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

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

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

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

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

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

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

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

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

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<td>Minister for Fisheries, Forestry and Conservation</td>
<td>Senator the Hon. Eric Abetz</td>
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<tr>
<td>Minister for the Arts and Sport</td>
<td>Senator the Hon. Charles Roderick Kemp</td>
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<td>Minister for Human Services and Minister Assisting the Minister for</td>
<td>The Hon. Joseph Benedict Hockey MP</td>
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<td>Workplace Relations</td>
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<tr>
<td>Minister for Community Services</td>
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<td>Minister for Revenue and Assistant Treasurer</td>
<td>The Hon. John Kenneth Cobb MP</td>
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<td>Special Minister of State</td>
<td>The Hon. Peter Craig Dutton MP</td>
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<td>Minister for Vocational and Technical Education and Minister</td>
<td>The Hon. Gary Roy Nair MP</td>
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<td>The Hon. Gary Douglas Hardgrave MP</td>
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<td>Minister for Local Government, Territories and Roads</td>
<td>The Hon. Frances Esther Bailey MP</td>
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<td>The Hon. James Eric Lloyd MP</td>
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<td>The Hon. Sussan Penelope Ley MP</td>
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<td>Parliamentary Secretary (Foreign Affairs)</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 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 Shadow Minister for Aviation and Transport Security
The Hon. Archibald Ronald Bevis MP

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

Shadow Minister for Defence Industry, Procurement and Personnel
Senator Thomas Mark Bishop
Shadow Minister for Immigration
Anthony Stephen Burke MP
Shadow Minister for Ageing, Disabilities and Carers
Senator Jan Elizabeth McLucas

Shadow Minister for Justice and Customs and Manager of Opposition Business in the Senate
Senator Joseph William Ludwig
Shadow Minister for Overseas Aid and Pacific Island Affairs
Robert Charles Grant Sercombe MP

Shadow Minister for Citizenship and Multicultural Affairs
Senator Annette Hurley
Shadow Parliamentary Secretary for Reconciliation and the Arts
Peter Robert Garrett MP
Shadow Parliamentary Secretary to the Leader of the Opposition
John Paul Murphy MP

Shadow Parliamentary Secretary for Defence and Veterans’ Affairs
The Hon. Graham John Edwards MP
Shadow Parliamentary Secretary for Education
Kirsten Fiona Livermore MP
Shadow Parliamentary Secretary for Environment and Heritage
Jennie George MP

Shadow Parliamentary Secretary for Industry, Infrastructure and Industrial Relations
Bernard Fernando Ripoll MP
Shadow Parliamentary Secretary for Immigration
Ann Kathleen Corcoran MP
Shadow Parliamentary Secretary for Treasury
Catherine Fiona King MP
Shadow Parliamentary Secretary for Science and Water
Senator Ursula Mary Stephens

Shadow Parliamentary Secretary for Northern Australia and Indigenous Affairs
The Hon. Warren Edward Snowdon MP
CONTENTS

MONDAY, 9 OCTOBER

Chamber
Business—
Rearrangement................................................................. 1
Tax Laws Amendment (2006 Measures No. 5) Bill 2006—
Second Reading........................................................................... 1
Third Reading................................................................................ 7
Public Works Committee Amendment Bill 2006—
Second Reading........................................................................... 7
In Committee................................................................................ 15
Third Reading............................................................................... 20
Ministerial Arrangements.............................................................. 20
Fourth Howard Ministry............................................................... 20
Questions Without Notice—
Telstra....................................................................................... 23
Distinguished Visitors.................................................................. 24
Questions Without Notice—
Telstra....................................................................................... 25
Telstra....................................................................................... 26
Climate Change.......................................................................... 27
Telstra....................................................................................... 28
Workplace Relations................................................................... 29
Distinguished Visitors.................................................................. 31
Questions Without Notice—
Climate Change......................................................................... 31
Australian Crime Commission..................................................... 32
Telstra....................................................................................... 33
North Korea................................................................................. 35
Telstra....................................................................................... 36
Questions Without Notice: Additional Answers—
Renewable Energy...................................................................... 38
Questions Without Notice: Take Note of Answers—
Telstra....................................................................................... 38
Climate Change.......................................................................... 43
Renewable Energy...................................................................... 45
Condolences—
Mr Albert William James.......................................................... 45
Petitions—
Asylum Seekers........................................................................ 45
Asylum Seekers........................................................................ 45
Performing Arts......................................................................... 46
West Papua.................................................................................. 46
Notices—
Presentation............................................................................. 46
Committees—
Foreign Affairs, Defence and Trade Committee—Extension of Time 48
Foreign Affairs, Defence and Trade Committee—Meeting................. 48
Leave of Absence........................................................................ 49
CONTENTS—continued

Notices—
Postponement ................................................................................................................... 49
Committees—
Public Accounts and Audit Committee—Meeting ........................................................ 49
Ms Doris Owens ................................................................................................................. 49
Documents—
Tabling........................................................................................................................ 49
Response to Senate Resolutions ......................................................................................... 50
Committees—
National Capital and External Territories Committee—Report................................. 50
Treaties Committee—Reports ......................................................................................... 52
Response to Senate Resolutions ......................................................................................... 57
Aviation Transport Security Amendment Bill 2006,
Ohs and Src Legislation Amendment Bill 2006,
Privacy Legislation Amendment Bill 2006,
International Tax Agreements Amendment Bill (No. 1) 2006,
Tax Laws Amendment (Repeal of Inoperative Provisions) Bill 2006, and
Civil Aviation Legislation Amendment (Mutual Recognition with New Zealand) Bill 2006—
Assent ......................................................................................................................... 59
Maritime Transport and Offshore Facilities Security Amendment (Maritime Security Guards and Other Measures) Bill 2006—
Assent ......................................................................................................................... 59
Customs Amendment (2007 Harmonized System Changes) Bill 2006,
Customs Tariff Amendment (2007 Harmonized System Changes) Bill 2006, and
Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill (No. 2) 2006—
First Reading .................................................................................................................. 59
Second Reading ................................................................................................................. 59
Committees—
Economics Committee—
Interim Report ......................................................................................................... 61
Extension of Time ......................................................................................................... 61
Higher Education Legislation Amendment (2006 Budget and Other Measures) Bill 2006—
Report of Employment, Workplace Relations and Education Committee ................. 61
Aged Care Amendment (Residential Care) Bill 2006—
Report of Community Affairs Committee .................................................................. 61
Corporations (Aboriginal and Torres Strait Islander) Bill 2005,
Corporations Amendment (Aboriginal and Torres Strait Islander Corporations) Bill 2006, and Corporations (Aboriginal and Torres Strait Islander) Consequential, Transitional and Other Measures Bill 2006—
Report of Legal and Constitutional Affairs Committee .................................................. 62
Occupational Health and Safety (Commonwealth Employment) Amendment Bill 2005—
Second Reading ............................................................................................................. 62
In Committee ................................................................................................................. 100
Third Reading ................................................................................................................. 111
Australian Nuclear Science and Technology Organisation Amendment Bill 2006—
Second Reading ............................................................................................................. 111
Adjournment—
Home Hill Boat Club...................................................................................................... 121
CONTENTS—continued

Breast Cancer .................................................................................................................. 123
Asylum Seekers................................................................................................................ 125
Documents—
Tabling........................................................................................................................ ...... 127
Questions on Notice
Advertising Campaigns—(Question No. 105) ................................................................. 135
Divisions of General Practice—(Question No. 1636) ...................................................... 137
National Centre for Vocational Education Research—(Question No. 1664)................ 137
Learning Disability—(Question No. 1676) ..................................................................... 138
Sex and Relationship Education—(Question No. 1704) ................................................ 141
Transport and Regional Services: Overseas Travel by Secretary—(Question No. 1809) ........................................................................................................................................ 142
Seafarers—(Question No. 1868) ...................................................................................... 146
Conclusive Certificates—(Question No. 1944) ................................................................. 147
Conclusive Certificates—(Question No. 1954) ................................................................. 148
Compensation for Detriment Caused by Defective Administration Scheme—
(Question No. 1968) ......................................................................................................... 148
Medicare Benefits—(Question No. 2005) .......................................................................... 149
Pharmacies—(Question No. 2006) .................................................................................... 151
Transport and Regional Services: Remuneration Packages—(Question No. 2026) ...... 153
Australian Federal Police Investigation of Government Information—(Question No. 2107) ........................................................................................................................................ 154
Indigenous Employment Centres—(Question No. 2113) ................................................. 156
Rural and Remote Students—(Question No. 2116) ......................................................... 159
Methamphetamine—(Question No. 2122) ...................................................................... 160
Airspace Management Contract—(Question No. 2127) .................................................. 162
Ministerial Conversations Series—(Question No. 2154) .................................................. 163
Estimates Training Sessions—(Question No. 2170) ......................................................... 164
Transport and Regional Services: Travel Entitlements—(Question No. 2212) ............... 164
Health and Ageing: Travel Entitlements—(Question No. 2213) ....................................... 166
Communications, Information Technology and the Arts: Travel Entitlements—
(Question No. 2215) ........................................................................................................ 166
Industry, Tourism and Resources: Travel Entitlements—(Question No. 2218) ............... 168
Iraq: Military Training—(Question No. 2252) .................................................................. 172
Economy Air and Air Mail Services—(Question No. 2259) ............................................ 180
Malu Sara—(Question No. 2272) .................................................................................... 180
Malu Sara—(Question No. 2273) .................................................................................... 181
Malu Sara—(Question No. 2274) .................................................................................... 181
Malu Sara—(Question No. 2275) .................................................................................... 182
Malu Sara—(Question No. 2276) .................................................................................... 182
Malu Sara—(Question No. 2277) .................................................................................... 183
Malu Sara—(Question No. 2278) .................................................................................... 183
Malu Sara—(Question No. 2279) .................................................................................... 184
Malu Sara—(Question No. 2280) .................................................................................... 184
Malu Sara—(Question No. 2281) .................................................................................... 185
Malu Sara—(Question No. 2282) .................................................................................... 185
Malu Sara—(Question No. 2284) .................................................................................... 186
The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 12.30 pm and read prayers.

BUSINESS

Rearrangement

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (12.30 pm)—I move:

That the order of consideration of government business orders of the day for today be as follows:

No. 5 Tax Laws Amendment (2006 Measures No. 5) Bill 2006;
No. 7 Public Works Committee Amendment Bill 2006;
No. 18 Occupational Health and Safety (Commonwealth Employment) Amendment Bill 2005; and
No. 6 Australian Nuclear Science and Technology Organisation Amendment Bill 2006.

Question agreed to.

TAX LAWS AMENDMENT (2006 MEASURES No. 5) BILL 2006

Second Reading

Debate resumed from 13 September, on motion by Senator Abetz:

That this bill be now read a second time.

Senator SHERRY (Tasmania) (12.31 pm)—I rise to speak on behalf of the Labor opposition in respect of the Tax Laws Amendment (2006 Measures No. 5) Bill 2006. This bill has been brought on at the last moment. We received notification approximately two hours ago that we would be dealing with this bill after having been informed as late as mid-morning that we would be dealing with the broadcasting amendment bills. Of course the government is not ready to proceed with that legislation. It is a sign of the times—the ongoing shambles in this government—that the government has had to pull back legislation that has been listed on the program for some weeks and that until a few hours ago was listed to proceed. It reflects the disorganisation and disarray in the government, particularly from the National Party, as we understand it, which is not prepared to support the legislation that we came here to debate. This is another sign of a government internally divided and in a shambolic condition. On top of that, we have had more shambles with the Telstra privatisation and the prospectus having to be pulled at the last minute. But we will be saying much more about those other issues at a later time.

The tax laws amendment bill we are now considering involves a first attempt by the Liberal government to deal with the enormous problem of red tape. Business has taken a very proactive stance on the ever-increasing compliance burden of regulation. We have seen that from the Business Council of Australia and from small business groups like COSBOA. We have seen the ever-increasing burden of red tape and regulation that this government—in office for more than 10 long years—pledged, prior to being elected in 1996, it would cut in half. What has been the result after 10 long years of Liberal government? The amount of red tape has doubled. In fact, in many areas it has more than doubled. I will come to some of that in detail a little later.

Labor has noted the concerns of business and it does agree with business in its call for a major public policy effort to reduce the regulatory red tape burden. The issue has reached chronic proportions. Small business is spending at least 40 hours a month in clearing the desk of government paperwork. This presents a real economic cost to business. The enormous compliance burden that has been growing year by year under this Liberal government saps business of a great deal of time. It has a great cost and it is distracting business from its primary focus,
which is to ensure that business prospers. The private sector creates wealth and jobs for Australians and is the engine of the prosperity that drives Australia’s growing economy and living standards. Excessive regulatory burden hinders this activity and creates issues of major distraction for entrepreneurs and business operators in the running of their businesses in the private sector.

The government, notwithstanding its rhetoric, has simply not been delivering in this area of reducing red tape. As I said earlier, it has been adding to it over the last 10 years. It is a fundamentally good thing for the parliament to do whatever it can to reasonably reduce the compliance and administrative burdens encountered by the Australian business community. In the face of major business anger over the compliance burden, the Treasurer, Mr Costello, was forced to call upon Mr Gary Banks and establish a task force—or more correctly the Prime Minister established the task force—to examine government regulation and make it less burdensome, complex and costly and also to remove any redundant provisions or duplication with other jurisdictions. The Prime Minister effectively overruled the Treasurer, Mr Costello, in this area by requiring the establishment of the Banks committee and the subsequent report of the task force on reducing the regulatory burdens on business, Re-thinking regulation.

The bill we are dealing with is a first attempt to deal with some of the more pressing issues in this area, and Labor welcomes the measures. But this bill, in itself, is not enough. Business is straining to understand and comply with the enormous and increasingly complex and costly regulatory activity of this Liberal government.

Look at the massive expansion of the tax act. Recent moves to remove inoperative provisions were a rather half-baked response from the Treasurer, Mr Costello. The Treasurer’s solution to regulatory compliance and the growth thereof was to signal the removal of sections of the tax act which are no longer operative and no longer particularly relevant to business. That was his initial response, but real regulatory reform should be not just about removing provisions that no longer apply but about engaging in real regulatory reforms in the tax area that ensure the operative provisions work to reduce the cost to business.

Another example is the WorkChoices debacle: an absolutely massive act combined with voluminous regulation—thousands of pages of regulation—being imposed on business. According to the recent MYOB survey, small business does not really support it, with only eight per cent of respondents to the survey supporting this approach.

The measures in this bill, whilst welcome, are only dealing around the edges with the central issue of overregulation. The government needs to embrace the real spirit of the Banks committee recommendations and make regulatory reform a centrepiece of its business policy. Labor has heard this message. Firstly, in June this year the Leader of the Opposition, Kim Beazley, delivered Labor’s five-point plan for small business in this area. This involved providing small businesses with a $200 skills credit. A small business using the credit for eligible courses will receive the first $100 of training for free and receive matching dollar-for-dollar assistance for the next $100 spent on any one course of their choice.

Secondly, the Leader of the Opposition, Mr Beazley, announced that the Labor Party will be establishing a clearing house to deal with the new costly and complex requirements that the government has imposed on business—in this case small business—with respect to the superannuation choice regime.
The single clearing house administered by the ATO will remove the costly form-filling exercise that has been imposed on business—an additional imposition with respect to red tape and meeting superannuation compliance.

Thirdly, a Labor government would establish a red tape reduction fund. The fund would provide an incentive across the Commonwealth government and agencies to cut red tape. It would be extended to the states and territories after consultation. Fourthly, the small business plan would improve small business cash flow by making sure government and large corporate debtors pay their bills on time.

Federal Labor is committed to a national fibre-to-the-node broadband network. To the IT business people, that is a six megabit per second broadband network. I am not an IT person, so from my perspective that means a really fast system that will reduce business costs. This is just the first instalment of the policy reform that would assist business with the onerous compliance and regulatory regime that this government has imposed on them.

Turning to schedule 1 of the bill, the first measure is an increase in the threshold for minor benefits exemption as it applies to fringe benefits tax. The proposal is that the threshold exemption rise from less than $100 to less than $300. The measure is targeted at small businesses and means that an item under $300 that an employer provides for an employee is FBT exempt. The amendment is simple and useful and will reduce the compliance costs for small business.

The second measure associated with schedule 1 involves increasing the threshold for which fringe benefits are disregarded for the purposes of reporting. Currently, employers are expected to record and report on the taxable value of the fringe benefits which they provide to their employees where the value of these benefits exceeds $1,000. The amendment sees the threshold rise from $1,000 to $2,000. This was a further recommendation of the Banks committee report. The measure is most relevant for the calculation of family tax benefits. Nevertheless, it also reduces compliance costs for business and makes the family tax benefit system marginally less complex.

The third measure associated with schedule 1 involves an extra concession for eligible in-house benefits and airline transport fringe benefits, and it raises the concession from $500 to $1,000 per annum. It means that if an employer offers in-house benefits like free meals or discount goods to employees, then up to $1,000 does not have to be reported for fringe benefits. Further, if an employer such as Qantas or Virgin Blue offers discounted air travel to their employees then an aggregate value of $1,000 per annum is not required to be reported under FBT. The measure is of particular benefit also to shop assistants and retail employees who receive discounts as a result of their employment.

The last measure associated with schedule 1 involves a change to the definition of the term ‘remote’ as it applies to fringe benefit tax concessions. The amendment introduces a new formula for calculating the distance between a tested location and an eligible urban area. Basically, travel by water will now be included in the calculation to determine whether a location is deemed to be remote. The kilometres travelled by water will be assessed as double those travelled by land and if the distance calculated is determined to be 100 kilometres or more then the location will be defined as remote.

We have asked the government for more details in relation to this measure. The staff of the Assistant Treasurer, Minister Dutton,
who briefed my shadow in the other place, Mr Fitzgibbon, indicated they would provide further details but we are still waiting on those. It may be the case that individuals on islands are not receiving benefits from remote location treatment like FBT exemption for housing costs. This is reasonable, but the Labor opposition is seeking an assurance from the government as to who will benefit from this change.

Turning to schedule 2, the amendment seeks to make a consequential amendment to GST law by making a personal vehicle and pharmaceuticals GST free under the Military Rehabilitation and Compensation Act 2004. The amendment seeks to make these items GST free for those receiving a special rate disability pension under part 6 of chapter 4 or section 199 of the Military Rehabilitation and Compensation Act 2004. As many colleagues would be aware, the tragic Black Hawk disaster in June 1996 led to the review of the military compensation scheme in March 1999, commonly known as the Tanzer report. The Tanzer report recommended a new military and veterans compensation scheme, which led to the Military Rehabilitation and Compensation Act 2004. For some unknown reason, it has taken some two years for the government to get around to incorporating these significant entitlements into the appropriate legislation.

Regarding schedule 3, the amendment seeks to remove the part-year tax-free threshold for taxpayers who have ceased to be full-time students. This will allow taxpayers who have ceased to be full-time students to gain the full $6,000 tax-free threshold. Currently, the tax-free threshold is only received for that part of the year that a student first enters the paid workforce. However, most students now end up in the labour force in some capacity before the completion of their full-time studies. In other words, the current law is frankly redundant.

Finally, I wish to add some comments about the debacle of the changes to loss recoupment. The Liberal government botched this crucial bill, which would have altered the rules by which losses are allowed to be brought forward by businesses, especially those involved in infrastructure, venture capital and mining. The reforms to the continuity of ownership rules were welcomed, but changes to the same-business test imposed a $100 million cap. The result is that non-listed companies, not widely held, might fail both tests and lose the benefit of those losses.

On the same day the Liberal government rejected Labor’s amendments on this measure, they called for a review which was to report in January, but it is now eight months late. The minister recently informed the House of Representatives in response to a question on notice that there is some $50 billion in losses outstanding. The minister and the government need to deal with this matter urgently to give certainty to business, and I would call on the government to indicate what is happening with respect to this review. With those remarks, I indicate on behalf of the Labor opposition that we will be supporting the bill before the Senate.
amendments will be $43.2 million over the four years from 2006-07 to 2009-10. The explanatory memorandum states that compliance costs and hence regulatory burdens on businesses will be reduced, and obviously the benefit to those recipients of these tax concessions will be increased to the value of that cost that has been estimated in the explanatory memorandum.

Schedule 2 of the bill amends the A New Tax System (Goods and Services Tax) Act 1999 in relation to the goods and services tax status of pharmaceuticals and cars for Defence Force veterans. Supplies of drugs, medicines and other pharmaceutical items will be GST free when they are supplied as pharmaceutical benefits under the Military Rehabilitation and Compensation Act 2004. The GST-free car concession will also now be extended and will be available to a wider range of injured veterans, providing that they receive or are eligible to receive a special rate disability pension under part 6 of chapter 4 of the Military Rehabilitation and Compensation Act 2004. According to the explanatory memorandum, both the financial and compliance cost impact will be negligible.

Schedule 3 of the bill amends the Income Tax Rates Act 1986 and replaces the pro rata tax-free threshold for taxpayers ceasing full-time education for the first time with the full $6,000 tax-free threshold. According to the explanatory memorandum, the financial cost will be nil in the 2006-07 financial year and then $2 million per year from 2007-08 onwards. The explanatory memorandum also expects there to be a reduction in compliance costs for those taxpayers who are beneficially affected by these changes.

Schedule 1 implements the recommendations made in the report of the task force on reducing the regulatory burdens on businesses, *Rethinking regulation*, which was the end result of a task force established by the Prime Minister and the Treasurer to identify options for alleviating the regulatory burden on small businesses. It also implements proposals announced in the 2006-07 budget. The cost of complying with the regulatory regime, including the tax regime, is a major burden for small business holders and its simplification would be a welcome relief for many. With lower compliance costs comes greater administrative efficiency.

Schedule 2 seems fairly non-controversial. However, in his speech on the second reading a member of the House of Representatives, Mr Alan Cadman, did raise the question of such a move paving the way for further concessional demands in the future that we should be alert to and watch out for.

Schedule 3 could be viewed as a step in the direction of equity. Students and people of this sort normally have other costs associated with the transition from study to the workforce. It seems unfair that they should have borne an additional tax liability. This is a useful area to have remedied and reformed.

According to the *Bills Digest*, the Institute of Chartered Accountants support an overhaul of Australia’s fringe benefits tax regime. The *Bills Digest* itself raised the issue of whether or not the bill goes far enough in reforming the fringe benefits tax regime and noted that Mark Fenton-James, writing in the *Australian Financial Review*, has commented that, whilst the changes are welcomed, they do not go far enough and the whole system needs a revamp.

Of course, the fringe benefits tax regime as a whole is resisted and resented by a large number of businesspeople in Australia. At some stage the government has to accept that it can never satisfy those who oppose the FBT regime. The government’s role, in my view, is simply to ensure that the regime is fair and equitable and delivers the policy
outcome that is necessary. To reform FBT so that it is simplified, fairer and more practical is a good idea, but to erode the very policy on which fringe benefits taxation is predicated is unwise. I am not suggesting that the government has done that in this bill, but there is that climate out there where reform in this area will never be enough. You will never ever satisfy those people who essentially resent this regime and resist it. I think we have to restrict reform in this area very tightly to those areas that need addressing from an equity, practicality and simplification point of view.

In making a few remarks on this matter, I encourage the government to return to the plea of the Ralph Review of Business Taxation for the reform of motor vehicle fringe benefits to occur. That report came out in July 1999. I turned to the executive summary to remind myself exactly what the Ralph review had said. They said that, without further adjustment to the fringe benefits regime, they urged the present treatment of car fringe benefits be reformed. They thought it was unsatisfactory in a number of respects and strongly concessional. I make the point that reforming or simplifying the fringe benefits tax regime does not necessarily mean lowering the tax impost. It can mean increasing the tax impost, which is exactly what the Ralph review recommended. They thought the fringe benefits regime for cars was too concessional—it was strongly concessional.

I make the point to the government that, now that you have reformed the income tax rates, schedules and thresholds in the way that you have, there is no longer quite such pressure to compensate, as it were, higher income earners—who benefit most from motor vehicle fringe benefits tax—for a high tax regime as there used to be. In my view the motor vehicle fringe benefits situation is still too concessional. I think Mr Ralph’s view on these matters still needs to be heeded. In his report he recommended that the current statutory formula for valuing car fringe benefits be replaced with a schedular approach, and he essentially recommended that the actual degree of private use be more tightly examined.

I recall that, when I looked at this matter in some detail in 2004, the fringe benefits tax concession, which encourages the use of cars, was at an estimated revenue cost then of about $900 million. It would be well over $1 billion now—I have not had a look at the tax expenditures statement to confirm that. I urge the government, in reviewing and reforming the fringe benefits tax regime, to consider returning to the Ralph business tax review consideration of this issue and to think about tightening up a concession that is unwarranted for many higher income earners.

Having said that, I recognise the commentary from within the _Bills Digest_ and from the community at large for further reform and simplification in this area. The Democrats are not unsympathetic to that, and we do in fact support this bill.

**Senator ELLISON** (Western Australia—Minister for Justice and Customs) (12.58 pm)—I thank those senators who have taken part in the debate on the Tax Laws Amendment (2006 Measures No. 5) Bill 2006. It is an important bill that makes a number of changes to tax law and which will reduce compliance costs for Australian taxpayers. That is always important. These changes are in keeping with the government’s commitment to remove unnecessary regulation of business.

Schedule 1 implements a number of fringe benefits tax changes. These have been touched on by senators who have contributed to the debate. It gives effect to two fringe benefits tax, FBT, recommendations from the report of the task force on reducing the regu-
latory burdens on business: Rethinking regulation. The first change increases the minor benefits exemption threshold from less than $100 to less than $300. This change will lower compliance and record-keeping costs for businesses that provide low-value benefits to employees infrequently.

The bill raises the reportable fringe benefits threshold from more than $1,000 to more than $2,000. This will reduce compliance and record-keeping costs by removing the need for businesses to report fringe benefits for employees who receive no more than $2,000 worth of benefits. Schedule 1 also increases from $500 to $1,000 the FBT-free threshold for in-house fringe benefits and airline transport fringe benefits. 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.

The bill also provides GST concessions to recipients of the government’s new military compensation scheme. Schedule 2 will ensure that supplies of drugs, medicines and other pharmaceutical items are GST free when supplied as pharmaceutical benefits under the military compensation scheme. In addition, 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.

Schedule 3 represents another instalment of the government’s continuing reform of the personal income tax system. It removes the part-year tax-free threshold for taxpayers who cease to be engaged in full-time education for the first time. Under the current law, taxpayers who cease full-time education for the first time are not eligible for their 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 time they are studying. This measure extends the full tax-free threshold of $6,000 to these taxpayers. The amendments simplify the law and reduce compliance costs. Again, I thank those senators who have participated in the debate. I commend the bill to the Senate.

Question agreed to.
Bill read a second time.

Third Reading
Bill passed through its remaining stages without amendment or debate.

PUBLIC WORKS COMMITTEE AMENDMENT BILL 2006
Second Reading
Debate resumed from 21 June, on motion by Senator Abetz:

That this bill be now read a second time.

Senator MURRAY (Western Australia) (1.02 pm)—The Public Works Committee Amendment Bill 2006 was originally to be debated under the non-controversial section of the Senate’s Notice Paper on Thursdays, but I took it out of there because I think there are some important principles to be addressed. In fact, I will be moving a number of amendments. On the face of it, the bill would not have seemed at all controversial, but I think there is an important principle which needs to be tested before the Senate and exposed in debate.

The major purposes of this bill are to amend the definition of a ‘public work’ to include works funded through public-private partnerships and other similar arrangements, to increase from $6 million to $15 million the threshold value of projects that require
referral to the Joint Standing Committee on Public Works to provide for the threshold value to be varied by regulation and to insert gender neutral language into the act. On the last point, it is good to see the government addressing areas where the old-fashioned view was that everything had to be in the masculine gender.

The background is that this act—and the Public Works Committee Act goes back four decades—governs the work of the Joint Standing Committee on Public Works. The committee was originally established by the Commonwealth Public Works Committee Act 1913 and first met in 1915, which means it goes back eight decades, not four. It is one of the old investigative committees of the parliament. The act requires that all public works of the Commonwealth which exceed $6 million in value be referred to the committee via the houses of parliament or by the Governor-General and, with some exceptions, that all public works sponsored by Commonwealth departments and major statutory authorities with large building programs come within the ambit of the committee’s investigative powers.

It is unexceptional that either house of parliament is able to set up any committee with any term of reference or guideline it wishes under the broad aegis of the rules and orders of that house. Of course, it is the parliament itself which has accepted that a committee should be set up by a legislative act rather than by a rule of either house. But the question, of course, is whether the executive is entitled to restrain or prohibit the workings of a parliamentary committee in any way. Like a number of joint parliamentary committees, the Public Works Committee is affected by statute. The statute does not attempt to limit the primary power of referral that the parliament has. Section 18(1) of the act states:

(1) A motion may be moved in either House of the Parliament that a public work be referred to the Committee for consideration and report.

The act does not differentiate between referral moved by a minister or member of either house, including a member of the committee. It also does not restrict a referral of works based on costs. A work costing well below the threshold amount is able to be referred to the committee, subject to approval by either house. All of this is unexceptional so far. Section 18(8) of the Public Works Committee Act provides that works, the estimated cost of which exceed a threshold amount, currently $6 million—to be raised to $15 million by the bill—cannot commence unless they are referred to the committee or are declared exempt for certain reasons.

My problem is this: there is currently no provision for the committee to self-refer a work for inquiry and report by a motion passed at a private meeting of the committee. Nevertheless, despite that provision, that is effectively what the committee has been doing. My view is that the committee is operating properly and as it should in terms of determining its own work schedule, but it is contrary to the statute and will continue to be contrary to the statute. In an apparent conflict with the statute, the committee’s Manual of procedures for departments and agencies provides for an informal arrangement whereby agencies are to notify the committee of medium works of a value between $2 million and $6 million. The manual states that the committee may inquire into a proposed medium work if it so chooses.

Frankly, the manual is not entitled to do that: the statute prohibits it. There is—perhaps to pervert the meaning of the word—a lacuna between what the statute says and what the committee is doing. This apparent conflict between committee process and statute needs to be regularised. I must stress that the Democrats have no quarrel,
none whatsoever, with the way in which the committee has been operating. We have no quarrel with the way in which it is chaired and managed and the way in which it operates. Neither do we take any issue with the Public Works Committee having a statutory underpinning. That is a feature of other statutory committees. We have no objection at all to a threshold being established above which the committee must conduct an inquiry and we do not oppose the proposed $15 million threshold. We do not take issue with the parliament deciding to give the government of the day the majority on the committee. In short, we support current policy and practice. However, we are concerned to ensure that any possible conflict between statute and parliamentary rights and privileges and entitlements and committee practice is fixed.

In our amendments before the Senate and in our proposals we are naturally biased to preserving the primacy of parliamentary discretion and we are seeking two things to be made clear in the amending bill. The committee is to be automatically advised by agencies of all proposed public works above a threshold—and we have suggested, based on precedent, $2 million—and, as at present, the committee on its own cognisance may examine any project below the upper threshold. We are accepting that it must examine above the threshold but we believe, as parliamentarians, the committee should be entitled to examine any project that it wishes below the upper threshold. Based on advice and precedent, we accept that it is unlikely that this discretion will be exercised very often by the committee.

Why do I feel strongly enough about this to take it out of the non-controversial Senate business section and to agitate for change and to lobby—probably unsuccessfully—for this change? There are two important principles. Firstly, you should not have a statute which is contrary to the actual practice of the committee because, effectively, you are defying the law and it is the job of all of us to obey the law. Secondly—and it is a bigger point in my view—I do not think the parliament in any of its guises should ever give up its powers, its rights, its freedom or its independence to the executive. That is effectively what this legislation does. Effectively, the parliament is saying that with respect to this committee it cannot carry out an accountability role below a $15 million threshold.

In passing I should say, incidentally, there is a danger with any threshold. Public sector employees and management are as able and as capable as anyone else in the for-profit or not-for-profit world of trying to manipulate matters to make sure that they get an easier ride. There is nothing to suggest it unlikely that someone might break up a contract into several parcels so that they all fall below $15 million and therefore are not subject to the rigours of the Public Works Committee’s view. I am sorry, because I am pretty certain from the reaction I have received, that I have not been able to persuade the parliamentarians concerned on this committee and in government to my argument, but nevertheless, I did want to take the opportunity to put that argument before the Senate.

Senator PARRY (Tasmania) (1.11 pm)—I appreciate Senator Murray’s input into this debate and understand to a degree some of his concerns. It is important to have the debate outside the non-controversial legislation time that Senator Murray removed this Public Works Committee Amendment Bill 2006 from. However, I certainly disagree, and the government would disagree, with the amendments that Senator Murray has proposed.

The major features of the bill which Senator Murray has articulated go towards the raising of the threshold—and that is one of the prime concerns—and then placing that threshold change into regulation rather than
having an amendment to the act each time we need to raise that threshold. As Senator Murray would acknowledge, I am sure, that is a very common thing to do. When there are consumer price index issues and when amounts are set in legislative form, in the form of an act, it is much more difficult to change. When we can rightly expect that there will be inflationary pressures and other issues as time proceeds requiring us to raise that limit, the best place for that is within the regulation framework.

I would like to comment on some other issues that have been raised. The definition of a public work has now been broadened quite dramatically to prevent scrutiny of matters of major public works being avoided by the parliamentary committee. The widening of the definition is very important and I think it goes some way towards allaying the concerns that have been raised by Senator Murray.

There is another issue, and it is one I think we should always fall back to as one of the basic tenets of the Public Works Act. Any member of parliament, be it a minister, an opposition member or a minor party member of either house, at any stage can refer the matter to the parliament. I think that is where under the proposed legislation any works would be flagged for scrutiny, for whatever reason, and I do not think any reason would occur where it would escape the scrutiny of the committee or the department. I suggest that if any member of parliament is aware of any works at any time they can at least raise that and then it is a matter of public record. That would then give us an indication if the system is not working.

My understanding also is that there is a list of current works undertaken by each government department that is readily available for any member of the public or parliament to scrutinise. That list would also flag the size of works and the dollar value of works, if indeed we thought that those were being missed out from the proper scrutiny of the Public Works Committee.

I think it is also important to mention that matters under the value of $15 million, whilst significant in their own right, have scrutiny within the ambit of the ministerial process and certainly within the senior departmental process. I think that it is right and proper that anything over the value of $15 million in this day and age should be automatically referred to the Public Works Committee and matters below that threshold—and the suggestion is between $6 million and $15 million—would have a discretionary approach from the committee and, I stress again, any public work could be referred by any member of parliament. I think the saving grace in every aspect of this is that those smaller works can be referred to at any stage.

It is also important to place on the record that, since September 2005, 17 projects costing less than $15 million have been reported on. As a member of the Public Works Committee, I think that has been a significant load. Some of those works have been below, or just bearing on, the $6 million threshold. In some instances, if they had been $100,000 or $200,000 less, they may not even have come before the committee. That should allay Senator Murray’s concern about departments or agencies manipulating figures to avoid scrutiny. That would be extremely difficult to do, because some of the figures have been extremely borderline.

I am very much in support of the bill, which goes a long way towards widening the net. We are now having public-private partnership arrangements, which have not been captured completely by the act in the past. The definition of 'public work' will also incorporate matters irrespective of the source
of revenue or funding, so the value of a project, rather than whether the source of income or revenue is from the government sector, will be the best way of defining it. I commend the bill to the Senate and I hope Senator Murray’s concerns have been allayed somewhat.

Senator FORSHAW (New South Wales) (1.16 pm)—I rise as a member of the Joint Standing Committee on Public Works to make a few comments on the Public Works Committee Amendment Bill 2006. At the outset, I support Senator Parry’s comments on the specific provisions of the bill. Senator Parry is a member of the Public Works Committee. I take this opportunity—it is early in the week—to compliment him and other members of the government parties on their work on the committee. It is a committee that functions exceptionally well. Our task, as the statute requires, is to assess the value for money of public works projects that are undertaken by government departments and agencies. We do that in a very bipartisan and, I believe, professional manner. I also note the comments of Senator Murray, who has a very keen interest in this area. He is a member of the Joint Committee of Public Accounts and Audit, which has an affinity with the Public Works Committee.

The specific provisions of this legislation are supported by the opposition. They arise, dare I say it, out of suggestions coming from the committee itself. I note that the Parliamentary Secretary to the Minister for Finance and Administration, who is in the chamber today and is a former member of the committee, is aware of this. I compliment him on taking up these propositions and bringing forward this legislation. Firstly, there is the issue of the threshold, which has been at $6 million for some time now. All members of the committee realise that was an unrealistically low figure given the cost of major projects in this day and age. The increase reflects a suitable adjustment so that the committee is not overburdened by dealing with projects of a monetary value which would have classed them as major projects many years ago but would not do so today.

Six million dollars does not buy you a lot. However, it is not an insignificant amount, particularly when it comes to fit-outs. As Senator Parry and the government have acknowledged, the committee still has the discretion to look at medium-value projects below that amount where it is advised of those projects and feels it would be worth while to do so. So we support the increase from $6 million to $15 million as a sensible adjustment. In case anyone should think that increasing the amount means fewer public works will be scrutinised by the committee, let me assure them that will not be the case. In fact, the workload of this committee has increased substantially in the last couple of years, as all members can attest.

The second aspect is a change in the definition of ‘public work’ to pick up changes in construction techniques and funding techniques, particularly the use of private-public partnerships. The committee has recently been considering projects which are private-public partnerships in the defence area. I think it is fair to say that, even for those on the committee who have some expertise or long experience in dealing with the building and construction industry—and that does not include me—this is a pretty complex area. The committee has been applying itself diligently in examining private-public partnership projects which are costed over, say, a 30- or 40-year period. Where the committee is required to approve an up-front appropriation, it has been at pains to ensure that all the relevant information is before it so it can ensure that the Commonwealth and taxpayers get value for money.
There are a couple of other things that I also want to add. The committee has from time to time expressed an interest in or views about other issues. One of those is the fact that the committee does not have the statutory power to look at leases—and I am sure, Mr Acting Deputy President Brandis, your interest will be tweaked here. For some time major leasehold arrangements have been entered into by government departments and agencies which are often far in excess of the cost of a public works project. Also, sell and lease-back arrangements have been entered into by various departments and agencies.

There have been times when committee members have been, for instance, examining a construction project or a fit-out project of, say, $5 million or $10 million, but we were aware that a leasehold arrangement was being entered into which amounted to $20 million or $30 million. We can look at the former but we cannot look at the latter because of the statutory limitations. I am not arguing or proposing that we change the legislation at this point in time, but this is one of those interesting issues that arises before the committee. There are other mechanisms of the parliament, such as the estimates process, that are available to senators and the parliament to look at those leasehold arrangements, and they have been used on many occasions in hearings of the Senate Standing Committee on Finance and Public Administration, as you no doubt would be aware, Mr Acting Deputy President.

One other issue that is of relevance, particularly with some of the more recent projects that have been brought before the committee involving construction and fit-out or major fit-outs of buildings that are being leased, is the practice within the industry of the reversionary payment. That is where the developer has a price for the project, which the Commonwealth department has to pay, but at the completion of the project, as part of the overall project costs, there is a discount for the department or the agency entering into a long-term lease. This may take the form of reduced leasehold payments or of rent-free accommodation for a period of time or, indeed, of a lump sum payment back to the department. Without going into specific details, this has attracted the interest of the committee because it goes to the question of, ultimately, how much the actual cost of the project is to the Commonwealth. At the end of the day, that is what the committee is required to approve—that is, we are required to assess and approve or not approve the expenditure of a dollar amount on a public works project.

Other issues, of course, have been identified such as what happened in the case of the proposed Christmas Island detention centre, where there was a huge cost blow-out. It certainly would have come to the point where that project would have been referred to the committee by the parliament, if the government had not taken other action at the time. Another recent example of a blow-out was where the committee gave approval to a project of about $18 million or $19 million for ANSTO to build a new radiopharmaceuticals facility at Lucas Heights. The committee assessed and approved it, and then it came to light sometime later that the board of ANSTO had in fact decided not to go ahead with the project because, after it did some further homework and assessment, it realised that the cost of the project was going to blow out to about double the original amount requested—that is, $40 million. I particularly was concerned about that because, certainly to my understanding, the committee only became aware of that sometime after the actual decision of the board.

Our committee does not have direct power to go back and reconsider projects because our job finishes once we have dealt with the reference. I am concerned about this issue,
but we do often enter into arrangements with departments and agencies whereby they will continue to report to us on the progress of the development of a project after its approval so that we do not have situations where there are substantial cost overruns or blow-outs after the original decision has been made.

With those comments, I indicate that we support the legislation. I thank particularly the parliamentary secretary, other members of the committee and members of the government who have worked to get these changes introduced. As I said, members of the committee have been advocating these changes for some time.

Senator SHERRY (Tasmania) (1.28 pm)—On behalf of the Labor opposition, as the shadow minister who has been given responsibility for this matter, I wish to make a few remarks in support of the Public Works Committee Amendment Bill 2006, which is before the Senate today. Before commenting on the specific purposes of the bill, it is worth drawing to the attention of the Senate that the Commonwealth Public Works Committee Act 1913 and the first meeting of the Parliamentary Standing Committee on Public Works in 1915 make the committee one of the oldest investigative committees of the parliament. We should note that fact, particularly at a time when a government—and an out-of-touch government—that now has a majority in the Senate and the House of Representatives is intent, in an arrogant and disrespectful way, on winding back and restricting, particularly in the Senate context, the investigative powers that are so important in a democracy.

We did not see any mention of reducing the investigative powers of Senate committees prior to the last election, when the government obtained a majority in this chamber. In that context, it is important to note that this is an important committee. It is overseeing, over the term of a government, hundreds of millions of dollars in public expenditures with respect to capital works.

The bill itself amends the definition of a public work to include works funded through public-private partnerships, commonly known as PPPs. PPPs are a contentious public policy area. There is no doubt about that, whatever one’s views on PPPs. They involve the government of the day—not just Commonwealth, of course—entering into a partnership relationship with the private sector, which actually provides the capital and generally owns and, in some cases, operates the public work that is undertaken. PPPs are controversial in some areas. Therefore, it is important that, in the examination of these projects, effectively, the public worth of a public work that is subcontracted in this way through a PPP should be included within the oversight of the standing committee and within the values set for examination by the committee.

That brings me to the second change: the proposal to increase the threshold value of the projects under consideration from $6 million to $15 million. I did not go back to 1915 but, in looking back over the last 30-odd years, found that the threshold in 1969 was $750,000, which was raised to $2 million in 1973 and $6 million in 1985. A little over 20 years later, the $6 million is being increased to $15 million. That is reasonable in the context of inflation over that period. There has to be a limit. We can argue about the size of the limit, but the committee simply could not function if it were required to examine every public work undertaken—it is major projects. In that context, the $15 million seems to Labor to be a reasonable figure, given the price increases of public works over the time
we have considered. Finally, it provides for the threshold figure, to which I have just referred, to be varied by regulation. That is a sensible approach. To have amendments to bills to vary quantum figures and monetary amounts is generally not the best use of the parliament’s time. To vary those figures via regulation is a more efficient way of dealing with matters.

I want to also draw the attention of the Senate to a related matter. The issue of the Commonwealth’s property asset sales has been a matter that has been investigated by the Auditor-General in respect of sale and lease-back arrangements. I note that the Liberal government sold 59 properties for some $980 million in the three years to 2001. A hurdle rate—the nominal rate of return that was required to be reached or the property would be sold—was set at between 14 and 15 per cent; otherwise divestment, the sale of the asset, occurred.

The Auditor-General is a statutory, independent office which gives very effective scrutiny of the government of the day. In the time of this Liberal government with its untrammelled and total power in the Senate, cutting back the oversight of Senate committees, it is very useful and important to have a statutory, independent Auditor-General. The Auditor-General’s report noted:

The use of a hurdle rate of return that is too high would result in a sub-optimal investment outcome and financial loss to the Commonwealth when combined with long-term leaseback arrangements.

That is the comment it made with respect to examination of at least some of the property sales by the Commonwealth in that three-year period. It is an important conclusion because it indicates that, at least in some areas, the sale by the Commonwealth of property actually resulted in a loss to the Commonwealth because of the rental that the Commonwealth had to pay and there being no net gain in debt disposal by the Commonwealth against that higher net rental rate of expenditure long term by the Commonwealth.

I will finish on a bipartisan note. I acknowledge the contributions of Senator Forrest and Senator Parry, who are both hard-working members of this committee. It is a committee that does a good job. It is one of the less publicly acknowledged committees, with minimal publicity, but it is an important aspect of parliamentary duty and responsibility that is little recognised. I thank the members of the committee. The bill we have before us and its component parts are sensible arrangements that have come from the committee itself after considerable examination by the committee in a bipartisan way. The Labor opposition supports the bill before the Senate.

**Senator COLBECK** (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (1.37 pm)—Firstly, I thank honourable senators for their contribution to the debate this afternoon. The Public Works Committee Amendment Bill 2006 makes some important amendments to the Public Works Committee Act. The amendments reflect changes in the Commonwealth public works environment since the act was last amended in 1989. They take into account new methods of procurement and the increase in construction prices since the threshold was last amended.

The bill updates the threshold value, for which projects must be referred to the committee, from $6 million to $15 million. It reflects an increase in construction costs since the last amendment in 1985 that Senator Sherry mentioned. The proposed legislation also allows for the value of the threshold to be set by regulation. Again, I see this as being a sensible way to manage this into the future rather than a legislative change being...
required. This obviously provides for greater flexibility for future updates of the threshold value to accommodate future changes in construction prices.

In reacting to new methods of procurement, the bill amends the definition of a ‘public work’ to make it clear that works funded by way of public-private partnerships, or PPPs, must be referred to the committee—and, as Senator Forshaw has said, a couple of those have been considered or are being considered by the committee at the moment. The amended definition of a ‘public work’ specifically includes public works funded through leasing or similar arrangements, even though the Commonwealth may not necessarily become the owner of the work. Again, this reflects the changing nature of Commonwealth construction procurement, and Senator Forshaw touched on that in his contribution to the debate. Works under precommitment leasing arrangements are not considered to be for the Commonwealth and continue to be excluded in line with existing practice. Together, these changes update and modernise the Public Works Committee Act, which governs one of the longest standing committees of the parliament, as indicated by Senator Sherry. I thank the committee for their consultation during the process of preparing this legislation. We have received full support for the bill from the committee and we commend the bill to the Senate.

Leave granted.

**Senator MURRAY**—I move:

1. Schedule 1, item 2, page 3 (lines 14 to 20), omit all words after paragraph 5AA(b).
2. Schedule 1, items 3 and 4, page 4 (lines 27 to 34), omit the items, substitute:
   **3 Subsection 18(8)**
   Omit “$6,000,000”, substitute “$15,000,000”.
3. Schedule 1, page 4 (after line 28), after item 3, insert:
   **3A Paragraphs 18(8)(b), (c) and (d)**
   Repeal the paragraphs, substitute:
   or (b) the work is a work that has been declared, by a notice under subsection (8A), to be a repetitive work for the purposes of this subsection.
4. Schedule 1, page 4, (after line 34) after item 4, insert:
   **4A After subsection 18(8A)**
   Insert:
   (8AB) The Committee may decide to consider and report on a public work the estimated cost of which exceeds $2,000,000, and that work is then taken to be referred to the Committee under this section.
   (8AC) A decision by the Committee under subsection (8AB) must be notified in writing to the Minister and each House of the Parliament.
   (8AD) The Committee must be notified in writing of any proposed public work the estimated cost of which exceeds $2,000,000.
   (8AE) A decision under subsection (8AB) cannot be made more than 60 days after the proposed public work has been notified under subsection (8AD).
5. Schedule 1, item 5, page 4 (line 35) to page 5 (line 4), omit the item, substitute:
   **5 Subsection 40(2)**
   Repeal the subsection.
In motivating those amendments in a futile manner—as I expected, given the remarks I have heard—I make the point that I have not been reassured by the statements that have been made around the chamber. The point right at the heart of my proposition is that I think the parliament has to always maintain its independence and its primacy over the executive. The executive does not have primacy over the parliament. The parliament represents the people. The parliament gives to the Public Works Committee the job of assessing these matters under its terms of reference. It is perfectly legitimate for the parliament then to accept statute which indicates the way in which the executive and the parliament will interact on these matters.

However, in doing so, it should not give up any of its rights. The problem we have is that it has been said, for instance, that any member of parliament can refer a matter to that committee. That is entirely incorrect. I cannot refer a matter to that committee unless I have the numbers in this chamber. I cannot do so on my individual cognisance. What is more, I would need to know in detail the particular matter to be able to motivate it. Plainly, given that I am not a member of that committee and the contractual matters that go before that committee are unlikely to cross my path, I am unlikely to be sufficiently informed to pass a matter across to that committee.

My view is that, if ever a minister has an urgent project which needs to be carried out, instead of simply passing a resolution that bypasses reference to the committee—as they can do at present—they should go before that committee and motivate the case. They should say to the committee, ‘This is urgent. We have to deal with this in a different manner. Will you, the committee, agree not to do this?’ The protection that the government has always is the numbers on the committee. Frankly, if the government of the day cannot persuade the government members on the committee to its position then there is an issue already at hand.

The definition by the committee does clarify works funded by public-private partnerships, through leasing or by methods of indirect funding, and it ensures these types of procurement are referred to the committee. The bottom line is that the works are for the Commonwealth or a Commonwealth authority. It does not, however, cover a precommitment lease. This is when the Commonwealth will be the first tenant in a facility that has not been custom designed for the Commonwealth—an arrangement that appears to be used more frequently. So here is another category which, I think, falls outside the remit of the committee.

The threshold change can take more public expenditure away from public scrutiny. Whilst the Public Works Committee takes submissions, has hearings, undertakes inspections and is an oversight committee, it will review only those matters that are referred to it. The value of the works which may fall below the proposed threshold or which may be broken up by ministers or their bureaucrats to avoid the accountability process are still potentially an issue for the committee.

The Bills Digest does point out that, despite a thorough investigation, the threshold of $15 million is still an arbitrary one. I accept that threshold. I do not have a problem with the threshold. But we have to accept that it is arbitrary. My point, consistently, has been that it should be up to the committee—not up to me; I do not want it to be up to me; I want it to be up to the committee; I trust individuals on it—to examine any matter they wish. And this bill specifically prevents them doing so. They may not look at any matter they wish on their own reference. They may not. In agreeing to this, the par-
liament is submitting to the authority of the executive on a matter of accountability. It is unfortunate that the participants in the debate and the parliament generally have not understood and reacted to this.

It is no good saying, ‘This has always been the way,’ because it has not always been the way. The way in which this has been dealt with is: the statute has said one thing but the committee has actually operated in a different manner, as the committee has ignored the statute and been allowed, through that process of the manual of procedures, to get around the statute. It is just not right and I have a problem with it.

The Democrats have no quarrel, as I have said before, with the way in which the committee operates. We have no quarrel with its members or its chairing. We do not have a quarrel with there being a statutory underpinning. We do not have a quarrel with there being a statutory underpinning. We do not oppose the proposed $15 million threshold. We do not oppose the government of the day having a majority on the committee. But we do oppose the statute taking discretion away from the committee. We think that is a fundamental issue.

So our proposed amendments which I am motivating here, amendments (1) to (5), are based on the following principles. The parliament, through the medium of the committee, should have the maximum freedom to scrutinise all proposed public works that it wishes to, at its absolute discretion. The executive government should not be in a position to determine, by regulation or otherwise, which public works are scrutinised. I am not in this place to tug my forelock to the executive. I am in this place to serve the people of Australia in their parliament, and we should at all times protect that strength, that parliamentary strength. And in this bill we are tugging our forelock to the government of the day and saying, ‘You have the right to determine what we shall hold you accountable to.’

In application of these principles, the amendments would have the following effect. Works above the threshold of $15 million could not commence until reported on by the committee, and this represents no change to the bill. Departments and agencies would be required to notify the committee of any public work with an estimated cost of $2 million or more. In other words, the committee would always know any works that were out there above $2 million. The committee would have the ability to consider and report on any proposed public works estimated to cost more than $2 million. They would not have to—almost always, they would not bother—but they would have the right. To avoid delays to works not to be examined, any decision to examine works under the threshold would have to be made within 60 days after the committee was notified of them. This would avoid the circumstance where parliament might rise in December and come back in February and there would be a whole delay process because they were not meeting. And the executive government would not be able to exclude a work from the scrutiny of the committee. I am moving these amendments as a matter of principle. I am concerned that participants in the debate do not agree with these points, but I am glad to have had the opportunity to make them.

Senator Sherry (Tasmania) (1.49 pm)—On behalf of the Labor opposition, I will make a few points. Firstly, the Labor Party will not be supporting the amendments as moved by Senator Murray to the Public Works Committee Amendment Bill 2006. I share some of Senator Murray’s concerns. Indeed, I have referred to the approach of this Liberal Party government—and I do not
even say ‘National Party’ these days. I mean, what is the National Party? It is just the doormat of the Liberal government, quite frankly. As I have said, we are concerned at the approach that has been taken, since the Liberal government has had a majority in this place, to the accountability of parliament through the committee system as it operates. The committee system, particularly in the Senate, is important to accountability and a check on the executive power in this country. We have started to see that wither, given at least some of the measures this government has enacted since it has had total control of the parliament and a majority in the Senate, through a range of pieces of legislation that indicate a government that is out of touch, extreme and going a step too far in a number of areas that were not even mentioned in the run-up to the last election—industrial relations is but one of them—and in the changes that have been made to the committee system since the last election which, again, were not mentioned at all prior to the last election.

That is an issue, along with others, that the people of Australia will make a decision on at the next election. If the people of Australia want a continuation of this approach in a range of areas, that will be their decision. If they want to allow this Liberal government total power through a majority in the Senate, and substantial power as the government of the country by re-electing them in the House of Representatives, that will be the decision of the Australian people.

But we are not dealing with the parliament as such ‘giving up its rights’, to quote Senator Murray. I think it is more a matter of how the parliament delegates its rights in a sensible and reasonable manner and of the parameters that we set, in this case around the delegation to the parliament of the examination of public works in this country. We see the proposed amendments to the Public Works Committee Amendment Bill as reasonable in the circumstances.

I understand the Australian Democrats in the sense that they are keen to hold the government accountable and are not going to ‘tug the forelock’—I think that was the expression that Senator Murray used. I could cast my thoughts back to the time of the famous GST debate, Senator Murray—but time is not going to allow me to do that—when I reflect on the position of the Australian Democrats on some other issues that have come before this chamber.

We do not believe that the provisions and the amendments contained in the bill we are considering are unreasonable in the context of the issues that we have canvassed as part of the amendments to the bill. The increase in the threshold from $6 million to $15 million is not an unreasonable increase. There has to be a threshold. The figure matched against the consumer price index or, particularly, construction costs, which would be higher—I do not have those figures to hand, but I think they would be higher—is reasonable in the circumstances. The committee cannot examine every area of public works. It could get to the absurd position where the committee was examining repair of the footpath outside Parliament House. There has to be a line drawn somewhere—obviously there will always be some projects that fall on just one side or the other in a particular area of expenditure.

I appreciate that Senator Parry and my colleague Senator Forshaw are extremely hardworking and dedicated members of this committee, along with the other members of parliament. I appreciate that this is work that it is necessary to do, and that unfortunately receives very little public accolade, recognition or acknowledgement. It is part and parcel of the everyday behind the scenes work that we as legislators have to do. But we
have to draw the line somewhere in terms of the committee’s examination of some areas of public works. The demands on the committee members’ time, as we all know—on the time of all of us—are significant.

In that context the threshold is reasonable. The inclusion of PPPs as a new area of public financing of public works is reasonable. The provision for change by regulation is a reasonable approach—rather than having to amend the bill. I can recall—Senator Colbeck would be aware of this—the area of, for example, agricultural levies. Every time a change to an agricultural levy is necessary, an amendment to a bill is required in this place. I had to handle that legislation from 1993 to 1996. There were more pieces of legislation on amending agricultural levies than almost any other bills coming into the place over that period. Where we can, and where it is good public policy and relatively speaking not an issue of great contention, it is sensible that it should be done by regulation. That is sensible and practical given the time constraints that any government—and, I would say, any crossbencher—has to operate under in this place.

For those reasons, Labor does not support the amendments moved by the Australian Democrats. Over the years, Senator Murray and I have worked very closely together on many issues in this place. We respect Senator Murray’s views. His views are strongly held; generally we agree with the parameters and the principles he operates in. But on this occasion the practical balance falls on the side of supporting the amendments that are before the committee and not going beyond those amendments.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (1.56 pm)—I have a couple of quick comments and will try to wrap this up prior to question time.

While I understand Senator Murray’s desire for transparency and openness in government reporting, I disagree that the government is trying to avoid that in respect of the Public Works Committee Amendment Bill 2006. The committee has not been employing a process that has been trying to get around the statute. It has been applying that statute. In fact, the parliament plays an extremely important part in all the works that come before the committee. They are referred to the committee by the parliament. Any member of the committee—in fact any member of either chamber—has the capacity to refer any work to the committee. Within this legislation there remains a strong place for the parliament, and that is as it should be.

Senator Sherry’s comments also reflect on that. In respect of how a member of parliament might be aware of what works are coming forward, there are a number of ways in which that can happen. In the first instance, agencies are required to report any major projects in their annual procurement plans. There are a number of ways in which a member of parliament can be aware of what is going on. In addition, the issue in relation to the change to the threshold has some historical basis. I acknowledge that Senator Murray supports the threshold as it has been set, but the change does have a historical basis. The threshold is being increased in line with inflation and construction costs. Therefore it is important that we continue with this legislation. I indicate that the government does not support the amendments.

Question negatived.

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

Question agreed to.

Bill reported without amendment; report adopted.
Third Reading

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (1.59 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

MINISTERIAL ARRANGEMENTS

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (2.00 pm)—by leave—I wish to inform the Senate that the Leader of the Government in the Senate, Senator Minchin, will be absent from question time today, Monday, 9 October, 2006. Senator Minchin, in his capacity as Minister for Finance and Administration, is involved

with the T3 share offer launch in Sydney. During Senator Minchin’s absence I will take questions on behalf of the Prime Minister, the Treasurer, and the portfolios of Finance and Administration and Industry, Tourism and Resources.

Further, I also wish to inform honourable senators that on 24 and 27 September the Prime Minister announced a number of changes to the ministry. The swearing-in took place on 29 September, 2006. I table for the information of senators a revised ministry list reflecting these changes. I seek leave to have this document incorporated in Hansard.

Leave granted.

The document read as follows—

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<th>Title</th>
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<td>Prime Minister</td>
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<td>Senator the Hon Ian Campbell</td>
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Senator CHRIS EVANS—(Western Australia—Leader of the Opposition in the Senate) (2.01 pm)—I seek leave to make a short statement, Mr President.

Leave granted.

Senator CHRIS EVANS—Until a minute ago, the opposition had not been informed that Senator Minchin would not be attending today’s question time. I have just spoken to the acting leader, who says that apparently we were to be told. But we were not informed. We have no record of that. I do not know whether it was because Senator Minchin was not able—

Senator Ian Macdonald—What’s your point?

Senator CHRIS EVANS—It is about courtesy. Senator. It is about the courtesy of informing people whether the Leader of the Government in the Senate is going to turn up for question time. While the T3 launch may well be a shambles, normal courtesies require people to be informed. Neither the Manager of Opposition Business nor I knew. It seems to me to be appropriate, and it has always been past practice, that we are informed prior to question time if ministers are not to be in the parliament and be accountable. I express my disquiet at the fact that that was not done and indicate that today a number of questions were to be directed to Senator Minchin, given the fiasco that is the T3 launch.
Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (2.02 pm)—by leave—I note what Senator Evans has said, but I can inform the Senate that notification to Senators Evans, Boswell, Allison and Brown was faxed this morning—a notice. We have confirmation that the fax was received. I regret that the office of the Leader of the Opposition in the Senate apparently did not pick up the letter, but there was no discourtesy in this case. The opposition were notified.

QUESTIONS WITHOUT NOTICE
Telstra

Senator CHRIS EVANS (2.03 pm)—My question is directed to Senator Coonan, in her capacity as minister representing the Minister for Finance and Administration, Senator Minchin. I refer her to the minister’s signature at clause 5(17) of the T3 prospectus, which says that he has given his consent to its issue and lodgement with the ASIC. Can the minister indicate exactly when Senator Minchin first sighted a draft of the prospectus? Did the minister and/or his department request changes to the draft as a condition of granting consent? What changes were requested? When exactly did the minister give his consent to the prospectus being issued, given that the announcement was delayed by a couple of hours this morning? Does the minister’s consent mean that the government accepts the damning assessment of the suitability of appointing Mr Cousins to the Telstra board contained in the T3 prospectus that Senator Minchin signed off on?

Senator COONAN—I thank Senator Evans for the question. I can confirm that today the Australian government has participated in the launch of T3. That marks the formal launch of the T3 sale offer, including the prospectus. The prospectus outlines basic information about the company. It informs investors about potential risks. It provides details of the offer. The government has already announced that the size of the offer will be around $8 billion. That is a very large public offering—the biggest in Australia since T2. The prospectus is obviously a document that needs to comply with legal requirements in Australia and in other jurisdictions.

The prospectus has been the subject of consultation and advice. It enables retail and institutional investors to pay for their T3 shares in two instalments, with the second instalment payable in 18 months. It gives investors the opportunity to receive three dividend payments before having to pay the final instalment. It provides for the first instalment for retail investors to be at $2 a share. It represents a discount for retail investors of 10 per cent per share to the price payable by institutional investors. Subject to the caveats around Telstra’s dividend guidance, a 14 per cent franked dividend yield for T3 shares is expected for next year.

As the government and Senator Minchin foreshadowed in the lead-up to the offer launch, a new element in T3 that is different to T2 and T1 is a loyalty share. Rather than offer a cash discount on the second instalment, we are offering retail investors bonus loyalty shares. Senator Minchin said that the government had under consideration, in the lead-up to the offer, the way in which this loyalty arrangement would be constructed. So investors who purchase instalment receipts in T3 and hold them until the final instalment is due and paid will receive a loyalty discount of one bonus loyalty share for every 25 shares purchased in T3. A one-in-25 bonus share is an effective discount of four per cent.

Senator Chris Evans—Mr President, I raise a point of order. The minister has made no attempt to answer the question asked of
her. I ask you to draw her attention to the issue of relevance. If she wants to read a brief, she will have the option of a Dorothy Dixer later in question time. The question went to the minister’s involvement in the issue of the prospectus, and I ask you to draw her attention to the question.

The President—Minister, you have one minute and 19 seconds remaining, and I would remind you of the question.

Senator COONAN—Thank you, Mr President, and I am grateful for Senator Evans’s interjection because what I am doing on behalf of Senator Minchin is to indicate to the Senate a reflection of the agreement that he has reached with the board for the launch of the offer document. This reflects the agreements and discussions that the senator has had in the lead-up to the launch of the offer document.

I would have thought it very important that those listening to this broadcast are aware of what the offer document contains, which represents Senator Minchin’s efforts over the past few months. Reflecting our commitment to reward existing shareholders, there is a guaranteed entitlement for existing shareholders of 3,000 shares, or one for every two held. That is clearly something that was negotiated in the lead-up to the offer, with Senator Minchin’s participation. In comparison it is worth saying that in T2 the existing retail shareholder entitlement was just one share in five, so that puts the existing shareholders very much—(Time expired)

Senator CHRIS EVANS—Mr President, I ask a supplementary question. I ask the minister to have another crack at the primary question. When was the prospectus agreed by the government? Why was its issue delayed by over two hours this morning? What changes were requested by the government which resulted in this unseemly fight with the Telstra board? Minister, will you answer those questions? Does the consent/sign-off by the Minister for Finance and Administration mean that he and the government accept the damning assessment of the suitability of appointing Mr Cousins to the Telstra board, contained in the prospectus? Given that you have signed off on that damning assessment, does that mean that you now agree that Mr Cousins is an inappropriate appointment?

Senator COONAN—The prospectus has been signed, and very clearly the government supports the nomination of Mr Cousins, which has been accepted. The Labor Party has a real hide to criticise the government’s handling of the privatisation of Telstra. Labor, as usual, speaks out of both sides of its mouth: it opposes the sale on the one hand but refuses to buy back shares from the Future Fund. If it believed in public ownership you would think that the Labor Party would try to get its line straight about where it is going with Telstra.

Labor will not remove the remaining shareholding in the Future Fund. They say that Labor is ‘at pains’ because it will not say what it will do about Telstra. Unlike the Labor Party, this government has a coherent plan for the privatisation of Telstra and for the telecommunications industry, which is today marked by the T3 launch.

DISTINGUISHED VISITORS

The President—Order! I draw the attention of honourable senators to the presence in the President’s gallery of a parliamentary delegation from the Bundestag of the Federal Republic of Germany, led by Dr Klaus Lippold, chairman of the Committee on Transport, Building and Housing. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to our Senate.

Honourable senators—Hear, hear!
QUESTIONS WITHOUT NOTICE

Telstra

Senator MASON (2.11 pm)—My question is to Minister for Communications, Information Technology and the Arts, Senator Coonan. Will the minister inform the Senate about the growing availability of third generation technology? Is the minister aware of any alternative policies?

Senator COONAN—I thank Senator Mason for his question and for his ongoing interest in the rollout of advanced telecommunications services to all Australians. Improved mobile phone coverage and increased access to broadband are important telecommunication issues for Australian consumers, particularly for those living in rural and regional Australia. That is why I was very pleased to welcome the ahead-of-schedule launch of Telstra’s national $1 billion Next G network last week. The network will provide improved voice and broadband services to around 98 per cent of the Australian population.

According to Telstra, the Next Generation network is expected to deliver peak broadband speeds of up to 3.6 megabits, which will increase to 14.4 megabits next year. Importantly, Telstra estimates that the network could deliver up to 40 megabits by 2009. Any investment that can increase both the speed and the availability of choice of broadband to Australians is indeed welcome.

With Hutchison, Optus and Vodafone having launched or about to launch 3G mobile networks, Australians will be able to choose between a rich mix of services and applications. This is competitive telecommunications at work in Australia. The productivity benefits for business and the improvement of consumers’ ability to access both entertainment and information services that will flow from these networks are indeed very welcome.

Telstra’s Next G will replace the well-known and much valued regional CDMA network. Whilst the network upgrade is welcome, the government will ensure that during the transition to Next G there will be no deterioration in service to rural and regional Australia. To that end I have sought and obtained an assurance from Telstra that rural and regional areas will enjoy the same, or indeed improved, coverage and services after the switch-over. I have also asked the Australian Communications and Media Authority to undertake independent audits of both the existing CDMA and the Next Generation networks. Investments in Next G are a very welcome addition to the telecommunications landscape in Australia and will complement the $1.1 billion Connect Australia investment package to ensure that more Australians can access affordable broadband and mobile phone services.

I am asked whether there are any alternative policies. I say, ‘Yes, I think there’s a plethora of them.’ Senator Conroy called for a broadband of 10 megabits per second faster, calling any less ‘fraud band’. Then Mr Beazley came out with a plan for a broadband of six megabits per second. It is no wonder that Senator Conroy pretty quickly revised his ‘fraud band’. Then there was Labor’s grand plan to deliver fibre, except it was based on Telstra’s fibre-to-the-node proposal, together with robbing the Communications Fund and Broadband Connect of a couple of billion dollars in order to deliver a program that was unobtainable. We are yet to hear about how Labor will plug every Australian into the world and make every book available online.

Labor are hopelessly confused on telecommunications policy. We know that they are unable to appreciate the way in which new technology has simply moved on—whether it is in media or in telecommunications—whereas the government are getting
on with the hard work of improving Australia’s telecommunications industry through today’s launch of the T3 share offer. (Time expired)

Telstra

Senator CONROY (2.15 pm)—My question is to Senator Coonan, representing Senator Minchin, the Minister for Finance and Administration. I refer the minister to the T3 prospectus released today to the ASX and, in particular, to the section concerning the appointment of Mr Geoff Cousins, which states:

Telstra believes that if there is a risk Mr Cousins cannot be considered an independent director that this could prove disruptive to the smooth and effective functioning of the Board.

And that:

The Board is concerned that there is a risk that Mr Cousins’ previous consulting role with the Government could interfere with his capacity to be considered an independent director.

Don’t these scathing comments demonstrate the petulance and arrogance of the Howard government’s nomination of Mr Cousins?

Senator COONAN—I thank Senator Conroy for the question. Of course it is well known that the Australian government has nominated Mr Geoff Cousins to be a director of the Telstra board. In case it has escaped anyone’s attention, the Australian government is the majority shareholder. Shareholders appoint board members and, as the major shareholder, the government is entitled to do so. There is certainly nothing wrong with a majority shareholder nominating a director. In fact, it is an accepted corporate governance practice in Australia and overseas.

Telstra itself has appointed Mr Bruce Akhurst, Mr David Moffatt, Mr Greg Winn and Mr Gerry Sutton as directors of Foxtel, using its position as a 50 per cent holder of shares in the pay TV company, so to nominate one director on Telstra hardly seems out of course. It is certainly not a stack of the board as some have suggested. The government could have appointed up to five directors, as the Telstra act provides for a maximum number of board members of 13. Instead, the government has elected to appoint only one.

Mr Cousins has exemplary qualifications to undertake the job of director, and no-one could seriously suggest otherwise. He has a very strong business background, with considerable experience in marketing, advertising and telecommunications. For 20 years, he was a senior executive with what was then Australia’s most powerful advertising agency, George Pattersons. He has been a director of PBL and the Seven Network, and he is currently a director of the Insurance Australia Group and the Cure Cancer Australia Foundation. Like all other directors, Mr Cousins will have fiduciary duties to act in the interests of all shareholders. Mr Cousins will, in the judgement of the government, make a valuable, independent contribution to the board. He has duties to the company and will add to its depth through his extensive Australian telecommunications and corporate experience. Shareholders will have an opportunity to have their say on Mr Cousins at the AGM, and that is appropriate.

It is very interesting, when you look at it, if this is the best that Labor can do in trying to criticise the sale of Telstra. The government had a perfect right to nominate Mr Cousins. What is the serious complaint that Labor make about Mr Cousins? If they have one, they should put up or shut up. Mr Cousins has experience which not only qualifies him for the board but complements that of the existing board directors. His experience and background qualifications certainly do not seem to be less than other directors on the board. He has a lot to add to the process of the float of T3, to the proper functioning of Telstra and to the transformation plan announced by Mr Trujillo at the briefing on
Friday. It is nothing but carping and criticism for criticism's sake to be criticising the appointment of a director who on any view passes muster.

Senator CONROY—Mr President, I ask a supplementary question. Will the minister now come clean and just admit that the nomination of Mr Cousins is a last minute abuse of the government’s majority shareholding, designed to spy on and undermine the independence of the Telstra board? Won’t Telstra shareholders be the losers from this disgraceful nomination?

Senator COONAN—To start with, Mr Cousins has fiduciary duties that he owes to the company, and there is nothing to suggest that Mr Cousins will do anything other than discharge his duties in an appropriate fashion and in accordance with the law. It is disgraceful that the Labor Party attack every single nomination that this government makes—and it does not matter to what board, it does not matter for what purpose, and it does not matter how qualified they are. The Labor Party are bereft of policy because they can only look backwards and criticise. This is the reason why you are opposing Mr Cousins. Wake up to yourselves. He is an appropriate director, and he will discharge his duties appropriately.

Climate Change

Senator FERRIS (2.21 pm)—My question is to the Minister for the Environment and Heritage, Senator Ian Campbell. Will the minister update the Senate on how the government is dealing with the threat of climate change? Is the minister aware of any alternative policies?

Senator IAN CAMPBELL—As I have said to the Senate and to the Australian people on many occasions, climate change is a very serious challenge for Australia and a very serious challenge for the world. I think it is very appropriate that Senator Ferris should ask this question, and I thank her for doing so. Overnight and on the weekend, Tim Costello and a number of Australian non-government organisations and aid organisations released a report that analyses some of the potential impacts in our region. I have no quibble with the view put forward by Tim Costello and others that there is no doubt that, with warming of the oceans and warming of the atmosphere, we are likely to see changes to weather patterns and to sea levels and that they will have adverse consequences not just for Australia but also for our region. Of course, countries in the Pacific region are very vulnerable. The countries that are in fact coral atolls—very low-lying places like Tuvalu and Kiribati—will be very vulnerable.

That is why the government are working not only internationally with our friends, like Germany, in trying to ensure that, through the United Nations framework convention, we find a post-Kyoto regime that is effective at lowering greenhouse gases across the whole of the globe but also within Australia on domestic policies, putting in place transformational programs. For example, we have seen the Solar Cities announcement in Adelaide recently, which will transform entire suburbs across to solar power; the recent announcement of the solar city in Townsville; and the photovoltaic rebate scheme, which is on track to roll out 12,000 solar homes and solar schools across Australia—a whole gamut of domestic policies.

Senator Bob Brown—What about coal?

Senator IAN CAMPBELL—Another example—and I pick up Senator Brown’s interjection—is ensuring that, when we burn fossil fuels, we no longer allow carbon from the burning of fossil fuels to go into the atmosphere. So we are working, as I know our friends in Germany are, on trying to capture the carbon at the smokestack and bury it un-
der the ground or under the sea—to stop the carbon going up there in the first place. Of course, we need to work on efficient vehicles and alternative fuels. The government is pumping hundreds of millions of dollars into doing that and transforming how we stop deforestation in Australia and planting new plantations—a whole multibillion-dollar action plan to transform the way we generate energy.

In the Pacific, we are funding a $24.6 million sea level and climate monitoring project, a $4 million project for vulnerability and adaptation, giving $2.3 million for the climate prediction project and $2 million to reduce vulnerability in Kiribati, which I mentioned earlier. We have doubled Australia’s aid budget from 2004 to 2010 to $4 billion annually, and climate change and adaptation is one of the three priority themes under that aid package.

Senator Ferris asked about alternative policies. Labor do not have policies on this; they have slogans. They are saying, ‘Let’s sign Kyoto.’ It is a two-word document—a slogan, not a policy. While the rest of the world is negotiating a new post-Kyoto agreement, they are saying: sign up to something that is 10 years old and that has not worked. Under Kyoto, greenhouse gas emissions have gone up by 40 per cent. We need to find something more effective. Labor are stuck in a time warp on this. They should focus on some serious policies that have some real benefit for the global climate.

Telstra

Senator SHERRY (2.26 pm)—My question is to Senator Coonan, representing Senator Minchin, the Minister for Finance and Administration. I refer to the government’s nomination of a close personal friend of the Prime Minister, Mr Geoff Cousins, to the Telstra board against the wishes of Telstra’s directors. Is the minister aware of numerous media reports describing both the volatility of Mr Cousins during his previous board appointments and the fact that he presided over losses of more than $4 billion as CEO of Optus Vision? Isn’t Stuart Wilson, the CEO of the Australian Shareholders Association, right when he says, ‘Cousins’ nomination virtually guarantees board instability’? Isn’t this just another example of a sham-bolic appointment, simply demonstrating the government’s economic irresponsibility and incompetence around the Telstra sale process?

Senator COONAN—Thank you to Senator Sherry for the question. I am certain that I heard Senator Conroy ask pretty much the same question but, in any event, it is an important question and it is important that the Senate is informed that the Australian government has nominated Mr Geoff Cousins to be a director of the Telstra board. This has been the subject of some media comment over the past couple of weeks, and it has been the subject of some discussion between the government and the board of Telstra. But, as I said in answer to Senator Conroy, the government has a perfect right to nominate somebody to the board, to nominate a board director and to nominate somebody for appointment to the board, because it happens to be the majority shareholder. This might come as a great shock to the Labor Party, who I would have thought pride themselves on knowing something about government—

Senator George Campbell interjecting—

The PRESIDENT—Senator George Campbell, shouting across the chamber is disorderly.

Senator COONAN—and corporate responsibility, but majority shareholders are entitled to nominate somebody for appointment to the board. That is what happened with Mr Cousins. In fact, every member of the board of Telstra has been subject to the
governments at least knowing who they are, their name and their suitability for appointment to the board. So it is nothing unusual that the government, as a majority shareholder, nominates somebody for the board.

As I indicated, Telstra itself on some occasions has also exercised its right as a majority shareholder of other companies to nominate people to take up positions on those boards. I gave the example of the pay-TV company earlier on, when Bruce Akhurst, David Moffatt, Greg Winn and Gerry Sutton were nominated as directors of Foxtel. When Telstra had an interest in another media company some time ago, it nominated a director. I think this is a very long bow that the Labor Party are trying to draw in relation to Mr Cousins’ suitability.

The Labor Party are always very quick to jump in, to make allegations against people without really knowing the facts and without taking the trouble to check the facts. We know that Mr Cousins is an appropriate person, by reason of his background and experience, to take up this position. Because directors are appointed by the board, shareholders have an opportunity at the meeting to have a view as to Mr Cousins’ appropriateness. We have said that, come the AGM, we will be supporting Mr Cousins. We are the majority shareholder and it would be highly unlikely if Mr Cousins were not elected as a director of the board at the next AGM. It is, I think, critical to say that Mr Cousins has a background and qualifications in relation to telecommunications matters and in relation to business matters. It does not seem, by reason of his background and qualifications, that anyone could fairly criticise Mr Cousin’s suitability to take up a position as director.

Senator SHERRY—Mr President, I ask a supplementary question. Why did the minister not make any attempt to explain why Mr Cousins is going to be appointed, when he lost $4 billion at Optus? That is on the public record. Is the Australian Foundation Investment Company’s managing director, Mr Barker, right when he says that ultimately from an investor’s point of view we want to know that the board is going to function after the sell-down? Does the government seriously believe that Telstra board members will be able to work with Mr Cousins, a man they view to be a government spy? Will the nomination of Mr Cousins be a government endorsed poison pill that will sabotage the smooth operation of the Telstra board for years to come?

Senator COONAN—It is interesting that Senator Sherry seems to have attributed to himself the knowledge of exactly what the board thinks about Mr Cousins and about this process. It is not the case that this government has any concerns, as the majority shareholder, with the appointment of Mr Cousins. The government will be supporting Mr Cousins for the reasons we have outlined in the prospectus. The fact that the government might have a different view from Telstra about some matters, including regulatory matters, certainly in no way derogates from Mr Cousins’s suitability. We will be continuing with our nomination and we will be supporting his nomination at the AGM quite irrespective of what Labor thinks.

Workplace Relations

Senator BARNETT (2.32 pm)—My question is to the minister representing the Minister for Employment and Workplace Relations, Senator Eric Abetz. Is the minister aware of the recent attempt by the Labor Party to link the Howard government’s new work-creating workplace relations policy Work Choices to a tragic suicide in my home
state of Tasmania? What is the government’s response to this shameful, and what I would consider outrageous, claim?

Senator ABETZ—I thank Senator Barnett for his question in rightly exposing the extreme, dishonest and shameful campaign being run by Labor and the unions against Work Choices.

Senator O’Brien—You don’t like the truth.

Senator ABETZ—I accept that interjection from Senator O’Brien that ‘You don’t like the truth.’ That needs to be in the Hansard. On 26 September, a Tasmanian Labor MP made a shameful speech to the Tasmanian parliament about the tragic suicide death of a resident of north-east Tasmania. I do not intend to go into the details of this tragic incident, suffice to say that suicide is always tragic. My condolences go out to the man’s family.

Labor claimed, through Ms Heather Butler MP, that this man took his life after being dismissed from his job and that he was allegedly denied union representation because of Work Choices—an entirely false assertion. Work Choices in fact enshrines the right to union representation. This claim was vigorously denied by the Mayor of the Break O’Day Council, Mr Robert Legge. In a letter to the Labor MP the mayor stated:

Your claims are totally incorrect. This had absolutely nothing to do with the industrial relations laws that were introduced earlier this year.

However, based on these false claims, the Labor MP made the following shameful assertion:

John Howard’s unfair workplace relations changes surely have contributed to this man’s death.

So according to the Labor Party not only will Work Choices lead to mass sackings, which of course have not occurred, but it is now apparently the cause of suicides. What a baseless and shameful claim, so baseless, I note, that Ms Butler, the Labor MP in question, has declined to repeat her claims, which Senator O’Brien is so foolishly repeating in this place now. And of course she fails to apologise.

The sad fact is that, in making this claim, this Labor MP was only following orders—the orders of the ACTU. We on this side recall the outrageous statement last year by the President of the ACTU, Sharan Burrow, on ABC’s Lateline program, in relation to the campaign against Work Choices. What did she say? ‘I need a mum or a dad of someone who’s been seriously injured or killed. That would be fantastic.’ Ms Burrow failed to repudiate that statement, as did Mr Beazley. So with such weak leadership, the pitiful Labor foot soldier, Heather Butler, MHA, blindly followed with her unsubstantiated and shameful claim.

I understand that Mr Beazley is trying to get fit for office by going to the gym. I welcome that, but can I say there is a greater imperative and that is to be morally fit for office. Mr Beazley needs to repudiate Sharan Burrow and Heather Butler, MHA, for their outrageous comments.

Senator Bob Brown—Mr President, on a point of order: I ask you to look at that comment which reflects on the Leader of the Opposition in another place. I do not think it reflects positively on that leader, and I think it should be withdrawn.

The PRESIDENT—My ruling on the point of order is that the comment was not unparliamentary, but I would ask the senator to perhaps choose his words more carefully.

Senator ABETZ—Mr President, on the point of order: what we have here, Mr President—

The PRESIDENT—I have ruled on the point of order, Senator Abetz. You now have 15 seconds to complete your answer.
Senator ABETZ—Mr President, the point is surely this: those on the other side respond with mock indignation when I talk about moral leadership, but when a state Labor MP does this they are deadly silent. They know what she has done and they ought to condemn her. (Time expired)

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the President’s gallery of an Australian Political Exchange Council delegation from the United States of America from the Council of Young Political Leaders. 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

Climate Change

Senator ALLISON (2.38 pm)—My question is to the Minister for the Environment and Heritage. In answer to an earlier question, the minister said that a rise in sea levels was likely to have an effect on Pacific countries. But is the minister aware that droughts, storms, surges and salination of soil and water are already causing the people in low-lying countries to move homes and to find higher ground for food growing? Is the minister aware that the coral atolls of Kiribati are less than three metres high and even a small rise in sea levels will threaten the viability of the islands, causing an estimated 10,000 people to have to be resettled. Minister, your government refused Tuvalu’s request for help in settling climate change refugees back in 2002. Have you reconsidered this hardline position now that you finally accept that climate change is real?

Senator IAN CAMPBELL—I thank Senator Allison for her question. It is quite remarkable that a member of this parliament could say that the Howard government has accepted climate change as real when in fact this year we will celebrate the 10th anniversary of the Greenhouse Challenge program, which signs up many hundreds of large Australian businesses that, under the Kyoto accounting rules, will measure their greenhouse gas emissions, publish plans to reduce their greenhouse gas emissions and report their achievements against those.

For 10 years this government has been investing billions of dollars in practical actions to reduce greenhouse gas emissions by government, industry and local communities. Only last week, I signed about 30 certificates celebrating and commending the achievement of local governments across Australia for their achievement under the Cities for Climate Protection program. This government has been taking practical action to reduce our greenhouse gas emissions for a decade now, and the Democrats and the Labor Party have had their heads in the sand and have not witnessed those programs. This government is on track to roll out 12,000 solar roofs across solar homes and solar schools. We have been doing this for the best part of a decade. This government has been investing in practical measures to reduce our greenhouse gas emissions, and that is why Australia will be one of the few countries in the world that will actually meet its targets.

I remind the Senate, as I carry the information in my pocket, that countries in Europe quite often join with the Australian Labor Party and the Left of politics in Australia in saying that they have a two-word policy to address greenhouse gases and climate change—‘sign Kyoto’. When the rest of the world is trying to design something that actually works after Kyoto, the countries that have signed it have blown their greenhouse gas targets. For example, our friends in France—great supporters of Australia in trying to bring an end to whaling—will blow
their target by nine per cent. Our very good friends in Ireland, who support us so strongly in trying to bring an end to whaling in the world—and I thank our friends from the United States for their incredible support in trying to bring an end to whaling—will go 20 per cent over their target. They signed up early to Kyoto, and they will go 20 per cent over their target. Our good friends in Spain will go 36 per cent over their Kyoto target and Portugal will go 25 per cent over. Norway, with not very good credentials on whaling as they still like slaughtering them in cold blood, have blown their Kyoto target by 22 per cent. Mr President, which country will be amongst a small handful of countries that will meet their Kyoto target? Australia. We are on track to meet our target because we have been working hard for a decade to do so, with no encouragement from the Democrats or the Labor Party.

In the Pacific, Australia has been leading the world in working with its Pacific partners. Yes, I know about Kiribati. I have been there twice in the last year to work with them on environmental and whaling issues. The Labor Party’s policy is to evacuate the Pacific islands and see the Pacific Islanders flood into the suburbs of Sydney and Brisbane. That is the white flag policy on what is happening in the Pacific. Our policy is to fund works on the ground and cooperate with the Pacific Islanders. Do you know where the Pacific Islanders want to live? They want to live in the Pacific islands.

Senator ALLISON—Mr President, I ask a supplementary question. I am grateful that the minister finally got around to answering the actual question, but can he go on and comment on the report that was released earlier today entitled *Australia responds: helping our neighbours fight climate change*? Specifically, will the minister agree to increase Australia’s overseas development assistance, in line with most other developed countries, to 0.5 per cent of GNI by 2009; integrating climate change strategies in all relevant parts of Australia’s overseas development program planning and evaluation; dedicating the majority of Australia’s overseas development energy sector spending to renewable energy and energy efficient projects; and prioritising and supporting the reduction of greenhouse gas emissions in fostering low greenhouse development in Australia’s overseas development projects?

Senator IAN CAMPBELL—As I said in response to a question asked earlier by Senator Ferris, Australia has doubled its aid budget for 2004-10 to $4 billion a year and will specifically target climate change and adaptation as one of the three priority themes under its environment strategy. That is exactly what the Australian government is doing. Australia was crucial in developing the Pacific framework for action on climate change 2005-15 within the Pacific islands leaders forum. We are actively working with the Pacific islands. We have that integrated at all levels of government. Only a few months ago in New York, Ambassador Robert Hill, an extraordinarily successful environment minister for this government, hosted a meeting of the Pacific island states. We used that opportunity to disseminate through the Pacific islands the very successful Bushlight program. *(Time expired)*

**Australian Crime Commission**

Senator IAN MACDONALD (2.45 pm)—My question is to the Minister for Justice and Customs. All senators would applaud the government’s strong fight against serious and organised crime. I would ask the minister if he could update the Senate on recent achievements in that fight—in particular, the work of the Australian Crime Commission.

Senator ELLISON—I thank Senator Macdonald for his very important question
and acknowledge his role as chair of the Parliamentary Joint Committee on the Australian Crime Commission, which does a very good job. Last week was indicative of the great work that has been done by the Australian Crime Commission, which the Howard government set up just over three years ago. What we saw in the first instance was a very successful operation in Taskforce Gordian. Working with New South Wales and Victorian police, we saw the dismantling of what was alleged to be a sophisticated and organised drug trafficking and money laundering syndicate. The Australian Federal Police, the Australian Customs Service, AUSTRAC and the Australian Taxation Office were involved, but all under the leadership of the Australian Crime Commission.

What is important to remember in relation to this operation is that it is alleged that this syndicate was responsible for laundering some $AU93 million overseas in relation to criminal activity, especially drug trafficking. The seizures involved firearms and a quantity of drugs. There were some nine arrests—six in Sydney and three in Melbourne. That is indicative of the great work the Australian Crime Commission is doing in the fight against organised crime.

Following on from a summit in Canberra on the serious issue of violence and sexual abuse occurring against women and children in Indigenous communities, last week in Alice Springs I opened the headquarters of the National Indigenous Violence and Child Abuse Intelligence Task Force, which is led by the Australian Crime Commission, bringing together the efforts of state and territory police—and we have always acknowledged the great work that state and territory police do in the investigation of these very serious matters touching on the abuse of women and children, sexual violence and serious instances of violence as well. But what we need nationally is leadership and facilitation of our efforts as a nation in the fight against a very serious situation which all senators would roundly condemn. Of course, the Australian Crime Commission is well placed to do this. The reason for that is the excellent personnel within the organisation. As well, it has all state and territory police commissioners, ASIO, the Australian Customs Service and ASIC on its board. It is chaired by Australian Federal Police Commissioner Mick Keelty. It is a truly national representative body involved in the fight against serious crime.

We have seen great efforts being made in relation to Operation Wickenby, the biggest operation in this country’s history in relation to tax evasion. It is alleged that some $300 million in tax has been evaded. That again demonstrates the broad work that has been done by the Australian Crime Commission; it demonstrates the changes we have seen in national law enforcement, particularly under the Howard government; and, of course, it demonstrates the great collaboration by men and women working across this country in the fight against serious and organised crime.

I want to place on record the government’s appreciation of the work done by the Australian Crime Commission and the great cooperation we get from state and federal police in what are very serious issues for law enforcement in this country. Of course, in that you cannot forget the outstanding efforts of the Australian Federal Police and the Australian Customs Service. It is worthy that Australians reflect on the great work being done by the Australian Crime Commission and it is appropriate that we acknowledge that. (Time expired)

**Telstra**

Senator WONG (2.50 pm)—My question is to Senator Coonan, representing the Minister for Finance and Administration, Senator Minchin. Can the minister confirm that the
Australian Securities and Investments Commission was consulted during the drafting of the T3 prospectus? Can the minister indicate whether the disclosures in the prospectus about the risks facing Telstra arising from the Cousins appointment resulted from these consultations with ASIC over disclosure requirements under the Corporations Law?

Further, can the minister confirm that disclosures about the risks presented to the business by the proposed Cousins appointment would not have been made but for ASIC’s advice? Can the minister confirm that the government’s preference was for lesser disclosure than the Telstra board considered was required under the Corporations Act on the risks faced by the company in relation to the proposed Cousins appointment?

Senator COONAN—I thank Senator Wong for the question. As Senator Wong would be well aware, it is required by law that the prospectus must identify risks in respect of all aspects of the company’s business. It must identify risks and comply with the regimes of other jurisdictions, as I mentioned earlier, including the United States and its regulatory processes. There is a section in the prospectus that deals with all the potential risks to the company. Advice has been taken from all relevant agencies in order to ensure that the prospectus properly discloses the regulatory risks to the company.

They do include regulatory risks. In relation to the transformation strategy risks, you heard Mr Trujillo last Friday outline a five-year transformation strategy. It obviously outlines marketing and operating risks and investment and other risks. All these matters, and those agencies that have some role in providing input, do provide input into getting the disclosure correct. Investors, in making investment decisions, do need, however, to make their own assessment of the likelihood of any of these risks occurring.

The views that, for instance, Telstra has incorporated into the prospectus on possible regulatory and other risks are consistent with the company’s statements to date on these issues, and that should hardly be surprising to anyone who has been following this matter for about the past year. It is stated clearly in the prospectus, in the relevant places, that those are Telstra’s views. It remains the government’s view that, overall, the telecommunications regulatory regime and risks in relation to that regime are settled. This prospectus makes it clear that the government has in place a telecommunications regulatory regime that is going to promote telecommunications competition, promote a market that is able to provide a level playing field and encourage other operators, as well as Telstra, in respect of some of these new technologies that are being dealt with in Telstra’s transformation. Obviously these matters are disclosed also in terms of the transformation risk as Telstra upgrades its technologies.

The telecommunications regime that the government has in place does and will continue to provide appropriate safeguards for consumers. Telecommunication prices have fallen by more than 26 per cent under the government’s competitive framework. There is nothing anomalous about the regulatory regime and the matters that the government considers are appropriate to disclose in relation to the regulatory risk. The prospectus, as a result of ongoing discussions, very clearly delineates what Telstra’s views are and, indeed, what the government’s views are in relation to regulatory risk. As a result of negotiations and advice, I am advised that the prospectus complies with proper disclosure of all regulatory risks.

Senator WONG—Mr President, I ask a supplementary question. The minister in her answer indicated that advice was taken from all relevant agencies. So I again ask her to confirm that advice was taken from ASIC in
relation to the disclosure of the risks associated with the proposed Cousin’s appointment. Can the minister further confirm that ASIC was forced to become involved in the preparation of the T3 prospectus to ensure that the government was not successful in forcing the Telstra board to breach its obligations under the Corporations Law in relation to disclosure?

Senator COONAN—I thank Senator Wong for the question but, my goodness me, Senator Wong is drawing a pretty long bow. ASIC has signed off on the prospectus. Clearly the prospectus complies with ASIC’s view as to what are appropriate regulatory conclusions. The important thing about this, from what we have seen today with this disgraceful attack on Mr Cousins by the Labor Party, is that they seriously do not have much to say about T3, the prospectus and, indeed, this government’s move to get T3 away. We know that the Labor Party have always opposed the privatisation of Telstra. They have opposed it on every occasion—T1, T2 and T3. This government has got the ticker to get on with it. We know that Mr Beazley was prepared to privatise everything that moved; anything not nailed down to the floor—(Time expired)

North Korea

Senator BOB BROWN (2.57 pm)—My question is to Senator Coonan, in her capacity as the Minister representing the Minister for Foreign Affairs. What action plan has the government got in place to respond to the nuclear test by North Korea, corroborated by seismic analysis in South Korea, that took place at 11.36 this morning, Australian Eastern Standard Time? Has the government, as one of the few in the Western camp that has diplomatic relations with Pyongyang, an action plan to engage to meet this very serious threat to security in our region? Will the government review its plan to increase uranium exports into a world increasingly endangered by the trade in radioactive materials by non-government and government rogue elements, including terrorist organisations like al-Qaeda?

Senator COONAN—I thank Senator Brown for the question. Firstly, I should say to the Senate that I am aware of unconfirmed media reports of a test of a nuclear device in North Korea. It is a very serious matter, but so far, as at the start of question time, we have been unable to confirm these reports. It is absolutely scandalous. There is no doubt at all that North Korea’s ordinary people suffer while its leadership, which has relied for over 10 years on international aid to feed its people, devotes that nation’s scarce resources to weapons and missile programs.

However, I can give Senator Brown some information about the government’s action in relation to North Korea. As I understand it, there has indeed been some reasonably recent contact between the minister and the North Korean ambassador. In these communications Mr Downer has strongly condemned North Korea’s announcement that it intended to test a nuclear weapon. As I said, at the start of question time that had not been confirmed. On the instructions of Mr Downer, the acting DFAT secretary called in the North Korean ambassador on 4 October to register Australia’s outrage at North Korea’s statement to proceed.

The ambassador was told—unequivocally, as I understand it—that a test would make North Korea less secure, not more; that a test would be a grave setback to the peaceful resolution of the threat posed by North Korea’s nuclear weapons program and a fundamental blow, of course, to regional stability. These matters have been well and truly flagged, for Senator Brown’s information. Australia does fully support the presidential statement unanimously adopted by the
United Nations Security Council on 6 October expressing deep concern over the nuclear test threat. North Korea, on these indications, should have no illusions about the severe consequences that would follow a test if in fact that is confirmed. A nuclear test would be completely unacceptable to the international community and would provoke a very strong international response. Such action would logically go well beyond the UNSCR Resolution 1695, and Australia would fully support such measures. Australia would also respond to a test with new restrictions on the bilateral relationship, which will remain until North Korea meets the commitments it made in the joint statement issued by the six-party talks in September last year.

I think it is fair to say that this government is outraged that a country that has had to rely principally on the international community to provide even basic food to its people does devote so many of its scarce resources to missile and nuclear weapons programs. What I will do in response to Senator Brown’s question is, first of all, see whether or not the reports can be confirmed; and if I can provide some further specific information, I will do so.

Senator BOB BROWN—I ask a supplementary question, Mr President. The minister has indicated that there may be a diplomatic shutdown on North Korea in the wake of this alleged event. I ask whether the government has considered the alternative: with psychological profiling of the North Korean authorities, an approach to try to improve the engagement between North Korea and the Group of Six countries? The second part of my question was to ask the minister about reviewing the export of uranium into an increasingly dangerous world threatened by rogue states and terrorist organisations.

Senator COONAN—I thank Senator Brown for the supplementary question. As I said, I had intimated, on the foreign minister’s behalf, that Australia would respond to a test, if confirmed, with new restrictions on the bilateral relationship. Obviously I think it is prudent, before I provide further information in relation to this matter, that we confirm whether or not the test has taken place and then, obviously, the government’s position can be settled. Mr President, I ask that further questions be put on notice.

Senator Conroy—Point of order, Mr President: we started late.

The PRESIDENT—I think we did start a bit later, Minister, and I think we should allow this—

Senator Chris Evans—Four questions would be a record even for this government—

Honourable senators interjecting—It’s four past.

The PRESIDENT—With the interjections, we will be here until 10 past. I call Senator Conroy.

**Telstra**

Senator CONROY (3.03 pm)—My question is to Senator Coonan, representing Senator Minchin, the Minister for Finance and Administration. Can the minister confirm that the government’s decision to force Mr Geoff Cousins onto the Telstra board against the wishes of Telstra is just the latest in a series of government acts of bullying and intimidation aimed at the Telstra management? Hasn’t the government also leant on the board to try to get it to lock in dividend payments at unsustainable levels in 2007 and 2008, gagged Telstra’s executives from criticising government regulatory policy, leant on the board about the terms of the T3 prospectus on issues such as the impact of regulation and the nomination of Mr Cousins, and threatened to vote against existing Telstra directors at the upcoming Telstra AGM? Can
the minister explain why the government continues to engage in an unprecedented campaign of harassment against the management?

Senator COONAN—This is an unseemly, unnecessary and unwarranted attack on the reputation of a man who is eminently qualified to be a director on the board of Telstra. It is typical Labor Party tactics to attack the man, to try and sully the reputation of anybody who this government puts forward for any position on any board. It is very clearly stated in the T3 prospectus that Telstra’s views on Mr Cousins’ nomination to the board are the views of Telstra only. The T3 prospectus states:

There are significant differences between the Commonwealth and the Telstra board with respect to the nomination for election as a director of Mr Geoffrey Cousins.

That is very clear. The prospectus also points out that the government believes that Mr Cousins will act independently as a director and not as a representative of the government on the Telstra board; and, indeed, that is what he is obliged to do, pursuant to his fiduciary and other legal obligations, if his appointment to the board is in fact confirmed.

Senator Chris Evans—What about independence of the other directors—bullying them?

Senator COONAN—The prospectus very clearly outlines Mr Cousins’ 26 years experience as a company director and other relevant experience for the position. As for who is bullying who, I would think in the circumstances that the Labor Party and particularly Senator Conroy talking about bullying people just about takes the cake. It is a bit rich when even his own side call him a dalek.

What is the word: ‘ex-ter-min-ate’? That is what the Labor Party is all about. And the Telstra float is not a Labor Party branch stack where Senator Conroy can go around and kick doors and kick heads; this is an appropriate process where a man eminently qualified to be a director has been nominated by the government. The other matters, of course, are that the other directors are there for all to see in the Telstra prospectus. It is important that Mr Cousins’ nomination go forward. It will be supported by the government and it will be supported at the annual general meeting, and I would expect that Mr Cousins will be nominated and in fact he will be appointed.

Senator CONROY—Mr President, I ask a supplementary question. Isn’t the constant harassment and intimidation of the Telstra board by the government a clear vote of no confidence in the company’s direction at the very time the government is trying to sell its stake in the company? Why should ordinary Australians have faith in Telstra’s management when John Howard’s message to the Telstra board is: ‘You will obey or you will be exterminated’?

Senator COONAN—The prospectus very clearly states that the government has confidence in the board and that Mr Cousins will be nominated at the board meeting. I doubt very much whether Mr Cousins will be exterminated because the government supports him. We are a 51 per cent shareholder. The only dalek, the only relic of the past, is the Labor Party, which does not have the ticker to actually get on with privatising Telstra and modernising telecommunications. The Labor Party have nowhere to go but just criticise and try some populist reflex action. Mr Beazley of course did not have the ticker last time; he has not got the ticker now. This government has the ticker to get on with the job and finish it.

Mr President, I ask that further questions be placed on the Notice Paper.
QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Renewable Energy

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (3.09 pm)—by leave—On 17 August I was answering a query from Senator Milne in relation to the number of solar related projects managed for the Australian government by the Australian Research Council. Acting on the advice of the ARC, I advised her that the ARC was funding some 216 projects. I am now advised that there are in fact 79 projects being funded by this government by way of solar grants to the tune of $62.7 million. I advised Senator Milne in a letter that I sent to her recently that the ARC wanted to revise that figure to 79. The secretary of my department, Mr Borthwick, has written a letter apologising for the error and I table his letter. It is important to bear in mind, though, that the ARC is only one of the organisations that uses Australian government funding for solar projects. I table a comprehensive list of a range of other solar and renewable energy projects that are also funded by the Australian government.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Telstra

Senator CONROY (Victoria) (3.10 pm)—I move:

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

What a proud day for the government! What a day for Senator Coonan! We have had the Telstra prospectus debacle all day. All weekend we were told: ‘10 o’clock on Monday, we will have the T3 prospectus, after we’ve finished bullying and intimidating the Telstra board to give in so that they will have a whitewash in the prospectus.’ What a proud day it must be! The government’s nomination of Mr Cousins is just the latest, as I said, in a series of government acts of bullying and intimidation aimed at the Telstra board and its management. We have seen the government demanding, cajoling and threatening in order to get the Telstra board to agree to a two-year dividend forecast—something that both Standard and Poor’s and Moody’s said was unsustainable. Can you imagine if a Labor government had tried to bully a board into delivering an unsustainable dividend. The coalition—the great defenders of the free market—would be going out of their tree. But it did not just stop there.

We then saw John Howard try to demand, first, the sacking of Telstra executives. And then, when the government were not able to achieve the sackings, they demanded they be gagged. It was not good enough that they tried to sack them; they then tried to gag them. Then we had this latest debacle: they have leant on the board for the last week demanding that they have a whitewash in the prospectus. Do not worry about the corporate law in this country. Do not worry that a prospectus is a serious document that must outline the board’s concerns about risks that it faces. The Prime Minister, John Howard, wanted to gag the board’s statements. The government said, ‘You will not say what you think about the nomination of Mr Cousins. You will not say what you think about the government’s policies and, just in case you do not get the message, understand that we will vote against your existing directors.’ What an act of political thuggery—standing the board up and saying, ‘Either you deliver what we want, you go out there and mislead the Australian public in this prospectus, or we will vote your directors out of a job.’

To make matters worse, the government has engaged in this campaign at the same time as trying to convince the Australian public to buy into Telstra. This is economic incompetence writ large. The government is
cutting off its nose to spite its face. The government is letting its personal vindictiveness undermine the Telstra sale. This is gross economic incompetence.

We have seen the attack dogs on the other side—Senator Ronaldson out there in estimates and a whole list of government members and senators—attacking the Telstra management because it has dared to tell the truth about the state of the Telstra network. It has opened the door and said, ‘The emperor has no clothes. The Prime Minister had no clothes when he claimed just 12 months ago that everything was up to scratch.’ Do we all remember that? John Howard has walked the country for the last 10 years saying, ‘Telstra services are up to scratch.’ But Mr Trujillo and the Telstra board have said, ‘That’s not true.’

The minister has yet again shown sheer vindictiveness and incompetence. In question time the minister stated that Mr Cousins would have a lot to offer during the Telstra float. There is only one problem. That statement, of course, completely ignores the fact that Mr Cousins will not be appointed to the Telstra board until after the AGM on 14 November 2006—five days after the float closes. So we see this minister yet again demonstrating her inability to master her own portfolio. If the government’s cunning plan was to install Mr Cousins on the Telstra board to assist with the float, it needs a new desk calendar—or Senator Coonan needs to get a new job.

Let us be clear. Mr Cousins is a colourful character. Let me read to you a comment from Mr Grahame Lynch from Communications Day, a journalist in this area. (Time expired)

Senator EGGLESTON (Western Australia) (3.16 pm)—One can only wonder where Senator Conroy is coming from in making the criticisms he does of the government’s actions in seeking the appointment of Mr Cousins. The government, Senator Conroy, as I might remind you, is the majority shareholder and has the interests of the people of Australia to care for. And that is why the government has every right to want to see the best possible people on the board of this corporation. Telstra is, after all, one of this country’s very biggest businesses. It has a turnover running into billions of dollars, it has literally thousands and thousands of employees and its services reach out across this country to every citizen of Australia.

So, surely, as a majority shareholder, with those sorts of issues around this company, the government should insist that the directors be the very best people available. In fact, they should be people with an understanding of the telecommunications industry, a broad interest in and experience of business in general, and also a great understanding of the public interest. The government has a responsibility, as I said, to ensure that the best qualified directors are appointed to this company because it has such an important role to play in our society.

So let us have a look at Mr Cousins. Mr Cousins has exemplary qualifications to be a director of Telstra. He not only has a very strong business background, with considerable experience in marketing, advertising and telecommunications, he is also a person who has a great sense of responsibility to the Australian community. For 20 years Mr Cousins was a senior executive with what was Australia’s most powerful advertising agency, George Patterson Pty Ltd.

He also has a great deal of experience in the communications field. He has been a director of PBL, Publishing and Broadcasting Limited, one of Australia’s greatest communications companies and media networks; and he has also been a director of the Seven Network, one of our three great free-to-air
television services. In addition, Mr Cousins is currently a director of the Insurance Australia Group and the Cure Cancer Australia Foundation. So he is a man with broad general experience in business, broad experience in telecommunications and broad experience in areas of community need such as dealing with cancer.

Like all other directors, Mr Cousins will have fiduciary duties to act in the interests of all shareholders. And that is what he will do, because he has plenty of experience of the legal requirements of directors of public companies. Mr Cousins will, I am sure, make a valuable, independent contribution to the board and add to its depth through his extensive experience of Australian telecommunications and corporate affairs.

Surely to goodness there is no argument that shareholders appoint board members or that the Australian government is the major shareholder in Telstra. There is nothing wrong with a majority shareholder nominating a director and, in fact, it is an accepted corporate governance practice in Australia and overseas. Indeed, Telstra has itself appointed various people to the board.

The claim by the ALP that this is an attempt by the government to stack the board is absolute nonsense. What would the ALP do, I wonder; appoint some union hack, just as they appointed people to run Centenary House? What we need is people of good calibre and broad experience, and that is what the government will be giving to Telstra with the appointment of Mr Cousins to the board.

Senator WONG (South Australia) (3.21 pm)—What we have seen today and over the previous week in relation to Telstra is the Howard government yet again being willing to ride roughshod over both good practice and Corporations Law requirements to get the political outcome it wants. We have seen this time and time again from this government. Previously we have seen the government leaning on the board to provide dividend payments at unsustainable levels. We have heard the government previously gag Telstra executives from criticising the government’s regulatory policy. Perhaps none of these things, though, are as important as what the government has sought to do in relation to the issuing of the prospectus for T3.

We have laws in this country regarding the disclosure of risk, particularly in the context of the issuing of prospectuses when shares are being offered to the market for the first time. It is incumbent upon directors of a company to give a full and frank analysis of their opinion as to the risks a company faces. Through newspaper reports and through the responses given by Senator Coonan today, we have seen that the government was happy to have those requirements watered down when it came to the board’s view as to the risks associated with the Cousins appointment.

Regardless of one’s view about the Cousins appointment—and Senator Conroy and the Labor Party have made our view about that appointment clear—the fact is that the board of directors of Telstra was required to properly disclose to the market what it regarded as the risks associated with that appointment. What we have seen through the newspapers, and what we can infer from the delay and the involvement of the Australian Securities and Investment Commission, is that the government wanted to water down the disclosure of risks. It wanted to water it down because it wants its political outcome to be paramount—not compliance with both the detail of the law and the spirit of the law.

The government is happy to put pressure on the Telstra board to reduce what the Telstra board says to the market about the risks associated with the Cousins appointment. As
a result—and Senator Coonan did not deny this when it was put to her—the Australian Securities and Investment Commission had to come in and presumably negotiate some sort of resolution or at least provide advice as to what was required, under the government’s own law, to be disclosed to the market. Now we have a rather odd disclosure in the prospectus for T3 where the government is saying one thing and the Telstra board directors are saying another.

I want to make one particular point about this. It is very interesting that the government, in relation to this clearly politicised appointment, is happy to ride roughshod over its expectations for the behaviour of other companies that are listed or proposing to be listed on the Stock Exchange or involved in the issuing of prospectuses. This is the government’s law and it is the law of the country—the Corporations Act and what must be disclosed.

In addition, the government seeks to ensure that companies comply with the Australian Stock Exchange corporate governance rules. What have we seen? We have seen the government telling the private sector and other companies to do one thing but seeking to do something else to get a political outcome in the context of the Telstra board and the T3 sale. The government is telling other companies, ‘You have to go over all these high jumps. You have to meet all these standards. We expect this of you.’ But when it comes to its own political interests in the T3 sale, it is happy to try to push a lesser level of compliance.

We know from the prospectus itself that the Telstra board has said quite clearly, and I will read from the prospectus, which was issued today two hours late:

The Telstra Board did not seek Mr Cousins’ nomination and did not have the opportunity to adequately assess Mr Cousins’ candidacy in accordance with its governance processes, which include assessing a proposed director having regard to the independence requirements of the Board’s Charter and the ASX Principles of Good Corporate Governance.

In other words, the government is asking Telstra not to observe the ASX good corporate governance principles and guidelines, which it expects all other listed companies to observe.

In addition, we know that we have had ASIC involved in consultation in relation to the prospectus. Senator Coonan has not come clean as to why they were involved. I say to the government: why don’t you come clean and tell us what you really wanted in there and what ASIC told you you had to put in there in order to comply with the law? I will tell you what: this smells pretty bad. We have the government wanting one line in the prospectus. We have ASIC being involved. We know that. That has been indicated and confirmed. Tell us what you didn’t want in there.

Senator RONALDSON (Victoria) (3.26 pm)—If that is the best the Australian Labor Party can do in relation to this issue, then clearly the issue is dead before it even starts. With the greatest respect to Senator Wong, I have never heard such patent nonsense in all my life. Is Senator Wong seriously suggesting—

Senator Wong—You say that every time you get up—

Senator RONALDSON—If you disagree with me, you clearly were not listening to what I was saying. Senator Wong has clearly plucked the appointment of Mr Cousins out of the air and given to him a corporate responsibility that I do not think anyone else in this country would have ever shared. Are Senator Wong and Senator Conroy really suggesting that Mr Cousins is going to have an impact on future earnings in his own right—an impact on future dividends in his
own right? Is he going to effectively be running this company to the extent that it is such an issue?

The bottom line with this is that Mr Cousins will bring to this board the sort of qualifications that the Australian Labor Party, with its jobs for mates, most certainly did not ever bring. Let me very briefly go through the qualifications of Mr Cousins. The community will make up its own mind about Mr Cousins—and not by listening to the Australian Labor Party or some in Telstra management. When we look at what this man has done and whether he is likely to bring some skills to the job, I think that emphatically the Australian people will say yes.

Mr Cousins has very strong experience in marketing, advertising and telecommunications. I would have thought they were three great qualities in someone taking on the responsibility of a Telstra board member. For 20 years, Mr Cousins was a senior executive with Australia’s most powerful advertising agency, George Patterson. Surely, for a company that is going through what Telstra is going through at the moment, marketing and advertising skills and the ability to convince institutional and private investors—retail investors—of the bona fides of this company and the fact that it does have a plan for the future would be two of the qualities needed.

Surely some telecommunications skills would also be required. Mr Cousins has been a director of Publishing and Broadcasting Ltd and the Seven Network. Indeed, he has 26 years experience as a company director. The Telstra board has made its views known about Mr Cousins. The government has made its views known as well. The government is a majority shareholder. This is not some stack of the Telstra board. This is the government, as a shareholder with entitlement to appoint board members, appointing someone with the requisite skills to drive this company forward. Mr Cousins has the skills to drive the company forward. If you were to listen to the Australian Labor Party, you would think that the government had plucked people out of the air to drive the Telstra board for the next 10 years. We could have appointed five directors had we wanted to do so. We made the decision to appoint one—one with the requisite skills to do the job.

If I had 10 minutes I would happily go through the appointments by the Australian Labor Party at a state and federal level over the last three decades whereby the appointees had absolutely no skills for the boards and companies to which they were appointed. The bottom line is that Mr Cousins has the sorts of skills that Telstra requires. He has the sorts of skills that mum-and-dad investors in Telstra will be looking for for the future. (Time expired)

Senator SHERRY (Tasmania) (3.32 pm)—If this matter were not so serious, one would smile at the contribution from Senator Ronaldson, who would have us believe that the controversy about Mr Cousins is all the Labor Party’s doing and that Mr Cousins’s CV is impressive. I think Senator Ronaldson referred to Mr Cousins as having a ‘strong background’ in telecommunications. It is so strong that the public record shows that when Mr Cousins was the CEO of Optus Vision the company lost $4 billion. That is how strong a background Mr Cousins has. But it is not just his so-called ‘strong background’ of a $4 billion loss in telecommunications when he was the CEO of Optus that is worth noting—he has worked for the Prime Minister in the Prime Minister’s office for some 10 years as a political adviser.

It is not only the Labor Party that has kicked up a fuss about the quality, or lack of quality, of this appointment and its timing; other commentators have done so. I do not know what the Senate has been reading over
the last week or so but, for example, Mr Stewart of the Australian Shareholders Association—hardly a front organisation for the Australian Labor Party—said:

Cousins’ nomination virtually guarantees board instability.

That is from the CEO of the Australian Shareholders Association. Mr Ross Barker, the Managing Director of the Australian Foundation Investment Company—again, hardly a Labor Party front—said:

Ultimately, from an investor’s point of view we want to know that the board is going to function after the sell-down.

Any number of commentators have been critical of this appointment—commentators who have nothing to do with the Australian Labor Party. This proposed appointment, on the threshold of the government selling its majority down from 51 per cent to whatever the figure will be, has created enormous uncertainty around the future of Telstra.

What Telstra does need—and certainly what the average punters, the mum-and-dad shareholders, and the future shareholders need—is some certainty about the future of Telstra. If they do not get that certainty, it will affect the price of the shares when the shares are sold. The ongoing uncertainty around Telstra, which is the result of a lot of incompetent decisions made by this incompetent government, has seen shareholder value decline dramatically. Go and ask the more than one and a half million Australians who purchased T2 shares what has happened to the capital value of their shares in Telstra.

We have seen a range of bad decisions by this government over the last 10 years around Telstra, not just with regard to its privatisation but also with regard to the regulatory regime. The appointment of Mr Cousins is just the latest in a long debacle of incompetent decision making by the minister in this place, Senator Coonan, and by Senator Minchin in terms of the privatisation process.

I have a copy here of the prospectus released today by the Telstra board, as is required by law. In that prospectus is an assessment by Telstra of Mr Cousins—it is not the Labor Party’s assessment or the assessment of the independent commentators I have referred to. Under ‘Risk Assessment’ it says:

Telstra operates in a highly regulated environment, and the Commonwealth and its agencies are the key regulators. While Telstra acknowledges that Mr Cousins has served as a public company director, Telstra believes there is a risk if Mr Cousins cannot be considered an independent director that this could prove disruptive to the smooth and effective functioning of the board. Were this to occur, this could also affect Telstra’s ability to attract and retain qualified directors.

That is in the prospectus. That is the view of the Telstra board about Mr Cousins, the timing of the appointment and the quality of Mr Cousins as an appointee. Mr Cousins is a political hack. He lost $4 billion at Optus Vision. (Time expired)

Question agreed to.

Climate Change

Senator ALLISON (Victoria—Leader of the Australian Democrats) (3.36 pm)—I move:

That the Senate take note of the answer given by the Minister for the Environment and Heritage (Senator Ian Campbell) to a question without notice asked by Senator Allison today relating to climate change and the Pacific region.

The Minister for the Environment and Heritage said in answer to an earlier question that it was ‘likely that the Pacific countries would see sea level rises and adverse impacts in their region’. The point I was trying to get the minister to address is the fact that that they are already being seen. There are storm surges, and freshwater supplies are already being inundated with salt water, destroying
the livelihoods and the ability of people to live in their existing locations.

The minister said that the government is working in the Pacific on adaptation to climate change. That is certainly very welcome, but these people need options. It will not be easy to adapt when your feet are in salt water, when you have no opportunity to grow your own food, when you need to move ground and when you need to resettle somewhere. Eventually, people in places like Tuvalu and Kiribati will need to do that. It may take 10 years or more before this becomes necessary, but long-term plans need to be made. I think it would be quite nice, to say the least, if as a Pacific Islander you knew there was an option of being resettled either in the Pacific region or in Australia, which counts itself as being part of that region.

I noticed that the minister said nothing about the terrible decision, in my view, taken in 2002, when Tuvalu’s government requested assistance from Australia and said: ‘Some of the pollution that Australia emits through greenhouse gas emissions is adding to climate change; we think you have a responsibility to assist us.’ But this government took the hardline position and said: ‘No. Go away.’

This government is very happy to take the Pacific islands workers to fill gaps in our own workforce. We have just had a debate about that and the changes to the regulations to allow it. It seems to me very selfish that we are prepared to take workers but not necessarily their families. We are not prepared to settle these people in our place. We want their labour; we want to pay them, no doubt the lowest possible wages, for bringing their labour to us but we are not prepared to accept them as citizens in this country, even when they need to be.

The minister trotted out his usual diatribe about how other countries have failed to meet their commitments on climate change. We have done so well, of course! Let us have a look at the figures: between 1990 and 2004, emissions from stationary energy—that is, electricity that is generated—increased by 43 per cent. That was a massive increase in our emissions at a time when we were supposed to be reducing emissions. We had the most generous deal of any country in the world at Kyoto, which was to increase our emissions by 109 per cent. We were given a huge concession for reducing land clearing. No other country got anything like this kind of arrangement put in place. To go on with the figures: there was a 23.4 per cent increase in transport emissions; a 3.4 per cent increase in fugitive emissions; a massive 18 per cent in industrial processes; and 2.2 per cent in agriculture.

What saved the day for us, what allowed this government to save face—if you do not know the true story behind those figures—was the massive 73 per cent credit, if you like, for reducing land clearing, for not doing something that we should not have been doing in the first place. What an extraordinary set of figures! For this government to come in here and claim so defiantly, so triumphantly, that other countries have not managed to meet their commitments so far is really an outrage. The minister said that the Greenhouse Challenge, the Solar Cities program and the PV rebate are the big efforts being made on the ground by the government. The Greenhouse Challenge is entirely voluntary, despite our best efforts in this place to make it otherwise; Solar Cities is very nice, but it is a couple of suburbs out of goodness knows how many around Australia.

We do not need pilot programs to tell us that solar power works, that it generates electricity at peak times and that it should be supported by government. But what is going to happen? The photovoltaic rebate extension is about to run out; unless the minister was
hinting today that it might be extended, that is going to go. *(Time expired)*

Question agreed to.

**RENEWABLE ENERGY**

Senator MILNE (Tasmania) (3.42 pm)—I seek leave to make a short statement on a matter that Senator Ian Campbell raised after question time today.

Leave granted.

Senator MILNE—This saga of Senator Ian Campbell’s response to questions about the extent of the Australian government’s support for solar energy continues to get worse and worse. The Minister for the Environment and Heritage started out by saying that the Australian Research Council has 216 projects worth $144 million. When I asked him to list those projects, he eventually came back and said, ‘Sorry, we’ve made a mistake; it’s now 79 projects worth $63 million.’ But I still do not have the list of the 79 projects over six years which are worth $63 million. That was the specific question, and I would like the minister to table exactly what those projects are. It looks as though he has googled every single possible government use of the word ‘solar’ since the government got in 10 years ago, and he busily tabled every document pertaining to everything except the question I asked.

What I would like is for Senator Ian Campbell to come in here and table his Australian Research Council list of 79 projects worth $63 million. All we are getting is this constant reference to investments in solar and renewable energies which are not able to be verified when you push the minister on them. I wish to note that the Minister for the Environment and Heritage has tabled every reference to ‘solar’ that he can possibly find except the answer to the question I asked.

**CONDOLENCES**

Mr Albert William James

The DEPUTY PRESIDENT (3.44 pm)—It is with deep regret that I inform the Senate of the death on 30 September 2006 of Albert William James, a member of the House of Representatives for the division of Hunter, in New South Wales, from 1960 to 1980.

**PETITIONS**

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

**Asylum Seekers**

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

Whereas the 1998 Synod of the Anglican Diocese of Melbourne carried without dissent the following motion:

“That this Synod regrets the Government’s adoption of procedures for certain people seeking political asylum in Australia which exclude them from all public income support while withholding permission to work, thereby creating a group of beggars dependent on the Churches and charities for food and the necessities of life; and calls upon the Federal government to review such procedures immediately and remove all practices which are manifestly inhumane and in some cases in contravention of our national obligations as a signatory of the UN Covenant on Civil and Political Rights.”

We, therefore, the individual, undersigned attendees at Christ Church Anglican Church, Drouin, VIC, 3818 petition the Senate in support of the above mentioned motion.

And we, as in duty bound will ever pray.

by Senator Carr (from 40 citizens).

**Asylum Seekers**

The petition of certain citizens of Australia draws your attention to the views of the signatories below who object to treatment of asylum seekers in Australian detention centres in Australia, both on- and off-shore.
We note that the Universal Declaration of Human Rights (Article 14) states clearly that refugees have the right to apply for asylum. While we agree that these people must be checked for health and security reasons, we appeal that these processes be accelerated. We are deeply concerned about the immediate and long-term effects of months and even years behind razor wire and electric fences, particularly on the children and teenagers.

We understand the stress of the thousands of Temporary Protection Visa holders whose time in Australia can suddenly be terminated as they are returned to the countries from which they have fled:

We note that the vast majority of those seeking asylum in Australia prove to be genuine refugees, fleeing persecution in their home countries.

Your petitioners request that you shall change policies on asylum-seekers so that:

1. Australia can treat asylum-seekers with due respect and humanity as is their right under international law (UN Convention on Refugees, UN Convention on the Rights of the Child),
2. the 'Pacific solution' will be abandoned, and
3. long mandatory detention be replaced by community release so that asylum-seekers can lead normal lives while their applications are processed.

by Senator Chris Evans (from 141 citizens).

Performing Arts

The Honourable the President and members of the Senate assembled in Parliament:

The petition of members of the Australian dance profession draws the attention of the Senate to an issue identified in 2001 by Ministers Council. While we applaud recent investment in the major performing arts sector, we also note that the CMC identified the value of all performing arts to the broader cultural ecology. Since then numerous reports have pointed to unsustainable levels of funding in the small to medium enterprise sector, particularly in dance. This is preventing long-term investment in Australia’s internationally-recognised creators and innovators, and limiting their capability and the potential to provide arts opportunities locally and across the nation.

Your petitioners urgently request Senators, through bilateral action with the States and Territories, to enhance Federal funding levels to enable recognition of, and investment in, Australian creativity and performance at all levels. We request Senators to recognise that creative artists make a significant contribution to the innovation economy, and that this contribution occurs not only in the major performing arts sector, but equally significantly in small to medium arts enterprises. We remind Senators that investment in a sustainable and viable performing arts industry is essential if Australia is to even maintain current levels of cultural creativity, innovation and development, and remain competitive in the international arena.

by Senator Humphries (from 1,232 citizens).

West Papua

To the Australian Senate,

We the undersigned call on the Australian Senate to help the people of West Papua gain self determination.

We reject autonomy offered by Indonesia for West Papua as this has failed.

We support independence for West Papua.

by Senator Nettle (from 1,939 citizens).

Petitions received.

NOTICES

Presentation

Senator Mason to move on the next day of sitting:

That the Finance and Public Administration Committee be authorised to hold public meetings during the sittings of the Senate as follows:

(a) on Wednesday, 11 October 2006, from 4 pm to 6 pm, to take evidence for the committee’s inquiry into the operation of the Senate order for the production of lists of departmental and agency contracts; and

(b) on Thursday, 12 October 2006, from 3.30 pm to 7 pm, to take evidence for the committee’s inquiry into the transparency
and accountability of Commonwealth public funding and expenditure.

Senator Johnston to move on the next day of sitting:

That the time for the presentation of the report of the Foreign Affairs, Defence and Trade Committee on the provisions of the Defence Legislation Amendment Bill 2006 be extended to 12 October 2006.

Senator Bartlett to move on Thursday, 12 October 2006:

That the Senate—

(a) notes that:

(i) Australia was occupied by Aboriginal and Torres Strait Islander peoples who had settled on the continent for many thousands of years before British colonisation, and

(ii) Aboriginal and Torres Strait Islanders suffered major dispossession and dispersal upon acquisition of their traditional lands by the colonisers;

(b) urges the Government to affirm:

(i) the importance of Aboriginal and Torres Strait Islander cultures and heritage, and

(ii) the entitlement of Aboriginal and Torres Strait Islanders to self-determination subject to the Constitution and the laws of the Commonwealth of Australia; and

(c) calls on the Government:

(i) to support the adoption of the draft United Nations Declaration on the Rights of Indigenous Peoples, and

(ii) to ratify the Declaration upon its adoption as a way of ensuring that Indigenous peoples have minimum standards for the protection of their fundamental human rights.

Senator Ellison to move on the next day of sitting:

That, on Tuesday, 10 October 2006:

(a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to 11.40 pm;

(b) the routine of business from 7.30 pm shall be the government business order relating to the Broadcasting Legislation Amendment (Digital Television) Bill 2006 and the Broadcasting Services Amendment (Media Ownership) Bill 2006—second reading speeches only; and

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

Senator Allison to move on the next day of sitting:

That there be laid on the table by the Minister representing the Minister for Transport and Regional Services, no later than 4.30 pm on Monday, 16 October 2006, a copy of the file L98/278 folios 99, 101 and 102 held by the Department of Transport and Regional Services which contain the submissions made to the department by the Transurban Group, owners and operators of Melbourne City Link and other roads, in support of its claim for taxation deductions under the Infrastructure Borrowings Tax Offset Scheme.

Senator Allison to move on the next day of sitting:

That the Senate—

(a) recognises that 10 October 2006 is the fourth annual World Day Against the Death Penalty;

(b) notes that World Day Against the Death Penalty was established in 2003 by the World Coalition Against the Death Penalty;

(c) reiterates its opposition to the death penalty; and

(d) calls on the Government to continue its efforts to encourage states to abolish the death penalty and to halt all executions of those sentenced to death.

Senators Bartlett and McLucas to move on the next day of sitting:

(1) That so much of standing orders be suspended as would prevent this resolution having effect.

(2) That the Great Barrier Reef Marine Park (Protecting the Great Barrier Reef from Oil Drilling and Exploration) Amendment
Bill 2003 be restored to the Notice Paper and that consideration of the bill be resumed at the stage reached in the 40th Parliament.

Senator Siewert to move on the next day of sitting:

That there be laid on the table by the Minister representing the Attorney-General, no later than 3.30 pm on 12 October 2006, the review of the Community Partners Program, as commissioned by the Office of the Employment Advocate and conducted by Deloitte Touche Tomatsu.

Senator Milne to move on the next day of sitting:

That the Senate—

(a) condemns North Korea’s nuclear weapons test;

(b) notes:

(i) the increasing threat of nuclear conflict globally,

(ii) that International Atomic Energy Agency statistics reveal that there have been 300 seizures of smuggled radioactive material capable of making a ‘dirty’ bomb since 2002 and that the rate of seizures has doubled since this time,

(iii) the call from Al Qaeda’s chief in Iraq for nuclear scientists and explosives experts to join his Jihad against the West, and his comment that American bases in Iraq are good places to test unconventional weapons, and

(iv) that the Prime Minister (Mr Howard) has undermined the Nuclear Non-Proliferation Treaty by expressing a willingness to consider the sale of uranium to India, which is not a signatory to the Treaty and which, together with Pakistan, staged the last nuclear break-out in 1998; and

(c) calls on the Government to:

(i) dismantle the Prime Minister’s Nuclear Taskforce,

(ii) reject any proposition by the United States of America about Australia becoming a nuclear fuel supply centre under President Bush’s Global Nuclear Energy Partnership, and

(iii) abandon its support for the sale of uranium to India.

Senator Nettle to move on the next day of sitting:

That the Senate—

(a) notes:

(i) the recent death of West Papuan politician Willem Zonggonau while visiting Australia,

(ii) that Mr Zonggonau was a member of the Papuan legislature and Indonesian upper house in the 1960s, and

(iii) that while living in exile in Papua New Guinea Mr Zonggonau worked tirelessly for freedom and peace in West Papua; and

(b) expresses its condolences to Mr Zonggonau’s family and friends, and the people of West Papua for their loss.

COMMITTEES

Foreign Affairs, Defence and Trade Committee

Extension of Time

Senator FERRIS (South Australia) (3.45 pm)—by leave—At the request of Senator Johnston, I move:

That the time for the presentation of the report of the Foreign Affairs, Defence and Trade Committee on the provisions of the Customs Amendment (2007 Harmonized System Changes) Bill 2006 and a related bill be extended to 11 October 2006.

Question agreed to.

Foreign Affairs, Defence and Trade Committee

Meeting

Senator FERRIS (South Australia) (3.45 pm)—by leave—At the request of the chair of the Foreign Affairs, Defence and Trade Committee, Senator Johnston, I move:
That the Foreign Affairs, Defence and Trade Committee be authorised to hold a public meeting during the sitting of the Senate today, from 4.30 pm, to take evidence for the committee’s inquiry into the provisions of the Defence Legislation Amendment Bill 2006.

Question agreed to.

**LEAVE OF ABSENCE**

Senator BARTLETT (Queensland) (3.46 pm)—by leave—I move:

That leave of absence be granted to Senator Stott Despoja for the period 9 October to 19 October 2006, on account of ill health.

Question agreed to.

**NOTICES**

**Postponement**

The following item of business was postponed:

General business notice of motion no. 547 standing in the name of Senator Bartlett for today, relating to Islamaphobia in Australia, postponed till 12 October 2006.

Question agreed to.

**COMMITTEES**

**Public Accounts and Audit Committee**

Meeting

Senator WATSON (Tasmania) (3.47 pm)—I move:

That the Joint Committee of Public Accounts and Audit be authorised to hold public meetings during the sitting of the Senate as follows:

(a) to take evidence for the committee’s review of Auditor-General’s reports:
   - Wednesday, 11 October 2006, from 11.30 am to 1.30 pm
   - Wednesday, 18 October 2006, from 11.30 am to 1.30 pm
   - Wednesday, 29 November 2006, from 11.30 am to 1.30 pm
   - Wednesday, 6 December 2006, from 11.30 am to 1.30 pm;
(b) to take evidence for the committee’s inquiry into financial reporting and equipment acquisition at the Department of Defence and DMO:
   - Thursday, 12 October 2006, from 10 am to 1.30 pm
   - Thursday, 19 October 2006, from 10 am to 1.30 pm
   - Thursday, 30 November 2006, from 10 am to 1 pm; and
   (c) on Thursday, 9 November 2006, from 9.30 am to 2 pm, to take evidence for the committee’s inquiry into certain taxation matters.

Question agreed to.

**MS DORIS OWENS**

Senator NETTLE (New South Wales) (3.47 pm)—I move:

That the Senate notes the sad death of Ms Doris Owens, an environmental campaigner from the south coast of New South Wales and sends condolences to her family and friends.

Question agreed to.

**DOCUMENTS**

**Tabling**

The DEPUTY PRESIDENT—Pursuant to standing order 166, I present a private senator’s bill, the Prohibition of Human Cloning for Reproduction and the Regulation of Human Embryo Research Amendment Bill 2006 and explanatory memorandum, which were received and certified by the President on 26 September 2006. In accordance with the terms of the standing order, the publication of the document was authorised.

**Tabling**

The DEPUTY PRESIDENT—Pursuant to standing orders 38 and 166, I present documents listed on today’s Order of Business at item 12 (b) to (e) which were presented to the Deputy President and temporary chairs of committees since the Senate last sat. In accordance with the terms of the
standing orders, the publication of the documents was authorised.

Leave granted.

The list read as follows—

Committee reports

(1) Economics Committee—Report, together with the Hansard record of proceedings and documents presented to the committee—Provisions of the Tax Laws Amendment (2006 Measures No. 4) Bill 2006 (received 4 October 2006)

(2) Environment, Communications, Information Technology and the Arts Committee—Report, together with the Hansard record of proceedings and documents presented to the committee—Broadcasting Services Amendment (Media Ownership) Bill 2006 and related bills, and background paper by the Minister for Communications, Information Technology and the Arts (Senator Coonan) on new services on digital spectrum (received 6 October 2006)

Government documents


(2) Indigenous education and training—National report to Parliament 2004 (received 5 October 2006)

(3) Medibank Private Limited—Report for 2005-06 (received 5 October 2006)

(4) Medibank Private Limited—Statement of corporate intent 2007-09 (received 5 October 2006)

(5) ASC Pty Ltd—Statement of corporate intent 2006-09 (received 6 October 2006)

Report of the Auditor-General

Report no. 5 of 2006-2007—Performance Audit—Senate order of the departmental and agency contracts (calendar year 2005 compliance) (received 28 September 2006)

Returns to order

(1) Statement of compliance with the continuing order of the Senate of 30 May 1996, as amended on 3 December 1998, relating to indexed lists of files:

Comcare (received 4 October 2006)

(2) Statement of compliance with the continuing order of the Senate of 20 June 2001, as amended on 27 September 2001 and 18 June, 26 June and 4 December 2003, relating to lists of contracts:

Department of Education, Science and Training (received 4 October 2006)

Ordered that the reports of the Economics and the Environment, Communications, Information Technology and the Arts Committees be printed.

Response to Senate Resolutions

The DEPUTY PRESIDENT—I present a response from the Northern Territory Minister for Family and Community Services (Ms Delia Lawrie) to a resolution of the Senate of 13 September 2006 concerning Foster Care Week.

COMMITTEES

National Capital and External Territories Committee

Report

Senator LIGHTFOOT (Western Australia) (3.49 pm)—I present the report of the Joint Standing Committee on the National Capital and External Territories on the visit to Norfolk Island from 2 to 5 August 2006. I seek leave to move a motion in relation to the report.

Leave granted.

Senator LIGHTFOOT—I move:

That the Senate take note of the report.

The committee undertook its recent visit to Norfolk Island in order to renew its relationship with the government and people and to engage in discussions on matters of mutual concern, particularly in light of the changes
foreshadowed to the island’s governance arrangements.

While on Norfolk Island, the committee held discussions with members of the Norfolk Island government and Legislative Assembly and members of the wider community. The committee was also given the opportunity to undertake a tour of the island’s facilities and infrastructure, including the hospital, waste management facilities, the Kingston Jetty and the Kingston and Arthur’s Vale Historic Area. In addition, the committee attended a reception hosted by the Administrator at Government House, a dinner hosted by the business community and a dinner hosted by the Norfolk Island Legislative Assembly.

It gives me great pleasure to report that the committee received a most cordial welcome and that our discussions with members of the community and their elected representatives were positive and constructive. We hope that this report, which examines matters raised during our recent visit, will provide some guidance to the Australian government regarding the current concerns and future needs of the people of Norfolk Island.

The committee notes that many of the issues raised during its recent visit are issues that have been raised before and addressed in the committee’s reports on Norfolk Island governance, tabled in December 2003 and November 2005. Our visit highlighted the fact that most of the actions recommended by the committee in its previous governance reports remain relevant to the process of reform of governance currently being undertaken.

The committee believes, as indicated in its previous reports, that the extension of Commonwealth laws to Norfolk Island is essential to the future wellbeing of the Norfolk Island community. As Australian citizens, the people of Norfolk Island should have access to the same benefits and share the same responsibilities as their fellow Australians.

In stating this, however, the committee understands the need to implement Australian law in a way that is sensitive to the unique circumstances of Norfolk Island. The Norfolk Island community must be given the opportunity to adjust to its new circumstances. This will require an investment in time and money on the part of the Commonwealth in order to bring services up to mainland standards.

While making these observations, the committee notes that the process of reform on Norfolk Island has already taken a large step forward. On 21 August, the Norfolk Island government met with the minister for territories. That meeting concluded with positive indications of compromise for future negotiations on matters of detail.

The committee understands that in coming months the people of Norfolk Island will face significant challenges as a range of reforms are introduced to the system of governance. The committee is confident that the Norfolk Island community has the necessary resilience to overcome these challenges and move on to an even more prosperous future as an integral part of the Commonwealth of Australia.

While the committee was on Norfolk Island, the circumstances of certain landholders within the Kingston and Arthur’s Vale Historic Area were brought to its attention. These landholders have been denied permission to build on freehold land under the provisions of the Environment Protection and Biodiversity Conservation Act 1999. They have not received any compensation for the effective loss of their land and will apparently receive none. The result, in the committee’s view, is a denial of natural justice.

I would like to express, on behalf of the committee, our gratitude to all those who
made our visit such a success—in particular, the Administrator of Norfolk Island, the Hon. Grant Tambling, and his staff; the members of the Norfolk Island government and Legislative Assembly, who were forthcoming in their views and unstinting in their assistance; and those members of the community who participated in discussions with the committee. I also thank my committee colleagues for their cooperation and contribution throughout the course of the visit.

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

The DEPUTY PRESIDENT—Do you seek leave to continue your remarks?

Senator LIGHTFOOT—Yes, I do.

Leave granted; debate adjourned.

Treaties Committee

Reports

Senator WORTLEY (South Australia) (3.55 pm)—On behalf of the Joint Standing Committee on Treaties, I present two reports of the committee, report No. 77 on treaties tabled on 20 June and 8 August 2006, and report No. 78, Treaty scrutiny: a ten year review. I seek leave to move a motion in relation to the reports.

Leave granted.

Senator WORTLEY—I move:

That the Senate take note of the reports.

Report 77 contains the findings and binding treaty action recommendations of the committee’s review of six treaty actions tabled in parliament on 20 June and 8 August 2006. Report 78 contains a report of the seminar held in March this year to mark the 10th anniversary of the Joint Standing Committee on Treaties. I will comment on report 77 and then report 78.

The committee found all the treaties reviewed in report 77 to be in Australia’s national interest. The committee is continuing its review of the amendments to article 3 of the Australia New Zealand Closer Economic Relations Trade Agreement and a promotion and reciprocal protection of investments treaty with Mexico, tabled on 28 March and 20 June respectively. The committee is also inquiring further into the China uranium transfer and safeguards agreements tabled on 8 August. I will comment on the treaties reviewed in report 77.

The Agreement relating to Scientific and Technical Cooperation between the Government of Australia and the Government of the United States of America will build upon and strengthen the science and technology relationship between Australia and the US, established under its predecessor agreement. The agreement, by establishing guiding principles, will provide for shared responsibility in collaborative activities and the equitable sharing of costs and benefits. The agreement will also expand opportunities for collaboration between agencies and serve to enhance research links between Australia and the US.

The Amendments to the Convention on the Physical Protection of Nuclear Material amend the convention of the same name and will serve to strengthen the objectives of the convention, which ensures that nuclear material is adequately protected when transported internationally, in addition to extending this protection to nuclear facilities and material in peaceful domestic use, storage and transport. The amendments also provide for cooperation between and among states to assist in the detection and recovery of any stolen or smuggled nuclear material, mitigate any radiological consequences of sabotage and prevent and combat related offences.

The Exchange of Notes constituting an Agreement between the Government of Australia and the Government of Japan to replace the Delineated and Recorded Japanese
Nuclear Fuel Cycle Program adds the UK’s Sellafield plant and Japan’s Rokkasho fuel fabrication plant at which Japan may undertake mixed oxide fuel fabrication. The delineated and recorded Japanese nuclear fuel cycle program is a treaty level implementing arrangement between the government of Australia and the government of Japan, was entered into as part of the Australia-Japan Nuclear Safeguards Agreement in 1982 and sets out how the Australia-Japan Nuclear Safeguards Agreement is to operate in practice. Australia ensures that Japan meets its obligations under the Australia-Japan Nuclear Safeguards Agreement through an established system of safeguards, including a permanent office of International Atomic Energy Agency inspectors located in Japan, and through the reconciliation of accounts.

The amendments to the Singapore-Australia and Australia-United States free trade agreements to ensure compliance with changes to the Harmonized Commodity Description and Coding System will, through changes to how goods are identified, seek to avoid possible confusion and subsequent delays in processing of goods by customs authorities.

The International Health Regulations 2005 will prevent, protect against, control and provide a public health response to the international spread of disease in ways that are commensurate with, and restricted to, public health risks, and which avoid unnecessary interference with international traffic and trade.

Mr President, I would now like to comment on report 78. Report 78 contains a report of the seminar held in March this year to mark the 10th anniversary of the Joint Standing Committee on Treaties. The Joint Standing Committee on Treaties was established in 1996 as part of a package of reforms to the treaty making process. Since then, the committee has tabled recommendations on over 380 treaty actions in 77 reports. Prior to the establishment of JSCOT, during the 1970s treaties were tabled in parliament but often in a manner which prevented meaningful parliamentary scrutiny or input. Treaties were tabled in bulk, approximately every six months and often after they had entered into force.

By the 1990s Australia had entered into a period of negotiating a broader range of treaties—some of them quite controversial. There was also a growing awareness that international obligations affected domestic legal regimes and policy responses to a wide range of national issues. In recognition that parliament ought to be able to scrutinise Australia’s international treaty obligations, JSCOT was established in May 1996.

Four other key reforms were introduced at the same time that JSCOT was established. These consisted of: (1) the tabling of treaties in parliament for a minimum of 15 sitting days before the government takes binding treaty action; (2) the tabling of National Interest Analyses to explain the reasons for the government’s decision to enter into the treaty and to detail the impact the treaty would have on Australia; (3) the establishment of a treaties council as an adjunct to the Council of Australian Governments to consider treaties and other international instruments of particular sensitivity to the states and territories; (4) the establishment of a treaties information database for individuals and interested people to easily and freely obtain information on any treaty.

A fifth reform involved a change to the Standing Committee on Treaties, or SCOT as it is otherwise known. SCOT was not established as part of the 1996 reforms but its role and functions were formalised as a result. The treaties committee has a dual role in providing for the parliamentary scrutiny of
treaties and in increasing the transparency of the treaty scrutiny process. As part of its role in providing a more transparent treaty making process, the committee also functions as a check that adequate consultation has taken place. After 10 years of JSCOT it was fitting that a seminar be conducted to assess the 1996 reforms and to look more broadly at the role of the legislature in the treaty making process, both here and overseas.

On 30 and 31 March this year, the committee held a seminar to consider the role and effectiveness of the committee, the treaty making reforms and the role of parliaments in the treaty making process. The seminar commenced with a reception hosted by the Presiding Officers of the Commonwealth parliament and a dinner addressed by the Minister for Foreign Affairs and the shadow minister for foreign affairs and trade and international security.

The following day the seminar heard from a diverse range of people who were involved or interested in the treaty scrutiny process. Some of the issues which participants considered were:

- has the Joint Standing Committee on Treaties made the treaty making process more democratic, transparent and accountable?
- how adequate is the consultation between the Commonwealth and the states and territories in relation to treaties? How could it be more effective?
- how has the failure of the Treaties Council to meet more than once since 1996 had an impact on the treaty making process?

The seminar also provided an opportunity to consider recent trends in treaty making, such as the increase in free trade agreements, treaties with regional neighbours and climate change treaties. Finally, the seminar provided the opportunity to consider the committee’s role, and Australia’s treaty making processes, in an international context.

It is clear from the seminar that the committee is a successful and effective body and was considered by seminar participants to be the strongest performer of the 1996 reforms. The report contains a detailed summary and analysis of the issues discussed at the seminar.

I commend both reports to the Senate.

Senator BARTLETT (Queensland) (4.03 pm)—I also would like to speak on reports Nos 77 and 78 of the Joint Standing Committee on Treaties, particularly on report No. 78, Treaty scrutiny: A ten year review. As Senator Wortley has pointed out, the report basically summarises a seminar or forum that was held to mark the 10th anniversary of the scrutiny of treaties. I was not able to attend that seminar because I was chairing a different committee hearing on that particular day.

Senator Marshall—Not any more: you’ve been dumped like the rest of us!

Senator BARTLETT—Thankfully I have now been freed of that onerous responsibility, Senator Marshall. It was very kind of the government to take that away from me. Perhaps I will have more opportunity in future. Report No. 78 is definitely worth reading for people who want a good overview of the history of this matter, of the work of the committee and various opinions on it over a 10-year period. I certainly do not dissent from it at all. I signed off on it as a member of the committee. I want to take the opportunity to make some comments of my own about the history of the committee’s role in reviewing treaties, the lead-up to its implementation and where it should go from here. I am currently a member of the committee; I have been on and off a few times over the period I have been in the Senate. Back through the early 1990s, the Democrats agi-
tated quite regularly for a much stronger role for the parliament in reviewing the very large number of treaties that the Australian government enters into. There has often been a lot of fairly exaggerated talk about the Australian government handing away our sovereignty to international bodies when we enter into these treaties. The fact that this committee was established has been a mechanism to show that a lot of that rhetoric is completely unfounded. That is not to say that—

Senator Kemp—That is why it was established. You are completely off the point, Senator.

Senator BARTLETT—Thank you for your usual erudite and typically ignorant contribution, Senator Kemp.

Senator Kemp—The one thing I know about is why that committee was established.

Senator BARTLETT—Thank you, Senator Kemp. I happen to recall as well. You try to say something positive about this government and they still have to come across and slag you off in a typical pig ignorant way. It is extraordinary; their arrogance is unbelievable. They cannot let you get to the end of a sentence without misinterpreting what you are saying, when you are about to give them a compliment, and they try to say that you do not know what you are talking about. You are right: sorry, I do not know what I am talking about and I do not know why I was trying to give you a compliment. Clearly, that was stupid of me! The treaties committee, when it was established, did go some way to enabling the scrutiny of treaties.

Senator Kemp—Mr President, on a point of order: normally I do not respond to these rather childish comments that Senator Bartlett makes. The history of this period is that there was a lot of concern in the Senate, including among members of the Democrats, which led to the establishment of this committee. They were not trite comments and they were not foolish comments that people made. The fact is, Senator Bartlett, that you do not understand the history.

The ACTING DEPUTY PRESIDENT (Senator Barnett)—Senator Kemp, I have noted what you said but there is no point of order.

Senator BARTLETT—The minister continues to display his ignorance by again misrepresenting what I was partly through saying and by demonstrating that he does not know what a point of order is. If, for once, the minister could actually listen, what I was saying is there are many people in the wider community who used to make quite outrageous statements about the distorted nature of international agreements and who used to suggest that such things were giving away Australia’s sovereignty. There were many people—including the Democrats, as I said—who agitated in this place throughout the early 1990s to give the parliament a greater role in scrutinising those agreements. Indeed, the Democrats suggested that the parliament should have the opportunity to vote down international agreements in the same way as we do with various regulations and delegated legislation.

It is a strange anomaly that we have the potential in this parliament to vote down minor details of subordinate legislation, regulations and minor ordinances but we do not have the power to vote down major international treaties, as of course many other parliaments around the world do. Nonetheless, the fact that this government went halfway towards allowing some scrutiny of treaties was a positive development. After the completely stupid and arrogant contribution by Senator Kemp just then, it pains me to note that Senator Kemp had a positive role to play in that. Obviously since then his overpowering arrogance has completely enabled him to
ignore the contribution by anybody else except himself in that particular role.

It is very important to emphasise that, whilst this has provided some improvement in scrutiny and has allowed the parliament to demonstrate that the grossly overstated complaints of some in the community about the nature of international agreements was indeed overstated, it has nonetheless shown its limitations over the 10-year period. I think what we have seen over the period of 10 years is an indication that whilst the process to date has its positive mechanisms it could be made to be more positive. I would still like to see the parliament able to negate treaties—and I realise that would be a fairly significant shift—but regardless of that I do think the committee itself could take a more proactive role.

I would point to one of the lower points in the history of the Joint Standing Committee on Treaties over the 10-year period, when it refused to consider a reference from this Senate chamber to consider a proposed treaty action. In fact, it refused to do so more than once. I thought that was probably the lowest point in the committee’s history. The committee had a clear-cut reference from this Senate chamber asking it to examine a matter regarding the Australian government’s ongoing negotiations with the US government to see if the US could be exempted from the provisions of the International Criminal Court. It was on the public record a number of times that Mr Downer said he was pursuing the matter. This Senate passed a resolution asking the treaties committee to examine the matter, and the committee simply refused to do so. That is an example of a problem that occurs when a committee is government dominated and when you have the sort of arrogance from government members that Senator Kemp has so effectively demonstrated. Arrogance and ignorance are a pretty horrible combination to subject a parliament to, and it is unfortunate when it starts to infect parliamentary committees. Whilst the committee has performed a useful role, it has nonetheless fallen short of its potential.

It did take a proactive role on a few occasions—most particularly, for example, with the MAI, the Multilateral Agreement on Investment that was proposed at one stage. It was a clear time when the committee did not wait until the government had finished all its work in negotiating a treaty, wait until it was tabled and then look at it. What it did was to take account of the fact that there was consideration being given to a possible international agreement being adopted, and it initiated its own inquiry to take evidence from the government and to hear concerns from the community and the public on that issue. It enabled public input into the issue prior to the treaty being agreed to.

That is the area where I think the committee could do a lot more effective and proactive work. At the moment, most of the time but not all of the time—indeed, the hearings this morning would be one example—the committee waits until the process is completely finished and the treaty has been negotiated and tabled in this place prior to it being adopted and then it investigates. That is fine on the vast majority of occasions. A huge number of agreements are adopted each year, many of which are uncontroversial, and that is the right way to do things. But occasionally there are incidents where it would be beneficial even for the government—assuming that we had a government that listened to anybody, which of course we do not have at the moment; but one day we will have a government that feels as though it needs to listen to the community—to hear public input in advance of when a treaty is negotiated rather than at the end. I think that is the area where the treaties committee could move on to the next stage and be much more proactive in its work and much more
involving of the community and community input. It is that aspect of the committee process that has always been the most beneficial and where I would urge the committee to go from here. I seek leave to continue my remarks later.

Leave granted.

Debate adjourned.

Response to Senate Resolutions

Senator SIEWERT (Western Australia) (4.13 pm)—Mr Acting Deputy President Barnett, I seek leave to return to item 13(a) on the Notice Paper.

Leave granted.

Senator SIEWERT—I wish to take note of the letter to the President of the Senate from the Northern Territory Minister for Family and Community services on the issue of foster care. I note that the minister indicates that the Northern Territory is improving payments for foster carers and offering better training and support for carers. I also note that the minister anticipates future opportunities for the Northern Territory government and other jurisdictions to work with the federal government to further advance the interests of foster carers.

I sincerely hope that the federal government will pursue this opportunity, with the Northern Territory government and the other state and territory governments, to tackle this extremely important issue in a spirit of cooperation. I hope that, in doing so, the federal government will take time to reflect on and make good the promises it made to foster carers when we were discussing the Welfare to Work legislation in this place. Senators will remember that the government was very clear in committing to protecting foster carers from being unfairly impacted upon by the provisions of the Welfare to Work legislation and extending to them the same rights of protection extended to other carers. I am concerned, therefore, that the recent comments by the Australian Foster Care Association indicate that the government has so far failed to understand the special needs and circumstances of foster carers and that, as a result, they are being unfairly impacted upon by Welfare to Work and unfairly treated by Centrelink.

The Australian Foster Care Association stated very recently that it had an understanding with the government, before the Welfare to Work laws were introduced, that registered carers would not be forced to seek employment during periods when children were not in their care. This presents a big problem. Because of the very nature of foster care, particularly for carers who provide respite or are called on to provide care for kids in crisis, it creates very difficult circumstances if they are required to look for work during periods when children are not actually in their care. In an interview with the Australian, the president of the Australian Foster Care Association, Ken Abery, said:

What we are saying is that with a carer or respite carer there could be a day, a couple of days, a couple of weeks or even a month when you don’t have a child in your care, and Centrelink are saying that in that period of time you must go and seek work, which is really very unreasonable because our home is open to these kids 24 hours a day, seven days a week, 52 weeks of the year.

Let us look at this situation. Foster carers are on standby 24 hours a day, seven days a week. Caring for kids in crisis is their No. 1 priority; they say it is their calling. They are likely to miss work or interviews if they have had to drop everything to care for kids in crisis, and they could be breached. However, under these circumstances they are expected to find very short-term work. Within the next week, they may not be able to turn up because they have kids in their care. They are expected to be looking for work in the gaps between having children in their care. To my
mind this is clearly ludicrous, particularly as, if they have to drop everything to look after kids in crisis who are suddenly put into their care, they will not be able to turn up to work and, again, could potentially be breached. The point is that they are deeply worried about this and it could stop foster carers from continuing to be foster carers.

I would also like to point out that there is already a crisis in the number of foster carers available. The president of the Australian Foster Care Association told the Australian that the demand would force many carers to leave the sector, particularly the estimated 4,500 single parents who depended on allowances while caring for children without financial support from another family member. The association has pointed out the significant drop in the number of carers who are available to care for kids in crisis. Speaking to the ABC, the president of the Foster Care Association said:

We are already down from what was four years ago 14,000 carers, we’re now we are down to about 8,000 carers.

It makes me very depressed to hear about that drop in numbers. Of course, they are very concerned that numbers will drop even further if we do not resolve this Welfare to Work situation. I have to ask what is the greater priority in our society: reducing the number on Centrelink’s books or providing safe and adequate protection and care for kids in crisis who need a better chance in life? I have told this place on many occasions about the significant increase in the number of children in out-of-home care. The number has risen by 70 per cent from nearly 14,000 in 1996 to nearly 24,000 in 2005. Of these children, four per cent are in residential care, 54 per cent are in foster care and 40 per cent are in kinship care. There are many children in out-of-home care and, unfortunately, the number is growing.

The government promised it would look after foster carers, and the foster carers took that promise seriously. While the government has already addressed some of these issues through the regulations in Welfare to Work, it has not addressed the very key provision of requiring foster carers to look for work in the gaps between looking after children. Clearly, it is not feasible to do this; it is not working for foster carers. I urge the government to have dialogue with the Foster Care Association, and with the states and territories that deal with foster carers, to find a way forward through this mess, because it is going to damage the children of our community, whom everyone in this place agrees should be our No. 1 priority. I think this provision of Welfare to Work has had very clear and unintended consequences. The government, as I said, made it plain that it would look after foster carers. It also made a commitment in this place that it would deal, through regulation, with the issue of family carers. I urge the government to again look at the impact of its legislation on the foster carers of this country. I urge the government to uphold its promise to look after foster carers at the same level as primary carers and to stop this nonsense.

Question agreed to.

AVIATION TRANSPORT SECURITY AMENDMENT BILL 2006
OHS AND SRC LEGISLATION AMENDMENT BILL 2006
PRIVACY LEGISLATION AMENDMENT BILL 2006
INTERNATIONAL TAX AGREEMENTS AMENDMENT BILL (No. 1) 2006
TAX LAWS AMENDMENT (REPEAL OF INOPERATIVE PROVISIONS) BILL 2006
CIVIL AVIATION LEGISLATION AMENDMENT (MUTUAL RECOGNITION WITH NEW ZEALAND) BILL 2006

Assent

Messages from His Excellency the Governor-General were reported informing the Senate that he had assented to the bills.

MARITIME TRANSPORT AND OFFSHORE FACILITIES SECURITY AMENDMENT (MARITIME SECURITY GUARDS AND OTHER MEASURES) BILL 2006

Assent

Message from Her Excellency the Administrator of the Commonwealth of Australia was reported informing the Senate that she had assented to the bill.

CUSTOMS AMENDMENT (2007 HARMONIZED SYSTEM CHANGES) BILL 2006

First Reading

Bills received from the House of Representatives.

Senator SANTORO (Queensland—Minister for Ageing) (4.22 pm)—These bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have 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 SANTORO (Queensland—Minister for Ageing) (4.23 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—

CUSTOMS AMENDMENT (2007 HARMONIZED SYSTEM CHANGES) BILL 2006

The Customs Amendment (2007 Harmonized System Changes) Bill 2006 contains amendments to the Customs Act 1901 that are complementary to the amendments contained in the Customs Tariff Amendment (2007 Harmonized System Changes) Bill 2006.

The Customs Amendment (2007 Harmonized System Changes) Bill 2006 will enable the revocation of about seven hundred Tariff Concession Orders that will be affected by the amendments to the Customs Tariff Act 1995 contained in the Customs Tariff Amendment (2007 Harmonized System Changes) Bill 2006. Up to twelve hundred Tariff Concession Orders will also need to be made to replace those that will be revoked.

Tariff Concession Orders provide ‘Free’ rate of customs duty for imported goods when there are no substitutable domestically produced goods.

This bill will ensure the seamless application of Tariff Concession Orders to goods imported before and after 1 January 2007.

CUSTOMS TARIFF AMENDMENT (2007 HARMONIZED SYSTEM CHANGES) BILL 2006


These amendments implement changes that result from the third review, by the World Customs Organization, of the Harmonized Commodity De-
scription and Coding System, which is commonly referred to as the Harmonized System.

The Harmonized System is a hierarchical system that uniquely identifies all traded goods and commodities. This system is used uniformly throughout most of the world. Australia’s goods and commodity classifications have been based on the Harmonized System since 1988 and are contained in the Customs Tariff for imports and the Harmonized Export Commodity Classification for exports.

As a signatory to the International Convention on the Harmonized System, Australia is required to implement the changes from 1 January 2007. As with the last review of the Harmonized System, which was implemented on 1 January 2002, this review has deleted classifications for goods where there have been low levels of international trade. Amendments have also been made to clarify existing descriptions and terminology in the Harmonized System.

The current review of the Harmonized System will also provide new classifications to separately identify a number of hazardous or dangerous chemicals, pesticides, or wastes such as chlorofluorocarbons, mercury compounds, aldrin and asbestos. This will facilitate the monitoring and control of international trade in these products under various United Nations Conventions including the Rotterdam Convention.

The third review will also introduce amendments to reflect developments in technology and changes in industry practices including the significant restructure of tariff classifications for a wide range of information technology and consumer electronic products.

While giving effect to the changes to the Harmonized System, the Customs Tariff Amendment (2007 Harmonized System Changes) Bill 2006 ensures, to the greatest extent possible, the preservation of existing duty rates and levels of tariff protection for Australian industries and margins of preference accorded to Australia’s trading partners.

The Customs Tariff Amendment (2007 Harmonized System Changes) Bill 2006 also includes amendments that will impact on the concessional items contained in Schedule 4 of the Customs Tariff. In addition, amendments will also be made to Schedules 5 and 6 of the Customs Tariff which give effect to the application of customs duty on goods the subject of Free Trade Agreements with the United States and Thailand respectively.

This bill will provide certainty for Australia’s importers and exporters, and ensures consistency with Australia’s international trading partners.

SCHOOLS ASSISTANCE (LEARNING TOGETHER—ACHIEVEMENT THROUGH CHOICE AND OPPORTUNITY) AMENDMENT BILL (No. 2) 2006

The purpose of the bill is to amend the Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Act 2004, which provides funding to States and Territories for government schools and funding for non-government schools for the 2005-2008 funding quadrennium. The Australian Government will provide a record estimated $33 billion in funding for Australian schools over the four years, 2005-2008. This is the largest ever commitment by an Australian Government to schooling in Australia.

The Act provides for a significant investment by the Australian Government for school infrastructure. The Australian Government is providing substantial funding for school infrastructure for both State owned government schools and non-government schools as a means of improving educational outcomes for Australian children.

Under the Capital Grants Programme an estimated $1.7 billion is being provided over 2005-2008 to assist the building, maintenance and updating of schools throughout Australia. An estimated $1.2 billion will be provided for State and Territory government schools over 2005-2008, whilst an estimated $489 million will be provided for Catholic and independent schools for the same period.

This bill appropriates capital grants funding for the years 2009 to 2011, to include capital grant funding allocations in the Act for government and non-government schools for the years 2009, 2010 and 2011. Funding amounts for programme years beyond 2008 are required because capital grants are approved up to three years in advance of the current calendar year. In 2006 a capital project...
may be approved involving funding for programme years through to 2009. Funding amounts in the bill are in initial 2005 prices, the price basis of the Act. They do not take into account the generous supplementation provided annually by the Australian Government.

The bill ensures that approval of Australian Government capital funding assistance for government and non-government schools can continue, providing stability in Australian Government capital funding as anticipated by State education departments and non-government school Block Grant Authorities.

This bill maintains the Australian Government’s commitment to a strong school sector through assisting government and non-government schools with important building projects which will support improved educational outcomes. Passage of the bill is necessary to ensure that these initiatives for schools and school communities can be implemented to continue to support the improvement in school outcomes across Australia.

I commend the bill to the Senate.

Debate (on motion by Senator Santoro) adjourned.

Ordered that the Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill (No. 2) 2006 be listed on the Notice Paper as a separate order of the day.

COMMITTEES

Economics Committee

Interim Report

Extension of Time

Senator PARRY (Tasmania) (4.24 pm)—At the request of the Chair of the Economics Committee, Senator Brandis, I present an interim report of the committee on its inquiry into petrol pricing in Australia and seek leave to move a motion in relation to the report.

Leave granted.

Senator PARRY—I move:

That the time for the presentation of the final report of the Economics Committee on petrol pricing in Australia be extended to 30 November 2006.

Question agreed to.

HIGHER EDUCATION LEGISLATION AMENDMENT (2006 BUDGET AND OTHER MEASURES) BILL 2006

Report of Employment, Workplace Relations and Education Committee

Senator PARRY (Tasmania) (4.25 pm)—On behalf of the Chair of the Employment, Workplace Relations and Education Committee, Senator Troeth, I present the report of the committee on the provisions of the Higher Education Legislation Amendment (2006 Budget and Other Measures) Bill 2006, together with the documents presented to the committee.

Ordered that the report be printed.

AGED CARE AMENDMENT (Residential Care) BILL 2006

Report of Community Affairs Committee

Senator PARRY (Tasmania) (4.25 pm)—On behalf of the Chair of the Community Affairs Committee, Senator Humphries, I present the report of the committee on the provisions of the Aged Care Amendment (Residential Care) Bill 2006, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

CORPORATIONS (ABORIGINAL AND TORRES STRAIT ISLANDER) BILL 2005

CORPORATIONS AMENDMENT (ABORIGINAL AND TORRES STRAIT ISLANDER CORPORATIONS) BILL 2006
CORPORATIONS (ABORIGINAL AND TORRES STRAIT ISLANDER) CONSEQUENTIAL, TRANSITIONAL AND OTHER MEASURES BILL 2006

Report of Legal and Constitutional Affairs Committee

Senator PARRY (Tasmania) (4.26 pm)—On behalf of the Chair of the Legal and Constitutional Affairs Committee, Senator Payne, I present the report of the committee on the provisions of the Corporations (Aboriginal and Torres Strait Islander) Bill 2005 and two related bills, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

OCCUPATIONAL HEALTH AND SAFETY (COMMONWEALTH EMPLOYMENT) AMENDMENT BILL 2005

Second Reading

Debate resumed from 5 September, on motion by Senator Colbeck:

That this bill be now read a second time.

Senator MARSHALL (Victoria) (4.27 pm)—In normal circumstances, the spokesperson for the portfolio area would outline the Labor Party position at the commencement of the debate but, given some pressing commitments, I will make my contribution first, if that is suitable to the Senate. The Occupational Health and Safety (Commonwealth Employment) Act 1991 provides the legal basis for the protection of the health and safety of Commonwealth employees in departments, statutory authorities and government business enterprises.

The Occupational Health and Safety (Commonwealth Employment) Amendment Bill 2005, which is the bill we are discussing today, reintroduces a number of provisions that were removed from the government’s Occupational Health and Safety (Commonwealth Employment) Amendment (Employee Involvement and Compliance) Bill 2002 by the Senate. This bill, as you, Mr Acting Deputy President Barnett, would have noticed, was in fact introduced into the parliament in about August last year. It has been bouncing around this place as it has had a fairly low order of priority from this government—which is something that I welcome because the introduction of this bill will have a deleterious effect on the occupational health and safety of Commonwealth employees.

The bill is before us today because the legislation that we were going to debate about cross-media ownership, which was scheduled to take up most of the debating period this week, has been withdrawn by this government because they are in complete disarray and, as of today, do not have a common position to bring to this chamber. It is something that we are seeing more and more of, as the arrogance of this government deteriorates to such an extent that they cannot even hold all their own members together on that side of the chamber on a single issue. To fill in time, they have introduced this legislation today which, as I said, has been bouncing around the place as a very low order of priority for 12 months or so.

Approximately 480,000 Australian employees experience a work related injury or illness each year. That translates to approximately 2.8 million Australians suffering from work related long-term health conditions. Each year there are around 140,000 compensated work related injuries, resulting in an absence from work of one or more weeks. In comparison, there are over 13,500 road accidents involving casualties each year in Australia. There are around 3,000 work related deaths in Australia each year, more than the national road toll. Nearly 450 of these work related deaths—an average of nearly 10 per week—are the result of a traumatic incident at work, including work related road deaths,
and a further 150 deaths occur while Australian employees travel to and from work, with another 200 people dying each year as a result of someone else’s work activity.

In 1996 National Occupational Health and Safety Commission researchers arrived at a conservative estimate that at least 2,300 people die each year as a result of work related exposure to chemicals. This does not reflect the current extent of death from occupational disease. In the near future, this figure may rise due to the expected increase in asbestos related deaths—a tragedy that for many decades has continued its macabre assault on working Australians, particularly through the Wittenoom disaster and the James Hardie disgrace. Australia has the highest incidence of asbestos related disease in the developed world, and the incidence in Australia has been rising steeply since 1970. It is estimated that the total number of asbestos related deaths will reach at least 40,000, and perhaps as many as 60,000, by 2020.

I give that brief background of the general state of occupational health and safety in this country as a backdrop to the changes that are being made by this bill. The government will argue that these are quite minor changes but, to those people that are actually outside of the safety of offices in parliament, who have to go to work in what may be very dangerous workplaces with dangerous work processes—being exposed to dangerous chemicals—the changes are in fact real and will have an incremental impact on the ability of workers not only to protect themselves but also to engage in strategies to protect the future of their occupational health and safety.

I also need, before I get into the detail of the bill, to talk about the history of how this sort of legislation came into being. The bill that governs occupational health and safety of Commonwealth employees at the moment was actually introduced in 1991—fairly late in respect of the modernisation of occupational health and safety laws. That occurred in the states first, commencing in Victoria in 1985 with what was considered to be the world-leading, cutting edge occupational health and safety of the day. It was introduced by the Cain Labor government in Victoria when they had a very small window of opportunity by having, for the first time ever in the history of Victoria, control of—or the numbers in—the upper house for a very short time back in 1985. History will tell us that, at the last state election in Victoria, for the second time in Victoria’s history, the Labor government managed to win control of the upper house. They have embarked on substantial reforms to give that archaic house true democratic values, where one vote in the upper house in Victoria now will have one equal value—quite an overdue reform. But the reforming nature of the Cain government in introducing the legislation in 1985 led to most other states copying that legislation very quickly and, finally, the Commonwealth doing so in 1991.

It did so by introducing a tripartite structure of cooperation between government, government agencies, experts in occupational health and safety, the employees, through their unions, and of course employers. The whole backbone or cornerstone of this new, modern approach to occupational health and safety was a collaborative approach of self-regulation and cooperation between government employees and employers. If we were going to move away from what was historically a very prescriptive regime—where there were lots of regulations that required people in different circumstances to apply prescriptive legislation that did not necessarily meet their needs or provide the necessary flexibility and optimum occupational health and safety outcome for employees—we needed to go to an approach where we shared the values to make
workplaces safer. Of course, if we were going to move to a collaborative, tripartite approach, it was absolutely essential that everyone had an equal part to play and an equal responsibility and equal authority in determining those areas.

That is what modern occupational health and safety legislation did. It enabled and in fact compelled employees and employers to work together to solve occupational health and safety hazards and problems. It gave rights to employees through the election of occupational health and safety representatives to represent them to management and it gave those representatives some rights. Those representatives had rights to issue provisional improvement notices, in the case of Victoria. The terminology is slightly different across most states, but I understand that that is also the wording used in the Commonwealth legislation.

Those notices were able to be issued after discussion and consultation with the employer to put in place a legal obligation on employers to make the improvements specified in the notices. If the employer ultimately did not agree, there was an ability for the employee to appeal, and of course then the government agencies would come in and look at the issues and make a determination and issue their own legally enforceable notices in the form of improvement notices, directions or recommendations.

As someone who was working in a blue-collar industry as an electrician at the time of the introduction of that legislation, I can tell you, Mr Deputy President Barnett, that it was a revolutionary approach where, instead of simply having signs up in the workplace instructing workers to be more careful with their occupational health and safety, the signs said: ‘When you are lifting something heavy, mind your back,’ as though somehow, if you did mind it, that will make what you were lifting much lighter. Signs like ‘Watch out for hazardous objects’ made employers feel that they were doing something for their employees. But of course what it was saying to workers—I thought it was quite disgraceful—was either, ‘You are too stupid to look after your own occupational health and safety,’ or, ‘You care so little about your own occupational health and safety you need some sign up to remind you that your own safety and health in the workplace is important to you.’

Of course the reality at that time and much of the reality today is still that employees have little control over the workplace. They have little control over how it is designed, they have little control over how the process of work is designed and implemented by management, and they have little control over or say about what chemicals are used. They have little control over or say about the materials, the weights being lifted or the purchase of capital equipment to make the workplace safe. Employees do not have that control. One of the great things about the existing legislation is that it forced employers and employees together, with government assistance when necessary, into an arrangement where they had to look at those problems and resolve them together. The employees had rights that they could exert to ensure that injuries were either mitigated or reduced and engineered out of the workplace. That is modern occupational health and safety, and it only works if the employees also have some rights to implement these actions.

What we see, unfortunately, with this particular piece of legislation is a cutting back of those rights—I can only suggest it is due to the ideological hatred that the government have of unions. They seek to completely write unions out of this legislation. The role of unions in implementing occupational health and safety reform in this country has been exemplary. It is beyond reproach. The
unions have invested a lot of money, a lot of research and have put an enormous amount of work into the occupational health and safety not only of their members but of workers generally across the country. Of course, many workers owe improvements in occupational health and safety to unions, even though they have not been members of unions; and, of course, that is something that the government would like to forget.

This government will tell us that this legislation still gives workers as individuals some rights. But, again, let me say that, if you do not equip people with the capability of exercising those rights and the knowledge to use those rights in a constructive way, those rights become quite meaningless. If unions are not able to help and assist their members in negotiating new agreements, new provisions, and organising—and using experiences which they have learnt elsewhere, applying them to each individual workplace and setting standards across industries—those rights become a mishmash of useless and uncoordinated activity which does not do anything for the general improvement of occupational health and safety throughout industry. That is to be regretted. It is a most unfortunate thing.

Unions organise and identify occupational health and safety hazards, sometimes investing enormous amounts of money in developing strategies to mitigate or eliminate that risk, and then they are able to apply those across the board. This legislation says: ‘We don’t want collectivism of any form.’ This is the government’s ideology in the extreme. ‘We want every individual to sit down and reinvent the wheel. If there is a hazard identified first, we do not want them having knowledge that that hazard is common across different parts of industry and that there are solutions that you could effectively purchase off the shelf. We want people to sit there in little cocoons—without any knowledge about what is happening in similar industries elsewhere or about similar hazards, and with no resources as individual workers, who most likely will not have the skills to enable them to research and find out what is a proper solution—and try to come up with what is an adequate standard to be applied.

I first entered the workforce as an apprentice electrician. When I first raised the issue of asbestos, because the unions were agitating and advising us that asbestos was dangerous, I was assured by the most senior authority figure with whom I had ever had any dealing in my workplace that the claims were a load of nonsense, that there was nothing wrong with asbestos, that he had used asbestos his whole life and that he was living proof that there was nothing dangerous about it. I sat down and thought of the logic behind that: someone who was not living proof, someone who had died of asbestosis, would not, logically, be there assuring me that asbestos was dangerous because they had already suffered the consequences.

We have always had management at different levels deny that things are actual health and safety problems, deny that there are solutions that can be implemented. Often they assure workers that what the workers say is a problem in their view. That has been proven wrong time after time. That is why the removal of the rights of unions and occupational health and safety reps to exercise those powers to readress the balance of their negotiating ability within the occupational health and safety framework will lead to poorer occupational health and safety outcomes in this country—all because the government have an ideological hatred of unions and simply seek to remove them whenever they can regardless of the circumstances.

The government really should look beyond its own ideological agenda in this area
and look at what occupational health and safety is all about. I know some may be sitting in their offices trembling about the next severe paper cut that they may have inflicted upon them, but the figures I read out at the beginning of my contribution reflect the seriousness of occupational health and safety in the workplace. It absolutely dwarfs accidents, injuries and deaths from motor accidents. We often see headlines about the road toll on the weekends. Yet we are averaging 10 deaths a week, week after week after week, in this country, from traumatic injuries at work. We know many of those accidents can be avoided and should be avoided. They are avoided in many instances. In fact, I would say, in most instances, where there is a genuine commitment to occupational health and safety and where both parties work together in a collaborative format we avoid serious accidents and injuries.

We know, as I have also indicated, that for many more decades we are going to suffer an increase—until a peak, probably in about 30 years time—in asbestos related deaths. Those deaths could have been avoided. Every single one of those deaths could have been avoided. If the employers who manufactured asbestos—and it is documented that they knew right back in the twenties, as I understand it, that asbestos was dangerous—had lived up to their obligations, tens of thousands of people would not be dead and tens of thousands of people would not die in the future.

This is a serious issue. This government really should get over its ideology about unions and recognise that occupational health and safety representatives need resources. Those resources are only going to be provided by unions. Employers are not going to do it; if they were going to do it they would be doing it already. The government clearly is not going to do it; they have already wound up the National Occupational Health and Safety Commission. The OH&S representatives need that and they need the support of the unions.

Senator WONG (South Australia) (4.47 pm)—I first extend to the chamber my apologies for my late arrival to this debate and thank Senator Marshall for his excellent contribution indicating Labor’s position on the Occupational Health and Safety (Commonwealth Employment) Amendment Bill 2005. As the chamber will no doubt have discerned, Labor will be opposing the bill in its current form. We do so for a range of reasons.

The bill proposes the removal of the need for government agencies to negotiate occupational health and safety agreements with unions and employees through the introduction of so-called management arrangements. As Senator Marshall has identified, the bill removes references to unions and replaces them with a reference to employee representatives, defined either as a registered organisation or a workplace staff association, who are now required to be invited into the workplace by an employee.

The bill will require that an employee invite an employee representative to initiate an OH&S investigation, whereas previously a union could make a request to investigate a workplace direct to Comcare. Employee representatives involved in developing OH&S management arrangements must be issued with a certificate by the CEO of Comcare, valid only for a period of 12 months. And, finally, the bill empowers employers to conduct the election of employee health and safety representatives, a role previously conducted by a union or a person specified by the National Occupational Health and Safety Commission, which the government proposes to abolish.

Australia continues to have a very poor record with respect to work related death,
injury and illness. It is estimated that there are around 3,000 work related deaths in Australia each year which, as Senator Marshall and others in previous debates related to occupational health and safety have indicated, is more than the national road toll. Broken down, nearly 450 of these work related deaths—an average of 10 per week—are a result of a traumatic incident at work, including work related road deaths. A further 150 deaths occur while Australian employees travel to or from work, with about 200 per year dying as a result of someone else’s work activity.

In 1996, the National Occupational Health and Safety Commission in its research arrived at a conservative estimate that at least 2,300 people died each year as a result of work related exposure to chemicals. Clearly, that number does not reflect the current extent of death from occupational disease. In the near future this figure may rise due to the expected increase in asbestos related deaths—a tragedy that, unfortunately, for many decades has continued its assault on working Australians, particularly through the Wittenoom disaster and, of course, the James Hardie disgrace. Australia has the highest incidence of asbestos related death in the developed world. The incidence in Australia has been rising steeply since 1970 and it is estimated that the total number of asbestos related deaths will reach at least 40,000—perhaps as many as 60,000—by 2020. Approximately 480,000 Australian employees experience a work related injury or illness each year. That translates to millions of Australians suffering from work related long-term health conditions, and each year there are around 140,000 compensated work related injuries resulting in an absence from work of one or more weeks.

The bill before the chamber proposes to amend the Occupational Health and Safety (Commonwealth Employment) Act 1991. The principal act provides a legal basis for the protection of the health and safety of Commonwealth employees in departments, statutory authorities and government business enterprises. This bill is the third attempt by the Howard government to introduce the provisions it contains—namely, the removal of unions from workplace occupational health and safety institutions.

The principal act is similar to counterpart state and territory legislation in that it follows the Robens model. This model stems from the report of the Committee on Safety and Welfare at Work commissioned by the United Kingdom parliament in the early 1970s as a means of reducing the incidence of workplace deaths and injury. Essentially, that approach recommended greater self-regulation in the workplace through a collaborative approach between employers and employees, including through the relevant unions. The principle of freedom of association was an important aspect of the Robens approach.

The Robens model has largely been followed in subsequent and similar inquiries conducted both by the states and by the Commonwealth. Consequently, occupational health and safety committees have now become a familiar part of the industrial landscape across Australia. The effectiveness of the Robens approach has been supported by the National Occupational Health and Safety Commission, which said in November 2002:

... there is indirect but strong evidence that employee participation, either direct or representative, is an essential component of effective occupational health and safety management.

The government’s first attempt to remove the role of unions in occupational health and safety matters was its Occupational Health and Safety (Commonwealth Employment) Amendment Bill 2000. That lapsed with the prorogation of the parliament for the 2001
election. However, before the lapse of the bill, the Senate Employment, Workplace Relations, Small Business and Education Legislation Committee prepared a report on the bill’s provisions.

The essence of the Labor senators’ report on the bill was threefold. First, there was a rejection of the reduced role for unions under the proposed act. In particular, Labor senators were of the view that the government’s position was driven by ideological rhetoric associated with labour market opposition. Second, concern existed over the ‘vagaries’ of the proposed ‘safety management arrangements’, especially given the ongoing success of the existing policy approach. Labor senators gave qualified support for a more flexible, dual civil and criminal system of OH&S enforcement and compliance.

In their report on the bill, the Democrats took a slightly different approach, which Senator Murray may comment on in his contribution to this debate. The Democrats argued that the 2000 bill should be passed with amendments. Senator Murray’s report on that legislation stated, amongst other things:

A key area of concern to us is the place of unions in the maintenance and advancement of workplace health and safety. Unions supplement the regulatory and inspectorial roles of State H&S departments in an irreplaceable way. Unions as a whole sometimes get criticised as a result of the actions of some unionists in misusing the provisions of the various State health and safety Acts. Such unionists raise non-existent H&S issues to achieve other industrial objectives, and misuse entry and search provisions under the pretext of H&S. Such behaviour needs to be addressed. However the way to deal with those abuses is not to clamp down on legitimate useful or effective union H&S activity.

I want to emphasise that we have had the commission, the government’s own body—although the government is now seeking to abolish it, if it has not already done so—indicating that union involvement, ‘employee participation, either direct or representative’, is an essential component. The point made by Senator Murray, which has some cogency, is that you should not throw the baby out with the bathwater—that you deal with any inappropriate activity but you ought not ‘clamp down on legitimate useful or effective union H&S activity’.

The government’s second attempt to attack unions’ involvement in health and safety occurred in June 2002 with the Occupational Health and Safety (Commonwealth Employment) Amendment (Employee Involvement and Compliance) Bill 2002. The 2002 bill was referred to the Senate Finance and Public Administration Legislation Committee, with Labor senators again recommending the amendment of the bill to remove provisions designed to reduce or remove union involvement in health and safety outcomes. As I understand it, the Democrats’ position in relation to the 2002 bill remains unchanged. While some elements of the 2002 bill were subsequently enacted in the 2004 legislation—the Occupational Health and Safety (Commonwealth Employment) Amendment (Employee Involvement and Compliance) Act 2004, which introduced a more flexible compliance regime—Senate amendments supported by Labor and the Democrats significantly diluted the original intent and key provisions of the 2002 bill.

What we have before the chamber in the 2005 bill is essentially amendments modelled on provisions which have been unsuccessfully brought before parliament in 2002 as part of the 2002 bill. The bill before the chamber proposes the introduction of ‘management arrangements’ to replace occupational health and safety agreements traditionally developed through tripartite processes between unions, employers and employees. The arrangements replace the requirement for government agencies to negotiate health
and safety agreements with unions and employees to govern occupational health and safety matters. Current legislation requires occupational health and safety committee meetings every three months, with minutes of the meetings to be kept for three years. These timeframes will now be decided by the ‘management arrangements’.

The bill also intends to remove all references to ‘unions’ and replace the term with ‘employee representatives’, defined as either a ‘registered organisation’ or a ‘workplace staff association’. The latter is defined as an ‘association of employees, a principal purpose of which is the protection and promotion of the employees’ interests in matters concerning their employment’.

Additionally, the bill indicates that, under the amended legislation, employee representatives must be invited into the workplace by an employee. And, under the provisions of the bill, an employee must invite the ‘employee representative’ to initiate any investigation into occupational health and safety matters. Under the current act, as I indicated earlier, a union is able to directly request that Comcare investigate a workplace. The bill also proposes that employee representative organisations request the right to be involved in consultations regarding occupational health and safety by submission to the chief executive of Comcare. The Comcare chief executive may, or may not, issue a certificate with whatever conditions are deemed necessary, with validity for a fixed period of 12 months.

Finally, the bill also provides for employers to conduct the election of employee health and safety representatives, a role previously conducted by a union or a person specified by the National Occupational Health and Safety Commission. In both 2000 and 2002 the government failed to outline a sound analysis as to why the current provisions and policy approach of the act needed to be changed. Nothing has changed with this bill, and the government has not put forward its analysis or evidence as to why the bill needs to be supported in its current form.

The fact is that occupational health and safety matters are most effectively developed through tripartite processes involving unions, employers and employees, based on the Robbens model. This bill, as I have outlined, dismantles this tripartism, making it more difficult for employees to be adequately represented on these matters. The bill proposes to remove all references to unions in the act. This effectively means that the role a trade union currently fulfils may be replaced by a workplace staff association. This could be merely a social club and may not fulfil the requirements mandated to trade unions, such as their democratic processes and their independence.

The consequences of the bill are fairly plain to see. By devolving responsibility from unions to employee representatives, as the bill proposes, strong occupational health and safety processes and outcomes will be increasingly difficult to enforce. It appears from this legislation that the government’s intent is to throw employees back on their own resources instead of utilising the health and safety expertise built up over many years by trade unions and their membership. Employee representatives will lack the independent information and assistance currently provided by unions, while representatives themselves are less likely to be forthcoming in occupational health and safety negotiations with their employers. As well, the proposal that a union member must seek permission from a public official, who may or may not agree to involve the union representative in a health and safety matter, is not only counter to good public policy but is likely to be in breach of the terms of ILO convention
87, to which Australia became a party in 1973. Finally, the bill proposes that employers, not employees, control the elections of their health and safety representatives.

To characterise this legislation, it is fundamentally about shifting responsibility, power and access to information away from trade unions as representatives of employees towards the employer and towards individual employees without the support of their trade unions. The bill, as I have outlined, also creates a far more bureaucratic and difficult process for employees to advocate on behalf of health and safety issues and, perhaps more importantly, for trade unions to initiate investigations by Comcare. You have to wonder why the government would seek to play politics with occupational health and safety simply by virtue of its disregard and blatant hatred of the trade union movement. There is demonstrable evidence that involvement of trade unions through tripartite processes over many years has had a measurable and significantly positive effect on health and safety outcomes. The government does not worry about that; the government is more keen on attacking the role of unions and rights of unions to be involved in workplaces than on looking at what is the best public policy to minimise injury to Australian workers in Commonwealth agencies.

As I said, one of the aspects of the bill is that employers, not employees, will control the election of their health and safety representatives. You have to ask why it is that the Commonwealth wants to ensure that that occurs. What is so frightening about a trade union or an independent body determining and ensuring that elections of health and safety representatives are undertaken appropriately? What is the public policy argument for the government or the employer to control the representatives of employees in relation to health and safety? Frankly, this provision is nothing more than a blatant attempt to diminish and ultimately remove unions from the health and safety process within the Australian public sector. This bill represents the government’s third attempt to put legislation in place that seeks to deny Australian employees the basic and fundamental right to be represented by a union if they so choose. It is a piece of legislation driven by the Howard government’s extreme ideology rather than any sense of sound public policy outcomes.

The fact is Australian trade unions have a strong track record of protecting employees from unsafe work practices and unsafe workplaces. It is clear from the evidence in Australia and internationally that health and safety outcomes are highly dependent on high levels of worker participation and union support. If you look at this research, some of which was referred to earlier, you see that removing the role of unions and replacing them with management-driven processes is likely to lead to less safe and less healthy workplaces.

Unions have a legitimate role to play in the monitoring and enforcement of health and safety matters in the public sector. Unions exist as a very important and necessary safeguard to protect employees when a breakdown on health and safety issues has occurred between an employee and an employer. This view recognises, of course, the many examples where these health and safety issues arise on a daily basis and employees, between themselves or with their managers, resolve them efficiently and expeditiously. In such cases, the involvement of unions as a third party is not a prerequisite and often does not occur because it is often not required. There is no mandatory involvement of unions in such issues, despite the fact that the government would like to construe the argument in that way.

We already have both union and non-union employees working cooperatively with
management and achieving results, so for the
government to now attempt to ostracise un-
ions completely from health and safety mat-
ters is comprehensible only if we appreciate
the ideological war being waged by the
Howard government. The changes contained
in the bill are unashamedly anti-union, based
as they are on the extreme ideological view
of those opposite: that neither an individual
trade union nor the organised trade union
movement has a role to play in the work-
place.

Workplace health and safety must be a
priority. It must be adequately resourced for
employers and employees to enforce effec-
tive occupational health and safety rules and
regulations. This is incumbent upon all in the
workplace because no-one wins if working
conditions deteriorate or when workplace
accidents occur. It is unfortunate that the
government’s priority of its ideological at-
tack on trade unions seems to outweigh the
priority of good public policy to ensure good
workplace health and safety in the public
sector. The bill is ill-conceived; it is nothing
more than an ideological attack on trade un-
ions with no public policy benefit. We op-
pose this legislation.

Senator MURRAY (Western Australia)
(5.06 pm)—The Occupational Health and
Safety (Commonwealth Employment)
Amendment Bill 2005 before the chamber,
broadly speaking, aims to remove the auto-
matic right of unions to provide occupational
health and safety representation and is simi-
lar to bills introduced in parliament in 2000
and 2002. The government’s first attempt at
these provisions was its Occupational Health
and Safety (Commonwealth Employment)
Amendment Bill 2000. That bill was subject
to a Senate inquiry, and in the Democrats’
minority report to the report on that bill I
said:

A key area of concern to us is the place of unions
in the maintenance and advancement of work-
place health and safety. Unions supplement the
regulatory and inspectorial roles of State H&S
departments in an irreplaceable way. Unions as a
whole sometimes get criticised as a result of the
actions of some unionists in misusing the provi-
sions of the various State health and safety Acts.
Such unionists raise non-existent H&S issues to
achieve other industrial objectives, and misuse
entry and search provisions under the pretext of
H&S. Such behaviour needs to be addressed.
However the way to deal with those abuses is not
to clamp down on legitimate useful or effective
union H&S activity.

Evidence was strongly expressed on this issue,
and the Democrats will need to assess whether the
intentions of the Bills goes too far in this respect.
In my view union officials with expertise in H&S
should continue to be involved as appropriate in
workplace health and safety.

The 2000 bill was never dealt with in the
Senate chamber as it turned out; instead it
lapsed with the prorogation of the parliament
for the 2001 election. The second attempt for
this legislation was through the expanded
Occupational Health and Safety (Common-
wealth Employment) Amendment (Employee
Involvement and Compliance) Bill 2002,
which in March 2004 passed amended, with-
out the offending provisions and with the
support of all parties. The 2002 bill passed
with the support of all parties because the
Democrats successfully negotiated for the
provision relating to changing the role of
union involvement in occupational health
and safety to be excised from the bill to en-
sure the passage of the remaining provisions
through parliament.

For the sake of the media, the public, the
unions and industry groups I want to take a
minute to expand on what I have just said
and to emphasise the valuable role the De-
mocrats played in the balance of power in
the Senate from 1996 to 2005 and in the
years before and what it now means without
it. On industrial relations in particular, the
portfolio I have held since 1996, the Democ-
rats have played a balancing role between two often ideologically opposed parties. We are not beholden to big business and we are not beholden to the unions. We do judge legislation on its merits and we try to take a practical, pragmatic and sensible view even while trying to be consistent in terms of our principles.

During the Howard government’s first three terms, 18 industrial relations bills passed the Senate. Six were passed by the coalition, Labor and the Democrats all voting together; 11 were negotiated and amended by the Democrats and opposed by Labor. The 2002 bill, eventually supported by all parties, had two goals: one was to remove the automatic right of unions to provide occupational health and safety representation, and the other goal was to introduce a new penalty and enforcement regime. The new penalty and enforcement regime had the strong support of the unions and industry groups, and both sides were keen for the regime to be implemented. Not surprisingly, the unions were opposed to removing the automatic right of unions to provide occupational health and safety representation.

Whilst the government’s proposal was along similar lines to those that existed in the states, and it is obviously desirable to harmonise legislation on occupational health and safety wherever possible, the Democrats were concerned that the intention of the bill went too far. As noted in the Democrats’ minority report to the 2002 bill, in which I included a comparison of state legislation, the various state legislations still included a role for unions. For example, the New South Wales Occupational Health and Safety Act 2000 allows and allowed for a union representative to be present at inspections, and that principle had been present throughout both Liberal and Labor governments.

It was and still is our view that union officials with expertise in occupational health and safety should continue to be involved as appropriate in workplace health and safety. We raised our concerns with the government and suggested some alternative provisions. The government undertook to consider our suggestions and, for the sake of facilitating the passage of the remaining provisions in the bill—and, remember, they were wanted by all the parties—the government agreed to set aside the contentious provisions. The Democrats were able to, in the balance of power, negotiate the passage of legislation supported by all parties and stakeholders while delaying those controversial provisions for further consultation.

Within a month of the government taking control of the Senate, the government reintroduced the contentious aspects of the original 2002 legislation. Not only has it failed to address any of our previous concerns; it has introduced new provisions which further impinge on union representation. It is difficult to treat this bill with any credible feeling given its track record and the fact that the current bill was introduced in the House of Representatives over 12 months ago and we are only now getting round to dealing with it in the Senate. Such a long delay can only lead one to conclude that the occupational health and safety procedures as they currently stand in Commonwealth workplaces are not really a problem and do not need urgent revision. What one can conclude is that, when you get round to it, having a smack at the unions can be done in your own time!

Statistics suggest that the current Commonwealth occupational health and safety act has resulted in a better, perhaps the best, safety record of all jurisdictions. The Workplace Relations Ministers Council reports from 2002 and 2004 show that, in 2000-01 and 2002-03, the Commonwealth jurisdiction resulted in fewer injuries resulting in five or
more days compensation per 1,000 employees than the state jurisdictions. And injuries have been decreasing: claims accepted per 1,000 employees reduced significantly in the Commonwealth, from 61.8 in 1996-97 to 51.7 in 2001-02. I do not have any updated figures since then, but I expect the trend will have been maintained.

I would go so far as to suggest that, rather than address any real problems, the sole purpose of this bill remains to further undermine the role of unions. This is despite national and international evidence that shows that union involvement in occupational health and safety is beneficial. If that turns out to be true, what you are doing is playing with people’s welfare for political reasons, and no government should have that on its conscience. Having said that, it is the case that Australia continues to have a poor record with regard to work related death, injury and illness. The question must be, then: will this legislation actually improve that record or worsen it? If it does not improve that record it will, of course, be failed legislation.

A relatively recent study by Access Economics estimated that there are 4,900 work related deaths—‘work related deaths’ means including from work related diseases—each year in Australia. As Senator Marshall pointed out, this is higher than the national road toll; it is double. The Australian Bureau of Statistics reports that half a million Australians suffer from a work related injury or illness each year. Approximately 2.8 million Australians have long-term work related conditions. It is also estimated that 3.9 million work related problems and 1.1 million new work related problems are handled each year by general practitioners. Frankly, when I first came across those figures, the quantum surprised me. The point is that, if this country dedicated as much public exposure and attention—that is, the same level of media exposure and the graphs and tables and so on that go with it—to workplace injuries and deaths as it does to road tolls, we could considerably improve the understanding of the extent of this problem.

The government has not produced any evidence to suggest that its amendment bill will improve these sorts of statistics. However, there is evidence that suggests that reducing or excluding the role of unions will have a negative impact. The Bills Digest to this current bill notes that leading occupational health and safety experts, Johnstone, Quinlan and Walters, have recently argued that there:

... is no reliable evidence of the effectiveness of arrangements to represent workers’ interests in OHS in which trade unions are not involved in a supportive and enabling capacity.

Rather, as noted in the Bills Digest, they argue the opposite:

... the analysis of international research suggests that consultative arrangements and union representation:

on health and safety at the workplace are associated with better health and safety outcomes than when employers manage OHS without representative worker participation.

A group of British researchers analysed the relationship between worker representation and industrial injuries in British manufacturing. They found that those employers who had trade union health and safety committees had half the injury rate of those employers who managed safety without unions or joint arrangements. In Canada, a study by the Canadian ministries of labour found that union supported health and safety committees have a significant impact on reducing injury rates. A report by the Ontario Workplace Health and Safety Agency found that 78 to 79 per cent of unionised workplaces reported high compliance with health and safety legislation, with only 54 to 61 per cent of non-unionised workplaces reporting such compliance.
In Australia, unionised workplaces are three times as likely to have a safety committee and twice as likely to have undergone a management safety audit in the previous year than non-unionised workplaces. A 1995 World Bank report stated:

Trade unions can play an important role in enforcing health and safety standards. Individual workers may find it too costly to obtain information on health and safety risks on their own, and they usually want to avoid antagonizing their employers by insisting that standards be respected.

What has changed since then? That was 11 years ago. I follow these issues reasonably carefully. The United Kingdom’s Robens committee report, which led to Australia’s occupational health and safety laws being revolutionised after the 1970s, recognised the unique role of the representatives of employees—namely, unions—and stated that, whereas individual employees may not have had personal experience of health and safety adversity, collective organisations acquired what now may be called ‘corporate knowledge’ of OH&S issues, particularly those specific to an industry.

The evidence suggests that union involvement in occupational health and safety is beneficial, yet the bill before us reduces this significantly—if not eliminating union involvement altogether—in many workplaces. Specifically, the bill will remove the need for government agencies to negotiate occupational health and safety agreements with unions and employees through the introduction of management arrangements. The bill will remove all references to unions and replace them with references to ‘employee representatives’, defined as either a ‘registered organisation’ or a ‘workplace staff association’, which must now be invited into a workplace by an employee. The bill will require that an employee invite an employee representative to initiate any occupational health and safety investigation, whereas previously a union could make submissions directly to Comcare for a request to investigate a workplace.

The bill will require employee representatives involved in developing occupational health and safety management arrangements to be issued with a certificate by the chief executive officer of Comcare, valid for only a 12-month period. The bill empowers employers to conduct the election of employee health and safety representatives—a role previously conducted by a union or a person specified by the National Occupational Health and Safety Commission, which, as we know, no longer exists.

I note that, in the inquiry to the 2002 bill, the department stated that the bill did not exclude unions from involvement in OH&S, although any involvement required a request to be made by one or more of their members. My impression then and now is that this approach does not seem to put a high enough value on union activity in this field. The Bills Digest, in respect of the bill before us, warns that new provisions—specifically the more stringent certification process involving an administrative decision-maker and the possible reluctance by employees to request representation without the assurance of anonymity—may prove to be a strong deterrent for seeking employee representation. The Bills Digest further notes that even the unintended exclusion of unions from representing employees in OH&S consultations may have the effect of weakening OH&S for Commonwealth employees overall.

The question before me is how, on behalf of the Democrats, I should handle this bill, given that, on the one hand, evidence suggests that union involvement in occupational health and safety is beneficial and, on the other, the government has demonstrated that they are not interested in negotiating a
workable solution which is acceptable to all parties with respect to that issue. We could just oppose the bill based on its explicit intention of reducing union involvement in occupational health and safety, or we could try to amend the bill to an ideal level, knowing that the government has rejected our previous suggestions. Instead, I have approached a number of people and got some assistance, including from the CPSU, and have put together some amendments which I think maintain the intent of the bill but improve the transparency and integrity of the proposed new process.

On this occasion, the Democrats believe that it is better to try and achieve a reasonable outcome and appeal to the government’s reasonable side, if that exists. Given that the government have only supported four non-government amendments since 1 July 2005, compared to the 115 they accepted in 2004-05 which still exist, I will not hold my breath. I think it is to the great discredit of the government to now take the view that all wisdom resides on their side, that they are perfect, that they always know best and that everything they do is right. If they can accept a couple of hundred amendments every year from 1996 onwards, which are still in legislation, and realise that those amendments actually improved the circumstances of the bills before them, I find it very odd that, to date, only four non-government amendments have been accepted. Hopefully, the Australian people will get the message and will take control of the Senate away from them. I will discuss the detail of the amendments in the committee stage, but I indicate now that the Democrats will not support the bill without our amendments being accepted.

Senator SIEWERT (Western Australia) (5.23 pm)—The Australian Greens will oppose the Occupational Health and Safety (Commonwealth Employment) Amendment Bill 2005. We see this as yet another attack on Australian workers. In the last 12 months, the Howard government has fundamentally changed the way Australians are employed, and this is yet another go at watering down safety standards for workers of Australia. The bill proposes to dramatically reduce the role of unions in relation to occupational health and safety arrangements in Commonwealth workplaces. It will affect the powers of Comcare and those of health and safety representatives in Commonwealth workplaces. As has already been stated by other senators, this government has had three separate attempts to pass this legislation. Now that the government has the numbers in the Senate, it unfortunately seems that it will be successful this time.

We do not believe there is a need to change the system. On any real measure of health and safety performance, the current Commonwealth OH&S system is effective and efficient. It has a good track record of protecting employees and costs less than other similar compensation schemes. It has the best safety record in Australia: 30 per cent fewer injuries than New South Wales and 24 per cent fewer than Queensland, for example. Workers compensation premiums for the Commonwealth are much lower than those paid by the states; for example, compared to New South Wales they are three times lower, and Western Australia, Victoria and South Australia pay twice as much.

The existing Commonwealth system is the best in Australia. We believe that short-changing safety will cost us dearly. International research and experience clearly shows that when employers manage occupational health and safety without worker representation the results are much worse. This costs the employers in lost time and productivity and ultimately in increased payouts for disability and damages. Of course, it also costs the workers and their families through added dangers in the workplace and the conse-
quences of them on their health, wellbeing and livelihoods. It costs the nation in lost productivity in our economy, in the burden of caring for those made sick or disabled in the workplace and in our international reputation. These are ideologically motivated decisions that, to my mind, make no sense.

As has been articulated previously, this bill empowers employers to control the election of employee health and safety representatives. This is a role which would have previously been undertaken by a union or by a person specified by the National Occupational Health and Safety Commission. The bill makes it much harder for Commonwealth employees to get union assistance on OH&S issues. This is likely to lower health and safety standards in some areas of great importance to the national interest—for example, the defence forces, the Federal Police, scientists, researchers and technicians, and the staff of government departments and agencies.

The bill removes all references to unions in OH&S and replaces them with references to employee representatives, defined as either a registered organisation or a workplace staff association, which will now be required to be invited into the workplace by an employee. The bill goes further to remove the need for government agencies to negotiate occupational health and safety agreements with unions and employees, replacing them with what it calls ‘management arrangements’. The bill requires that an employee must invite an employee representative to initiate an occupational health and safety investigation before a dangerous or unhealthy situation can be dealt with. Previously a union could make a request directly to Comcare to investigate a workplace where they had safety concerns.

The bill also requires employee representatives involved in developing occupational health and safety management arrangements to be issued with a certificate by the CEO of Comcare. The certificate will only be valid for a 12-month period and will require the employee to be re-registered when it expires.

The bill includes changes to introduce ‘in writing’ requirements, meaning that health and safety management arrangements which are developed by an employer in consultation with an employee will now have to be in writing. The in-writing provisions of the bill mean that these written instructions resulting from the safety management arrangements will not be legislative instruments. Once they are written, they are immediately in effect. As a result these written instructions will not be subject to parliamentary scrutiny—they will not be disallowable.

What are the implications? The more stringent certification process is likely to be a strong deterrent to employee occupational health and safety representation. In the past, all OH&S representation was—by virtue of being through a union—confidential. Now a third party has been imposed—that is, Comcare—which decides whether or not this representation can be confidential and then issues a 12-month certificate. What happens if they decide that the representative cannot keep their identity confidential? What happens if they lose their job as a result? What happens when 12 months is up—will the certificate be renewed?

I cannot see what these arrangements could possibly hope to achieve other than to make representation more difficult and to give the Commonwealth the power to administratively interfere in health and safety representation—to reduce the number of investigations and complaints. Is there any evidence that spurious occupational health and safety investigations are costing us time and money? Is it anything like the amount of time and money bad occupational health and
safety costs us in lost productivity, lost workdays, lost limbs and lost lives? This can only be bad for the safety of our workplaces and the health of Australian workers.

The exclusion of unions from occupational health and safety consultation, irrespective of whether this is an indirect consequence or deliberate intention of the legislation, can only weaken occupational health and safety for Commonwealth employees. International research and experience clearly shows that when employers manage occupational health and safety without union representation the results are much worse. In the past unions have played a significant role in occupational health and safety training and education. Now what will happen? Will they have enough knowledge and ongoing connection to our workplaces to make it relevant?

The impact on the economy of time lost to health and safety problems versus time lost to industrial action is 20 to one. The very minor gains the government may hope to make through the wider Work Choices agenda—possibly through reducing the already low levels of industrial action in Australia, by world and OECD standards—are far outweighed, even overwhelmed, by even a small increase in occupational health and safety costs. Anyone doing a rational cost-benefit analysis of these changes would be aghast.

As has been stated in this debate, there are around 3,000 work-related deaths a year in Australia. There are at least 2,300 deaths per year as a result of workplace exposure to hazardous chemicals. That figure does not take into account the impact of asbestos—estimated to cause 40,000 to 60,000 deaths by 2020.

Each year, 480,000 Australians experience a work related illness or injury. Each year, 140,000 Australians are compensated for work related injuries that result in their missing more than a week of work. When you compare the Commonwealth occupational health and safety system with the state systems, you see that quite clearly the Commonwealth has the best record. If you look at the figures for injuries resulting in five or more days compensation per 1,000 employees, you see that in 2000-01 the Commonwealth had 12, New South Wales had 18.1, Queensland had 15.4 and Western Australia had 14.8. There are similar figures for the year 2002-03. The Commonwealth system is by far the most cost-effective system in Australia. Workers compensation premiums for 2000-01 as a percentage of payroll were: the Commonwealth, one per cent; New South Wales, 2.8 per cent; Queensland, 1.8 per cent; and Western Australia, my home state, three per cent. Again, for the following year, 2002-03, there were very similar relationships between costs. Quite clearly, this is a safe, cost-effective system. Why change it?

Union participation in occupational health and safety, as I mentioned earlier, is extremely important. The current best practice Commonwealth occupational health and safety system clearly benefits from the role of unions. Under current arrangements, all employees elect their occupational health and safety representative in a union-run ballot. Given that Commonwealth OH&S reps have the power to issue their employers with an improvement notice to rectify unhealthy or unsafe situations, equipment or practice, there would be a potential conflict of interest if the employer were to conduct the elections as this bill proposes.

The union has access to the names of these reps and plays an active role in supporting the reps and occupational health and safety committee members. Unionised workplaces are twice as likely to have undertaken a health and safety audit within the last 12 months and are much more likely to have a
health and safety committee—59 per cent of unionised workplaces versus only 19 per cent where there is no union support.

Research shows that workplaces with occupational health and safety committees have fewer compensation claims and the intentional or unintentional exclusion of unions can only weaken OH&S for Commonwealth employees. This government has a clear agenda to do away with employee representation in the workforce. If this is not simply union bashing, I do not know what is. This is a slippery slope for Australian workers. Their hard-won rights and conditions are at risk and now, again, so is their safety.

Unions play a significant role in improving occupational health and safety and have done so since organised workplaces began. As the most representative and independent organisations of workers they can seek to change policies and practices of both employers and governments. Unions seek to safeguard the occupational health and safety of their members and other workers by negotiating with employers to eliminate occupational health and safety risks and by conducting education and training programs for workers and job delegates. They protect workers who have the courage to stand up and bring a safety issue to the attention of their employer. They campaign for improvements to occupational health and safety programs and work practices. They take part in the administration and enforcement of occupational health and safety legislation. Unions have also devoted considerable energy to ensure injured workers are properly represented in workers compensation and common law damages claims, as seen in recent high-profile cases.

We are concerned that the rights of the 250,000 employees working in federal government departments to obtain help from unions on health and safety issues will be watered down. The National Occupational Health and Safety Commission in their April 2001 review of the effectiveness of OH&S management systems identified that independent representation of employees being encouraged and supported is a significant factor contributing to the effectiveness of these systems.

These unnecessary changes to occupational health and safety laws also appear to violate Australia’s ILO obligations including the Occupational Safety and Health Convention 1981 and the Right to Organise and Collective Bargaining Convention 1949.

The existing Commonwealth occupational health and safety system is the best in Australia. The current system is efficient and cost-effective. Changing the system will cost the Commonwealth and the community. There is much to be risked and nothing to be gained by changing the system. The current best practice occupational health and safety system benefits from the role of unions. These changes are ideologically motivated and wrong-headed and will not improve the system; they will make it worse.

Senator BARNETT (Tasmania) (5.36 pm)—I stand to speak in favour of the Occupational Health and Safety (Commonwealth Employment) Amendment Bill 2005. I will be making some arguments in favour of the bill, I will respond to and rebut some of the allegations and concerns that Labor—and, indeed, the Democrats and the Greens—have expressed regarding the bill and I will share two significant examples from Tasmania which I think underline the need for this type of legislation.

The bill contains amendments to the Occupational Health and Safety (Commonwealth Employment) Act 1991, which provides the legal basis for the protection of the health and safety of Commonwealth employees specifically in departments, statutory
authorities and government business enterprises. The Howard government believes strongly that safe and productive workplaces rely on a cooperative approach between employers and employees to identify and eliminate hazards that may cause injury or death.

In my view and in the government’s view, the bill not only improves protection for employees but actually improves workplace democracy, and I will speak more about that shortly. It removes the privileged role of unions in the workplace, specifically workplace health and safety arrangements. Labor has claimed during this debate and on the public record that if employers do not reach an agreement with a union this will weaken occupational health and safety protection for employees. This is totally and utterly false. The amendments made by the bill do not affect existing occupational health and safety policies. These policies are preserved. Indeed, in no way do they diminish the Australian government’s duty of care to its employees. Under the bill, employers are required to develop health and safety management arrangements in consultation with their employees rather than and specifically with involved unions. The amendments do not remove unions from the consultation process; they just remove the privileged role that unions presently enjoy. They also reflect that employers owe a duty of care, as I have indicated, to their employees, not to their unions.

The requirement for employers to develop health and safety management arrangements in consultation with employees as part of their general duty of care means that if an employer did not develop adequate health and safety management arrangements or if they did not undertake suitable or reasonable consultation with employees then the employer may be in breach of its duty of care to the employees under the act. That is reasonably simple, but Labor refuses to acknowledge the arguments put and to accept them as true.

Labor has also claimed that the powers for the unions to request an investigation, make appeals and request the institution of proceedings for occupational health and safety breaches are being removed. I want to make it clear that under the bill the powers for unions to request an investigation, make appeals and request the institution of proceedings for OH&S breaches are not being removed. Only Comcare and investigators presently have the power to institute prosecutions for offences against the act. This will not change.

The most significant amendments to the act involve removing the mandated right of ‘involved unions’ to intervene in occupational health and safety matters to the exclusion of other employees and their representatives in workplaces covered by the Occupational Health and Safety (Commonwealth Employment) Act. The bill also removes the requirement for employers to implement prescriptive and detailed OH&S policies.

So what are the main reasons for removing the mandated role for unions? You might think, as a prima facie case, that it is just a good idea, but let us look at the reasons behind this move by the government. Firstly, we believe strongly that safe and productive workplaces rely on a cooperative approach between employers and employees to identify and eliminate hazards that may cause injury or death. Secondly, it is an imperative that Australian government employers be required to consult with all employees, not just with the unions, specifically about the development and implementation of occupational health and safety arrangements.

Why should unions be given a mandated and privileged role as is currently the case? That is wrong, and we are going to remove that once this legislation is passed. And why
should they have a mandated and privileged role specifically with respect to OH&S matters in those workplaces covered by this act? So, consistent with the government’s belief that there should be greater cooperation between employees and employers at the enterprise level, the bill aims to enhance consultation and cooperation between employers and employees by facilitating a more direct relationship between them to address OH&S issues at their individual workplaces.

The removal of a mandated role for unions will simplify the process for the establishment of designated work groups. It will also simplify the election of health and safety representatives. I want to stress that, currently, that is limited to those employees nominated by the involved union. Why would that be the case? Because there is a history of Labor legislation and Labor union control of the workplace. That will change, and is changing, and we are seeing the benefits flowing through to the Australian community in terms of an increase in the number of jobs—175,000 new jobs since Work Choices came into being—and an increase in real wages of 16.4 per cent over the last 10 years under the Howard government. I will mention more about that in due course. It will also simplify the prescriptive requirements for the operation of health and safety committees.

We are looking at the end result of occupational health and safety of the employees. We are not looking at entrenching union involvement; we are not looking at entrenching certain procedures. We are looking at outcomes: what is in the best interests of employees.

Employees still retain the right to nominate to be represented by an employee representative—read ‘the union’—or an association in respect of their dealings with employers on OH&S matters. Employee representatives will have to be certified by Comcare and satisfy Comcare that an employee has chosen to be represented by that representative or association. The identity of the employee will remain confidential.

In terms of some of the arrangements, I wish to make it clear that the bill will also remove the requirement for the implementation of detailed health and safety policies and the requirement that these be developed in consultation with an involved union. Why on earth would you prescribe such an arrangement where the involved union has to be part of the process? Why is that a requirement? I will tell you why. It is because of the Labor-union relationship, where the unions have donated over $46 million to the Labor Party since 1996—and no doubt that figure is rising fast. They have an intimate relationship, and that is the reason they have entrenched the role of the union in this arrangement.

I have a couple of other comments about Labor’s opposition to the bill. I believe it is doing the bidding of the Community and Public Sector Union. I know that Labor claims that the bill is evidence of the government’s wish to diminish the rights of workers and to reduce the influence and role of unions in the workplace. Labor also believes that the unions should have a mandated and preferential role. That is Labor’s position. That is the position on the other side of this chamber. But it is not in the best interests of the workers and the employees around this country. In fact, Labor supports that view regardless of the wishes, in many respects, of the employees, the workers and their families. That is a point that I will be coming to very shortly, because there is evidence of that in Tasmania.

The Australian government believes workers and businesses should have the freedom to choose working arrangements which best suit their needs—the freedom
where workers choose whether to belong to a union or engage directly as an individual or workplace with their employer to set workplace agreements without third parties. Both the Labor Party and our government believe workers should have the right to be represented by unions. There is no argument about that. There is no debate about that. But the fundamental difference between the two parties is that Labor want union membership to the exclusion of all other options. In fact, they see that there is no alternative. I will give you a good example of that. Labor have opposed Australian workplace agreements as part of the framework for our industrial relations arrangements here in Australia. Why do they do it?

Senator Scullion—They want to scrap them!

Senator Barnett—That is what they want to do. Senator Scullion is entirely correct. They want to scrap them. They want to get rid of them. The Prime Minister proudly announced the one millionth AWA in Adelaide just a few days ago. I can advise the Senate that in Tasmania we have over 24,000 AWAs currently operating. In Tasmania at least, people on AWAs on average are earning 48 per cent more than people on an award. Why would you want to deny that of those working men and women and their families? Why would you want to do it?

It is because the Labor Party have a view which is ‘one size fits all’. The Leader of the Opposition, Mr Kim Beazley, has made it clear: he just wants awards or collective agreements. Collective agreements, really, are where the unions have control. They have a dominance in such agreements. He is listening very carefully to Greg Combet and is in fact doing the bidding of Greg Combet for and on behalf of the union movement. As I say, you know that link: it is there with the $46 million. Just follow the money. He who pays the piper calls the tune. With respect to the Labor Party, that is exactly what is happening.

In terms of AWAs in Tasmania, I want to make one point as an aside. Work Choices came in in March. In April, there were 150-odd AWAs. And what has happened since then? They have increased. There were 750 in the month of August and they are on the increase. We have over 24,000 now. People who are on AWAs are earning more, on average—48 per cent more in Tasmania—than those on an award. So why does the Labor Party want to deny those people that extra money?

The two incidents in Tasmania I want to refer to relate to occupational health and safety arrangements at the Beaconsfield mine. In today’s Australian, on page 3, a certain Bill Shorten is reported making certain comments. I am going to read those comments and then respond to them. The article is headed ‘Shorten demands reports on mine’ and says:

Australian Workers’ Union boss Bill Shorten has demanded the public release of safety reports and other technical documents relating to the Beaconsfield gold-mine tragedy after reports that management was warned of a potential disaster.

On Saturday, The Weekend Australian revealed that an independent expert’s report warned mine management three months before the Anzac Day rockfall that its mining method may have been inadequate.

Well! It goes on:

Greg Mellick is holding a closed-door inquiry into the disaster at the Tasmanian mine, which killed worker Larry Knight.

It talks a little bit more about Bill Shorten and his role. You see that Mr Shorten was involved in the preparation and signing off of the state government inquiry into the safety of the Beaconsfield mine. I just ask the question: is Bill Shorten doing this for the purposes of grandstanding over the Beaconsfield
tragedy? He says he is calling for the public release of those reports. But I find it bizarre because, on the other hand, he was involved and helped draft the terms of reference for the inquiry, and the reports are being subjected to that inquiry. Mr Shorten actually signed off on the inquiry. He had meetings with the Labor Premier of Tasmania, Paul Lennon. Now he is calling for the public release of the documents, when he has actually signed off on a closed door inquiry headed up by Greg Mellick, whose competence and capability I have the utmost respect for.

But I believe that it is double standards at work and that, if Mr Shorten has an issue with any of those reports or advice relevant to the inquiry, he should convey those concerns to those charged with determining the cause of the tragedy—Greg Mellick and his inquiry—and he should spare the people actually affected by the disaster any further anxiety and suffering. Beaconsfield and the people of Beaconsfield have had enough—they have had a kick in the guts, and the families concerned have had enough indeed—and it is not for Bill Shorten or anybody else to be grandstanding over this particular matter. I note that the Australian story quotes Lauren Kielmann, who is the late Larry Knight’s daughter. It says she:

... told The Australian yesterday she did not blame mine management for the rockfall that killed her father.

“It would have been better that they did follow up ... recommendations. But I think they did the best they could. It was just a horrible accident.”

So Bill Shorten is playing it up, and I would ask him to stop that and to actually apologise for any concern or offence that he might be causing.

I come to the other incident. The incident relates to a matter instigated by the state Labor government, being the appointment exclusively of four unionists in Tasmania—two from the AWU and two from the CFMEU—to undertake the work of the independent workplace standards office of Tasmania. It is a state government agency. The government has appointed those four unionists exclusively to undertake occupational health and safety inquiries in the workplace. Why would that be? Steven Kons, the Tasmanian Attorney-General, actually announced it publicly by putting out a media release saying that these four unionists have been appointed and that the industry associations involved were ‘comfortable with the arrangements’, implying that they were supporting the arrangements. As soon as I heard about and saw that, what did I do? I rang the associations. I said, ‘Is that right? Is it true that you’re supporting these arrangements?’ ‘Absolutely not’ was their response.

So the Attorney-General has named three organisations publicly—and I will tell you who they are: the Australian Mines and Metals Association, the Master Builders Association and the Minerals Council of Tasmania—saying that they were okay with these arrangements. I rang them, talked to them and of course they are opposed. Not only are they opposed; the Tasmanian Chamber of Commerce and Industry are also totally opposed. In fact, they put on the front page of their business report and of their monthly newspaper their opposition. They are not happy. Indeed, the Housing Industry Association are entirely unhappy with the state government arrangement to appoint four unionists exclusively to undertake occupational health and safety arrangements in Tasmania.

So why do you think they are going down that track? I have contacted the Minister for Employment and Workplace Relations, Kevin Andrews—and I thank him for his leadership in this area and across the board—asking him to consider blocking the state government’s exclusive appointment of these four union officials to conduct workplace
safety inspections. It is a recipe for union intimidation and it would compromise the independence of workplace standards in Tasmania. Mr Kons, in his public statement to the media, also said that this particular proposal of appointing four unionists exclusively to undertake these inspections was ‘modelled on similar systems existing in mainland states’. I thought that was strange—would that be true? He was saying it was true; it was based on ‘systems’ in other states. I made some inquiries, and do you know what: it is an utter furphy. He has not even publicly apologised for putting out that inaccurate and wrong information. No such models exist.

Senator Kemp—Disgraceful!

Senator BARNETT—Disgraceful behaviour! I want to pay a tribute to Michael Hodgman QC, MP, shadow Attorney-General in Tasmania, for exposing the state government’s behaviour and indeed the three recent incidents where two of these four unionists have been apparently caught out breaching their responsibilities. The Australian building and construction commissioner is undertaking inquiries at the moment with respect to those three incidents. I hope that an inquiry is undertaken quickly and that we find out why they are in these arrangements. At the end of the day it is a special deal for special mates. (Time expired)

Senator CAROL BROWN (Tasmania) (5.57 pm)—I rise to speak on this important and continuing debate before us concerning health and safety. OH&S is a vital issue in the Australian workplace and it is imperative that the Occupational Health and Safety (Commonwealth Employment) Act 1991. This act provides a legal basis for the protection of the health and safety of Commonwealth employees in departments, statutory authorities and government business enterprises. The bill reduces the safety of Commonwealth employees at work, which is exactly why senators need to reject this bill. Any bill which reduces the safety of Australian workers should be opposed outright by this chamber.

The proposed legislation argues that there is no case for government agencies to negotiate occupational health and safety arrangements with employee representatives from the trade unions; they do this through the introduction of management arrangements. This is a bad bill because it will remove the right of trade unions to conduct elections for health and safety representatives. In fact, such is the hatred of the Howard government for the trade union movement that the bill seeks to remove any—all—references to unions.

The government introduced these provisions in the 2000 bill, which was referred to the Senate Employment, Workplace Relations, Small Business and Education Legislation Committee. I would like to take a moment to remind senators of the view of Labor senators on that particular bill. As they pointed out:

... an ideological stance on matters relating to occupational health and safety is neither a constructive policy development nor a prudent one.

Such a policy disregards the main issues at stake. As the Committee was advised:

—despite any government or anybody’s ideological position or thinking whether unions are irrelevant or not, the academic research shows that even in countries like the United States, where the level of unionisation was 15 per cent, actively
involving unions in occupational health and safety processes in workplaces and consultation improves the occupational health and safety outcomes. It improves the occupational health and safety outcomes!

I think it would be really important that this government notes that, in fact, that is the role that workplace representatives have and that we are about getting occupational health and safety outcomes. It is not an adversary situation; it is about working together to get good occupational health and safety outcomes and decrease our toll. That is what we are on about.

Senator Murray in the Australian Democrats report from the same inquiry said:

A key area of concern to us is the place of unions in the maintenance and advancement of workplace health and safety. Unions supplement the regulatory and inspectorial roles of State H&S departments in an irreplaceable way.

This bill is wrong because it ignores the clear truth that trade unions have an excellent record in representing their members in matters of health and safety and in providing sound education and training on OH&S matters. Later I will detail the argument that trade unions have been central to the development of safe systems of work and that to remove them from direct access to the workplace would turn the clock back to the bad old days where, you will recall, safety was an all too regular battlefield. We should not lose the momentum we gained and bridges that were crossed in recent decades that have made the workplace a much safer place to be. Employers benefited from these gains. Lost time was reduced, accidents were reduced, death and serious injuries were reduced and workplaces became more productive as a result. Safe workplaces are important to both workers and employers. It is a win-win result.

It is quite alarming that this bill has clearly been designed to sweep aside more than 30 years of excellent occupational health and safety practice. This bill seeks to remove one of the cornerstones on which both Commonwealth and state legislative practices stand so firmly—that is, trade union involvement in the OH&S workplace practices and processes. How any government could seek to legislate away such a fundamental workers’ right is almost beyond my comprehension. But such is the extreme ideological view of trade unions held by the Prime Minister that this government is willing to compromise the health and safety of the workforce. If it takes that to get one over on the unions, then so be it.

Not one Australian worker expects to die at work today as a result of illness or injury sustained through their work. Yet, the heart-breaking reality is that, as we debate this bill, somewhere in Australia there is likely to be a family grieving the loss of a loved partner, son, daughter, mother, father or friend. We are still never fully prepared for that tragic day when another worker loses their life through serious injury at work. So why would any government put workers’ lives at risk? It simply defies belief and no amount of argument from the senators opposite will persuade me that this bill does not potentially increase risk in the workplace.

The place of trade unions in the safety equation is well established by fact, and government sophistry will not change these facts. The mortality rate from industrial accident and disease is one of every nation’s greatest tragedies. It has been said many times before but it is worth saying again that there are more deaths at work in Australia than there are deaths on Australia’s roads. We are all too well aware of the latter and spend millions each year attempting to reduce those figures, while as a nation we hardly notice industrial accidents and diseases. Internationally, it is estimated by the International Labour Organisation that each
year more than two million people die as a result of occupational accidents and work related diseases. Death and injuries at work come at great cost. Aside from the tragic human cost, workplace fatalities and injuries, as reported in the *Australian*, are estimated to cost the Australian economy over $34.3 billion a year or around five per cent of GDP.

World Day for Safety and Health at Work, which stresses the need for the prevention of illness and accidents at work, fell on 28 April this year. So what are the Howard government doing to reduce workplace accident and the cost to the community? They take the backward step of reintroducing provisions designed to make Australian workplaces less safe and do nothing to stop deaths, reduce injuries and reduce the cost to the community and to business.

This bill has only one possible reason for being before the Senate today, and that is to remove trade unions from various aspects of occupational health and safety in the workplace. How will all this come about? The Howard government has attacked one of the cornerstones on which occupational health and safety legislation has been built for more than 30 years, the Robens model of OH&S, by seeking to remove the unions from the original model. Lord Robens’s recommendations were for their time revolutionary. The centre-piece of his proposal was that parties—management, labour and trade unions—were required to talk to one another on equal terms. In modern management parlance the stakeholders were to come together in a common purpose for the common good. Robens knew full well that good OH&S practice required cooperation and dialogue, not hostility and silence. This exciting new workplace safety model was supposed to take the politics out of OH&S and replace previously adversarial models with a model based upon cooperation. Robens recognised the employee was clearly disadvantaged when it came to discussion between employee and employer. To quote my colleague in the other place Mr Stephen Smith:

... the Robens model recognised the role unions play as employee representatives. As such, the principle of freedom of association was an important part of the Robens approach.

Robens recognised and acknowledged that freedom of association was vital if the employees were to be adequately represented, as they do not have access to the knowledge and resources that management does. Employees cannot be expected to be across the vast array and at times complex information and skills that are required to provide a safe workplace in 2006 and beyond without access to union resources. It is exactly these sorts of resources and current knowledge that the Howard government now seeks to deny Australian workers.

The primary planks of the Robens approach have never been seriously challenged before, as far as I am aware. It is true that Canada and Britain have both made changes to the model. However, those changes were designed to strengthen the model by introducing the concepts of industrial manslaughter and industrial killing. The Robens model has strong academic support. Wherever one looks in the literature one finds support for the Robens model. The National Occupational Health and Safety Commission in November 2002 said:

... there is ... strong evidence that employee participation, either direct or representative, is an essential component of effective occupational health and safety management.

If the government’s own principal advisory body thought that representative participation was essential and that employees could not necessarily represent themselves in this increasing complex industrial, medical, and legal field, on what new advice does the government base its so-called reforms? Clearly
academia does not support the removal of the trade unions from the Robens model.

In their 2004 work *Statutory OHS Workplace Arrangements for the Modern Labour Market*, professors Johnstone, Quinlan and Walters reported on a range of international and Australian studies and stated that all the research lends:

... support to the notion that joint arrangements, trade unions and trade union representation on health and safety at the workplace are associated with better health and safety outcomes than when employers manage OHS without representative worker participation.

Johnstone et al also noted that unions provide important contributions to OH&S training. Professor Walters, in his 2003 paper *Workplace Arrangements for OHS in the 21st Century*, stated:

... in workplaces, in which joint arrangements were in place and especially where trade unions were involved, injury rates were considerably improved.

Walters went on to say:

Conversely, objective measurement of health and safety outcomes possibly suggest links between rising levels of accidents and the declining influence of trade unions.

In perhaps the most telling statement in his 2003 paper, Professor Walters stated:

What all this evidence suggests is that where worker representatives are supported by trade unions directly ... they are more likely to be able to engage meaningfully ... in ... dialogue with employers ...

In fairness to the government, I have read not only previous Senate reports and the work of experts in the OH&S field but also Minister Andrews’s speech on this bill. I was looking for the evidence on which Mr Andrews bases his amendments and the arguments that rebut the work of experts, but I could find none. Nowhere in any of the pages of government rhetoric could I find a single example of evidence to support their position. There was not one example to be seen anywhere in the minister’s speech.

Minister Andrews relies on long-outmoded Liberal mantras to support a false premise—that is, that employees and employers together will make for a safer workplace without trade unions. There is no attempt to provide factual examples of how his proposed changes will help anyone at work, nor is there any quoted academic research that validates the government’s position. The minister and the government have failed to produce any evidence to support the removal of trade unions from occupational health and safety in the workplace. They cannot produce any. There is not any to be found that is in any way credible.

It is clear to anyone looking dispassionately at the government’s bill that they have failed to make a case for change. However, many times government members and senators stand and argue that this bill is about freedom of choice, removing union bureaucracy and improving employee-employer communications. It just does not add up. This bill is simply another attack by the Howard government on Australian workers and the trade unions that represent them.

As if this lack of any academic support was not bad enough, the technical, supervisory and administrative division of the Australian Manufacturing Workers Union have suggested that this bill could be a violation of International Labour Organisation conventions. They state:

The Amendment Bill is in breach of ILO Convention 87:

The Bill provides that any employee representative organisation can request the right to be involved in consultations by submission to a public official (the CEO of Comcare) in the prescribed form. That official issues a certificate with whatever restrictions are deemed necessary which then has validity for a fixed period of twelve months.
The proposal that a union member must seek permission from a public official (who may or may not agree) to involve his/her union representative in OHS matters is preposterous. It is almost certainly in breach of the terms of ILO Convention 87 (Freedom of Association) and/or Convention 98 (Collective Bargaining) to which Australia became a party in 1973.

These proposals, coming as they do on top of the extreme Work Choices changes, leave little doubt that the legislation lowers the standard on occupational health and safety by seeking to remove trade unions from this critical area. Section 8.5 of the Work Choices IR regulations lists various matters that are banned or deemed ‘prohibited content’ in a collective agreement or individual contract—an AWA. It states:

A term of a workplace agreement is prohibited content to the extent that it deals with the following:

(c) employees bound by the agreement receiving leave to attend training (however described) provided by a trade union;

(d) employees bound by the agreement receiving paid leave to attend meetings (however described) conducted by or made up of trade union members;

And section 365 of the Work Choices law provides that a person who seeks to include prohibited content in a workplace agreement can be subject to government fines and penalties of up to $6,000 for individuals and $33,000 for unions. Clearly, it is one unfair and repressive act used in support of another unfair and unnecessary bill—Howard’s way.

This bill is the Howard government flying directly in the face of the available evidence by tampering with good legislation based on a sound industrial and legal model. It is yet another glaring example of the long-held desire of the Prime Minister to destroy trade unions. Based on the evidence, this government is prepared to risk seeing an increase in injuries and related increases in costs. This bill is all about further diminishing the legitimate role of trade unions; it is about weakening, not strengthening, the position of Commonwealth employees.

In the case of the Commonwealth, it is worth noting that unions run OH&S courses and that these courses have to be accredited. Who accredits such courses? The accreditation is done for the government by Comcare. The Safety, Rehabilitation and Compensation Commission report list of accredited providers of training for health and safety representatives as at 30 June 2005 includes the ACTU/TLC, Australia Post/CEPU, the Australian Taxation Office, Centrelink, CPSU Advantage Ltd, CSIRO, the National Safety Council of Australia, Occupational Safety and Health Associates, Parasol EMT and Telstra. There are three union courses, one joint Australia Post-union course, three employer courses and three private sector courses—10 courses in all, of which 3½ are trade union based. The 10 providers in 2004-05 were also the 10 providers in 2002-03. By reasonable standards, that is a sensible balance of training providers.

This bill seeks to reduce the health, safety and welfare of each and every Commonwealth employee. Why? Simply because the Commonwealth government is obsessed by the obsolete conservative belief that trade unions are not good for employer relationships with employees and that ridding the workplace of them is a positive thing.

In conclusion, this bill tampers with the fundamental premise of the Robens model by removing the rights of a trade union, so employees will be left either to their own resources and knowledge in countering hazards and reducing risk in the workplace or to the goodwill of their employers. Australian public servants know all too well just how much goodwill this government has towards
them—that is, somewhere between zero and nil. This bill will weaken long-established safe systems of work in most, if not all, workplaces.

As if this were not bad enough, this bill reduces employees’ opportunities to gain the training and knowledge that are necessary for them to work in safety. This bill will put pressure on employees to toe the line in employer-dominated health and safety representative elections, as the union will no longer be able to support employees during elections for OH&S representatives.

Before senators vote, please think long and hard about the men and women who have been injured at work this year, this month, this week, this day and every other day of this and every other year. I ask honourable senators not to vote to make Australian workplaces less safe. We should not make the people who work for the Commonwealth government less safe at work. If passed, this bill will do exactly that.

Senator WORTLEY (South Australia)

(6.15 pm)—Labor is opposed to this bill in its current form. We opposed it last year during its passage through the lower house, and we opposed a very similar bill in 2000. We will continue to oppose bills that include changes that are not in the best interests of Australian workers and their families. This bill—the Occupational Health and Safety (Commonwealth Employment) Amendment Bill 2005—could be about updating and ensuring safety in the workplace, but it is not. It could be about reducing work-related death, injury and illness, but it is not—and it will not be.

When you read through it, it does not take long to realise that it is just another one of the Prime Minister’s ideological grabs on the rights of Australian workers. It is about disempowering workers and removing unions from the workplace occupational health and safety arena. If we need any more proof that this and all of the Work Choices-related legislation is about ideology and not public interest, here we have it. All references to unions have been removed from this bill. The amendments to the Occupational Health and Safety (Commonwealth Employment) Act 1991 are, again, just like the Work Choices legislation rammed through this place less than 12 months ago. This is not in the best interests of Australian workers and their families, and not in the best interests of the more than 256,000 Commonwealth employees covered by the act.

However, it is not just a change in who will be involved in occupational health and safety in the workplace but a change in how the involvement will occur. The proposed management agreement in this bill essentially eliminates the requirement for government agencies to negotiate occupational health and safety agreements with unions. The bill shifts from what is regarded as a formal approach to occupational health and safety agreements—developed through tripartite processes between employers, employees and unions—to so-called health and safety management arrangements.

Under this bill, employee representatives who become involved in developing the management arrangements must be issued with a certificate to do so by the CEO of Comcare. This certificate will be valid for only 12 months. The bill before us today also empowers employers to conduct the election of employee health and safety representatives—a role previously conducted by a union or person specified by the former National Occupational Health and Safety Commission.

There is a very serious problem with this type of scenario. The keyword central to the problem is independence. You could potentially end up with a situation that sees the
employer regulating its own observations and actions. In this case, that poses a problem in itself. It does not end here. It lacks independence not only on the corrective side but also on the preventative, when all of the independent information pertaining to incident prevention has the potential to be ignored and overlooked. And when there is a health or safety problem in the workplace, a worker will need to request that the relevant employee representative—the one with a 12-month certificate—ask that Comcare initiate an occupational health and safety investigation. Currently a union, acting on behalf of affected workers, is able to make this type of request direct to Comcare to investigate a workplace.

So what is the difference? What is the real impact of the changes? The difference is in going from a situation where the employee who raised the issue is not required to be named and, therefore, risk retribution to one where the employee’s identity is not guaranteed protection. And what of the employee who fears retribution for raising occupational health and safety concerns? What of the employee who fears that under the government’s new Work Choice legislation he or she can be dismissed without reason? Raising a workplace safety issue may be just the trigger for the boss to initiate such a sacking—maybe not the next day, but soon after. And how does the employee prove that this was the reason for the sacking? With great difficulty. It would be an unfair sacking without a genuine pathway to unfair dismissal provisions and without a real pathway to the possibility of reinstatement.

It has been argued that in cases where the employee considers it preferable to remain anonymous, as they currently can, there are provisions in this bill to enable this to occur. But the provisions to remain anonymous are really only a smokescreen. The provisions in this bill that are supposed to enable a representative to represent employees during discussions with the employer, without revealing their identity, will not satisfy employees’ concerns. Why? Under the changes proposed by the government, the employee representative must apply to the CEO of Comcare to issue a certificate to keep confidential the identity of the employee so that they can remain anonymous.

However, before the Comcare officer can issue such a certificate to keep the employee’s identity confidential, the employee’s representative must satisfy the officer, firstly, that they were in fact asked by the employee to represent the employee in consultations, and secondly, when that has been satisfactorily established, that the employee has requested that his or her identity remain confidential. So how does an officer establish these two points without revealing the identity of the employee? And what happens in the case where the Comcare officer decides not to keep anonymous an employee’s identity? The employee who raised the issue will then have to rely on the integrity of their superiors and, of course, this government’s draconian Work Choices legislation. And there is no prize for guessing where that can leave Australian workers.

The very existence of this requirement will result in less reporting of workplace occupational health and safety concerns and workplace incidents and, consequently, more injuries and illness. These changes demonstrate a total lack of understanding by those across the chamber of the concerns and issues facing workers in Australia today, and specifically of occupational health and safety issues, procedure and the reality of how some workplaces operate.

The current Occupational Health and Safety Act is based on the Robens model. The state of South Australia was the first to adopt this model. It was developed in the UK
in the early 1970s and was seen as a revolutionary step in the advancement of workplace accident prevention. Aside from many other important guidelines, the model recognises the role that unions play as employee representatives. It considers them to be very much a part of the collaborative approach. The value of the Robens approach was maintained by the National Occupational Health and Safety Commission when it stated in November 2002:

There is indirect but strong evidence that employee participation, either direct or representative, is an essential component of effective occupational health and safety management.

The proposed amendments contained in this bill will weaken the whole process, reducing the amount of control held by the employee over their own wellbeing. An employee knows full well that some employers are potentially not going to be receptive to issues relating to occupational health and safety. Therefore they rely on their representative body to assist them when there is an occupational health and safety issue that they feel needs addressing but fear ramifications from their employer or from a manager for having raised the issue. This legislation just leaves them on their own. It denies them the right to be organised and unified and simply gives them one more thing to worry about at work.

I would encourage all senators to consider this when deciding whether union involvement in workplace safety is to the advantage of employers, including the Commonwealth. In the winter session of 2005, at around the same time as the bill was being debated by the House of Representatives, a workplace incident occurred on a building site in Narrebeen and was reported by the media. A young labourer was airlifted to hospital after falling from a two-storey building site. Immediately after he was removed from the site with both of his shoulders broken, two broken ribs and wounds that required stitches, the work colleagues left behind scrambled to erect a makeshift barrier before safety inspectors arrived. Pictures accompanying the article showed the makeshift scaffolding being held together by a few nails at one end and a piece of rope at the other. The reporter wrote:

There is no toe barrier at the bottom and no middle rail, allowing anyone to slip through. The whole barrier can be swayed a foot from side-to-side.

While being interviewed later in hospital, the young labourer injured in the accident—speaking about his employer—stated that his bosses were ‘good people for sure’. The comments by the victim that he quite liked his employer, and I am sure he did, highlight that there is nothing personal about occupational health and safety. It is not about friendship; it is about common sense displayed by both employer and employee and about strong input from unions representing workers. It is about everyone doing their bit for a central cause. Yet this bill has the potential to compromise safety, not improve it; the potential to hinder the reporting of workplace health and safety issues, not encourage it—and the losers once again, just like with the Work Choices legislation, are Australian workers and their families.

We have seen throughout this country’s history that unhealthy workplaces can engulf a generation and, unfortunately, become the most defining part of one’s life. The devastation resulting from the mining and milling of blue asbestos at Wittenoom in Western Australia and the suffering of the James Hardie victims and their families are marks on our nation that should never be repeated and never be forgotten. Australia has the highest rate of asbestos related disease in the OECD, and by 2020 the number of deaths relating to asbestos in Australia is expected to exceed 40,000. Who comes to the assistance of these people? Who are the ones who have stood by
them all the way? It is not the Howard government. It is certainly not James Hardie. It is the unions that have stood up for them and represented them.

The prevention of accidents and deaths in Australian workplaces should be a joint responsibility of employers, workers and unions. And, of course, government has a significant role in ensuring that the best possible legislation is in place so that, at the end of each working day, workers return to their families without being affected by workplace injury or illness. This legislation does not do that. We need to recognise that, when it comes to workplace safety, every person who can help and who can be accountable should have the right and be duty-bound to do so.

This bill puts a burden of responsibility on the shoulders of all who vote on it in this place. To vote in favour of this bill and the changes it contains is to vote against safer workplaces. It is merely another example of the Howard government getting its extreme agenda up at any cost. It is an arrogant and out-of-touch government—a government out of touch with the needs of working Australians and of their families who wait for them to return home at the end of each working day. Workplace safety is paramount: it is not negotiable; it is not for sale; and it should never be compromised.

**Sitting suspended from 6.29 pm to 7.30 pm**

Senator **TROETH** (Victoria) (7.30 pm)—It is a great pleasure for me to speak tonight on the Occupational Health and Safety (Commonwealth Employment) Amendment Bill 2005. The bill will amend the original 1991 act. It is to cover new categories of employers and employees called non-Commonwealth licensees and employees. It is interesting that, after all the accusations made by the opposition about this being part of the Howard government agenda, these amendments actually respond to a recommendation made in the Productivity Commission’s report *National workers' compensation and occupational health and safety frameworks*. The Productivity Commission recommended:

... that the Australian Government amend the Occupational Health and Safety (Commonwealth Employment) Act 1991, to enable those employers who are licensed to self-insure under the Australian Government’s workers’ compensation scheme to elect to be covered by the Australian Government’s occupational health and safety legislation. This legislation would be extended to cover those insuring under any future alternative national premium-paying insurance scheme.

So the amendment is not something that the government has thought up in the dead of night. It is responding to a recommendation by that august body the Productivity Commission. The bill will also ensure that all Commonwealth authorities licensed under the Safety, Rehabilitation and Compensation Act 1988 are covered by the Occupational Health and Safety (Commonwealth Employment) Act and it corrects some drafting errors made in 2001 as well as other matters.

I am very proud to be a member of the government that has brought in the Work Choices legislation. It is most unfortunate that recent campaigns against the Work Choices legislation have incorrectly asserted that workplace safety will be compromised by promoting greater flexibility in the workplace. As we know, ultimately the Work Choices legislation will result in more workers moving to the federal industrial relations system, although the reforms will not impact on state and territory jurisdiction over workers’ compensation and occupational health and safety.

We all realise that the economic cost of workplace accidents to workers, employers and the community—and we all regret that
there are still far too many—is estimated to be in excess of $30 billion annually or five per cent of GDP. That is too high in anyone’s language. The responsibility for these workplace accidents must be shared by all stakeholders—by employers, by employees and by the community. We must all act to make continual improvements. Introducing laws that are punitive towards employers is not the answer. The best way to address the issue is to promote a culture where there is greater cooperation between employers and employees.

The Australian government is committed to improving OHS outcomes in all Australian workplaces. We demonstrated this commitment by initiating the development of the National OHS Strategy in 2002. Signatories to the strategy include the Australian government and all the state and territory governments, including the ACT, as well as the ACTU and the Australian Chamber of Commerce and Industry. The strategy seeks to improve Australia’s OHS performance over the next decade and to foster sustainable, safe and healthy enterprises that prevent work related death, injury and disease. There are five national priorities: reducing high incidence and severity risks; improving the capacity of business and workers to manage OHS; preventing occupational disease more effectively; eliminating workplace hazards at the design stage; and strengthening the capacity of governments to influence better OHS outcomes.

There are 10 million workers in Australia. Many employers ask—and many did when we conducted the committee hearings on this bill—why there are eight different and quite separate OHS and workers compensation jurisdictions. What makes things worse is that there is little in the way of consistency and uniformity across the various schemes. Indeed, the National Australia Bank has complained that the current state based systems have resulted in the bank dealing with eight different sets of legislation. That then means that there are eight different levels of benefits, eight different definitions of injury and so on.

In order to improve national frameworks for OHS and workers compensation consultation, the government undertook to establish the Australian Safety and Compensation Council, known as the ASCC. That body includes representatives from federal, state and territory governments as well as employee and employer groups. It provides a new opportunity to coordinate workers compensation on a national level. Unlike the old National Occupational Health and Safety Commission, the ASCC will consider both OHS and workers compensation matters. Its main role will be to provide policy advice to the Workplace Relations Ministers Council, which comprises the federal minister and his state and territory counterparts.

What are some of the detailed reasons for this amendment? Currently, the former Commonwealth authorities and licensed private sector corporations who operate under the Commonwealth workers compensation schemes are covered by state and territory occupational health and safety legislation. This makes it very difficult for many firms to develop a national approach to occupational health and safety and it may result in the requirement that they comply with their own separate state or territory OHS regulations.

I want to look at some of the ramifications of this. The New South Wales government recently passed the New South Wales Occupational Health and Safety Amendment (Workplace Deaths) Bill. If an employer is convicted of causing death through ‘recklessness’ they face up to five years in jail and a $165,000 fine. Breaches of such serious and punitive laws are dealt with by the New South Wales Industrial Relations Commis-
sion, not by a court. That will continue, as the New South Wales Court of Appeal has found that there is nothing to prevent the New South Wales Industrial Relations Commission from hearing such matters.

It is very disturbing that, under the New South Wales OH&S laws, unions can prosecute employers for OH&S breaches, and if they are successful in their action the unions can receive up to half of the fines awarded and have their legal bills paid by the employer. That is a very iniquitous situation. The New South Wales Industrial Relations Commission has in the past fined the ANZ Bank over armed robberies at their branches, after action bought by the Financial Services Union. Patrick Stevedores, similarly, was subject to an MUA prosecution for work practices that risked repetitive strain injury. New South Wales coalminers have also been hit for using misleading maps, prepared by the New South Wales government.

As my colleague Senator Barnett remarked, there is no doubt that the New South Wales Labor Party is financially beholden to the union movement and that it relies on donations from unions. Both the Financial Services Union and the MUA have donated over $350,000 to New South Wales Labor alone since 1995. That extreme situation exists only in New South Wales, where the perverse situation may arise in which a union could abuse such processes and in turn prosecute employers for financial gain over an alleged breach.

Other states and territories are different in the sense that only the relevant workers compensation authorities can prosecute for alleged breaches of work safety laws. The Victorian government has introduced the offence of ‘reckless endangerment’ under the Victorian OH&S Act, which carries a potential prison sentence and large financial penalties. The ACT has introduced the criminal offence of ‘industrial manslaughter’, which singles out employers for punishment despite the fact that some factors may be outside an employer’s control.

These approaches will serve to discourage employers and employees from being closely involved in safety issues. Both those groups will focus on defending themselves rather than on progressively moving forward to cooperatively ensure safer workplaces. Governments at all levels, whether federal, state or territory, must be wary of seeking to amend or impose legislation which serves only to create uncertainties for employers and, in many instances, will only discourage employers and employees from being closely involved in health and safety issues, to which they all should be contributing.

The Australian government introduced the Occupational Health and Safety (Commonwealth Employment) Amendment (Promoting Safer Workplaces) Bill to exclude Commonwealth employers and employees from the application of ACT industrial manslaughter laws or similar laws enacted in the future by other states and territories. The bill that we are discussing tonight reinforces the Australian government’s approach to workplace health and safety, which is to ensure that the main focus is on preventing workplace injuries rather than on punitive punishment after the event.

Let us turn to workers compensation. The Commonwealth Safety, Rehabilitation and Compensation Act allows eligible non-government corporations that meet stringent criteria to self-insure through the Commonwealth workers compensation scheme, administered by Comcare. Self-insurance through Comcare allows businesses to be covered by one set of workers compensation regulations across Australia. That is a very attractive prospect for companies that employ people across a number of different ju-
risdictions. The Australian government workers compensation scheme is the only scheme that provides single self-insurance arrangements, reducing costs and the compliance burden. This benefits the employees by giving them access to a consistent benefit regime, irrespective of work location across Australia. For instance, Optus was granted a self-insurance licence, allowing them to self-insure through Comcare, which commenced on 30 June 2005. This was in spite of considerable opposition from the Victorian state government, which tried on several occasions to stop Optus from self-insuring through Comcare. More recently, it mounted a challenge on constitutional grounds, which is now headed to the High Court. South Australia and Queensland will join Victoria in this action.

A number of states have sought to discourage corporations such as Optus from joining the Comcare scheme, through imposing large financial penalties on them. Victoria, again, has passed legislation requiring exiting corporations to pay an 'exit fee' when leaving the state scheme to self-insure with Comcare. The biggest concern, though, is arrangements in South Australia, where the South Australian WorkCover Corporation sought to impose a fee of $1 million on Optus to exit the South Australian WorkCover scheme. This fee is substantially higher in South Australia than in Victoria, even though Victoria employs more Optus staff than does South Australia. Queensland has introduced a bill which provides for WorkCover Queensland to extract funds from a self-insurer under the Comcare scheme for 12 months after a licence is granted. WorkCover Queensland claims that the levy is required to cover costs incurred by the Workers Compensation Regulatory Authority to monitor the non-scheme employers for compliance with their obligations for rehabilitation.

It is legitimate for state authorities to make proper provision to cover outstanding liabilities for corporations leaving their schemes, but exit fees which are inflated and which cannot be justified by independent actuarial analysis appear to be designed purely to discourage eligible corporations from joining the Comcare scheme. State and territory governments have to face the fact that, while there are eight separate workers compensation jurisdictions that provide very little in the way of consistency and uniformity, more and more state employers will seek to move to the Commonwealth scheme. That is the way of the future, and that is the aspect of these matters that this bill covers. I commend it to the Senate.

Senator HOGG (Queensland) (7.45 pm)—I rise in this debate on the Occupational Health and Safety (Commonwealth Employment) Amendment Bill 2005 because I think it is terribly important to discuss workplace health and safety in a proper context. I cannot challenge the figures that Senator Troeth just quoted on the cost of accidents to GDP and to people at large in the community. I have no doubt that those figures are pretty much on the mark, and they are frightening. However, this legislation is designed—not surprisingly—to cut the union movement out of the issue of workplace health and safety.

I have a long experience in business and industry in dealing with employers. When it comes to workplace health and safety, some employers are very good; but some are very bad. There are some employers whose track record you would not put up anywhere for the shame that it would bring not only to the employer but to the people who are generally associated with them in driving the agenda in a particular workplace.

In my first speech here, I spoke about three things: the dignity of people in their
youth, the dignity of people at their work and the dignity of people in their retirement. This legislation affects the dignity of people at work. Key elements of a person’s dignity at work is their capacity not only to earn a fair and reasonable wage in return for a fair and reasonable day’s work but also to earn that wage in a safe and healthy environment. As with all these things, it is never the good employers whom one is confronting on the issue of safety and health in the workplace; it is generally the bad employers.

In my 30-year association with the retail industry, there were some very good employers in terms of health and safety but there were also some bad employers who were generally dragged kicking and screaming to the table on the issue of workplace health and safety. They tended to avoid the issue of occupational health and safety—and I think this is fairly typical of a number of employers who do not have a good track record in this area—like the plague, because they saw it as a cost to their business. They saw it as an impediment and a nuisance—one of those things that got in the way of their doing business. In many instances, they saw it as having no social value and as an inconvenience. I do not claim for one moment that is the view of the majority of employers; nonetheless, there are employers who do see it in that light.

The thing about the laws that we make in this country is that, invariably, they are not made for honest people; they are made for people who, at the end of the day, want to stretch the law to its limit or to transgress it for their own personal or corporate gains. Of course, nothing is more true when one thinks of what happens with occupational health and safety. As I said, this legislation is designed to cut out a key element in giving advice to employees. The legislation seems to be premised, particularly from the spin in the second reading speech, on some equality of understanding of what is health and safety in the workplace. No matter where employees work, they need to have a very basic understanding of the health and safety issues that apply to their place of work. If they do not have that knowledge—and many of them do not—then they need education in these issues to gain an understanding of the problems, remedies and processes associated with them.

I should have sufficient time in my contribution to go to some parts of the second reading speech on the bill and point out where the jargon wheel has been at work. The spin doctors have been at work trying to create a vision of this legislation being about equality in the workplace—a sharing, caring and loving workplace where no-one suffers any discomfort or injury as a result of the conditions that apply there. I am not saying that it is necessarily all the responsibility of the employers; I am not saying that at all. There is also a role for employees in workplace health and safety. They need to accept their responsibility for it as part of their employment. But if they do not know or understand what that role is, what their responsibility is and what the dangers are in the workplace, they will be exposed to personal health risks. To say that one should just trust the employer is a highly naive way of dealing with workplace health and safety.

As far as the employer goes, there is—and has been, over a long period of time—a responsibility, in my view, to provide training. An employer who is responsible in the occupational health and safety area would provide some reasonable training to their employees so that their employees would understand what the issues are. But again in my experience, where there has been an attempt to get a cooperative approach through the union movement with particular employers, that has been denied. Of course, unless that training is provided there will be a gap in the
knowledge of the employees and also, unless
the employers are subjected to training, there
will be a gap in the knowledge there as well.
Also, the employer—with the employee—
needs to be able to educate themselves, iden-
tify the problems, identify the issues and
identify the remedies, not just in a process if
they cause inconvenience to the business but
as part of an integral contribution towards
greater productivity within the particular
business. So it is a bit disturbing in some
ways that this legislation, which has done the
rounds before and has not successfully
passed through this chamber, comes back
once again.

I find it difficult to see why the legislation
is coming forward at this time, when I think
that it is not so long ago—as a matter of fact,
it was May this year—when we all sat in awe
at what was happening at Beaconsfield in
Tasmania and at the peril that the miners at
Beaconsfield were placed in at that stage. It
is interesting to note just some of the com-
ments that have been attributed to the Prime
Minister about the unions at Beaconsfield. At
a press conference on 3 May, the Prime Min-
ister, Mr Howard, said:
Everybody is working together, the mine
management, the unions—
and so on. In an interview with Neil Mitchell
on 3AW on 5 May 2006, the Prime Minister
said:
It’s been a great cooperative effort to see the
community, the unions, everybody working to-
gether. I think it’s great.

And then you go to the press conference by
the Prime Minister on 8 May 2006, where he
said:
It’s just been terrific to see the way that com-
munity has worked together. The mayor, the
churches, the union leaders, all of them have
come together.

And so on. Yet the spirit enunciated there by
the Prime Minister in the wake of what was a
tragedy does not seem to have lasted terribly
long, because, if one reads the second read-
ing speech, one sees that the spin doctors
have been at work. I will just turn to that in
the few minutes that I have left now. On the
first page of the copy that I have, the second
reading speech says:
The focus of occupational health and safety regu-
lolation must shift away from imposing prescriptive
processes and towards enabling those in the
workplace to work together and make informed
decisions...

There we are starting off straightaway with
the idea that prescriptive processes are not
warranted. I challenge that. There are times
when there is a need to have prescriptive
processes, such that both sides of the equa-
tion—that is, the employer and the em-
ployee—understand exactly what this is
about. The idea of having some form of self-
regulation just does not work. The speech
says that these people are to make ‘informed
decisions’. They cannot make informed deci-
sions by osmosis or through something that
might be drifting around in the air condition-
ing in the workplace that will enable these
people to become aware of the workplace
health and safety dangers and hazards at that
place of work. The premise there is not fol-
lowed up anywhere that I could see in the
second reading speech other than in a very
nice phrase, a nice turn of words, that says
that this will enable ‘those in the workplace
to work together and make informed deci-
sions about how best to reduce risks to
workplace health and safety’.

As I said, you cannot make informed deci-
sions unless you have the knowledge, unless
you have the expertise, unless you have the
capacity. To expect that to rest with the aver-
age employee at a place of work is totally
naive. But there is nothing wrong with peo-
ples working together to try and minimise the
hazards. That is quite proper, and that has
always been the approach and the path that I
have sought to go down. You cannot mini-
mise these problems simply from one side or
the other; it must be a cooperative spirit—but
a cooperative spirit where there is a vacuum
on the part of the employee in terms of their
knowledge and understanding of the hazards
and where there is the firm whip hand that
the employer has as the employer just does
not add up. The second reading speech goes
on:
A cooperative approach to occupational health
and safety in individual workplaces will lead to
improved outcomes.
I have no problem with that at all. When you
go to the next page, the jargon flows thick
and fast. It says:
The OHS Act therefore requires amendment to
modernise and streamline outdated provisions ...
Once people start talking about ‘modernising
and streamlining outdated provisions’, I
really get the shivers up my spine, because
that presupposes that everything else that has
gone before in occupational health and safety
was wrong, was bad or was improper. In
most instances, what has been improper—
what has been wrong—is that there has been
no health and safety regime put in place by
the employer where the employee could par-
ticipate and where the employee understood
what was taking place.

The second reading speech talks in that
same sentence about modernising and
streamlining:
... outdated provisions which are currently inhib-
iting its effectiveness and denying the right of more
employees to be involved in occupational health
and safety at their workplace.
I find that quite offensive because I have
found that, when employees are confronted
with the idea of being involved in protecting
their health and safety at the workplace over
a long period of time, they have never been
backward in coming forward to do so. They
have been willing participants in the process
but they have craved assistance and guidance
that is independent of the employer. Not
every employer, unfortunately, can be trusted
to tell the truth or to not hide things that will
affect the health, safety and wellbeing of
employees.

So, whilst the spin on that sounds good, if
this is the whole motive behind the legisla-
tion—and I have no doubt it is—then it
misses the point that the employees in an
industry, any industry, will not of their own
volition have the knowledge, the understand-
ing and the capacity to deal with their em-
ployer on health and safety issues unless they
have the right to seek third-party advice.
That third-party advice has traditionally been
provided by the trade union movement. They
will not be able to go out and engage their
own occupational health and safety adviser.
They have traditionally sought to get that
advice through the trade union movement. I
turn to page 3 of the second reading speech
and more spin comes out at me:
Employers and employees will be able to make
informed decisions about how best to reduce any
risks to workplace health and safety at their own
workplace. This will ensure that there is a more
integrated and focused approach at the workplace
level because the health and safety management
arrangements will be tailor-made to the needs of
particular workplaces.

Whoever strung those two sentences together
needs to get out in the real world and find
out what happens. That is complete non-
sense. To put this up as supporting this piece
of legislation and as the reason to have the
Senate pass this legislation is appalling in-
deed. There is no way that, based on the
model that is being put forward, people will
make more informed decisions. That is not
outlined anywhere in the second reading
speech or, as I can see, in the explanatory
memorandum.

As to saying that it will ‘ensure that there
is a more integrated and focused approach’,
that is just pipe dreaming. There is no foundation, as any shop steward would know, to that claim. Saying that it will lead to health and safety arrangements that will be ‘tailor-made to the needs of particular workplaces’ is just not logical. None of that follows at all. What we have is a nice piece of spin put on this piece of legislation to give it a degree of presentability and make out that it is somehow the saviour of employees in the workforce.

As I said, the focus needs to be not on those good employers—and there are good employers; I am the first to admit it—but on those employers who are not good. And it does not need to be on those employees who are good in terms of their responsibility in workplace health and safety; it needs to be on those employees who have no knowledge or understanding at all. Taking out the role of unions in this area—whilst this bill does not seek to do it exclusively, it will nonetheless achieve that—is unfortunate indeed. I believe this bill should be committed to the same fate that it has received on previous occasions.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.04 pm)—I thank senators for their contributions during this debate on the Occupational Health and Safety (Commonwealth Employment) Amendment Bill 2005. This bill reflects the government’s commitment to improving health and safety outcomes in Commonwealth workplaces and follows amendments to the OH&S act in 2004, which introduced a strong new compliance regime.

The Australian government strongly believes that safe and productive workplaces rely on a cooperative approach between employers and employees to identify and eliminate hazards that may cause injury or death. The focus of occupational health and safety regulation must shift from imposing prescriptive processes towards enabling workplaces to make informed issues about how best to reduce risks to health and safety in the workplace.

Federal Labor has suggested that this bill is an attack on unions and that it removes unions from involvement in OH&S in the workplace. This simply is not the case. The bill not only improves protection for employees but improves workplace democracy. Possibly that is why those on the other side think it is an attack on unions. Under this bill all employees can participate in OH&S matters at their workplace. Employers will be able to negotiate directly with employees, who may be represented by unions or other representative organisations.

The amendments proposed by this bill reflect the reality that unions no longer represent the majority of public sector employees. In 1991, when the Occupational Health and Safety (Commonwealth Employment) Act was enacted, unions were a significant force in most government workplaces. However, this is no longer the case. Today, unions represent less than half of public sector employees. Some workplaces will be union free or have no active union members and rarely see a union official. In these circumstances, it makes no practical sense to give a union a monopoly over the representation of workers’ OH&S interests in workplaces covered by the OH&S(CE) Act.

The majority of public sector employees—that is, those public sector employees who are not represented by unions—should be entitled to participate in improving OH&S in the workplace, either directly or by choosing their representatives from as wide a field of candidates as possible. Removing the privileged role for unions in workplace health and safety arrangements and giving prominence to the interests of employees
will only bring Commonwealth laws into line with most state and territory OH&S laws.

Interestingly, none of the equivalent state or territory laws give the unions a monopoly of the kind that this bill removes from the Commonwealth act. What that does in fact is highlight the extreme position of federal Labor. Most of the other jurisdictions do not even guarantee a union role in formulating enterprise OH&S policies and agreements, representation in designated work groups or involvement in OH&S committees or in electing workplace health and safety representatives.

The coalition agrees that workers should have the right to be represented by unions. Federal Labor, notwithstanding the current approach in the majority of the states and territories, wants union representation guaranteed to the exclusion of all other options. Federal Labor appears contemptuous of a worker’s right to choose an alternative to union representation simply because, for federal Labor, there is no other alternative.

Federal Labor has suggested that under the amendments proposed by this bill unions will be unable to directly request Comcare to investigate an OH&S breach. Once again, Labor is wrong. The existing powers to unions to request Comcare to investigate OH&S breaches are not being removed. Under this bill, employee representatives, including unions, can request an investigation by Comcare provided it is at the request of an employee.

Any suggestion that employees are not in a position to raise OH&S issues with their employer ignores the important role of health and safety representatives who are elected by their fellow employees to investigate these issues at their workplace on their behalf and raise any problems with their employer. Health and safety representatives are required to undergo appropriate training and therefore have the appropriate knowledge and skills to undertake this role. The act also gives health and safety representatives statutory rights and powers to enable them to carry out their functions and ensure OH&S issues are addressed.

Federal Labor also laments changes affecting the election of health and safety representatives. Currently, where there is an involved union, the act gives that union an exclusive role in the conduct of elections for health and safety representatives. This has had unsatisfactory results. Unions can prevent a non-union member from becoming a health and safety representative, because they control the nominations. It sounds a bit like the Senate here—for the Labor Party. This can mean that persons with relevant qualifications, expertise or an interest in health and safety in their workplace do not have an opportunity to take on the role.

Senator Wong interjecting—

Senator ABETZ—I just threw that in to see if you were listening, and it is good that you are. Positions can also remain vacant for extended periods where no union member is nominated. There is nothing sinister about the employer arranging the elections for health and safety representatives. New South Wales, for instance, has a similar provision. Employers are under a duty of care to ensure that workplaces are safe. Having health and safety representatives is an important component of having safe workplaces. It is therefore reasonable to place an obligation on employers to make sure that elections for health and safety representatives are conducted. In the event that employees are not happy with the election arrangements proposed by employers, the bill enables elections to be conducted in accordance with processes prescribed by regulation.
Section 16 is being amended to replace the current prescriptive elements which require an employer to develop an occupational health and safety policy in consultation with involved unions. Instead, section 16 will be more outcomes focused. This will allow employers, in consultation with their employees, to develop health and safety management arrangements tailor made to the needs of their particular workplace. The bill gives employees a wider choice as to who may represent them, including another employee, a registered association such as a union, an association of employees which has a principal purpose of protecting and promoting the employees’ interests in matters concerning their employment such as a staff association or an unregistered union.

Finally, I would like to assure senators that the measures proposed in this bill, in particular the proposed new section 16B, do not violate any implied constitutional freedom of association or Australia’s ILO obligations. It has been suggested that the mechanisms for ensuring employee anonymity proposed by new section 16B may prove to be a strong deterrent to employees seeking representation in consultation with employers about safety management arrangements. These concerns totally misunderstand and misrepresent the intended operation of section 16B.

Section 16B enables the CEO of Comcare to certify that a union or staff association is entitled to represent an employee who wishes to remain anonymous. A certificate issued by the CEO of Comcare guarantees that employee’s anonymity. Section 16B provides a mechanism to protect an employee’s identity if the employee wishes to keep his or her choice about their representation confidential. It is not a precondition to unions or staff associations representing their members. If section 16B were to be deleted, there would be no mechanism to provide employees with confidentiality.

The key amendments in this bill relate to the employer’s duty of care and the workplace arrangement provisions. They will improve health and safety arrangements for Commonwealth employers and employees by enabling them to work more closely together to develop arrangements that suit the needs of their particular workplace. Current workplace arrangements, such as the requirements to have health and safety representatives and committees, remain.

In short, the amendments aim to remove prescriptive requirements, introduce flexibility and ensure employers and employees are free to develop appropriate health and safety arrangements to apply to their workplace. The amendments will not in any way diminish the Commonwealth’s duty of care as an employer to ensure the health and safety of its employees at work or of others who may be at the workplace. I commend the bill to the Senate.

Question agreed to.
Bill read a second time.

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

Senator MURRAY (Western Australia) (8.16 pm)—I am referring to sheet 4847, which was circulated by me on 20 June. I will group some of the amendments, by leave, and I will move those accordingly. But I want to commence with amendment (1) on sheet 4847 and move that on its own. In so doing, I will briefly motivate its importance. I move:

(1) Schedule 1, item 1, page 3 (line 8), after “employees,” insert “that is a democratic association free from control by, or improper influence from, an employer or by an association or organisation of employers.”
What I am seeking to do here is not to alter the intention of the provision by the government but to ensure that the association that is determined under this legislation is an independent one—independent, that is, of the employer or any association or organisation of employers. The bill allows the employer to set up their own organisation to represent the views of employees in any matter that affects employment, including occupational health and safety, and to consult then with their own organisation on safety arrangements. The bill would therefore be satisfied with respect to those requirements.

There is an underlying assumption here that the interests of the employee and the employer will always be the same when it comes to safety. I am sure that sometimes that is the case. You would hope that employers and employees are of one mind in these matters. But there may be situations where these interests collide. The recent example of the Beaconsfield mine is exactly one of those circumstances where employers and employees very much differed as to what the safety measures affecting that mine should be.

You might think that is a bit far from Commonwealth public servants, who people would assume are pen-pushers and clip benders, but that is not so. This bill covers all Commonwealth employees, including workers at Lucas Heights, scientists in CSIRO, geologists from Geoscience Australia, Customs officers dealing with detaining illegal fishermen, Protective Service officers working in the Solomon Islands and Antarctic expeditioners—all sorts of Commonwealth employees who are not office workers but who are actively engaged in potentially dangerous and hazardous workplaces.

This bill would mean that the employer can establish alternative organisations that purport to be representative of employees without any obligation to initiate consultation with any union that might represent those employees. Without the amendment, it would be possible for the non-employee organisations or indeed the employer to establish associations by simply stating that their principal purpose is the protection and promotion of the employees' interests. I am advised that this proposed scheme could expand into the private sector, beyond the existing coverage of Telstra workers, for instance, to include those who provide third-party services to such workers.

So we need to be wary of this model and to ensure it is genuinely one which represents employees' interests. As I said during my speech in the second reading debate, independent international research does indicate that, when a union is involved, you get better safety outcomes. The minister has assured us that the government is not objecting to union involvement. However, the legislation needs to ensure that, whether it is a union or not, employee representative associations are just that—they represent employees, not employers. This amendment therefore seeks to ensure that control of these associations is transparently and self-evidently by employees, that the associations represent employees and that employees will have control of any association that purports to represent their interests, whether it be through their trade union or any other organisation.

Senator WONG (South Australia) (8.21 pm)—I indicate that the Labor Party is supporting this and flag that in fact the Labor Party is supporting all amendments that Senator Murray is to move on sheet 4847. Very briefly, in relation to the proposed amendment here, which seeks, as Senator Murray indicates, to ensure that any association so referred to under the amended act is independent of control or improper influence by an employer or a union, if the government
Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.21 pm)—At the outset can I say that the amendment is undoubtedly well meaning but in practical terms is only likely to add to the complexity and to increase the potential for unproductive litigation and associated costs. The amendment may be difficult to enforce in practice; that is, establishing that an association is free from employer control or improper influence is unlikely to be a straightforward matter. I am reminded that indeed in the trade union world there have been examples of certain trade union officials being provided with beach houses by certain elements of the employer sector. Given those circumstances, if that can befall a trade union one wonders how you would then control that in the trade union context let alone in the context of any other organisation. However, what I will say on behalf of the government is that if it does become evident that this is a genuine problem then we as a government would be willing to revisit the position. But, quite frankly, I think it is very much an academic issue, one that is unlikely to arise, and we as a government remain committed to allowing employees maximum flexibility in their choice of workplace representation.

Senator WONG (South Australia) (8.23 pm)—Just to put this on the record: Minister, other than your really saying it might be difficult to enforce—and not giving any detail as to why that is the case—I say that obviously there is a legislative intention which is set out in this amendment around independence and freedom from improper influence. So other than a gratuitous whack at some hypothetical trade union official, the minister has failed—

Senator Abetz interjecting—

Senator WONG—It would be very interesting, Minister, I am sure, to have a look at what freebies you might be provided with as a member of parliament. But that is really not the issue here. The issue here is the policy that is set out in the legislation and whether the government thinks it is appropriate that there should be a legislative direction that an association of this kind that is given this particular role under the proposed amended act should be one which is independent.

Question negatived.

Senator MURRAY (Western Australia) (8.24 pm)—by leave—I move together Australian Democrat amendments (2), (5), (7), (9), (10), (12), (13) and (14):

(2) Schedule 1, item 12, page 6 (after line 5), after subsection 16A(1), insert:

(1A) In developing or varying health and safety management arrangements, an employer must comply with any relevant provision in a paragraph 16(3)(c) agreement.

(1B) An employer must negotiate a paragraph 16(3)(c) agreement and implement the agreement into health and safety management arrangements if:

(a) a majority of employees, determined by ballot and in writing, require an agreement; or

(b) a certified agreement is in operation specifying provisions for developing a health and safety management arrangement.

(5) Schedule 1, item 15, page 9 (line 2), at the end of subsection 24(3), add:

; and (c) the employer must comply with the provisions of a paragraph 16(3)(c) agreement when varying designated work groups.

(7) Schedule 1, item 18, page 10 (after line 11), after subsection 25A(1), insert:
An employer arranging the invitation of nominations or election in accordance with subsection (1) must comply with any relevant provisions of a paragraph 16(3)(c) agreement.

Schedule 1, item 18, page 10 (line 20), at the end of subsection 25A(4), add “and the employer arranging the election must comply with any relevant provisions in a paragraph 16(3)(c) agreement”.

Schedule 1, item 19, page 11 (line 26) to page 12 (line 4), omit the section, substitute:

26 Term of office
A health and safety representative for a designated work group holds office for 2 years or in accordance with a paragraph 16(3)(c) agreement.

Schedule 1, page 12 (after line 30), after item 22, insert:

22A At the end of section 31
Add:
(5) An employer that is notified under subsection (2) or (3) must comply with any relevant provisions of a paragraph 16(3)(c) agreement.

Schedule 1, item 24, page 13 (line 9), at the end of subclause 33(2A), add “and an employer arranging for the invitation of nominations as part of an election must comply with any relevant provisions in a paragraph 16(3)(c) agreement”.

Schedule 1, item 25, page 13 (after line 26), after subsection 34(1), insert:

(1A) A health and safety committee must be established in accordance with any relevant provision of a paragraph 16(3)(c) agreement.

This group of amendments deals with the relationships between section 16(3)(c) agreements and other provisions in the act. We think that these need to be clearly spelt out to ensure that agreements between the employer and the employees as determined in paragraph (3)(c) have sufficient authority and cannot be unilaterally ignored by an employer. Our reading of the bill is that an employer could be able to walk away from a safety agreement. If our reading is accurate, we think that is wrong and that would seriously undermine safety standards.

Amendment (2) ensures that if a majority of employees choose to have a health and safety agreement then management has to sit down with them and negotiate one and that there should be an onus on the employer to implement the safety agreement and to fully comply with it, otherwise it can be rendered meaningless. This addresses a principle of collective bargaining. There are those who believe that collective bargaining should involve everyone. That is always, I think, impractical except in very small workplaces. Therefore I think a majority of workers are entitled to be able to determine matters such as a broad health and safety agreement so that it cannot be held up by one or two people who might disagree. It is hard to understand, if our reading of the bill is correct, why the government would want an employer to be able to walk away from a safety agreement and refuse to implement or comply with it.

Amendments (5), (7), (9), (10), (12), (13) and (14) ensure that the employer complies with section 16(3)(c) agreements with respect to varying the work group, electing health and safety representatives, the length of office of a health and safety representative, the resignation of a health and safety representative, and the establishment of the health and safety committee. In other words, they are tightening measures designed, in our view, to improve the operability of this legislation.

Senator WONG (South Australia) (8.27 pm)—I indicate that the Labor Party is supporting Senator Murray’s amendments. As I understand it, from both having a look at them and listening to Senator Murray’s contribution, they essentially deal with ensuring
that there is a legal requirement as to compliance on a range of fronts associated with health and safety management arrangements, in particular the arrangements pursuant to section 16(3)(c). I ask the government, through the minister, this: if the government is not supporting these amendments, would he indicate whereabouts in the proposed bill and/or principal legislation there are provisions which in fact ensure compliance with any arrangements entered into?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.28 pm)—I commence my comments by thanking Senator Murray for the methodical way in which he is dealing with the amendments by taking them in groups. Of course, we would not expect anything less from Senator Murray—of course, with great respect to Senator Murray—we never expect him to shy away from prescription and from focusing on processes as opposed to outcomes. In my 12 or so years in the Senate, it would be fair to say that the big divide between my—and also the government’s approach to issues and the Australian Democrats’ approach is that we have been more outcomes focused. But if there is a problem, you can always bet on the Democrats to have some prescriptive process to try to overcome the issues.

In relation to these amendments, can I put to the Senate that by mandating an agreement-making process, as proposed by the amendment, the focus will invariably shift towards the content of the agreement and away from actual outcomes. This runs counter to the main thrust of the bill, which is to streamline processes and focus on improving outcomes. The proposed amendments would elevate agreements about consultation to a status over and above that which was intended or is provided for in the current legislation. The proposed amendments also envisage a ballot process without specifying how such a ballot should be conducted. In this respect the amendment would require additional prescription—and, one could ask rhetorically, to what end?—to compel an employer to enter into an agreement about the manner in which the employer consults with its employees about OH&S issues.

Formal agreement making may be a worthwhile exercise in larger workplaces, but in smaller units where consultation need only ever involve a dozen people—or, indeed, even fewer—simply talking to one another, requiring a formal consultative agreement simply makes the whole process looks silly and unnecessarily bureaucratic. In any case, the amendment is illogical as it would make employers’ duty of care subject to reaching an agreement, because if the third party were to fail to agree, the employer has then breached their duty. For those reasons we oppose the amendments proposed.

In response to Senator Wong, I have had confirmed that it is in the employer’s general duty of care that she will find the answer.

Senator WONG (South Australia) (8.31 pm)—I return to the issue of the 16(3)(c) agreements that are proposed in the bill. There was discussion of these agreements by the minister, from recollection, or his representative—I cannot recall if this minister gave the second reading speech or someone else. Leaving aside Senator Murray’s amendment (2), certainly a number of the amendments—amendments (5), (7), (9) and, I think, (12) and perhaps some others—in fact deal with the employer complying with an agreement into which it has entered. If, as I would have thought, the government is proclaiming these 16(3)(c) agreements as the ‘great leap forward’, can the government explain why it is that it does not believe that an employer should be bound to an agreement made under that subsection? The refer-
ence to the general duty of care, with respect, Minister, really is not to the point. I assume you are talking about an employer’s common-law duty of care not to injure employees and to have a safe workplace, or however it is so formulated. But that is not what we are talking about. You are talking about a new agreement-making regime that is given a certain statutory status under the bill that is proposed. On what basis does the government say that an employer who has entered into an agreement under 16(3)(c) ought not to be required to comply with that agreement?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.33 pm)—What the Labor Party and the Democrats are seeking in this is a formal type of agreement, whereas what we are seeking is for workplaces to enter into arrangements where the discussion between a worker and the employer is very relevant and where the employer at the end of the day is still required to abide by their duty of care. With great respect, we can debate this, but I think that is very much to the point, albeit that that point is lost on Senator Wong.

Senator WONG (South Australia) (8.34 pm)—It is interesting, Minister, that you cannot have a debate about the detail of the legislation without the gratuitous insults. But we have come to expect that from you. Perhaps the minister can answer this: is it the government’s intention that arrangements under 16(3)(c) do not have to be complied with by employers?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.35 pm)—The employer has to comply with the arrangements that are entered into.

Senator WONG (South Australia) (8.35 pm)—Is there any section of the act which requires the compliance that the minister has just alluded to?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.35 pm)—I have been told that 16(1) would point the honourable senator to the fact that they would be in breach of their duty of care, which is the overarching principle in this.

Senator WONG (South Australia) (8.35 pm)—Is it the government’s assertion that the general duty of care contained in 16(1) therefore requires compliance with the provisions of a 16(3)(c) agreement?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.36 pm)—This relates to Commonwealth employees. Commonwealth employees—sorry, the Public Service in this country is governed by other legislation as well, and, in relation to this situation, if the Commonwealth has entered into an agreement with its employees, then it is bound by that agreement.

Senator WONG (South Australia) (8.36 pm)—I am still unclear, Minister. And, as I think you corrected yourself, it may apply to people who are not employed by the Commonwealth as the legal employer. Is that correct? Does the legislation extend beyond people who are technically employed by the Commonwealth, such as Commonwealth statutory authorities?

Senator Abetz—Yes.

Senator WONG—So they are a separate legal entity to the Commonwealth—a statutory authority. So do I understand the government’s position to be that as part of the agreement the Commonwealth may, for other legal reasons, be bound, but any employer entering into a 16(3)(c) arrangement under this legislation is not bound to comply with that under the terms of this legislation? There have been two or three answers on this front. First it was: ‘Oh, it’s the general duty of care.’ Second it was: ‘It’s the Commonwealth.’ And third was your original thing,
which was: ‘We seek arrangements not formal agreements.’

Senator Abetz—That is right.

Senator WONG—My and the Labor Party’s question is very clearly: are you requiring any employer entering into a 16(3)(c) agreement to comply with the provisions of that agreement?

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.38 pm)—I hate to disappoint the honourable senator in this, but there has been nothing inconsistent—and, yes, that is the expectation.

Senator MURRAY (Western Australia) (8.38 pm)—I have listened to this exchange with some interest. Before I make points which I hope are pertinent to the exchange, I would say to the minister through the chair that I think you should be careful about pointing fingers at the Democrats and a prescriptive approach, because out there in what is known as voter land, when I get people reacting to the approximately 1,800 bills that have been passed under your government and complaining about the Financial Services Reform Act, the tax act, the GST, BAS, superannuation returns or anything else—in which, at times, I have had a part to play because I have voted with the government on them—the finger tends to be pointed at the government, not at the Democrats, for making regulations, laws and so on—

Senator Abetz interjecting—

Senator MURRAY—highly prescriptive and very annoying. So whilst I certainly would not claim clean hands on this matter, I do suggest you avoid pointing fingers at me or the Democrats for being of a prescriptive frame of mind.

Returning to the discussion, it seems to me that the government may have built an unnecessary cross for it to carry, because if you look at section 16(3)(c) the substantive clause has got the subordinate clauses attached to it, and it refers to safety management arrangements. That sounds like a slippery way of trying to infer informality. But that can never get you away from the duties which have well-established jurisprudence with respect to employer-employee obligations. However, if you look at subordinate clauses (a), (b), (c), (c)(i), (c)(ii) and (d), you will see that a number of words appear there for which the arrangements may provide—in (a), for a policy; in (b), for arrangements; in (c), for agreements; in (d), for training; and in (c)(i) and (c)(ii), for consultation and such other matters. It seems to me that in any situation where these matters are taken to a court—and the Lord forbid that occurs, but these things do occur—a judge would look at this in totality and would aggregate those and say they have a commonality or congruence.

As you know, I am not a lawyer, but through my various business arrangements over the years I have probably spent millions on those, so I have learnt some of their tricks, much to the collective cost of the businesses I have been involved with. It seems to me that you cannot escape the inference that an arrangement is a formal obligation in law. Therefore, I am surprised you have used different language throughout and that a definition was not simply established up-front that an agreement can be an arrangement, policy, this, that or the other. However, I am surprised at the range of legislative language used. Perhaps there is a good reason for it which I have not had my attention drawn to.

Returning to the object of the amendments, they are to provide some clarity with respect to these issues—to make the obligations and responsibilities clear. That is all. The government and its officers might well have been able to design them better, but in
my view they improve what you have before us.

Question negatived.

Senator MURRAY (Western Australia) (8.42 pm)—I move Democrat amendment (3) on sheet 4847:

(3) Schedule 1, item 12, page 7 (line 9), omit “12 month”, substitute “5 year”.

The government’s bill seeks to introduce certificates so that employers can be satisfied that a union has membership in their organisation. The Bills Digest notes that the certification process is more stringent in this current bill than in previous versions of the bill, and these certificates are planned to run for only 12 months. It is highly unlikely where there is a representative union that union membership would cease to exist within a 12-month period. I am far from an expert in union matters—and perhaps the shadow minister could tell us—but I believe that normal union membership is the period of the membership itself and then you get a leeway of several months in case you have not renewed your financial membership in time. So, typically, I would not expect union membership to be a precise 12-month period.

There are already checks and balances in the bill which would allow a certificate to be cancelled by Comcare if the union had no members in the workplace. Given the administrative impact on unions and employees—the onerous and stringent nature of the certification process—wouldn’t it be more practical and reasonable for the certificate to be valid for a longer period of time? Accordingly, the amendment proposes to increase the life of the certificate from 12 months to five years—bearing in mind that we would expect that the persons to whom the certificates relate would be related to arrangements or agreements which would have a tenure much longer than just 12 months. You need to try and coincide these things. I cannot imagine any employers or even unions in their right minds wanting to keep changing these agreements throughout a short period of 12 months.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.45 pm)—In opposing Senator Murray’s amendments, the government is of the view that the certificates issued in relation to the particular consultation are issued in relation to a particular consultation. It is highly unlikely that those consultations would take place over a five-year period. That is why we think that is excessive. It is reasonable that a certificate be renewed if necessary after 12 months, and that would keep it fresh. The certificate is spent once consultations on health and safety management arrangements, or variations of them, are finished. It is reasonable that for new consultations, employees should seek a new certificate. Certificates are only required when an employee wishes to be represented by an organisation but does not wish to be identified, so we believe the 12-month period is sufficient.

Question negatived.

Senator MURRAY (Western Australia) (8.46 pm)—I move amendment (4) on sheet 4847:

(4) Schedule 1, item 12, page 7 (after line 22), at the end of section 16B, add:

Note: A person who breaches this section may be subject to civil action (see Schedule 2).

I have always rather liked the idea of notes in legislation. I think it was former minister Peter Reith who introduced me to them, and I have a legislative soft spot for them. Can you have a legislative soft spot? Who knows? It is a weakness of mine, so indulge me for a moment.

Section 16 requires that the employer consult with the certified employee representative. However, there is no consequence if the
employer refuses to consult and, by doing so, potentially undermines the safety process. The amendment at item (4) notes that a person who breaches section 16 may be subject to civil action as outlined in schedule 2 of the Occupational Health and Safety (Commonwealth Employment) Act 1991. Without this amendment, we think employers and employees would not be alert to the potential consequences leading to poor OH&S outcomes. It is designed as a signpost or a flag as to that matter.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.48 pm)—Briefly, we believe that the amendment is unnecessary. There are two people or organisations that could breach that which Senator Murray refers to. The first would be the CEO of Comcare, and that person is bound by the Privacy Act 1988. In relation to the other organisation, that would be the employees’ representative organisation. Not to divulge information that organisation has obtained is implicit in the relationship that the employee would have with his or her representative organisation. Therefore, with respect, we do not believe this amendment is necessary.

Question negatived.

Senator MURRAY (Western Australia) (8.49 pm)—by leave—I move amendments (6), (8) and (15) on sheet 4847:

(6) Schedule 1, item 16, page 9 (after line 21), after subsection 24A(2), insert:

(2A) An employer must provide a copy of the list of all the designated work groups to an employee or an employee representative on receipt of a written request.

(8) Schedule 1, item 18, page 10 (after line 11), after subsection 25A(1), insert:

(1B) An employer must provide a copy of the list of all health and safety representatives and deputies to an employee or an employee representative on receipt of written request.

(15) Schedule 1, item 45, page 18 (line 24), at the end of paragraph 74(1)(c), add “and the number of designated work groups, the number of health and safety representatives and the number of health and safety representatives completing training in accordance with section 27”.

These amendments are straightforward. They serve to introduce greater transparency into the new safety process. They improve communications by requiring the employer to provide a copy of the list of designated work groups and health and safety representatives to employee representatives and in annual reporting. One would hope this would be an automatic function of the administrative processes in any organisation, but, in the interests of making sure it happens, this is designed for that effect.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.50 pm)—The government opposes these amendments as well. To put it another way, it is another example of boiling the frog. The proposed amendments of themselves do not appear exceptionally onerous. However, in the wider scheme of things, they are out of step with the government’s intention to redirect effort from rule making and record shuffling towards practical arrangements that improve workplace safety. The bill does require that the employer has available for inspection an up-to-date list of designated work groups and health and safety representatives, and the lists must be available for inspection by employees and investigators at all reasonable times.

The proposal that an employee representative have an enforceable right to demand a copy is a potentially backward step as it seeks to give union officials a special role. Because the lists must be available for inspection by employees at all reasonable
times, it is therefore not necessary. One of the primary purposes of the bill is to encourage direct negotiation between employees and employers without the intervening presence of unions.

Senator Webber interjecting—

Senator ABETZ—Jeez, the unions didn’t look after her! In relation to item 15, the bill seeks to shift resources and effort from rule making and record keeping to practical activities, and the training statistics of themselves are of marginal relevance in assessing outcomes. Organisations may keep them if they see a benefit, and many already do. However, mandating the provision of training statistics would be yet another bureaucratic add-on requiring more information gathering and further complicating existing record keeping. In brief, we oppose the amendment.

Senator WONG (South Australia) (8.52 pm)—I want to place on record a couple of points: the first is that Labor supports these amendments. The second point is to indicate to the chamber that the anti-union contribution that the minister falls back on as his kind of reflexive contribution in so many of these debates in relation to occupational health and safety and in relation to industrial relations more generally has just been demonstrated again. The provision that he is so worried about or so opposed to includes something as simple as providing a list of health and safety representatives to an employee or an employee representative, whether that is a union or some other representative.

Senator Abetz—No.

Senator WONG—That is what item 8 inserts, which is one of the amendments that the minister addressed. You can say ‘no’ but that is actually what you said.

Given what we know about the importance of tripartite arrangements, given what we know about how effective those have been in improving health and safety in the workplace and given what we know about the unacceptably high incidence of workplace injury in this country, it is extraordinary that the minister’s best response to a suggestion from the Democrats, supported by the opposition, about giving people a list of who is a representative in their workplace is the kind of response that says, ‘We do not want unions to have a privileged role.’

Senator Abetz—That is just wrong.

Senator WONG—The minister summed it up in his remarks or perhaps earlier in the committee debate—I think this is right—when he used the phrase ‘that we are about removing unions’ privileged involvement’. That is the agenda here.

The agenda is not how we set up an arrangement which is most likely to minimise workplace injury. The agenda is not one of sound public policy. The agenda is not what is effective. At its heart, this legislation is about the government’s difficulty with anything that has collective employee representation involvement. It is about your dislike of the trade union movement. You cannot help yourself when you are confronted by reasonable amendments put in this place. You have to go yet again to that same old reflexive union-bashing agenda that we have heard so many times in this place from this minister.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (8.55 pm)—Unfortunately, I do need to respond to that contribution. As I indicated earlier, the bill already requires that the employer has available for inspection an up-to-date list of—

Senator Wong—Why did you say what you said?

Senator ABETZ—Exactly what I am reading out is what I said in my previous contribution. You are so anti anything that I personally say or that the government might
contribute that you do not listen to the actual provisions of this bill. Let me repeat for the benefit of Senator Wong: the bill already requires that the employer has available for inspection an up-to-date list of designated work groups’ health and safety representatives. The lists must be available for inspection by employees and investigators at all reasonable times. What was being suggested by Senator Murray’s amendment was a special role for the trade unions. We do not believe that that is warranted, given the open-ended nature of these provisions.

The honourable senator opposite, Senator Wong, has continually referred to us as somehow being anti union. The simple fact is that the majority of workers in Commonwealth employ have decided for themselves not to be members of a trade union. It therefore stands to reason to those of us that want to look after the workers, both union and non-union, that there be some capacity for the non-union members to be represented as well. That is why we have a provision in the terms I have just read out that is available to all employees.

Question negatived.

Senator MURRAY (Western Australia) (8.57 pm)—Mr Chairman, the only amendment left on sheet 4847 is item 11, and I do not propose moving that item. We will accept defeat with respect to the amendments that we put.

In closing my own contribution to this debate, I find there is a disconnection sometimes between what the minister and members of the government say that they are on about and the way in which they embellish what they say they are on about. For instance, the minister in his speech on the second reading made a remark which I applaud—that the government is not anti union, that this bill is not designed to be anti union and that you are not framing it with that perspective in mind. But then as soon as you, Minister, get into debate and interchange—this is essentially the point that Senator Wong has made—the ‘lie’, if I can express it that way and without meaning an untruth from you, is given to that statement because your very demeanour and your examples indicate an anti-union bias.

I believe that attitude in the Liberal Party, and probably in the National Party too, is derived from the fact that the unions and Labor are joined together as the political wing, industrial wing and so on. But I have always tried to separate that. As members of the chamber know, I am of the view that union members should not be automatically assumed to be counted as members towards the delegates who go to union conferences, for instance. On many occasions I have expressed a dislike for some of the arrangements which tie the political and industrial wings of the Labor Party and the unions. But that does not turn me into an anti-union person.

I would say, through the chair, Minister, that it is unfortunate that quite often a very strong anti-union bias comes through. I imagine that if I or anybody else stood here and, instead of the word ‘union’ in a sentence, put the word ‘corporate’ or ‘company’ in the sentence and constantly diminished or demeaned the corporate world, it would be entirely wrong. There are many fine men and women who run the companies of this country as well as many fine men and women who are in employee organisations, both union and non-union. Without seeking to sound like a preacher, Minister—

Senator Abetz—you are.

Senator MURRAY—I am. That is why I have said that.

Senator Abetz—it doesn’t overcome it.

Senator MURRAY—No, it does not overcome it. I agree. But I would say to you
that saying you are not anti union and then in
debate sounding as if you are creates a prob-
lem of perception. That is what you are get-
ing a reaction to. With those remarks, I will
close.

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

Question agreed to.

Bill reported without amendment; report
adopted.

Third Reading

Senator ABETZ (Tasmania—Minister for
Fisheries, Forestry and Conservation) (9.01
pm)—I move:

That this bill be now read a third time.

The Senate divided. [9.06 pm]

(The President—Senator the Hon. Paul
Calvert)

AYES
Abetz, E. 
Barnett, G.
Boswell, R.L.D.
Calvert, P.H.
Chapman, H.G.P.
Eggleston, A.
Ferguson, A.B.
Fielding, S.
Fifield, M.P.
Humphries, G.
Joyce, B.
Macdonald, I.
Mason, B.J.
Nash, F.
Patterson, K.C.
Ronaldson, M.
Troeth, J.M.
Watson, J.O.W.

NOES
Allison, L.F.
Bishop, T.M.
Brown, C.L.
Conroy, S.M.
Forshaw, M.G.
Hurley, A.
Kirk, L.
Lundy, K.A.
McEwen, A.
Moore, C.
Nette, K.
Sherry, N.J.
Stephens, U.
Webber, R. *
Wortley, D.

Campbell, G.
Crossin, P.M.
Hogg, J.J.
Ludwig, J.W.
Marshall, G.
Milne, C.
Murray, A.J.M.
Polley, H.
Siewert, R.
Sterle, G.
Wong, P.

* denotes teller

Question agreed to.

Bill read a third time.

AUSTRALIAN NUCLEAR SCIENCE
AND TECHNOLOGY ORGANISATION
AMENDMENT BILL 2006

Second Reading

Debate resumed from 11 September, on
motion by Senator Santoro:

That this bill be now read a second time.

Senator STEPHENS (New South Wales)
(9.09 pm)—I rise this evening to speak on
the Australian Nuclear Science and Tech-
ology Organisation Amendment Bill 2006.
ANSTO is Australia’s national nuclear re-
search and development organisation and the
centre of Australia’s nuclear expertise. This
bill will enable ANSTO to handle, manage
and store radioactive materials arising from a
wider range of sources and circumstances
than it can under its current legislative
framework. The ANSTO Act limits the or-
ganisation to dealing only with its own ra-
dioactive material, including waste produced
by the current HIFAR reactor and its re-
placement, the OPAL reactor.
It is both prudent and practical for ANSTO as an expert body to handle, manage and store radioactive materials from other sources. It is for this reason that Labor supports this bill. With this bill, ANSTO is able to be directly involved in managing radioactive material involving terrorist or criminal incidents. At the moment, ANSTO is limited in the assistance it can provide during emergencies to simply providing advice to Commonwealth, state and territory agencies.

There are many circumstances where this extension of ANSTO’s powers would be helpful. Let us say, for example, that a terrorist group is discovered to be gathering material or has a radioactive ‘dirty’ bomb. Under the current act, ANSTO could offer valuable advice to other Commonwealth and state officials about handling the radioactive material but would be prevented from handling the material itself. Given ANSTO’s expertise and the facilities which ANSTO has available, this legislative restriction should be removed. ANSTO ought to be able to manage, clean up, transport and store radioactive material in the event of a terrorist attack or criminal incident involving that radioactive material. As a result of this bill, ANSTO will be able to provide its expertise on waste management of all radioactive materials held by the Commonwealth.

The ACTING DEPUTY PRESIDENT (Senator Chapman)—Order! Would honourable senators who want to conduct conversations please conduct them outside the chamber, or at least with more deference towards the senator who is speaking.

Senator STEPHENS—This includes transporting radioactive waste to Lucas Heights, conditioning or processing the material to make it safe and suitable for further storage, and the temporary storage of that treated material until a long-term repository is available. The Australian Radiation Protection and Nuclear Safety Agency’s Code of practice and safety guide will require all nuclear waste going to the dump being imposed on the Northern Territory to be conditioned and processed according to certain standards. This bill will mean that more Commonwealth waste will be transported to Lucas Heights for processing before it is suitable for long-term storage in the Northern Territory.

There may be community concern about more waste going to Lucas Heights, and federal Labor would be very concerned if the waste stayed there for a long period of time. Labor wants to make sure that the present ANSTO site at Lucas Heights does not become a long-term dump for Commonwealth nuclear waste. The Minister for Education, Science and Training, Julie Bishop, has stated that the government has no intention of storing other Commonwealth waste at Lucas Heights. I would like this reiterated by her counterpart in the Senate, because we need an absolute commitment from this government that it will not use this bill as a backdoor way to dump more waste at Lucas Heights.

I note also that this bill will bring Australia one step closer to the standards set out in the United Nations Convention for the Suppression of Acts of Nuclear Terrorism. Labor urges that all necessary action to comply with this UN convention be taken so that Australia can agree to this important treaty. Whilst Labor support this bill, we remain concerned about the Howard government’s extreme approach to nuclear power and nuclear waste. We are in the middle of a so-called inquiry into nuclear power: ‘so-called’ because it is considering the viability of nuclear power in Australia without even looking at the locations of future power plants; ‘so-called’ because it is looking at the viability of Australia importing nuclear waste from other countries, becoming the world’s nu-
clear waste dump. Mr Howard’s so-called inquiries are only ever set up after he has made up his mind about what he is going to do. In this case that means nuclear power for Australia. This government has form for misleading the Australian public. We have already seen this with the nuclear waste debate.

Labor supports appropriate management of Australian nuclear waste, following proper community consultation. But the Howard government, as we all know, is determined to dump radioactive waste in the Northern Territory, despite massive community concern. Before the last election, the people of the Northern Territory were given an undertaking, a promise in fact, by this government that there would not be a dump in the Northern Territory. At the last election, for the sake of votes for Mr Tollner, the member for Solomon, this government was happy to reassure Territorians that there would be no nuclear waste dump in the Territory. The member for Solomon said on ABC radio only a year ago:

There’s not going to be a national nuclear waste dump in the Northern Territory ... That was the commitment undertaken in the lead up to the federal election and I haven’t heard anything apart from that view expressed since that election.

However, only a month after the member for Solomon’s guarantee, Brendan Nelson, the then Minister for Education, Science and Training, kicked Territorians in the teeth by announcing the government’s intention to dump nuclear waste in the Northern Territory. They did a complete backflip to force the nuclear waste dump onto the Territory. The member for Solomon has now changed his tune completely. In August 2006, he supported a motion to look at a uranium enrichment industry in the Northern Territory. He said:

I look forward to supporting the motion and for this analysis to be undertaken. If the review comes back with a potentially viable industry, I will be the first to put my weight of support behind getting the industry up and running.

The government has shown time and again that its word cannot be trusted. This Prime Minister’s promise to keep interest rates at record lows has become worthless with three interest rate rises and creeping inflation. His commitment that no worker will be worse off under the Howard government means nothing for the employees at Radio Rentals or Spotlight.

Now that he has broken his promise to keep nuclear waste away from the Northern Territory, where does that leave his so-called ‘nuclear power inquiry’? The Prime Minister expects all of us to believe him this time when he says that he is interested in the views of the Australian community. Can he honestly look the Australian people in the eye anymore and say, ‘Trust me’? The Prime Minister has refused to come clean on the question of where he will put his nuclear power plants. Both the Prime Minister and the Minister for Education, Science and Training, Julie Bishop, have refused to talk about locations—although I note that the science minister was quite happy to rule out her own electorate. So, if a debate about nuclear power is not an appropriate time to talk about power plant sites, when is the appropriate time?

Local communities have a right to know what this government’s intentions are and what to expect from it both on nuclear power sites and on the siting of future nuclear waste dumps. Make no mistake about it, the government is determined to bring nuclear power to Australia. It is determined to bring high-level waste dumps to Australia. Foreign Minister Alexander Downer said earlier this year:

We need medium and we need high level storage as well.
More recently, on 27 August 2006, Alexander Downer courted more nuclear waste for Australia with his call for Australia to enrich uranium. I would like to draw the attention of the Senate to an anti-nuclear campaign called the ‘Beyond Initiative Symposium’, which was held in Melbourne last month. Topics covered at the symposium included the proposed Northern Territory radioactive waste dump, and one topic that was particularly intriguing was billed as ‘radioactive racism’. The history of radioactive racism is one of oppression but also one of struggle.

The problem for Australia, particularly Indigenous Australians, is that Mr Howard has not explained what his plans for nuclear enrichment mean for waste storage in Australia. It is obvious that, along with the foreign minister’s comments, this so-called inquiry is part of the government’s campaign to wear down Australians’ opposition to nuclear power. We all know that the Prime Minister’s call for a full-blooded debate on nuclear energy is just code for: ‘We are determined to have nuclear power in Australia.’

This year ANSTO commented publicly that at least three to five nuclear power plants would be needed for a viable Australian nuclear power industry. My question to the Prime Minister is: if we need up to five nuclear power plants to have a viable industry, why can’t the Australian people know where those sites might be located? My position and that of the Labor Party is clear. The Labor Party is fundamentally opposed to bringing nuclear power to this country. There will be no nuclear power plants in Australia under a Beazley Labor government. The economics for a nuclear industry simply do not stack up, and the public certainly does not support it.

The Prime Minister continues to talk up what is a phoney debate on nuclear power for Australia, because he wants to go down that path. It is a phoney debate. The nuclear power inquiry’s task force was hand-picked by the Prime Minister, without wider consultation. It will have no public hearings, and it will not look at where the nuclear power plants will go. So the Australian people will be none the wiser about these important questions when the task force produces its draft report for public consideration in November 2006. That report will have no scientific evidence or opinion regarding locations. Given that the final report is due in late 2006, the period for public consideration will be very brief indeed, particularly as we will have an election in 2007. How many Australians will be able to wade their way through the detailed scientific reports with ease? Very few, I suspect. If this is the Howard government’s idea of public consultation, government members should hang their heads in shame.

The Prime Minister should come clean with the Australian people and tell us all which towns and suburbs will house these nuclear reactors and where the high-level nuclear waste dumps will be located. If the Prime Minister were serious about this issue, he would have called an inquiry to address the concerns held by many Australians about global warming and climate change, instead of a committee of inquiry to undertake a very narrow investigation of nuclear power and energy.

A series of things that have been brought to our attention are incontrovertible evidence of global warming. They include the 10 hottest years on record having occurred in the last 14 years, the rapidly rising incidence of severe tropical storms and hurricanes, and changing rainfall patterns and temperature related habitat loss, leading to the extinction of some of the world’s wild creatures. All of these issues are critical matters for the Australian people but, as usual, we are not getting answers to these questions from the
Howard government. It prefers to run a pro-
gram of deception when it comes to nuclear
power. It prefers to mislead people, to make
promises to people, as it did in the Northern
Territory before the last election over the
nuclear waste dump. The government then
did a backflip and imposed a nuclear waste
dump on the people of the Northern Territory
after the election.

As I said, there are good reasons for sup-
porting the bill that is before the Senate but I
urge senators to look at Labor’s very serious
concerns, which are set out in the second
reading amendment circulated in my name.
The amendment indicates our extreme con-
cerns about the heavy-handed way in which
the government is going about the debate on
nuclear power and the imposition of a nu-
clear waste dump on the people of the
Northern Territory, as well as its lack of ac-
tion on climate change. Our concerns form
the basis of the second reading amendment. I
move:

At the end of the motion add “but the Senate
condemns the Government for:

(a) its extreme and arrogant imposition of a
nuclear waste dump on the Northern
Territory;

(b) breaking a specific promise made before
the last election to not locate a waste
dump in the Northern Territory;

(c) its heavy-handed disregard for the legal
and other rights of Northern Territorians
and other communities, by overriding
any existing or future state or territory
law or regulation that prohibits or inter-
feres with the selection of Common-
wealth land as a site, the establishment
of a waste dump and the transportation
of waste across Australia;

(d) destroying any recourse to procedural
fairness provisions for anyone wishing
to challenge the Minister’s decision to
impose a waste dump on the Northern
Territory;

(e) establishing a hand-picked committee of
inquiry into the economics of nuclear
power in Australia, while disregarding
the economic case for all alternative
sources of energy; and

(f) keeping secret all plans for the siting of
nuclear power stations and related nu-
clear waste dumps”.

**Senator MILNE** (Tasmania) (9.23 pm)—

It is interesting that we are debating the Aus-
tralian Nuclear Science and Technology Or-
ganisation Amendment Bill 2006 giving
ANSTO increased powers on the same day
that North Korea has exploded a nuclear
weapon. There are two issues that make the
nuclear cycle completely unacceptable. The
first is weapons; the second is waste. Today
we are hearing of both those issues. Only a
few months ago, we heard from the Prime
Minister about those people who were con-
cerned about proliferation of nuclear weap-
ons because Australia was both planning to
export a huge increase in uranium to China
and toying with the idea for India. The Prime
Minister ridiculed people, suggesting that the
safeguards would be such that it would not
be a problem—that the world could contain
the problem of weapons. Today, we have had
a salient lesson in the fact that that is just not
possible, and tonight we are talking about the
other major problem with the nuclear cy-
CLE—that is, waste. There is no safe storage
for nuclear waste. That is a fact. Nowhere in
the world has anyone perfected a capacity to
safely store nuclear waste.

**Senator Lightfoot**—No-one in the world
has ever been hurt by the storage of nuclear
waste. Of course it’s been safe.

**Senator MILNE**—I am very interested in
the interjection, especially since the Russian
navy, as a matter of course, uses disposal at
sea as its main method of disposal of nuclear
waste. We have heard from the senator that
nobody has been hurt by the storage of nu-
clear waste. I suggest that the senator pay
attention to what is happening in Russia, as thousands of people die from exposure to illegal dumps of nuclear materials. It is happening right across eastern Europe because of completely unsafe storage, and that is quite apart from what happened at Chernobyl and other places. If you care to look into what is going on in eastern Europe, you will find that there are people today dying because of exposure to radioactive waste not put into so-called safe storage facilities.

I cite the words of the 1970 Nobel laureate in physics, Hannes Alfven, who said: ‘We want to use the energy now and leave the radioactive waste for our children and grandchildren to take care of. This is against the ecological imperative: thou shalt not leave a polluted and poisoned world to future generations.’ I would suggest that the government consider that very carefully. In the context of what we are doing this evening, the purpose of the legislation we have before us is to allow the Australian Nuclear Science and Technology Organisation to prepare, manage or store radioactive materials from a much wider range of sources and circumstances than presently permitted under the Australian Nuclear Science and Technology Organisation Act 1987. So we are expanding the power of ANSTO to deal with nuclear waste.

The context in which we are doing that is a world which I would suggest is less safe than I can remember for many decades. In 1953 President Eisenhower wrote in his diary that he had a clear conviction that the world was racing towards catastrophe. You only have to look at what has been going on with global warming, nuclear proliferation, the nuclear weapons test today and global insecurity to know that in fact that is where we are going again: a clear conviction that the world is racing towards catastrophe. But apparently the government does not think so in relation to global warming and it does not think so in relation to proliferation. In fact, the government’s statements would suggest that it thinks the IAEA has things under control.

Both Liberal and Labor support the expansion of uranium mining and the putting into the global nuclear cycle of increased quantities of uranium, which will leak into weapons programs and which will come to the attention of nuclear terrorists. The government acknowledges that itself, because in its ANSTO bill this evening it is trying to give ANSTO the power to deal with waste arising from a relevant incident, including a terrorist or criminal act.

Since 2002 the IAEA says there have been 300 interceptions of terrorists trying to take nuclear materials across borders et cetera—300 since 2002. But, no, the government thinks that the best way of dealing with the fact that there have been 300 arrests—the IAEA site says it quite clearly—from terrorist activities related to nuclear materials is not to prevent the nuclear materials in the first place. The government’s response is to say: ‘Well, let’s give ANSTO the capacity to deal with that in the event that we arrest someone and take it from them.’ What if they use it rather than be arrested and have it taken from them?

The third point of the legislation is with regard to taking waste from overseas. Currently that is prohibited, but the government acknowledges in this bill that, technically, returned waste is not exclusively from ANSTO’s reactors. It wants to clarify that ANSTO can receive materials not generated from ANSTO’s activities in the first place. What a coincidence that earlier this year Prime Minister Howard talked to President Bush, who has a grand plan—the Global Nuclear Energy Partnership. The nuclear energy partnership undermines the non-proliferation treaty. It allows for the United States to de-
cide which countries in the world will be allowed to have nuclear power and which will not and it sets up a series of nuclear supplier groups or centres around the world.

Prime Minister Howard was clearly impressed by the notion that Australia could become one of George Bush’s nuclear fuel supply centres. The problem with that is that as part of the nuclear fuel supply centre we would be obliged to take back the waste under the leasing arrangements. A bill has come into this chamber that provides the capacity for ANSTO to handle waste not generated in Australia. Am I being too cynical in suggesting that the two are in some way connected?

When Prime Minister Howard came back from speaking with President Bush he said:

If we are not a nuclear fuel supplier then that shuts us out of certain gatherings.

We know that the Prime Minister could not bear to be shut out of a gathering with President Bush and his associates in the partnership of the willing. It was after the Prime Minister came back from visiting the US and speaking about the global nuclear energy partnership that he suddenly had a burst of enthusiasm for investigating enrichment, leasing and taking back nuclear waste.

He had a cheerleader in the Labor member Martin Ferguson, who immediately got on the bandwagon and said it was a fabulous idea. That followed former Prime Minister Hawke saying that Australia should become a repository for the world’s nuclear waste and that, in fact, it was a moral imperative that we did so. Minister Abbott said that was a visionary suggestion and then along came Labor’s Martin Ferguson saying that he believed that we should have a ‘cradle to grave’ plan, which is precisely what President Bush wants with his global nuclear energy partnership. What he is not saying is that the United States has terrible problems storing its waste because its proposal to build a new waste dump at Yucca Mountain has met with enormous opposition and they have not been able to get it through. What could be more desirable for the United States than to find a lackey somewhere in the world prepared to hand over land for a high-level nuclear waste dump to take nuclear waste from elsewhere? The ANSTO bill provides for precisely that—it creates that loophole.

Let me look at the three provisions of the bill. It extends ANSTO’s functions to handle radioactive materials in three broad scenarios. The first is that it will allow ANSTO to manage the proposed Northern Territory facility, which we totally oppose. We remind the Senate that this entirely overrules and is against the wishes of the Northern Territory. As the Chief Minister said, we have been lied to, bullied and treated like second-class Australians since the prospect of building the dump in the Territory was first raised. She went on to say that it is no surprise that CLP senator Nigel Scullion supported the prospect of the short inquiry and acknowledged the Territory had been lied to and treated appallingly but failed to stand up against Canberra. That is the fact of the matter.

This bill provides for ANSTO to manage the nuclear waste dump proposed for the Northern Territory, which is opposed in the Northern Territory and imposed on the Northern Territory without its consent and imposed on Aboriginal communities without their consent. I visited the Mount Everard community and they are horrified by the prospect of having a nuclear waste dump imposed upon them. It is outrageous that the government is supporting the notion of imposing such a dump against the wishes of the traditional owners and the wishes of the Northern Territory.

Not only that, it is allowing a fallback position, a contingency plan, in the event that plans to dump waste in the Northern Terri-
tory are protracted or defeated. It makes way for Lucas Heights to fulfil that function. On countless occasions the government has insisted that waste arising from overseas reprocessing of Lucas Heights’s spent fuels will not be returned to Lucas Heights. Here we are again seeing weasel words concerning the difference between disposal of waste and storage of waste. It is quite clear that this is a recognition that the disposal of radioactive waste at Lucas Heights is legally prohibited but long-term storage is not. When you have a look at the way this bill is worded, you see that it provides for storage. We have two contingencies covered by giving ANSTO control of the Northern Territory waste dump and, if that is prevented, allowing storage at Lucas Heights. It would be very interesting to hear what the minister had to say in relation to that.

In relation to terrorist attacks, there is very clear evidence around the world that they are occurring. As I pointed out earlier, al-Qaeda is now calling on terrorists to come to Iraq and help them to make dirty bombs to be used against the US. I remind senators that that will effectively mean the US and its allies in its war in Iraq.

We also have the situation where seizures of smuggled radioactive material capable of making terrorist dirty bombs have been doubling in recent years. Smugglers have been caught trying to traffic radioactive materials more than 300 times and we know that Western security services cannot cope. That situation is recognition of the probability that a terrorist attack will happen somewhere in the world, and instead of preventing it from happening by ruling out expanded mining of uranium, by ruling out enrichment and by ruling out waste dumps, the government is moving legislation to facilitate all three.

Finally, there is the issue of bringing back the waste from overseas and expanding, again with weasel words, the capacity for Australia to accept waste not exclusively from ANSTO’s reactors. Of course that is a preparatory opening of the door to take waste in the context of President Bush’s Global Nuclear Energy Partnership. In the light of what has happened in North Korea today, I would be very interested to hear whether the Prime Minister is quite as gung-ho as he has been in recent months in condemning those who are concerned about proliferation around the world and whether he is quite as gung-ho as he has been about President Bush’s Global Nuclear Energy Partnership because that undermines the nuclear non-proliferation treaty.

We have watched the Prime Minister’s soft-shoe shuffle in recent weeks on selling uranium to India. Here we have a country prepared to wag its finger at North Korea whilst at the same time prepared to sell uranium to India, which is not a signatory of the nuclear non-proliferation treaty, and to wag its finger at Iran, which is exercising its right as it sees it under the provisions of the nuclear non-proliferation treaty to have nuclear power. I believe, as most other people do, that Iran is using that as an excuse, but that is the whole point of what is going on: how can Australia, when it is prepared to support the US in undermining the nuclear non-proliferation treaty with the deal it has done with India and when it is actively looking at selling uranium to India, turn around and wag its finger at other countries?

I utterly condemn what has happened in North Korea, I condemn the nuclear fuel cycle, I condemn expanded uranium mining, I condemn enrichment and I condemn taking back the waste. If you do not want to take back the waste, if you do not want the problems with waste and weapons, then do not dig up uranium in the first place. That is why we have taken the stand we have. We think it is hypocritical to be complaining about waste.
dumps if you are prepared to support uranium mining in the first place and send uranium overseas, as indeed Martin Ferguson and the Leader of the Opposition, Mr Kim Beazley, have done when they have said that they want to overturn the three mines policy.

In the case of Martin Ferguson, he wants to support cradle to grave, saying it is what industry wants and it is what the Labor Party wants. He argues it is what the community wants, but in fact he is absolutely wrong. The community does not want that. It does not want the Global Nuclear Energy Partnership. It does not want nuclear waste returned to Australia. It does not want nuclear waste generated in the first place. Most Australians are horrified by the way this government has been hurtling down the US deputy sheriff’s path of supporting an expansion of the nuclear fuel cycle globally.

Having read of the activities of Abdul Qadeer Khan over the last 30 years, and having looked at the unstable international security environment that has been caused because of the amount of illicit nuclear material around the world, it is utter madness to be coming in here with legislation expanding ANSTO’s role in those three areas and, in fact, making contingency plans for the dump in the Northern Territory and, in the event that that fails, making contingency plans for Lucas Heights to become a storage area. It is utter madness to be making contingency plans for dealing with a terrorist attack in terms of radioactive material when we should be preventing that material from going out in the first place, and it is utter madness to be making contingency plans for Australia to become the world’s nuclear waste dump, as is planned by President Bush.

The Greens will be totally opposing this legislation. As I said, our view is that you should not dig up uranium in the first place. We need a world which is supported by renewable energy. It is achievable, but it is not going to be achievable as long as this government is wedded to the notion of profit above principle, profit above the nuclear non-proliferation treaty. Anyone looking at this bill can see that it will lead to a worsening nuclear situation, not an improved one.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (9.42 pm)—The Australian Nuclear Science and Technology Organisation Amendment Bill 2006 is designed to extend the Australian Nuclear Science and Technology Organisation’s functions to handle radioactive material in three broad additional scenarios: firstly, to participate in the management of radioactive material and waste in the possession or under the control of any Commonwealth entity, including material designated to be stored at the proposed Commonwealth radioactive waste management facility in the Northern Territory; secondly, where requested by a Commonwealth, state or territory law enforcement or emergency response agency, to deal with radioactive material and waste arising from a relevant incident, including a terrorist or criminal action; and, thirdly, to deal with intermediate level waste originating from spent nuclear fuel from ANSTO’s nuclear reactors that is returned to Australia from overseas reprocessing facilities for storage and/or disposal.

While the Democrats understand that the provision to give ANSTO authority to handle radioactive waste material returned to Australia fulfils a contractual obligation, we are very concerned indeed that this opens the door to the importation and disposal of foreign nuclear waste, particularly given that there is no legislative prohibition against this. More specifically, the legislation allows the government to impose an international high-level nuclear waste dump on unwilling communities and states and territories.
Call me cynical, but I think it is most unlikely that the government’s push for a radioactive store is a genuine attempt to address a growing environmental issue. More likely, I think it is a move to facilitate an industry expansion that would result in the creation of even more radioactive waste in this country. Our suspicions have been heightened by the recent deal to sell uranium to China and the possibility of selling uranium even to India, which has not signed the nuclear non-proliferation treaty and which has nuclear weapons.

We are concerned that the Australian government intends or is under increasing pressure for Australia to be a repository for high-level waste generated by countries to which we export uranium. The uranium industry framework established by the government in August last year to examine uranium mining expansion has very quietly expanded its terms of reference to include so-called nuclear stewardship. The interim report to the federal government is reported to recommend that the government and mining industry should start planning for broader engagement in the nuclear fuel cycle from mining to processing, enrichment, domestic nuclear energy, export and reimportation of waste for storage, recycling and disposal. That is a massive step in the wrong direction. It is hard to believe that the government would even contemplate that without much more debate on this issue and without taking into account the objections of the vast majority of Australians.

The plan was, by all accounts, outlined to the Prime Minister during his visit to the United States in May this year. The news in August that the United States supports Australia developing a uranium enrichment industry, previously a concern for them, adds further weight to the prospect of nuclear stewardship in Australia. The proposal by the US to lease nuclear fuel and return the spent fuel to the supplier for reprocessing and storage would mean that Australia would be forced to store highly radioactive waste. No doubt that would be a relief to the United States. It is a huge political and environmental problem there. Yucca Mountain was supposed to be the great hope for nuclear waste storage but has turned out to be a dud. It has been discovered that radioactive material will leak from that facility, and it is a huge problem for George Bush and others there who need to deal with the massive quantities that America has.

Not a single repository exists anywhere in the world for the lifetime of storage of high-level waste from nuclear power because that technology just does not exist. High-level waste, particularly in centralised storage, as the government proposes, creates a dangerous legacy for future generations. These concerns of ours form the basis of the second reading amendment which has been circulated in my name. I will move my second reading amendment after we have dealt with Senator Stephens’s amendment. I will go through the motion at this point to foreshadow it. It says:

... the Senate:

(a) notes that there is growing evidence that the Prime Minister and Coalition Government want to make Australia the nuclear waste dump of the world and store high-level waste;

(b) notes that high-level waste is radioactive for hundreds and thousands of years and that no single repository exists anywhere in the world for the disposal of high-level waste from nuclear power; and

(c) calls on the Government to rule out a high level waste dump in Australia.

Further, the government should use the current legislative process to give legal weight to its previously stated view of opposition to Australia’s hosting of a high-level international nuclear dump. I will, on behalf of the
Democrats, also move an amendment in the committee stage that would prohibit ANSTO and any health or medical facility operating within Australia from being able to deal with high-level waste that is not generated by or associated with the Lucas Heights operations.

I think it is fair to say that Australians have well-founded doubts about nuclear waste material disposal in Australia—doubts that it can ever be made safe. This government and those before it have not really instilled in the community a great deal of confidence in their ability or willingness to take this issue seriously. The management of waste at uranium mines—whether at Ranger, more recently at Beverley or in the long-overdue clean-up of Maralinga after the British tests, where plutonium contaminated waste has been disposed of in simple earth trenches covered by just a few metres of soil—is hardly reassuring. The Prime Minister’s plans to expand a nuclear mining and possibly enrichment operation in Australia make them even more nervous.

I also think it is very hypocritical of the government to call for a national code for the siting and development of wind farms to make sure community concerns have been taken into consideration, having just overridden, with the Commonwealth Radioactive Waste Management Bill 2005, Territory government opposition and huge community opposition to a dump in the Northern Territory.

Debate interrupted.

ADJOURNMENT

The Acting Deputy President (Senator Kirk)—Order! It being 9.50 pm, I propose the question:

That the Senate do now adjourn.

Home Hill Boat Club

Senator IAN MACDONALD (Queensland) (9.50 pm)—The Lower Burdekin area of Queensland has long been renowned as a destination for those people wishing to engage in the recreational fishing experience. Part of the Burdekin delta estuaries is a locality called Groper Creek. It is on the Home Hill side of the Burdekin River. It is a small town of about 80-odd shacks or beach huts, with a caravan park facility of some 46 sites.

The Home Hill Boat Club consists of a group of volunteers from the Lower Burdekin district who have for more than 60 years looked after the Groper Creek facility and particularly the caravan park. They are as well a fishing club for that part of Queensland. The Home Hill Boat Club saw a need for additional fishing facilities for the community. People come from far and wide—many of them for anything up to three months every year, usually in winter—to stay in this little village and to enjoy the delights of fishing in a locality that has had fairly limited public amenities.

The Burdekin is renowned for good fishing for barramundi, grunter, bream and whiting—any of the popular recreational fishing species—and the Home Hill Boat Club identified additional facilities that would enhance the fishing experience in this area. They heard of the federal government’s Recreational Fishing Community Grants Program. That is a program which the government announced before the 2004 election. It is a grants program that has been helping to expand and enhance the recreational fishing experience as part of this government’s goal of encouraging Australians to go fishing, an experience which is good for families, good for the community and helps local economies at the same time.

So the Home Hill Boat Club, under the presidency of Mr John Fahey and with the
assistance of the very hardworking treasurer of the club, Mr Alf Shand, applied to the Australian government for funds under its Recreational Fishing Community Grants Program. They applied for $18,394 and they were successful in getting it. The program requires that applicants match the amount that the Australian government provides and certainly the Home Hill Boat Club provided matching funds primarily in the form of the volunteer labour of about six people for about 912 hours.

What has been done by that club is simply magnificent. Last Friday night I had the honour of officially opening the facilities which club members had built with their own labour and with the assistance of the Australian government. The project provided amenities at Groper Creek consisting of two covered fish-cleaning tables with wash-down facilities at the water’s edge. As well as that, there were two covered gazebo areas to be used for barbecues and as recreational meeting areas for fishers. They also constructed a concrete wash-down area for the hosing of boats after fishing.

Friday evening was absolutely delightful. It was a real pleasure to be there with the locals from Home Hill and Ayr and also the dozens of people from all over Australia who make Groper Creek their home for anything from one week to three months each year. It was a very pleasant night. It was great to see the local state member, Mrs Rosemary Menkens, who is also the shadow environment minister, there, along with Councillor Ross Lewis from Burdekin Shire Council. I was particularly delighted to recognise Councillor Mark Haynes. Not only is he the Deputy Mayor of Burdekin Shire Council but also he is the chairman of the committee that advises Senator Abetz—who, fortuitously, is in the chamber—on applications for funding under the government’s Recreational Fishing Community Grants Program. Councillor Haynes was there not only as a representative of the Shire but also, his position as chairman of the advisory committee. I assured the audience, however, that the fact that he was the deputy mayor and also the chairman of this committee had nothing to do with the fact that the grant was successful. Clearly, the grant was successful on its own merits. It is an ideal example—in fact, it is one of the first completed projects—of the worth of this recreational fishing grants program.

This program was introduced by the government to enhance the recreational fishing experience, and what the Home Hill Boat Club have done at Groper Creek will certainly enhance the recreational fishing experience of the many hundreds of people who use that facility every week of the year. The people who built the covered gazebo areas have real pride in what they have achieved. They have named one of these covered gazebo areas Bucket’s Bar. Apparently the late Mr Bucket who returned to Groper Creek to go fishing used to hold court, so to speak, in this area, so one of the gazebo areas has been nicknamed Bucket’s Bar. The other covered gazebo area is, as the locals explained, for the silvertails. It actually has an electric barbecue in it, so they probably call it ‘Bouquet’s Bar’ in contrast to Bucket’s Bar down the other end of the area. Both of them have been built by club members with loving care and great enthusiasm. These are a real contribution to the locality and will certainly enhance the recreational fishing experience.

It was a real honour for me to be there last Friday night. I was delighted to be part of a very happy gathering of an enthusiastic group of people, people who really appreciate a government payment of some $18,000—not a big amount of money as far as government largesse goes these days but to them it was a very significant amount of
money which they matched with blood, sweat and tears and a bit of their own money. It really has created a marvellous facility for the Lower Burdekin and is a credit to all involved.

Breast Cancer

Senator LUNDY (Australian Capital Territory) (9.59 pm)—Each October we observe Breast Cancer Awareness Month and take stock of the work and progress of the past year. 2006 has been a year of progress. After much lobbying and research, the breast cancer drug Herceptin has finally been listed on the Pharmaceutical Benefits Scheme for eligible patients. Until now Herceptin has been available only for late stage metastatic breast cancer, when the cancer had spread beyond the breast and axillary lymph nodes to a distant site such as bone, liver, brain or lungs. But trials had shown good results in the treatment of HER2 positive early breast cancer too. Then on 14 July the Pharmaceutical Benefits Advisory Committee issued its recommendation to list Herceptin on the Pharmaceutical Benefits Scheme. On 22 August the Health Minister, Mr Tony Abbott, finally announced that the cancer drug Herceptin would be listed on the PBS ‘for the treatment of early stage breast cancer for women who are able to benefit from it’. Funding commenced on 1 October this year. This could cost Australia $100 million or more.

The recommended dose period is one year at a cost of about $60,000 per patient. We have all heard of desperate patients who could not afford this and of supportive families and communities who sacrificed themselves to try to provide this funding and a lifeline to so many sufferers of breast cancer. The funding of Herceptin represents a victory on the part of the dedicated people who work closely together in anticancer lobby groups, which work cooperatively with defined roles.

The National Breast Cancer Foundation directs research and raises funds. Ros Kelly, a former government minister and former breast cancer patient, is the present Chair of Trustees of the National Breast Cancer Foundation. Patron of the NBCF is Janette Howard, the Prime Minister’s wife and a former breast cancer patient. The NBCF has established the National Action Plan for Breast Cancer Research and Funding and has pledged $50 million to funding the best and most relevant research projects in Australia. Since its inception in 1995 it has committed $22.2 million to research and equipment grants, awards, fellowships and scholarships.

The National Breast Cancer Centre—the NBCC—deals with people and patients. It is responsible for promoting the early detection of breast cancer and has an important role in making sure that progress made through research is passed on to doctors. Former government minister and former breast cancer patient Jocelyn Newman is a member of the board of directors of the centre. One 2006 initiative has been the training of Indigenous health workers to care for women with breast cancer in their communities. Another has been the development of Australia’s first website for men with breast cancer.

The Breast Cancer Network Australia—the BCNA—is the peak national body representing Australians personally affected by breast cancer. Its trademark is the well-known Pink Lady logo. As leading breast cancer researcher and advocate Dr Linda Reaby has pointed out:

Cancer affects every Australian, either directly or indirectly.

Statistics from the National Breast Cancer Foundation show that the incidence of breast cancer is increasing and one in 11 women will get this disease by the age of 75; that breast cancer is the most common cancer among Australian women, with 11,800
women diagnosed each year; that in the past decade, however, mortality rates from breast cancer have fallen by 22 per cent; that more than 90 per cent of Australian women diagnosed with breast cancer will survive for at least two years and 84 per cent will survive for five years or longer; that the risk of breast cancer increases with age; and that over 70 per cent of breast cancers are found in women aged 50 and older. However, in younger women tumours may be more aggressive, resulting in a lower rate of survival.

Cancer is a national priority health area and breast cancer is one of the eight priority cancers identified. The government has committed to providing funding of $189.4 million over five years for the Strengthening Cancer Care initiative to 2008-09. Recent and current breast cancer research programs have focused on such areas as improving early detection, studying genetics and family and hereditary risk factors, and prevention factors. Overseas studies have reported a decreased risk of breast cancer among women who exercise regularly. Breast stem cells are a promising new research area that could generate important insights into how breast cancer develops. Another development which is exciting researchers is the training of cells to fight breast cancer.

The goal of the National Breast Cancer Foundation is ‘to raise enough money to fund the cure for this deadly disease’. Its National Action Plan for Breast Cancer Research and Funding has 12 priorities for immediate research action, which include an alliance of funding bodies, creating and sustaining long-term and large-scale projects, establishing databases of research and a national bank of tumours and relevant normal tissues for approved ethical research, and facilitating national and international research collaboration. Ros Kelly, Chair of Trustees of NBCF, says that $100 million is needed over the next decade to achieve this.

Certainly the past decade has seen an increasing and continuous effort by the breast cancer groups to raise both awareness and funds. Australians who have a high public profile—Kylie Minogue featured prominently last year—have generously allowed their own stories of breast cancer to be publicised. Last week in her address to the National Press Club, NBCF patron Sarah Murdoch praised the Australian media for its role in building awareness of breast cancer. She said that last year almost 12,000 families were affected by a diagnosis of breast cancer in both women and men. Sarah Murdoch supported the call to raise $100 million to implement the national plan and to build cooperation between research and fundraising areas. She pointed to the prominence now of corporate and product sponsorship, with ‘pink’ everywhere this month, from drink-bottle lids to apparel.

Breast cancer day—Pink Ribbon Day—will be celebrated on Monday, 23 October, and we expect a number of fundraising breakfasts, morning teas, lunches and dinners on that day. I know that on Sunday, 22 October in Canberra—which is of course the national capital and my electorate—Dragons Abreast will hold their annual Challenge Regatta, with an expected whopping 33 teams competing. I am proud to be a co-patron of Dragons Abreast. But that is not all that is happening on that day. The Mini Field of Women in Canberra will be set up for Sunday, 22 October. We have been promised that a special landmark in Canberra will be lit up in ‘glorious pink’. I am sure many of my colleagues will have noticed the way in which the public buildings in Canberra have been lit during the Floriade month.

I would like to conclude by thanking all those people who manage to find the time in their lives to help in this massive effort to reduce the incidence of breast cancer and the pain and suffering that accompany it. Lives
have been saved and many more will be because of the efforts of those people.

Asylum Seekers

Senator BARTLETT (Queensland) (10.07 pm)—Recently we have seen coverage in the media of the latest group of asylum seekers—in this case, from Burma—who have been sent to Nauru. We have also seen coverage of the disgraceful circumstances of the sole remaining Iraqi man on Nauru, Mohammed Sagar, who is still there after five years in a situation of total limbo. It is important to keep reminding the public and the Senate of the circumstances of people like Mohammed Sagar and his colleague Muhammad Faisal, who is currently in hospital in Brisbane and still, after five years, uncertain of his future, because one of the key reasons the approach of sending asylum seekers to places like Nauru is pursued is to put them out of sight and out of mind and to make it much more likely that they will be forgotten.

It is worth noting that just a couple of weeks ago, on 26 September, we had the fifth anniversary of legislation being guillotined through this chamber by a vote of both the major parties. That passed, I think, seven separate pieces of legislation, some of which the Senate had no opportunity to scrutinise at all, and provided the legal framework to allow people to be basically taken against their will and put in a third country. However, there is another aspect of that period that I would like to focus on today, because there are a number of five-year anniversaries coming up in the next few weeks relating to a number of incidents. One is at the end of this week.

On 12 October 2001, a seriously overcrowded Indonesian fishing boat containing 238 Afghan asylum seekers, including many children and even babies, reached Ashmore Reef. They were intercepted not long after by an Australian Navy ship, the HMAS Warra-munga. They were kept at Ashmore Reef on their very overcrowded and increasingly squalid vessel for five days under the surveillance of the Australian Navy whilst the federal government decided what would be done with them. I have flown over Ashmore Reef, and I can assure people that there is not much there at all—in fact, there is nothing there. Being kept for five days on an overcrowded fishing boat with 238 people, including children, would be an experience that I do not think many of us could actually imagine.

On 17 October, the Navy moved in after having got their directions from the federal government to act in a way that was now lawful, after legislation had passed this Senate. They basically undertook an action which the Pauline Hanson supporters of this nation had been urging for years, which was to tow them back out to sea. That is what the Australian Navy did. They separated the women and children and put them on the Navy boat. They then forced the 160 men into the hold of the fishing boat and steered it back to Indonesian waters. They then forcibly put the women and children back on the boat and left them there to their own fate.

It is worth noting that a similar thing was done just nine days later with more than 200 Iraqi asylum seekers, who were also forced from Ashmore Lagoon on a boat that was then designated as SIEV7. According to an article written by Arnold Zable in the Age on 27 June this year, three of the men from that boat:

... disappeared, presumed drowned, as they waded ashore, at night, when the boat ran aground 300 metres off Roti Island.

I think that is worth noting not only for the historical record but also because, five years later, a number of those people are still marooned in Indonesia, in a similar way to the
The way people were marooned on Nauru—and, indeed, one person still is marooned on Nauru. Forty-five of those 238 Afghan asylum seekers are still in a camp on Lombok in Indonesia. Women, men and children have lived there for five years in poverty, uncertainty and without any security for their future.

Some months ago, I provided to Senator Vanstone a petition containing around 3,000 signatures asking her to address the situation of these people. I drew one of the families that was there—that of Laila Sedaqatyar, her husband and children—to specific media attention back in June. Laila’s young daughter, who is now nine but was then four, and her young son, who was two at the time he was forced back and is now seven years old, have grown up in that camp on Lombok. That particular small family is not only in the situation of having to be in that circumstance but also in the absurd situation where their immediate family are here in Australia and are Australian citizens. Laila’s parents, grandmother, three brothers, four sisters, aunts, uncles and numerous cousins are here and are Australian citizens all. Back in 2002 they applied for visas for this small family to come and join their extended Australian citizen family in Australia. After two years of considering that application, that was rejected. Two years later again, that family was still stuck on Lombok. It is worth noting that the Australian government still pays an estimated $3 ½ million a year to the International Organisation for Migration and the UNHCR for the upkeep of people in this circumstance.

I have put this on the record a number of times: I support this process of Australia providing funds for the UNHCR to assess people in Indonesia. It is certainly preferable that people who are fleeing from dangerous situations do not have to undertake dangerous voyages on extremely overcrowded boats. It is no excuse for those who do so to then be forced into another dangerous voyage back to where they came from and to be left in limbo for years after that. Certainly, if we can have people assessed in Indonesia, and if Australia can assist in that happening so that people do not have the need to undertake further dangerous activities, that is a positive. But it is only a positive if people can actually get an outcome. If they are stuck there for years and years on end then it does not provide them with an outcome.

We have seen that with the Burmese asylum seekers, who have now been sent off to Nauru. My understanding, based on what I have seen, is that they had already spent many years outside of Burma seeking some sort of secure situation. It is not only unsurprising; it is almost inevitable that when people are on the run or in an insecure situation for years and years that they will seek a secure circumstance. It is well and truly time for those asylum seekers—particularly those 45 Afghan asylum seekers and refugees who are still on Lombok after five years—to have a secure and final resolution to their circumstance.

We all know that the circumstances in Afghanistan have gone from bad to worse. That is a matter of regret to all of us. Indeed, I am sure many of these people would much rather be able to return to Afghanistan if it were safe, but there is now ample evidence that it is not. There is now ample evidence that some of the people who did return—some of them involuntarily—had to flee once again. There is some evidence that some of them were killed. It is not reasonable at all to expect people in this circumstance to go all the way back to Afghanistan. According to reports and papers in the last day or two, it is feared the Taliban may be about to retake control of certain sections of that unfortunate war torn country.
These people, including the family I mentioned, have any number of Australian relatives who are willing to vouch for them and meet the costs of looking after them—who simply want them and their children to have a safe and secure future. Australia has funded the survival and upkeep of these people throughout this period, and it is well and truly overdue that they have secure circumstances. There are still asylum seekers who arrive in Indonesia. We do not hear about them because they are not coming to Australia, but they are still arriving in Indonesia. If we can deal with them there—if they can be assessed and provided with secure options—then that is certainly better than them having to go on boats, but we need to provide them with safety and security. (Time expired)

Senate adjourned at 10.18 pm

DOCUMENTS
Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]


Aged Care Act—Determination of Adjusted Subsidy Residential Care Services—ACA Ch. 3 No. 22/2006 [F2006L03068]*.

Australian Meat and Live-stock Industry (Standards) Amendment Order 2006 (No. 2) [F2006L03180]*.

Australian Meat and Live-stock Industry (Standards) Amendment Order 2006 (No. 3) [F2006L03255]*.

Australian Prudential Regulation Authority Act—Australian Prudential Regulation Authority (Confidentiality) Determination No. 12 of 2006—Information provided by locally-incorporated banks and foreign ADIs under Reporting Standard ARS 320.0 (2005) [F2006L03181]*.


Banking Act—

Banking (Foreign Exchange) Regulations 1959—

Direction relating to foreign currency transactions and to North Korea, dated 19 September 2006 [F2006L03114]*.

Variation of exemption relating to North Korea, dated 19 September 2006 [F2006L03116]*.

Variation of exemption relating to North Korea, dated 19 September 2006 [F2006L03120]*.

Banking (Prudential Standard) Determination No. 11 of 2006—Variation to Prudential Standard APS 520—Fit and Proper [F2006L03184]*.

Civil Aviation Act—

Civil Aviation Regulations—

Civil Aviation Order 100.16 Instrument 2006 [F2006L03250]*.

Instruments Nos—

CASA 286/06—Specification—examinations for aircraft maintenance engineer licence category airframes [F2006L03273]*.

CASA 287/06—Specification—examinations for aircraft mainte-
nance engineer licence category engines [F2006L03274]*.
CASA 288/06—Specification—
examinations for aircraft mainte-
nance engineer licence category radio [F2006L03275]*.
CASA 289/06—Specification—
examinations for aircraft mainte-
nance engineer licence category electrical [F2006L03276]*.
CASA 290/06—Specification—
CASA EX39/06—Exemption—
from take-off minima inside and outside Australian territory
[F2006L03151]*.
CASA EX48/06—Exemption—
training and checking organisa-
tion, flight check system
[F2006L03283]*.
Civil Aviation Safety Regulations—
Airworthiness Directives—Part—
105—
AD/A330/63—Fuel Tank
Safety—Fuel Airworthiness Limita-
tions [F2006L03208]*.
AD/AMD 50/38—Electrical
Power Feeder Inspection
[F2006L03188]*.
AD/B727/135 Amdt 2—Main
Deck Cargo Compartment
[F2006L03259]*.
AD/B737/294 Amdt 1—
Flightcrew Oxygen Masks
[F2006L03183]*.
AD/CESSNA 208/19 Amdt 2—
Flight and Ground Icing Operations
[F2006L03172]*.
AD/CONVAIR/26—Main Land-
ing Gear Lockpins
[F2006L03203]*.
AD/CONVAIR/27—Drag Strut
Shearbolt [F2006L03200]*.
AD/CONVAIR/28—Pressure Re-
fiueling System [F2006L03199]*.
AD/DA40/7—Contamination of the
Engine Fuel System
[F2006L03263]*.
AD/DAUPHIN/88—Engine Con-
trol Selector Switch Guard
[F2006L03197]*.
AD/EC/120/16—Engine Con-
trols—Twist Grip Assembly
[F2006L03196]*.
AD/ECUREUIL/113 Amdt 1—
Engine Controls—Twist Grip As-
sembly [F2006L03173]*.
AD/ECUREUIL/121—Oxygen
Cylinders [F2006L03178]*.
AD/F27/159—Fuel Tank
Safety—Fuel Airworthiness Limita-
tions [F2006L03195]*.
AD/F28/90—Fuel Tank Safety—
Fuel Airworthiness Limitations
[F2006L03193]*.
AD/F50/97—Fuel Tank Safety—
Fuel Airworthiness Limitations
[F2006L03192]*.
AD/JBK 117/25—Flight Control
System [F2006L03279]*.
AD/R22/24 Amdt 1—Lower Ac-
tuator Bearing Mounting Brackets
[F2006L03190]*.
AD/SA 315/1—Oxygen Cylinders
[F2006L03177]*.
AD/SD3-30/48—Fuel Tank
Safety—Fuel Airworthiness Limita-
tions [F2006L03189]*.
AD/STORCH/1—Elevator Trim
Tab Mass Balance
[F2006L03108]*.
106—
AD/CF6/54—High Pressure Tur-
bine Disc [F2006L03206]*.
AD/CF6/62—High Pressure Tur-
bine Disc [F2006L03204]*.
AD/ENG/4 Amdt 10—Piston Engine Continuing Airworthiness Requirements [F2006L03260]*.
AD/JT8D/42—8th Stage High Pressure Compressor Discs [F2006L03191]*.
AD/OXY/20 Amdt 1—Oxygen Cylinders [F2006L03179]*.
AD/PROP/2 Amdt 3—Feathering Propellers—Functional Check [F2006L03186]*.
AD/RAD/86—Caledonian Airborne Systems CPT-600/900 Emergency Locator Transmitters [F2006L03185]*.

Corporations Act—ASIC Instrument [06/0347] [F2006L03066]*.
Currency Act—Currency (Perth Mint) Determination 2006 (No. 3) [F2006L03036]*.
Customs Act—CEO Instrument of Approval No. 7 of 2006—Approval of International Mail Centres [F2006L03257]*.
Select Legislative Instrument 2006 No. 242—Customs (Prohibited Imports) Amendment Regulations 2006 (No. 3) [F2006L03103]*.
Tariff Concession Orders—
0610876 [F2006L03222]*.
0610827 [F2006L03090]*.
0610332 [F2006L03042]*.
0610393 [F2006L03039]*.
0610448 [F2006L03069]*.
0610464 [F2006L03037]*.
0610527 [F2006L03091]*.
0610528 [F2006L03131]*.
0610529 [F2006L03092]*.
0610530 [F2006L03041]*.
0610569 [F2006L03038]*.
0610570 [F2006L03040]*.
0610571 [F2006L03093]*.
0610621 [F2006L03122]*.
0610622 [F2006L03094]*.
0610660 [F2006L03071]*.
0610666 [F2006L03071]*.
0610666 [F2006L03128]*.
0610674 [F2006L03123]*.
0610682 [F2006L03075]*.
0610683 [F2006L03073]*.
0610728 [F2006L03133]*.
0610733 [F2006L03130]*.
0610734 [F2006L03124]*.
0610735 [F2006L03134]*.
0610736 [F2006L03248]*.
0610738 [F2006L03125]*.
0610739 [F2006L03132]*.
0610741 [F2006L03126]*.
0610757 [F2006L03095]*.
0610758 [F2006L03127]*.
0610949 [F2006L03233]*.
0610950 [F2006L03202]*.
0610951 [F2006L03205]*.
0610952 [F2006L03234]*.
0610960 [F2006L03207]*.
0610961 [F2006L03211]*.
0611082 [F2006L03215]*.
0611083 [F2006L03216]*.
0611084 [F2006L03214]*.
0611085 [F2006L03213]*.
0611312 [F2006L03218]*.
0611313 [F2006L03235]*.
0611315 [F2006L03236]*.
0611316 [F2006L03237]*.
0611453 [F2006L03238]*.
0611479 [F2006L03239]*.
Tariff Concession Revocation Instruments—
82/2006 [F2006L03083]*.
83/2006 [F2006L03084]*.
84/2006 [F2006L03086]*.
85/2006 [F2006L03087]*.
86/2006 [F2006L03089]*.
87/2006 [F2006L03247]*.
88/2006 [F2006L03249]*.
Defence Act—Defence (Public Areas) Amendment By-Laws 2006 (No. 1) [F2006L02960]*.
Environment Protection and Biodiversity Conservation Act—Amendments of lists of threatened species, dated—
5 September 2006 [F2006L03034]*.
6 September 2006 [F2006L03033]*.
Export Control Act—Export Control (Orders) Regulations—Export Control (Animals) Amendment Order 2006 (No. 2) [F2006L03047]*.
Families, Community Services and Indigenous Affairs and Other Legislation (2006 Budget and Other Measures) Act—
Social Security (Exemption Notices for Special Disability Trusts) (FaCSIA) Guidelines 2006 [F2006L03119]*.
Federal Court of Australia Act—Select Legislative Instrument 2006 No. 253—Federal Court (Bankruptcy) Amendment Rules 2006 (No. 1) [F2006L03139]*.
Federal Magistrates Court Act—Select Legislative Instrument 2006 No. 254—Federal Magistrates Court (Bankruptcy) Amendment Rules 2006 (No. 1) [F2006L03145]*.
Financial Management and Accountability Act—
Adjustments of Appropriations on Change of Agency Functions—Direction No. 7 of 2006-2007 [F2006L03176]*.
Net Appropriation Agreement for the Department of Foreign Affairs and Trade [F2006L03175]*.
Fisheries Management Act—Select Legislative Instrument 2006 No. 255—Fisheries Management (Macquarie Island Toothfish Fishery) Regulations 2006 [F2006L03032]*.
Health Insurance Act—Determinations of patient contributions—
HIB 23/2006 [F2006L03141]*.
HIB 24/2006 [F2006L03142]*.
HIB 25/2006 [F2006L03143]*.
HIB 26/2006 [F2006L03146]*.
HIB 27/2006 [F2006L03148]*.
HIB 28/2006 [F2006L03149]*.
Higher Education Support Act—
Higher Education Provider Approval (No. 12 of 2006)—Australian Guild of
Music Education Incorporated [F2006L03163]*.
Higher Education Provider Approval (No. 13 of 2006)—Holmesglen Institute of TAFE [F2006L03166]*.

Immigration (Guardianship of Children) Act—Immigration (Guardianship of Children) Regulations—Instrument IMMI 06/051—Welfare of Children: Offices that are Authorities [F2006L03067]*.


Insurance Act—Insurance (Prudential Standard) Determinations Nos—
6 of 2006—Variation to Prudential Standard GPS 520—Fit and Proper [F2006L03198]*.
7 of 2006—Prudential Standard GPS 110 Capital Adequacy [F2006L03224]*.
8 of 2006—Prudential Standard GPS 120 Assets in Australia [F2006L03261]*.

Judiciary Act—High Court of Australia—Rule of Court, as of 30 September 2006 [F2006L03007]*.

Migration Act—
Migration Regulations—Instrument IMMI 06/066—Migration Occupations in Demand [F2006L03101]*.
Select Legislative Instruments 2006 Nos—
249—Migration Agents Amendment Regulations 2006 (No. 2) [F2006L03044]*.
250—Migration Amendment Regulations 2006 (No. 6) [F2006L03096]*.


Motor Vehicle Standards Act—
Vehicle Standard (Australian Design Rule 38/00—Trailer Brake Systems) 2006 [F2006L03061]*.
Vehicle Standard (Australian Design Rule 42/00—General Safety Requirements) 2006 [F2006L03251]*.
Vehicle Standard (Australian Design Rule 42/01—General Safety Requirements) 2006 [F2006L03253]*.
Vehicle Standard (Australian Design Rule 42/02—General Safety Requirements) 2006 [F2006L03057]*.
Vehicle Standard (Australian Design Rule 42/03—General Safety Requirements) 2006 [F2006L03056]*.
Vehicle Standard (Australian Design Rule 51/00—Filament Lamps) 2006 [F2006L03254]*.
Vehicle Standard (Australian Design Rule 61/00—Vehicle Marking) 2006 [F2006L03055]*.
Vehicle Standard (Australian Design Rule 62/00—Mechanical Connections Between Vehicles) 2006 [F2006L03054]*.

National Health Act—
Arrangements Nos—
PB 42 of 2006—Highly Specialised Drugs Program [F2006L03169]*.
PB 43 of 2006—Chemotherapy Pharmaceuticals Access Program [F2006L03168]*.
PB 44 of 2006—Special Authority Program (Imatinib Mesylate) [F2006L03171]*.
PB 45 of 2006—Special Authority Program (Trastuzumab) [F2006L03170]*.
Declaratino No. PB 39 of 2006 [F2006L03164]*.
Determination—
HIB 20/2006 [F2006L03150]*.
HIB 22/2006 [F2006L03059]*.
HIB 29/2006 [F2006L03266]*.
No. PB 40 of 2006 [F2006L03165]*.
No. PB 41 of 2006 [F2006L03167]*.
PSO 6/2006 [F2006L03281]*.
PSO 7/2006 [F2006L03282]*.
Native Title Act—Select Legislative Instrument 2006 No. 244—Native Title (Tribunal) Amendment Regulations 2006 (No. 1) [F2006L03052]*.
Navigation Act—
Marine Orders Nos—
11 of 2006—AUSREP [F2006L03051]*.
12 of 2006—Health—Medical Fitness [F2006L03265]*.
Primary Industries (Excise) Levies Act—Select Legislative Instrument 2006 No. 240—Primary Industries (Excise Levies) Amendment Regulations 2006 (No. 5) [F2006L03157]*.
Product Rulings PR 2006/131-PR 2006/141.
Remuneration Tribunal Act—Determination—
2006/18: Members of Parliament—Entitlements [F2006L03155]*.
2006/19: Remuneration and Allowances for Holders of Public Office and Members of Parliament [F2006L03162]*.
Social Security Act—
Child Disability Assessment Amendment Determination 2006 [F2006L03174]*.
Social Security (Special Disability Trust Beneficiary Requirements) (DEST) Nomination of Agreement 2006 [F2006L03156]*.
Social Security (Special Disability Trust Beneficiary Requirements) (DEWR) Nomination of Agreement 2006 [F2006L03137]*.

Social Security (Special Disability Trust Beneficiary Requirements) (FaCSIA) Nomination of Agreement 2006 [F2006L03115]*.

Social Security (Special Disability Trust) (DEST) Guidelines 2006 [F2006L03138]*.

Social Security (Special Disability Trust) (DEWR) Guidelines 2006 [F2006L03138]*.

Social Security (Special Disability Trust) (FaCSIA) Guidelines 2006 [F2006L03121]*.

Social Security (Special Disability Trust—Trust Deed, Reporting and Audit Requirements) (DEST) Determination 2006 [F2006L03161]*.

Social Security (Special Disability Trust—Trust Deed, Reporting and Audit Requirements) (DEWR) Determination 2006 [F2006L03136]*.

Social Security (Special Disability Trust—Trust Deed, Reporting and Audit Requirements) (FaCSIA) Determination 2006 [F2006L03117]*.


Taxation Determinations TD 2006/56-TD 2006/61.

Taxation Ruling TR 2006/9.

Telecommunications Act—Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 (Amendment No. 1 of 2006) [F2006L03082]*.

Telecommunications Numbering Plan Variation 2006 (No. 2) [F2006L03291]*.

Telecommunications Service Provider (Mobile Premium Services) Amendment Determination 2006 (No. 1) [F2006L03271]*.

Telecommunications (Consumer Protection and Service Standards) Act—Select Legislative Instrument 2006 No. 245—Telecommunications (Consumer Protection and Service Standards) (Communications Fund) Amendment Regulations 2006 (No. 1) [F2006L03080]*.

Torres Strait Fisheries Act—Torres Strait Finfish Fishery—Torres Strait Fisheries Management Notice No. 78—Prohibitions relating to the taking, processing and carrying of finfish (gear, size and area restrictions and take and carry limit) [F2006L03225]*.

Torres Strait Spanish Mackerel Fishery—Torres Strait Fisheries Management Notice No. 79—Prohibitions relating to the taking, processing and carrying of spanish mackerel (gear and size restrictions and take and carry limit) [F2006L03227]*.

Torres Strait Tropical Rock Lobster Fishery—Torres Strait Fisheries Management Notice No. 80—Prohibitions relating to the taking, processing and carrying of tropical rock lobster (size restriction, closed seasons, gear restrictions and bag limits) [F2006L03228]*.

Veterans’ Entitlements Act—Determinations of Hazardous Service—Afghanistan [F2006L02858]*.

Arabian Gulf, Gulf of Oman and Northern Arabian Sea [F2006L02911]*.

Former Republic of Yugoslavia [F2006L02912]*.

Gulf of Iran, Gulf of Oman and southern end of the Iran Pakistan border [F2006L02864]*.
Gulf war [F2006L02842]*.
Haiti [F2006L02872]*.
Mozambique [F2006L02865]*.
Operations Habitat and Blazer [F2006L02857]*.
Determinations of Non-warlike Service—
Cambodia [F2006L02915]*.
Guatemala [F2006L02913]*.
Libreville (Gabon), Point Noire (Republic of the Congo [formerly known as the Peoples Republic of Congo]) and Grazzaville (Republic of the Congo) [F2006L02916]*.
Determination of Warlike Service—
Vietnam (Southern Zone) [F2006L02932]*.
Veterans’ Entitlements (Pension Bonus Scheme—Non-Accruing Members—Major Disaster) Declaration 2006 No. R19 [F2006L03232]*.
Water Efficiency Labelling and Standards Act—Water Efficiency Labelling and Standards Amendment Declaration 2006 (No. 1) [F2006L03045]*.
Workplace Relations Act and Workplace Relations Amendment (Work Choices) Act—Select Legislative Instrument 2006 No. 247—Workplace Relations Amendment Regulations 2006 (No. 3) [F2006L03154]*.
Governor-General’s Proclamations—
Commencement of provisions of Acts
Aboriginal Land Rights (Northern Territory) Amendment Act 2006—Items 1 to 4 of Schedule 1—1 October 2006 [F2006L03153]*.

Telecommunications (Interception) Amendment (Stored Communications and Other Measures) Act 2005—Part 2 of Schedule 1—1 October 2006 [F2006L03104]*.

* Explanatory statement tabled with legislative instrument.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Advertising Campaigns
(Question No. 105)

Senator Faulkner asked the Minister representing the Minister for Revenue and Assistant Treasurer, upon notice, on 19 November 2004:

With reference to the Superannuation Co-contribution advertising campaign:

(1) For each of the financial years, 2003-04 and 2004-05: (a) what is the cost of this advertising campaign; and (b) what is the breakdown of these advertising costs for: (a) television (TV) placements; (b) radio placements; (c) newspaper placements; (d) mail outs with brochures and letters signed by Mr Carmody; and (e) advertising research.

(2) When did TV advertising screening begin, and when is it planned to end.

(3) How many letters were sent by Mr Carmody.

(4) On what basis was the mail out selected.

(5) What database was used to select addresses - the Australian Taxation Office database, the electoral database or other.

(6) Given that the advertisements now do not reflect Government policy on the co contribution, is there any plan to update the campaign; if so, what campaign components will be updated and how much will this cost.

(7) (a) What appropriations will the department use to authorise any of the payments either committed to be made or proposed to be made as part of this advertising campaign; (b) will those appropriations be made in the 2003-04 or 2004-05 financial year; (c) will the appropriations relate to a departmental or administered item or the Advance to the Minister for Finance and Administration; and (d) if an appropriation relates to a departmental or administered item, what is the relevant line item in the relevant Portfolio Budget Statement for that item.

(8) Has a request been made of the Minister for Finance and Administration to issue a drawing right to pay out moneys for any part of the advertising campaign; if so: (a) what are the details of that request; and (b) against which particular appropriation is it requested that the money be paid.

(9) Has the Minister for Finance and Administration issued a drawing right as referred to in paragraph (8) above; if so, what are the details of that drawing right.

(10) Has an official or minister made a payment of public money or debited an amount against an appropriation in accordance with a drawing right issued by the Minister for Finance and Administration for any part of the advertising campaign.

Senator Coonan—the Minister for Revenue and Assistant Treasurer has provided the following answer to the honourable senator’s question:

As these questions deal with matters that are the responsibility of the Australian Taxation Office, I have asked the Commissioner for advice. The advice in relation to the honourable senator’s question is as follows:

(1) (a) 2003/04 financial year (Phase I) – $7.1 million
(b) 2004/05 financial year estimate (Phase II) – $5.559 million
(b) 2003/04 financial year (Phase I), as at 1 June:
(a) television placements: metro, regional, pay tv: $2,333,572
(b) radio placements: (radio print handicapped): $21,728
(c) newspaper (and magazine) placements: $1,692,582
(d) mail outs with brochures and letters signed by Mr Carmody: $853,320
(e) advertising research: $342,200

2004/05 financial year (Phase II) planned expenditure:
(a) $2,207,325
(b) $21,010
(c) $1,038,795
(d) $1,200,000
(e) $241,080

(2004-05 figures are as at Sept 05)


(3) Phase I approximately 1.5 million letters sent. Phase II approximately 2.96 million letters sent.

(4) Phase I - eligible Australians on the Australian Tax Office (ATO) database. The mail out included people:
- Who lodge an income tax return
- Whose total income is $40,000 per annum or less
- 10% or more of their total income is from eligible employment

Phase II – eligible Australians on the ATO database. The mail out included people:
- Who lodge an income tax return
- Whose total income is $58,000 per annum or less
- 10% or more of their total income from eligible employment

(5) Australian Taxation Office income tax return database.

(6) Yes, key material available from the ATO was updated to reflect the expanded co-contribution from 1 July 2004. For example, the ATO’s website information and contact centre staff scripts.

In addition, the advertising campaign materials have also been updated to reflect changes. The estimated cost of this is $382,404.

(7) (a) The ATO used appropriations under 2003-04 Appropriation Acts which were replenished by 2004-05 Appropriation Acts. As part of these amounts $5.2 million and $7.1 million respectively related to advertising campaigns. The balance of the funding was utilised for call centre activity and mailouts to all recipients of the super co-contribution.

(b) See response to 7(a).

(c) Appropriations made under Appropriation Bill (No. 1) 2004-05 and Appropriation Bill (No. 2) 2004-05 for the super co-contributions communication and marketing campaign are departmental in nature.

(d) The appropriation made under Appropriation Bill (No. 1) 2004-05 of $8.2 million is recognised in the Tax Office’s Budgeted Statement of Financial Performance. Specifically, the $8.2 million appropriation forms part of the “revenues from government” line item shown in Table 3.1 on page 215 of the 2004-05 Treasury Portfolio Budget Statements (PBS). This amount is
also recognised in Table 1.2 on page 190 as a separate line item, “Superannuation co-
contribution implementation campaign”.

The appropriation made under Appropriation Bill (No. 2) 2004-05 of $9.6 million relates to a
previous years outputs appropriation and is recognised in the 2004-05 Treasury PBS in Table
1.1 on page 187 as “Agency capital (equity injections and loans)”. This amount is also recog-
nised in the Tax Office’s capital budget statement in Table 3.4 on page 218 as “previous years’
outputs” capital appropriation.

(8) to (10) No.

**Divisions of General Practice**

(Question No. 1636)

**Senator Webber** asked the Minister representing the Minister for Health and Ageing, upon
notice, on 21 March 2006:

(1) How much funding was provided for the 2005-06 financial year to each Division of General Prac-
tice for Mental Health.

(2) Have these amounts increased each year over the past five financial years; if so, by how much.

(3) What formula does the Department use to determine how much each Division receives.

**Senator Santoro**—The Minister for Health and Ageing has provided the following answer
to the honourable senator’s question:

(1) Divisions of General Practice access funding for mental health through several multi-purpose pro-
grams. Some of these programs include the More Allied Health Services (MAHS) Program, Re-
gional Health Services (RHS) Program, National Rural Primary Health Program (RPHP), Medical Specialist Outreach Assistance Program (MSOAP) and Better Outcomes in Mental Health Care (BOIMHC) Program.

(2) It is not possible to determine whether the total mental health funds to Divisions of General Prac-
tice have increased over the last 5 years as only BOIMHC Program is solely dedicated to mental health. The funding allocation for the Access to Allied Psychological Services (ATAPS) component of the BOIMHC Program has increased as follows:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000-01</td>
<td>$0</td>
</tr>
<tr>
<td>2001-02</td>
<td>$2.5 million</td>
</tr>
<tr>
<td>2002-03</td>
<td>$8.5 million</td>
</tr>
<tr>
<td>2003-04</td>
<td>$13.9 million</td>
</tr>
<tr>
<td>2004-05</td>
<td>$23.3 million</td>
</tr>
</tbody>
</table>

(3) MAHS and BOIMHC programs use the Core Funding formula, formerly referred to as the Out-
comes Based Funding formula. Other programs use a grants process to allocate funding.

**National Centre for Vocational Education Research**

(Question No. 1664)

**Senator Wong** asked the Minister representing the Minister for Vocational and Technical Education, upon notice, on 27 March 2006:

(1) On what date did the Minister decide to review the Government’s contracts with the National Centre for Vocational Education Research Ltd (NCVER) for the research and statistical collection.

(2) On what dates, and for what purposes, has the Minister met with representatives of the NCVER Ltd since 1 July 2005 and who attended each meeting.

QUESTIONS ON NOTICE
QUESTIONS ON NOTICE

(3) (a) At which of these meetings did the Minister express concern over the current operations of the NCVER; and (b) what was the nature and basis of the Minister’s concerns.

(4) At which of these meetings did the Minister raise the issue of the review of the NCVER.

(5) When was NCVER Ltd informed of the Government’s decision to review these questions.

(6) (a) On what date is the review due to report; and (b) when will the report and recommendations be made public.

Senator Vanstone—The Minister for Vocational and Technical Education has provided the following answer to the honourable senator’s question:

(1) The Minister made a decision to review the NCVER research and statistical contracts on 18 November 2005, after the meeting of the Ministerial Council for Vocational and Technical Education and prior to the NCVER annual general meeting on that same day.

(2) Minister Hardgrave met with Mr Peter Grant, Chair of the NCVER Board, on 17 November 2005 to discuss the performance of NCVER. Several meetings have been held between Minister’s Staff and the NCVER since 1 July 2005.

(3) The Minister expressed concern about NCVER’s research and data services to the Chair of the Board on 17 November 2005.

(4) The Minister chose to raise the issue of the review of the NCVER contracts through Dr Nelson’s proxy at the NCVER annual general meeting. Dr Nelson was at that time the Australian Government member of the NCVER.

(5) The NCVER board was informed of the Australian Government’s intention to review NCVER’s research and statistical contracts at the NCVER board meeting on 18 November 2005.

(6) The report was finalised 11 April 2006 and has been made public.

Learning Disability
(Question No. 1676)

Senator Allison asked the Minister representing the Minister for Education, Science and Training, upon notice, on 30 March 2006:

(1) What projects are currently receiving federal funding for learning disability.

(2) What initiatives have been taken by the Government since 1996 to assist children with learning disabilities in schools.

(3) Does the Government consider that the needs of an estimated 2 in 10 children with an identified learning disability or problem are currently being met.

(4) Why did the former Minister, Dr Nelson, indicate to ACLB Ltd (Australian Children’s Literary Board), the not for profit organisation that runs educational and artistic programs for children with learning disabilities, that he supported its work but that the Government educational policy does not allow for it to be federally-funded.

Senator Vanstone—The Minister for Education, Science and Training has provided the following answer to the honourable senator’s question:

(1) The Australian Government makes a significant contribution of an estimated $2 billion over the 2005-08 quadrennium through the Literacy, Numeracy and Special Learning Needs (LNSLN) Programme to support the most educationally disadvantaged students in schools, including students with disabilities and learning difficulties. The Programme includes three elements:

• Schools Grants - $1.8 billion over 2005-08;
• Non-government Centres Support - $144 million over 2005-08, and
National Projects - and estimated $32 million over 2005-07. State and Territory government and non-government authorities are responsible for the administration and distribution of the largest element, the Schools Grants element - $429 million in 2006, within their sector. They are in the best position to identify which schools and students have the greatest need and to allocate funds accordingly, while ensuring principles of equity, effectiveness and efficiency.

Under the Non-Government Centres Support element the Australian Government provides funding to the States and Territories to improve the educational opportunities and learning outcomes of children with disabilities who receive services provided by non-government centres - $33.5 million in 2006. State and Territory government are also responsible for the administration and distribution of this element.

Projects under the National Projects element of the Literacy, Numeracy and Special Learning Needs (LNSLN) Programme that focus on children with a learning disability include:

**Strand A – National Projects:**
- Investigate Effective ‘Third Wave’ Intervention Strategies for Students with Learning Difficulties who are in Mainstream Schools in Years 4, 5 and 6.
- Inclusive Classroom Practices to improve the learning outcomes for students with disabilities who are in mainstream classes in the early, middle and post-compulsory years of schooling.

**Strand B – State and Territory Projects:**
A project titled Effective Teaching and Learning Practices for students with learning difficulties has been conducted in each State and Territory. Each project was conducted by and with the involvement of the Department of Education, the Independent School sector and the Catholic Education system in each State or Territory.

The Best Buddies Project - The project aims to promote the learning outcomes of students with disabilities through their active participation in society. The project will implement friendship programmes in several schools in New South Wales between students with an intellectual disability and students who do not have an intellectual disability.

The Disabilities Definition Project – the Performance Management and Reporting Taskforce (PMRT) of the Ministerial Council of Education, Employment, Training and Youth Affairs has considered the feasibility of two possible approaches that may provide a suitable basis to define students with disabilities for national comparable reporting of their educational outcomes. The project is currently being finalised.

(2) The Strategic Assistance for Improving Student Outcomes (SAISO) Programme was introduced for the 2001-04 quadrennium which was a combination of three former programmes. The introduction of SAISO continued the process of broad banding which began in the 1997-2000 quadrennium and increased flexibility to allocate funds. The purpose of SAISO was to improve the learning outcomes of educationally disadvantaged students, particularly in literacy and numeracy, and the educational participation and outcomes of students with disabilities.

The targeted Literacy and Numeracy National Strategies and Projects Programme was operated between 1997 and 2004 to support strategic national research projects.

For the 2005-08 quadrennium a new overarching targeted programme, the Literacy, Numeracy and Special Learning Needs (LNSLN) Programme was introduced. This programme combines the former SAISO, Literacy, Numeracy National Strategies and Projects as well as the Special Education-Non government Centres Support Programmes. The LNSLN Programme aims to improve the literacy, numeracy and other learning areas for the educationally disadvantaged students including stu-
The Australian Government makes a significant contribution of an estimated $2 billion over the 2005-08 quadrennium through the LNSLN Programme to support the most educationally disadvantaged students in schools, including students with disabilities and learning difficulties. The Programme includes three elements:

- Schools Grants element;
- Non-government Centres Support element; and
- National Projects element.

Schools Grants is the largest element. State and Territory government and non-government authorities are responsible for the administration and distribution within their sector using the principles of equity, effectiveness and efficiency.

Non-Government Centres Support assists children with disabilities who receive services provided by non-government centres - administration and distribution is the responsibility of State and Territory governments.

The National Projects element is administered by the Australian Government. It supports strategic national research projects. Projects during this period that specifically assisted children with learning disabilities in schools are listed below.

- Identification of Successful Strategies and Mapping of Programmes to Address the Literacy and Numeracy Needs of Students with Learning Disabilities. Edith Cowan Uni. 1998-2002
- Assessment and Reporting of Students Achievement for Students with Specific Educational Needs against Literacy and Numeracy Benchmarks. ACER 1999.

Disability Definition Project

The Performance Management and Reporting Taskforce (PMRT) of the Ministerial Council of Education, Employment, training and Youth Affairs is considering the feasibility of two possible approaches that may provide a suitable basis to define students with disabilities for national comparable reporting of their educational outcomes.

Also, see answer under Question One.

(3) The Australian Government provides significant levels of funding to education authorities for students with disabilities. This funding complements funding provided by the States and Territories.

The responsibility for the delivery of school education rests with State and Territory governments and non-government authorities, as does the responsibility for the administration and distribution of most funding provided by the Australian Government.

The Australian Government is keen to support students with disabilities, their families and schools, with an improved funding system. To achieve this objective the Government has announced a $5.8 million initiative to investigate new flexible funding arrangements for students with disabilities.

The first stage will commence in the near future. This will include scoping the current environment in Australia and assessment of international models, including consultations with stakeholders across education sectors, collection and analysis of data and development and costing of viable models. A further stage, which is dependent on the result of the first stage, would include the development of a national model – including analysis of implementation issues, possible testing and stakeholder views.

(4) The Australian Children’s Literacy Board (ACLB) has requested funding from the Australian Government on several occasions in recent years to meet their ongoing operational costs. On each oc-
On 21 April 2006, Senator Allison asked the Minister representing the Minister for Education, Science and Training, upon notice, as follows:

1. Is the Minister aware of the United Kingdom (UK) study of ‘Sex and relationship education for 13-16 year olds: Evidence from England’ conducted by the RIPPLE Study Team and reported in Sex Education, Volume 6, No. 1, February 2006.

2. Is the Minister aware that the UK Government has, in recent years, focused on the need to improve sex and relationship education (SRE) in schools in order to reduce the rates of teenage pregnancies and the number of young people contracting sexually-transmitted infections (STIs).

3. Given the similar rates of teenage pregnancy and STIs in Australia, does the Minister share the UK Government’s policy objective on this issue.

4. Is the Minister aware that UK studies have thus far shown that:
   a. often little time is allocated for the delivery of SRE, it is delivered too late for many students and tends to have an overly biological focus;
   b. SRE has failed to address affective issues around emotions and relationships, attitudes or skills development;
   c. lack of time available for planning and delivery of SRE; and
   d. lack of teachers’ confidence and commitment, embarrassment and lack of training, and difficulties with implementing and monitoring a cross-curricular approach.

5. Does the Minister consider that these may also be issues in Australia.

6. When was the last time a study was conducted into SRE in Australian schools.

7. What plans does the Minister have to:
   a. commission research into SRE;
   b. discuss teenage pregnancy, STIs and/or SRE with state and territory health and education ministers; and
   c. reduce the current rates of teenage pregnancies and teenage STIs.

Senator Vanstone—The Minister for Education, Science and Training has provided the following answer to the honourable senator’s question:

1. The Minister has recently been provided with a copy of the ‘Sex and relationship education for 13-16 year olds: Evidence from England’ study.
(2) The Australian Government monitors activities being undertaken in other countries in relation to a range of health promotion activities, including sex and relationship education in schools.

(3) Australian Government policy in this area provides support to approaches to sex and relationship education that address sexual and reproductive health in a holistic and developmentally appropriate way. Effective sex education should result in students being informed and able to consider the implications of decisions relating to relationships and sexual activity.

(4) (a) to (d) The Minister has recently been provided with the complete report of the ‘Sex and relationship education for 13-16 year olds’ study.

(5) The Australian Government provides sexual and reproductive health education and advice through a number of programmes and mechanisms, and supports initiatives that serve to improve sexual health and relationship education and educate young people about safe sex practices. In doing so, the Australian Government acknowledges the importance of full, sensible and effective sex education and recognises the importance of such education being implemented in consultation with parents.

Under current arrangements, curriculum planning, development and training as well as resources for school-based programmes, including those relating to sex and relationships education, are determined by the State and Territory government and non-government education authorities and individual schools.

(6) The Australian Government Department of Health and Ageing has previously funded the Australian Research Centre in Sex, Health and Society to undertake the ‘Secondary Students and Sexual Health Survey’. This national survey, conducted at five yearly intervals, examined the knowledge, attitudes and behaviours of Australian secondary school students in relation to HIV/AIDS, viral hepatitis and sexually transmissible infections.

(7) (a) At this point there are no plans to commission research into sex and relationship education.

(b) Where the need arises, the Department of Health and Ageing will consult with State and Territory health and education agencies concerning these issues as well as other interested groups.

(c) The Australian Government Department of Health and Ageing will continue to fund, either through the Public Health Outcome Funding Agreements with States and Territories, or directly with a range of HIV/AIDS and sexually transmissible infections programmes, family planning, and sexual and reproductive health activities.

Last year the Australian Government Minister for Education, Science and Training wrote to all education jurisdictions seeking information on the form and content of sex education programmes taking place in their schools. There are no plans to further consult with State and Territory Education Ministers on SRE at this time.

The Australian Government is also spending $12.5 million over four years (2005-2009) to conduct a pilot testing project for Chlamydia which will include testing, surveillance and awareness raising activities.

Transport and Regional Services: Overseas Travel by Secretary

(Question No. 1809)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 25 May 2006:

With reference to the overseas travel by the Secretary of the Department of Transport and Regional Services, Mr Michael Taylor, in May 2006:

(1) On what date did Mr Taylor advise the Minister he intended to be absent during the May 2006 Senate Budget Estimates hearings.
(2) On what date did the Minister approve Mr Taylor’s absence.
(3) On what date did Mr Taylor depart Australia.
(4) What date does Mr Taylor return to Australia.
(5) Can a detailed itinerary of Mr Taylor’s trip be provided; if not, why not.
(6) For each meeting, when was Mr Taylor’s attendance confirmed with his hosts.
(7) What was the total cost of airfares, disaggregated by sector.
(8) In relation to accommodation:
   (a) What accommodation was used;
   (b) what nights did he stay at each hotel; and
   (c) what did each hotel cost.
(9) What other expenses were incurred including:
   (a) gifts;
   (b) hospitality;
   (c) meals;
   (d) land transport;
   (e) travel insurance; and
   (f) other expenses not listed above.
(10) What was the total cost of Mr Taylor’s overseas visit.
   (a) Which officers accompanied Mr Taylor on this trip, and for which periods; and
   (b) what was the total cost incurred in relation to the participation of each of these officers.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

Mr Taylor undertook overseas travel on behalf of the Government from Saturday 20 May 2006 to Monday 29 May 2006 inclusive. The primary purpose of his visit was to facilitate preparations for Australia’s hosting of the APEC Transport Ministerial meeting to be held in Adelaide, South Australia in 2007. The travel coincided with the APEC Transportation Working Group Heads of Delegation meeting on Monday 20 May in Vietnam and was followed by meetings with senior transportation officials and departmental Heads in Beijing, Ottawa, Montreal and Washington. Whilst in Asia, Mr Taylor also held discussions with his Chinese counterparts in transport to progress the APEC meeting and Memorandum of Understandings on a range of transport issues. In North America, Mr Taylor progressed the APEC meeting and matters relating to air services, air safety and aviation security.

(1) The Secretary, Mr Taylor advised the Minister verbally during the week commencing 27 March and subsequently formally wrote to the Minister on 10 May 2006.
(2) The Minister verbally acknowledged Mr Taylor’s intentions to use the APEC Transportation Working Group to build support for Australia’s APEC 2007 meetings at the time of their discussion during the week commencing 27 March.
(3) Saturday 20 May 2006
(4) Monday 29 May 2006
(5) Below is the itinerary of Mr Taylor’s official engagements:

Hanoi: Sunday 21 May 2006

The Secretary held bilateral discussions on Sunday 21 May with:
Mr Zhang Xiaojie, Director, International Cooperation, General Administration of Civil Aviation (China);

- Mr Chua Chong Kheng, Director, International Relations and Security Division (Singapore delegation);

- Mr Kevin Sample, APEC Transportation Lead Shepherd, Department of Transport (USA);

- Ms Arlene Turner, Transport Canada (Canada).

Hanoi: Monday 22 May 2006

Mr Taylor addressed the APEC Transportation Working Group plenary meeting, presenting on behalf of the Australian Government and specifically outlined the Australian Government’s proposals for the APEC 2007 Transportation Ministerial meeting. He also held a bilateral meeting with Mr Shinji Nitta, Ministry of Land, Infrastructure and Transport (Japan).

China: Tuesday 23 May 2006

Mr Taylor met separately with and held discussions with the following people in China:

- Mr PENG Kaizhou, Vice Minister, Ministry of Railways;
- Mr WENG Mengyong, Vice Minister, Ministry for Communications; and
- Mr YANG Guoqing, Vice Minister for General Administration of Civil Aviation of China.

Mr Taylor also had discussions with:

- Mr WENG Mengyong, Vice Minister, Ministry for Communications;
- Mr JU Chengzhi, Director General, Department of International Cooperation, Minister of Communications

Ottawa: Wednesday 24 May 2006

Mr Taylor met and held discussions with the following people in Ottawa:

- Mr Jacques Duchesneau, President and CEO and Mr Mark Duncan, Chief Operating Officer, Canadian Air Transport Security Authority;
- Mr Louis Ranger, Deputy Minister, Transport Canada
- Captain Merlin R Preuss, Director General Civil Aviation; and
- Brigita Gravitas, Director General, Air Policy, Transport Canada

Mr Taylor also held discussions at a meeting hosted by HE Bill Fisher, Australian High Commissioner. Attendees included:

- Mr Louis Ranger, Deputy Minister, Transport Canada
- Mr Jim Facette, President, Canadian Airport Council
- Mr Peter Boug, President and CEO, Aerospace Industries Assoc of Canada
- Mr Duncan Dee, Senior Vice President Corporate Affairs, Air Canada
- Mr David Bradley, CEO Canadian Trucking Alliance; and
- Ian Tomlinson, Canadian Council of Motor Transport Administrators

Montreal: Wednesday 24 May 2006

On arrival to Montreal Mr Taylor met and held discussions with representatives of the International Civil Aviation Organisation (ICAO):

- Ambassador Alain Dupuis, Representative of Canada to ICAO;
- Mr Nick Denton, Representative of the United Kingdom to ICAO;
- Ambassador Donald Bliss, Representative of the United States of America to ICAO; and the ICAO Council Representatives of the Montreal Asia-Pacific Group including:
  - Mr Zhang (Representative of China);
  - Ambassador Rhee (Representative of the Republic of Korea);
  - Mr Bong (Representative of Singapore);
  - Dr Zaidi (Representative of India); and
  - Mr Richard MacFarlane, Australian Member, ICAO Air Navigation Commission.

**Montreal:** Thursday 25 May 2006

Mr Taylor met and held discussions with:
- Mr Bill Voss, Director of the Air Navigation Bureau; and
- Mr Richard Barr, Chief of Finance and Mr John Begin, Deputy Director of the Air Transport Bureau;
- Dr Taib Cherif, Secretary General of ICAO;
- Dr Kotaïte, outgoing President of ICAO Council;
- Mr Roberto Kobeh Gonzalez, President-elect of ICAO Council;
- Mr Tim Fenhoult, Representative of the European Commission in Montreal; and
- Mr Olivier Onidi, European Commission, Air Transport Unit, Brussels.

**Washington:** Friday 26 May 2006

Mr Taylor met with:
- Ms Marion Blakely, Administrator, Federal Aviation Administration;
- Ms Maria Cino, Deputy Secretary, and Mr Jeffrey N. Shane, Under Secretary for Policy, US Department of Transportation;
- Mr Stewart A. Baker, Assistant Secretary for Policy, Department of Homeland Security.

Mr Taylor also held discussions at a meeting hosted by HE Dennis Richardson, Australian Ambassador to the United States of America. Attendees included:
- Mr Norman J Rabkin, Managing Director, Homeland Security and Justice US Government Accountability Office; and
- Ms Cathleen A Berrick, Director, Homeland Security and Justice US Government Accountability Office;

Mr Taylor departed Washington on Saturday 27 May and returned directly to Canberra, arriving Monday morning, 29 May 2006.

(6) Posts began arrangements for Mr Taylor’s meetings on April 12, 2006. Ongoing discussions were held with Posts throughout the following two months to confirm meetings.

(7) The total cost of the airfare was $22,807.79 including taxes ($635.68) and fees ($123.11). The department’s travel agent, AMEX, have advised that the nature of the fare type used for Mr Taylor’s travel was not based on a sector price construction. Mr Taylor’s fare type was based on mileage calculations. AMEX advise that had the fare been purchased on a sector basis it would have been at a higher cost.

(8) **20 and 21 May 2006, Hanoi, VIETNAM**

accommodation: Sofitel Metropole Hotel – USD $155.00 per night

**22 May 2006** – overnight flight and consequently no accommodation costs
23 May 2006, Ottawa, CANADA
accommodation: Chateau Laurier Hotel - CDN $399 per night plus taxes

24 May 2006, Montreal, CANADA
accommodation: Hôtel Place d’Armes - CDN $400 per night plus taxes

25 and 26 May 2006, Washington, USA
accommodation: Jefferson Hotel – USD $315.00 per night plus taxes

(9) Other expenses incurred were:
(a) gifts;
No gifts were presented by the Secretary during this journey and consequently no costs were incurred.
(b) hospitality;
Mr Taylor did not offer hospitality during this visit, and therefore no costs were incurred.
(c) meals;
In accordance with Schedule 1 of the Tax Determination TD 2005/32, which determines the rates payable for meals and incidentals according to country destination, the total amount paid to cover meals and incidental costs over the nine days of travel was $1200.00.
(d) land transport;
Mr Taylor travelled from Ottawa to Montreal by train at a cost of $153.00 for the train ticket.
At other times Mr Taylor travelled by foot or by car. To date no invoices have been received from Posts in relation to these transfers.
(e) travel insurance;
For all official overseas travel Mr Taylor, is covered under the Government’s Comcover insurance arrangements. There is no additional expense specifically attributed to this trip.
(f) other expenses not listed above.
No further expenses were incurred.

(10) The total cost of Mr Taylor’s overseas trip is approximately $27,000.
(a) An APEC Transportation Working Group Delegation from DOTARS was in Hanoi from Saturday 20 to Friday 26 May 2006 to attend the Transportation Working Group meeting.
   Mr Richard Wood, Section Head of the Aviation Markets division, DOTARS met Mr Taylor in Beijing and accompanied him on the remainder of the trip.
(b) The total cost incurred for Mr Wood was approximately $22,000.
Note: All figures above are known expenses based on invoices received from overseas to date.

Seafarers
(Question No. 1868)

Senator O’Brien asked the Minister for Justice and Customs, upon notice, on 2 June 2006:
With reference to section 289(2) of the Navigation Act 1912, concerning the payment of Australian wages to seafarers employed on a ship engaged in any part of the coastal trade: what evidence of payment do Customs officers seek from the masters of ships seeking clearance under the Customs Act for an international voyage from a port in Australia.

Senator Ellison—The answer to the honourable senator’s question is as follows:
Customs clearance of vessels seeking to depart for overseas is covered by S.118 of the Customs Act 1901 (Customs Act), which states in part that ‘the master of a ship or the pilot of an aircraft must not depart with the ship or aircraft from any port, airport or other place in Australia without receiving from the Collector a Certificate of Clearance in respect of the ship or aircraft’. The clearance process requires that an agent for the vessel formally requests a clearance from Customs (via a Customs Form 40). It is at the point of making this request that the agent will present any other pre-clearance documents or information required under the Customs Act or other Commonwealth legislation (eg. the Navigation Act 1912).

In the case of S.289(2) of the Navigation Act 1912, the requirement is for vessels seeking a Certificate of Clearance who are engaged in Coastal Trading, to provide ‘evidence to the satisfaction’ of a Customs Officer that wages paid to a seamen onboard that vessel are consistent with the rates ruling in Australia for seamen employed in that part of the coasting trade. Under Regulation 35 of the Navigation (Coasting Trade) Regulations 1937, the operator of the vessel is to provide to the Customs clearing officer two forms as follows:

- Form 8 - Statement Of Period Of Engagement In Coasting Trade
- Form 9 - Acknowledgement Of Receipt Of Wages At Australian Rates

Once these forms are provided to Customs clearance is granted. A recent example of evidence that was accepted in this regard was for a vessel seeking clearance from Customs Fremantle office. On this occasion the agent presented the required forms to the Customs clearing officer covering the voyage of the vessel during its time on a Coastal Licence in Australia and was complete with signatures from the master and each crew member. These documents were retained by Customs on the individual ship’s file at the Customs Fremantle office as a record of the vessel having met its obligations in relation to S.289(2) of the Navigation Act 1912.

**Conclusive Certificates**

*(Question No. 1944)*

Senator O’Brien asked the Minister representing the Prime Minister, and other ministers, upon notice, on 08 June 2006:

(1) Since October 1996, on how many occasions has a conclusive certificate been issued in relation to departments or agencies within the Minister’s portfolio exempting a document or documents from disclosure under the Freedom of Information Act 1982 (FOI).

(2) For each occasion: (a) what was the date; (b) what was the department or agency of which the FOI request was made; (c) what officer made the decision; (d) what was the document or documents excluded from disclosure pursuant to the certificate; and (e) was an appeal made against the decision in the Administrative Appeals Tribunal; if so, what was the case name and its outcome.

Senator Minchin—The Prime Minister has provided the following answer to the honourable senator’s question:

(1) Three.

(2) (a) 22 November 2001.

(b) Department of the Prime Minister and Cabinet.

(c) The Department’s then Secretary, Mr M Moore-Wilton AC.

(d) A Cabinet Minute dated 15 November 1988 was excluded in full from disclosure.

(e) Yes, in Toomer and the Department of Agriculture, Forestry and Fisheries and Ors [2003] AATA 1301. The decision was affirmed.

(a) Two certificates (for ease of reference) were issued on 1 August 2006 in relation to the same FOI request.
(b) Department of the Prime Minister and Cabinet.
(c) The Department’s Secretary, Dr P Shergold AM.
(d) A number of documents concerning workplace relations reform options were excluded in full or in part from disclosure.
(e) The decision to exempt documents is before the Administrative Appeals Tribunal: The Australian and Secretary, Department of the Prime Minister and Cabinet (V2005/1033).

**Conclusive Certificates**

(Question No. 1954)

Senator O’Brien asked the Minister representing the Minister for Defence, upon notice, on 8 June 2006:

1. Since October 1996, on how many occasions has a conclusive certificate been issued in relation to departments or agencies within the Minister’s portfolio exempting a document or documents from disclosure under the Freedom of Information Act 1982 (FOI).
2. For each occasion: (a) what was the date; (b) what was the department or agency of which the FOI request was made; (c) what officer made the decision; (d) what was the document or documents excluded from disclosure pursuant to the certificate; and (e) was an appeal made against the decision in the Administrative Appeals Tribunal; if so, what was the case name and its outcome.

Senator Ian Campbell—The Minister for Defence has provided the following answer to the honourable senator’s question:

1. None.
2. Not applicable.

**Compensation for Detriment Caused by Defective Administration Scheme**

(Question No. 1968)

Senator O’Brien asked the Minister for Finance and Administration, upon notice, on 8 June 2006:

With reference to the Compensation for Detriment Caused by Defective Administration Scheme: for each department and agency for which the Minister is responsible, what is the total payment made under this scheme for each financial year since October 1996, by department and agency.

Senator Minchin—The answer to the honourable senator’s question is as follows:

**Department of Finance and Administration (Finance)**

Based on information available, Finance has not made any payments under the Compensation for Detriment Caused by Defective Administration (CDDA) scheme since October 1996.

**Australian Electoral Commission (AEC)**

**Australian Reward Investment Alliance (ARIA)**

**Commonwealth Grants Commission (CGC)**

**Future Fund Management Agency (FFMA)**

The AEC, ARIA, CGC and FFMA have not made any payments under the CDDA scheme since October 1996.

**Commonwealth Superannuation Administration (ComSuper)**

Total payments made under the CDDA Scheme by ComSuper for each financial year since October 1996 are outlined below:
Financial Year | Total Compensation
--- | ---
1996-97 | $0
1997-98 | $0
1998-99 | $3,238.02
1999-00 | $20,074.07
2000-01 | $24,730.82
2001-02 | $25,546.85
2002-03 | $0
2003-04 | $0
2004-05 | $0
2005-06 | $0
2006-07 | $0

**Medicare Benefits**  
*Question No. 2005*

**Senator Allison** asked the Minister representing the Minister for Health and Ageing, upon notice, on 13 June 2006:

1. (a) How often does the Medicare Benefits Consultative Committee (MBCC) meet each year, and (b) are there regularly scheduled meeting dates and times.

2. For the past 10 years: (a) how many submissions has the MBCC received each year; and (b) how many related to changes to the level of the fee set for Medicare items.

3. Can a copy of submissions and MBCC review results be provided for the last 10 years; if not, why not.

4. What is the timeframe for the review of a Medicare Benefits Schedule (MBS) item.

5. (a) How does the Government’s policy, which reviews MBS items conducted under the auspices of the MBCC on a cost neutral basis, operate; and (b) does this mean that the rebate level for a procedure would never be able to be increased unless a rebate for another procedure were decreased.

6. What role does the Minister play in determining changes to the MBS.

7. For the past 10 years, how many of the submissions to the MBCC resulted in recommendations to the Minister for increases in the level of the Medicare rebate for a particular procedure.

8. What percentage of these recommendations has been accepted by the Minister.

9. How does this compare with the percentage of recommendations for increases in the level of the Medicare rebate for a particular procedure that were accepted prior to 1996.

**Senator Santoro**—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

1. (a) On average the Medicare Benefits Consultative Committee (MBCC) has met around 12 times each year for the past decade.

   (b) No. MBCC is an informal advisory committee convened on an ad hoc basis as required to review particular services or groups of services within the Medicare Benefits Schedule, including consideration of appropriate fee levels. Representation is drawn from the Department of Health and Ageing, Medicare Australia, the Australian Medical Association (AMA) and the relevant medical craft group.

2. (a) The Department of Health and Ageing and the AMA has estimated that the number of submissions received from the profession in the period 1996 – 2006 would be in the order of 110.
Submissions vary in size and complexity. Not all submissions result in an MBCC meeting and sometimes more than one MBCC meeting is held in order to finalise a review of items of service.

(b) The majority of submissions involve changes, restructures and sometimes disaggregation or aggregation of items which often involve amendments to fee levels.

(3) The submissions are not readily available and to compile the requested information would involve a significant diversion of resources within the Department. Where MBCC reviews result in changes to the Medicare Benefits Schedule (MBS), these are published in the Schedule in November each year, both in a summary at the front of the Schedule and in new and amended items reflecting specific changes.

(4) The timeframe for the review of submissions is variable depending on the nature of the submission, analysis of clinical issues and availability of appropriate clinicians, and the time involved in analysis and costing of proposals contained in submissions. As changes are made to the MBS in November and May each year, submissions are generally assessed and changes introduced on the basis of this timetable. As such the average timeframe can range from around one week to several months.

(5) (a) Individual practitioners seeking changes to the General Medical Services Table (GMST) of the Schedule are advised to seek the support of their relevant craft group or association which can pursue the matter on their behalf either through the AMA or directly with the Medicare Benefits Branch of the Department of Health and Ageing. While the complexity of information provided will reflect the extent of the review being requested, submissions for amendment to items of services already listed in the GMST are generally required to include details on the rationale for the change. The deviation of the fee should be explained based on costing data or fee relativity to existing items and any offsets identified, such as other items that would not be claimed if the new/revised item was introduced.

(b) As a general rule, changes to the Schedule are to be implemented without an increase in Medicare outlays for a particular service or group of services, unless a genuinely new evidence-based service is being introduced. From time to time, the government may decide to increase Schedule fees in order to reflect the changing complexities of modern clinical practice. Most MBS items are indexed annually based on parameters provided by the Department of Treasury.

(6) The Minister for Health and Ageing approves all changes to the MBS items and fees after consideration of advice put forward by the Department following an MBCC meeting or other consultation process.

(7) This information is not currently available. The majority of submissions address fee levels to some extent due to restructures, aggregation and disaggregation of services. To compile the requested information would involve a significant resource effort that the Department is not currently able to undertake.

(8) and (9) The information on which to calculate percentages is not currently available. To collate the requested information would involve a significant resource effort that the Department is not currently able to undertake.

Pharmacies

(Question No. 2006)

Senator Allison asked the Minister representing the Minister for Health and Ageing, upon notice, on 13 June 2006:
With reference to the article ‘Weight Management and the challenges to Australian Pharmacy’ in *Australian Pharmacist*, Volume 24, No. 3, of March 2005, which reported that in 2002 only 8.7 per cent of pharmacists had staff trained in weight management:

1. Has the number of pharmacies with staff trained in weight management increased since 2002.
2. How many pharmacies have weight measuring devices.
3. How many pharmacies with weight measuring devices have staff who are trained in how to measure, monitor and interpret the results.
4. Has the Government implemented any measures to encourage or support training of pharmacists in weight management.
5. What is the expected increase in the use of Xenical given the recent National Drugs and Poisons Scheduling Committee decision to allow direct to consumer advertising of Xenical.
6. Has the Government undertaken any modelling of the potential increase to Government expenditure on Xenical and Orlistat through the Repatriation Pharmaceutical Benefits Scheme; if so, what were the results; if not, why not.

**Senator Santoro**—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

1. The number of pharmacies with staff trained in weight management has increased as a result of educational activity undertaken by the Pharmaceutical Society of Australia (PSA) and other industry bodies.

   Prior to the rescheduling of orlistat (Xenical®) from 1 May 2004, and following a pharmacy-industry working party, the PSA produced a comprehensive educational program for pharmacists providing weight management medication. The PSA is the national professional organisation for pharmacists in Australia. Two program components were distributed to approximately 5,000 pharmacies nationwide on 4 May 2004, and to approximately 10,000 PSA member pharmacists on 7 May 2004:
   - PSA protocol: Provision of orlistat as a Pharmacist Only medicine (also available on the PSA website), and
   - Essential Continuing Professional Education (CPE) module on Weight management for pharmacists.

   The module remains a core component of PSA’s education program. As the module is a voluntary self-assessment module, it is not possible to determine how many staff have been trained using these materials.

   A PSA training kit, “Weight management and the provision of orlistat as a Pharmacist only medicine”, was also developed and used to support a series of face-to-face lectures/workshops conducted in various states on the appropriate provision of orlistat and the issue of weight management in general. Attendees at the first series of workshops (April – June 2004) totalled 295. Figures on subsequent workshop attendance are not available.

   In addition, national pharmacy bodies, pharmaceutical wholesalers and the manufacturers of orlistat collectively produced the weight loss assistance program, Lifeweight in a kit form for pharmacies. Developed by the then Australian Institute of Pharmacy Management (AIPM) and launched in March 2004, the kit includes a ‘Weight Category Package’ with electronic weight scales, anthropometric measuring tape, patient record forms, an educational CD-rom and support materials including pharmacy assistant training, customer leaflets on a step approach to weight loss, a detailed exercise guide and in-store pharmacy displays. More than 1,525 Lifeweight kits have been purchased. The Australian College of Pharmacy Practice and Management (previously AIPM) has delivered training to more than 450 community pharmacists around Australia.
(2) See (1) above. The number of pharmacies with weight measuring devices is however not known.

(3) PSA weight management materials were distributed to 5,000 pharmacies and 10,000 pharmacists and more than 1,525 AIPM Lifeweight kits have been purchased with training delivered to more than 450 community pharmacists around Australia.

(4) The Australian Government funded National Prescribing Service provided supporting information on orlistat in its December 2004 edition of RADAR – Rational Assessment of Drugs and Research. It outlined the change in scheduling, place in therapy, and safety and dosing issues in relation to orlistat. RADAR is targeted at health professionals to assist them in making decisions relating to the medication management of their patients.

(5) It is expected that there will be an increased use of orlistat following its inclusion in Appendix H, enabling it to be publicly advertised. The National Drug and Poisons Scheduling Committee (NDPSC) made this decision on the grounds of potential public health benefit.

The rationale for the Committee’s agreement to include orlistat in Appendix H includes:

- The branded advertising of orlistat would be subject to the Therapeutic Goods Advertising Code and that the code had been strengthened to ensure that messages about the importance of diet and exercise in achieving weight loss would at least match the impact of any messages about benefits that the advertiser claims for the product;
- the pharmacy profession has had almost two years experience with the supply of orlistat as a Pharmacist Only medicine without branded advertising;
- pharmacists’ counselling of consumers on the use of orlistat had been supported by the PSA protocol, professional education and training programs and consumer support materials; and
- the Consumer Medicine Information recommends use in conjunction with a low fat, calorie controlled diet and exercise.

This decision is expected to come into effect, through state and territory legislation, on 1 September 2006.

A change in the scheduling status of a substance is usually triggered by a rescheduling application to NDPSC. In the case of a medicine, rescheduling applications are normally made by the sponsor in accordance with the NDPSC Guidelines for Application and Information Requirements. The NDPSC guidelines also allow applications from other interested parties. In this context, “interested parties” would include Commonwealth, state and territory government departments or agencies, industry, professionals, healthcare practitioners and consumers. Please note that the details of those who make a rescheduling application is regarded as commercial-in-confidence information and as such this information cannot be passed on to a third party without the express permission of the sponsor.

In order for a scheduling amendment to be implemented, it must be approved not only by a majority of the Committee members present and voting, but must include a majority of the jurisdictions (states and territories, the Commonwealth and New Zealand). In this process, the Commonwealth has only one jurisdictional vote. Effectively, the states and territories exercise the balance of decision-making in the NDPSC, because it is the states and territories which must implement the scheduling decision through their own legislation.

(6) Listing of medicines on the Repatriation Schedule of Pharmaceutical Benefits (RSPB) is the responsibility of the Minister for Veterans’ Affairs, whose department has advised that any increase in the use of orlistat due to the NDPSC decision to allow direct to consumer advertising of this product is considered to be negligible. Access to orlistat as a concessional benefit is determined by a registered medical practitioner to meet a veteran’s clinical medical need after clinical assessment and close scrutiny by Veterans’ Affairs Pharmaceutical Approvals Centre staff.
Transport and Regional Services: Remuneration Packages
(Question No. 2026)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 15 June 2006:

For each of the following financial years: (1) 2003-04; (2) 2004-05; and (3) 2005-06, how many staff in the department have been or are currently in receipt of remuneration packages in the following bands:
(a) $150 000 – $249 999; (b) $250 000 – $349 999; (c) $350 000 – $449 999; (d) $450 000 – $499 999; (e) $500 000 – $549 999; (f) $550 000 – $599 999; (g) $600 000 – $649 999; (h) $650 000 – $699 000; and (i) $700 000 and above.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The table below shows the number of staff in the department who were in receipt of remuneration packages in excess of $150,000 per annum:

<table>
<thead>
<tr>
<th>Remuneration Band</th>
<th>2003-04</th>
<th>2004-05</th>
<th>2005-06</th>
</tr>
</thead>
<tbody>
<tr>
<td>$150 000 to $249 999</td>
<td>43</td>
<td>45</td>
<td>58</td>
</tr>
<tr>
<td>$250 000 to $349 999</td>
<td>1</td>
<td>2</td>
<td>-</td>
</tr>
<tr>
<td>$350 000 to $449 999</td>
<td>-</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>$450 000 to $499 999</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>$500 000 to $549 999</td>
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<tr>
<td>$550 000 to $599 999</td>
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<tr>
<td>$600 000 to $649 999</td>
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<td>-</td>
</tr>
<tr>
<td>$650 000 to $699 999</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>$700 000 and above</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

1 This data includes annualised salary; effective superannuation contribution; fringe benefits and associated fringe benefits tax payments (such as motor vehicles).

Australian Federal Police Investigation of Government Information
(Question No. 2107)

Senator Ludwig asked the Minister for Justice and Customs, upon notice, on 22 June 2006:

With reference to the unauthorised leaking of government information by members of the Australian Public Service, can the Australian Federal Police (AFP) provide the following information broken down by year for each of the past 4 calendar years, including 2006:

(1) How many leaks were referred to the AFP for investigation.

(2) Were any changes made to the AFP’s organisational structures to specifically improve the handling of such referrals and any subsequent investigations; if so, can details be provided of the changes that were made.

(3) What resources were consumed to conduct the investigations, including money expended and staff hours.

(4) How many staff were assigned to these investigations.

(5) How many staff deal with these investigations on an on-going or permanent basis, broken down by: (a) sworn officers; and (b) staff other than sworn officers.

(6) Were any external legal services used in relation to these investigations; if so, what was the name of each service provider and the value of the services purchased.

QUESTIONS ON NOTICE
7. For each department and agency investigated, can the following details be provided: (a) the name of the department and/or agency; and (b) the number of leaks from that department and/or agency referred for investigation.

8. How many investigations: (a) had been carried over from the previous year; (b) remained ongoing at year-end; (c) were concluded during the year; and (d) were referred to the Director of Public Prosecutions for prosecution during the year.

Senator Ellison—The answer to the honourable senator’s question is as follows:

1. There were 38 referrals from Departments/Agencies relating to unlawful disclosure which were accepted for investigation by the AFP over the previous four years. This number is broken down year by year in the table at answer Number 7.

2. With the introduction of the functional model in 2004, unauthorised disclosures are now investigated under the Economic and Special Operations function. Prior to 2004, these matters were investigated and managed at various AFP offices located around Australia. The move to the functional model has enabled a functional oversight of these investigations and ensures the availability of resources as required.

3. The money expended on these matters, including salaries and all associated on costs was $2,160,940. Staff hours expended was 20,980 hours.

4. The number of staff allocated to investigations of this nature varies depending on the investigation and the particular phase of the investigation. The matter would be allocated to a case officer who would be supported with resources as required.

5. The AFP works under a functional model where staff are flexibly allocated to investigations across a range of crime-types. There is no pool of dedicated staff investigating leaks specifically; however the AFP headquarters investigation team undertakes the primary share of leak investigations due to the clustering of government agencies in Canberra. All criminal investigations are investigated by sworn staff; however some enabling services and operational support, for example, forensic examinations, are provided by unsworn staff.

6. The AFP did not utilise external legal services in these investigations. The Commonwealth Director of Public Prosecutions (CDPP) is the AFP’s legal service provider for prosecuting unlawful disclosure matters.

7. The following is a list of the name of the department and/or agency; and the number of leaks from that department and/or agency referred for investigation.

<table>
<thead>
<tr>
<th>DEPARTMENT/AGENCY</th>
<th>Year of Referral</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2003</td>
</tr>
<tr>
<td>Aboriginal and Torres Strait Islander Services</td>
<td>1</td>
</tr>
<tr>
<td>Attorney-Generals Department</td>
<td>0</td>
</tr>
<tr>
<td>Australian Broadcasting Authority</td>
<td>0</td>
</tr>
<tr>
<td>Australian Customs Service</td>
<td>0</td>
</tr>
<tr>
<td>Australian Security Intelligence Organisation</td>
<td>0</td>
</tr>
<tr>
<td>Australian and Torres Strait Islander Commission</td>
<td>1</td>
</tr>
<tr>
<td>Civil Aviation Safety Authority</td>
<td>0</td>
</tr>
<tr>
<td>Commonwealth Director of Public Prosecutions</td>
<td>0</td>
</tr>
<tr>
<td>Commonwealth Superannuation Administration</td>
<td>0</td>
</tr>
<tr>
<td>Crime and Misconduct Commission</td>
<td>1</td>
</tr>
<tr>
<td>Defence Security Authority</td>
<td>0</td>
</tr>
<tr>
<td>Department of Employment and Workplace Relations</td>
<td>1</td>
</tr>
<tr>
<td>Department of Finance and Administration</td>
<td>0</td>
</tr>
<tr>
<td>Department of Foreign Affairs and Trade</td>
<td>1</td>
</tr>
</tbody>
</table>
### Indigenous Employment Centres

**Question No. 2113**

Senator Chris Evans asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 23 June 2006:

With reference to the media report of 14 June 2006 on ABC Online that Job Network figures of 44,000 employment outcomes included 4,000 employment outcomes from Indigenous Employment centres and to the report that the department confirmed this to be true:

1. Can the accuracy of this media report be confirmed
2. Is an Indigenous Employment Centre (IEC) regarded by the department to be a Job Network agency.
3. How are the structure and functions of IECs different to Job Network agencies.
4. At the present time, how many IECs exist
5. Does the department intend to expand the number of IECs; if so, what steps are being taken for this expansion.
6. Does the department give preference to IECs over mainstream employment agencies when considering tenders for employment services in communities with a significant Indigenous population

**Senator Abetz**—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator’s question:

1. No. The department’s records show that, in the year ending 30 June 2006, 44,580 job placements for Indigenous Australians were reported by Job Network Members and Job Placement Organisations. Job placements reported by Indigenous Employment Centres (IECs) under the IEC funding agreement were not added into this figure.
(2) No. The Job Network comprises organisations that hold an Employment Services Contract (ESC) for the delivery of Job Network services. Indigenous Employment Centres do not hold a Job Network Employment Services Contract.

(3) The department does not stipulate the internal structure of organisations that it funds and is unable to comment on the structure of individual IECs or Job Network members.

In respect of functions, IEC and Job Network are both part of a range of services funded by the Australian Government to help maximise the capacity of unemployed Australians to find and keep work. IECs and Job Network members deliver different but complementary services in accordance with their respective contractual and funding arrangements.

The differences between the services include, but are not limited to, the following:

- IECs are selected from CDEP organisations operating in strong labour markets. Job Network services are selected through open competitive tender;
- IECs work with CDEP participants who volunteer to look for off-CDEP employment. Job Network members accept and service all job seekers referred from Centrelink to meet their income support participation obligations, as well as eligible volunteers;
- Job Network members deliver a sequential continuum of services that increases in intensity as the job seeker’s unemployment duration increases; the IEC service does not follow a specified sequence of employment assistance;
- Both IECs and Job Network members have access to quarantined funds to purchase additional goods and services to assist job seekers secure employment;
- As part of the contracted service, Job Network members negotiate with each eligible job seeker an up-to-date Activity Agreement; make referrals of eligible participants to Work for the Dole mutual obligation activities; and make Participation Reports to Centrelink if job seekers fail their obligations. IECs do not perform these functions.


(4) Thirty-eight organisations are currently contracted to deliver IEC services for 2006-07. refer to Attachment A for details of the IECs.

(5) At this stage there are no plans underway to extend the number of IECs.

(6) No. All tenderers for the delivery of employment services are assessed in accordance with the notified tender assessment criteria. Tenderers with experience in the successful delivery of services to Indigenous Australians may present this experience as part of their tender bid.

Attachment A

<table>
<thead>
<tr>
<th>Location of IECs</th>
<th>City</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal Corporation of Employment and Training Development</td>
<td>Adelaide</td>
</tr>
<tr>
<td>Bama Ngappi Ngappi Aboriginal Corporation</td>
<td>Cairns</td>
</tr>
<tr>
<td>Buderoo CDEP</td>
<td>Rockhampton</td>
</tr>
<tr>
<td>Bungala Aboriginal Corporation</td>
<td>Port Augusta</td>
</tr>
<tr>
<td>Bunjum Aboriginal Co-operative Ltd</td>
<td>Ballina</td>
</tr>
<tr>
<td>Burrandies Aboriginal Corporation</td>
<td>Mount Gambier</td>
</tr>
<tr>
<td>Cairns Regional Community Development and Employment, Aboriginal and Torres Strait Islander Corporation</td>
<td>Cairns</td>
</tr>
<tr>
<td>Central Queensland Indigenous Development Ltd</td>
<td>Bundaberg</td>
</tr>
<tr>
<td>Cobowra CDEP Aboriginal Corporation</td>
<td>Moruya</td>
</tr>
</tbody>
</table>
Rural and Remote Students
(Question No. 2116)

Senator Allison asked the Minister representing the Minister for Education, Science and Training, upon notice, on 27 June 2006:

(1) (a) What is the take-up rate of university places for rural and remote students; and (b) how does this compare with those from metropolitan areas.

(2) What is the Government doing to close the gap in access.

(3) With reference to Mr Pat Farmer’s response, in July 2005, to a constituent’s letter that “The Australian Government is committed to income support arrangements that are fair and equitable and any further policy changes to Youth Allowance would have to be considered in the context of further budget proposals”, when will further policy changes to Youth Allowance be made to deliver a ‘fair and equitable’ outcome for country students.

Senator Vanstone—The answer to the honourable senator’s questions is as follows:

(1) (a) and (b) In 2004, 17.1 per cent of domestic higher education students were from rural areas and 1.3 per cent were from isolated areas.
(2) In the allocation of new Commonwealth supported places in 2005, the Government allocated over 4,000 places to regional campuses.

In July 2006, the Prime Minister announced, in conjunction with the Council of Australian Governments meeting, the allocation of 2,850 new medical and health related places to higher education providers. Around 900 of these places went to regional campuses. The Australian Government has also recently allocated additional new places to commence in 2007 with around one-third of these places going to regional campuses.

The Australian Government provides a regional loading for regional campuses. In 2006, $29.2 million is being provided.

The Government also considers policy and programme changes as a normal part of the Budget process.

(3) The Australian Government considers the current system of student assistance to be fair and equitable and the current rates of payment to be appropriate and in line with community views and expectations.

When the government designed Youth Allowance in 1998, it introduced new provisions to better support country students who need to move away from home to study. Among those provisions are higher rates of payment for students who are studying away from home, access to Rent Assistance, the Pharmaceutical Allowance, Remote Area Allowance and the Low Income Health Care Card.

In the 2000-01 Budget, the government provided a much more generous discount within the means test on the value of farm and other business assets. Rural families in 2006 are able to have farm and other business assets of up to $2.061 million (net of debt, the family home and up to two hectares surrounding the home) while remaining eligible for assistance.

**Methamphetamine**

*(Question No. 2122)*

Senator Bob Brown asked the Minister representing the Minister for Health and Ageing, upon notice, on 7 July 2006:

With reference to the drug methamphetamine:

(1) How has the use of this drug increased over the past 10 years.

(2) What measures has the Commonwealth Government taken to prevent an increase in its use.

(3) How many Australians have died from using this drug, by year, over the past 10 years.

(4) What is the average age, sex and income of methamphetamine users.

(5) What is the estimated street value of the drug used in Australia in the past year.

(6) What are the differences in usage between capital cities and regional areas.

Senator Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) The 2004 National Drug Strategy Household Survey results indicate the proportion of the population aged 14 years or over who used methampethamines at least once in the 12 month period before being surveyed, increased from 1995 to peak at the end of the decade. From then until 2004 the results indicate a gradual decline.

(2) Since 1997 the Australian Government has committed over $1.2 billion to the National Illicit Drugs Strategy (NIDS). NIDS provides an integrated approach to drug policy across the health, education, family services and law enforcement sectors. It includes a balanced package of measures aimed at reducing the supply of, and demand for, illicit drugs, including methampethamines. Supply and demand reduction measures being implemented include:
initiatives to prevent illicit drugs reaching Australian communities; to prevent domestic illicit drug manufacture; and to protect Australia’s borders from the importation of illicit drugs;

- treatment and support services for individuals affected by illicit drug use, including diversion from the criminal justice system; and

- education, prevention and information strategies to ensure that young people, parents and the community are aware of the risks of illicit drugs.

Some relevant initiatives under NIDS include:

National Psychostimulants Initiative (NPI)

Over $15 million has been allocated to the NPI to 2009-10 to combat emerging trends in the use of illicit drugs, including methamphetamine. Work undertaken to date includes the production of guidelines for frontline workers (eg police, GPs) to assess and manage people who have been affected by psychostimulants, including methamphetamine or “ice”, development and dissemination of information resources, research into and development of good practice models for treatment, as well as the provision of training and support for GPs and health workers.

A proposal to develop Australia’s first National Amphetamine Type Stimulants Strategy was endorsed on 15 May 2006 by the Ministerial Council on Drug Strategy. The Commonwealth Government will lead this work and the new strategy will focus on issues relating to methamphetamine as well as ecstasy and other related drugs.

National Drugs Campaign

The most recent budget has seen funding of $23.7 million for a third phase of the National Drugs Campaign. The campaign will target young Australians’ use of cannabis as well as psychostimulants such as ecstasy and methamphetamine, increasing the community’s awareness of harms associated with use of these drugs.

Border Control Initiatives

The Australian Federal Police and Customs have increased their capacity to detect and disrupt illicit drug trafficking by focussing on:

- improving Australia’s intelligence capability;
- combating organised importation syndicates;
- strengthening border protection; and
- building strategic international partnerships.

This enhanced supply reduction effort has resulted in the seizure of more than 14 tonnes of illicit drugs since the inception of NIDS.

National Strategy to Prevent the Diversion of Precursor Chemicals into Illicit Drug Manufacture

The National Strategy to Prevent the Diversion of Precursor Chemicals into Illicit Drug Manufacture aims to close the channels used to divert legitimately available chemicals and equipment to illicit drug manufacture, thus reducing methamphetamine availability to the Australian community.

To assist the development and implementation of the strategy, a National Working Group was formed. The Working Group brings together 45 members from federal, state and territory law enforcement, health, forensics, prosecutors and the private sector.

National School Drug Education Strategy (NSDES)

Through the NSDES, a total of $47.5 million has been provided by the Commonwealth Government from 1999-2000 to 2007-2008 for school drug education. This funding is directed towards building resilience in young people, fostering the capacity of school communities to provide safe
and supportive school environments and enhancing school drug education programs and the management of drug related issues and incidents in schools.

(3) According to information published by the National Drug and Alcohol Research Centre, the numbers of accidental deaths in Australia, where methamphetamine was the principal, or an associated cause, among those aged 15-54 years between 1997 and 2004 inclusive was:

<table>
<thead>
<tr>
<th>Year</th>
<th>1997</th>
<th>1998</th>
<th>1999</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>29</td>
<td>54</td>
<td>94</td>
<td>114</td>
<td>64</td>
<td>56</td>
<td>67</td>
<td>92</td>
</tr>
</tbody>
</table>

(4) The 2004 National Drug Strategy Household Survey results show that the 20–29 year age group reported methamphetamine usage rates more than twice as high as other age groups and the male rate almost twice as high as the female rate. Therefore, typically, a methamphetamine user will be aged between 20-29 years and male.

There are no reliable published data that directly report on the average income of methamphetamine users. However, the National Drug and Alcohol Research Centre has reported that the typical Sydney methamphetamine user earns less than the average young adult.

(5) It is not possible to calculate with any statistical accuracy the street value of particular drugs used in Australia over a period of time. Methamphetamine comes in various forms (such as tablets, powder, and crystal) and there is a diversity of markets for each of these forms, which influences the pricing.

(6) Currently there are no published data on the differences in usage of methamphetamine between capital cities and regional areas.

**Airspace Management Contract**

*Senator O’Brien* asked the Minister for Justice and Customs, upon notice, on 7 July 2006:

With reference to a statement by the Chief Executive Officer of Airservices Australia (AA) on 23 June 2006, that the Australian Federal Police (AFP) investigated the airspace management contract between AA and the Government of the Solomon Islands and failed to identify any information or activity that might constitute a Commonwealth offence:

(1) What caused the AFP investigation.

(2) On what date did the AFP investigation commence.

(3) On what date did the AFP investigation conclude.

(4) What was the scope of the AFP investigation.

(5) Did the investigation consider whether actions by AA might constitute an offence against a law of the Commonwealth or a state or territory; if not, why not.

(6) Did the investigation consider whether actions by AA might constitute an offence against a law of the Solomon Islands; if not, why not.

(7) What was the outcome of the AFP investigation.

(8) Did AA consult with the AFP and/or the Minister before revealing details of the AFP investigation on 23 June 2006.

(9) Is the Minister aware of a report in the *Sunday Telegraph* of 2 July 2006, alleging that third party payments by AA funded ‘corrupt officials who directed the money to school fees for their children, cars for themselves and their wives and so-called ‘consultancy fees’ for companies owned by dodgy cronies’.
(10) Has the AFP initiated a further investigation based on these serious allegations; if so, can details be provided; if not, why not.

Senator Ellison—The answer to the honourable senator’s question is as follows:

(1) On 8 November 2004, the AFP received a referral regarding alleged corrupt or improper payment by an Australian aviation adviser in the Solomon Islands.

(2) 8 February 2005.

(3) The original investigation concluded in May 2005. In May 2006, AA requested a review of the previous investigation due to the discovery of additional material not previously made available to the AFP. The case was re-evaluated with consideration of the new material and was concluded in late June 2006.


(5) Yes.

(6) Yes.

(7) No evidence was found to support a charge of criminal conduct contrary to Commonwealth law. The re-evaluation in 2006 did not alter these findings.

(8) Yes. Prior to 23 June 2006, AA contacted the AFP and advised that they would be making a public statement regarding the findings of the 2005 investigation. At that time, the re-evaluation of that investigation which was requested by AA was still ongoing.

(9) Yes.

(10) No. Nothing in recent media reporting has provided the AFP with information that was not previously considered during its original investigation. Should further reliable material be made available, the AFP will evaluate it in accordance with normal protocols.

Ministerial Conversations Series
(Question No. 2154)

Senator O’Brien asked the Minister representing the Minister Assisting the Prime Minister for the Public Service, upon notice, on 14 July 2006:

With reference to the Ministerial Conversations Series hosted by the Australian Public Service Commission:

(1) Can details be provided for each seminar since the inception of the series, including the date, duration, location, speaker and number of attendees by department and agency.

(2) Can the Minister confirm that attendance at each seminar costs departments and agencies $110 per officer.

(3) What related attendance fees has the Australian Public Service Commission collected from each department and agency.

(4) What costs has the Australian Public Service Commission incurred in relation to the Ministerial Conversations Series, disaggregated to show venue, food, beverages, speaker and other identified costs.

Senator Minchin—The Prime Minister has provided the following answer to the honourable senator’s question:

(1) Details for each session since inception, including the date, duration, location, presenters (including external presenters) and number of attendees by department and agency are provided in a table at Attachment A (available from the Senate Table Office).
(2) Yes.
(3) None.
(4) For each seminar, the costs (GST inclusive) incurred by the Australian Public Service Commission, disaggregated to show venue, food, beverages, external consultants and other identified costs are provided in a table at Attachment B (available from the Senate Table Office).

Estimates Training Sessions
(Question No. 2170)

Senator O’Brien asked the Minister for the Environment and Heritage, 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 Ian Campbell—The answer to the honourable senator’s question is as follows:

(1) No staff have undertaken Senate estimates training sessions in the past 3 financial years.
(2) to (3) Not applicable.

Transport and Regional Services: Travel Entitlements
(Question No. 2212)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 July 2006:

(1) What entitlement do partners or family members of senior officers of the department, or agencies for which the Minister is responsible, have to travel at government expense.
(2) If an entitlement exists, by department and/or agency: (a) what process is used to assess whether travel costs of partners or family members are met by the Government; (b) who undertakes such an assessment; and (c) who approves funding for partner or family member.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) Department of Transport and Regional Services
There is no entitlement. Spouse accompanied travel was potentially provided for under Australian Workplace Agreements (AWAs) of Senior Executive Service employees nominally expiring on 30 June 2006 in the following terms: “The Senior Executive may, with the Secretary’s agreement, be accompanied by a spouse or partner (or other approved family member) at departmental expense for purposes relating to official travel where it is demonstrably in the interest of the Department given the purpose of the travel for the Senior Executive to be accompanied.” The Department’s current AWAs no longer include such a provision.

Partners or family members may be entitled to travel at government expense for domestic travel as part of relocation costs where an employee has been transferred to another location.
AMSA's travel policy provides no entitlement for partners or family members of senior officers to travel at the agency's expense. Partners or family members may be entitled to travel at government expense for domestic travel as part of relocation costs where an employee has been transferred to another location.

**Air Services Australia**

Not Applicable. Air Services Australia is not a Budget funded agency.

**Civil Aviation Safety Authority (CASA)**

**Domestic Travel**

There is no entitlement to travel expenses for family members or partners where an employee is travelling due to normal business purposes for CASA.

However, partners or family members may be entitled to travel at government expense for domestic travel as part of relocation costs where an employee has been transferred to another location.

**International Travel**

The current travel arrangements for international travel provide that for employees below the level of Group General Manager there is no provision for partners or family members to travel at government expense.

The Chief Executive Officer has discretion to approve travel expenses for spouses of employees at the level of Group General Manager and above.

**National Capital Authority (NCA)**

NCA has no policy in place for this entitlement. If a situation arose whereby a senior officer of the NCA was relocated, it would be treated on a case-by-case basis.

(2)

**Department of Transport and Regional Services**

(a) All travel requests for senior executives are assessed on whether the travel is demonstrably in the interest of the Australian Government.

(b) The Senior Executive.

(c) The Senior Executive.

**Australian Maritime Safety Authority**

(a) The relocation of the employee would be at AMSA's request and is in accordance with the relevant workplace agreement.

(b) The AMSA Chairman and/or AMSA Board member/s.

(c) An AMSA senior executive manager.

**Air Services Australia**

Not applicable.

**Civil Aviation Safety Authority**

**Domestic Travel**

(a) The relocation of the employee would be at CASA's request and would be in accordance with the relevant workplace agreement.

(b) Head of Human Resources

(c) Head of Human Resources
International Travel

(a) The Group General Manager (or above) would apply for approval to the Chief Executive Officer (CEO) for their partner or family member to accompany them. Consideration would be given to nature of the work commitment of the employee and whether any interests of CASA would be served by being accompanied by a partner or family member.

(b) CEO

(c) CEO

CASA Overseas Travel Procedures were reviewed and approved by the CEO on 8 May 2006.

National Capital Authority

Not Applicable.

Health and Ageing: Travel Entitlements

(Question No. 2213)

Senator O’Brien asked the Minister representing the Minister for Health and Ageing, upon notice, on 14 July 2006:

(1) What entitlement do partners or family members of senior officers of the department, or agencies for which the Minister is responsible, have to travel at government expense.

(2) If an entitlement exists, by department and/or agency: (a) what process is used to assess whether the travel costs of partners or family members are met by the Government; (b) who undertakes such an assessment; and (c) who approves funding for partner or family travel.

Senator Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:

(1) Departmental Senior Executive Service (SES) officers are not entitled to claim partner/family accompanied travel for official domestic travel. SES officers may be eligible for their partner/dependant to accompany them on official overseas travel.

Statutory/Agency officers are covered by Remuneration Tribunal determinations and legislation and were excluded from this response.

(2) (a) The departmental SES officer requesting that a partner or family member accompany them on an official overseas trip prepares a submission for the Secretary’s assessment. The submission must justify why the accompanied travel would be in the Department’s interests and why the additional costs should be met by the Department.

(b) The Secretary undertakes the assessment for Departmental SES Officer requests.

(c) The Secretary approves the funding for the accompanied overseas travel, that is, the cost of the return airfares at the same standard that applies to the Departmental SES officer and the additional cost of accommodation.

Communications, Information Technology and the Arts: Travel Entitlements

(Question No. 2215)

Senator O’Brien asked the Minister for Communications, Information Technology and the Arts, upon notice, on 14 July 2006:

(1) What entitlement do partners or family members of senior officers of the department, or agencies for which the Minister is responsible, have to travel at government expense.

(2) If an entitlement exists, by department and/or agency: (a) what process is used to assess whether the travel costs of partners or family members are met by the Government; (b) who undertakes such an assessment; and (c) who approves funding for partner or family travel.
Senator Coonan—The answer to the honourable senator’s question is as follows:

As advised in the Prime Minister’s response to Senate Question No 1475, each Government department and agency is responsible for determining its own policy in relation to official travel. In relation to employees bound by each agencies relevant policy, I am advised of the following answers for agencies within the Communications, Information Technology and the Arts portfolio.

The following agencies have advised that there is no agency policy providing an entitlement for the partner or family members of employees to travel at government expense:

Department of Communications Information Technology and the Arts
Australia Post
Australia Business Arts Foundation
Australia Council
Australian Broadcasting Corporation
Australian Film Commission
Australian Film Television and Radio School
Australian National Maritime Museum
Australian Sports Commission
Bundanon Trust
Film Australia
Film Finance Corporation Australia
National Gallery of Australia
National Library of Australia
NetAlert Ltd
Telstra Corporation

Where agencies have advised that such an entitlement exists or could be negotiated, their answers are provided below:

Australian Communications and Media Authority

(1) There are no such entitlements in relation to domestic travel. In relation to international travel, the Chair may authorise an employee to be accompanied by a spouse or partner. This approval may include payment of the cost of travel and/or accommodation.

(2) There have been no instances since the inception of ACMA. Should the situation arise the Chair would assess whether there were any benefits for ACMA/Government in consultation with appropriate senior managers/Authority members and if approval is given, approve funding.

Australian Sports Anti-Doping Authority

(1) Partners of senior officers of the Authority may be entitled to be accompanied by their partner for purposes relating to official functions in Australia only where the partner has been specifically invited in an official capacity to the function. A determination is made by the Chief Executive Officer that the attendance in an official capacity of a partner is demonstrably in the interest of the Commonwealth. Costs associated with travel are then only paid when options such as utilising frequent flyer points etc are not available.

(2) See (1) above.
National Archives of Australia

(1) The National Archives of Australia’s Chief Executive Instructions contain provisions for officers to have their spouse accompany them on an approved official short-term travel at government expense. Where approval is given, the Archives’ financial assistance is limited to the cost of fares at the same standard of travel as applies to the officer and the difference between double and single accommodation. No other expenses for the spouse’s travel are admissible.

(2) (a) An officer must apply prior to the visit to determine eligibility. Eligibility for Senior Executive Service (SES) officers may be established on the basis of either length of substantive SES service or the total period of overseas travel/duty (unaccompanied) on short-term missions. For officers below SES level, the only criteria is the total period of overseas duty.

(b) The Chief Executive (Director General of the National Archives)

National Museum of Australia

(1) The National Museum of Australia’s travel procedures do not contain entitlements for accompanied travel at Government expense. For Senior Executive Service (SES) officers it may be negotiated on an individual basis.

(2) In relation to SES officers, should such an entitlement be negotiated, approval by the Director of the National Museum of Australia would need to be obtained before any such travel could be undertaken at Government expense.

Special Broadcasting Service Corporation

(1) SBS senior officer (10 senior executives) entitlements in relation to partner/family travel are as follows:

The entitlement for the Executive’s partner to accompany him/her on official travel is subject to authorisation by the Managing Director in appropriate circumstances. Where such authorisation is given SBS will fund the additional costs of airfares and accommodation for the Executive’s partner. Other expenses must be met by the Executive.

(2) As outlined above, for the 10 Senior Executive positions, any spouse travel is assessed and approved by the Managing Director.

Industry, Tourism and Resources: Travel Entitlements

(Question No. 2218)

Senator O’Brien asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 14 July 2006:

(1) What entitlement do partners or family members of senior officers of the department, or agencies for which the Minister is responsible, have to travel at government expense.

(2) If an entitlement exists, by department and/or agency: (a) what process is used to assess whether the travel costs of partners or family members are met by the Government; (b) who undertakes such an assessment; and (c) who approves funding for partner or family travel.

Senator Minchin—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator’s question:

The following response excludes entitlements of partners or family members to travel at Government expense, where the purpose of the travel is associated with relocation for employment purposes.

Department of Industry, Tourism and Resources (DITR)

(1) The following entitlement is provided within the Department of Industry, Tourism and Resources (DITR) Chief Executive Instructions and Procedural Rules on Overseas Travel:
Immediate Family Member Travel

2.10.74 Immediate family member means:
(a) a spouse of the official; or
(b) a child, an adult child, parent, grandparent, grandchild or sibling of the official or of a spouse of the official.

2.10.75 Departmental officials are entitled to family member accompanied travel as follows:
(a) length of service
- SES Band 3 – after 5 years,
- SES Band 2 – after 7 years,
- SES Band 1 – after 9 years “or”
(b) aggregate of approved overseas travel on official short term assignments as follows:
- SES Band 3 – accumulated period of 20 weeks,
- SES Band 2 – accumulated period of 25 weeks,
- SES Band 1 – accumulated period of 30 weeks,
- Other Officials – accumulated period of 40 weeks.

2.10.76 The Department will pay for fares and the additional costs of accommodation. There is no entitlement for partner or family accompanied domestic travel.

In accordance with the Prime Minister’s Determination of Secretary’s Terms and Conditions of Employment, the Secretary’s travel entitlements are

Entitlement to official travel

4.1 Secretaries are entitled to the travelling allowances for travel on official business within Australia and internationally in accordance with the conditions, and at the Tier 1 rate, as determined from time to time by the Remuneration Tribunal in relation to full-time public office holders.

The Remuneration Tribunal Determination 2004/03, Official Travel by Office Holders, provides the following entitlement to the Secretary in relation to accompanied travel:

1.10 Accompanied Travel: An office holder may be entitled to be accompanied by his/her spouse or partner for purposes relating to official business at Commonwealth expense when travelling within Australia or overseas in accordance with this Determination.

1.10.1 Accompanied travel may only occur when the office holder’s employer certifies in writing that it is demonstrably in the interest of the Commonwealth, given the purpose of the travel, for the office holder to be accompanied by his/her spouse or partner.

1.10.2 Where the office holder’s spouse or partner accompanies him/her, the spouse or partner may travel at the same class as the office holder.

Determination 2004/03 further provides:

3.2 Accompanied Accommodation Costs: Where the Commonwealth meets the travel costs of the office holder’s spouse or partner accompanying him/her in accordance with clause 1.10 (Accompanied Travel), an additional amount as is vouched as the difference between the cost of single and double room shall be paid.

(2) (a) The process used to assess whether the travel costs of partners or family members are met by the Commonwealth is defined above
(b) The delegate approving the employee’s travel assesses whether the travel costs of partners or family members are met by the Government.
(c) Funding for partner or family travel is approved in conjunction with approval for the employees travel in accordance with the DITR Financial Delegations.

**Tourism Australia**

(1) The Managing Director of Tourism Australia is entitled to accompanied travel in compliance with the Remuneration Tribunal Determination 2004/03, Official Travel by Office Holders (as outlined in the above clauses). Should an occasion arise where a senior officer of Tourism Australia is invited to an event which incorporates the accompaniment of a partner. The Managing Director is required to approve the attendance and associated costs. The decision is based on the relevance of the event to the business activities of the staff member and the costs involved.

(2) (a), (b), (c) The Managing Director of Tourism Australia complies with the Remuneration Tribunal Determination 2004/03, Official Travel by Office Holders (as outlined in the above clauses)

**National Offshore Petroleum Safety Authority (NOPSA)**

(1) The Chief Executive Officer of the National Offshore Petroleum safety Authority is entitled to accompanied travel as outlined in the Remuneration Tribunal Determination 2004/03, Travel by Office Holders (see above clauses).

(2) (a), (b), (c) See Remuneration Tribunal Determination 2004/03, Official Travel by Office Holders (as outlined in the above clauses).

**Geoscience Australia**

(1) There is no entitlement for partners or family members to of senior officers of at Geoscience to travel at Government expense.

(2) Not applicable

**IP Australia**

(1) IP Australia senior staff are entitled to spouse accompanied travel in accordance with the Chief Executive Instructions and Procedural Rules, as follow;

(i) Staff who satisfy certain criteria. :

- **5.4.2 Spouse Accompanied International Travel**

  **5.4.2.1 Overview**

  Staff members are entitled to spouse accompanied travel in accordance with the provisions set out by the Department of Workplace Relations and Small Business.

  **5.4.2.2 Requests**

  A request for spouse accompanied travel is to be included in the travel request and Overseas Visit Authority (OVA) for approval by the Director General.

  **5.4.2.3 Criteria**

  To be eligible for spouse accompanied travel and officer shall meet one of the criteria set out in the following tables:

<table>
<thead>
<tr>
<th>Criterion 1 - Length of Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff Level</td>
</tr>
<tr>
<td>SES Band 3</td>
</tr>
<tr>
<td>SES Band 2</td>
</tr>
<tr>
<td>SES Band 1</td>
</tr>
</tbody>
</table>

**QUESTIONS ON NOTICE**
Criterion 2 – Accumulated international business travel on short term assignments

<table>
<thead>
<tr>
<th>Staff Level</th>
<th>Accumulated period of travel before provisions apply...</th>
</tr>
</thead>
<tbody>
<tr>
<td>SES Band 3</td>
<td>20 weeks</td>
</tr>
<tr>
<td>SES Band 2</td>
<td>25 weeks</td>
</tr>
<tr>
<td>SES Band 1</td>
<td>30 weeks</td>
</tr>
<tr>
<td>Other staff</td>
<td>40 weeks</td>
</tr>
</tbody>
</table>

5.4.2.4 Entitlements

When staff qualify for spouse accompanied travel, IP Australia will pay for fares and the additional expenses associated with accommodation.

(ii) Staff that have a medical emergency while not at their regular place of business.

B - FOR ALL STAFF WHO HAVE A MEDICAL EMERGENCY

5.2.12 Reimbursement of Fares for an Emergency

5.2.12.1 Seriously ill staff member

If an IP Australia officer becomes critically or dangerously ill whilst on duty and absent from their usual place of work, the officer may need the presence of a close family member.

In these case, a delegated officer has the authority to approve travel or reimbursement of travel costs for a close relative of the officer.

5.2.1.2.2 Definition

For the purpose of this instruction a close relative is defined as:

- the spouse, a child or a parent of the officer, or
- any other person who is, because of the special circumstances of the case, deemed by the Director General as a close relative of the officer.

(2) (a) For overseas travel, a request for travel (Overseas Travel Authority - OVA) is completed by the staff member for recommendation by the Business Unit Head before forwarding to the Director General for approval. A request for spouse accompanied travel is included on the OVA. For travel related to a medical emergency, the relevant delegate (listed below) would approve the family members travel costs.

(b) For Overseas Travel - Business Unit Heads assess the request for their staff, the Director General assesses requests for the Business Unit Heads. For Domestic Travel - the relevant delegate is listed below

<table>
<thead>
<tr>
<th>Staff Category</th>
<th>Require approval from...</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business Group Heads</td>
<td>The Director General</td>
</tr>
<tr>
<td>Section Heads (other than Supervising Examiners of Patents)</td>
<td>Their Business Group Head or above</td>
</tr>
<tr>
<td>Supervising Examiners of Patents</td>
<td>Deputy Commissioners of Patents or above</td>
</tr>
<tr>
<td>Staff below Section Head</td>
<td>Their Section Head or Delegate</td>
</tr>
</tbody>
</table>

(c) The Director General approves the funding for all overseas accompanied travel.

**Iraq: Military Training**

(Question No. 2252)

Senator Faulkner asked the Minister representing the Minister for Defence, upon notice, on 26 July 2006:

With reference to military training assistance to the Iraqi Defence Forces:
(1) Can a list be provided of the module and component parts of the military training packages currently being used to assist the Iraqi: (a) Army; (b) Navy; and (c) Air Force, highlighting the following for each service:
   (i) packages for individual training,
   (ii) packages for sub-unit and unit collective training,
   (iii) the major training objectives for each of the packages for each service,
   (iv) subject matter to be covered in individual training packages for each service,
   (v) subject matter to be covered in sub-unit and unit training packages for each service,
   (vi) duration of modules and/or components of the above packages for each service, and
   (vii) number of instructors used for each of the packages for each service.

(2) Are all of the training packages conducted in English.

(3) (a) How were the military training packages developed; and (b) were they duplications of Australian Defence Force packages or separately developed to reflect Iraqi military requirements.

(4) If the packages were separately developed, how was this done.

(5) Who approved the training packages, both within: (a) the Australian system; and (b) the Iraqi system.

(6) Was the Minister involved in the Australian approval process; if so, what was his role.

(7) Are these training packages different from the training packages in use in Iraq, sponsored by the United States or the United Kingdom.

(8) How much time is included for ethical training of Iraqi servicemen.

(9) For each service package, how much training time is allotted to the teaching of:
   (a) civil/military relations;
   (b) aid to the civil power; and
   (c) international and Geneva Conventions, such as:
      i. Declaration Respecting Maritime Law (Certain Regulations for Sea Warfare), 1856
      ii. Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 1864
      iv. International Convention Concerning the Law and Customs of War on Land [Hague IV], 1907
      v. International Conventions Relative to the Treatment of Prisoners of War, 1929

Senator Ian Campbell—The Minister for Defence has provided the following answer to the honourable senator’s question:
The response has been divided into two sections: firstly, training provided in Iraq and, secondly, training provided in Australia.
Response regarding military training assistance to Iraqi Armed Forces personnel in Iraq:

(1) (a) Army:

(i) Australian training advisors are assisting the Iraqi Army to deliver the following training packages for Iraqi Army individual training at Tallil and Kirkush:

- Basic Combat Training;
- Military Occupation Specialty Training:
  - Infantry,
  - Medical,
  - Transport,
  - Maintenance,
  - Military Police,
  - Administration,
  - Supply,
  - Signals Operating Instructions,
  - Radio Operation, and
  - Armourers Assistant.
- Methods of Instruction; and
- Platoon Sergeants Course.

(ii) There is no sub-unit or collective training assisted by Australian training advisors.

(iii) The training objective of Basic Combat Training is to induct Iraqi trainees into the military and to provide basic military skills.

- The training objective of Military Occupational Speciality Training is to train members to initial individual standards within the occupational speciality.
- The training objective of Methods of Instruction Course is to train selected personnel in the basic methods of instruction for the Iraqi Army.
- The training objective of Platoon Sergeants Course is to train selected members for employment as infantry platoon sergeants in the Iraqi Army.

(iv) Basic Combat Training: military conduct, physical education, drill, marksmanship, basic soldier skills, squad level tactics, first aid, and theatre specific threats.

Infantry Military Occupation Specialist Training: orientation; squad movement techniques, platoon movement techniques, immediate action drills, defence operations, cover/camouflage/concealment, weapons emplacement; Controlled entry/exit in a restricted area, challenge and password, establish an observation post; fire control measures, implement operational security, range cards, report intelligence/salute report, check points, personal search, vehicle search, convoy training, heavy weapons training and live fire, zero and re-qualification of an AK47 (assault rifle), manoeuvre operations in urban terrain introduction, select entry point, clear entry point, the four man stack, fundamentals of room clearing, mission of the squad in the attack, fire/manoeuvre/movement/plan/fundamental of the attack, attack formations, control measures/fire support, phases of offensive combat, squad attack, check points and searches, squad movement/immediate action drills – practical, squad defence – practical, close quarter marks-
manship live fire, manoeuvre operations in urban terrain – practical, and clear a room or building – practical.

- **Medical**: orientation, basic medical terminology, human anatomy and physiology, vital signs and trauma assessment, history taking/documentation/field medical card, haemorrhage control, shock, burns, environmental injuries, head, neck and facial injuries/airway management, cervical spine injuries, soft tissue injuries, chest injuries, abdominal injuries, fractures, cardiopulmonary resuscitation, casualty transportation, pharmacology, intravenous therapy, organisation of the medical platoon, unit medic duties and responsibilities, battalion aid station, mass casualty and triage, tactical combat casualty care, casualty protection, nine line procedures, air casualty evacuations, ambulance/vehicle operation, preventative sick call operations, preventative medicine, water purification, hydration/nutrition/work/rest cycle, and comprehensive exam.

- **Transport**: key member roles, unit licensing program, instruction on maintenance forms, truck master/dispatching, introduction to convoy operations, use of strip maps, a route reconnaissance, convoy commander classes/convoy commander checklist, preventative maintenance checks services, introduction to small vehicles, introduction to medium vehicles, hand and arm signals, drivers training program, international roadsigns, drive vehicle in convoy (day/night), vehicle recovery, basic control of vehicle, transport cargo and rations, transporting ammunition, transporting troops, and defence against ambushes.

- **Maintenance**: introduction; shop safety; shop operations; publications; care and use of hand tools; international road signs; hand and arm signals; description, function and operation of truck, small; equipment inspection worksheet; cooling system; electrical system; fuel system; suspension system; power train; brake system; steering system; julian dates; diesel engine and sub-components; introduction to the maintenance management course; duties and responsibilities; maintenance management system; prescribe load list; dispatch procedures; maintenance reports; accountability and responsibility; hand receipt; inventory; and field operations.

- **Military Police**: challenges; individual searches; vehicle searches; entry control; civil disturbance; area search; military operations in urban terrain; use of force; and weapons.

- **Administration**: introduction to unit administration; unit file system; duties and responsibilities; in processing procedures; modified table of organisation and equipment; unit morning report; unit manning report; unit alpha roster; unit line diagram; Iraqi Army 201 personnel file; duty roster; commander’s written communication; administration standard operating procedures; command information program; morale, welfare and recreation program; leaves and passes; command unit discipline; contingency administration; identification documentation; and out-processing.

- **Supply**: supply management duties and responsibilities; fundamentals of supply operations and property accountability; request and store selected supplies and equipment in unit storage facility; property book issue, turn-in, and transfer document issue supplies and equipment; types of inventories and inventory procedures; clothing issue point operations; ammunition management, logistical planning; arms room operations; petroleum, oils and lubricants; AK-M1 (assault rifle); reinforcement of learning through practical application; and course exam/retest.

- **Signals**: intro and basic communications; general safety; signal platoon mission; signal platoon structure; phonetic numbers; phonetic alphabet; radio prowords; and basic networks.

- **Signal operating instructions**: introduction to signal operating instruction; call signs; authentication table; brevity code; challenge and password; number combo and running
password; duress code; signals operating instructions general instructions; signals operating instructions compromise procedures; and non changing signals.

- **Radio operations:** radio telephone operator; send/receive message; establish net control station; radio frequency safety; components of Ultra High Frequency radio system; assemble/disassemble radio; site selection repeaters/antenna; accountability; battalion asset management; preventative maintenance check services; and High Frequency radios/antenna theory.

- **Armourers Assistant:** AK47; RPK (light machine gun); BKC (machine gun); RPG7 (grenade launcher); Markarov pistol; Glock pistol.

- **Theory of machine gun fire.**

- **Pistol shoot.**

- **Range shoot** – RPK and BKC.

- **Inspection and maintenance of weapons.**

(v) There are currently no plans for sub-unit and unit training to be conducted at the training centres where Australian advisors are located.

(vi)

- Basic Combat Training – six weeks.
- Military Occupation Specialty Training:
  - Infantry – eight weeks;
  - Medical – five weeks;
  - Transport – five weeks;
  - Maintenance – five weeks;
  - Military Police – four weeks;
  - Administration – four weeks;
  - Supply - four weeks;
  - Signals – four weeks; and
  - Armourers Assistant – four weeks.
- Methods of Instruction – four weeks.
- Platoon Sergeants Course – four weeks.

(vii) Australian Army training advisors are mentors and/or are focussed on developing the architecture of the training institutions and its ability to function effectively and efficiently rather than conducting instruction of Iraqi trainees.

Iraqi instructors deliver the instruction on the packages with Coalition mentoring. The number of Iraqi instructors at Tallil is:

- Officers – 12, and
- Non-Commissioned Officers – 68.

(2) Instruction packages for the Basic Training Centre are delivered in Arabic by Iraqi instructors. Packages for the instruction are delivered in Arabic by Iraqi instructors. All instructional documentation has both English and Arabic versions. An interpreter is used where ‘train the trainer’ instruction is conducted by Australian personnel.

(3) (a) and (b) The Basic Training Centre employs a mix of United Kingdom (UK) and United States (US) doctrine notwithstanding the Soviet origin of some of the weapons training and therefore pro-
(4) The packages were developed by previous training teams, using UK and US doctrine adapted to meet the needs of the Iraqi Army.

(5) (a) The training packages were not approved by the Australian Defence Force training system. The training packages are reviewed for their utility and appropriateness as they are used. All Australian trainers receive Law of Armed Conflict training and are aware of their obligations under those laws.

(b) The Iraqis are developing a Training Command that will be responsible for review, approval and validation of training packages.

(6) No.

(7) Not fundamentally. There is some regional variation based upon which nation has most influenced the development of training at the respective training centres. The Basic Training Centre is, therefore, largely UK-based training.

(8) There is no specific ethics training provided to Iraqi Armed Forces personnel by Australian personnel, but all training provided by Australian personnel is ethically based.

(9) (a) Three 40 minute periods of instruction.

(b) ADF personnel in Iraq are not involved in aid to the civil power training.

(c) (i) No training on this subject is provided by Australians.

(ii) Covered during two one-hour periods of instruction on Law of Armed Conflict as part of Basic Combat Training.

(iii) No training on this subject is provided by Australians.

(iv) Covered during two one-hour periods of instruction on Laws of Armed Conflict as part of Basic Combat Training.

(v) Covered during two one-hour periods of instruction on Prisoner of War (POW) handling as part of Basic Combat Training.

(vi) Covered during two one-hour periods of instruction on Law of Armed Conflict as part of Basic Combat Training.

(vii) Covered during two one-hour periods of instruction on POW handling as part of Basic Combat Training.

(viii) Covered during two one-hour periods of instruction on POW handling as part of Basic Combat Training.

(b) Navy:

Commander Task Force 158 (CTF 158) commands Coalition Forces comprising Australian, American, British and Iraqi maritime units. CTF 158 is tasked to set the conditions for security in the northern Persian Gulf that supports Iraqi economic development and transition to independent protection of Iraqi territorial waters and critical energy infrastructure. CTF 158, as the operational employer of the Iraqi Navy and Iraqi Marines within the CTF 158 area of operations, is responsible for ensuring that Iraqi Maritime Forces are mission ready.

(i) There is no CTF 158 sponsored individual training. Individual level training is provided by Iraqi Armed Forces personnel and is overseen by the UK-led Naval Transition Team.

(ii) Mission readiness of Iraqi Armed Forces is encompassed in three Mission Certification Evaluations:

• Exercise Total Guardian (oil platform point defence – Iraqi Marines specific),
• Exercise Sector Guardian (oil platform sector defence – Iraqi Navy specific), and
• Exercise Astra Guardian (visit, board, search and seizure – Iraqi Marines specific).
In addition, a quality assurance exercise (Exercise Smoking Barrel) is conducted to monitor the operational capability of Iraqi Navy and Iraqi Marines in the defence of vital energy infrastructure.
Further Mission Certification Evaluation packages may be developed to meet operational requirements.

(iii) The major training objective for CTF 158 is to ensure that Iraqi Navy and Iraqi Marines are ready to undertake operations within Iraqi territorial waters in support of the defence of national oil infrastructure.

(iv) See my response to (i) above.
(v) Not applicable.
(vi) Not applicable.
(vii) The number of assessors from CTF 158 varies depending on the instructional package and the need to provide suitable assessment and safety for the conduct of the training. CTF 158 is supported as required by subject matter experts from the Naval Transition Team, US Navy Maritime Security Detachment and the US Coast Guard.

(2) Collective training is conducted in English. Individual training (not conducted by CTF 158) is conducted normally in Arabic.

(3) (a) Packages used to ensure that Iraqi Maritime Forces are ready to undertake operations were developed by preceding CTF 158 staffs (not necessarily Australian) and are continually reviewed in consultation with the US Naval Transition Team to assess the ability of Iraqi Maritime Forces to conduct operations in Iraqi territorial waters.

(b) No. Packages were separately developed as required to train Iraqi Armed Forces and meet operational requirements.

(4) See my response to (3) (a).

(5) Mission Certification Evaluation packages are agreed collectively by CTF 158, the US Naval Transition Team and Iraqi Navy Operations Commander.

(6) No.

(7) Maritime training packages are jointly supported by all Coalition partners and the Iraqi Navy.

(8) All CTF 158 collective training is based on the appropriate and proportional use of force under the guidance provided within international law and that stipulated by national Rules of Engagement.

(9) (a) There is no CTF 158 sponsored civil-military relations training.

(b) There is no CTF 158 sponsored aid to the civil power training.

(c) There is no CTF 158 sponsored training in any of the sub-points in question (9) (c).

(c) Air Force:
Australia does not train Iraqi air force personnel in Iraq.

Response regarding military training assistance to Iraqi Armed Forces personnel in Australia:

(1) (a), (b) and (c) The following courses are offered to Iraqi Armed Forces personnel and Defence civilians:
• Defence and Strategic Studies Course – a year-long senior leadership course;
• Australian Command and Staff Course – a year-long military staff course;
• Defence Management Seminar – a two-week course providing an overview of the Australian Defence Organisation and current issues relative to Australia’s strategic outlook;
• Advanced Australian English Language Course – develops English language proficiency and the military and socio-cultural knowledge of overseas students prior to their attendance on target courses in Australia. The duration of the course is dependent on the student’s language needs;
• Australian and Military Familiarisation Course – a three-week course that prepares students culturally, administratively and militarily for their target courses in Australia;
• Administration and Reception Period Familiarisation – a five-day course that provides a period of familiarisation with the Australian general and military environment;
• Australian Defence College Preparation Course – a four-week course designed to prepare students militarily and linguistically for study at the Australian Defence College;
• Command and Staff Operations Law Course – a two-week course run by the Asia-Pacific Centre for Military Law, addressing international law relevant to the conduct of military operations;
• Civil Military Cooperation Course – a one-week course run by the Asia-Pacific Centre for Military Law, addressing civil-military cooperation;
• Maritime Law and Security Seminar – a two-week course run by the Centre for Maritime Policy in the University of Wollongong, addressing maritime law and operations; and
• Emergency Management Seminar – a two-week course addressing risk management and planning for emergencies.

(2) Yes.

(3) (a) The Defence and Strategic Studies Course and Australian Command and Staff Course are developed by the Australian Defence College Advisory Board in consultation with individual services and groups within Defence and civilian accreditation bodies. The Defence Management Seminar is developed by the Strategy Executive of the Australian Defence Headquarters.

The Advanced Australian English Language Course, Australian and Military Familiarisation Course, Administration and Reception Period Familiarisation and the Australian Defence College Preparation Course are developed by the Defence International Training Centre.

The Command and Staff Operations Law Course and the Civil Military Cooperation Course are developed by the Asia-Pacific Centre for Military Law.

The Maritime Law and Security Seminar is developed by the University of Wollongong.

The Emergency Management Seminar is developed by Emergency Management Australia.

(b) These are standard training packages open to all international students.

(4) Not applicable.

(5) (a) The Defence and Strategic Studies Course and Australian Command and Staff Course are approved by the Australian Defence College Advisory Board.

The Advanced Australian English Language Course, Australian and Military Familiarisation Course, Administration and Reception Period Familiarisation and the Australian Defence College Preparation Course are approved by the Defence International Training Centre, which is part of the Royal Australian Air Force.
The Defence Management Seminar, Command and Staff Operations Law Course, Civil Military Cooperation Course, the Maritime Law and Security Seminar and the Emergency Management Seminar are approved by First Assistant Secretary, International Policy.

(b) Not applicable.

(6) No.

(7) I am not able to comment on training packages sponsored by other countries.

(8) See my response to part (9).

(9) (a), (b) and (c) Defence and Strategic Studies Course – one of six curriculum blocks, entitled Command, Strategic Leadership and Management, addresses national, organisational and individual responsibilities relating to International Law, the Laws of Armed Conflict and Ethics.

Australian Command and Staff Course – runs a two-week Command and Leadership package; a two-day Ethics package, a two-week Stabilisation Operations Package including civil-military relations and aid to the civil power.

Defence Management Seminar – none.

Advanced Australian English Language Course – none.

Australian and Military Familiarisation Course – the course provides a general overview of Australian military culture, including ethical behaviour.

Administration and Reception Period Familiarisation – the course provides a general overview of Australian military culture, including ethical behaviour.

Australian Defence College Preparation Course – the course provides a general overview of Australian military culture, including ethical behaviour.

Command and Staff Operations Law Course – the course addresses the Law of Armed Conflict, the Law of Targeting, Command Responsibility, the Rules of Engagement, the Law of Occupation, the Status and Treatment of Detainees, Legal Aspects of Peace Operations, Legal Aspects of the War on Terrorism, and civil-military cooperation.

Civil-Military Cooperation Course – the course addresses civil-military cooperation.


Emergency Management Seminar – the course addresses aid to the civil power as part of its general discussions on emergency response.

**Economy Air and Air Mail Services**

**(Question No. 2259)**

**Senator Conroy** asked the Minister for Communications, Information Technology and the Arts, upon notice, on 27 July 2006:

(1) Is the Minister aware of the decision by Australia Post to discontinue its economy air parcel service from 4 September 2006.

(2) Was the Minister consulted on this change.

(3) Does the Minister support the abolition of the economy air parcel service.

(4) Is the Minister concerned that the decision will substantially increase the costs of on-line retailers, particularly booksellers.

(5) Is the Minister satisfied that Australia Post engaged in an adequate process of consultation before making the decision.
(6) Will the Minister ask Australia Post to reconsider this decision; if not, will the Minister ask Australia Post to develop alternative arrangements to assist on-line retailers.

Senator Coonan—The answer to the honourable senator’s question, based on advice from Australia Post, is as follows:

(1) Yes. I am aware that Australia Post has taken a commercial decision to merge its Economy Air and Air Mail services with effect from 4 September 2006.

(2) No. As a Government Business Enterprise, Australia Post’s Board of Directors and management are responsible for the day-to-day running of the organisation and are not required to consult with me about changes such as this. Australia Post is required, as far as practicable, to perform its functions in a manner consistent with sound commercial practice. Australia Post’s Board determines the terms and conditions, including rates of postage, of the services Australia Post supplies. However, I am advised that Post management did brief my office and departmental staff on the decision and its rationale.

(3) See part (2).

(4) Post currently has a commercial agreement with the Australian Bookseller’s Association (ABA) which provides significant discounts on published prices for members. The current agreement is due to expire at the end of October and negotiations on new contractual arrangements are expected to commence shortly. These are commercial matters for Australia Post.

(5) Australia Post has advised that it undertook extensive market research before making its decision.

(6) See part (2).

Malu Sara

(Question No. 2272)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 31 July 2006:

With reference to the role of AusSAR (Australian Search and Rescue Service) in the unsuccessful search for the Department of Immigration and Multicultural and Indigenous Affairs vessel the Malu Sara in October 2005:

(1) Does AusSAR maintain a quality management system with third party certification to ISO 9001 standard that requires regular audits of search and rescue operations to identify any corrective actions to maintain standard procedures and processes.

(2) Has any audit been conducted of AusSAR compliance with standard procedures and processes in relation to the search for the Malu Sara; if so, can details be provided of the audit including its outcome.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) Yes.

(2) No.

Malu Sara

(Question No. 2273)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 31 July 2006:

(1) What explanation can the Minister provide for failing to provide a chronology in the answer to question on notice no. 1872 concerning action taken by AusSAR (Australian Search and Rescue

QUESTIONS ON NOTICE
Service) following receipt of advice at 2000 or 2011 hours on 14 October 2005 that the Malu Sara was lost in the Torres Strait and had activated its Emergency Position Indicating Radio Beacon.

(2) Is the Minister aware that the Australian Transport Safety Bureau report into the loss of the Malu Sara fails to provide a detailed chronology of AusSAR’s actions.

(3) Can the Minister provide a chronology of all action taken by AusSAR in relation to the search for the Malu Sara; if not, why not.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) As indicated in the answer to question on notice no. 1872, details of actions taken by AMSA following advice about the vessel at 2011 hours on 14 October 2005 are described in the ATSB report released on 19 May 2006.

(2) No. The ATSB report does provide details of the actions taken by AMSA, which was requested in question on notice no. 1872.

(3) The actions taken by AMSA are recorded on AMSA's incident file. Senator O’Brien has made an application for a copy of the incident file under the Freedom of Information Act 1982 and this will provide a record of AMSA’s actions.

Malu Sara

(Question No. 2274)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 31 July 2006:

With reference to the role of AusSAR (Australian Search and Rescue Service) in the unsuccessful search for the Department of Immigration and Multicultural and Indigenous Affairs vessel the Malu Sara in October 2005: Can details be provided of the post-incident debrief including host agency/authority, date, venue and participants.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Queensland Police conducted post-incident debriefs at Badu Island on 19 October 2005 and in Cairns on 9 November 2005.

Malu Sara

(Question No. 2275)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 31 July 2006:

With reference to the answer to question on notice no. 1871 concerning the role of AusSAR (Australian Search and Rescue Service) in the unsuccessful search for the Department of Immigration and Multicultural and Indigenous Affairs vessel the Malu Sara in October 2005:

(1) Can the Minister confirm his advice that the AusSAR Rescue Coordination Centre was advised at 2011 hours on 14 October 2005 that the Emergency Position Indicating Radio Beacon (EPIRB) on board the Malu Sara had been activated.

(2) Can an explanation be provided as to why pages 75 and 76 of the Australian Transport Safety Bureau report into the loss of the Malu Sara identify 2000 hours on 14 October 2005 as the time the AusSAR Rescue Coordination Centre was advised the EPIRB was activated.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:
(1) Yes.
(2) The ATSB report on page 23 records the time was 2011 hours on 14 October 2005 and in figure 24 on pages 78 and 79 and uses the rounded timing of 2000 hours in the remainder of the report.

**Malu Sara**

(Question No. 2276)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 31 July 2006:
With reference to the role of AusSAR (Australian Search and Rescue Service) in the unsuccessful search for the Department of Immigration and Multicultural and Indigenous Affairs vessel the Malu Sara in October 2005: Can extracts be provided from AusSAR’s internal procedures manual in force in October 2005 containing instructions on the transfer of responsibility for search and rescue coordination in circumstances where responsibility rests with AusSAR.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:
Yes. Undernoted is the relevant extract from 3.4.1.3 Coordination responsibilities in the AusSAR Procedures Manual:

“AusSAR accepting coordination responsibility
AusSAR receives a request from another SAR authority to take over a SAR incident.
• Ascertain the reasons for seeking to transfer coordination. Request and receive a hardcopy message or document from the external agency that gives details of the incident, action taken and request for transfer of co-ordination. For guidance refer to the National SAR Manual 1.3 SAR Response and Coordination in Australia.
• Assess the request to determine whether AusSAR will accept the incident (this is the responsibility of the appropriate Senior SAR Officer).
• If overall coordination responsibility for the search is to remain with another SAR Authority, then the terms of what AusSAR is required to do shall be made clear and the request will be received hardcopy on a Request for SAR Assistance form. AusSAR will report progress on their assigned task to the SAR authority with overall responsibility.
• If an aspect of the search (e.g. surface search) is to be coordinated by, or remain with another SAR Authority, then the terms for the coordination shall be made clear and that Authority shall be required to report progress and keep AusSAR informed as to developments.
• Advise the RCC Chief or Duty Manager or the Manager, Operations.
• Advise the external agency of the decision for AusSAR to accept coordination responsibility and return the signed Transfer of Overall Coordination form.”

**Malu Sara**

(Question No. 2277)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 31 July 2006:
With reference to the role of AusSAR (Australian Search and Rescue Service) in the unsuccessful search for the Department of Immigration and Multicultural and Indigenous Affairs vessel the Malu Sara in October 2005:

(1) Is the National Search and Rescue Manual the standard reference document for use by all Australian Search and Rescue authorities.

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QUESTIONS ON NOTICE
(2) Does the National Search and Rescue Manual promulgate the agreed methods of coordination through which search and rescue operations are conducted within Australia.

(3) Does the National Search and Rescue Manual provide that a maritime search and rescue incident is considered imminent or actual when any of a number of conditions exist, including when: (a) an Emergency Position Indicating Radio Beacon (EPIRB) has been activated; and (b) a surface vessel or craft is reported to be sinking or to have sunk.

(4) Was the AusSAR Rescue Coordination Centre informed at 2000 or 2011 hours on 14 October 2005 that the Malu Sara’s EPIRB was activated.

(5) Was the AusSAR Rescue Coordination Centre informed soon after 0215 hours on 15 October 2005 that the Malu Sara was taking on water and sinking rapidly.

(6) Why did the AusSAR Rescue Coordination Centre not assume responsibility for the overall coordination of the search for the Malu Sara until 1930 hours on 15 October 2003, more than 23 hours after the activation of the vessel’s EPIRB and more than 17 hours after the vessel was reported to be taking on water and sinking rapidly.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) Yes.
(2) Yes.
(3) Yes.
(4) 2011 hours
(5) No.
(6) See answers to Questions on Notice No. 1871 and 1873.

Malu Sara

(Question No. 2278)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 31 July 2006:

With reference to the role of AusSAR (Australian Search and Rescue Service) in the unsuccessful search for the Department of Immigration and Multicultural and Indigenous Affairs vessel the Malu Sara in October 2005:

(1) Did a recorder maintain an accurate and up-to-date chronological record of the search and rescue action, together with other necessary records, messages and details of telephone calls and radio logs.

(2) Who has custody of these records.

(3) Where are these records held.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) No. The incident file was maintained without a recorder being appointed.

(2) AMSA’s Emergency Response business unit.

(3) AMSA’s head office in Canberra.


**Malu Sara**

(Question No. 2279)

Senator O'Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 31 July 2006:

With reference to the answer to question on notice no. 1870 concerning the role of AusSAR (Australian Search and Rescue) in the unsuccessful search for the Department of Immigration and Multicultural and Indigenous Affairs vessel the *Malu Sara* in October 2005:

(1) Does clause 14 of the Inter-Governmental Agreement on National Search and Rescue Response Arrangements provide that AusSAR when first becoming aware of a search and rescue incident shall take all necessary action until responsibility can be handed over to the relevant search and rescue authority under clauses 10 and 12 of the agreement.

(2) Does clause 10 of the agreement provide that AusSAR has primary responsibility for coordinating search and rescue operations for persons on or from a ship other than a pleasure craft or fishing vessel in distress at sea.

(3) Does the Minister maintain that the transfer of responsibility of the search was in accordance with clause 14 of the Inter-Governmental Agreement on National Search and Rescue Response Arrangements despite: (a) the lapse of more than 23 hours between the activation of the *Malu Sara’s* Emergency Position Indicating Radio Beacon and AusSAR’s assumption of overall coordination of the search; and (b) the lapse of more than 17 hours between advice that the *Malu Sara* was taking on water and sinking fast and AusSAR’s assumption of overall coordination of the search.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) No. Clause 14 states: “The search and rescue authority first becoming aware of a search and rescue incident shall take all necessary action until responsibility can be handed over to the relevant search and rescue authority under clauses 10 and 12 of this agreement.”

(2) Yes.

(3) Yes.

**Malu Sara**

(Question No. 2280)

Senator O'Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 31 July 2006:

With reference to the role of AusSAR (Australian Search and Rescue) in the unsuccessful search for the Department of Immigration and Multicultural and Indigenous Affairs vessel the *Malu Sara* in October 2005:

(1) Has any formal review of AusSAR’s role been undertaken; if so, can a copy of the report of the review be provided; if not, why not.

(2) If no formal review has been undertaken, why not.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) Yes. The ATSB report released on 19 May 2006 reviewed AMSA’s role in the search and is available on the ATSB Internet site at: www.atsb.gov.au

(2) Not applicable.
**Malu Sara**

(Question No. 2281)

**Senator O’Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 31 July 2006:

With reference to the answer to question on notice no. 1874 concerning the role of AusSAR (Australian Search and Rescue) in the unsuccessful search for the Department of Immigration and Multicultural and Indigenous Affairs vessel the *Malu Sara* in October 2005:

(1) Is it the case that under the requirements of the Inter-Governmental Agreement on National Search and Rescue Arrangements and the National Search and Rescue Manual the primary responsibility for coordinating search and rescue operations for vessels is dependent on the type of vessel, e.g. fishing vessel or pleasure craft, and in some cases the location of that vessel.

(2) Why does the Minister state that the status of the *Malu Sara* as a ‘Commonwealth Ship’ was irrelevant in relation to the coordination of the search operation for the vessel.

**Senator Ian Campbell**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) Yes.

(2) The Queensland Police, being the search and rescue authority first becoming aware of the search and rescue incident involving *Malu Sara* and being best placed to respond to the vessel, exercised overall coordination of the search for the vessel until 1930 hours on 15 October 2005. The status of the vessel as a Commonwealth ship under the Navigation Act 1912 was irrelevant in these circumstances.

**Malu Sara**

(Question No. 2282)

**Senator O’Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 31 July 2006:

With reference to the role of AusSAR (Australian Search and Rescue) in the unsuccessful search for the Department of Immigration and Multicultural and Indigenous Affairs vessel the *Malu Sara* in October 2005: At 0215 hours on 15 October 2005 when the *Malu Sara* reported taking on water and sinking fast, was AusSAR in a position to immediately assume responsibility for overall coordination of the search if it had chosen to do so; if not, why not.

**Senator Ian Campbell**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

No. If AMSA had been requested by the Queensland Police to assume responsibility for responding to Malu Sara, AMSA was in a position to do so immediately. However, the Inter-Governmental Agreement on National Search and Rescue Response Arrangements emphasises the cooperative nature of search and rescue arrangements and that the transfer of overall coordination is by mutual consent between search and rescue authorities in accordance with the procedures established by the National Search and Rescue Manual. It would not be appropriate for AMSA to act unilaterally with respect to an action already under coordination by another search and rescue authority. The Queensland Police did not request AMSA to assume overall coordination at that time and AMSA did not offer to do so, as the Queensland Police was best placed to coordinate the response to the vessel at that time.
**Senator O’Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 31 July 2006:

With reference to the role of AusSAR (Australian Search and Rescue) in the unsuccessful search for the Department of Immigration and Multicultural and Indigenous Affairs vessel the *Malu Sara* in October 2005:

1. Was the helicopter VH-RHJ Bell 412 utilised during the search.
2. Which agency tasked the helicopter.
3. Where was the helicopter located when it was tasked to perform search activities.
4. Can the Minister confirm the helicopter was not engaged in search activities until the afternoon of 15 October 2005.
5. Can the Minister outline the helicopter’s search activities including ‘wheels up’ and ‘wheels down’ details.
6. What is the engine and search and rescue capability of the helicopter and the search and rescue capability of the crew.
7. (a) Is the helicopter fitted with Forward Looking Infra Red (FLIR) and night vision equipment; and (b) does FLIR and night vision equipment provide night searching capability, in particular, the ability to visually ascertain the actual situation of a vessel reported to be sinking.
8. Is the helicopter fitted with auto-hover capability; if so, are the crew trained and current in its use at night.
9. Was the helicopter and crew available in the early hours of 15 October 2005 for an emergency callout.
10. Why was the helicopter not tasked before the afternoon of 15 October 2005.
11. Can details be provided of all occasions on which AusSAR has tasked the helicopter to perform search and rescue activities in the Torres Strait.
12. Can details be provided of all occasions on which AusSAR has tasked the helicopter to engage in search and rescue training activities in the Torres Strait.
13. Is the helicopter on a 24-hour callout contract to another Commonwealth agency; if so, what are the contractual arrangements for callout and what is the contracted emergency response time.

**Senator Ian Campbell**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

1. Yes.
2. AMSA.
3. Horn Island.
4. No. The helicopter was requested at 1135 hours on 15 October 2005.
5. Yes. The helicopter was involved in area search, rescue asset carriage and dropping and locating Search and Rescue Datum Buoys. The table below provides the times of operation:

<table>
<thead>
<tr>
<th>Engines on Hours</th>
<th>Engines off Hours</th>
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<tbody>
<tr>
<td>15 October 2005</td>
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</tr>
<tr>
<td>1246</td>
<td>1441</td>
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<tr>
<td>1704</td>
<td>1925</td>
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<td>2030</td>
<td>2232</td>
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QUESTIONS ON NOTICE

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<thead>
<tr>
<th>Engines on Hours</th>
<th>Engines off Hours</th>
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<tbody>
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<td>0933</td>
<td>1230</td>
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</tbody>
</table>

(6) The search and rescue capability of the helicopter and its crew include the ability to:

- Undertake operations over land and water, including searches, aerial direction finding (homing) to distress beacons and, during daylight hours, rescue persons with a two-person capacity winch and deliver emergency supplies.
- Undertake operations a minimum of 80 nautical miles offshore and remain on-scene for 20 minutes.
- Conduct searches with Forward Looking Infra-Red (FLIR) camera to allow tasking for some limited night operations in accordance with the helicopter’s Operations Manual. These operations are subject to the location and the prevailing meteorological conditions.

(7) (a) Yes. (b) Yes.

(8) No.

(9) Unknown to AMSA

(10) The ATSB report on page 26 records that the conditions overnight from 14 to 15 October 2005 prevented the use of a helicopter as the night visual flight rules precluded its operation at night over water. When the two surface search vessels could not locate the vessel early in the morning of 15 October 2005, the ATSB report records on page 28 that the Queensland Police contacted a local helicopter service to provide another helicopter to search for the vessel. After the search by surface vessels and the other helicopter had not located the vessel, AMSA was formally asked by the Queensland Police at 1218 hours on 15 October 2005 to assume responsibility for coordinating an extensive aerial search, which included using helicopter VH-RHJ Bell 412.

(11) The helicopter has been tasked in 215 search and rescue incidents between 1/1/2000 and 1/8/2006.

(12) AMSA has provided ten search and rescue training sessions at the helicopter operator’s base in the Torres Strait.

(13) The helicopter is contracted to another Commonwealth agency. AMSA is not aware of the contractual arrangements.