces. An Environmental Advisory Committee has been established by Defence to ensure it is open and transparent about the environmental effects of its activities.

Defence stated that the proposed facilities upgrade would not impact on any historical or heritage sites within the Shoalwater Bay Training Area. A number of heritage studies had been undertaken, including a specific study to identify and address indigenous cultural heritage considerations. Subsequent to the hearing, the committee was provided with a copy of this report.

Having given detailed consideration to the proposal, the committee recommends that the proposed facilities upgrade to the Shoalwater Bay Training Area, Rockhampton, Queensland, proceed at the estimated cost of $11.16 million.

Report No. 15 of 2006—Facilities for Troop Lift Helicopter, RAAF Base Townsville, Queensland

The committee’s fifteenth report of 2006 presents findings in relation to the proposed facilities for Troop Lift Helicopter, RAAF Base Townsville, Queensland, at an estimated cost of $20 million.

The purpose of the proposed works is to provide facilities to support the introduction of the Multirole Helicopter 90 (MRH90) aircraft. This will include the refurbishment, re-use and construction of facilities at the 5th Aviation Regiment facilities.

The 5th Aviation Regiment is located in the south western precinct of RAAF Base Townsville which is approximately seven kilometres from the Townsville CBD. The base is maintained for the defence and surveillance of the northern areas of Australia.

A concern raised at the hearing was the sharing of the runway between RAAF Base Townsville and the Townsville Airport. Defence were able to clarify for the committee that the runway belongs to the Commonwealth, and there is a Joint User deed between Defence and Townsville Airport. At the committee’s request, a copy of the Joint User deed was supplied to the committee subsequent to the hearing.

The MRH90 aircraft is being introduced under the Defence Capability Plan Project Air 9000. Defence stated at the hearing that in June this year the Prime Minister announced the purchase of an additional 34 multi-role helicopters as part of Project Air 9000. In this regard, the committee enquired as to the impact of this operational change and how it may affect Defence forward planning. Defence responded that it was confident the proposed works can accommodate the multirole helicopters, and that RAAF Base Townsville is consistent with Defence future long term planning.

At the public hearing the committee sought assurance from Defence that ecologically sustainable development (ESD) initiatives had been incorporated into facility design. Defence confirmed that cost effective ESD as a key objective in the design, development and delivery of new and refurbished facilities. The list of features included:

- insulation and weatherproofing seals;
- energy efficient lighting and lighting control systems;
- energy efficient plant and equipment; and
- specification of waterless urinals and AAA water efficient fixtures.

At the hearing the committee expressed its appreciation to Defence for the comprehensive site inspection and quality of evidence provided to the inquiry, which greatly aided the committee in its consideration of the proposed works.

Having examined all the evidence presented to it, the committee recommends that the proposed provision of facilities for Troop List Helicopter, RAAF Base Townsville, Queensland, proceed at the estimated cost of $20 million.

Mr President, I wish to thank my committee colleagues and all those who assisted with the inspections and public hearings.

I commend the reports to the Senate.
Question agreed to.

DOCUMENTS
Assisted Reproductive Technology
Senator SCULLION (Northern Territory) (5.04 pm)—by leave—I table the document prepared by mpconsulting for the Department of the Prime Minister and Cabinet entitled *Analysis of advice on developments in assisted reproductive technology and related medical and scientific research: June 2006*.

INDEPENDENT CONTRACTORS BILL 2006
WORKPLACE RELATIONS LEGISLATION AMENDMENT (INDEPENDENT CONTRACTORS) BILL 2006
TAX LAWS AMENDMENT (2006 MEASURES No. 5) BILL 2006

First Reading
Bills received from the House of Representatives.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (5.05 pm)—These bills are being introduced together. After debate on the motion for the second reading has been adjourned, I shall move a motion to have one of 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 ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (5.05 pm)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

INDEPENDENT CONTRACTORS BILL 2006
Today, in introducing the Independent Contractors Bill and the Workplace Relations Amendment (Independent Contractors) Bill, I remind the Senate that

[E]veryone’s life opportunities are diminished by…restrictions on the freedom to work.

Over the past twenty five years Australia has been witnessing one of the most important, yet least remarked upon, shifts in the history of our labour market—the rise of the independent contractor.

The incidence of independent contractor-type arrangements is significant, with estimates as to the numbers of Australians now working as independent contractors ranging from 800,000 (as estimated by the Productivity Commission) up to 1.9 million.

These Australians have already chosen to work for themselves to gain the benefits of the choice and flexibility that self-employment provides.

Their choice should be respected.

Unions which are struggling for relevance and faced with declining membership have failed to see the advantages that many workers have accepted of more flexible working arrangements.

As a result, unions are opposed to independent contractors and have used industrial relations and political tactics to try to restrict its natural growth and force contractors into the traditional industrial relations system.

Australia’s continued prosperity in the twenty first century requires systems of regulation that encourage rather than restrict creativity, that reward rather than confine initiative. Australia deserves a system that responds to the needs of individuals including those who have made the deliberate choice to become an independent contractor and their families.

Independent contractors are entrepreneurs and, of course, the one-person micro-businesses of today are often the employing small businesses of tomorrow.

For many, the attraction of independent contracting is to operate independently, not to work as an employee. The flexibility that independent con-
tractors provide the workplace is an important component of a modern and dynamic economy.

The Independent Contractors Bill (the Principal Bill) reflects the Government’s commitment to ensuring that independent contracting is encouraged without excessive regulation. The Principal Bill is built on the principle—a principle this Government believes in—that genuine independent contracting relationships should be governed by commercial not industrial law. This is reflected in our approach of having a stand-alone Independent Contractors Bill, rather than including the reforms in workplace relations legislation.

In contrast, the Labor party and the union movement are trying to legislate to force independent contractors to be treated as employees, irrespective of the circumstances or the wishes of those involved.

The Government will put a stop to this regulatory excess and deliver on its promise made during the last federal election to introduce this legislation.

The Principal Bill represents a further element in the Australian Government’s reform agenda for workplace relations, building on the Work Choices legislation last year. Work Choices has facilitated greater choice and flexibility in our workplaces, a process begun over a decade ago, by making it easier for employers and employees to make arrangements that best suit their needs.

The legislation that I introduce today provides Australians with an even wider range of choices about how they work and ensures their choice is respected.

The Independent Contractors Bill enshrines, as part of its objects, the status of independent contracting as a wholly legitimate form of work. It protects the freedom of independent contractors to enter into the contracts of their choice.

Importantly, the Principal Bill does not define the term ‘independent contractor’ beyond its meaning under common law. I note that the House of Representatives Standing Committee on Employment, Workplace Relations and Workforce Participation, in its 2005 report on independent contracting and labour hire arrangements, recommended that the common law approach to determining employment status be maintained by the Government, and that is what we have done.

However, we have not included in the definition components of the Personal Services Income test used by the Australian Tax Office to identify independent contractors, despite the Committee’s recommendation that we do so. This test has been developed to address the specific requirements of taxation law.

It is a self-assessment test and is easily manipulated to achieve the desired outcome if a worker is seeking to be classified as an independent contractor rather than an employee.

The Government considers that the courts should continue to apply the long established common law tests to establish the status of the worker. These tests have been developed by the courts over a number of years and allow for the entirety of the individual circumstances involved to be taken into account. This is also consistent with the approach taken in the Workplace Relations Act, where the terms ‘independent contractor’ and ‘employee’ import their common law meanings.

As with the Work Choices legislation, the Principal Bill will use a range of constitutional powers, including the corporations power, to override certain provisions of State industrial relations legislation in order to remove restrictions on the use of independent contractors.

**State deeming provisions**

The Principal Bill will override State provisions which deem certain classes of independent contractors to be employees. These provisions effectively change the nature of a working arrangement at State law from independent contractor to employee, thereby drawing independent contractors into the net of industrial relations regulation where they do not belong.

State deeming laws have become so absurd that they can result in completely arbitrary distinctions—an independent contractor who drives a bus can be deemed to be an employee, while a taxi driver is not; or a person who packages goods under a contract for services is deemed to be an employee if they do so at their home, but not if they do so on business premises; a blind installer is deemed to be an employee but a plumber is not.

The existing regulation of independent contracting across many of the States is a regulation of entrepreneurship. It is job destroying.
The Principal Bill will remove these arbitrary distinctions and allow independent contractors to be just that—indépendant.

There will be a three year transitional period before the State deeming provisions will be overridden. This will allow adequate time for ‘deemed’ employees and the businesses that engage them to be made aware of the changes, and to adjust their business affairs accordingly.

**Protection**

Both Bills also contain important protections. For instance, the Principal Bill preserves existing protections for certain groups, in particular textile, clothing and footwear (TCF) outworkers and owner-drivers. In addition, the Workplace Relations Amendment (Independent Contractors) Bill provides for penalties to be imposed on employers who seek to avoid their obligations under employment law by disguising their employees as independent contractors, or who coerce their employees to become independent contractors. The Principal Bill also provides for a single unfair contracts jurisdiction.

**Outworkers**

Just as Work Choices did not override State protections for employee outworkers, the Independent Contractors Bill will not override State protections for contract outworkers.

Moreover, existing federal provisions under the Workplace Relations Act, which provide guaranteed minimum remuneration for contract outworkers in Victoria, will be extended to all contracted TCF outworkers in Australia, and set as part of the Australian Fair Pay and Conditions Standard. This guarantee will only apply where an individual outworker is not already covered by State or Territory legislation that provides some form of remuneration guarantee, regardless of whether the State or Territory protection is more than the Standard.

**Owner-drivers**

The Principal Bill will maintain existing legislation in New South Wales and Victoria with respect to owner-drivers in the road transport industry.

While the Victorian legislation has only recently been passed, in New South Wales there has long been bi-partisan support for special arrangements for owner-drivers. These arrangements include allowing owner-drivers to bargain collectively with transport operators, and have minimum rates of pay and goodwill compensation set by a tribunal. These provisions in State legislation will remain, given the special circumstances of owner-drivers in having to operate within very tight business margins because of the large loans they have to take out to pay for their vehicles. However, let me be clear—it is not the Australian Government’s intention to replicate these arrangements.

As I have announced, I will be reviewing State regulation of owner-drivers in 2007 with a view to rationalising these laws and achieving national consistency if possible.

**Sham contracting arrangements**

The Workplace Relations Amendment (Independent Contractors) Bill provides civil penalties for ‘sham’ contracting arrangements. A sham arrangement is one where an employer seeks to avoid taking responsibility for the legal entitlements due to employees by seeking to disguise as an independent contracting relationship what is in reality an employment relationship.

In addition to penalties for misrepresenting a genuine employment relationship as an independent contracting relationship, there will also be penalties for an employer knowingly making false statements to an employee to persuade or influence them to become an independent contractor, and for dismissing or threatening to dismiss an employee with the sole or dominant purpose of re-engaging them as an independent contractor.

These penalties will send a clear message to employers that this sort of unscrupulous behaviour will not be tolerated.

The Office of Workplace Services will be empowered to pursue these matters on behalf of employees. Extra funding of $6.2 million was allocated in the federal Budget for the next four years to enable the Office to undertake this function in addition to its other compliance responsibilities.

**Unfair contracts**

The current federal unfair contracts provisions will be removed from the Workplace Relations Act and placed in the Independent Contractors
Bill. As they relate to commercial contracts, they more appropriately sit with the Independent Contractors legislation.

State unfair contracts jurisdictions will be overridden, as far as constitutionally possible primarily using the corporations power, and there will be one single federal unfair contracts jurisdiction. This will alleviate the current confusion of having concurrent state and federal unfair contracts jurisdictions operating in New South Wales and Queensland.

The Principal Bill will provide a cheaper and more accessible unfair contracts regime than the current federal system, as the Federal Magistrates Court will be vested with jurisdiction to hear unfair contracts cases though the Federal Court will continue to have a role. This implements another of the recommendations of the House of Representatives Standing Committee on Employment, Workplace Relations and Workforce Participation in its 2005 report.

The federal unfair contracts jurisdiction will be extended to include incorporated independent contractors, meeting another of the recommendations made by the House of Representatives Committee. We are concerned that this not become a remedy for the 'big end of town'.

To this end, it will only be available to corporations where a director of the corporation or member of the director’s family personally performs the work under the contract. This kind of arrangement would be in keeping with family business operations.

The jurisdiction will be limited to contracts for services that are binding on an independent contractor and that relate to work performed by that independent contractor. The Principal Bill would allow a financial cap to be imposed on unfair contracts claims, by regulation, if there is a demonstrated need.

Labour hire code of practice

The Department of Employment and Workplace Relations will play a key role in facilitating the development of an industry based voluntary code of practice for the labour hire industry. This is consistent with the House of Representatives Committee’s recommendation that the Government establish a voluntary code of practice for labour hire arrangements.

Conclusion

These Bills move genuine independent contracting relationships away from the realm of industrial regulation and into the commercial sphere where they should have been all along.

An efficient modern economy should have a dynamic mix of working arrangements with the flexibility to respond to the changing demands of clients, consumers and competitors.

Independent contractors are an important part of this mix. The flexibility to employ or engage must remain a fundamental right when operating within the Australian economy. It is important that relevant standards are met, however the parties themselves are generally best left to determine the most appropriate form of their relationship.

These Bills will reduce the current arbitrary restrictions on how independent contractors are to be treated under the law. They will create, as far as possible, one uniform unfair contracts jurisdiction in the Federal sphere with clear parameters for the courts to judge whether a contract is harsh or unfair.

They will ensure that unprincipled employers will not be allowed to avoid their legal obligations to employees by using independent contracting as a mask.

In the case of genuine independent contractors, however, they will put a stop to the undue interference of prescriptive regulation in state industrial relations systems that effectively turns them into employees regardless of their wishes.

In 2004 the Coalition said we would protect the right of independent contractors to work the way they want and we will do so.

The Coalition believes everyone’s life opportunities are diminished by restrictions on the freedom to work.

I commend these bills to the Senate.
WORKPLACE RELATIONS LEGISLATION AMENDMENT (INDEPENDENT CONTRACTORS) BILL 2006

The Workplace Relations Legislation Amendment (Independent Contractors) Bill 2006 makes a number of necessary amendments to the Workplace Relations Act 1996 to implement the Government’s commitment to protect independent contractors.

I commend this bill to the chamber.

Tax Laws Amendment (2006 Measures No. 5) Bill 2006

This bill amends various taxation laws to implement a range of changes and improvements to Australia’s taxation system. A number of changes in this bill will reduce compliance costs for Australian taxpayers.

Schedule 1 implements two fringe benefits tax recommendations from the Report of the Taskforce on Reducing the Regulatory Burdens of Business—Rethinking Regulation. The first recommendation reduces compliance costs for business by increasing the minor benefits exemption threshold from less than $100 to less than $300. The second recommendation also reduces compliance costs by increasing the reportable fringe benefits amount threshold from more than $1,000 to more than $2,000.

This Schedule also further reduces compliance costs by increasing the reduction of taxable value that applies to eligible in-house fringe benefits and airline fringe benefits from $500 to $1,000.

In addition, this Schedule extends the definition of ‘remote’ for the purposes of the fringe benefits tax concessions, where the shortest practicable route involves travel by water. This is in recognition of the special circumstances of employees who work in locations isolated from populated areas by a body of water.

All of the amendments will apply in respect of the fringe benefits tax year commencing 1 April 2007 and all later years.

Schedule 2 proposes several amendments to the GST concessions following the establishment of the military compensation scheme under the Military Rehabilitation and Compensation Act 2004.

Firstly, this Schedule will ensure that supplies of drugs, medicines and other pharmaceutical items are GST-free when supplied as pharmaceutical benefits under the military compensation scheme.

Secondly, the GST-free car concession is extended to include people whose service in the Defence Force or in any other armed force of Her Majesty has resulted in them receiving, or being eligible to receive, a special rate disability pension under the military compensation scheme.

These amendments will take effect from 1 July 2004, the date of the commencement of the military compensation scheme.

Schedule 3 removes the part-year tax-free threshold for taxpayers who cease to be engaged in full-time education for the first time. This measure extends the full tax-free threshold of $6,000 to these taxpayers. The amendments were announced in the 2006-07 Budget and will simplify the tax law and reduce compliance costs for taxpayers completing full-time study.

Under the current law, taxpayers who cease full-time education for the first time are not eligible for the full tax-free threshold of $6,000. Rather, they are entitled to a reduced tax-free threshold that depends on the number of months they are not studying as well as their income during the full-time education period. These amendments apply from the 2006-07 income year.

Full details of the measures in the bill are contained in the explanatory memorandum.

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.

Ordered that the Tax Laws Amendment (2006 Measures No. 5) Bill 2006 be listed on the Notice Paper as a separate order of the day.

Financial Transaction Reports Amendment Bill 2006

In Committee

Consideration resumed.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (5.07
Senator Ludwig put forward a number of questions when this matter was last in committee, and I now have a reply for him. Firstly, as I recall it, Senator Ludwig asked, ‘Is there a difference between a unique identification number, as used in section 17FA(3)(b) subparagraphs (iii), (iv) and (v) and a unique reference number as defined in section 17FA(3)?’ The answer is, yes, there is a difference. A unique identification number is any number given to a customer by an Australian government, such as an ABN, or a foreign government. A unique reference number is a concept used in 17FA(3)(c) subparagraph (ii) and is a number given to a transaction by an ADI. The two concepts are different but use similar technology.

Senator Ludwig also asked: ‘Why is ‘unique reference number’ defined in the bill, given that the definition seems self-evident? Why is it defined in two places—section 17FA(3) and 17FB(6)?’ Industry asked that the term ‘unique reference number’ be defined to make the meaning clear beyond doubt. The government accepted this request and section 17 FA(3) defines the term for the purpose of outgoing IFTIs. We use a lot of acronyms in this bill, so I remind the Senate that an IFTI is an international funds transfer instruction. While section 17FB(6) defines the term for the purposes of incoming international funds transfer instructions, there are differences between the definitions. Section 17FA(3) refers to authorised deposit taking institutions, which is a meaningless term for an international funds transfer instruction sent to Australia from a front country. Whether there should be two definitions or one definition which covered all possible variations was a drafting issue. There is no issue of substance in using two definitions.

Another query concerned 17FA(3)(b) subparagraph (ii). Senator Ludwig asked what this change was designed to achieve. Austrac requested this change. When people are asked to disclose their place of birth, most people will give only details such as country, city or town. Some, however, will only give their country of birth. The amendment will make it clear that ‘place of birth’ requires more than just a country. Senator Ludwig also asked for an explanation of how the ATa and this bill as amended fit in with special recommendation VII. This bill was only ever designed to be a partial response to special recommendation VII. That recommendation deals with both international wire transfers and domestic wire transfers. The ATa only ever dealt with international wire transfers. Domestic wire transfers will be dealt with in the AMLCTF Bill.

The effect of the amendments will be to limit the operation of the ATa changes so that they apply only to authorised deposit taking institutions. That is a narrowing down of the provisions, since they will not now apply to non-bank money remittance businesses. That change is necessary because of the way the FTR Act is structured. It would cause problems for non-bank money remittance businesses if they had to comply with the new obligations under the architecture of the FTR Act. Non-bank money remittance businesses will also be dealt with under the AMLCTF Bill. The result is that the current legislation does not fully meet the requirements of special recommendation VII— and, of course, as I said earlier, the government never said that it would.

That covers the issues that Senator Ludwig raised. I commend the amendments to the committee.

Question agreed to.

Senator LUDWIG (Queensland) (5.12 pm)—I move opposition amendment (1) on sheet 5031:

(1) Clause 1, page 1 (line 6), omit “Financial Transaction Reports”, substitute “Anti-
What has been clear in this whole process is that it is an ad hoc, band-aid solution, and the amendment is designed to simply highlight that fact. It is to ensure that we get the consultative process and the amendments right for the next big bill which will come into the Senate—the anti money laundering legislation. The government is clearly put on notice that we will spend a lot longer with the next bill if we have to start amending it on the run again. I commend the amendment to the Senate.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (5.13 pm) I do not think I have seen an amendment quite like this before. It must have been very difficult for Senator Ludwig to move this amendment with a straight face. I reject that this has been ad hoc or on the run. I have always said this has been a work in progress. We had our initial legislation to provide an urgent response to the needs of the time. There was always going to be another bill of this sort to take it further. At the end of the day, we will have the wider reform I have been talking about. We will have the wide reform I have been talking about.

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Question negatived.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (5.15 pm) I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

SUPERANNUATION LEGISLATION AMENDMENT (SUPERANNUATION SAFETY AND OTHER MEASURES) BILL 2005

Second Reading

Debate resumed from 7 September, on motion by Senator Minchin:

That this bill be now read a second time.

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

At the end of the motion, add “but the Senate:

(a) notes that:

(i) given Australian workers and their families are:

(A) not provided with full compensation in the event of theft and fraud from a superannuation fund, and

(h) not provided with compensation for the loss of statutory 9 per cent superannuation guarantee contributions in the event of employer insolvency under the General Employee Entitlements Redundancy Scheme (GEERS), even though GEERS does pay other statutory entitlements such as unpaid wages, accrued annual leave, long service leave, pay in lieu of notice and up to 16 weeks redundancy entitlement, and

(ii) given that superannuation is compulsory, long-term and for retirement; and therefore

(b) calls on the Government:

(i) to expand compensation for theft and fraud to 100 per cent using the existing compensation mechanism, and

(ii) to examine the inclusion for payment of unpaid superannuation guarantee payments within GEERS.

Senator WATSON (Tasmania) (5.16 pm) —The Public Sector Superannuation Scheme, often referred to as the PSS, and the Commonwealth Superannuation Scheme, known as the CSS, provide superannuation
services and products to employees of the Australian government and other participating employers. The CSS was established on 1 July 1976 and closed to new members on 1 July 1990. On the other hand, the PSS was established on 1 July 1990 and closed to new members on 30 June 2005. A new fund, the PSS Accumulation Plan, known as PSSAP, commenced operating on 1 July 2005.

The main purpose of this amendment bill, the Superannuation Legislation Amendment (Superannuation Safety and Other Measures) Bill 2005, currently before the Senate is to ensure that the operation of these two schemes, the PSS and the CSS, are consistent with the requirements of the Superannuation Industry Supervision Act of 1993, commonly referred to as the SIS Act. The requirements of that act that concern this bill are those which concern the fitness and propriety standards for superannuation fund trusts and their members, and those providing for reduced reliance on acting members of the board, and for the use of proxies at board meetings to match the standards in the private sector.

The bill will also allow what is now the ARIA board to delegate certain functions to its staff, broadens the type of information that can be provided to members via their employers, allows negative crediting rates to be applied to amounts held in the CSS and authorises certain payments made incorrectly to a small number of CSS members. So it is virtually aligning it with the practice in the private sector.

I note, by way of interest, that, whilst the explanatory memorandum to the bill refers to the CSS and PSS boards, the situation really has changed somewhat because, since that memorandum was written, the Superannuation Legislation Amendment (Trustee Board and Other Measures) Bill 2006 has taken effect, from 1 July this year. The previous structure of one board managing the CSS and another board managing the PSS and PSSap created duplications. But, under the new structure of one board, named ARIA, the superannuation arrangements for Australian government employees would not have been sustainable or cost-effective in the long term.

So, we have the merger between the Australian Reward Investment Alliance, that is the new board, a simplified, sustainable and more effective governance structure. The ARIA board is now required to provide information to members under other acts. I also note that the ARIA board has a lot of very experienced people; for example, Chairman Susan Doyle, Winsome Hall, a former member of parliament David Connolly AM, Joy Palmer, Des Moore, Graham Rogers and Peter Feltham. They have between them formidable experience, and I have every confidence in their ability.

The bill will provide for the appointment of acting members to the Commonwealth Superannuation Scheme to comply with the Superannuation Industry (Supervision) Act 1993. The bill allows the Commonwealth Superannuation Scheme and the Public Sector Superannuation Scheme boards—now the ARIA board—to delegate certain functions to staff and it also broadens the type of information that can be provided to members via their employers.

The amendments will require that substantive and acting appointments to the Commonwealth Superannuation Scheme board do not contravene the Superannuation Industry (Supervision) Act 1993 fitness and propriety operating standards. The bill will also provide that the Minister for Finance and Administration may terminate the appointment of any board member who does not meet that standard. These amendments will place the same obligations on the ARIA board as for other trustees of superannuation funds in
relation to having to comply with fitness and propriety requirements.

An interesting case came from Tasmania, where, not so long ago, a marketing manager, a Mr Sonny Azzopardi, was dismissed by the industry fund Tasplan—a highly respected and performing industry fund—because of a theft by him from a former employer, the Tasmanian Chamber of Commerce and Industry. And this action was given the nod by the regulator, APRA. This highlights that trustees and directors of superannuation schemes have to maintain higher standards of propriety than even operate in the private sector boards of public companies in Australia.

The proposed amendments enable members of the ARIA board to participate in meetings even when overseas and to vote and disclose conflicts of interest at board meetings through proxies. New section 27N(4A) also provides that the appointment of the proxy is to be in writing and signed by the appointing member. New section 27N(4B) provides that the proxy is not entitled to vote on behalf of the member on a proposed decision unless there is an instrument of proxy appointment which sets out the terms of the proposed decision and indicates whether the appointing member is in favour of or against the proposed decision. The proxy member votes on the proposed decision in accordance with the indication in that instrument.

The bill also makes amendments to the Superannuation Act of 1976 and the Superannuation Act of 1990 to broaden the type of information that can be provided to a scheme member via their employer, provided that this would not breach the Corporations Act 2001 or any other act. Item 23 will amend section 42A(1)(a)(ii) to allow the ARIA board to request a designated employer to provide to a member of the Public Sector Superannuation Scheme any information required to be provided by the Public Sector Superannuation Scheme board to a member under any act. Schedule 2 of this bill provides for amendments to the 1976 act which will allow a negative crediting rate to be applied to Commonwealth Superannuation Scheme member accounts. This initiative has the effect that members will now bear investment risk relating to their account balances, as I believe is appropriate. It will also provide the ARIA board with a greater capacity to equitably distribute earnings between those members who leave the scheme and those who stay.

As you would know, Mr Acting Deputy President, previously the CSS board’s investment policy included a reserving mechanism, an unusual arrangement which gave effect to the legislative requirement that members not exit the CSS with less than what they have contributed even when investment performance has been below zero. Reserves were limited to no more than five per cent of the CSS’s assets and were used to smooth annual returns. If the value of the reserves was not sufficient to offset completely any negative investment returns then, because the CSS board could not determine a negative interest rate for members, a negative reserve was actually created. This negative reserve was replenished out of future earnings. This was a very convoluted arrangement. Because the CSS is no longer determining annual crediting rates but is instead allocating members their share of the fund’s assets when they leave—which is very appropriate—the CSS may have a notional balance which represents unallocated earnings. This balance is invested in exactly the same way it would be if allocated to members, and members can then earn a return on the balance in exactly the same way they would if it was allocated to them. The
effect is that the members bear the investment risk.

Schedule 3 of the bill also provides for amendments to the 1976 act. This schedule will rectify the situation where a group of Commonwealth Superannuation Scheme members have received benefits in breach of superannuation laws. They were deferred benefit members who had ceased contributory membership by joining an alternative superannuation arrangement offered by their employer. After they had reached preservation age they received payment of the benefits without meeting certain conditions such as terminating their employment or reaching the age of 65 as required. The amendments in this bill will effectively validate these payments. The bill also provides for necessary technical amendments as a consequence of the government’s reforms on the safety of superannuation as well as providing the changes to facilitate the application of negative interest rates to the Commonwealth Superannuation Scheme.

I turn now to superannuation safety. I am reminded that there was an attempt to steal $150 million over an extended weekend break late on a Friday afternoon in 2003 involving overseas bank accounts. Fortunately the attempted fraud was detected quickly through a vigilant custodian, JP Morgan. Fortunately no member benefits were lost. It took some time for charges to be laid but last year six men were charged over the attempted fraud after an 18-month international investigation by the AFP. Of the $150 million stolen, $147 million has been recovered by the AFP. This issue essentially involved transaction between the board, the custodian and the perpetrators. I must emphasise that no members’ money was actually lost.

I am surprised that it has taken so long to bring these people to justice. What happened since August 2005? Obviously these people were left out on bail. I think it is in the public interest, now that these people have been charged, that there is some debate and discussion, because there was a significant sum of money involved. I think APRA have a responsibility to warn other trustees of the sorts of activities that could lead to these sorts of losses. It also illustrates the need for trustees to have in place mechanisms and procedures to discourage fraud. I am surprised that APRA have not been a little more up-front in sending circulars warning other trustee companies about the potential risks which may occur in terms of communications. So what actually happened? The fraudsters had a very good knowledge of how the transfer of funds processes worked. I understand, and we have been assured, that there has been a certain upgrading of communications and IT platforms to strengthen the framework against fraud. That is to be commended. In conclusion, I trust that APRA are now in a position to issue upgraded instructions to all other boards and trustees in terms of their communications with their custodians who hold the assets. I commend this bill to the Senate.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (5.30 pm)—The Superannuation Legislation Amendment (Superannuation Safety and Other Measures) Bill 2005 will amend the Superannuation Act 1976 in relation to the Commonwealth Superannuation Scheme, the CSS, the Superannuation Act 1990 in relation to the Public Sector Superannuation Scheme, the PSS, and the Superannuation Act 2005 in relation to the Public Sector Superannuation Accumulation Plan, the PSSAP. Following the passage of this legislation, similar amendments will also be made to the PSS Trust Deed and Rules under the Superannuation Act 1990
and the PSSAP Trust Deed under the Superannuation Act 1995.

The bill includes changes required to facilitate the application of negative crediting rates to the CSS, changes to validate the payment of benefits to particular members of the CSS and a number of minor amendments related to the delegation of powers of the trustees and the disclosure of information by those trustees to employers. The bill also includes provision to amend the Superannuation Act 1976 to include certain safety of superannuation reforms in the governing rules of the Commonwealth Superannuation Scheme. These safety of superannuation provisions have already been implemented through the Superannuation Legislation Amendment (Trustee Board and Other Measures) Bill 2006, which received royal assent on 9 June 2006. As a consequence, these provisions of the bill are no longer required. Under technical arrangements included in the Superannuation Legislation Amendment (Trustee Board and Other Measures) Bill 2006, sections 1 to 14 and 25 of this bill will be automatically repealed when the bill is passed, so these provisions no longer have any practical effect.

The government is also moving amendments to this bill to change the commencement date of negative crediting provisions. The existing terms of this bill have these provisions commencing on 1 January 2006. As this date has passed, it is important to make this amendment to ensure that all provisions remain prospective. The bill will enable the trustees to allocate negative earnings to members’ accounts. The trustees requested these changes to allow allocation to members of actual fund earnings, including negative earnings, when member investment choice was introduced for relevant members in 2004. This will resolve the inequity where negative earnings are not passed on to members exiting the funds but are deducted from future earnings applicable to remaining members’ accounts.

The bill will also amend the Superannuation Act 1976 to authorise a small number of CSS benefit payments that were incorrectly paid because ComSuper incorrectly informed certain members that they were entitled to claim their benefits. The effect of these changes will be that recovery from these individuals will not be required. The bill will also make a number of other technical amendments to enable trustees to delegate administrative functions to their staff and to broaden the type of information that can be provided to scheme members via their employers, provided this would not breach the Corporations Act 2001 or any other act. I commend the bill to the Senate.

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

The Senate divided. [5.38 pm]
(The President—Senator the Hon. Paul Calvert)

Ayes.......... 31
Noes.......... 33

Majority...... 2

AYES

Allison, L.F.  Bartlett, A.J.J.
Brown, B.J.  Brown, C.L.
Campbell, G. *  Carr, K.J.
Crossin, P.M.  Faulkner, J.P.
Fielding, S.  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.
Nettle, K.  O’Brien, K.W.K.
Polley, H.  Ray, R.F.
Siewert, R.  Stephens, U.
Sterle, G.  Stott Despoja, N.
Webber, R.  Wong, P.
Wortley, D.
Senator O'BRIEN (Tasmania) (5.41 pm)—The Maritime Transport and Offshore Facilities Security Amendment (Security Plans and Other Measures) Bill 2006 amends the Maritime Transport and Offshore Facilities Security Act 2003. The amending legislation seeks to simplify the procedures for making changes to maritime ship and offshore facility security plans. It also seeks to clarify measures relating to the plan approval process, to make a number of technical amendments to clarify the intent of the act, to make amendments to various acts consequential to the enactment of the Legislative Instruments Act 2003 and to make a technical amendment to the Customs Act 1901. There are three schedules to the amendment bill and schedule 1 deals directly with the act.

The main purpose of the amending legislation is to require various ships, ports and offshore facilities to have security plans in place to minimise the danger to them and Australia as a result of terrorism and other acts of violence. Maritime security plans identify security measures to be implemented when different maritime security levels are in force. A maritime security plan means a plan prepared for the purposes of part 3 of the Maritime Transport and Offshore Facilities Security Act 2003. Such plans must be approved by the Secretary of the Department of Transport and Regional Services.

An example of the changes to the process of the approval of security plans is that the secretary will now have 60 days to approve a security plan, instead of the current 90 days. However, the secretary will effectively be able to extend this time by a maximum of 145 days when additional information is required in order to make a decision on a security plan. That matter is detailed in the explanatory memorandum on page 1.

Item 1 of the tabled amendments involves the repeal of current section 47(1)(c) of the act. That section requires that maritime security plans include contact details for a responsible maritime security officer. The substitute wording for section 47(1)(c) requires
a participant to designate, by name or position, all of the security officers responsible for implementation of a maritime security plan. That is detailed in the explanatory memorandum on page 4. In some respects, that is an improvement. Labor understands that designated security officers may depart employment or be moved to other positions. This amendment allows flexibility by designating a position rather than an individual name, although the ability to identify a responsible person rather than a position may no longer be available because of the discretion to supply the name of a person or a designated position.

It is the opposition’s view that this bill has a tendency to validly upgrade security, but there are still many serious maritime security issues that urgently need attention. Labor has warned the government about the dangers of ammonium nitrate being freighted around our coastline by foreign flag vessels with foreign crews—crews that have not undergone a background check. As Labor understands it, the crews of foreign flag vessels need to be identified by name prior to arrival in Australia, but that is only a name and does not entail a background security check. Labor is concerned about these arrangements, particularly in relation to the carriage of ammonium nitrate as this chemical compound is a high-end explosive when mixed with fuel.

I will give an example to demonstrate the sort of damage that this can cause. When the French freighter *Grandcamp*, carrying 2,300 tonnes of ammonium nitrate, docked in Texas City in Texas in the United States on 16 April 1947, what happened next showed how serious an explosion of that substance can be. When the deck of the *Grandcamp* caught fire, the ammonium nitrate cargo exploded. The explosion, I am told, was heard as far as away as 150 miles. It produced a mushroom cloud, rising 2,000 feet. Locals thought it was a nuclear explosion. The *Grandcamp*'s 1.5-tonne anchor was flung two miles and was embedded 10 feet into the ground. Senators would not be surprised to learn that Texas City was devastated and the explosion killed 567 people.

In our view, it is irresponsible that the government, having been warned about this danger, has refused to deal with this danger immediately. Labor has also pointed out that Abu Sayyaf and Jemaah Islamiah have the skills and opportunities to launch a maritime terrorist attack. Reports from United States intelligence sources indicate that the al-Qaeda group is suspected of owning or having long-term charters on a fleet of between 15 and 18 bulk or general cargo vessels. While it is believed that these vessels are used to generate revenue and to support the group’s logistics network, it is feasible that one of these vessels could be used in a suicide mission, making use of an explosive such as ammonium nitrate. There is, in our view, a real threat of such a ship being used as a weapon in a terrorist strike, just as jet aircraft were used in the 2001 World Trade Centre attacks, the anniversary of which we have just seen pass.

A maritime vessel can be used against a population centre adjacent to port facilities and/or shipping channels to damage port facilities, to sink vessels or just that particular vessel and to block access to a port facility. Labor has been calling for urgent maritime security reforms and, frankly, we get precious little from this government. We do welcome the Maritime Transport and Offshore Facilities Security Amendment (Security Plans and Other Measures) Bill 2006. However, there are many other urgent reforms that are required to improve Australian maritime security. Under Labor’s plan, a department of homeland security would be organised around its two core responsibilities—border protection and protection
against terrorist attacks within the border. That was outlined by Mr Beazley in his Sydney Institute speech on 4 August last year.

Our shadow homeland security ministry would provide a specialist focus on Australian national security. We believe that is necessary because security arrangements need to be tailored to Australia’s needs. The best way for that to be done is by a specific and dedicated department. We believe there is further need for maritime security reform. We think that in providing access to our ports and to vessels in and around our ports, there ought to be full knowledge of the crewing of such vessels.

At a hearing into maritime security, the Senate Rural and Regional Affairs and Transport References Committee was informed that somewhere in the vicinity of 200,000 foreign seamen visit our ports each year. Those 200,000 seamen—not Australian seamen but seamen from other countries—are not required to undergo the same level of security checks as our seamen. They do not have a security check at all. Therefore, we certainly will not be in a position to have a complete knowledge of those who visit our ports. It is one thing to talk about how one might ensure that there is an appropriate check on those crews from the time a ship berths if those crew members leave the vessel, but it is another thing to make assumptions about what might occur whilst those crew members are on a vessel approaching a berth or if those crew members do not leave the ship. We have raised those matters on a number of occasions.

Australia is becoming more and more reliant on foreign crewed vessels to provide our own domestic shipping needs rather than visiting our ports as a one-off, delivering goods which are imported into this country or collecting goods which are exported from this country. There are many vessels which are given a permit to trade on our coastline, to pick up domestic cargo, to move cargo between one Australian port and another or, in some cases, to continue to operate on the Australian coast on what is known as a continuing voyage permit—to continue to trade for a specific period and carry any number of cargoes in that period between any number of Australian ports.

Labor has for quite some time held the view that there are times when it is necessary for those foreign crewed vessels to be given the opportunity to carry cargo. That obviously occurs when there is not a suitable vessel available to carry the cargo or when a suitable vessel on the Australian coast is not available to carry that cargo. But what we have seen is a deterioration in the restrictions which have been placed on those vessels, to the point where it is almost a function of the department to determine that, if an Australian vessel does not provide shipping at the same rate or for the same remuneration as a foreign crewed vessel, the foreign crewed vessel is preferred and is given a permit.

That leads to a circumstance where we are seeing, day by day and week by week, the number of Australian crewed vessels working on the Australian coast carrying domestic cargoes between Australian ports declining. We are approaching the point where the domestic shipping industry will fall below a critical mass with which it can operate efficiently. We saw recently on the 7.30 Report an indication from Australian ship owners of the parlous state of Australian shipping brought about by this government’s administration of the permit system which allows foreign crewed vessels onto our coast. In the context of what we see as the deterioration of the state of Australian shipping, brought about by this government’s policy, we believe that the Senate ought to say something further. I move a second reading amendment:
At the end of the motion, add “but the Senate condemns the Howard Government for its failure to provide necessary maritime security and protect Australians, including:

(a) the Government’s failure to conduct security checks on foreign crews;
(b) the Government’s continued failure to ensure foreign ships provide manifestos of crew and cargo before arriving at an Australian port;
(c) the ready availability of single and multiple voyage permits for foreign flag of convenience ships including the ready availability of permits for foreign flag of convenience ships carrying dangerous materials in Australian waters and ports;
(d) the failure of the Government to examine or x-ray 90 per cent of shipping containers;
(e) the Government’s failure to create a Department of Homeland Security to remove dangerous gaps and to better coordinate security in Australia; and
(f) the Government’s failure to establish an Australian Coastguard to patrol our coastline”.

Senator STERLE (Western Australia) (5.57 pm)—I rise to speak in support of Labor’s second reading amendment to the Maritime Transport and Offshore Facilities Security Amendment (Security Plans and Other Measures) Bill 2006. The bill introduces measures in relation to the submission and approval of maritime, ship and offshore security plans. The bill is brief and straightforward and makes a number of small adjustments that Labor supports. While the Labor Party supports this bill as far as it goes, it is clear that the Howard government is not serious about addressing the deficiencies in Australia’s maritime and transport security. I hope that the provisions in this bill are acted on and implemented with greater competence than has characterised this government in its other dealings with maritime security.

I refer to the failure of this government to ensure that, as required by law, all ships advise details of their cargo and crew members 48 hours before they reach an Australian port. The most recent information given to the Senate tells us that just 67 per cent of ships coming to Australian ports actively comply with the requirement to properly advise of their cargo and crew 48 hours before they reach an Australian port. One-third of ships do not comply with the law, and this government is doing nothing about it. In the United States they have a similar requirement that a ship must advise the authorities of crew and cargo 48 hours before the ship berths. If ships do not provide that information 48 hours beforehand, they are required to stand offshore and, if need be, the coastguard will make sure that they do. In Australia we do not require them to stand offshore and we do not have a coastguard to stop them anyway.

Unfortunately, the National Party has been responsible for the transport portfolio ever since this government came to power. Ten long years of National Party mismanagement of the portfolio has left Australia’s maritime security in a parlous state. The current Minister for Transport and Regional Services, the honourable member for Wide Bay, has been busy trying to save his political neck from the ‘wheat for weapons’ scandal. As a result, it seems that the Minister for Transport and Regional Services has given less than his full attention to maritime security. I suspect the reason is that he is anxiously awaiting the report of Mr Justice Cole’s royal commission.

But I am not the only one frustrated by the pathetic performances of the National Party. I must admit that I did enjoy a great laugh over my Weet-Bix yesterday morning when I read a comment from Liberal MP Mr Michael Johnson on the front page of the Australian. According to Mr Johnson:

The National Party is on its last legs ... within the next 10 or 15 years they’ll be a dodo.
From where I sit in the Senate, I think Mr Johnson is 10 or 15 years behind: they are already a dodo.

Opposition senators interjecting—

Senator STERLE—That has woken them up. Mr Acting Deputy President, through you: welcome to the debate. It is Labor’s view that maritime security matters should be the responsibility of a minister for homeland security. But this government in its wisdom has chosen to leave maritime security to a succession of National Party transport ministers who clearly have other things to worry about: Mr Katter’s ‘beast’ riding a horse of discontent, for example.

Australian seafarers undergo a rigorous and thorough security check by the Australian Federal Police and by ASIO. They also have to have a maritime security identification card, known as the MSIC card. I want to commend the Maritime Union of Australia for the way in which it has willingly and efficiently cooperated with the government in introducing the maritime identification card system and other very important measures that it undertakes are necessary to secure and protect Australia’s maritime trade.

Despite the indifference displayed by the government, the Maritime Union of Australia, the Transport Workers Union, the Rail Tram and Bus Industry Union, the Australian Institute of Marine and Power Engineers and the Australian Manufacturing Workers Union forced their way to the table and did their best to save the government from itself and its own ignorance of the maritime, cargo and offshore industries.

The detailed submissions made by these unions show just how important union and worker involvement is in any project to develop and enhance maritime security. To quote Senator O’Brien’s figures and his vast knowledge of this area of Australia’s security, we have 200,000 foreign seafarers coming to our country every year; however, they are not subject to the same rules that apply to Australian seafarers serving on Australian ships. Not only are foreign seafarers denied Australian pay and working conditions; they are not subject to the same security regime as Australian seafarers.

Why aren’t we applying the same standards to foreign crews coming to Australia? If it is good enough for Australians to meet the required tests by the Australian Federal Police and ASIO of being of good character and good background, then surely we should ask the same of those crews coming to Australia, who could cause major terrorism damage to Australia. Why aren’t we prepared to say to foreign crews that we expect them to undergo the same security checks by the Australian Federal Police and ASIO as those which we apply to citizens of Australia? There is no good reason why there should be lesser security checks on foreigners coming into Australia than the security checks we apply to Australian citizens.

We also need to ensure that people who would do harm do not have the opportunity to turn one of those cargo ships into a floating bomb. The Howard government has a record of breaching the navigation regulations and its own ministerial guidelines regulating coastal shipping by failing to establish whether a licensed Australian vessel is available before issuing a single voyage permit to a foreign ship. The government has been quite happy to allow ships of convenience with foreign crews we know nothing about to carry dangerous materials around Australian waters. The Labor Party have made it clear that we think that is wrong.

We have made it clear that ships that come to Australian ports should be obliged to provide the details of their crew and their cargo at least 48 hours before arrival. If they do not, then we should do exactly what the
United States does: prevent their entry into our ports.

An independent review of this government’s administration of coastal shipping licences and permits for foreign vessels, undertaken by KPMG for the Department of Transport and Regional Services, provides a damning indictment of just how eager the government is to let these floating coffins move freight in Australian waters. The review found:

One in six permits for foreign vessels were granted without a signed application ... Data relating to one in five permits was incorrect or absent altogether; The Government was in breach of the Navigation Regulations and Ministerial Guidelines on the regulation of coastal shipping by failing to establish if a licensed Australian vessel is available before issuing a permit to a foreign ship.

It is a sad indictment of this government that it has presided over the demise of the Australian coastal trading fleet while giving a leg-up to foreign shipping that uses substandard vessels and engages cheap, foreign labour. I do not think it is enough to just tick off a list that people have put their plans in and rely upon that to secure us, which is what this bill is all about.

We do not know who the crews are on foreign flag of convenience ships. We do not know whether they are subcontracted to al-Qaeda. I reckon we have far more to fear from terrorists than we do from unionised workforces. International maritime security agencies now accept that Osama bin Laden owns a fleet of cargo ships, all flagged under the flag of convenience system. As we know from the KPMG audit, that has occurred.

The Howard government’s active undermining of Australia’s shipping industry has been highly successful. Over the last 10 years over half of Australia’s fleet has already been decimated. We are now down to 50 vessels that sail under the Australian flag. Most recently, the chemical carrier MT Stolt was reflagged from Australia to the Cayman Islands and the 18 Australian crew members were sacked and replaced by cheap, foreign seafarers. The owners of the MT Stolt sacked the Australian crew and changed the flag to a flag of convenience, safe in the knowledge that the Howard government hands out single voyage permits like confetti at a wedding. Even though the MT Stolt regularly carries loads of around 9,000 tonnes of sulphuric acid around the Great Barrier Reef, the Howard government is happy to allow the owners to make a few extra bucks profit through the use of cheap, unskilled foreign crew and lower safety requirements.

The result of the Howard government’s continued abuse of the single voyage permit system is that the remaining Australian merchant fleet will be forced to struggle to compete with foreign competition that has lower safety standards and lower wage costs. It is clear from the findings of the audit that the lax administration of foreign ships on the Australian coastal trade places Australia and its citizens at a heightened risk of maritime terrorism.

We have the recent example of the Pansaldo chugging around Australia’s coast loaded with ammonium nitrate. Honourable senators will recognise that ammonium nitrate was the explosive of choice in the Oklahoma bombing. We all remember the horrifying images of the north side of the Murrah
Federal Building being torn down by a single car load of ammonium nitrate explosive, with the tragic loss of 168 lives. The Pan-
caldo was carrying over 3,000 tonnes of the stuff in and out of Australian ports. The Pan-
caldo sails under the Antiguan flag, which has been listed by the International Transport
Workers Federation as a flag of convenience registry where, for a few quiet payments, you
can get a ship registered with no questions asked. The MUA were able to discover that
most of the crew came from former Soviet republic nations and Eastern European na-
tions. The Australian government had no background knowledge of the crew whatsoever. There were no security checks done on
any of the crew.

It is going to take more than this bill and a fridge magnet to fill the gaping holes in our
maritime security—but you do not have to take my word for it. In a recent report by the
Australian Strategic Policy Institute on Aus-
tralia’s maritime security, the institute found:
A terrorist attack on Australia’s maritime interests is a credible scenario. Australia still faces major
institutional and operational challenges in reduc-
ing the risks of maritime terrorism. We haven’t
met these challenges fully, and we lack consist-
tency in the response.
According to this authoritative and inde-
pendent body, the Howard government has failed to appreciate the seriousness of the
situation. The Howard government proudly
boasts that it X-rays about 10 per cent of the
containers that come off ships. That leaves
about 90 per cent of containers going through unchecked. The odds are pretty good
if you want to hide something in a container.
The government cannot come before the people of Australia or this parliament and say
that it is doing its job when it allows 90 per
cent of containers to come through our ports
without being checked at all.

If we compare the Howard government’s
effort with what is occurring in neighbouring
countries, we can see just how slack they are. Hong Kong are trialling new systems with
new equipment to X-ray 100 per cent of the
cargo in two of their nine terminals. Unfort-
unately, in Australia, the government are
asleep at the helm. There are over 20,000
ship arrivals and more than 3½ million
movements of loaded containers in Australia
each year. If 90 per cent of these containers
go unchecked, there is a lot of opportunity
for dangerous items to be smuggled into our
country.

The centrepiece of Labor’s maritime secu-
rity policy is the creation of a coastguard. Government ministers come into the cham-
ber to ridicule Labor’s coastguard policy
every chance they can get. The Minister for
Defence claims that this is an outrageous
policy and a slur on the Royal Australian
Navy. It is nothing of the kind. If we had a
coastguard, maybe we could enforce the laws
that the government wanted and the Labor
Party supported that require ships to provide
notification, 48 hours before they arrive in
port, of who their crew are and what their
cargo is.

The functions of a coastguard would be to
protect Australia’s coastline from all manner of threat—for instance, illegal immigration,
illegal fishing and environmental threats such as oil dumping—and, if necessary, to
enforce Australian law with regard to ship-
ing. If we had a coastguard, we could en-
force our own shipping laws and protect
Australian ports while not diverting the
Royal Australian Navy from the important
tasks that we have the Navy for. If the How-
ard government do not want to listen to the
Labor Party then they should take the lead
from the many countries in the world who
understand the difference between the role of
a coastguard and the role of a navy.

Far from thinking that the coastguard is a
waste of money, the US is currently planning
a major expansion and re-equipment of their coastguard to meet the new challenges of the times, including the terrorist threat to US ports and shipping lanes. If Jemaah Islamiah were to fill a Panamanian flagged tanker with ammonium nitrate, hire a Ukrainian crew who spoke no English and who had no idea of where they were or what they were carrying and sail the tanker into Dampier, the requirement that they notify the port authorities of the tanker’s cargo would probably not be enforced and, sadly, we would have no capacity to prevent it from coming into port. Does this government really think it is appropriate that the Royal Australian Navy keep its warships tied up in every Australian port to guard against threats of this kind? That is not what the RAN, with its highly specialised ships, equipment and crews, is trained and funded for. That is the role of a coastguard.

The bill before the Senate today is a small step forward, but a lot more needs to be done. We as a nation deserve better when it comes to our national security and the protection of our maritime borders and points of entry. The carriage of highly dangerous goods, like ammonium nitrate, by foreign ships around our coastline must stop now and the transport of high-consequence dangerous goods around Australian coasts must be done by Australian ships crewed by Australian men and women who are subject to appropriate security screening.

The Howard government’s neglect of shipping policy threatens our economy, threatens our national security and threatens our natural environment. Labor supports this bill, but that should not be taken as an endorsement of this lazy government’s failure to act to protect the security of our seafarers and our port communities or even to enforce the laws that this government itself has passed.

In conclusion, under a Labor government, Australia will have a full-time minister for homeland security, a full-time inspector of transport security, and a full-time professional coastguard.

Senator CROSSIN (Northern Territory) (6.14 pm)—The Maritime Transport and Offshore Facilities Security Amendment (Security Plans and Other Measures) Bill 2006 amends the Maritime Transport and Offshore Facilities Security Act 2003. It does so to simplify the procedures for changing maritime offshore facilities security plans and to make various technical amendments to clarify the intent of the 2003 act. As such, it deals with the framework of regulations which safeguard against unlawful interference with maritime transport or offshore facilities.

With the close proximity of this debate to the fifth anniversary of the events of September 2001, this bill may be seen as very appropriate in tightening up our maritime security. Indeed, it is. This bill makes some valid and long overdue improvements to our maritime security and, if we think about it, maritime security is indeed very important. One shudders to think what might happen if maritime security were breached by a boatload of explosives.

In my own electorate in the Northern Territory, one can only imagine the horrendous potential of a security breach with any of the now numerous liquid natural gas ships that load up not far from Darwin city. Just over the harbour, you can sit down and dine on the Darwin wharf with LNG ships loading just over the other side of the harbour at the Bechtel plant on Wickham Point.

So maritime security is essential, and it is not to the government’s credit that there are many areas of maritime security where it has been lacking. The government has been lacking in allowing vessels carrying ammonium
nitrate to move around our coast and our ports, as my colleague Senator Sterle so aptly described. These are foreign flagged vessels with foreign crews who are given minimal, if any, security checks. It is indeed ironic to think of these flag of convenience vessels moving around quite freely with holds full of ammonium nitrate and minimal security checks on crews, but heaven help any individual who buys it in bulk without good reason once that cargo is unloaded—ASIO will be on their doorstep in very quick time.

Considering the potential of ammonium nitrate as an explosive agent, this lack of checking on foreign vessels and crews is unforgivable in this day and age. With the international shipping market being wide open, any terrorist group with the funds could, it would seem, charter a vessel from a foreign owner and go wherever it liked—certainly into Australia, with our lack of security checking of crews. Put such a vessel together with a hold full of ammonium nitrate and you have a sailing bomb moving around with minimal checks, all but free to sail into whichever Australian port it decides on.

The Labor Party has long been calling for improvements to our maritime security, but with little or no recognition from this government to date. We therefore welcome this bill, although it falls far short of meeting all of our concerns. With the help and support of Labor, this government was able to enact legislation requiring all ships entering Australian ports to give 48 hours notice about details of their cargo and crew. Despite this, recent information given to the Senate was that only about two-thirds of the vessels entering our ports actually comply with this requirement. So this government has totally failed to enforce compliance with this part of our legislation dealing with maritime security. It seems, like so many other pieces of legislation forced through by this government, these requirements are poorly administered and implemented. My various speeches and comments on Indigenous education in the last 18 months indicate that this is another area that lacks such detail.

In the United States they have a similar requirement of all vessels entering their ports. Any such vessel failing to give details of cargo and crew 48 hours ahead of arrival is simply not allowed in. Instead, it is required to anchor offshore. If need be, the US Coast Guard makes sure the vessel does not get close to port. Here, we do little or nothing and we have no coastguard anyway.

So one-third of ships entering our ports do not comply with the requirement of giving details of cargo and crew. They could be carrying anything, and the crew could be legitimate or illegitimate—indeed, they could be terrorists. One-third of ships have no checks carried out before getting alongside the wharf, and many of the others have minimal crew checks anyway. This is doubly ironic when one considers what checks Australian maritime and port workers have to go through to get their security card in order to work on a ship or in the dockside area. But foreign crews seem to get away with little or no checking. Who knows who is entering our ports, and anyone wishing to do so for illegitimate purposes will do so and may well be away from the ship before their identity is discovered. As was said by my colleague the honourable member for Batman in the debate in the other place, flag of convenience crews are, frankly, floating terrorist opportunities to do serious damage to Australia.

To make things even worse is the fact that when cargo is unloaded, only about 10 per cent is actually X-rayed to check its contents. This must be one of the lowest ratios in the developed world. Again, if I may use figures from my colleague the member for Batman, in Hong Kong, certainly one of the busiest
ports in the world, up to 100 per cent of containers unloaded are X-rayed—a major difference between them and us. We can only wonder why an equal proportion could not be X-rayed in Sydney, Melbourne or Brisbane, for example.

But an equally poor failing from the point of view, certainly, of my electorate in the Northern Territory is the government’s failure to properly police and secure our northern waters. The situation in our northern waters has gone from bad to worse over the past couple of years, with more illegal vessels being sighted but a decreasing proportion being stopped or caught.

This government has been very well aware of this worsening situation but has steadfastly refused to consider options such as paying Indigenous marine rangers to do that sort of job or setting up a proper coastguard. Instead, it has consistently claimed that our security is good, that we are detaining boats and illegal fishers. But the truth is that more and more boats are entering our waters, plundering our fishing stocks and often, it seems, landing on Australian soil and seriously threatening our biodiversity and security with quarantine risks.

The truth of the matter is that under this government our coastline has been and remains extremely vulnerable. The government policy that is in place simply is not working efficiently or effectively. Authorities are unable to track illegal vessels or to reach them in time to take any action. Last year alone, 13,000 illegal vessels were sighted in Australian waters, but only 609 of those were apprehended or detained—let alone those that get right in close to our shores, in the mangroves or up the rivers, as we have seen and heard reported time and time again by our Indigenous marine rangers in places such as Maningrida and Groote Eylandt. Any of those vessels could have had people come ashore and enter our country illegally. Most probably, that has happened.

What this government has done is to have the occasional blitz on illegals, catch a group of them and then turn the event into a media stunt, just as it has done with the odd burning of boats and those ceremonies along our northern shores. As reported on the ABC news back on 9 May, Customs caught 12 boats in the Gulf of Carpentaria in the previous fortnight. That was good, and we are sure Customs are doing their best with the resources they have, but how many other boats were in the gulf that were not caught? An average of over 30 a day are spotted across the top—in a fortnight, that could be as many as 500—but only 12 were detained.

I emphasise again that I fully agree with my NT colleague in the other place in saying that both Navy and Customs are doing their very best, in a very professional manner. There has been many a time that I have had a briefing at NORCOM or have been with Coastwatch and had an opportunity to witness the way in which these people work. But they do it with limited resources for the total job on hand and for what is expected by the Australian community.

The government has changed coastal surveillance and now has more aerial surveillance flights with the sophisticated Orion aircraft, but this will just mean that they spot more, not catch more or stop them from coming. Illegal incursions by foreign fishing vessels are at record levels and appear to be on the rise. This threatens not only the NT Fisheries resources but our national security and biodiversity.

The Labor caucus Transport and Maritime Security Taskforce, who have spent some time over the recent months investigating and reporting on this matter, described in their report Maritime security and illegal fishing: a national disgrace the situation
where illegal fishing has become a highly organised, sophisticated and criminal activity. Vessels are now being used more and more, and modern ships are equipped with modern technology—they know precisely where they are at all times. They are not innocent traditional fishermen anymore. Evidence given to the caucus task force was that as many as nine out of every 10 illegal fishing trips are in fact successful, so in most incursions into Australian waters these vessels could be up to anything, in addition to the illegal fishing that is occurring.

The real truth is that anyone could be entering our nation via the sea and our coast. They could be doing so on vessels carrying anything from high explosives to rocket launchers, to rabid dogs or other major diseases. And of course all of this has been helped along quite nicely by the Howard government allowing Aussie flagged and crewed vessels to fall by the wayside and to be replaced by these foreign-crewed flag of convenience vessels. This has all been part of this government’s campaign against Aussie workers. These ships have been allowed to replace Aussie ships around our coastline on a regular basis, in the process sacrificing the safety of our sea lanes and ports.

Thank goodness that up to now an exception has been on the LNG vessels working on the North West Shelf. There Australian tankers are crewed by Australians, with a strong commitment to best-practice safety and security procedures. This stands us in good stead not only at home but in the trade of LNG, where we are reputed to be good, safe and reliable carriers of this product. However, we also need to ensure the security of not just the LNG vessels and the Wickham Point gasworks but also, of course, the many oil rigs based off our coast.

If all vessels were forced to report details of cargo and crew 48 hours before entering any port, this might also help to further protect the safety of our offshore rigs. This could be done if only this government would listen and form a coastguard service. We seem to follow so many other things the Americans do; why not this? Maybe because it is a Labor idea, and the government is too strong-headed to adopt this one. The Navy is here to protect our nation from hostile actions, not from illegal fishing and foreign-crewed flag of convenience cargo vessels roaming our shores.

Maybe if we had a coastguard we could enforce these laws. We could ensure that vessels reported details of crew and cargo 48 hours in advance, or we could force them to anchor offshore, as is done by our American allies. We could check out many more of those vessels spotted in our waters, often illegally fishing but also potentially bringing in undesirable illegal entrants. We have a coastline of around 37,000 kilometres. We absolutely rely on maritime transport for most imports and exports. We are indeed a maritime nation.

We support this bill but condemn the government for the many failings it has had in maritime security in ensuring the safety of our vessels, our ports and our people. We can only hope that the government will be better at administering this bill than others in the past.

In conclusion, I want to reiterate the second reading amendment that was moved by Senator O’Brien. We suggest that the Senate, in passing this legislation, condemn the Howard government for its failure to provide necessary maritime security and to protect Australians. The government has not done that, because it has failed to conduct security checks on foreign vessels. It continues to fail to ensure that foreign ships provide manifests of crew and cargo before arriving at an Australian port. There is the ready availabil-
ity of single and multiple voyage permits for foreign flag of convenience ships, including the ready availability of permits for foreign flag of convenience ships carrying dangerous materials in Australia’s waters and ports. This government has failed to examine or X-ray 90 per cent of shipping containers. It has failed to create a department of homeland security to remove dangerous gaps and to better coordinate security in Australia. Finally, of course, there is this government’s reticence and failure to establish an Australian coastguard, as suggested by the Labor Party, to patrol our coastline.

Senator SANDY MACDONALD (New South Wales—Parliamentary Secretary to the Minister for Defence) (6.30 pm)—It is my pleasure to sum up the debate on the Maritime Transport and Offshore Facilities Security Amendment (Security Plans and Other Measures) Bill 2006 after hearing Labor’s best available big hitters on this occasion, Senators O’Brien, Sterle and Crossin. I will address the bill first and then respond to Labor’s proposed second reading amendment, which the government opposes.

The bill strengthens the Maritime Transport and Offshore Facilities Security Act 2003 by simplifying procedures for making changes to maritime, ship and offshore facilities security plans; clarifying the processes in place for the establishment of security zones; shortening the time allowed for the Secretary of the Department of Transport and Regional Services to approve security plans; and clarifying when the security plan approval period commences. There are a number of other technical amendments to a wide range of legislation administered within the Transport and Regional Services portfolio. With a handful of exceptions, they are unrelated to transport security matters.

The bill does not propose to vary any of the policy settings underpinning Australia’s maritime security regime. It is merely a procedural bill. The passage of this bill will assist the maritime industry by providing for a simpler process for making minor variations to security plans without undergoing the full plan revision process. The government also wishes to simplify the administrative process for establishing maritime security zones. Consultation undertaken by the Department of Transport and Regional Services with the maritime industry has assisted in developing these amendments, and this bill has the widespread support of the industry.

The Senate Rural and Regional Affairs and Transport Legislation Committee has conducted an inquiry into the bill and, in its report tabled on 15 June this year, has recommended that the bill be passed without amendment. The government looks forward to the passage of the bill within the current sittings of parliament to enable maritime industry participants to focus on implementing and maintaining the security measures outlined in their security plans, contributing to the strengthening of Australia’s maritime security arrangements.

I might address some comments to the Labor Party’s second reading amendment as moved by Senator O’Brien on behalf of the opposition. With respect to pre-entry security reporting and crew reporting, I would comment that, despite Labor’s claim to the contrary, every ship seeking entry to Australia is subject to a comprehensive security risk assessment regardless of the flag that it flies. The security risk assessment takes account of all relevant information about the ship, including the nature of the ship’s cargo and operations, and is independent of customs cargo manifest reporting requirements. Ship and crew reports are required 96 hours in advance of arrival. For voyages under 96 hours, reports are required within shorter time frames. For the shortest voyages, reports are required 12 hours prior to entry.
These reporting time frames have been in place since October 2005. Ninety-nine per cent of ships entering Australia have been compliant with ship- and crew-reporting requirements.

Furthermore, all foreign crews are checked before they enter Australia. Foreign crews go through stringent immigration processes, with their names checked against alert lists as soon as the crew list is received in accordance with the existing reporting requirements. This is far different from Labor’s claims that ships arrive in Australian ports having failed to meet crew-reporting requirements. That claim is simply not true. If a ship has not met the pre-entry reporting requirements, the government proactively seeks the information from the ship’s master or agent. If information is not reported within required time frames, ships can be subject to control directions. These may include ordering the ship to leave Australian waters, holding the ship in a particular position until further notice or requiring that particular actions are taken on board the ship. As well as 99 per cent compliance with crew-reporting requirements, 99 per cent of foreign ships seeking entry to Australia have been compliant with the maritime security regime that exists.

With respect to the provision of pre-entry cargo manifest reports, the Australian Customs Service is responsible for clearance of all cargo entering and leaving Australia. Ships are required to provide these reports in accordance with specified reporting time frames. Again, Labor have fiddled the figures regarding compliance with cargo manifest reporting time frames. Their claim of 67 per cent of compliance is based on figures 16 months old and only refers to cargo reports that arrive 48 hours or more prior to a ship’s arrival. As with crew-reporting requirements, that time frame decreases with the voyage’s length. In fact, 83 per cent of sea cargo is reported within the legislated time frames. If cargo is not reported until after arrival, the cargo is not released from Customs control until such time as all required information is provided and the cargo has been risk assessed by Customs.

With respect to dangerous goods and coastal voyage permits, I make the following points. Labor is concerned about the carriage of ammonium nitrate between Australian ports by foreign ships. The government provides that a foreign flagged ship may transport domestic cargo between Australian ports where there is no suitable or adequate ship available to undertake the task. The ships undertaking such voyages are subject to a comprehensive risk assessment. This ensures Australian industry has access to the coastal shipping services it needs to compete with imports and maintains its ability to export into competitive global marketplaces.

Labor’s opposition to using foreign ships to transport ammonium nitrate—even though it is clear that there may not be Australian ships suitable or available for the task—will lead to hundreds of semitrailer loads of ammonium nitrate travelling on the already busy highways of Australia’s east coast. This is surely a far more dangerous outcome than shipping ammonium nitrate by sea. Labor’s objections also ignore the fact that the safety arrangements for the shipping of ammonium nitrate are now regulated internationally by the International Maritime Organisation and Australia is fully compliant with the international regulatory regime that is set up under the IMO. Among other things, the regime prohibits the storage of ammonium nitrate with other volatile products—which led to the explosion on the Grandcamp in Texas City, an incident that happened almost 60 years ago.

With respect to Labor’s comments on homeland security, I make the following
points. Proposals for a department of homeland security fail to take account of the fact that Australia has a well-practised national counter-terrorism regime which has been developed over many years on a whole-of-government basis. These arrangements worked well in the aftermath of September 11, the two Bali bombings and the Jakarta, Madrid and London bombings. Our counter-terrorism coordination arrangements have been instructed to reflect our federal system of government—and they are complex. State and territory governments and agencies have primary operational responsibility for dealing with a terrorist incident in their jurisdiction. The Australian government would of course provide support to the state or territory involved, as appropriate.

At the top level of government, the National Security Committee of cabinet, the NSC, meet regularly. There is a clear line of direction from the NSC, the Prime Minister and the Secretary of the Department of the Prime Minister and Cabinet to the Australian government’s operating departments and agencies. The Prime Minister has created a National Security Division within the Department of the Prime Minister and Cabinet to take the lead role in counter-terrorism policy coordination on a whole-of-government basis. The system works well.

Finally, with respect to the need for a coastguard, I make the following points in response to the Labor Party amendments. Border protection duties are already carried out in a highly professional and effective manner by the Joint Offshore Protection Command, the Australian Customs Service, the Australian Defence Force and relevant government agencies through a range of strong capabilities. These capabilities are on the beat 24 hours a day, every day of the year. A coastguard would be an expensive duplication of existing capabilities. A coastguard would also create a new and overlapping bureaucracy and divert resources away from the existing tried and tested arrangements. It is simply not needed and not appropriate in the Australian context.

The government does not support the opposition’s second reading amendments, but I do note that the opposition supports the legislation. I commend the legislation to the Senate.

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

The Senate divided. [6.45 pm]
(The President—Senator the Hon. Paul Calvert)

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<thead>
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<th>Ayes</th>
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<td>32</td>
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**AYES**
Allison, L.F.  
Brown, B.J.  
Campbell, G.  
Crossin, P.M.  
Forshaw, M.G.  
Hutchins, S.P.  
Ludwig, J.W.  
McEwen, A.  
Milne, C.  
Nettle, K.  
Polley, H.  
Siewert, R.  
Sterle, G.  
Webber, R.  
Wortley, D.

**NOES**
Abetz, E.  
Barnett, G.  
Boswell, R.L.D.  
Calvert, P.H.  
Colbeck, R.  
Ferguson, A.B.  
Fierravanti-Wells, C.  
Heffernan, W.  
Kemp, C.R.  
Macdonald, I.  
Adams, J.  
Bernardi, C.  
Brandis, G.H.  
Chapman, H.P.  
Eggleston, A.  
Ferris, J.M.  
Field, M.P.  
Joyce, B.  
Lightfoot, P.R.  
Macdonald, J.A.L.
The question now is that the bill be read a second time. Question agreed to. Bill read a second time.

Third Reading

Senator SANDY MACDONALD (New South Wales—Parliamentary Secretary to the Minister for Defence) (6.48 pm)—I move: That this bill be now read a third time. Question agreed to. Bill read a third time.

DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator Crossin)—Order! It being 6.50 pm, the Senate will now proceed to the consideration of government documents.

Department of Immigration and Multicultural Affairs

Senator BARTLETT (Queensland) (6.49 pm)—by leave—I move: That the Senate take note of the documents.

These two documents are: Department of Immigration and Multicultural Affairs—Response to Ombudsman’s statements made under section 486O of the Migration Act 1958—Statement to Parliament—Section 486P of the Migration Act 1958. (28 August 2006/28 August 2006); and Department of Immigration and Multicultural Affairs—Reports by the Commonwealth and Immigration Ombudsman—Section 486O of the Migration Act 1958 [Personal identifier: 070/06—071/06]—Subsection 486O(5) of the Migration Act 1958. (28 August 2006/28 August 2006).

The latter document is a report by the Commonwealth and Immigration Ombudsman, one of a series that has been tabled in the Senate detailing the investigations into the circumstances of people who have been in immigration detention in Australia for prolonged periods; and the former document is the minister’s response to the statement by the Immigration Ombudsman concerning two cases.

As is mentioned there, these two reports bring the total number of statements by the Immigration Ombudsman tabled in parliament to 71—so, there are 71 different people who have been in immigration detention for one or two years. The ombudsman is investigating every case of every person who has been in immigration detention for those prolonged periods of time, looking at the background to the detention, the detention history, any issues relating to health and welfare, and removal issues or other detention issues, as well as a recommendation about what should best be done to resolve the situation. This flows from the justifiable outrage that came forward, in particular when the case of Cornelia Rau was discovered, and also with the case of Vivian Alvarez Solon. The federal government agreed to allow the ombudsman to investigate each of these cases, and to require a report to be tabled.

It is a valuable checking mechanism and it is a valuable transparency mechanism, and the government should be congratulated for initiating it. It should however still be noted...
that it is completely unacceptable, certainly from the Democrats’ point of view, that a person is in immigration detention for years at a time unless there are absolutely extreme extenuating circumstances. Many of the cases that have been tabled, including the two that have been tabled today, have been difficult cases. There is no doubt that the immigration area does throw up difficult cases from time to time. But we have to remember that detention is in effect jail. It is the denial of people’s freedom for an indeterminate period of time—people who have not been convicted of any crime and in most cases have not been accused of committing any crime, at least with regard to the Migration Act. To be basically locking them up as a holding pattern until we figure out how to resolve their circumstance is, in the Democrats’ view, still completely unacceptable.

The fact that we have transparency mechanisms such as these is welcome, but they should not be used as a reason for stepping back from the necessary reform of abolishing mandatory detention as an automatic component of our Migration Act. Despite all of the changes and welcome improvements that have been made in the last year or so, it is still a part of our Migration Act for there to be mandatory detention—mandatory indefinite detention—and that I believe is still unacceptable. We need to continue to push to reform the Migration Act to eliminate that totally unacceptable component of the act which I believe totally goes against the basic principles of our democracy and our system of law.

I have introduced private members bills in the Senate to achieve precisely that. I also note that I have introduced a separate bill to try to provide a more coherent and reliable mechanism for assessing peoples’ circumstances when there are other humanitarian issues separate to refugee convention issues. Many of these difficult cases that have been the subject of ombudsman reports are in that category where they do not meet the refugee convention criteria but there are other significant humanitarian circumstances. At the moment the system is arbitrary, very inconsistent and very opaque in how those cases are dealt with. These reports simply reinforce the need for broader legislative change. You cannot change the culture without actually changing the laws that inform that culture.

(Time expired)

Question agreed to.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Crossin)—Order! It being 6.55 pm, I propose the question:

That the Senate do now adjourn.

Iraq

Senator LIGHTFOOT (Western Australia) (6.55 pm)—We can only see what is occurring in Iraq by that which the Australian and international media chooses to report. Their decision to constantly convey the negative issues, such as the bombings and other appalling problems facing Iraq—and there are many appalling killings by these crazed murderers, particularly in and around Baghdad—does not give a full indication of what is occurring in other regions in that nation. At a time when so many negative aspects of Iraq are reported in the media—bad news is good news—it is important that we acknowledge the many positive events that have occurred in a land that gave birth to civilisation over 10,000 years ago. Kurdistan, in the northern part of the Republic of Iraq, is often overlooked and ignored, receiving very little or no coverage in the mainstream media. Yet it is progressing at a rapid speed in developing its land.

For many decades the Kurds faced persecution, torture and death. In 1974 the Iraqi government began a new offensive against
the Kurds and pushed them close to the bor-
der with Iran, into the Zagros Mountains that
gave them protection from Saddam’s killers. The
Iraqi regime informed Tehran that it was will-
ing to satisfy other Iranian demands in
return for an end to its aid to the Kurds. The
Algiers Pact, an agreement between Iraq and
Iran, with mediation from the then Algerian
President Houari Boumedienne, was agreed
in March 1975. The agreement left the Kurds
helpless and the Shah of Iran ordered that
supplies to the Kurdish movement be cut,
cau\nging the Kurdish leader General Barzani
to flee across the border into Iran with many
of his supporters. As a result the Iraqi gov-
ernment extended its control over the north-
er region after a 15-year absence and, in
order to secure the dictator’s influence,
started an Arabisation program by moving
southern Arabs to the oil fields in Kurdistan,
particularly the ones contiguous to Kirkuk,
the main oil city in Iraq.

The repressive measures carried out by the
Iraqi regime against Kurds after the agree-
ment led to renewed clashes between the
Iraqi army and the Kurdish guerrillas, known
as Peshmerga, in 1977. As a result, in 1978
and 1979, 600 Kurdish villages were burnt
and destroyed. Around 200,000 Kurds were
forcibly relocated to other parts of the coun-
try and many started what was to become a
diaspora of Kurds around the globe. During
the Iran-Iraq War of the eighties, the Iraqi
regime implemented anti-Kurdish policies
and a civil war broke out. Saddam was
widely condemned by the international
community but was never seriously punished
until 1991 for his oppressive measures,
including the use of chemical weapons against
the Kurds—particularly in Halabja, a town I
have visited in north-eastern Iraq, which re-
sulted in the deaths of thousands of men;
women, some pregnant; and babies and chil-
dren of all ages.

For two years, between 29 March 1987
and 23 April 1989, the Iraqi army continued
the genocidal campaign against Kurds—and
indeed against Arab Iraqis too, especially the
Shiites. It is estimated that—as a result of the
widespread use of chemical weapons, some
bought from Europe—there was the com-
plete destruction of some 2,000 villages, and
mass murder saw around 50,000 Kurds lose
their lives. These are just some examples of
the atrocities and inhumane acts that the
Kurds had to face at the hands of the brutal
former Iraqi dictatorship. Yet, despite these
unimaginable events, the Kurds have main-
tained their honour and their dignity. They
are an outstanding group of people whom I
am privileged to support in many ways. The
Kurdistan region’s economy is dominated by
the oil sector, augmented by agriculture and
tourism. Due to relative peace in the northern
region, it has a more developed and diverse
economy in comparison to other parts of
Iraq. The stability of the Kurdistan region
has allowed it, through the democratically
elected Kurdistan Regional Government, to
achieve a higher level of development than
other regions in Iraq. In 2004 the per capita
income was 25 per cent higher than the aver-
age of the rest of the nation.

The Kurdistan region is rapidly develop-
ing and the Kurdistan Regional Government
has undertaken a major program to attract
foreign investment in the region from
Europe, South Korea, Turkey, Russia, the
Middle East and the United States. Some
examples of development and progress being
made in Kurdistan include the following.
Firstly, the new Iraqi constitution for a fed-
eral Iraq means that Kurdistan is now in a
position to validate its own regional constitu-
tion, one that will provide the framework for
a society in which human rights, including
women’s rights, are upheld, the business en-
vironment is regulated and the rule of law—
not Sharia law—is supreme. Secondly, a new
investment law has been passed by the Kurds
distan National Assembly and is awaiting
ratification by the President of the Kurdistan
Regional Government, His Excellency Mas-
soud Barzani. Investors will have a legal,
secure and business-friendly constitutional
environment that is designed to encourage
inward investment. An innovative two mil-
ion square metre industrial city, Arat, is
planned 25 kilometres outside the national
regional capital of Erbil and will be open to
foreign investment.

Erbil International and Suleimani airports
are almost fully operational and are receiving
regular direct flights from neighbouring
countries, Dubai and Europe. When the re-

gion opened its first international airport a
year ago, planners expected one arrival and
departure a week. Now, they see about 65 to
70 flights a week to a dozen or more destina-
tions. You can fly directly to Frankfurt,
Stockholm, Copenhagen, Vienna, Athens,
Istanbul, Amman, Tehran and Dubai in the
United Arab Emirates. The new Erbil Inter-
national Hotel enjoys maximum occupancy
with mainly visiting foreign press and busi-
ness delegations.

Two thousand eight hundred Korean
troops and fewer than 1,000 US troops aug-
ment the local Pershmerga and are stationed
in the Kurdistan region to assist in rehabili-
tating infrastructure such as water supply,
sewerage, roads, schools and the renovation
and construction of town halls. A new, mod-
ern conference centre is set to open in Erbil
which will attract more and more industry
conferences, exhibitions and high-level trade
and political delegations. Foreign govern-
ments have been in the process of opening
representative and commercial offices in Er-
bil, including Austria, the Czech Republic,
Russia and the United Kingdom. Shaqlawa is
in Kurdistan, a fertile region of northern Iraq
that was once the target of Saddam Hussein’s
chemical attacks—yet this tiny town had 1.2
million visitors last summer, mostly from
other parts of Iraq. The fact that the region is
peaceful and relatively safe, with minimal
infighting, has encouraged tourism within
Iraq.

The clearest sign of the new boom in Kur-
distan is the increase in salaries. Before the
fall of Saddam Hussein a white-collar
worker earned 22,000 Iraqi dinar per month.
That is around $148. But, according to the
Ministry of Finance, today it is 158,000 Iraqi
dinar—a 750 per cent increase. Since the
Gulf War, Kurdistan has been largely on its
own. Iraq’s new constitution gives the region
partial independence, in which the Kurds are
wanting to encourage foreign investment. In
a recent interview, the British Prime Minis-
ter, the Rt Hon. Tony Blair MP said:

Look, one of the interesting things about
Kurdistan is that there, because there has been the
opportunity for people to live and work in peace,
that region is so much stronger. It is economically
stronger, it is stronger in terms of the living
standards of its people and what it shows is what
Iraq itself could be like …

With the US intervention in Iraq in 2003,
Kurdish fighters joined the US forces and
Australians to topple Saddam. Today they
tightly control their own regional borders
with their own army, supported by some for-
eign assistance, keeping out foreign terrorists
who can more easily penetrate Iraq’s large
and porous borders and make their way to
Baghdad to continue to wreak havoc.

The potential for the Kurdistan region is
vast and there are no limits to what can be
achieved. Kurdistan has proven reserves of
oil and gas, which are only now being devel-
oped by Norwegian, Turkish, British and
Australian firms. There is no Kurd who
would argue against the changes that have
occurred since the dictatorship of Saddam
Hussein has ended and, for the first time for
many years in their long history, the people
of Kurdistan can lead a peaceful life without
fear of persecution, violence or summary execution. They are most grateful for the assistance given to them by Australians for their freedom, after generations of unbelievable atrocities committed against them. I have great affection for the Kurds and will always offer them my support and encouragement.

**Victoria: Labor Government**

_Senator MARSHALL (Victoria) (7.04 pm)—I listened with interest as Senator Fifield stood up in this place last week and talked of ‘freedom fighters’, giving a commentary on the good work of the Victorian Labor government. The term he used—‘freedom fighter’—conjures up images of people fighting for their freedom, people like Nelson Mandela, who spent 32 years in jail. Yet an honourable senator such as Senator Fifield praises freedom fighters whilst being part of a government that limits freedoms and personal liberty like some totalitarian state—a government which goes out of its way to introduce thousands and thousands of pages of legislation aimed solely at curbing freedoms, freedoms hard-won over hundreds of years of our parliamentary heritage.

Examples of this government’s disregard for freedoms immediately spring to mind: legislation they brought forward that brings back the crime of sedition; legislation that makes it possible for citizens to be imprisoned from 48 hours to 14 days without having to charge them with an offence; legislation which allows the state to monitor your every movement and listen to your every conversation. In fact, the government have such an appetite for restricting freedoms that they even give enthusiastic approval to other states imprisoning our citizens without charge. David Hicks is a living example of how this government are ‘fighting freedom’ wherever it occurs. Another classic example is legislation such as Work Choices, hundreds of pages long, which prohibits Australians from having basic freedoms at work—freedoms such as acting collectively, having unions access their workplaces and taking part in union activities.

So what would Senator Fifield’s hero, Arthur Bruce Smith, think of all this? He would firstly chide Senator Fifield for his ignorance of how parliament and executive government came into being. Students of history such as Smith know that most protections afforded to us by our system of government have come out of a fight by common people over hundreds of years—a fight against the unjust and unnecessary use of power toward individuals and the community. This has taken place against monarchs, the military, states and corporations.

Next, Bruce Smith would probably give Senator Fifield a well-deserved dressing down for his absolute contempt for individual liberty, as shown by his government. Finally, he would probably stand for office against Senator Fifield, given his disgust at the volumes of legislation which has shown this federal government as fighting freedom. But was Senator Fifield’s hero all that the honourable senator makes him out to be? It turns out that he supported the principle of equal pay for equal work and worked towards industrial harmony rather than disputation. In fact, he founded the Victorian Board of Conciliation. In the 1880s, he stated that the Trades Hall leaders were, ‘on the whole cool-headed, exceedingly amenable to reason’. Bruce Smith was outspoken, sticking to his beliefs and speaking out against the populist racist sentiment at the time. He even took on his own leader over his embrace of popular racist sentiment for short-term electoral gain. He stood by his principles and acted upon them. Senator Fifield could do well to follow his example, rather than heap hollow praise.
So, having shown that Senator Fifield has ignored his hero and ultimately trounced the true spirit of liberalism, we move on to other arguments, where he claims to be correct, to see what other false notions we can uncover. Senator Fifield was right when he talked of democracy being slapped in the face in Victoria. As I listened to him, I nodded knowingly, having seen the conservatives slap it around ferociously in the upper house of the Victorian parliament. They did it for over a century.

We now have an upper house where democracy takes pride of place. Far from its origins as a house for the landed gentry, it is now a place where one vote has one value. Victoria is constantly abuzz with activity, regaining its vibrant culture and becoming a state where Victorians are proud to reside. This transformation has been in no small part due to a state government which values people above dollars and looks to combine a vibrant democracy with a vibrant economy and society. Labor is ensuring training and education, health services and equal opportunity to work toward a prosperous future. It has been the Labor government which has driven a sensible economic agenda, whilst ushering in just social policy for the collective common good.

Whilst I have already mentioned groundbreaking democratic change, I have not yet touched on an area of policy that I value above most—human rights. This is an area where Senator Fifield finds the Bracks government objectionable, stating that it has put forward meddling legislation that defeats freedom and liberty. Like so many assertions from the good senator, it is completely wrong. The Victorian government introduced the Charter of Human Rights and Responsibilities Act 2006, providing a basic framework protecting rights for all Victorians. This sets down rights that we in Victoria all assume we have but which were not protected by law or which were scattered across common law in a haphazard way. The Victorian government introduced the charter in a most open and consultative way, with an independent committee spending several months travelling across the state, listening to 2,500 submissions, and 94 per cent of those supported better protection of human rights.

This commonsense move simplifies Victorian laws and brings together in one piece of legislation basic rights such as the right to vote, freedom of speech, freedom of religion and freedom from forced work or degrading treatment. A charter of human rights ensures that Victorian governments, present and future, value the fundamental rights of all Victorians. Courts will be able to refer legislation to parliament for review if they find it inconsistent with the rights charter. Senator Fifield is dead wrong when he states that this legislation will hand to the judiciary the power to make laws. The judiciary has never had the ability to make laws and still does not, nor will it have the power to strike down legislation.

The rights in the charter are based on those enshrined in the United Nations International Covenant on Civil and Political Rights. Senator Fifield probably attacks such praiseworthy legislation out of guilt for his own government’s appalling record on human rights. He abides by the absurd mantra that to define a right is to limit it. I thought Australians had rights such as freedom of speech, freedom from arbitrary imprisonment without charge and freedom to associate. If we look at the current situation then we see it is clear we do not have these rights. This argument, like most of Senator Fifield’s commentary, is not based on reality.

Another piece of groundbreaking legislation from the Victorian government that Senator Fifield finds objectionable is the Racial and Religious Tolerance Act. This is im-
important legislation for our time, given that we must live in harmony. Senator Fifield believes that this act restricts our freedom of speech. Nothing could be further from the truth. It provides protection for Victorians from vilification on racial and religious grounds and looks to ensure that people are treated with dignity and respect, regardless of their race or religious beliefs. It prohibits racial or religious vilification, as well as promoting the right to engage in robust discussion, as long as it does not vilify others. The act does not prohibit freedom of speech, nor does it prohibit religious instruction.

Faith leaders have given in principle support for the act, acknowledging that the right to practise and debate religion in a free and democratic society carries with it responsibilities to respect others. It has been acknowledged by the judiciary that the act does not impair free speech but is reserved for extreme circumstances. Yet we still see Senator Fifield trying to justify an absurd position on this legislation. In comments to this chamber, he wholeheartedly agreed with racial vilification laws, yet he thinks that religious vilification should be acceptable in the eyes of the law. According to Senator Fifield, it seems that it is one thing to be vilified on the basis of your colour, yet if it is due to your faith then you are on your own. Vilification is vilification. I find it extremely concerning, given the constant barrage of remarks coming from this government regarding Muslims, that we would see a government member believing that religious vilification should be acceptable.

So, in conclusion, if I am to take Senator Fifield at his word, it is always time to stand up for individual freedoms and liberty. I am glad the Bracks government has done just that, with the ground-breaking legislation such as the Charter of Human Rights and Responsibilities Act and the Racial and Religious Tolerance Act. I only hope that Senator Fifield finds some way to discuss his own position with his long-gone hero in an attempt to ensure he remains true to freedom and liberty, given his poor record so far. With the next election looming, it may be his last chance.

Beattie Government
Queensland: Dams

Senator BARTLETT (Queensland) (7.14 pm)—The Queensland election was resolved last weekend, as all senators would know. I pass on my congratulations to the Beattie government for being re-elected. I note today the announcement of the new ministry, and I wish all of them well in their various roles.

One of the big issues leading up to the election, and which is still a big issue now, is water and water management in Queensland—particularly in south-east Queensland. The fact that the Beattie government won should not be seen as a rousing endorsement by the people of south-east Queensland for every single facet of the Beattie government’s water policy. The most controversial component of it by a long shot was the megadams the government proposes to build—most notably the Traveston dam on the Mary River, near Gympie. The response of the alternative government, the coalition, was to oppose that dam but to support a bunch of other dams instead. So the suggestion that it was a pro-dam vote by the electorates is one that does not hold water—if you will pardon the pun.

Tonight I would like to talk about not just the Traveston dam but also the other dam that is being proposed by the Beattie government—the forgotten dam proposed for Wyaralong. It is understandable that the planned megadam at Traveston is the one that is getting the most attention—firstly, it is bigger but, secondly, it will impact on a much larger number of people. While there are very strong economic and environmental
arguments against that dam, I do not think we should at all underestimate the enormous social harm of having that potential dam hanging over the people of that region. Although it affects those people who are going to lose their homes and their land, there is also a flow-on effect to the wider communities. It is a real reminder of the direct human impact of some of these proposals, which are often not factored into political decision making. People are seen as politically expendable. This dam was in a safe non-Labor seat—it shifted from a former One Nation member to a National Party member, but it was certainly never going to be a Labor seat—although in a couple of the surrounding seats, the Labor Party paid some electoral consequences for that unwise dam.

We also need to remember the other dam, the forgotten dam, the Wyaralong dam. It will not affect anywhere near as many people, but we should not make decisions solely on the basis of where it will cause the least fuss. I would like to draw the Senate’s attention to a report that has been prepared on the Wyaralong dam. It examines the detail: the economic costs, the likely water yield and whether it will deliver what is promised as part of the range of measures to address south-east Queensland’s water problem or join a long line of failed dams—a couple of good examples are almost right next door to the proposed Wyaralong dam.

The report I refer to was prepared by Dr Bradd Witt and his partner Katherine Witt. Dr Bradd Witt has a lot of expertise in this area, as does his partner. It should be noted that they have a personal interest as their family holds property in the area that will be affected, but they declare that quite openly. They used their professional expertise to forensically examine the arguments put forward in support of that dam, and those arguments need to be properly examined. Dr Witt is a lecturer and researcher at the University of Queensland in both environmental management and environmental problem solving. He has research experience in rangeland ecology and century-scale environmental change. Katherine is currently doing a PhD thesis in natural resource governance.

There is no doubt there is expertise there. There is also no doubt that these decisions, whether it is the Wyaralong or the Traveston dam proposal, were made in haste by the Queensland government. They were put forward as a way of showing that the government was weighing up the evidence in a dispassionate way before any work was done. Now that the decisions have been made, a flurry of propaganda has come forth to justify them.

This report that looks at the Wyaralong dam raises some significant issues. Fundamentally, this very expensive project—at least half a billion dollars—will actually deliver the water promised. The proposed dam, which is on the Teviot Brook, is in a relatively small catchment which has extremely variable rainfall—that is before you take into account the variations that are said to be already occurring with regard to climate change. The Teviot Brook is an ephemeral stream with a high, natural variability in annual flow, and there are records going back many decades that establish that. Certainly the evidence put forward in this report is that the proposed dam will fail to produce the expected 17,000 megalitres of flow a year during normal periods of rainfall as well as expected periods of drought.

The report also raises serious water quality concerns in respect of salinity, pollutants and effluent. The dam will destroy more than 1,200 hectares and 32 kilometres of riparian and floodplain ecosystems, most of which comprises the endangered regional ecosystem listed as the eucalyptus on alluvial soils. This is an ecosystem which, according to
recent mapping, indicates a remaining extent of only three per cent.

Social and cultural impacts have also been suggested in the report, as well as cost inefficiencies and distributional equity. The proposed dam is currently estimated to cost $500 million—including land acquisition, construction and road reconstruction. That is a very large investment for a dam that is only intended to produce 17,000 megalitres a year. It becomes even more dubious when, according to the data here, the dam is unlikely to produce that amount of water regularly. It should be noted that the surrounding shire, the Boonah Shire, already has two dams that have failed to perform adequately in periods of less than average rainfall such as we are currently experiencing. In the Moogerah Dam, even average rainfall has not been sufficient to ensure that dam is properly utilised.

The report, apart from raising very strong and well-documented concerns that put huge holes in the stated water yield that the government says will come from this dam, also proposes what seems to me quite a viable alternative. Personally I do not believe that alternative water storages would be necessary if the full amount of activity were being done with regard to the recycling of water and providing other water storage facilities and incentives—some of which, I should note, are being done, including water tanks in particular and the repair of infrastructure to reduce water loss and leakage in the cities.

But, if there is a need for the extraction of water and the creation of so-called new water in this particular region in south-east Queensland, the proposal put forward here to harvest water from the Teviot Brook and pump it a very short distance into one of the other two dams that are currently not working—Maroon Dam and Moogerah Dam—using a weir or two if necessary, would be immensely cheaper. It would harvest 80 to 90 per cent of the same amount of water that is proposed with the Wyaralong Dam and would actually make an existing dam, such as the Maroon Dam, more viable not just for water production but also for some of the other functions it was supposed to provide and is not able to because it does not hold enough water, such as recreational purposes.

I commend this report to the Senate and particularly to the environment minister, Senator Ian Campbell, who will need to look at this dam along with the Traveston Dam. I would urge the Beattie government, now that it is re-elected, to look at this issue properly and dispassionately. I urge it to weigh up the data and not just make the mistake of building a dam for the sake of being seen to build one or two. It should spend money in a way that is in the best interests of the state of Queensland and that will produce the most amount of water without the environmental and social damage that goes with unnecessary, unreliable and expensive dams.

Mr John Vander Wyk

The PRESIDENT (7.24 pm)—Before I call Senator Fifield, I would like to have a short break in the adjournment debate, if I may. Senators may be aware that Mr John Vander Wyk, the Clerk Assistant (Committees), who is at the table here tonight, retires next week after 32 years of service to the Senate. This will be his last sitting week. Since joining the Senate department in March 1974, John has served in all the sections of the Senate—the Table Office, the Procedure Office, as acting Usher of the Black Rod and in the Committee Office. He has given exceptional service to all senators and, in the best tradition, has given confidential advice to one senator on how to do a particular thing and then the same quality advice to another senator on how to prevent that particular thing from being done.
In April and May 2005, John was the delegation secretary to a parliamentary delegation to the Russian Federation and Italy, which I led. I must say that I found him to be delightful company as well as a very good and diligent secretary. We shared some wonderful experiences, particularly at a cultural establishment frequented by the beautiful people of Capri, as I recall. John, I know I echo the sentiments of all honourable senators when I warmly wish you all the very best for a long retirement in the sun. Thank you for your service to this place.

Honourable senators—Hear, hear!

Music Education

Senator FIFIELD (Victoria) (7.25 pm)—I add my own best wishes as well. When Australians think of the basics of a good education, the first things they think of are literacy and numeracy—English and Maths. The next things they think of are history, geography, science, art and music. We are all well aware of the decline in focus on literacy and numeracy in years gone past, which has been addressed by Ministers Kemp, Nelson and Bishop. They are really efforts to hold the states to account. I fear in raising this I may again be the subject of Senator Marshall’s attention but I will run that risk anyway.

This government has put steps in place to ensure objective testing of literacy and numeracy to make sure the states are doing their jobs and to make sure parents have the information they need about their children’s education. We are also aware that in many states history is not taught as a standalone subject. The history summit happened a couple of weeks ago. Sadly, that is also the case with geography. It is not taught as a standalone subject in many states. It also is a part of studies of society and the environment.

On this side of the chamber, we believe that every school student should experience all of the major disciplines, including the arts and music. Tonight I will be talking briefly about music education in schools. Music is an important part of life. There is no better, more natural alterer of mood than music. Filmmakers realise this. That is why they put such effort into the scores of movies. They know that through the musical score they can affect—they can alter—the mood of the viewer.

A recent survey by the Australian Music Association found that 87 per cent of Australians—almost nine out of 10—believe that every Australian child should have the opportunity to study music at school. The Australian government wanted to know what the situation was in Australian schools in relation to music education, so in 2004 the government commissioned a review of music education, which was chaired by Professor Margaret Sears. The findings were alarming. You might wonder about the percentage of kids in government schools who have access to music. Ninety per cent? Eighty per cent? Sixty per cent? No. Fifty per cent? No. Thirty per cent? No. Only 23 per cent of kids in Australian government primary schools have access to any form of music education.

This is a complete abrogation, again, by state Labor governments of their responsibility to make sure that children have a good, comprehensive education that covers all the disciplines. It is an outrage. It is a total abrogation of state Labor government responsibility for what is their core business. This lack of music in schools is no doubt one of the many reasons parents have been voting with their feet. Since 1970 government school enrolments have declined by nearly 11 per cent, 37 per cent of junior secondary students now go to non-government schools and 30 per cent of primary students now go
to non-government schools. Clearly a need is felt for what these independent schools provide—a need parents feel is not being met in the government school sector.

I think the lack of music education is symptomatic of a much deeper malaise in the state education system. When the Seares inquiry called for submissions they were overwhelmed. They received 6,000 submissions, which I think is a record for the number of submissions received by a government inquiry. Of the submissions received, 66 per cent indicated that the quality of music education was variable to very poor in government schools and 76 per cent indicated that the status of music compared with other subjects was variable to very poor. The review reached a number of alarming conclusions: it is possible for some Australian students to complete 13 years of schooling without participating in any form of music education, teachers in training receive on average only 23 hours of music training, over half of music teachers who responded indicated their morale to be neutral or low and 42 per cent of Australian secondary teachers indicated a strong desire to change their career direction. A conservative estimate suggests that one in 10 schools does not have any sort of music program. Music is, in effect, being treated as an optional luxury, not a key part of learning and education.

The key recommendation from the review is that every Australian student should participate and engage in continuous, sequential, developmental music education programs as a core part of their education. There are good reasons for this, apart from the sheer enjoyment of music. National and international research suggests that music does have a very direct effect on learning in other disciplines. Music education has been directly linked to better learning and better social outcomes. That sort of education can enable up to 70 per cent of young children to show significant improvement in other areas of study, which means improved concentration, reading skills, communication, teamwork, classroom participation, self-esteem and confidence. It can also help with school retention rates.

In recognition of the significant findings of the report, the government convened a National Music Education Summit a few weeks back. The summit brought together music and education experts and parents and teachers to discuss the recommendations and to develop a response. One thing that could be done, which would help dramatically, would be to have national reporting on music education. The last national annual report on music in schools was done in 1998. That is how far back you have to go to find that sort of national assessment. If it is good enough for maths, if it is good enough for literacy and if it is good enough for numeracy, then it is good enough for music education and for Australians to have a handle on the status of music education. This sentiment is supported by the Executive Director of the Music Council of Australia, Richard Letts, who said, ‘Our kids deserve no less.’ The Director of Music Play for Life program, Tina Broad, noted that music education must not only be implemented but also be effective, and she echoed the findings of the report that music education should be ‘continuous, sequential and developmentally appropriate’.

One organisation has taken steps to fill this gap in music education. It is a great not-for-profit organisation based in Melbourne called the Song Room. The Song Room was founded by opera singer Tania de Jong, and it provides music and performing arts programs for students, especially those from disadvantaged backgrounds. Since 1999, the Song Room has provided programs for over 60,000 Victorian children. In 2005-06 alone it provided 80 twenty-week workshops in schools. What is important is that the Song
Room particularly targets disadvantaged schools and students who have some disadvantage in their background, such as those with learning difficulties, with limited English language skills or who are disengaged from school.

The Song Room undertakes performances, helps schools establish their own music programs and assists the sourcing of second-hand instruments for the schools. The Song Room wants to reach even more children than the 60,000 it has already touched. It is seeking to establish a three-year national pilot program, and it is seeking $1.8 million. If it gets that funding, it thinks it can reach 115,000 school students Australia-wide, which would be a great thing. The pilot will focus on schools with no specialist music education, that are rurally or regionally isolated or where students are from low socio-economic backgrounds or where English is a second language.

I visited the Carlton and Fitzroy primary schools, in Melbourne, where the program is in operation. I have seen the work of the staff and have seen the students perform, and it is just a wonderful program. The Song Room is seeking to fill a gap in music education. I would like to commend the founder, Tania de Jong, the president, Richard Price, and the CEO, Caroline Aebersold, for the fantastic work they are doing.

Music should be part of every child’s education, but we also should make provision for those who can excel. One of the first things I argued in this place, in my maiden speech, was that we should have centres of excellence in music, in agriculture and in other endeavours. I am very pleased that the Victorian state opposition has proposed the establishment of those schools for music, science and language. We need to cover both sides. We need to make sure that music education is a basic part of every child’s education, but for those who have a particular aptitude we need to make sure we have avenues for them to explore that. State governments have to recognise that they have a key role to play.

**Senate adjourned at 7.36 pm**

**DOCUMENTS**

**Tabling**

The following government documents were tabled:

- **Migration Act 1958**—Section 486O—Assessment of appropriateness of detention arrangements—Personal identifiers 070/06 and 071/06—Commonwealth Ombudsman’s reports.
- Commonwealth Ombudsman’s reports—Government response.

**DOCUMENTS**

**Tabling**

The following documents were tabled by the Clerk:

- [Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]
  - AusLink (National Land Transport) Act—Variation to the AusLink Roads to Recovery List No. 2006/2 [F2006L03043]*.
  - Civil Aviation Act—Civil Aviation Regulations—Civil Aviation Order 40.1.0 Amendment Order (No. 2) 2006 [F2006L03013]*.
  - Civil Aviation Safety Regulations—Airworthiness Directives—Part 106—AD/CF6/51 Amdt 1—LPT Shroud—Replacement [F2006L03048]*.
  - Customs Act—Tariff Concession Orders—0514070 [F2006L03016]*.
  - 0607100 [F2006L03017]*.
  - 0609360 [F2006L03018]*.
0609625 [F2006L03019]*.
0609655 [F2006L03020]*.
0609748 [F2006L03022]*.
0610204 [F2006L03026]*.
0610331 [F2006L03030]*.
0610368 [F2006L03031]*.

Customs Tariff Act—as Customs Tariff (Safeguard Goods) Notice (No. 2) 2006 [F2006L02958]*.

Financial Management and Accountability Act—as Net Appropriation Agreement for the Administrative Appeals Tribunal [F2006L03014]*.

Migration Act—as

Migration Agents Regulations—MARA Notices—as

MN 36-06b of 2006—as Migration Agents (Continuing Professional Development—Private Study of Audio, Video or Written Material) [F2006L03009]*.

MN 36-06c of 2006—as Migration Agents (Continuing Professional Development—Attendance at a Seminar, Workshop, Conference or Lecture) [F2006L03010]*.

MN36-06f of 2006—as Migration Agents (Continuing Professional Development—Miscellaneous Activities) [F2006L03011]*.

MN36-06g of 2006—as Migration Agents (Continuing Professional Development—Pro Bono Activities) [F2006L03012]*.

Select Legislative Instrument 2006 No. 238—as Migration Amendment Regulations 2006 (No. 5) [F2006L02979]*.

Motor Vehicle Standards Act—as Motor Vehicle Standards (Approval to Place Used Import Plates) Guidelines 2006 (No. 1) Amendment 1 [F2006L03046]*.

* Explanatory statement tabled with legislative instrument.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Post-Budget Function
(Question No. 1900)

Senator Milne asked the Minister for the Arts and Sport, upon notice, on 6 June 2006:
Did the Minister host a post-budget function after the release of the 2006-2007 Commonwealth Budget on 9 May 2006; if so:
(a) where was the function held;
(b) who was invited to the function;
(c) who attended the function;
(d) what was the cost of hosting the function;
(e) was the cost charged to the Commonwealth; if not, to whom was it charged;
(f) was a ticket price charged; if so, what was the ticket price;
(g) if no ticket price was charged, was a donation requested;
(h) how much revenue was collected by way of tickets charged or donations received; and
(i) to whom was the revenue paid.

Senator Kemp—The answer to the honourable senator’s question is as follows:
(a) to (i) The Minister held a private dinner at his own expense on Budget night. No ticket price was charged and no donation was sought or offered.

Aged Care
(Question No. 2100)

Senator McLucas asked the Minister for Ageing, upon notice, on 19 June 2006:
Can the following details be provided for each of the following calendar years: (a) 2000; (b) 2001; (c) 2002; (d) 2003; (e) 2004 and (f) 2005:
(1) The average age of a resident on admission to a residential aged care facility in: (a) low care; and (b) high care.
(2) The average length of stay in a residential aged care facility in: (a) low care; and (b) high care.
(3) The average age of people at the point of receiving: (a) CACPs (Conditional Adjustment Payment); (b) EACH (Extended Aged Care at Home); and (c) EACHD (Extended Aged Care at Home with Dementia);
(4) The average period of time that people receive: (a) CACPs; (b) EACH; and (c) EACHD.

Senator Santoro—The answer to the honourable senator’s question is as follows:

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
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<tr>
<td>(1) Average age on admission</td>
<td>(a) Low care</td>
<td>82.1</td>
<td>82.3</td>
<td>82.6</td>
<td>82.7</td>
<td>82.8</td>
</tr>
<tr>
<td>(a) High care</td>
<td>81.9</td>
<td>82.1</td>
<td>82.3</td>
<td>82.3</td>
<td>82.5</td>
<td>82.4</td>
</tr>
<tr>
<td>(2) Average length of stay (months)</td>
<td>(a) Low care</td>
<td>33.3</td>
<td>33.7</td>
<td>32.7</td>
<td>31.3</td>
<td>29.8</td>
</tr>
<tr>
<td>(at discharge)</td>
<td>36.6</td>
<td>37.8</td>
<td>38.1</td>
<td>38.2</td>
<td>37.6</td>
<td>38.0</td>
</tr>
</tbody>
</table>
Note: The data shows average total length of stay in residential care (high and low). Data relates to permanent residents only and includes discharges for all causes, including death.

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>2000</th>
<th>2001</th>
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<th>2005</th>
</tr>
</thead>
<tbody>
<tr>
<td>(3) Average age at receipt of package</td>
<td>(a) CACP</td>
<td>79.7</td>
<td>79.9</td>
<td>79.7</td>
<td>80.2</td>
<td>80.5</td>
</tr>
<tr>
<td>(4) Average time in receipt of package</td>
<td>(b) EACH</td>
<td>n.a.</td>
<td>n.a.</td>
<td>n.a.</td>
<td>79.3</td>
<td>79.4</td>
</tr>
</tbody>
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Note: EACH data on clients before the 2004-05 financial year is unavailable.

(3) (c) and (4) (c) EACH Dementia Packages did not become operational until the 2006 calendar year.

**Aged Care**

*Senator McLucas* asked the Minister for Ageing, upon notice, on 23 June 2006:

1. How many additional aged care places for Indigenous Australians will be provided by the measure ‘Strengthening Indigenous Communities’ announced in the 2006-07 Budget.
2. Will those places be allocated as part of the general allocation round under the Aged Care Act 1997; if not, how will they be allocated.
3. Will those places be administered under the Act.
4. Do the various principles under the Act apply to these places; if not, why not.
5. Does the Aged Care Standards and Accreditation Agency monitor the quality of care delivered through these places.

*Senator Santoro*—The answer to the honourable senator’s question is as follows:

1. An additional 150 aged care places were provided for Indigenous Australians by this Budget measure.
2. No, flexible places will be allocated under the National Aboriginal and Torres Strait Islander Aged Care Strategy.
3. The flexible aged care places will not be administered under the Aged Care Act. The places will be administered under the National Aboriginal and Torres Strait Islander Aged Care Strategy.
4. No. The National Strategy services are funded under contractual arrangements with the community governance council, or similar entity, as the aged care provider. This is consistent with the views expressed by Aboriginal and Torres Strait Islander communities for autonomy and self management in the planning and operation of aged care services for their communities. They are required to develop and maintain appropriate standards of care, in consultation with their population, and to maintain complaints resolution and client advocacy processes.
5. No, the Aged Care Standards and Accreditation Agency covers services which operate under the Aged Care Act 1997. The department is currently developing a process to improve the monitoring of quality in these flexible services.

**Estimates Training Sessions**

*Senator O’Brien* asked the Minister representing the Treasurer, upon notice, on 14 July 2006:

1. What Senate estimates training sessions have officers of the Minister’s departments and agencies attended in the past 3 financial years, by year.
For each of the past 3 financial years: (a) how many officers participated in; and (b) what was the total cost of, training for Senate estimates, by department and agency and by financial year.

Where training has been provided by a private provider, what was the name of the provider and the associated cost.

**Senator Minchin**—The Treasurer has provided the following answer to the honourable senator’s question:

**Australian Bureau of Statistics**

(1) 2002-03: Nil
    2003-04: Nil
    2004-05: Australian Public Service Commission ‘Parliamentary Committees’ Training

(2) (a) 2002-03: Nil;
    2003-04: Nil;
    2004-05: 1 officer.

(b) 2002-03: Nil;
    2003-04: Nil;
    2004-05: $230

(3) N/A

**Australian Competition & Consumer Commission**

(1)

<table>
<thead>
<tr>
<th>Year</th>
<th>Training Session</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005-06</td>
<td>Nil</td>
</tr>
<tr>
<td>2004-05</td>
<td>Preparation to appear before Parliamentary Committees</td>
</tr>
<tr>
<td>2003-04</td>
<td>Nil</td>
</tr>
</tbody>
</table>

(2)

<table>
<thead>
<tr>
<th>Year</th>
<th>Number</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005-06</td>
<td>Nil</td>
<td>N/A</td>
</tr>
<tr>
<td>2004-05</td>
<td>4</td>
<td>$5,690.92</td>
</tr>
<tr>
<td>2003-04</td>
<td>Nil</td>
<td>N/A</td>
</tr>
</tbody>
</table>

(3) The training conducted in 2004-05 was by the Australian Public Service Commission and the associated cost was $5,690.92

**Australian Office of Financial Management**

(1) None
(2) Not applicable
(3) Not applicable

**Australian Prudential Regulation Authority**

(1) None
(2) Not applicable
(3) Not applicable

**Australian Securities and Investments Commission**

(1) None
(2) Not applicable
(3) Not applicable

**Australian Taxation Office**

The following table details Senate estimates training undertaken by officers of the ATO over the past 3 financial years.

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>No. of officers who attended training</th>
<th>Total Cost of training</th>
<th>Training Provider</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003-2004</td>
<td>5</td>
<td>$5,940</td>
<td>Stone Wilson Consulting</td>
</tr>
<tr>
<td>2004-2005</td>
<td>2</td>
<td>$2,750</td>
<td>Stone Wilson Consulting</td>
</tr>
<tr>
<td>2005-2006</td>
<td>7</td>
<td>$4,554</td>
<td>Stone Wilson Consulting</td>
</tr>
</tbody>
</table>

**Corporations & Markets Advisory Committee**

(1) None
(2) Not applicable
(3) Not applicable

**Inspector-General of Taxation**

(1) None
(2) Not applicable
(3) Not applicable

**National Competition Council**

(1) None – Officers of the National Competition Council have not attended any Senate Estimates Training sessions in the past three financial years.
(2) No officers participated in Senate Estimates Training sessions.
(3) Officers of the Council have not received any training on Senate Estimates by a private provider.

**Productivity Commission**

(1) None
(2) Not applicable
(3) Not applicable

**Royal Australian Mint**

(1) None
(2) Not applicable
(3) Not applicable

**Treasury**

(1) Department of the Treasury officers have attending Providing Oral Advice training and Budget and Senate Estimates Process training over the past 3 financial years.

(2) (a) and (b) A breakdown of participation on Providing Oral Advice and Budget and Senate Estimates Process workshops for the past 3 financial years is provided below.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Providing Oral Advice Training</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of participants</td>
<td>15</td>
<td>19</td>
<td>6</td>
</tr>
<tr>
<td>Total cost</td>
<td>$8,305</td>
<td>$8,745</td>
<td>$4,345</td>
</tr>
<tr>
<td>Budget and Senate Estimates Process Training</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of participants</td>
<td>2</td>
<td>8</td>
<td>0</td>
</tr>
<tr>
<td>Total cost</td>
<td>$190</td>
<td>$400</td>
<td>0</td>
</tr>
</tbody>
</table>
Provided by the Australian Public Service Commission.

(3) Providing Oral Advice training is provided by Interaction Consulting Group, a private company. Costs are detailed above.

Estimates Training Sessions
(Question No. 2164)

Senator O’Brien asked the Minister representing the Attorney-General, upon notice, on 14 July 2006:

(1) What Senate estimates training sessions have officers of the Minister’s departments and agencies attended in the past 3 financial years, by year.

(2) For each of the past 3 financial years: (a) how many officers participated in; and (b) what was the total cost of, training for Senate estimates, by department and agency and by financial year.

(3) Where training has been provided by a private provider, what was the name of the provider and the associated cost.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator’s question:

Attorney-General’s Department

The answers provided below on Senate estimates training are for those that have been corporately funded. The Department provides access to Senate estimates training to employees through a department-wide learning and development program. Details of cases where similar services may have been made available to employees outside of these arrangements are not readily available.

(1)

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Training Session</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003-04</td>
<td>Nil</td>
</tr>
<tr>
<td>2004-05</td>
<td>Appearing Before Senate Estimates Committees</td>
</tr>
<tr>
<td></td>
<td>Sessions on Appearing Before Senate Estimates Committees</td>
</tr>
<tr>
<td>2005-06</td>
<td>Sessions on Appearing Before Senate Estimates Committees</td>
</tr>
<tr>
<td></td>
<td>Senate Estimates Refresher Training</td>
</tr>
</tbody>
</table>

(2)

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>(a) Number of officers that participated</th>
<th>(b) Total cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003-04</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>2004-05</td>
<td>22</td>
<td>$7,723</td>
</tr>
<tr>
<td>2005-06</td>
<td>13</td>
<td>$6,060</td>
</tr>
<tr>
<td>Total</td>
<td>35</td>
<td>$13,783</td>
</tr>
</tbody>
</table>

(3)

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Service Provider</th>
<th>Total cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004-05</td>
<td>Department of the Senate</td>
<td>$3,000</td>
</tr>
<tr>
<td></td>
<td>Stone Wilson Consulting</td>
<td>$4,723</td>
</tr>
<tr>
<td>2005-06</td>
<td>Stone Wilson Consulting</td>
<td>$3,960</td>
</tr>
<tr>
<td></td>
<td>Department of the Senate</td>
<td>$2,100</td>
</tr>
</tbody>
</table>

Australian Crime Commission

(1) The training session was the SES snapshot on ‘Appearing before Parliamentary Committees’, conducted by the Australian Public Service Commission, in 2003-04.

(2) One officer participated in 2003-04 at a cost of $227.27.
Australian Customs Service

(1) Financial Year Training Session

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Training Session</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003-04</td>
<td>‘About Committees’</td>
</tr>
<tr>
<td>2004-05</td>
<td>Nil</td>
</tr>
<tr>
<td>2005-06</td>
<td>‘Parliamentary Committees – managing the politics, perception and risk’</td>
</tr>
<tr>
<td></td>
<td>‘About Committees’</td>
</tr>
</tbody>
</table>

(2) Financial Year (a) Number of staff that participated (b) Total cost (GST included)

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>(a) Number of staff participated</th>
<th>(b) Total cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003-04</td>
<td>4*</td>
<td>$873</td>
</tr>
<tr>
<td>2004-05</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>2005-06</td>
<td>5</td>
<td>$1,685</td>
</tr>
<tr>
<td>Total</td>
<td>9*</td>
<td>$2,558</td>
</tr>
</tbody>
</table>

* Number of attendees has been estimated based on the cost of the course and the total invoice paid.

(3) Not applicable. These courses were conducted by the Australian Public Service Commission and the Department of the House of Representatives.

Australian Federal Police


(3) Not applicable.

Australian Transaction and Reports and Analysis Centre

(1) AUSTRAC staff have attended ‘Budget and the Senate Estimates Process’ seminars conducted by the Department of the Senate.

(2) Financial Year (a) Number of Staff Participating (b) Total Cost (GST included)

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>(a) Number of Staff Participating</th>
<th>(b) Total Cost (GST included)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003-04</td>
<td>4</td>
<td>$760</td>
</tr>
<tr>
<td>2004-05</td>
<td>14</td>
<td>$2660</td>
</tr>
<tr>
<td>2005-06</td>
<td>2</td>
<td>$400</td>
</tr>
</tbody>
</table>

(3) Not applicable.

Estimates Training Sessions

(Question No. 2169)

Senator O’Brien asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 14 July 2006:

(1) What Senate estimates training sessions have officers of the Minister’s departments and agencies attended in the past 3 financial years, by year.
(2) For each of the past 3 financial years: (a) how many officers participated in; and (b) what was the total cost of, training for Senate estimates, by department and agency and by financial year.

(3) Where training has been provided by a private provider, what was the name of the provider and the associated cost.

Senator Abetz—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator’s question:

(1) The following Senate Estimates training sessions have been attended by employees of the Department of Employment and Workplace Relations (DEWR) and DEWR agencies for the 2003-04; 2004-05 and 2005-06 financial years:

2002-2003
- The Budget and Senate Estimates Process
- Preparing to appear before Parliamentary Committees.
2004-2005
- The Budget and Senate Estimates Process
- Senate Committees
2005-2006
- The Budget and Senate Estimates Process
- Preparing to appear before Parliamentary Committees.

(2) (a) Four DEWR employees and six DEWR agency employees participated in The Budget and Senate Estimates Process course;
- Two DEWR employees participated in the Preparing to appear before Parliamentary Committees course; and
- One DEWR employee and one DEWR agency employee participated in the Senate Committee course.

The courses were attended between 2003-04 and 2005-06 at a total cost of $15,032. The breakdown by financial year is as follows:

(b)

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>DEWR Participants</th>
<th>DEWR Cost ($)</th>
<th>DEWR Agency Participants</th>
<th>DEWR Agency Cost ($)</th>
<th>Total Cost ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003-2004</td>
<td>2</td>
<td>1576</td>
<td>-</td>
<td>-</td>
<td>1576</td>
</tr>
<tr>
<td>2004-2005</td>
<td>4</td>
<td>1766</td>
<td>7</td>
<td>11480</td>
<td>13246</td>
</tr>
<tr>
<td>2005-2006</td>
<td>1</td>
<td>210</td>
<td>-</td>
<td>-</td>
<td>210</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$15,032</td>
</tr>
</tbody>
</table>

(3) The services of one private training provider were used—Media Gurus at a cost of $8,526.

South Barkly Aboriginal Corporation
(Question No. 2238)

Senator Crossin asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 19 July 2006:

(1) (a) When was the South Barkly Aboriginal Corporation in Tennant Creek informed that it would not receive funding for 2006; and (b) how was it informed, was it via telephone, in person or by letter.
(2) (a) When were they formally told in writing; (b) who wrote this letter; and (c) who signed it.
(3) (a) Who made the recommendation to defund this organisation; and (b) where are they based.
(4) (a) Who approved this recommendation; and (b) where are they based.
(5) What were the reasons for this decision.
(6) Had there been complaints about the performance of the organisation; if so, what was the nature of these complaints.
(7) Were there any problems with reporting or other governance issues; if so: (a) what was the nature of these complaints; (b) when were they made; and (c) to whom were they made.
(8) What action was taken to advise the organisation of any problems and when.
(9) For the years 2005 and 2006 to the date of defunding, listed by date and purpose: (a) what meetings did departmental officers have with the organisation; (b) who instigated these meetings; and (c) who attended.
(10) Was the organisation’s application for funding in 2006 adequate or was it lacking in some area.
(11) Was the organisation informed of any problems with its application; if so: (a) when; (b) by whom; and (c) by what means.
(12) Was the organisation given any assistance to remedy any shortcomings with its application; if so, what was the nature of this assistance and who provided it.
(13) If the organisation was not informed or given assistance, why not.
(14) Was the department aware of the fact that, shortly before the defunding decision, the organisation had a 2-day workshop with the Office of the Registrar of Aboriginal Corporations and had been given a clean bill of health.
(15) For the 2005-06 financial year, what was the organisation’s Community Development Employment Projects (CDEP) budget.
(16) For the 2006-07 financial year, what is the budget for the successful applicant, Alpurrurulam Community Government Council (CGC).
(17) What were the factors that made Alpurrurulam CGC a more suitable applicant.
(18) What reasons and evidence does the department have that Alpurrurulam CGC will be better able to deliver this service.
(20) Can a list be provided, by date and purpose, specifying what meetings took place with Alpurrurulam CGC prior to the decision being made and who attended those meetings.
(21) When, how and by whom was Alpurrurulam CGC told that it was the successful applicant.
(22) Does Alpurrurulam CGC have adequate housing for the additional staff it will presumably need to take on a CDEP of more than 300 participants.
(23) (a) What will happen to the many South Barkly Aboriginal Corporation’s assets; and (b) to whom do they belong.
(24) What legal steps need to be undertaken before, or even if, these assets might be used by the Alpurrurulam CGC to run the South Barkly CDEP.
(25) What transitional arrangements has the department put in place to ensure that existing participants know what is going on, and get all or any monies owing to them.
(26) What were these participants told, when, by whom and how.
(27) What assistance have these participants been given to ensure a smooth transition with minimal disruption to their work and financial affairs.

(28) (a) How many of these participants have been able to sign on to the new CDEP; and (b) how many are now without any paid work or social security.

Senator Abetz—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator’s question:

(1) (a) 6 June 2006. (b) Via telephone.

(2) (a) 16 June 2006. (b) and (c) The Indigenous Coordination Centre (ICC) Manager, Tennant Creek.

(3) (a) The Northern Territory Manager, Department of Employment and Workplace Relations (DEWR). (b) Darwin

(4) (a) The Group Manager, Indigenous Employment and Business Group, DEWR. (b) Canberra

(5) The submission from Southern Barkly Aboriginal Corporation (SBAC) was surpassed by a competing bid when assessed against the published evaluation criteria.

(6) The Department had received both written correspondence and oral comment from several communities in the Barkly region about Community Development Employment Projects (CDEP) programme servicing they were receiving from SBAC. The nature of these complaints is commercial in confidence.

(7) See answer to Question 6.

(8) SBAC was advised on several occasions by the Department about the complaints. See answer to Question 9.

(9) For the 2005-06 funding year, the Department held the following formal meetings with SBAC:

<table>
<thead>
<tr>
<th>Date</th>
<th>Purpose</th>
<th>Initiated By</th>
<th>Attendees</th>
</tr>
</thead>
<tbody>
<tr>
<td>31/8/05</td>
<td>Programme delivery issues</td>
<td>DEWR</td>
<td>DEWR, SBAC</td>
</tr>
<tr>
<td>24/10/05</td>
<td>Epenarra Shared Responsibility Agreement</td>
<td>DEWR</td>
<td>DEWR, SBAC</td>
</tr>
<tr>
<td>3/11/05</td>
<td>Programme delivery issues</td>
<td>SBAC</td>
<td>DEWR, SBAC</td>
</tr>
<tr>
<td>21/11/05</td>
<td>Programme delivery issues, Canteen Creek community</td>
<td>DEWR</td>
<td>DEWR, SBAC, Office of Indigenous Policy Coordination (OIPC).</td>
</tr>
<tr>
<td>30/11/05</td>
<td>CDEP providers information session</td>
<td>CDEP providers</td>
<td>DEWR, SBAC, CDEP providers</td>
</tr>
<tr>
<td>14/2/06</td>
<td>Alpurrurulam community</td>
<td>SBAC</td>
<td>DEWR, SBAC</td>
</tr>
<tr>
<td>24/2/06</td>
<td>Programme delivery issues, Epenarra community</td>
<td>DEWR</td>
<td>DEWR, SBAC, OIPC</td>
</tr>
<tr>
<td>15/3/06</td>
<td>Programme delivery issues</td>
<td>DEWR</td>
<td>DEWR, SBAC</td>
</tr>
<tr>
<td>23/4/06</td>
<td>Ranger Programme and Canteen Creek</td>
<td>DEWR</td>
<td>DEWR, SBAC</td>
</tr>
<tr>
<td>27/4/06</td>
<td>CDEP 2006-07 programme changes</td>
<td>SBAC</td>
<td>DEWR, SBAC, CDEP providers</td>
</tr>
<tr>
<td>5/5/06</td>
<td>Programme delivery issues, Barrow Creek community</td>
<td>DEWR</td>
<td>DEWR, SBAC, Community members from Barrow Creek</td>
</tr>
<tr>
<td>8/5/06</td>
<td>CDEP 2006-07 programme changes</td>
<td>DEWR</td>
<td>DEWR, SBAC</td>
</tr>
<tr>
<td>11/5/06</td>
<td>Potential funding discussions.</td>
<td>DEWR</td>
<td>DEWR, SBAC</td>
</tr>
<tr>
<td>15/6/06</td>
<td>Decision not to fund SBAC in 2006-07</td>
<td>SBAC</td>
<td>DEWR, SBAC, Staffer from Minister Andrews' office.</td>
</tr>
<tr>
<td>27/6/06</td>
<td>Decision not to fund SBAC in 2006-07</td>
<td>SBAC</td>
<td>DEWR, SBAC</td>
</tr>
</tbody>
</table>
(10) The application for CDEP programme funding for 2006-07 from SBAC was deemed to be both conforming and complete.

(11) No, see answer to Question 10.

(12) There were no shortcomings identified in the application from SBAC.

(13) See answer to Question 12.

(14) The Department is aware that SBAC attended an Office of the Registrar of Aboriginal Corporations workshop during the week 26-30 June 2006. The Department is not aware that this workshop provided a formal assessment relating to governance or any other such processes. The Department had made its funding decision prior to this workshop.

(15) $4.977m.

(16) $5.153m.

(17) The Alpurrurulam Community Government Council (ACGC) CDEP rated overall higher against the published evaluation criteria.

(18) The Department’s decision was based on each organisation’s claims against the published evaluation criteria and performance in the delivery of funding programmes.

(19) ACGC CDEP met the Department’s criteria for Incorporation, Business Risk and Financial Viability.

(20) The Department met with ACGC on May 23 2006 to negotiate an indicative budget subject to approval for funding by the Delegate.

(21) The DEWR Alice Springs Office Manager advised ACGC via telephone on 6 June 2006 of the outcome of the CDEP funding process.

(22) CDEP participants are widely dispersed over the Barkly region. The ACGC CDEP is making arrangements for local people in each region and major community to take on supervisory arrangements. There is not at this stage an issue with accommodation.

(23) The Department is currently awaiting a finalised asset register from SBAC and considering its contractual rights to have those assets transferred to ACGC. Exiting providers are typically required to transfer assets to incoming providers in accordance with various contractual rights (which require reference to particular assets, grant funding agreements and/or purposes agreements).

(24) As advised in the answer to Question 23, the Department is currently considering its position.

(25) Transition arrangements for participants are complete. All participants who wished to remain on CDEP have transferred to ACGC CDEP or, in a few cases an alternative Tennant Creek based CDEP provider.

(26) Representatives from ACGC CDEP and the Department conducted meetings between 26 June and 11 July 2006 in all communities and outstations to explain the changes. Participants attending meetings have been handed a letter from the Department explaining that there is now a new CDEP provider in the Barkly region. ACGC CDEP representatives gave a presentation on how they would organise the delivery of their CDEP services, how communities would be represented on a new CDEP Board and how ACGC CDEP wished to engage with communities over the choice and recruitment of local people to leading hands and supervisor positions.

(27) See answer to Question 26.

(28) All participants, subject to CDEP eligibility checking, were able to transfer to ACGC CDEP or another CDEP organisation. The Department is not aware of any persons who are without income following the transition process.
Central Highlands Aged Care Home
(Question No. 2385)

**Senator McLucas** asked the Minister for Ageing, upon notice, on 16 August 2006:

1. Can a list be provided of each spot check or support contact provided by the Aged Care Standards and Accreditation Agency to the Central Highlands Aged Care Home since inception, including those that were advised visits and those that were unannounced visits.

2. What was the reason for the visit by the agency from 7 to 9 February 2006.

**Senator Santoro**—The answer to the honourable senator’s question is as follows:

1. Up until 30 June 2006, the following support contacts were conducted:

<table>
<thead>
<tr>
<th>Year</th>
<th>Support Contacts</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>4 support contacts (announced)</td>
</tr>
<tr>
<td>2002</td>
<td>1 support contact (announced)</td>
</tr>
<tr>
<td>2003</td>
<td>2 support contacts (announced)</td>
</tr>
<tr>
<td>2004</td>
<td>3 support contacts (announced)</td>
</tr>
<tr>
<td>2005</td>
<td>1 support contact (announced)</td>
</tr>
<tr>
<td>2006</td>
<td>8 support contacts (announced)</td>
</tr>
</tbody>
</table>

2. Assessors visited the home from 7-9 February 2006 for an accreditation site audit – to assess the home’s compliance with the Accreditation Standards for the Agency to determine whether the home is to be accredited, and for what period.

Hastings Regional Nursing Home
(Question No. 2386)

**Senator McLucas** asked the Minister for Ageing, upon notice, on 16 August 2006:

1. Can a list be provided of each spot check or support contact provided by the Aged Care Standards and Accreditation Agency to the Hastings Regional Nursing Home since inception, including those that were advised visits and those that were unannounced visits.

2. What was the reason for the visit by the agency from 24 to 31 October 2005.

**Senator Santoro**—The answer to the honourable senator’s question is as follows:

1. Until 20 June 2006 the following support contacts were conducted:

<table>
<thead>
<tr>
<th>Year</th>
<th>Support Contacts</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>2 support contacts (announced)</td>
</tr>
<tr>
<td>2004</td>
<td>2 support contacts (announced)</td>
</tr>
<tr>
<td>2005</td>
<td>7 support contacts (3 announced, 4 unannounced)</td>
</tr>
<tr>
<td>2006</td>
<td>5 support contacts (announced)</td>
</tr>
</tbody>
</table>

2. Agency assessors visited the home from 24-31 October 2005 for a review audit – to assess the home’s compliance with the Accreditation Standards.

Missionholme Aged Care Facility
(Question No. 2387)

**Senator McLucas** asked the Minister for Ageing, upon notice, on 16 August 2006:

1. Can a list be provided of each spot check or support contact provided by the Aged Care Standards and Accreditation Agency to the Missionholme Aged Care Facility since inception, including those that were advised visits and those that were unannounced visits.

2. What was the reason for the visit by the agency from 24 to 27 January 2005.
Senator Santoro—The answer to the honourable senator’s question is as follows:

(1) Up until 30 June 2006 the following support contacts were conducted:

<table>
<thead>
<tr>
<th>Year</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>1 support contact (announced)</td>
</tr>
<tr>
<td>2004</td>
<td>1 support contact (announced)</td>
</tr>
<tr>
<td>2005</td>
<td>26 support contacts (announced)</td>
</tr>
<tr>
<td>2006</td>
<td>1 support contact (announced)</td>
</tr>
</tbody>
</table>

(2) Assessors visited the home from 24 to 27 January 2005 for a review audit – to assess the home’s compliance with the Accreditation Standards.

Aged Care Packages

(Question No. 2388)

Senator McLucas asked the Minister for Ageing, upon notice, on 16 August 2006:

For each of the years 1996 to date, what are the number and percentages of the following aged care packages that are provided by for-profit and not-for profit organisations: (a) Community Aged Care packages; (b) Extended Aged Care at Home packages; and (c) Extended Aged Care at Home Dementia packages.

Senator Santoro—The answer to the honourable senator’s question is as follows:

(a) Community Aged Care packages at 30 June

<table>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Not for Profit</td>
<td>3,350</td>
<td>5,123</td>
<td>7,733</td>
<td>10,725</td>
<td>14,369</td>
<td>19,731</td>
<td>21,421</td>
<td>22,470</td>
<td>23,254</td>
<td>25,043</td>
</tr>
<tr>
<td>For Profit</td>
<td>183</td>
<td>180</td>
<td>337</td>
<td>557</td>
<td>917</td>
<td>1,324</td>
<td>1,092</td>
<td>1,146</td>
<td>1,222</td>
<td>1,278</td>
</tr>
<tr>
<td>Government</td>
<td>890</td>
<td>1,301</td>
<td>1,893</td>
<td>2,403</td>
<td>2,828</td>
<td>3,560</td>
<td>3,660</td>
<td>3,953</td>
<td>3,998</td>
<td>4,105</td>
</tr>
<tr>
<td>All</td>
<td>4,423</td>
<td>6,604</td>
<td>9,963</td>
<td>13,685</td>
<td>18,144</td>
<td>24,415</td>
<td>26,173</td>
<td>27,549</td>
<td>28,474</td>
<td>30,426</td>
</tr>
</tbody>
</table>

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</tr>
</thead>
<tbody>
<tr>
<td>Not for Profit</td>
<td>76%</td>
<td>78%</td>
<td>78%</td>
<td>78%</td>
<td>79%</td>
<td>81%</td>
<td>82%</td>
<td>82%</td>
<td>82%</td>
<td>82%</td>
</tr>
<tr>
<td>For Profit</td>
<td>4%</td>
<td>3%</td>
<td>3%</td>
<td>4%</td>
<td>5%</td>
<td>5%</td>
<td>4%</td>
<td>4%</td>
<td>4%</td>
<td>4%</td>
</tr>
<tr>
<td>Government</td>
<td>20%</td>
<td>20%</td>
<td>19%</td>
<td>18%</td>
<td>16%</td>
<td>14%</td>
<td>14%</td>
<td>14%</td>
<td>14%</td>
<td>14%</td>
</tr>
</tbody>
</table>

Note: 30 June 2006 data is not yet available.

(b) Extended Aged Care at Home packages at 30 June

<table>
<thead>
<tr>
<th>Number</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not for Profit</td>
<td>221</td>
<td>221</td>
<td>739</td>
<td>1,513</td>
</tr>
<tr>
<td>For Profit</td>
<td>0</td>
<td>0</td>
<td>40</td>
<td>80</td>
</tr>
<tr>
<td>Government</td>
<td>69</td>
<td>69</td>
<td>79</td>
<td>79</td>
</tr>
<tr>
<td>All</td>
<td>290</td>
<td>290</td>
<td>858</td>
<td>1,672</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>%</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not for Profit</td>
<td>76%</td>
<td>76%</td>
<td>86%</td>
<td>90%</td>
</tr>
<tr>
<td>For Profit</td>
<td>0%</td>
<td>0%</td>
<td>5%</td>
<td>5%</td>
</tr>
<tr>
<td>Government</td>
<td>24%</td>
<td>24%</td>
<td>9%</td>
<td>5%</td>
</tr>
</tbody>
</table>

Notes: 30 June 2006 data is not yet available. EACH data prior to 30 June 2002 is unavailable.

(c) Extended Aged Care at Home Dementia packages did not become operational until 2006. 30 June 2006 data is not yet available.
Wilderness Society
(Question No. 2411)

Senator Bob Brown asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 17 August 2006:
Has the Minister met with representatives of the Wilderness Society in the past 5 years; if so, on what dates.

Senator Abetz—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator’s question:
No. The Minister has not met with representatives of the Wilderness Society in the past five years.

Australian Census
(Question No. 2418)

Senator Bob Brown asked the Minister representing the Treasurer, upon notice, on 21 August 2006:
With reference to the 2006 Australian Census form:
(1) Why was no option given to people in same-sex relationships.
(2) Why was ‘defacto partner’ an option to answer question 5 but was not given as an option to answer question 6.
(3) Why was ‘relationships of significance’, as now described in several Australian jurisdictions, not offered as a Census option.
(4) What changes to questions about personal relationships were made to the Census form between 2002 and 2006; if no changes were made, why not.

Senator Minchin—The Treasurer has provided the following answer to the honourable senator’s question:
(1) People living together in same-sex relationships were able to record their relationship in response to Question 5 on the Census form.
(2) ‘De facto partner’ is a social marital status concept and is not formalised through registration. As question 6 asks for information on registered marital status, ‘de facto’ was not included.
(3) During extensive consultation on the content of the 2006 Census, the Australian Bureau of Statistics (ABS) was not requested to collect information on relationships of significance.
(4) Between 2002 and 2006, there have been no changes of substance to the questions about personal relationships. This is because the ABS believes that known user requirements on these relationships have been addressed through questions 5 and 6. Cosmetic changes, for example the positioning on the page and removal of the tick box for the ‘other, please specify’ option from question 5, have been made to improve the recording of responses to this question.

Iatrogenic Deaths
(Question No. 2422)

Senator Nettle asked the Minister representing the Minister for Health and Ageing, upon notice, on 21 August 2006:
(1) Are iatrogenic deaths required to be reported by law.
(2) Is it illegal for a medical practitioner to falsely certify an iatrogenic death as some other legally acceptable cause of death.
(3) Do Australian governments grant anonymity to iatrogenic death by allowing the true cause of death to go unrecorded.

Senator Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) Yes, all iatrogenic deaths are required to be reported by law. This is under the jurisdiction of the states and territories.

(2) Yes, it is illegal for a medical practitioner to falsely certify a cause of death.

(3) No, the cause of death must be recorded.

Passport Cancellations
(Question No. 2433)

Senator Ludwig asked the Minister representing the Minister for Foreign Affairs, upon notice, on 24 August 2006:

With reference to the report Review of Illegal Workers in Australia: Improving immigration compliance in the workplace published by the Department of Immigration and Multicultural Affairs: Has the department cancelled the passport of any individual arising out of any of the recommendations of that report; if so, how many have been cancelled.

Senator Coonan—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

There is no record of the Department of Foreign Affairs and Trade (DFAT) cancelling an Australian passport or other travel document arising from the recommendations of this report. The terms of reference for the report and its recommendations have no relation to the Australian passport system. DFAT does not have the authority to cancel a passport issued by a foreign government.