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

Governor-General

His Excellency Major-General Michael Jeffery, Companion in the Order of Australia, Commander of the Royal Victorian Order, Military Cross

Senate Officeholders

President—Senator the Hon. Paul Henry Calvert
Deputy President and Chairman of Committees—Senator John Joseph Hogg

Leader of the Government in the Senate—Senator the Hon. Nicholas Hugh Minchin
Deputy Leader of the Government in the Senate—Senator the Hon. Helen Lloyd Coonan
Leader of the Opposition in the Senate—Senator Christopher Vaughan Evans
Deputy Leader of the Opposition in the Senate—Senator Stephen Michael Conroy
Manager of Government Business in the Senate—Senator the Hon. Christopher Martin Ellison
Manager of Opposition Business in the Senate—Senator Joseph William Ludwig

Senate Party Leaders and Whips

Leader of the Liberal Party of Australia—Senator the Hon. Nicholas Hugh Minchin
Deputy Leader of the Liberal Party of Australia—Senator the Hon. Helen Lloyd Coonan
Leader of The Nationals—Senator the Hon. Ronald Leslie Doyle Boswell
  Deputy Leader of The Nationals—Senator the Hon. John Alexander Lindsay (Sandy) Macdonald
Leader of the Australian Labor Party—Senator Christopher Vaughan Evans
Deputy Leader of the Australian Labor Party—Senator Stephen Michael Conroy
Leader of the Australian Democrats—Senator Lynette Fay Allison
Leader of the Australian Greens—Senator Robert James Brown
Leader of the Family First Party—Senator Steve Fielding
Liberal Party of Australia Whips—Senators Jeannie Margaret Ferris and Stephen Parry
  Nationals Whip—Senator Nigel Gregory Scullion
Opposition Whips—Senators George Campbell, Linda Jean Kirk and Ruth Stephanie Webber
  Australian Democrats Whip—Senator Andrew John Julian Bartlett
  Australian Greens Whip—Senator Rachel Siewert

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

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

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

Heads of Parliamentary Departments
Clerk of the Senate—H Evans
Clerk of the House of Representatives—I C Harris
Secretary, Department of Parliamentary Services—H R Penfold QC
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  The Hon. Ian Elgin Macfarlane MP
Minister for Industry, Tourism and Resources  The Hon. Kevin James Andrews MP
Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service  Senator the Hon. Helen Lloyd Coonan
Minister for Communications, Information Technology and the Arts and Deputy Leader of the Government in the Senate  Senator the Hon. Ian Gordon Campbell

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

Minister for Justice and Customs and Manager of Government Business in the Senate
    Senator the Hon. Christopher Martin Ellison
Minister for Fisheries, Forestry and Conservation
    Senator the Hon. Eric Abetz
Minister for the Arts and Sport
    Senator the Hon. Charles Roderick Kemp
Minister for Human Services and Minister Assisting the Minister for Workplace Relations
    The Hon. Joseph Benedict Hockey MP
Minister for Community Services
    The Hon. John Kenneth Cobb MP
Minister for Revenue and Assistant Treasurer
    The Hon. Peter Craig Dutton MP
Special Minister of State
    The Hon. Gary Roy Nairn MP
Minister for Vocational and Technical Education and Minister Assisting the Prime Minister
    The Hon. Gary Douglas Hardgrave MP
Minister for Ageing
    Senator the Hon. Santo Santoro
Minister for Small Business and Tourism
    The Hon. Frances Esther Bailey MP
Minister for Local Government, Territories and Roads
    The Hon. James Eric Lloyd MP
Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence
    The Hon. Bruce Frederick Billson MP
Minister for Workforce Participation
    The Hon. Dr Sharman Nancy Stone MP
Parliamentary Secretary to the Minister for Finance and Administration
    Senator the Hon. Richard Mansell Colbeck
Parliamentary Secretary to the Minister for Industry, Tourism and Resources
    The Hon. Robert Charles Baldwin MP
Parliamentary Secretary to the Minister for Health and Ageing
    The Hon. Christopher Maurice Pyne MP
Parliamentary Secretary to the Minister for Defence
    Senator the Hon. John Alexander Lindsay (Sandy) Macdonald
Parliamentary Secretary to the Minister for Transport and Regional Services
    The Hon. De-Anne Margaret Kelly MP
Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs
    The Hon. Andrew John Robb MP
Parliamentary Secretary to the Prime Minister
    The Hon. Malcolm Bligh Turnbull MP
Parliamentary Secretary to the Treasurer
    The Hon. Christopher John Pearce MP
Parliamentary Secretary to the Minister for the Environment and Heritage
    The Hon. Gregory Andrew Hunt MP
Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry
    The Hon. Sussan Penelope Ley MP
Parliamentary Secretary to the Minister for Education, Science and Training
    The Hon. Patrick Francis Farmer MP
Parliamentary Secretary (Foreign Affairs)
    The Hon. Teresa Gambaro MP
### SHADOW MINISTRY

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

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

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

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

Shadow Minister for Transport
Senator Kerry Williams Kelso O’Brien

Shadow Minister for Sport and Recreation
Senator Kate Alexandra Lundy

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

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

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

Shadow Minister for Immigration
Anthony Stephen Burke MP

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

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

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

Shadow Minister for Citizenship and Multicultural Affairs
Senator Annette Hurley

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

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

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

Shadow Parliamentary Secretary for Education
Kirsten Fiona Livermore MP

Shadow Parliamentary Secretary for Environment and Heritage
Jennie George MP

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

Shadow Parliamentary Secretary for Immigration
Ann Kathleen Corcoran MP

Shadow Parliamentary Secretary for Treasury
Catherine Fiona King MP

Shadow Parliamentary Secretary for Science and Water
Senator Ursula Mary Stephens

Shadow Parliamentary Secretary for Northern Australia and Indigenous Affairs
The Hon. Warren Edward Snowdon MP
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Wednesday, 11 October 2006

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

BUSINESS

Consideration of Legislation

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

That, after the motion for the second reading of the Communications Legislation Amendment (Enforcement Powers) Bill 2006 and the Television Licence Fees Amendment Bill 2006 has been moved, they may be taken together for their remaining stages with the government business order of the day relating to the Broadcasting Services Amendment (Media Ownership) Bill 2006 and the Broadcasting Legislation Amendment (Digital Television) Bill 2006.

Question agreed to.

COMMUNICATIONS LEGISLATION AMENDMENT (ENFORCEMENT POWERS) BILL 2006

TELEVISION LICENCE FEES AMENDMENT BILL 2006

First Reading

Bills received from the House of Representatives.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.31 am)—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 ELLISON (Western Australia—Minister for Justice and Customs) (9.32 am)—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—

COMMUNICATIONS LEGISLATION AMENDMENT (ENFORCEMENT POWERS) BILL 2006

As Australia’s broadcasting and communications regulator, the Australian Communications and Media Authority (ACMA) plays a critical role in ensuring that the media sector complies with its legislative obligations and audience expectations.

For some time, ACMA and its predecessor, the Australian Broadcasting Authority (ABA), has been concerned about the limited nature of its broadcasting regulatory powers, under which only the draconian sanctions of criminal penalties and licence suspension or cancellation were available even for mid-range breaches of the Act. To address this, the bill will provide ACMA with a greater range of enforcement options, enabling it to respond more flexibly and appropriately to breaches of the regulatory framework and, where necessary, to work with industry to achieve greater levels of compliance.

The bill will also ensure that ACMA can undertake the critical regulatory functions required of it in the new media regulatory framework that will be established by the Government’s media reform package. In particular, ACMA will have a key role in ensuring that diversity of media ownership and content are protected under changes to the regulation of media ownership. More effective enforcement powers mean that the media industry and audiences can be confident that ACMA will ensure that the obligations placed on industry by the Broadcasting Services Act 1992 (the BSA) and other elements of the media regulatory framework will be met fully.

I turn now to the substance of the bill.

The bill will establish civil penalties for a range of offences under the BSA that are currently only punishable by criminal penalties. Civil penalties provide a number of advantages: they do not require a referral to the Director of Public Prosecutions, who must prove an offence to the criminal standard of proof (beyond reasonable doubt); and,
in this case where a “strict liability” approach has been adopted, there is no requirement to prove intent. Further, criminal penalties may be an inappropriate and draconian sanction for the nature of offences covered by the BSA.

To ensure consistency of treatment, the bill will add civil penalty contraventions to those matters that ACMA, under the BSA, will take into account in assessing licensee suitability, along with criminal offences, which are currently considered.

The bill will enable ACMA to seek injunctions to prevent the operation of unlicensed broadcasting services. The provision of unlicensed commercial broadcasting services—usually by broadcasters in other licence categories, such as narrowcasting—is potentially highly damaging to the commercial viability of licensed commercial broadcasters.

The bill will enable ACMA to accept enforceable undertakings in relation to its broadcasting, datacasting and internet content regulatory functions. ACMA may currently accept enforceable undertakings in relation to its telecommunications regulatory functions, and may also do so under the Spam Act 2003, but unlike the Australian Competition and Consumer Commission or the Australian Securities and Investment Commission, it cannot enforce any undertakings it has accepted in relation to its regulation of broadcasting, datacasting or internet content. Enforceable undertakings have proven to be an effective regulatory tool in other sectors, and are regarded by industry as providing a worthwhile alternative to sanctions. While undertakings will remain voluntary, enabling ACMA to enforce undertakings made to it by industry will bring the Authority into line with its regulatory peers.

Finally, the bill will permit ACMA to address breaches of reporting and notification requirements in the BSA via infringement notices, rather than via the costly process of criminal sanctions. While these are relatively minor offences, there has been an ongoing issue of non-compliance with such requirements in recent years. A greater capacity to address non-compliance will be particularly beneficial in relation to requirements relating to notification of changes in control, which are important to the effective protection of diversity of media ownership under the Government’s proposed changes to the media ownership regulatory framework.

The bill marks a major updating of ACMA’s broadcasting regulatory powers which were developed in the regulatory framework, and media landscape, of the early 1990s. Since that time, regulatory options have evolved and enforcement tools such as civil penalties and enforceable undertakings are now widely used by other regulators. In moving ACMA toward regulatory best practice, the bill will provide industry with the effective regulatory framework it needs and which audiences demand.

TELEVISION LICENCE FEES AMENDMENT BILL 2006


This bill will make it clear that, once commercial television broadcasters are able to use their licences to provide an expanded range of digital services, they will be subject to fees based on their gross earnings across all services.

The expanded range of services will include a high definition multichannel from 2007, a standard definition multichannel from 2009, and any number of multichannels from digital switchover. This is provided for in the Broadcasting Legislation Amendment (Digital Television) Bill 2006.

Commercial television broadcasters are already liable, under the Datacasting Charges Imposition Act 1998, to pay charges related to their earnings for any licensed datacasting services they provide using transmitter licences authorised by their commercial television broadcasting licences.

This bill ensures that a consistent approach is taken to digital services provided by commercial television broadcasters on their spectrum.

Debate (on motion by Senator Ellison) adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.
The PRESIDENT—Pursuant to the order of the Senate agreed to earlier today, these bills may now be taken together with the Broadcasting Services Amendment (Media Ownership) Bill 2006 and the Broadcasting Legislation Amendment (Digital Television) Bill 2006 for their remaining stages.

BROADCASTING SERVICES AMENDMENT (MEDIA OWNERSHIP) BILL 2006

BROADCASTING LEGISLATION AMENDMENT (DIGITAL TELEVISION) BILL 2006

COMMUNICATIONS LEGISLATION AMENDMENT (ENFORCEMENT POWERS) BILL 2006

TELEVISION LICENCE FEES AMENDMENT BILL 2006

Second Reading

Debate resumed, in respect of Communications Legislation Amendment (Enforcement Powers) Bill 2006 and Television Licence Fees Amendment Bill 2006; debate resumed from 10 October, in respect of Broadcasting Services Amendment (Media Ownership) Bill 2006 and the Broadcasting Legislation Amendment (Digital Television) Bill 2006 on motion by Senator Sandy Macdonald:

That these bills be now read a second time.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (9.33 am)—I just want to reiterate the Australian Democrats’ opposition to this set of media bills that we are dealing with. It is our very strong view that cross-media laws should not be changed until a number of things happen—including that competition is improved; that Telstra has been divested of its interest in Foxtel and the HFC cable; that full digitisation has been achieved, including having more available spectrum; and that the range of new services provided by technology is more mature and utilised by more customers. We are very concerned about many other aspects of the media ownership changes. We see very few benefits in them. We look forward to seeing what the amendments are that have been agreed to with the National Party; however, they are almost certain to have not resolved those matters which I have already raised in my speech in the second reading debate.

(Quorum formed)

Senator PARRY (Tasmania) (9.35 am)—I also wish to speak on the Broadcasting Services Amendment (Media Ownership) Bill 2006, the Broadcasting Legislation Amendment (Digital Television) Bill 2006, the Communications Legislation Amendment (Enforcement Powers) Bill 2006 and the Television Licence Fees Amendment Bill 2006. The government’s media reforms encapsulated in these bills represent a significant step forward for the Australian media industry and Australian consumers. They address Labor’s media legacy that has artificially restricted the terms upon which media companies can compete and invest to serve the interests, needs and desires of consumers. For the last 20 years, Australia has had a set of media laws that act to significantly restrict how media markets and companies operate. The current laws are based on an outdated view of the world and an obsolete view of the Australian media and Australian consumers. They are based on a world without widespread internet access and use, a world without pay TV, a world with no prospect of digital radio, and a world where TV and video delivery by the internet had not been contemplated. The current media laws did not foresee or take into account the adoption and proliferation of 3G mobile phones, podcasts and vodcasts or the possibility of TV being delivered to mobile phones—otherwise known as DVB-H technology.

Clearly, when it comes to the Australian consumer and the Australian media, the
world has moved on. The traditional media are experiencing competitive pressures from all angles. Few have been more passionate advocates for individual consumers and businesses being unshackled from regulation. If Australia truly aspires to maintain a vibrant media marketplace where consumer interests are served, if we truly aspire to ensure the viability and vibrancy of many diverse media players throughout Australia, we must unshackle the Australian media industry from regulation. We must unburden the Australian media to allow the flexibility necessary for them to best serve the Australian consumer.

Without these changes, the traditional media industry will continue to watch emerging platforms encroach on their traditional business. Amending ownership restrictions, as this bill provides, will allow the media market to operate more efficiently. These changes will benefit industry and consumers alike by permitting greater competition and economies of scale and scope. Those benefits will be dynamic and occur across a large sector of the economy. As with other reforms undertaken by this government, the benefits of reforming the media ownership restrictions are real. The removal of foreign ownership restrictions will allow foreign investors to enter the television and daily newspaper markets, thus providing greater opportunities for investment, new players and new services.

We already have the benefit of a clear and strong example of the benefits that foreign ownership can provide. Australia’s radio sector does not have foreign ownership restrictions. What is the result? The result is that Australia’s radio sector is significantly more diverse in its ownership than either television or newspapers, with two major foreign owners in the sector, APN and DMG. Similarly, the removal of cross-media restrictions will allow Australian media companies to enter different media, providing greater competition, opportunities for greater efficiency and new and improved services for consumers.

Clearly, any reform needs to protect diversity of ownership, but this can be done in a way that is much less restrictive than the current arrangements. Diversity is a principle in media ownership that everyone agrees is important and will continue to be protected. The five-four voices requirements and licence and reach limits will ensure appropriate diversity is maintained.

Current media ownership laws specifically regulate commercial radio and television and daily newspapers above other media because of their greater level of influence. This made sense in the context of 1987, when TV, radio and newspapers were virtually the only news media. As I stated earlier, since Australia’s current media laws were designed and enacted, Australian media and Australian consumers have moved on—and moved on at a rapid pace. While TV, radio and daily newspapers remain highly influential, they are no longer the sole source of news and information. Online news and information has emerged as a powerful influence challenging the traditional dominance of the ‘old media’. A regulatory framework that assumes that radio, television and newspapers are the only sources of information will become hopelessly outdated and ineffective, if it is not already, and ultimately this will be to the detriment of services and consumers alike.

In addition to the benefits that media ownership reform will bring, this package also opens up significant opportunities for new services. There will be two channels of currently unallocated spectrum made available for new in-home and other services, such as mobile television. The national broadcasters will be able to provide a broader range of content on their multichannels. The free-to-air broadcasters will be
permitted to provide a high-definition multichannel from next year and an SD multichannel from 2009.

Once we reach switchover and a significant amount of additional spectrum is freed up, even more opportunities for more new services will emerge. Contrary to the naysayers, these bills form an integrated and far-reaching package which will assist Australia’s media sector to move to a new digital environment by encouraging new players and new services for Australian consumers. It is clear to the government and to industry that the media landscape is changing rapidly, and a flexible system is needed to allow media companies to adapt and prosper in a new digital environment. A far-sighted approach is needed to meet the needs of consumers now and to provide for the benefits of new technology into the future.

The government’s media package will open up opportunities for a range of innovative new services for consumers while maintaining the existing services that the community already rely on and enjoy, including quality free-to-air television services. The proposed reforms will enable existing players to make the most of emerging digital technologies and give them the flexibility to structure their businesses to be globally competitive media companies. But, most importantly, consumers will be the biggest winners, with access to a range of new services, potentially including several new digital channels, and with even more to come in the full transition to digital television.

Let me deal briefly with the government’s amendments to the bills. As an additional safeguard against undue media concentration, the government will amend the Broadcasting Services Amendment (Media Ownership) Bill 2006 to include a ‘two out of three’ rule for media mergers in metropolitan and regional areas. This means that media mergers will still be permitted, subject to the floor of four voices in regional areas and five voices in metropolitan areas, but mergers will only be permitted between two of the three regulated platforms in a licence area—commercial TV, commercial radio and associated newspapers. In other words, this rule will prevent three-way mergers between commercial TV and commercial radio and an associated newspaper in a licence area. This amendment adopts a recommendation of the Senate Standing Committee on Environment, Communications, Information Technology and the Arts that this rule be introduced in regional areas. However, the government decided that it was appropriate to extend this additional safeguard to all licence areas.

Industry will still benefit from the increased flexibility that relaxation of the cross-media ownership laws will bring. Consumers can be confident that diversity will continue to be protected through the range of safeguards the government is including in the bill. In recognition of concerns expressed about the provision of live, locally produced and locally relevant content, the government will amend the bill to require ACMA to have in place for all regional radio licences, from a specified date, a requirement for at least 4.5 hours of local content each day. This will be similar to the new section 43A in the bill, which requires ACMA to have local content licence conditions in place for regional television.

Prior to the requirement coming into effect, ACMA will be directed by the minister, under section 171 of the Broadcasting Ser-
services Act 1992, to investigate the current levels of local content in regional radio, the impact of the proposed minimum level on licences and how the different types of regional broadcasters, such as licensees in smaller licence areas, would be affected by the requirement. Once the outcome of the review is known, the minister will have the power to adjust the level or apply the requirement differently across different classes of licence if appropriate. The adjustment would be a disallowable instrument that would need to be tabled in parliament. If there were no adjustment, the level specified in the act would remain.

As a further protection for local content in regional areas, regional radio licensees will be required to meet a number of additional content requirements in relation to local news and weather: a minimum of 12.5 minutes per day of local news to be broadcast on at least five days per week—repeats of news bulletins will not count towards the minimum number; a minimum of five weather bulletins per week; and regional commercial radio licensees who have a local content plan, or LCP, in force will be required to report annually to ACMA on their compliance with the LCP. Regional communities have a legitimate expectation that their local media will cover events and provide content of relevance to their communities. These requirements will establish realistic minimum levels of local content that licensees will be required to provide.

The Senate Standing Committee on Environment, Communications, Information Technology and the Arts report recommended that the government consider whether access arrangements for channel B would be appropriate. The ACCC will be required to develop criteria relating to access undertakings by holders of the channel B licence for access by content service providers. The criteria will be a legislative instrument.

A person wishing to bid for the channel B licence will be required to submit an access undertaking which the ACCC will consider against the criteria. They will be eligible to bid if the ACCC accepts the undertaking. Adherence to the terms of an undertaking will be a condition of the channel B licence. The undertaking will remain in force for the duration of the licence and will transfer if the licence is transferred. However, undertakings may be varied with the agreement of the ACCC. This arrangement will strike a balance between permitting the holder of channel B to offer some exclusive services to its customers if it wishes to do so, and if it fits their business model, and ensuring that other content providers will have the ability to seek access to the services on clear terms.

The government’s reforms have been the subject of lengthy and widespread consultation within government, industry, the community at large and other interested stakeholders. The media landscape is changing rapidly and a flexible system is needed to allow media companies to adapt and prosper in the new digital environment. A far-sighted approach is needed to meet the needs of consumers now and to provide the benefits of new technology into the future. At the heart of the package are new services and programming for consumers. These reforms will enable existing players to make the most of emerging digital media technologies and give them the flexibility to structure their businesses to be globally competitive media companies. The package will allow a better competitive environment and encourage new entrants into the media market, offering di-
versity and choice to consumers, which is a common thrust of the entire package.

While the reforms will allow for some cross-media mergers, they also contain significant safeguards to protect diversity and stop undue concentration, particularly in regional Australia. The Trade Practices Act 1974 will continue to apply to media transactions, and the Australian Competition and Consumer Commission will play a critical role in assessing competition issues associated with mergers. Separate from the protection of competition, ACMA will oversee the safeguards to ensure diversity and local content, including ensuring that transactions comply with the ‘minimum number of media groups’ requirements and that broadcasters comply with their local content obligations.

It is important to remember that, in addition to the traditional commercial media, Australians will continue to have access to a variety of other services. This includes ABC services, which include two digital TV channels, up to five radio stations—Radio National, News Radio, Local Radio, Classic FM and Triple J—and comprehensive online services; SBS’s comprehensive television, radio and online services; subscription television; community radio and television; out-of-area and national newspapers; and the myriad services available over the internet. This government is committed to ensuring that all Australians, not just those in metropolitan areas, benefit from these reforms.

In contrast to the government’s clear plan, Labor has no real policies on broadcasting and did nothing while in government to prepare for the introduction of digital. The Labor Party clings to outmoded models for the industry which will ultimately damage the Australian media industry and provide absolutely nothing new or innovative for consumers.

The coalition has led the way in continuing to ensure the regulatory framework allows broadcasters to adapt and adjust to technological and other developments. Unlike the Labor Party, the coalition understands how important it is that both small and large commercial operators are supported to participate in the broadcasting sector.

In relation to the antisiphoning list, the Labor Party fails to understand its practicalities or the delicate balance which the government strikes to ensure that important events remain available for Australians to view on free-to-air television. The opposition’s alarm at the seven-year $150 million deal struck between the FFA and Fox Sports to deliver on pay television a wide range of Socceroos and A-league domestic matches is a case in point. This deal secured the long-term financial stability of the game in Australia and will mean a significant package of matches will be available to Australian supporters on pay television. None of the events covered by the deal are on the antisiphoning list, and in the past the free-to-air coverage of Socceroos games has been inconsistent.

The opposition maintains an outdated and ‘mogul specific’ approach to media ownership laws which would restrict investment and expansion of the Australian media sector and favour foreign investment over diversified investment by Australian investors. The cross-media rules are almost 20 years old, and while the opposition may be nostalgic for the old Labor days of the princes of print and the queens of the screen they have obviously missed a few technological turns of the wheel.

During the election campaign, Labor said its policies would maximise Australian investment and employment in the media sector. But Labor supports retention of the cross-media ownership laws while relaxing
foreign ownership restrictions. How do you maximise Australian investment in the media sector by lifting foreign ownership restrictions which only allow new overseas investment in our media sector and prevent home-grown Australian media companies from competing? Clearly, Labor’s idea of preventing excessive concentration of media ownership in Australia is to allow only foreign companies to contribute to diversity. As usual, I find it hard to make sense of Labor’s policies on this issue.

Labor knows our current laws are anachronistic, and for years, almost decades, has been promising with varying degrees of convincingness to make the hard decisions on media reform. But, when it comes to the crunch, Labor folds. When Labor’s laws on cross-media and foreign ownership were first conceived in the late 1980s, there was no digital TV or broadband cable. There was no understanding of the potential for the internet—only a few techno geniuses actually knew what it was and how to use it.

Labor have chopped and changed over the last few years on their position on media reform. They do not deny it is necessary, but they have no plans for how to achieve it. Torn between the left and right factions—the former, who would fully regulate the media, and the latter, who may set it free—Labor are conflicted, without genuine ideas on media reform. The Labor Party have not been able to hold a consistent line on media and communications reform from Lateline to lunch or from breakfast to brunch, to borrow a recently popularised phrase. (Time expired)

Senator GEORGE CAMPBELL (New South Wales) (9.55 am)—I should apologise to Senator Joyce before I start my contribution to this debate; I chased his cheer squad away by intervening and taking my position on the speaking list. You can tell Senator Nash to come back in about 10 or 15 minutes, Senator Joyce, and she can listen to your debate then.

The Broadcasting Services Amendment (Media Ownership) Bill 2006 and related legislation present yet another ill-thought-out policy that will be rammed through this place without any concern about its impact on the Australian people. Prime Minister John Howard himself has said in the past few days that these reforms are not top priority for the government, they are not top of the agenda and he can take them or leave them. If that is true, why are we seeing such policy on the fly? That is exactly what it is—policy on the run, on the fly. Some people may be more unkind and say that this is a fly policy.

On Monday the debate was on, then it was off. Then yesterday it was on, then off and then back on. Since Monday we have been held in a state of animated suspension, wondering when we were going to get to have a sensible debate about these issues.

Whether we like it or not, we are here to debate some of the biggest media ownership changes that this country has ever seen, yet the government made a deal only yesterday afternoon to secure the passage of this legislation. The deal was not made with the opposition. The deal was not made with the media industry. The government did not reach an accommodation with the media industry. The deal was made with the National Party. The deal to secure the passage of this legislation through the chamber was made with three or four senators from the National Party. And that is why we are debating this legislation now—not because of extensive research about the media and content in Australia. Rather, it was a research exercise into what The Nationals would stomach in terms of media reform.

I heard Senator Nash’s speech last night. I sat and listened to her contribution for 20 minutes and I was amazed. I did not think it
took 20 minutes to apologise to your constituents for selling them out. But she took the full 20 minutes to tell her constituents that she was sorry, that she had sold them out, but that it really was for the greater good. I do not know whether there is a female ‘Wacker’ hanging around New South Wales who may be going to give Senator Nash a bit of a touch-up in the next preselection battle in that state, but she certainly took great pains to apologise to her constituents for her sell-out on this bill. I look forward with interest to hearing Senator Joyce’s contribution today to see just how far he has gone along the road of selling out his colleagues in Queensland on this media issue.

And what is it that The Nationals were prepared to stomach to support this legislation? It was 12½ minutes of local news a day on local radio. And what guarantee exists to ensure that that 12.5 minutes of daily news content cannot be produced centrally and simply ripped and read? None—absolutely none. It can be produced anywhere in the country.

I want to draw senators’ attention to a word that has been noticeably absent on the other side of the chamber during this debate. It is a word we have consistently had rammed down our throats in many debates in this chamber, and that is the word ‘choice’. Remember the debates about superannuation and the need for choice? ‘People should have the right of choice.’ Do you remember the debates about industrial relations? ‘People should have the right of choice—they should be able to choose an AWA; they should be able to choose a collective agreement; that should be their right.’ And the people on the other side of this chamber are constantly, in debates in this place, ramming down our throats: ‘You are the party that wants to dictate a uniform approach to everything for everybody. We are the party who is prepared to give individuals choice.’

Isn’t it interesting that in this debate the issue of choice is glaringly absent? And it is not coincidental, because if the government could use it they would. But they cannot. That is because this bill removes choice—something that the government have always claimed to champion. The bill will remove choice, particularly from regional and rural Australia in terms of the extent of diversity they are able to get in the news that is presented to them.

The reality is that these changes will have significant impacts on the quality and content of local news, particularly in regional Australia. While limiting choice of media sources might not matter to the government—who have the luxury of accessing national media, thanks to the taxpayer—it does matter and it matters to the people of Australia.

The internet—in response to Senator Parry’s comments—is not an adequate reason to dismantle an effective regime of cross-media laws. Are other senators convinced that it is all going to be okay because we can download videos from YouTube? I am certainly not. Let us be clear about this: the internet is not a replacement for real local content or genuine local media diversity. Being able to read the New York Times does not equate to local media diversity. Convergence is no good reason to water down protection.

There is no evidence to suggest that the internet is increasing diversity of news. The existing major media players completely dominate the market for online news, with something like 84 per cent of hits on news sites occurring on major media players’ websites. The content remains the same; only the way it is accessed is different. This is not a recipe for diversity—it is a recipe for more of the same. A majority of Australians are able to gain access to the internet. However,
those who cannot will be further disadvantaged by these laws. Some cannot afford a computer or internet access, while others in regional areas, as we know, often have trouble getting the internet, especially high-speed broadband. These are the people who will be most disadvantaged.

Let us look at local radio content. In any given market, one player could potentially own two out of three outlets while another outlet might be a pop music radio station. This means that editorial coverage could still, in effect, be dominated completely by one player—never mind the ludicrous situation where a local music radio station is treated the same as talk radio, a newspaper or a TV station; each counts equally as a competing voice in the market. But I could be in a position where the two outlets’ editorial content were essentially the same and where that was the only editorial content available to my community. In fact, competition is narrowed as a result of this process.

Already we have issues with local media diversity and already local communities struggle to get news that is relevant to them. People will not be able to exercise choice in the market and reward providers of genuine local content because there will not be any. For this reason I find the comments made yesterday by Senator Ian Macdonald, senator for Queensland, ridiculous. He said:

I do not have a disregard for country people. I think country people are clever enough to know what they want from commercial radio, and they will express that by either turning on or off the particular local commercial radio station. If the radio station is not providing the content that the listeners want, the listeners will turn off. If the listeners turn off, the advertisers will turn off. If the advertisers turn off, the radio station will go into liquidation, and it will no longer be.

Well, I am sorry, Senator Macdonald—it will not be that simple. People in rural areas will not have the luxury of turning off just because they do not like it. They will have no choice of news sources or opinion by turning off the offending station. What will they be left with in those circumstances? Nothing. They will be left with no information if they take Senator Macdonald’s course of action. Regional people will be further isolated from their local community and from the rest of the country. The senator last night told regional Australia that they could like it or lump it. That is unacceptable and it does show disregard for people in regional Australia.

So where are the benefits to ordinary Australians here? Where is the community interest? Ordinary people are not desperately hoping that media moguls can go on a regional media shopping spree. We do not see any clamour from regional Australia to get Fairfax, PBL or News Ltd to come and buy up their local newspapers, radio stations or TV stations. Ordinary people are not hoping for the number of competing voices in their media markets to be halved. This is a government that is yet again pursuing the interests of the elites and the plutocracy over that of ordinary people and local communities.

Senators who saw the Media Watch report a couple of weeks ago which looked at regional media would have seen what I am talking about. Take, for example, the town of Griffith, which used to have its own bulletin on WIN TV. Now it has an amalgamated Riverina bulletin put together from Wollongong and then put out from 500 kilometres away. There is no competing local TV station, so the citizens of Griffith have no stick to wield in the market to punish this, no matter how annoyed they are. And believe me, they are annoyed. Take Mayor Dino Zappacosta’s comments to Media Watch as proof:
The incorporation of Griffith news into a bulletin that encompasses Albury, Wagga Wagga and surrounding regions has already impacted on the community and its identity.

The isolation of Griffith and towns surrounding the city, including Hay and Leeton, means that the local news broadcast provided local information for local people at a local level.

It provided cohesiveness in the community, which engaged all residents including minority and disadvantaged groups.

With the transfer of news and production facilities to Wollongong, there has not only been a loss in local information but a loss of up to nine jobs in the city.

It is estimated the drop in local news content exceeds 50 per cent, with an average of two Griffith news stories broadcast in the bulletin.

Griffith City Council and Griffith businesses have been staunch supporters of WIN-TV and the community has been angered by what appears to be a blatant disregard for that support.

That was Councillor Dino Zappacosta’s statement to Media Watch. This will only get worse. The situation in Griffith is going to be repeated across regional and rural Australia. It will get worse under this new regime. This is a problem that we have already, which will only be made worse as we cut down the diversity of sources. Matthew Ricketson, in the Age, said:

The ability to buy two of the three media forms can still lead to mega-media companies and, as far as I can see, does not prevent many, if any, of the major deals that bankers and media executives have been snooping around.

These deals include the possibility that if the proposed amendments were passed, Publishing and Broadcasting Ltd, controlled by James Packer, could buy John Fairfax Holdings, owner of The Age. Or that Rupert Murdoch’s News Limited, Australia’s biggest publisher of newspapers, could buy a TV network, such as Ten.

People will be left with less choice and fewer options to turn to. These changes continue this government’s attack on media diversity.

Let us look at the ABC. Over the past 10 years this government has constantly criticised its ABC, claiming that it has left-wing bias. We have been treated, at estimates hearings, to government senators, Senator Santoro and Senator Fierravanti-Wells, who have come along with tomes of information about where the ABC has shown particular bias. They spend hours reading through transcripts from radio stations all round the country who use this word or that word to describe the government, which they say was a bias against the government. And what has been the government’s answer? It has been to stack the board of the ABC with as many of its avid supporters as possible. You could not find a board in this country, even of major corporates, with as conservative a group of people running the show as you now have with our ABC—the hope being that ABC content will be shaped according to this government’s agenda, rather than being shaped by independent investigation, reason, research and thought.

In fact, what this government is seeking to achieve with the ABC is to make it a propaganda arm of the government in the same way that News Ltd in the United States during the Gulf War became the propaganda arm of the Bush government. It did not produce news on its nightly bulletins; it produced propaganda, and it was blatantly exposed by media watchers in the United States during that period. The government would not be attacking media outlets such as the ABC, and it would not spend $55 million advertising its industrial relations reforms if it did not think that public opinion was important to monitor and influence.

Should a dominant media company take a certain point of view, it will now have the
means to control or limit the extent of what is perceived as popular opinion or the correct side or thought on certain issues. These changes are not healthy for diverse public opinion and in turn are not healthy for democracy; they are not healthy for regional Australia and they are not healthy for the Australian people. I urge the chamber to reject the bill.

Senator JOYCE (Queensland) (10.13 am)—I shall not speak for too long today as I have just been relieved of one of the teeth in my head. Probably some would say that is a great outcome! The Broadcasting Services Amendment (Media Ownership) Bill 2006, the Broadcasting Legislation Amendment (Digital Television) Bill 2006, the Communications Legislation Amendment (Enforcement Powers) Bill 2006 and the Television Licence Fees Amendment Bill 2006 are terribly important for our nation. What is the fundamental thing we are trying to protect here? We are trying to protect the nation from this outcome: that, in 10 years time, the real power would be controlled by a couple of media houses. If that were to happen then we would have really usurped the operation of this parliament. This parliament would turn into a quaint place where a lot of people would run around frantically but the real power would actually be held somewhere else.

The United States had to deal with this issue. That is why good Republican senators such as Teddy Roosevelt and Taft brought in the Clayton’s Antitrust Act and the Sherman Antitrust Act on either end of the 1900s—because of the threat that a corporate body would rise to such an extent that it would challenge the powers of the parliament. That is the underlying fear within the National Party we have been trying to protect against—the evolving of an organisation that would challenge the role of the parliament, and the media is the place where that organisation is the most likely to evolve.

We heard interesting analogies through the committee process. I remember reading one which mentioned the hierarchy of bribery claims in Chile. The largest bribes did not go to politicians or police; they went to media outlets. If you really want to control the place, the media is where you do it. In the Senate we reflect the aspirations of the people, and the media are the gatekeepers of what goes out and what comes back and how we are perceived. Therefore, they have inordinate power in society, which means they have a very special spot that we have to be extremely concerned about.

The suggestion has been put that this is not something where we should rock the boat too much, but I disagree with that firmly. This is absolutely an issue where we have the utmost responsibility to preserve the freedom that is in our nation and the gatekeeper of the freedom of our nation is the media. We have a building nearby called the War Memorial, which is a clear sign of those who have made the supreme sacrifice in protecting the freedom of our nation. In this place we must be ever mindful of that; otherwise we will have to build a building out the back for the ones who have let the show down. This is why this legislation is so important. We have already heard that it has been in animated suspension. There is a reason for that: there was concern in the Senate about issues in regard to this.

In the National Party we have had this concern right from the start in a resolution from state management. We tried our best to pursue those concerns through the Senate committee process and to finally get amendments to this legislation. The two out of three rule is a result of that work—the two out of three rule in regional areas which has become the two out of three rule in metropoli-
tan areas. That is a great outcome. It has started to put some controls on where the media is. The local content rules is another outcome that the National Party has brought into this parliament. So, the protection of the media not only in metropolitan areas but in regional areas, the local content rules, the issues about channel B, the increased powers of the ACMA and the ATT are the issues that the National Party can claim responsibility for by being some sort of guardian of the passage of this legislation, to protect the democratic process in this nation.

If there were not a National Party, without a shadow of a doubt these protections would not exist. There would not be the safety valve in conservative politics to bring about these results. That shows clearly to the Australian people that, rather than our being shoe-holed in some rural constituency, there is a relevance to the National Party being in the Senate. The day the National Party is removed from the Senate will be a bad outcome for democracy. We will have everybody on the other side signing a pledge that they will always obey their masters in Sussex Street, we will have the inherent development of a loss of capacity to hold diverse views in the Senate and we will have a bipolar world. A piece of legislation like this would go straight through without the National Party standing up and fighting for democracy, as has happened with this legislation.

There are still issues that need to be looked at. I agree that there must be tighter controls on what a voice is. In the National Party we are not belligerent; we listen to everybody. We try to truly reflect views in the Senate, as we are supposed to, and be an open chamber that takes on board varying opinions, and not be like the other place, some bastion of tribalism. Hopefully, in this chamber we rise above that somewhat. When you sign a pledge that you are always going to follow your caucus leader, of course, you cannot. You usurp the democratic right of all the people who voted for you. They do not have the right to have access to your caucus leader; only you have that right. That means the caucus leader in Sussex Street starts telling the Australian nation what to do and that is what is inherently wrong about a Labor Party senator.

I believe we should have a tighter control on what a voice is. I do not believe that a media outlet that predominantly plays music or shows the races can be called the voice, so much so that I am prepared to back myself in and, if required to vote with that amendment on whichever side of the Senate it is moved, I will do that, unlike the people of the Labor Party. You do not have that right. The day you do that in the Labor Party, you are kicked straight out, because you are not a free enterprise. You are a totalitarian regime, run from Sussex Street, and that is why you never have the numbers to have a majority in both houses. You will never be given it again in our nation. It will never happen because you aspire to that totalitarian control—

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Senator Joyce, direct your remarks to the chair.

Senator JOYCE—which, Mr Acting Deputy President, is anathema to what this Senate is. I believe we should have a tighter voice test and we will try to bring that about. I believe that the related entity test should be tightened up. We have a related entity test in the tax act which is very clear, very precise and works very well. That related entity test should be in this piece of legislation. I know we have an associated entity test but I feel it could be strengthened to have greater effect. And we must make sure that the ABC remains a vibrant voice—it is terribly important—and SBS, for that matter.
But there has been a great win for the National Party in the deal that it has made. Without a shadow of a doubt, a person walking down the street, not only in St George but in Sydney, has to realise that the reason they are getting two out of three is that there is a party in this nation called the National Party. They also have to understand—especially someone who is a journalist out there in Cowra today—that they still have a job, because there is a local content plan. Who got that? The National Party got it. And Mr Samuels will know that he is about to get new, increased powers to deal with mergers and acquisitions in the media market. Why is that coming about? It is because the National Party brought it about, and we are going to have a review of channel B so that it cannot create a monopoly in the channel B licence. Why is that happening? It is happening because of the access regime that the National Party brought about. That is the effect of what this party does. We are few in numbers and we collect the ire and the bile of people from all sides of politics, but we stick to our guns, because if we did not do that the democratic process in this nation would be changed forever.

With due respect, you never see the Greens break up on a vote; you never see them cross the floor. They always vote as a block. In fact, it is a dynamic that has been lost from this place, and one which detracts from our democratic process. But there is always acknowledgement that this party will do it—

Senator Conroy—Mr Acting Deputy President, on a point of order: I appreciate that Senator Joyce cannot bring himself to talk about the bill because of what he is doing.

The ACTING DEPUTY PRESIDENT—What is your point of order?

Senator Conroy—My point of order is on relevance. How the Greens vote as a block is not really relevant to the debate as it stands at the moment, and I ask that you draw him back to the bill.

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

Senator Joyce—It is totally relevant because we are showing the dynamics of the votes. I have stated before that I have a bit of a concern that we might have an Oilcode set up here. We may actually see all the Labor Party cross the floor to make effective amendments. We might have calls from the major oil companies to say, ‘You’ve got to stand in line today.’ They might do that; you have to keep your eye on them. You never know when the whole of the Labor Party will cross the floor and vote with the government. It is a bit of a problem; you have to watch out for them.

But, today, we have a chance of getting tighter controls. We are still looking for tighter controls on voice and the related entity test. I am prepared to do that, because I believe in my obligation to my state in Queensland to try to get the best possible outcome and, if that involves going over there to vote, then I will do that. I am trying to do it because it is best for my state. It is why we are in this place; we are supposed to represent our state, not a political party, but that is a debate for another day.

We have now got to the position where what the National Party has attained would mean voting against the hard work we have put into this. That hard work has been put in by a whole range of people. Right from the word ‘go’, when we started with this resolution at the state conference in Queensland through to here in this place, Paul Neville has been an absolute workhorse. He is an absolutely passionate believer in protecting our democratic process. I would like to ac-
knowledge the work that Mr Neville has done, because, without that sort of assistance, it would have been much harder. It is a very complicated piece of legislation, and I have had my suspicions through the process of this debate as to why we have not seen more of this discussion in the media, from the fourth estate. Why it has not been front-page news on some of the major papers has been a concern. In fact, it raises suspicions as to why we must keep a control on the diversity of opinions. If we get it wrong, it will be one of the most fundamental changes to our democratic processes you could ever have.

I also believe that the statement that the ACCC in its current form has the ability to be the arbiter of voice, the arbiter of opinion in the public field, is an absolute load of rubbish. You cannot possibly do that; that is impossible. The ACCC and the Trade Practices Act have been set up for the purpose of dealing with goods and services; it is not there to look after opinion. That is why we have to go through the mechanism of putting some benchmarks in this legislation for that role. I look forward to the day when we strengthen the role of the ACCC and strengthen the Trade Practices Act so that we do not have predatory pricing laws that allow one media organisation to cut advertising to the bone and put other papers out of business. I look forward to the day we bring in a stronger section 46, but that is a debate for another day and for another piece of legislation. Unfortunately, all we can deal with in this legislation are the issues before us now.

I look forward to this issue going to committee, because there are still changes that could be made to make it better. A tightening of the voice test would be a true acknowledgement that you will not get an investigative journalism program on a music station.

Senator Conroy—Red Hot Chili Peppers.

Senator JOYCE—I do not think the Red Hot Chili Peppers or the Pussycat Dolls will put any government out of business, so I do not think we should count them as a voice. It is a bit strange to say that a program that plays predominantly music can be determined to be a voice. People will say, ‘Lots of people listen to that.’ They listen to it but they do not form their opinions from it. The 20 per cent of the people of this nation who are extremely dangerous because they change their vote will not be guided by the inspiration of the Pussycat Dolls. We have to make sure that we protect the voices that do change the aspirations, the inspirations and the opinions of our nation.

For that purpose, a voice should not be a media outlet that is predominantly a music channel—or a racing channel. Who wins race 5 at Dapto does not change the result of an election. The name of the red-hot runner at Randwick is not going to affect the governance of our nation, so that sort of channel should not be determined to be a voice; it should be knocked out. Of course, reducing the number of voices reduces the capacity of people in a market to merge. Obviously, things start falling below the five- and the four-level test. So there are ramifications, and that is why the voices test needs to be tightened up, and that is why the related entities test needs to be tightened up. The related entities test in the tax act, by way of a continual amendment process, is a vital piece of legislation. If something similar were incorporated in this legislation, it would give transparency as to who owns what.

I am prepared to vote for such amendments. Unfortunately, having regard to the dynamics of our democratic process, inspiring others to do the same can be difficult. However, on this side we have not fallen so far as to start signing pledges as to which way we are going to vote. It is good that at this point in time we on this side still do not
sign pledges saying, ‘You will usurp your democratic duty for the sake of a caucus.’

The debate will go on for a number of days. I look forward to the involvement of others in the debate. I look forward to the committee stage. All in all, I feel that the National Party has carved out a whole swathe of issues that are completely and utterly different from the position when we started. We can go right back to its inception—to a resolution at a Queensland state conference—and follow it from there.

Senator CONROY (Victoria) (10.32 am)—I welcome Senator Joyce’s contribution. I do not agree with everything he said, but I welcome it. However, I must comment on a couple of points that he made. It was not the leader of the Labor Party who stood up in his party room yesterday and demanded, right there, right then, ‘Sign up or else.’ It was not Kim Beazley who did that. It was not Kim Beazley who forced, with no debate, a decision to be made right there and right then. It was not Kim Beazley who gave his party room the bum’s rush yesterday and locked people in. It was not Kim Beazley—

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—Order! I am not sure that ‘bum’s rush’ is parliamentary.

Senator CONROY—If that is unparliamentary, I withdraw it and I apologise. I didn’t think it would be but I happily withdraw.

Senator Vanstone—Mr Acting Deputy President, for the record, I am not personally offended by that language at all; it is water off a duck’s back. But in the Senate chamber it is perhaps inappropriate. That is my point.

The ACTING DEPUTY PRESIDENT—It has been withdrawn, Senator.

Senator CONROY—I accept that, and withdraw. It was not the Labor Party which passed a resolution at its Queensland conference which was considered to be binding on Queensland National Party members. So when it comes to who stands over people, it is quite clear in this debate what has gone on. Senator Joyce and Senator Nash signed a dissenting report, and they have talked a great fight. But it will catch up with you, Senator Joyce, because at some point someone is going to work out that the speech was great, but why on earth, after giving that speech, did you vote the other way?

We will be voting with you on the voices test, because that is at the heart of this debate. But once we are defeated, as is likely, Senator Joyce, when you then vote not to excise the cross-media laws and to allow the very voices test you say is not good enough, so that the Pussycat Dolls and the Red Hot Chili Peppers get to count the same as the Packers and the Murdoch empires, you will not be able to show people your speech.

There was a famous Labor Party person who used to come to the ALP national executive meetings and give passionate speeches against the outrages of the New South Wales Right. He would go home to Tasmania and say, ‘God, you should have heard the speech I gave.’ People would say, ‘How did you vote?’ ‘Oh no, I voted for it.’ He became a laughing stock pretty quickly. I have to tell you, Senator Joyce, that it will be hard for you to keep giving these great speeches and writing these great dissenting reports and then turn around and vote the other way. Credibility in politics is important, too. Maybe the media, because you are ultimately delivering them what they want, will not highlight it too much, but I know that the people of Queensland are pretty smart. They can smell a rat when one runs across their path, and you cannot say on the one hand that a voices test that allows the Red Hot Chili Peppers and the Pussycat Dolls to counterbalance the Packers and the Murdochs is a terrible thing and then on the other
hand vote for it. You actually have to stand up and be counted sometimes. What is at stake, as you said, is to ensure that no organisation ends up being more powerful than the Parliament of Australia.

The government likes to call the measures in the Broadcasting Services Amendment (Media Ownership) Bill 2006 and related bills its ‘media reform package’. However, when you look at the measures in detail, it is clear that this label just does not fit. It is a case of misleading advertising. Sure, the bills concern the media, and there are four of them so it is a package. But the word ‘reform’ cannot be applied to what the government has put forward. I suppose this is just another application of the two out of three rule that we have heard so much about, and that apparently, according to Senator Joyce, is the saviour of democracy. The government’s media ownership bill will reduce media diversity, it will reduce competition and it will reduce consumer choice. Where is the reform in that? Where is the reform in measures that give even more power to some of the most powerful people in the country?

Let us not misunderstand Prime Minister Howard when he says, ‘I’m not really fussed about this legislation.’ Let us be clear: this is his third attempt in the last 10 years for a bill he does not care about. Let us not be fooled by the Prime Minister pretending that it is not a priority for him. As soon as the government got its way, it was going to force it through the Senate at any and all costs. The government knows that it is hard to sell increased media concentration as good public policy. The Prime Minister has twice tried before to get the parliament to swallow this bitter pill. Sensibly, these proposals were rejected. This time around he has tried a different approach. This time around he has tried to sugar-coat the plan to repeal the cross-media laws by trying to link it to new digital television services. In truth, the Senate should realise that there is no connection between the two. Australia does not need to sacrifice media diversity in order to enjoy the benefits of the digital age. This is a package that looks after the interests of media moguls, not media consumers.

Before I get to the detail of the legislation and its flaws, some comment has to be made about the process that has preceded this debate today because it says so much about the government’s attitude to media reform. The media package that we are debating today has been under development by the Minister for Communications, Information Technology and the Arts for more than 12 months. Countless meetings have been held with representatives of the big media companies. The government has been very keen to come up with a package that balances their commercial interests. Regrettably, the public and the parliament have not received the benefit of a similar courtesy.

As we saw last year in the debates on the sale of Telstra and industrial relations, this is a government that pays mere lip service to notions of Senate scrutiny and public accountability. The minister dictated that the Senate Standing Committee on Environment, Communications, Information Technology and the Arts would have just three weeks to conduct its inquiry into the legislation. Members of the public were given just over a week to scrutinise four bills. Key elements of the government’s legislation were not even released to the public. It was not until four o’clock yesterday that we finally saw the amendments containing the rules governing the new digital channels, the so-called channels A and B. The committee hearings were a complete farce. The committee was forced to cram more than 30 witnesses into just two days of hearings.

Senator Brandis—That was to meet your convenience because you were unavailable.
The ACTING DEPUTY PRESIDENT (Senator Hutchins)—Order!

Senator CONROY—I appreciate your pointing out that Senator Brandis is out of order, Mr Acting Deputy President, but I want to put this on the record because I keep hearing this complete untruth, this complete misleading of the Australian public: I was unavailable for one day only; Senator Ian Macdonald was unavailable for another two days. Let us be clear: there was no need for this committee to be rammed through in two days, no need whatsoever.

Senator Brandis—The schedule was to meet the convenience of senators, including you.

The ACTING DEPUTY PRESIDENT—Order, Senator Brandis. You will get your opportunity to speak next.

Senator CONROY—Senator Helen Coonan announced the committee hearing completion date in a press release prior to the committee even holding a meeting to discuss it. You can hide, you can run, but that is the truth. The minister dictated to members of the coalition on that committee when the bill had to be finished being considered by the committee, so do not try to pretend that people’s calendars were not completely moved around to suit the government senators. Minister Helen Coonan announced the completion date of an inquiry. That is actually the purview of the Senate and the committee process.

This debauched process has continued. Opposition senators were given just on 10 minutes to question most witnesses. Witnesses who sat down to address the committee were instructed by the chair that they could speak for no more than five minutes. Nearly 100 pages of amendments and explanatory material have already rained down on the Senate as the government has sought to fix drafting errors and appease the concerns of dissidents in its party room. The Senate will not be given time to properly scrutinise these changes, as the government wants to ram the bills through this week. This is the disgraceful way the Howard government makes law. We should not be surprised when such an approach produces poor policy.

I will now turn to the bills in detail. Despite claims to the contrary, it is quite clear that the centrepiece of this package is the Broadcasting Services Amendment (Media Ownership) Bill 2006. The bill makes two key changes to the media ownership law. Firstly, it repeals the specific foreign ownership provisions in the BSA that relate to commercial and subscription television. Secondly, it repeals the current cross-media laws in the BSA that relate to commercial and subscription television. Secondly, it repeals the current cross-media laws and inserts new provisions which are described as diversity safeguards.

Labor’s approach to the issue of media ownership is based on the principle that regulation should promote the free expression of a diverse range of views. There is no doubt that free and open discussion of ideas and opinions is the lifeblood of democracy. Consistent with this principle, Labor supports changes to the foreign ownership rules that are contained in the bill. This is a position that we have held since 2002. There is already substantial foreign investment in the Australian media—in radio, newspapers and television. Foreign investment offers the potential to introduce new players into the market and increase media diversity.

Labor does not believe that the restrictions on foreign ownership in the Broadcasting Services Act are justifiable in the public interest. In contrast, the case for the cross-media laws which restricts media companies to owning newspapers or radio or television
assets in any one market remains as valid today as it did in 1987, when the laws were first introduced. In its landmark report in 2000, the Productivity Commission spelt out clearly why diversity of ownership is so important in a democracy. The Productivity Commission stated:

The likelihood that a proprietor’s business and editorial interests will influence the content and opinion of their media outlets is of major significance.

The public interest in ensuring diversity of information and opinion leads to a strong preference for more media proprietors rather than fewer. This is particularly important given the wide business interests of some media proprietors.

Anyone who thinks that ownership of the media does not matter should have a look at a survey of journalists conducted by Roy Morgan and Crikey earlier this year. Some 48 per cent of those surveyed said they have felt obliged to take into account the commercial position of their employer. Thirty-eight per cent said that they had been instructed to toe the commercial line of their employer, 32 per cent said they felt obliged to take into account their employer’s political position and 16 per cent said they had been instructed to do so. These figures demonstrate conclusively why maintaining a diversity of ownership is so fundamental and why the media ownership bill is such a threat to Australian democracy. Of course the government says that it understands the need to protect diversity. It claims that its package has safeguards to prevent excessive concentration. In truth, these safeguards are completely inadequate.

The first alleged safeguard is the five-four voices test. Under this test a media merger will not be allowed to occur unless there will remain a minimum of five media voices in metropolitan markets and four in regional Australia. For the purposes of this test, a voice is a commercial television licence, a commercial radio licence or a newspaper that is sold in the relevant area at least four days a week. It also includes a media group that has a combination of these assets. The government has never provided any satisfactory explanation of why it thinks that five and four are acceptable numbers, other than it wants to allow scope for firms to reap ‘economies of scale’.

The five-four test is designed to facilitate media mergers. It is not really a safeguard at all. There are currently 12 owners of the major commercial media in Sydney, 11 in Melbourne, 10 in Brisbane, eight in Perth and seven in Adelaide. In 19 major cities in regional Australia, like Cairns, Mackay or Bundaberg, there are six or seven owners. The five-four rule is just a recipe for increased concentration. This fact became so obvious that yesterday the minister was compelled to announce that the five-four test will be supplemented by a two out of three rule.

The two out of three rule will prevent proprietors from owning newspaper, radio and television assets in the same market. While some members of the National Party have claimed this as a great concession, in reality it offers little additional protection for media diversity. The proposal does nothing to protect diversity in the 17 regional markets where there are only five commercial voices. These areas include major centres like Bathurst, Bendigo, Coffs Harbour, Grafton, Lismore, Tamworth and Mildura. Under the two out of three rule, it would still be possible for the number of owners to fall from six to four in many regional markets like Bundaberg, Townsville and Rockhampton.

In both metropolitan and regional markets, a person in control of a newspaper and the television station would still be able to exercise an unhealthy degree of influence. Even with the two out of three rule, a media conglomerate composed of Channel Nine and
the *Age* would be given the same weight in the voices test as a small radio station like Sport 927. To borrow from my colleague Senator Joyce, the Red Hot Chili Peppers and the Pussycat Dolls would get as many votes in this ballot as the Packers or the Murdochs. That is the farce; that is the absurdity. It is a fact, and you are voting for it, Senator Brandis. The revised test will still take no account of the relative influence of different voices. The fact that some coalition senators have convinced themselves that the two out of three rule protects diversity shows an amazing capacity for self-delusion.

The other alleged safeguard in the package is the ACCC’s power to examine cross-media mergers to see if they substantially lessen competition. If there was one piece of evidence that emerged clearly from the Senate inquiry—and I thank Senator Brandis for interceding in this part of the debate, because he called a spade a spade—it was that section 50 of the Trade Practices Act cannot be relied upon as a substitute for the current cross-media laws. The ACCC is the competition regulator. It has no responsibility for protecting diversity. It is not able to take public interest considerations into account in assessing mergers under section 50.

In order to find that a merger of newspaper, radio or television assets lessened competition in a market for news or opinion, the ACCC would have to demonstrate that news products produced by different media types were substitutes for each other. This is a difficult test to apply in markets like news where products are typically not priced. The ACCC has stated that in order to determine whether, for example, radio and television news were substitutes, it would undertake research into consumer attitudes and conduct surveys to see if people would switch to radio if there was deterioration in the quality of TV news.

Several leading competition lawyers have questioned the ACCC’s ability to stop cross-media mergers on the basis that it would lessen competition in the market for news. Peter Armitage, the competition partner at Blake Dawson and Waldron, has described the ACCC’s approach to defining news markets as ‘fairly speculative, brave new world territory’. It is important to remember that the ACCC’s interpretation of market definition is subject to challenge in the Federal Court. The ACCC does not make the law. I can just see Mr Samuels bowling up to the Federal Court and saying: ‘The basis on which I have blocked this merger is that I did a survey of a few hundred people. Thirty or 40 replied and they told me what they thought about whether or not these items were substituted.’ It is going to be a compelling argument! Even Senator Brandis has to smile about it. The Federal Court will not cop such rubbish.

In its report on broadcasting the Productivity Commission stated:

It is clear that the Trade Practices Act as it stands will be unable to prevent many cross-media mergers or acquisitions which may reduce diversity. It is also clear that the adoption by the ACCC of a broader definition of the media market would not adequately address the social dimensions of the policy problem, and will be open to legal challenge.

Let us be clear. The existing current cross-media laws are protecting and generating diversity—*(Time expired)*

**Senator BRANDIS** (Queensland) (10.52 am)—I had the honour to substitute for my friend Senator Parry as a government member of the Senate Standing Committee on Environment, Communications, Information Technology and the Arts for its examination of the Broadcasting Services Amendment (Media Ownership) Bill 2006 and related bills. I participated in the hearings, along with my colleagues Senator Eggleston, the
chair of the committee, Senator Ian Macdonald and Senator Ronaldson. The four of us constituted the four government members of that committee. As well, our colleagues Senator Nash and Senator Joyce attended some of the hearings—I think Senator Nash was there for all of them—as participating members of the committee. As a result, a report was tabled which I believe deals very thoroughly with the issues thrown up by this complex suite of bills.

Can I deal with something—to clarify it on the record—which was the subject of an exchange between Senator Conroy and me just before. Yes, it is true that this hearing was conducted in a relatively brief span of time, from quite early on a Thursday morning until well into that evening, after 9 pm I think, and for most of the following day. But it is also true that the scheduling of the hearing for those two days of the week before last was undertaken in order to meet the convenience of senators, including Senator Conroy. But for the unavailability of other senators, including Senator Conroy, on days earlier in that week there would have been the opportunity for the hearings to proceed for longer. That is not a criticism of Senator Conroy; it is merely a scheduling issue. It is not unusual, contrary to Senator Conroy’s assertion, for the government to announce an intention to introduce legislation into this chamber on a specified date, which is what the minister did and which meant in turn that the hearings which had not been able to occur earlier in the week before last had to be completed by this period of sittings. So to the extent to which there was a foreshortening it is a bit of a stretch to blame that on the government when the hearings could have been longer but were not in order to meet the convenience of others, including the opposition.

I listened with fascination to Senator Conroy seeking to beguile and charm and chas- tise and berate Senator Joyce over the fact that Senator Joyce has made a commitment to support these bills. I would have thought that if there were any member of the Senate who would understand the nature of a political decision arrived at by consensus—what might crudely be called a deal—then Senator Conroy would be at the forefront of those who would have that understanding of how political decisions are arrived at. Senator Joyce, who had strong opinions about various matters, as did Senator Nash, as did I and other members of the committee across a range of complex issues, discussed these matters. It is a matter of public record that they were discussed very exhaustively at the joint government parties’ meeting yesterday.

As a result of that, a consensus position was arrived at. Not only is that not unusual; that is the way all political decisions are ultimately arrived at when there is a diversity of views. How remarkable it is that we should have heard a speech from Senator Conroy in which he denounces legislation—which, with all due respect to him, he does not fully seem to understand—because it does not protect diversity and yet at the same time and in the next breath he denounces the fact that there has been a diversity of view within the government, which has arrived at a consensus position.

I am very comfortable with the manner in which the minister has handled these difficult issues. They are difficult issues technically, they are difficult issues of policy and they have been politically difficult because of the range of stakeholders involved. In the form of the legislation with the announced changes which the minister foreshadowed yesterday afternoon, I think, we have a package which will satisfy most interests and will be very much serviceable to the paramount interest—the public interest. But having said that, I could not help but notice the editorial in this morning’s Australian Financial Review. Let me read a few words from it onto
the record. Referring to the views adopted by Senator Joyce and Senator Nash, the editorial writer said that their:

... notion of media diversity—limits on ownership of ‘traditional media’ and 12 ½ minutes of ‘local news’ a day on rural broadcasters—will inevitably be counterproductive, saddling regional players with costs they can’t recoup and compromising the very quality, diversity and independence the [National] party seeks to preserve.

This reflects an industrial age rather than a digital age understanding of the media landscape ...

As is plain from the Senate committee report, the local content issue was an issue on which the National Party senators and the Liberal senators did diverge. But that ultimately has been resolved by compromise among them. I am sorry to say that I could not help thinking when I heard Senator Joyce’s speech, which seemed to be more a speech about the National Party than about the public policy issues of this legislation, that it is always a pity and it is never in the interests of Australia when good public policy is hypothecated to parochial party advantage. Nevertheless, the package that has been ultimately arrived at is, as I have said, a package I believe to be overall in the best interests of the country.

I will deal now with a couple of issues on the particular topic of diversity. I was more than a little surprised to hear Senator Joyce tell the Senate a little while ago that the two out of three rule was a proposal that came from the National Party when it formed recommendation 4 of the majority report by Senator Eggleston, Senator Ian Macdonald, Senator Ronaldson and me. It was a proposal first mooted some years ago in this country by the then communications minister, former Senator Richard Alston, a Victorian Liberal senator. Its scope, according to press reports in this morning’s media—I am not going to reveal what happens in the privacy of the party room—was in fact very significantly expanded, from regional markets to capital city markets as well, in consequence, so it is reported, of an intervention by the Treasurer, Mr Costello, yesterday. So I was very surprised to hear the claim made that that proposal came from our coalition friends.

I was even more surprised to hear the claim made that the vesting of ACMA with greater powers was also a proposal which emerged from our National Party friends when recommendation 3 of the report—that is, the majority report of the four Liberal senators—says:

2.76 The Committee recommends that ACMA be given broad powers, analogous to those in sections 80 and 81 of the TPA, to enforce the legislation by injunctions (including interlocutory injunctions) and divestiture orders, in appropriate cases.

That is a recommendation which the minister has accepted. The reason that I was particularly surprised to hear a claim of parentage of that proposal is that that particular part of the report was written by me. They say that failure is a lonely orphan and success has a thousand fathers, but I do not seem to remember anyone other than me writing that recommendation. Be that as it may—

Senator Sherry—Jeez, you’re modest, George. You’re so modest!

Senator BRANDIS—Senator Sherry, you came in halfway through my speech so you did not hear what I said before. I am merely seeking to set the record straight as to where these particular recommendations came from.

I will now address the issue of diversity. There is more diversity because there is a greater variety of platforms in the Australian media today than there was the last time this parliament had a go at media reform during the time of the Hawke government some 20 years ago. We all know that. We know it as a matter of common sense and practical every-
day life. The current set of laws under which the media operates predate the digital age. I wonder how many in Australia appreciate that. The digital revolution has been one of the great factors that have changed Australia in the last two decades and yet today we operate under a set of laws that predate it. How can it be seriously maintained that those laws ought not to be reformed? Of course they must.

It is a common view on both sides of the chamber that there is an important public interest in protecting the diversity of media, which is what this legislation does through a series of safeguards now very significantly expanded, in particular as a result of the initiative of the Treasurer, Mr Costello, yesterday, by the expansion of the two out of three rule and what has been called the five-four voices test, which, I state again for those listening to this broadcast, provides that in regional centres there must be at least four different media voices and in capital city markets there must be at least five different media voices. The five-four voices test combined with the two out of three rule, which provides that no more than two out of three traditional media—that is, television, radio and newsprint—in the same market may be owned by the same proprietor, cements diversity into the market as a matter of law.

I want to address some observations Senator Conroy made about the role of the ACCC. This was a matter that was discussed between Senator Conroy and Mr Samuel, and between me and the gentleman, whose name escapes me, who was the spokesman for ACMA during the Senate committee hearing. Notwithstanding what Mr Samuel may have said in response to a question from Senator Conroy, it is not right to say that section 50 of the Trade Practices Act is a sufficient provision for protecting media diversity. It is not right to say that, in considering mergers under section 50 of the Trade Practices Act, the ACCC might have regard to broad concepts like the market for ideas, because, for the purposes of section 50 of the Trade Practices Act, a market is defined as a market in goods and services. The public interest that section 50 protects is the interest in maintaining a competitive market. The vice which section 50 prohibits is a merger which has the effect of substantially lessening competition. And the meaning of that expression “substantially lessening competition” is defined by section 50 of the act purely according to economic criteria which are set out in subsection 3.

Diversity and competitiveness are quite different concepts. That is why the government senators on the committee—Senator Eggleston, Senator Ian Macdonald, Senator Ronaldson and me—recommended that, in this legislation, it was very important to ensure that the Australian Communications and Media Authority, the industry-specific regulator, be given the policing power to enforce the diversity test; not the ACCC, through its power to apply to the court to stop anticompetitive mergers under section 50 of the Trade Practices Act, but ACMA, applying the specific diversity considerations which embrace a much broader range of issues under the Broadcasting Services Act.

We made some recommendations, which I read to you before, in particular about empowering ACMA to have the same broad injunctive powers under its act as the ACCC has under section 80 of the Trade Practices Act. The government has accepted that recommendation. So, once again, it is a demonstration that, in the ultimate form in which it arrives in this chamber, having passed through the Senate committee process—relatively brief as it was—this legislation has been improved. I want to commend Senator Coonan, because that was an area in which I took a great interest, as you might know, in
materially improving the legislation in that respect.

Can I finish on this point, because there seems to be a bit of a philosophical distance underlining this debate: there are some who say or seem to think that private, commercial media companies, which exist in a particular market to make a profit for their shareholders by providing a service that meets that market, ought by heavy-handed government regulation to be made some sort of generic social utility, irrespective of commercial considerations. The media sector in Australia has for too long suffered from the heavy-handedness of that approach, which seems to underlie what Senator Conroy said and seemed implicit in other contributions as well. That is not the role of governments, in my view, in this or any other industry—but particularly in this industry, where we have, at least in the electronic media, a large, expensive and, in my view, generally excellent social utility: the ABC, whose regional services in particular are relied upon, as those of us who know country people know very well, by country people pre-eminently as their source of local news in regional and rural Australia.

This is regulation that regulates the private sector but, to the extent to which the private sector, governed by commercial principles, is unable to fulfil that role, the ABC does and, in particular, in rural and regional Australia, does so excellently. It is the ABC that is the social utility, and that is not a role which ought to be imposed on private companies. (Time expired)

Senator WORTLEY (South Australia) (11.13 am)—I rise to speak on the Broadcasting Services Amendment (Media Ownership) Bill 2006 and related bills. In doing so, I again highlight the contempt with which the Howard government uses its numbers in the Senate to ram through its extreme legislation. The task of the Senate Standing Committee on Environment, Communications, Information Technology and the Arts was to examine changes to the media landscape in Australia—in fact, to examine the most significant changes since the introduction of cross-media ownership laws in 1987. So how does the government go about this process? The minister released information before the ECITA committee had even met to discuss the inquiry, nominating the reporting date, because again there was no need to wait to see if the committee agreed: the government had the numbers. Even some coalition senators were outraged by this.

The committee met. Labor senators put forward reasons as to why the time frame was too short. We argued that witnesses would need longer to prepare their written submissions and make arrangements to appear before the committee in Canberra. The issue of time was raised by a number of witnesses, including the Screen Producers Association of Australia, Premier Media Group, Commercial Radio Australia, the ACCC and the Communications Law Centre. We provided reasons why two days were not long enough to hear and question the witnesses, but again the government’s arrogance won the day.

On the day of the hearing, opposition senators were told we would have only 10 minutes to question and receive answers from each of the witnesses, and witness opening statements were limited to just five minutes. Why? Because the two days allocated by the government was not long enough and it was the only way we could hear from the more than 30 witnesses who were lucky enough to get a guernsey to appear before the inquiry. There were some potential witnesses who had provided submissions but missed out on appearing because of the time frame and the stubbornness
of the government in refusing to allow the committee to meet anywhere but Canberra.

At this point I would like to raise the issue of time in relation to the two-day inquiry. In doing so, I understand that it is likely the government chair was operating under the instruction of the minister, so it would have been very difficult under the circumstances. However, in support of my claim that it was a rushed process, I point out that the government chair told nearly every witness group words to the effect that we were operating on a very short time frame; and, on at least 15 occasions during the two-day inquiry, the government chair made reference to running out of time, as did the other government and opposition senators.

But lack of time in relation to the inquiry did not end there; the abuse of process continued. Opposition senators were given just 40 minutes to consider the chair’s draft report before a telephone conference was convened to endorse it. They were given 40 minutes to consider a report on legislation that was lacking in detail, flawed in content and would significantly change the media landscape in Australia. Even rose-coloured glasses could not make this process look any better. The reality is that the inquiry into this legislation, which will impact on every Australian, was a farce.

Labor senators did not accept the report but submitted their own minority report highlighting the failure of the proposed legislation to deliver to the Australian people—and it is to these issues that I will now turn. The Broadcasting Services Amendment (Media Ownership) Bill 2006 and related bills propose significant changes to laws on cross-media and foreign ownership, digital television, antisiphoning rules and the power of the media and communications regulator. The Broadcasting Legislation Amendment (Digital Television) Bill 2006 contains some measures which relax the regulatory regime and increase the appeal of digital television to consumers. Labor supports these initiatives. We welcome too the adoption of our policy, advocated before the last election, of lifting the genre restrictions on the multichannels of the ABC and SBS. We urge the government to consider giving the ABC and SBS extra funds to drive take-up as part of the digital action plan under development.

There are two significant changes to Australian media law in the media ownership bill. One change, which Labor supports, is the provision that proposes the repeal of the specific foreign ownership provisions in the Broadcasting Services Act that relate to commercial and subscription television while at the same time retaining the ability to screen foreign investment in Australian media to ensure that it is in the national interest. Such changes regarding foreign investment offer the potential to introduce new players into the market and increase media diversity. However, the second provision in the media ownership bill is a significant change that weakens the existing cross-media ownership rules, and Labor opposes it. We cannot support legislation that could make way for increased concentration in the control of the major media outlets and the most influential media—newspapers, television news and current affairs, and radio talkback programs—increasing their ability to influence Australia’s public and political agenda.

It is widely acknowledged that concentration of media ownership significantly impacts on the public debate, including the formulation of public opinion. Any further concentration of media ownership in Australia would be detrimental to our democracy. These changes are likely to lead to less diversity; less competition and greater concentration of ownership. They are not in the national interest but in the interest of the incumbent media entities.
The Media, Entertainment and Arts Alliance, the union that represents the professional and industrial interests of journalists and the entertainment industry, in its submission to the inquiry, said:

It is difficult to see how enacting legislation that allows for more mergers and acquisitions in the media sector could deliver greater competitiveness or guarantee ongoing diversity.

Their submission highlighted the Melbourne market as an example of where the introduction of five commercial media entities could result in the loss of four. This is not media diversity; it is fewer voices in the media of influence in an Australian capital city. In my hometown of Adelaide we have some understanding of the lack of diversity in media ownership because our daily newspaper, our Sunday newspaper and our suburban newspapers are all owned by News Ltd. While we welcome the investment that News Ltd continues to make in news and information in Adelaide, I am sure that even they recognise the benefits of competition. I know that many of the journalists there would welcome increased competition. In Adelaide the existing competition are the other mediums that could be lost in a merger or acquisition.

However the legislation is packaged, the end result is a reduction in the diversity of ownership—an increased concentration of media ownership—and hence a reduction in the number of voices of influence. A number of witnesses and others who put forward submissions to the Senate inquiry were of this view. I will quote from the submission by Private Media Partners. They said:

We do not believe there is any justification on public policy grounds for the Government to abolish or amend the current cross-media restrictions.

Such a change, in our view, could result in a dangerous increase in the power of existing media companies to influence Australia’s public and political agenda.

We see amendments to the proposed legislation that will prevent more than two of the three traditional media being owned by one proprietor or company in a market. Last night, we heard Senator Nash claim this as a win for The Nationals and so, too, did Senator Joyce this morning. Two out of three of the traditional media is a significant slice of the market. It is a significant change to the current laws. Under the current laws, companies are limited to the ownership of television, radio or newspaper in one market. I fail to see how The Nationals can claim that the two out of three rule is a win, when it is likely to spark a run of media mergers and takeovers.

The changes to the cross-media ownership laws and the introduction of the two out of three rule mean that we could see a reduction in diversity through possible mergers or takeovers, where a media company could own the newspapers and a TV station. For example, under the two out of three rule, it would not be inconceivable in Adelaide for News Ltd to own all of the newspapers and Ten Network, and one voice would effectively be lost.

The government’s argument that new media’s position in the market makes the current laws redundant is just not the reality. This was put clearly in the submission to the inquiry by Private Media Partners, when they stated:

... the old media still totally dominate the flow of serious information in Australia. The arrival of websites and blogs may have added more numeric voices to the debate, but they are minute blips on the information radar compared to the societal and political influence that is wielded by newspapers or talk radio.

When Australians use the internet to access news, they overwhelmingly go to the websites owned by the traditional media players. Recent figures reveal the dominance of the old media players in new media as having...
the dominant share of internet use and advertising sites, with Fairfax at 33 per cent, News at 24 per cent and PBL at 13 per cent. As ACCC Chairman, Graeme Samuel, told the Senate communications committee last week:

... the internet is simply a distribution channel. It has not shown any significant signs at this point in time of providing a greater diversity of credible information and news and commentary.

The dominant source of news and opinion for Australians remains the product produced by television, radio and newspaper companies.

Relaxation of the cross-media rules will lead to mergers and acquisitions. The companies will take on debt, resulting in cost-cutting exercises, with companies consolidating newsrooms and other departments across their organisations. History demonstrates that this in turn leads to a reduction in the number of journalists and other editorial staff being employed. Jobs will be lost. This, of course, would be occurring at the very same time when companies in Australia should be investing in new media, and so would not have the money to do so. There is a flow-on effect: fewer voices of influence, fewer journalists employed and a possible impact on quality of journalism. And the consumers—the Australian public—will be the big losers.

As Mr Beecher said in his submission:
Removing or weakening the cross-media rules will result in fewer journalists and diminished journalism. The new laws are constructed for industry consolidation, which is likely to result in acquisitions by existing media owners of existing Australian media assets.

The removal of the cross-media rules will result in fewer owners. By consolidating political and societal power in the hands of a number of individuals, this legislation will curtail public debate and make Australia a less democratic country. In the process, the role of the fourth estate in the scrutiny of government will be weakened.

According to recent opinion polls, the majority of journalists do not support this legislation and the majority of the public do not support it. A recent Roy Morgan Crikey! poll revealed that 85 per cent of journalists surveyed believe the government changes will reduce diversity in Australia; 82.6 per cent believe that the changes will negatively affect reporting integrity; and an even higher number, 87 per cent, disagreed with the bill’s intent of abolishing the cross-media ownership rules. One submission to the Senate committee concluded in relation to the abandonment of the cross-media laws:

It creates the impression that the Government is working in the interests of a small number of media owners instead of working in the interests of all Australians.

The existing cross-media laws provide a diversity of ownership in the most influential media. They ensure that a wide range of information and opinion is available. The changes to the cross-media ownership laws are not wanted by the public, not wanted by many who work in the media and even not wanted by many of the media owners.

In concluding, I quote from an article in today’s Age newspaper by Malcolm Maiden:

As for the national good, it’s hard to find any.

By dismantling the cross-media ownership barrier the Government is opening the way for a substantial consolidation of ownership of the traditional media before new and independent digital media forums are sufficiently well developed.

It is the reverse to what was proposed by the Government’s think tank, the Productivity Commission, and it will diminish what the commission called the market for ideas. If it gets up, media consumers will be the losers. The corporate winners will emerge rapidly.

Everyone in this place knows changes to the cross-media laws will reduce media diversity. This is unacceptable to Labor. Repealing
the cross-media laws and replacing them with the coalition’s new laws could facilitate a massive concentration of media ownership. It is without doubt that this would not be in the best interests of the Australian public.

Senator BARTLETT (Queensland) (11.29 am)—I do not support the Broadcasting Services Amendment (Media Ownership) Bill 2006 and related bills. It can be argued that some of the amendments that have been negotiated by different members of the government over recent days reduce the negative aspects of the legislation. But, inasmuch as that is true, it only changes very bad legislation to simply bad legislation. And voting for bad legislation is still a bad thing; it is certainly not in the public interest and I certainly will not be supporting it. I will briefly emphasise a couple of the key reasons why and outline just a few of the key aspects of this debate.

It is not particularly an issue for me whether or not there is diversity of ownership with regard to people pumping out three different versions of a commercial music station in the one market. The big issue with regard to this is, of course, the presentation and provision of information, not entertainment, and that is where this legislation will cause serious harm to what is already, frankly, the fairly sick democracy that we have here in Australia.

One of the things that emphasises how ill that democracy is is, of course, the contemptible process that has been followed, from the parliamentary side of things, in enabling—or supposedly enabling—this legislation to be considered. As some of the minority reports from the Senate Standing Committee on Environment, Communications, Information Technology and the Arts that looked at the legislation emphasised, members of the public were given just over a week to make submissions on the legislation. Yet some of the key media players involved, who have a lot to gain from this legislation, have been involved in negotiations behind the scenes for months. I do not have a problem with them being consulted; that is totally appropriate, as it is with any other area. But, for an area that is so fundamental to the public interest, to have members of the general public given just a week to respond and make a submission on the legislation is simply unacceptable.

Sometimes I think there is a perception that, when the Democrats and others complain about the grotesquely short time frames for Senate inquiries, we are just complaining about how we do not get enough time. That is certainly true. But the big problem is not senators not getting enough time—it is people in the wider community not getting enough time. Certainly that is a problem for those of us who are actually interested in the views of the wider community and the expertise and knowledge in the wider community. I accept that that probably does not include at least some members of the government—there is a growing number, particularly in the ministry, who have shown that they are not remotely interested in the views, expertise and knowledge of the wider community.

But many of us in the Senate do still believe that it is an important part of democracy to consider the views of people who might actually know what they are talking about, to consider the views of people in the real world and to consider the impact in reality of what has been put forward in legislation. The key flaw here is that the process has not allowed that. It has not allowed people in the general community, people with expertise, independent commentators—let alone people with a direct interest, commercial or otherwise—to have enough time to respond to the legislation.
That was clearly demonstrated with the farcical committee process that was followed. There was too short a time for advertising and the writing of submissions; too short a time for interested senators to read and absorb those submissions; too short a time for the public hearings, for witnesses to present evidence and for interested senators to ask questions; too short a time for information to be returned for questions that were given on notice and too short a time for all that evidence to be sifted to be presented via the senate committee report. When you combine all those things together you have a perversion of democracy, and a very serious one.

I would note that that impacts even on the members of the government. I would also note Senator Joyce’s comments, including a couple that I think were important and that I agree with: that there is a real need for democracy to continue to operate. And, whilst I certainly do not support the final outcome here, I think it is clear that some significant changes have occurred because some people like Senator Joyce have said, ‘I am going to consider this as an individual and take a considered view.’

One point he made that I think does need re-emphasising is that the entire parliament and our entire democracy would benefit if more of us across all parties were prepared to act on the basis of our views of the public interest and were prepared to show at least some degree of independent thought and some degree of independent action. Clearly, that is something that, as the record shows, the Democrats have done and, indeed, have promoted as a key part of our ethos for nearly 30 years now.

We all need more opportunity to operate in the way that we are elected to do, which is to represent the community, rather than just maintain power for whichever party we happen to represent. But a key part of that is, again, enabling the committee process to work. We had the ridiculous process where even the government members involved in the inquiry—and there were basically six of them; I think there were four Liberals and two Nationals—were getting roughly 10 minutes between them per witness. How can there be any serious, genuine opportunity for people such as Senator Joyce or anybody else to explore an issue with a witness when they have a time frame—which government members forced upon themselves, I might say, by voting for ridiculously short reporting dates—that means that they get just a couple of minutes to ask questions of witnesses, of people who actually have knowledge about what the impacts will be? That just demonstrates how corrupted the process is.

I emphasise that, to me, this really goes back to the wider problem of the weakness of the Trade Practices Act in ensuring proper competitive practices in any industry, including the media, and the ACCC’s weaknesses that flow from that—their inability to deal properly with assessing mergers and acquisitions—and the lack of divestiture powers within the Trade Practices Act. That is really the problem here. If we had strong, overarching trade practices laws that prevented excessive concentration in any particular area of any market then that would overcome a lot of the problems.

The fact is that these changes will reduce competition. There is no doubt about that. They will reduce diversity. Whilst there has been a lot of talk in this debate about the need to protect some degree of diversity in regional and rural areas—and I fully support that—as somebody who has lived their entire life in a capital city, I get very tired of there being very little attention paid to the damage that this is going to do to diversity in capital cities, which after all is where the majority of Australians live. That is not a shot at people
who do not live in these areas. I think we would all be better off, quite frankly, if more people lived outside the capital cities. But the fact is that the majority of Australians do live in capital cities and major urban centres, and this legislation will lead to reduced diversity and reduced competition. They are two separate things, but we would benefit from having greater competition and greater diversity, particularly in this area. This legislation will lead to less of that, including—and, in some ways, even more importantly—in metropolitan areas.

This is particularly the case if you are talking about information. Some of the key problems with the concentration of ownership are not just the reduction in the number of outlets where people can get information—that is not necessarily going to be reduced—but the continual reduction in diversity; cross-promotion and integration, which distorts the genuineness of information flows; and even something as basic and very fundamental as career paths for journalists. If only a few major media players in the entire country employ news journalists, that is a very effective control mechanism over those journalists. They know that, if they get out of line, if they get offside with a particular proprietor, that cuts off an enormous component of their career options. That in itself means a reduction not only in diversity but in the independence and fearlessness of reporters and journalists who provide a lot of that information. To me, that aspect is one of the most serious.

From my point of view, the passage of this legislation will mean a greater necessity to again look to newer sources for information. The view of Mr Samuel that was given to the Senate committee, which has been quoted a few times, about how the internet is yet to provide much by way of greater diversity of information has a lot of truth to it, but I do not think it is completely accurate. In fact, I know that it is not completely accurate, certainly not in my view. I think there is a greater diversity of news, particularly international news, and opinion available to people now because of the internet, and I am using the word ‘internet’ in its wider sense—electronic technology, email communications, mobile technology and all those things. There are now plenty of opportunities for people to get a vast array of information about international news, without having to rely on the narrow options that are available within Australia.

Where it is still a problem and where I do agree with Mr Samuel is with regard to local news. Certainly that is where new technologies are yet to provide the range of diversity. These changes will basically force that on people—people will need to go elsewhere to get information that they believe is truly independent. I can only hope that we do better at improving the technology that is available to Australians to enable them to do that. It is another reason why we need to be ensuring greater support—and some components in the report went towards this—for community based media: public broadcasting, public radio and community television. Those forms of media are also important and will become more so. How widespread the listenership is to community based radio is very much unrecognised. It provides local news—not so much hard news, in the sense of perhaps what is happening here in this chamber—and local information. That is not recognised as widely as it should be and certainly more support there is important.

When we pull back what the core part of this legislation is really about, which is a fundamental aspect of democracy—the ability for citizens to access independent and accurate information about what their representatives and government are doing—it will undoubtedly make things worse. That is probably in the interests of the govern-
ment—because the fewer the people they need to get positive reportage to, the easier life is for them—but for the general community, which already has a great mistrust about the accuracy and the adequacy of information that is available to them, it is going to be a significant problem.

Certainly the information that gets out about what happens in state parliaments—and, in my view, certainly from the Queensland perspective—is worse than what gets out about federal parliament. There are better options available to find out what happens in this parliament than what happens certainly in the state parliament of Queensland and I suspect elsewhere, let alone to find out about local council issues.

The situation is already not good. This legislation is going to make it worse and, in some ways, is going to hasten the need for people who are wanting genuine information about issues that affect them to develop, explore and support alternatives. It does not need to be that way. It is very unfortunate that we are going down this path. If we could simply support and have stronger overarching trade practices and competition legislation that allowed diversity and effective and fair competition in a whole range of areas, we would be a lot better off not just in our democracy but, frankly, in our economy more widely.

Senator ADAMS (Western Australia) (11.45 am)—Unlike Senator Bartlett, I would like to speak about media ownership reforms and regional protections. Being a rural consumer of radio and other media forms, I think it is very important that the rural voice is heard here. I would like to speak about the media reform package that the government announced on 13 July, which outlines major reforms to Australia’s media ownership laws as part of a broader reform package relating to the new digital services and other key broadcasting issues. These reforms have been the subject of lengthy and widespread consultation within government, industry, the community and other interested stakeholders.

The media landscape is changing rapidly, and a flexible system is needed to allow media companies to adapt and prosper in the new digital environment. A farsighted approach is needed to meet the needs of consumers now and to provide the benefits of new technology into the future. At the heart of the package are new services and programming for consumers. These reforms will enable existing players to make the most of emerging digital media technologies and give them the flexibility to structure their businesses to be globally competitive media companies. The package will allow a better competitive environment and encourage new entrants into the media market offering diversity and choice to consumers.

While the reforms will allow for some cross-media mergers, they also contain significant safeguards to protect diversity and stop undue concentration, particularly in regional areas. The Trade Practices Act 1974 will continue to apply to media transactions, and the Australian Competition and Consumer Commission, known as the ACCC, will play a critical role in assessing competition issues associated with mergers.

Separate from the protection of competition, ACMA will oversee the safeguards to ensure diversity and local content, including ensuring transactions comply with the minimum number of media groups requirements, and that broadcasters comply with their local content obligations. Protection of regional content and diversity for consumers is a key component of the media reform package.

There are a number of measures contained in the framework to ensure that regional consumers do not miss out on the benefits of
media reform. It is important to remember that, in addition to the traditional commercial media, Australians will continue to have access to a variety of other services. These include ABC services, with two digital TV channels, up to five radio stations—Radio National, News Radio, Local Radio, Classic FM and Triple J—and its comprehensive online services; SBS’s comprehensive television, radio and online services; subscription television; community radio and television; out of area and national newspapers; and the myriad of services available over the internet.

The government is committed to ensuring that all Australians, not just those in metropolitan areas, benefit from these reforms. The government is committed to reforming Australia’s media ownership laws, while protecting the public interest in a diverse and vibrant media sector. The government is very aware of the needs and concerns of regional Australia and this package will ensure that both consumers and industry in regional Australia do not miss out on the benefits of reform.

Protection of regional content and diversity for consumers is, however, a key component of the media reform package. The community has a legitimate expectation that broadcasters will cover local news and content. Regional commercial radio licensees whose control arrangements do not change and/or whose format remains one of broad appeal will not be affected by the measures proposed in the bill. The government believes that the community has an expectation that media mergers should not come at the expense of localism.

For 20 years, Australia has had a set of media control rules that amount to a major restriction on how media markets and companies operate. This is based on an outdated philosophy based on containment. That philosophy does not recognise how media companies operate today, how technology has changed and how people consume media today. When those rules were framed, the Internet was mainly confined to academics, pay TV was in its infancy in Australia, there was no framework for digital radio, IPTV had not been thought of, let alone 3G mobile phones, video, iPods or television over a mobile device otherwise known as DVB-H.

The current foreign and cross-media ownership restrictions under the Broadcasting Services Act 1992, BSA, limit competition in the media sector and restrict access to capital, expertise and technology. The proposed changes will encourage greater competition and will allow media companies to achieve economies of scale and scope, while protecting the diversity of Australia’s media. Pressures on our traditional media platforms are coming from all angles. If we want them to be able to survive and compete, we must free up some of the regulation currently placed upon them and allow them to adapt. Without this change, the traditional media industry will continue to watch other platforms encroach on their traditional business and not be able to move themselves, while new media stake their claim.

Amending the ownership rules will let the media market operate more efficiently, benefiting industry and consumers alike by permitting greater competition and economies of scale and scope. Those benefits will be diffuse, dynamic and shared across a large sector of the economy. As with other micro-economic reforms undertaken by this government, the benefits of reforming the media ownership restrictions are real—for example, the removal of foreign ownership restrictions will allow foreign media companies and investors to enter the television and daily newspaper markets, providing greater opportunities for investment, new players and new services.
Australia’s radio sector does not have foreign ownership restrictions. It is significantly more diverse in its ownership than either television or newspapers, with two major foreign owners in the sector—that is, APN and DMG. Similarly, the removal of cross-media restrictions will allow Australian media companies to enter different media, which will provide greater competition, opportunities for greater efficiency and new and improved services to consumers. Clearly any reform needs to protect diversity of ownership, but this can be done in a way that is less restrictive than it is currently. The diversity of ownership, which everyone agrees is important, will continue to be protected by the five-four voices requirement, and licence and reach limits. The current media ownership laws regulate commercial radio and television and daily newspapers above other media by virtue of their greater level of influence.

In 1987 TV, radio and newspapers were virtually the only news media. Whilst they remain highly influential they are no longer the sole source of news and information. Whilst traditional news gathering remains dominated by old media, the capacity of independent online sources to handle news more quickly and to comment, analyse and spread information that would otherwise be restricted means that online news and information has emerged as a powerful influence in its own right. From my point of view, living in a rural area 15 kilometres from where I can obtain a newspaper, my HiBIS satellite internet connection allows me to go online to read news briefs and to keep up with what is going on in the world long before I can obtain a newspaper. A regulatory framework that assumes that radio, television and newspapers are the only sources of information will become hopelessly outdated and ineffective, ultimately to the detriment of services and consumers.

This bill will remove the broadcasting-specific restrictions on foreign investment in Australia’s media sector. The media will remain a sensitive sector under foreign investment policy as well as under the Australia-United States Free Trade Agreement. This means that all direct media investment and all portfolio investment over five per cent will be required to be notified to, and approved by, the Treasurer. The opposition maintains an outdated and mogul-specific approach to media ownership laws which restricts investment and expansion of the Australian media sector and favours foreign investment over diversified investment by Australian investors.

As an additional safeguard against undue media concentration, the government will amend the bill to include a two out of three rule for media mergers in metropolitan and regional areas. This means that media mergers will still be permitted subject to the floor of four voices in regional areas and five voices in metropolitan areas. But mergers will only be permitted between two of the three regulated platforms in a licensed area: commercial TV, commercial radio and associated newspapers. In other words, this rule will prevent three-way mergers between commercial TV and commercial radio and an associated newspaper in a licensed area.

The Senate Standing Committee on Environment, Communications, Information Technology and the Arts report recommended that this rule be introduced in regional areas. However, the government has decided that it is appropriate to extend this additional safeguard to all licensed areas. Industry will still benefit from the increased flexibility that relaxation of the cross-media ownership laws will bring. Consumers can be confident that diversity will continue to be protected through the range of safeguards that the government is including in the bills.
In addition to the benefits that media ownership reform will bring, this package will also open up significant opportunities for new services. There will be two channels of currently unallocated spectrum made available for new, home and other services, such as mobile TV. The national broadcasters will be able to provide a broader range of content on their multichannels. The free-to-air broadcasters will be permitted to provide a high-definition multichannel from next year and a standard-definition multichannel from 2009. I note that the standard definition multichannel for commercial stations could perhaps come into effect in 2007, but that is not the government’s intention at this time.

Once we reach switchover and a significant amount of additional spectrum is freed up, even more opportunities for new services will emerge. This bill forms part of an integrated and far-reaching package which will assist Australia’s media sector to move to a new digital environment by encouraging new players and new services for Australian consumers. It is clear to the government and industry that the media landscape is changing rapidly and that a flexible system is needed to allow media companies to adapt and prosper in the new digital environment.

A far-sighted approach is needed to meet the needs of consumers now and to provide the benefits of new technology into the future. The government’s media package, the Broadcasting Services Amendment (Media Ownership) Bill 2006 and the Broadcasting Legislation Amendment (Digital Television) Bill 2006, will open up opportunities for a range of innovative new services to consumers while maintaining existing services that the community already relies on and enjoys, including quality free-to-air television services. The proposed reforms will enable existing players to make the most of the emerging digital technologies and give them the flexibility to structure their businesses to be globally competitive media companies. It is the consumers who will be the biggest winners, with access to a range of new services, potentially including several new digital channels, with even more to come in the full transition to digital television.

Whilst this bill introduces some modifications to the anti-siphoning scheme, the government is not proposing to abolish the anti-siphoning list. The government recognises the keen interest of many Australians in continuing to have free access to major sporting events that have traditionally been shown on free-to-air television, and to ensure that live and local content continues to flourish in rural and regional Australia, the government will mandate a minimum of 12.5 minutes of local news on at least five days a week.

In recognition of concerns expressed about the provision of live, locally produced and locally relevant content, the government will amend the bill to require ACMA to have in place for all regional radio licensees from a specified date a requirement for at least 4.5 hours of local content each day. This will be similar to the proposed new section 43A in the bill, which requires ACMA to have local content licence conditions in place for regional television. Prior to the requirement coming into effect, ACMA will be directed by the minister under section 171 of the Broadcasting Services Act 1992 to investigate the current levels of local content in regional radio, the impact of the proposed minimum level on licensees and how different types of regional broadcasters such as licensees in smaller licence areas would be affected by the requirement. Once the outcome of the review is known, the minister will have the power to adjust the level or apply the requirement differently across different classes of licence, if appropriate.

I myself find that a lot of the evidence that has been given in getting the minister to ac-
cept local content is very important. I am a Western Australian and live in the Great Southern region of Western Australia, and we have had a very different experience of local content. Our local content tends to override the content that we receive from the Perth metropolitan area. During estimates earlier this year, I raised the issue of local versus national content on ABC radio in my home state of Western Australia. As I said, I live in the Great Southern region. We had an ABC morning program which was hosted by Liam Bartlett. Most of you would now know that Liam has since moved on to television, where he is reporting for *60 Minutes*. But, prior to his departure from ABC radio, this program was broadcast throughout the state. It used to go from 8.30 in the morning until 11 o’clock, but unfortunately the ABC in their wisdom decided to cut off the Great Southern area of Western Australia at 10 o’clock in favour of local radio programs.

This was very difficult for someone in my position, and I had a huge number of emails and letters from my constituents when this happened, because, for a lot of the very important content that affected Western Australia and often regional Australia—especially when the Telstra inquiry was going on, which was looking at regional and rural phone services—we were cut off at 10 o’clock, and most of the talkback service occurred between 10 and 11. Especially, we would have our state or federal members of parliament speaking on that segment. The only way I could listen to that was to drive up to a hilly area on our property, from where I could get that reception. But it was rather difficult, especially early in the morning when I was trying to listen to our political commentator, ABC journalist Peter Kennedy, who would give us an update on Monday and Friday mornings on political issues that were going on in the state, which were very important. Our farm worker used to say: ‘What on earth is your wife doing way up the hill in her vehicle? What’s she doing?’ The fact was that it was the only way I could get this broadcast. I think it is very sad that these issues were going on and we were not able to receive the broadcast.

So I think it is very important that people in rural and regional areas are given the opportunity to voice their opinions on this part of the legislation. When the minister has her inquiry into how rural and regional people in Western Australia review local content, I think she will be told that we do have plenty and we really would like some more of the other content. In closing, I would like to commend the minister on the number of very difficult and involved bills that she has negotiated very well. She seems to have accommodated all those who needed changes and amendments to the bills. I commend the bill.

**Senator FIELDING** (Victoria—Leader of the Family First Party) (12.04 pm)—The issue of media ownership has been a difficult one for Family First to resolve. Each media organisation has a different position on the Broadcasting Services Amendment (Media Ownership) Bill 2006 and related legislation, based on its own commercial interests. These are loud voices that we politicians hear, but too often the views of ordinary Australians and their families are not considered. To be honest, most Australians that Family First has spoken to do not know about these changes. When I have outlined them, most have told me that they do not have a particular view one way or the other.

You see, ordinary Australians are busy getting on with their lives. They are working hard to get the mortgages paid, struggling to keep on top of the bills and doing their best to raise their kids and put them through school. Debates in parliament about who owns what in the media simply do not feature in the day-to-day lives of the Australians.
we represent. More and more families are not reading newspapers and cannot afford them. Television, especially free-to-air television, is the primary source of information and entertainment. The programs Australians watch are determined not by who owns what station but by the programs themselves. Families switch from one station to another depending on what is on.

This reality has led me to conclude that the current debate over media ownership is going in the wrong direction. There appears to be widespread agreement that relaxing cross-media ownership restrictions is likely to lead to further concentration of media ownership. Family First believes the question we need to ask is: what is the theory underpinning this debate? Are we concerned about greater media concentration because it will boost profits of media barons? No. The concern about ownership is based on the assumption that ownership is the dominant factor which determines content and editorial priorities. It is also based on the assumption that when media outlets do use their power to promote particular views they significantly influence public opinion. However, Family First strongly believes the real concern ought to be not so much the concentration of ownership but the concentration of ideology—the concentration of ideas. Where is the evidence that the key factor that determines ideas is ownership—in other words, that owners dictate ideas?

Out there in the real world it is nothing like that. Consider the ABC: it is owned by the government, and the ABC board is appointed by the government. Therefore, wouldn’t we expect the ABC to voice the views of its owners? In theory, yes, but we all know the ABC’s owners—the government—are constantly railing against them. Does Southern Cross Broadcasting hire Neil Mitchell in Melbourne because of his views or because he can pull an audience? Did John Singleton lure Alan Jones to 2GB because of Jones’s political views or because he rates? Does 2UE keep John Laws because he toes a certain editorial line? Does 2UE particularly care what Laws says as long as he rates? The reality is that media organisations are big businesses and need to be profitable to survive. What drives them are dollars.

Of course further concentration could result in fewer people wielding power and influence, and I admit Family First is uneasy about that. But would fewer people mean less diverse ideas or merely fewer people sharing the same philosophical or cultural outlook? I also note the Productivity Commission’s 2000 report. It stated:

The likelihood that a proprietor’s business and editorial interests will influence the content and opinion of their media outlets is of major significance. However, Family First is sceptical about that statement as it does not accord with our real world experience.

The argument that ownership is the sole determinant of ideas is simplistic. It is a myth. It is much more complicated than that. Therefore, if the media owners are not preoccupied by content and running editorial lines, we need to ask: who does determine what ideas are promoted? Increasingly, it comes down to the mindset of individual journalists, opinion editors, editorial writers, section editors, columnists and editors of the nation’s letters pages. It is these people who decide what is published, what is aired, what is screened and what is not. For example, just last week almost 200 doctors signed a letter opposing embryonic cloning. The letter was sent to every major newspaper across the country, yet only one published it. Was that because both Rupert Murdoch and Ron Walker decided that? Clearly, it was the decision of the letters editors.
But let us consider for one moment that media ownership and ideology are intrinsically linked, that owners do dictate the ideas. What effect does that actually have on how Australians think and behave? In other words, how influential are these media barons at using their media mouthpieces to dictate how ordinary Australians should act? Consider the republic debate in 1999. With very few exceptions, every paper and journalist across the country actively campaigned for a yes vote. What effect did they have? Overwhelmingly, Australians voted no. Consider the war in Iraq. Many people believe the Murdoch press has run a strong pro-war campaign; yet, despite the fact the Murdoch press dominates newspaper circulation across the country, polls show that the majority of Australians do not support the war and want our troops out.

Another point that is important to make is that, increasingly, news is becoming entertaining. Our talk show hosts and columnists are as much there to entertain as to run any editorial line imposed from above. As I said earlier, the media industry is driven by dollars. This is all commerce. The Murdoch empire thinks these changes are against News Ltd’s commercial interests, while the Packer empire thinks they are in PBL’s commercial interests—all for reasons Family First does not fully understand.

That said, there does need to be balance. Despite my earlier comments, Family First is concerned about the possibility of a monopoly of our major media outlets and the potential abuse of power that that represents. That is why Family First supports the two out of three rule and is pleased it will apply to metropolitan as well as regional markets. Family First is also pleased the government will require regional radio stations to air local content and news during the day and that that will be put in legislation. However, Family First is unsure what a reasonable level of local content would be. Family First supports a review to examine what is reasonable and how operators, big and small, will be affected.

It is important to note that the real concentration of regional TV occurred when we allowed aggregation of television. Regional TV is now dominated by Southern Cross, WIN and Prime. Where is the existing law that stops Murdoch buying the Morning Bulletin in Rockhampton or that says Fairfax cannot buy the Shepparton News or the Wangaratta Chronicle? There is no limit on that. In fact, Fairfax bought the Border Mail in Albury-Wodonga just months ago. Family First is cautious when approaching difficult issues like media ownership. But we are not talking about moving from a regulated system to an unregulated one. The proposed changes are about a different system of regulation. Family First understands there are arguments both for and against this legislation. However, Family First believes that the arguments against these changes, whilst strong, are not overwhelming. This is a decision which must be made on balance. Family First is not persuaded that the arguments against this legislation are so significant as to justify rejecting it and, therefore, we will support it.

Senator BARNETT (Tasmania) (12.16 pm)—I am pleased to stand up in support of the Broadcasting Services Amendment (Media Ownership) Bill 2006 and related bills. I do so for a range of reasons. Firstly, I wish to thank those on the Senate committee of inquiry who have spent a good deal of time, in difficult and challenging circumstances, reviewing the legislation. They have prepared a very thoughtful and comprehensive report which is now available on the public record. All of those involved, on all sides of the chamber, have put in a fair and significant effort to prepare such a comprehensive and thoughtful report. It is very pleasing to note
also that the recommendations made in the report have been taken into account by the government. At the outset I wish to congratulate the Minister for Communications, Information Technology and the Arts and Deputy Leader of the Government in the Senate, Senator Helen Coonan, on an outstanding performance to date in pulling together all the key arguments and views and on discussing and negotiating with all the relevant members of the Senate, key players in the industry and members of the local community far and wide over many months. It has been a mighty effort on her behalf and she should be congratulated on doing that job for and on behalf of the Australian public.

The Senate committee report has been tabled and the recommendations have been made. The government has now concluded that the legislation will proceed. It is good, forward-thinking legislation. For the last 10 to 20 years in Australia we have been caught up with archaic legislation in need of reform. We should be looking to the future, not the past. We should be preparing a framework in which investment, development and jobs growth can occur into the future, not just in the cities but in rural and regional Australia. New technology—not just the internet but technological innovation in all its forms—is now upon us. Be assured that the rate of change will continue to grow even faster than it has in the last 10 years. We need to prepare a regulatory environment in which the key players in the industry can act upon and implement their decisions free from bureaucratic red tape and the quagmire of government bureaucracy so that the best interests of the public can be served.

In speaking in favour of the bill I will deal with a number of aspects, but before doing so I wish to make a few more introductory remarks. The legislation is consistent with this government’s push for less regulation and more flexible arrangements across the board. Work Choices is a more flexible workplace arrangement in this country which is now delivering more jobs and higher wages to Australian working men and women. The legislation before us on media ownership and media reforms is consistent with the efforts of the Howard government leadership to care for families and to look after the interests of working men and women and their families.

Quite clearly, over the last 20 years Australia has had a set of media control laws and rules that amount to a major restriction on how media markets, companies and businesses operate across the nation. It has been based on a philosophy which can best be described as ‘containment’. The rules have changed, as I have indicated, because we now have the internet, digital radio, digital TV, 3G mobile phones—there was a recent announcement by Telstra in that regard—video iPods and mobile devices with television attached. There have been a whole host of technological changes. Be assured that the rate of change will ever increase. There have been the traditional media platforms—TV, radio and newspapers—but things are changing fast. We need to be ready for the future. Sadly, I believe that the Labor Party take the view that they want to stay in the past, but that is consistent with their views on Work Choices and a range of other government reforms. They oppose just about every single reform that the government puts up which is in the best interests of the Australian people and the working men and women of this country.

Nevertheless, our legislation and this framework for change and reform will protect diversity of ownership. That is now going to be done in a far less restrictive way than it has been done in the past. Twenty years ago the key forms of media were television, radio and newspapers. They were virtually the only news media, the only me-
media where you could access news. But that has changed radically. We are in a new, digital age and we must prepare for that. A framework has been provided under this legislation where we can move into the future. Be assured that, if the legislation is not passed, as a result of that policy paralysis this country will suffer. This is consistent with the opposition parties’ views in this chamber. If we cannot move from the current settings, from the current media ownership and media law arrangements, then this country will be left behind, not only with respect to our Asian neighbours but with respect to the rest of the world. The media landscape has changed. It is still changing, and fast. We need to set the parameters for future investment, development and growth.

I would like to speak to a number of aspects of the legislation. Specifically I commend the government for accepting a number of the recommendations in the Senate report and from the backbenchers who expressed their views to the minister and to the government. The government is willing to listen to and accept the views of its people. It listens to the people out there at the grassroots level. With regard to the importance of content, to ensure that live and local content continues to flourish in rural and regional areas the government will mandate the broadcasting of a minimum of 12.5 minutes of local news on at least five days a week. It will also mandate minimum levels of local content to be broadcast. This will take effect following a review. This change has been made in recognition of concerns expressed about the provision of live, locally produced and locally relevant content. The government will amend the bill accordingly. It will require ACMA, the Australian Communications and Media Authority, to have in place for all regional radio licensees from a specified date a requirement to broadcast at least 4.5 hours of local content each day.

Prior to the requirement coming into effect, ACMA will be directed by the minister, under the powers of the Broadcasting Services Act, to investigate the current levels of local content on regional radio and the impact of the proposed minimum level on licensees and how different types of regional broadcasters will be affected by the requirement. Once the outcome of the review is known, the minister will have the power to adjust the level or apply the requirement differently across different classes of licence if appropriate. I think that is an excellent amendment. I say that for a number of reasons. I come from the state of Tasmania, where there are a range of commercial radio stations—primarily FM. Just this morning I spoke to and received feedback from Heart FM and from Way-FM, a Christian radio station based in Launceston. Brian Yeoman, the manager of Way-FM, indicated to me that they meet the requirements that are to be set by the government of 4.5 hours of local content each day and a minimum of 12.5 minutes per day of local news to be broadcast on at least five days a week—a further minimum that has been proposed. Not only do they meet them; they exceed them. In terms of the review, that is entirely appropriate. There may be other radio stations in a different position.

I am particularly concerned that some of the smaller regional and rural radio stations that are based in country Australia might find this particular minimum an onerous requirement. My inclination and proclivity is to remove, wherever possible, regulation that might increase costs for these smaller operators, in particular. I have been a long-time supporter of small and micro business, as most are aware, and will continue to be a strong supporter of them well into the future, as they are the jobs generators across the country. The rural and regional radio stations—not only Heart FM, Way-FM and
other FM stations in Hobart and Launceston—such as those in Burnie, Devonport and Scottsdale have a very important role to play in terms of keeping close to their local communities. I will be interested in the feedback from those radio stations as a result of this amendment. I sincerely hope the amendment is supported through this chamber because the review process will be important. I will be listening to the proprietors of the radio stations and to those who work in them to find out whether they believe it is an onerous requirement or whether they are entirely satisfied. I congratulate the minister for being willing to listen and for implementing this important variation to the media package and reforms.

Senator Parry—Hear, hear!

Senator BARNETT—I thank Senator Parry. It is an excellent effort on behalf of the minister to do what she has done. I mentioned the importance of local news and weather requirements. Those minimums have been set. That is why I am so pleased about this slight variation to the reforms.

I would like to speak in favour in particular of the two out of three rule that has been effected in this reform package, and in particular congratulate and thank the Treasurer, the Hon Peter Costello, on his view that the two out of three rule should apply to not only rural and regional Australia but also the cities, the major populous areas across the country. Yes, the Senate report and recommendations recommended that the two out of three rule apply to rural and regional Australia, but I support entirely the Treasurer’s view that it should apply across the board. There should be no cherry-picking in this game to just support one particular part of the country. The two out of three rule should apply across the board—there should be consistency—and it should be fair across the country. This is an additional safeguard against undue media concentration.

The government will amend the bill to include the two out of three rule for media mergers in metropolitan and regional areas. What that means is that media mergers will still be permitted, subject to there being four voices in regional areas and five voices in metropolitan areas. It also means that the mergers will only be permitted between two of the three regulated platforms in a licence area. What do I mean by that? For those who may be listening to this broadcast, it means commercial TV, commercial radio and associated newspapers—so two of those three. It will prevent a three-way merger between commercial TV, commercial radio and an associated newspaper in a licence area. In a place like Northern Tasmania, for example, our key newspaper is the Examiner. On the north-west coast it is the Advocate and in southern Tasmania it is the Mercury. You have Southern Cross commercial television and WIN commercial television as well as the ABC free-to-air television stations. I mentioned earlier the importance of protecting the interests of relevant commercial radio stations across Tasmania to ensure their interests are best protected and taken into account.

The industry will still benefit from the flexibility that the relaxation of the cross-media ownership laws will bring. As I said earlier, this is a rule that was brought in 10 to 20 years ago. There have been slight variations to it over that time but basically it has been stuck in the past, and we do not want that to continue in any way, shape or form. I think overall, with respect to the two out of three rule, it is a very sensible approach. I would like to congratulate and thank Mr Howard and the government on going down that track. As I have indicated, the Treasurer has taken a keen interest in this particular area. His views are fully supported by me.
and, I know, many others in the Senate. In terms of the overall need for reform, that is quite clear. We have a package now where we are protecting the diversity of ownership, and that is being done in a less restrictive way than over the last 20-odd years. We are really moving out of the Dark Ages. We can now look to the future and be prepared for just about anything. The rate of change, as I have indicated, is faster than ever before.

An area of interest that I have is the internet and internet filtering. This is an area that is not touched on directly by the media reforms, but the importance of technological changes means that we also need to stand at the ready to protect the best interests of children—to protect the boys and girls across Australia, and the future children of Australia, from inappropriate and offensive material on the internet. I notice that in the gallery today there are children. Yes, we have privilege in this place and we can say what we wish—but we need to use words that are appropriate for the ears of those children and indeed those who are listening. So filtering is important.

In terms of the government’s objectives there, a $116 million package has just recently been announced by the government—and congratulations again to Senator Helen Coonan, who announced that with the Hon. Chris Ellison and me just a few months ago. By January next year every Australian family will have access to a filter for their home computer to ensure that offensive and inappropriate material is kept out of the family home. That is very important for families and the future of Australian children. In conclusion, it is a mighty job, on behalf of the government, that Senator Helen Coonan has undertaken and, together with the Senate committee, she should be congratulated. I urge all members of the Senate to support this legislation and hope that they will do so.

Senator BERNARDI (South Australia) (12.35 pm)—In rising to support the Broadcasting Services Amendment (Media Ownership) Bill 2006 and related bills today I would ask the members of the Senate to cast their minds back about 20 years. Apart from the ageless nature of you, Mr Acting Deputy President Hutchins, a number of things have transpired over the last 20 years that I think we are wise to consider. There have been many changes in our world. Many of these changes have in fact benefited the Australian public and many of these changes have in fact been introduced by this government. If we want to remember a few of these things, we can remark briefly on the reduction in taxation payments for many Australians. This government has certainly made a massive change to what was taking place in this country some 20 years ago. Interest rates have also been reduced from 17 per cent under the Keating-Beazley government down to around seven per cent today. Unemployment has also been reduced quite significantly. But there are a number of relics of the past that do remain. One of these of course is the Australian Labor Party. But, aside from that, there are also some relics in our media ownership laws.

These laws were introduced to ostensibly contain media barons. The politics of envy was no more apparent than when they were brought about, when we had the ‘queens of screen’ and the ‘princes of print’ appeals. This is a historic attitude. It is an attitude that is completely out of touch with today’s society and the media available to everyone in today’s society. I think we need to consider these amendments very much on their merits. I would ask the Labor Party to consider their commitment to free, effusive and open exchange of ideas and to encourage foreign news investment and media investment in this country because, despite what some will tell you in this chamber, opening our shores
to foreign investment and to people building productive businesses here has been an absolute boon for this country.

The media reforms are very important in that regard because we need to make sure that we are an effective and competitive nation not only in the distribution of information across many media platforms but also in maintaining our place in the information flow across the world. I support foreign investment in this country. It is going to bring new players into this game, particularly into some of the media areas such as television and newspapers. It is going to bring new services to regional areas and some of the metropolitan areas as well because, in a place like Adelaide, a fine place—the people of South Australia are very well served by many good members of parliament and many good senators, and they have been served very well over a number of years—

Senator Barnett—Including you, Senator Bernardi.

Senator BERNARDI—I will take that interjection, thank you very much, Senator Barnett! I would like to highlight one of the things that we have been missing in South Australia: the simple fact that we have only one daily newspaper, the Advertiser—and a fine publication it is. But we used to have an afternoon daily newspaper as well, and unfortunately that did not survive. Since then, we have had a weekly newspaper produced called the Independent Weekly—another fine publication that provides an alternative perspective of news. Quite frankly, we would like to see the local and international investors which own the Independent Weekly broaden their supply of news information across the state and we would also like to see them publish on a more frequent basis. This is what can happen with these amendments. We will see a foreign player come in and be able to invest and produce another daily paper for South Australians, which would be a wonderful thing.

This government has acted in the public interest. I think that is very clearly demonstrated by all the things that have transpired, including the lower interest rates and lower unemployment, and the productivity growth and real wages gains that are extraordinarily high under this government. Accordingly, it has proposed amendments to the media bill so that we are protecting the diversity and the local content for our media owners and ensuring that our regional and rural areas—and cities like Adelaide—have diversity of content. One of these things is the two out of three rule for ownership, so any one media operator will not be able to control a newspaper, a radio and a television station within the same broadcast area. I think this is very important.

It is a good amendment. It is actually a tribute to the democracy that takes place in the Liberal Party and in the coalition. This government will propose legislation and it will listen very carefully to what its backbench members and senators produce. The minister has been very responsive in this regard. I think that highlights the support we have for private enterprise, for individualism and for accountable government—which, I have to say, is sadly lacking on the other side of the chamber, because they do not get to participate in free thinking and in free-ranging ideas, because they get drummed out of either their party or their faction or, indeed, sometimes they lose preselection.

Because of the people in the chamber, I do not make that point lightly. I would like to echo Senator Ronaldson’s comment from yesterday that, Senator Webber, we will miss your great contribution to this chamber. It is a very sad day when the Labor Party has seen fit to attack and harangue someone mercilessly and unnecessarily with regard to
this. But, nonetheless, I credit you because you are not a dalek and I think that is fantastic. You are a true trooper. You are an honest and straightforward player. I wish you well in that regard in your future career. However, the beauty is that, when you leave this place, Senator Webber, you will have access to increased media content. You will be able to enjoy a greater range of services, thanks to the implementations this government has brought into the media realm. You will have access to the internet and the groundbreaking materials that come out of it.

I would like to remind the Senate that a number of major news stories have actually been broken or launched by internet bloggers, who are the independent media operators of the future. The Bill Clinton and Monica Lewinsky scandal springs to mind, because that was broken by a blogger in the US. We also have a number of bloggers locally. I know Senator Lundy has a blog, on which I have not been able to find any breaking news as yet, but I am sure it will be coming along at a point. I know that Mr Turnbull in the other place has a blog, on which I have not been able to find any breaking news as yet, but I am sure it will be coming along at a point. I know that Mr Turnbull in the other place has a blog which is widely read and well regarded. We are facing the fact that there are a number of independent operators continuing to transgress into traditional media space. We need to ensure that our mainstream, major broadcasters have the opportunity to pursue economies of scale, to ensure that the massive investment that they have in a number of areas can justify the continuing good service—

Debate interrupted.

MATTERS OF PUBLIC INTEREST

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

Workplace Relations

Senator BARNETT (Tasmania) (12.45 pm)—I would like to comment on the role of the unions and the Labor Party in the workplace relations debate and also canvass the scurrilous decision by the Labor government in my home state of Tasmania to appoint union officials as workplace safety inspectors. But, firstly, I wish to place on record my disgust at the baseless and grossly offensive assertions made by Tasmanian Labor MHA Heather Butler in the Tasmanian parliament last month linking the Prime Minister, the Hon. John Howard, and the Work Choices reforms to a man’s suicide. This is low, cynical and callous politics of the worst order. Heather Butler asserted in state parliament that a man committed suicide because he lost his job and was denied union representation under the Work Choices laws. She has never retracted her callous remarks. I will not name the deceased man, although I find it extraordinary that Mrs Butler named him in her speech. According to the Hansard of the Tasmanian House of Assembly, she said:

Mr Speaker, John Howard’s unfair workplace relations changes surely have contributed to … death. Feeling so alone and denied his union’s counsel and support, he decided to end his pain. John Howard, you took this safety net away. Tasmania in general and the Break O’Day community in particular is poorer for the passing of …

Mrs Butler’s speech is wrong. It is actually unlawful under Work Choices to prohibit union representation in any way at the workplace. The right to be represented by a union at the workplace is even protected in the Work Choices laws. At the time, I called on Mrs Butler to retract her uninformed and grossly offensive assertions, but she has not, preferring to clam up and say nothing. I called on Premier Paul Lennon to force her to retract the comments, but again silence. A motion was moved in the House of Assembly by state Liberal MP and former opposition leader the Hon. Rene Hidding condemning Mrs Butler for her actions, but still she did
not respond. I have a copy of a letter written to Mrs Butler by the Mayor of Break O’Day Council, Robert Legge, which I would like to read to the Senate. It states:

Dear Heather

I am absolutely disgusted with your outburst about unknowledgeable comments in Parliament yesterday about a tragedy that occurred in the Fingal Valley.

As if it was not bad enough that you raised the issue so soon after the tragedy but your actions would have done nothing to help the grieving process.

To bring this issue to the public arena before any coronial inquest could be held is reprehensible and irresponsible. Given the circumstances it is not appropriate for any response to your inaccurate allegations.

You should also be aware that your claims relating to Union Representations are incorrect and misleading.

More importantly however, your claims are totally incorrect this had absolutely nothing to do with the Industrial Relations Laws that were introduced earlier this year.

This is nothing short of political point scoring at the expense of a grieving family.

I would expect that you will give an apology in Parliament and withdraw your comments today.

The letter was signed by Mayor Robert Legge, and he kindly forwarded a copy of the letter to me, Paul Lennon, Will Hodgman and Rene Hidding. But there has been no response from Mrs Butler. I ask Tasmanian Labor senators on the other side to advise Mrs Butler of the importance of providing an apology.

Nevertheless, this is consistent with much of the scaremongering that has been conducted by the Labor Party with respect to Work Choices. The politics of fear is what they have been conducting over many months—indeed, years. In fact, when you look at it, you will see it is not an isolated incident. I have had a look at the claims made in various Labor and union representations and I want to refer to them today. The first and most obvious is the appalling claim made by ACTU President, Sharan Burrow, on ABC’s Lateline program in relation to the campaign against Work Choices. She said: ‘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 or indeed apologise to the public—and nor was she condemned by Mr Beazley for that outrageous claim.

What other scaremongering and scurrilous comments have there been? In a doorstop on 27 March, Wayne Swan said with respect to Work Choices that it is the ‘insertion of a virus, a deadly virus, which will spread throughout this country’. In a doorstop on 2 April, Stephen Smith said, ‘The reality is that, in the workplace, a gun is being held to the head of every Australian employee.’ In Brisbane on 10 April, Mr Beazley said:

Mums and dads know that Howard’s industrial relations laws are throwing their kids to the wolves.

On 27 March, Wayne Swan also said:

What the Australian government is putting in place is a situation where they want to create an army of working poor, putting rules in place which will lead to that in the long term. It’s a long term threat to the fair go in this country and one which all Australians should be concerned with.

Brian Boyd from the Victorian Trades Hall Council, on 26 May last year, said:

This is not ‘liberating workplaces’, it is enslaving workplaces with employers having the whip hand over bonded labour.

David O’Byrne, Secretary of the Tasmanian Liquor, Hospitality and Miscellaneous Workers Union, on Hobart radio on 27 May last year, said:

What these changes are designed to do is to crush the hope of all workers.
Mr Beazley, in an interview with Neil Mitchell on 3AW on 14 October last year, said:

You know this is a declaration of war on the ordinary Australian workforce.

On 2 November last year, he said:

... with the extreme laws that John Howard’s Minister has introduced into Parliament today he will in time push many Australian working families over the financial edge.

Then we got the mention of divorce. On 2 November last year, Beazley said that it:

... is not good for the economy for workers to be unable to afford their holidays, their relaxation or a decent family life. Divorce is not good for the economy. Divorce is patently bad for the economy.

He made a direct link. You see the tapestry of scaremongering and the tapestry of misrepresentation through all these quotes from the Labor Party and the union movement. They are tied together—two heads on the same body. What is worse? Murder. Bob Smith MLA, in the Victorian parliament on 4 October last year, said:

The history books show what happened in America. People on picket lines were murdered. Women and children were killed, and that is the road this Prime Minister wants to take us down. It is a disgrace.

Bill Ludwig from the Australian Workers Union, in a submission to the Senate inquiry on 17 November last year, stated:

Our kids are going to school with bare feet because parents couldn’t afford shoes.

And now, through legislation, you’re going to wipe away all of those allowances, all of that justice that was delivered over a long period of time.

It goes on and on and on, but I am not going to pursue it much further than to point out two main allegations made by Labor and the union movement about Work Choices. Bill Shorten from the Australian Workers Union said that it was ‘a green light for slashing jobs’ and that ‘it is going to cut wages’. But what has happened since Work Choices has been introduced? There has been a 175,000 increase in the number of new jobs, most of which are full time. In the last 10 years there has been a 16.4 per cent increase in wages across the board and an increase in wages since Work Choices came in. So those two allegations from the Labor Party and the unions have been found to be entirely false, baseless. The sky was to fall in; it has not fallen in.

Their self-serving conspiracy is purely aimed at milking millions of dollars in union dues for the next election campaign and filling up Labor Party coffers for a fighting fund. Since 1996, $47 million has been extracted from union membership, whether or not members vote for Labor. The unions are planning on giving Labor a further $20 million in union membership dues to fight next year’s federal election.

I want to give one other example of a special deal for special mates. In my home state of Tasmania, the Tasmanian Premier supported his Attorney-General, Steven Kons, in the appointment of four union officials—two AWU officials, two CFMEU officials—to exclusively undertake occupational health and safety inspections in the mining sector and the building and construction sector. Why would this be? Surely this is a recipe for union intimidation. It will certainly compromise, and has already compromised, the independence of Workplace Standards Tasmania—a state government agency. Minister Kons announced publicly, in a media release, that he had the support of the various industry associations. He was quoted as saying that they were ‘comfortable with these arrangements’. When I heard of that, I contacted the industry associations, expressing my surprise, and asked: ‘Are you comfortable with this? Do you support it, as Minister
Kons said? They said no, they do not support it; they were entirely opposed to it. Those associations were the Master Builders Association, the Mines and Metals Association, the Tasmanian Minerals Council, the Housing Industry Association and the Tasmanian Chamber of Commerce and Industry, which, on the front page of their newspaper, the *Tasmanian Business Reporter*, described it as outrageous. All those industry associations oppose it.

Minister Kons has deliberately misled Tasmanians for the sake of those special deals—special deals for special mates. He has also claimed that this was a trial in modelling similar systems existing on the mainland states. I thought, ‘That is strange; this does not sound like what would be happening on the mainland.’ I made inquiries. Guess what? That is another furphy—no such models exist. Was it a shonky deal? Was it another deal struck by his predecessor, the Hon. Bryan Green? Earlier this year Mr Green was stood down as Deputy Premier in Tasmania for fast-tracking cosy and very profitable deals with former Labor mates before the last Tasmanian election. Again, you see the theme, the tapestry, of special deals for special mates. The TCC, the company involved, was run by former Labor ministers, and they had a multimillion-dollar monopoly contract to carry out building accreditations. Workplace safety on trial is like giving a player a turn as umpire during a game of football and expecting that the player will exercise total independence and integrity. What nonsense! So why is the trial exclusively for union officials? There is no reason, other than what I have said. The integrity of mine safety is at risk and the integrity of building and construction safety is also at risk.

On the front page of today’s *Australian* we see confirmation that Kim Beazley wants to rip up AWAs. The Prime Minister signed the one-millionth AWA just recently. In Tasmania we have over 24,000 AWAs. On average, AWAs in Tasmania are delivering 48 per cent better value to the people employed under them than that delivered to the people employed under awards. So those men and women on awards will be disadvantaged big time, as will their families.

Mr Graeme Sturges claimed today that Work Choices is already starting to have an impact on wages. We have higher wages and more jobs under Work Choices, so he is wrong. In the *Australian* newspaper there is an excellent story which says that two states, Victoria and Western Australia, are not backing Mr Beazley on his view. I ask Mr Lennon and the Lennon government whether they back Kim Beazley in supporting the scrapping of AWAs. *Time expired*

**Australian Defence Force**

**Senator MARK BISHOP** (Western Australia) (1.00 pm)—In today’s matters of public interest discussion, I want to raise a range of matters that come under the generic heading of culture within the Australian Defence Force. But before going to the body of my remarks, I will open by commenting that there appears to be a divide emerging in respect of the clear and continuing success of our forces that are deployed in operations overseas. The range of areas of interest in which we have involved our troops and our Navy and Air Force personnel in overseas deployments in recent years is indeed remarkable: Bougainville, East Timor, the Solomon Islands, Afghanistan and Iraq. And the public reports coming out from representatives of the government and from the Defence Force, and the anecdotal advice from a range of those men and their families, are entirely consistent and give great credit to those men, who are involved in dangerous activities in those parts of the world. Without
exception, their activity in the field is beyond the maximum that could be expected.

They have been engaged in a range of often dangerous activities, often for long periods of time, under huge degrees of private stress and huge degrees of stress on their equipment. Without exception, they have behaved or engaged with gallantry, in the fine tradition of our armed forces, wherever the theatre might be. I am not aware that there has been one minor adverse comment as to their conduct in operations or in battle, in their preparation and, more importantly, the way they conduct themselves wherever they might be in the world. So that is a matter, clearly, of great pride to the men and women themselves, to their officers, to the Australian Defence Force, to the government and, clearly, to the wider community that supports their involvement in those various theatres of operation. One should always make those comments at the outset, in any discussion on matters that affect the Australian Defence Force, because that is their primary role; that is their role of substance: to conduct themselves well in difficult fields of endeavour.

Having said that, in the press of late there has been coverage—it is notorious—of a range of matters on the procurement side, on the personnel side, which perhaps do not go to operations themselves, and the way that individual men conduct themselves when they are deployed, but go more to the administration and management of the Department of Defence.

So on one side we have a group of thousands of men who conduct themselves without peer wherever they are required to attend around the world, and on the other side at the same time back home there appear to be, as I say, continuing problems, which almost appear to be insoluble, on both the procurement side and the personnel side.

In my comments today I want to remark on the culture within the Australian Defence Force as it operates within Australia. I want to refer, at the outset, to a range of statistics that have become public in the last two or three weeks. They relate to harassment matters within the ADF; suicides, which have occurred regularly over the last 10 years within the ADF; the more recent six-monthly review, by the Senate Standing Committee on Foreign Affairs, Defence and Trade, of the government’s progress in implementation of military justice reform; and, latterly, the government’s legislative response to the establishment of a new Australian Military Court, which was the subject of a public hearing on Monday of this week. The Senate Standing Committee on Foreign Affairs, Defence and Trade is, I believe, going to give a report on that for the consideration of Minister Nelson on Thursday or Friday of this week.

I link all these matters—the sexual harassment matters, the suicide issues, the six-monthly review by the Senate committee and the government’s legislative response to the Australian Military Court—because it appears, to the interested observer looking in from the outside, that the government’s commitment to reform of military justice within the Australian Defence Force is not as strong, not as consistent, and not as thorough as we had been led to believe when former Minister Hill announced the government’s response, I think late last year.

Going to the facts first, there have been, according to the latest public figures provided by the government in answers to questions on notice, some 88 cases of sexual harassment in the 12 months of the financial year 2004-05. Sexual harassment is a fact of life. It is never accepted; it is always deplored. But, in a large institution like the armed forces, it is not unreasonable to assume that there will be some bad apples who
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will engage in behaviour that, by any norm, is unacceptable. What is of concern is that 88 complaints were upheld in 2004-05; that in the last two years the incidence of complaints has significantly increased—100 in 2004 and 107 in 2005—and the rate of upholding of complaints is on the increase.

Of concern in that context is that the punishments or the reprimands visited upon those who were found to have been at fault were relatively minor. Only one person was reposted after a finding of guilt; all the others were simply warned or issued counselling processes that they had to undergo. One draws the conclusion that the seriousness of the offence is perhaps not accepted at higher levels within the ADF in the manner that it should be.

Similarly, with respect to the incidence of suicides, over the last 10 years there have been almost 80 suicides recorded—49 in Army, 23 in Navy and seven in Air Force. Even this year to date, suicides have occurred in both Army and Navy. Suicides occur and are to be greatly regretted, but it is reasonable to assert that perhaps some of the indicators that lead up to that final choice being made by those individuals are not being noted or observed accurately and that the appropriate processes have not been put in place to give men or women assistance before they make that most terrible final choice.

In that context, government is well aware of the problem. A review has been conducted of the last seven Army suicides. I am advised that that report has gone to the office of the Minister for Defence, and he has been in receipt of it for some time. Unfortunately, the findings of that inquiry, as to the cause of the suicides of these seven people in the Army, have not been released. Again, it is an indicator that, firstly, it is aware of the problem—and that has to be respected—and, secondly, as the review was conducted after 2004, it is indeed a sign of progress. What is unfortunate is that the review findings have not been published and the government is yet to announce its response to those review findings so that the appropriate procedures can be put in place to ensure, as much as we can, similar events do not occur in the future.

I am of the view that that report, its findings and the government response need to be made public as a matter of urgency. Why as a matter of urgency? Firstly, we do not want any further suicides occurring within the defence forces. More importantly, if there is not an explanation as to why they occurred, you cannot devise a program or a system to make sure that, as much as humanly possible, they do not occur again repeatedly into the future. The test is to put out the findings and to explain them, to explain the solution and to explain the processes that are going to be put in place so that the wider community is assured that, at all levels within the armed forces and at all levels within government, there is a serious attempt to make sure those matters do not occur again.

Similarly in that vein, back in early August the Senate Standing Committee on Foreign Affairs, Defence and Trade did its six-monthly review into the government’s legislative response to the series of measures it proposed to adopt as its solution to the problems arising out of military justice issues and the earlier recommendations of a previous Senate inquiry. Unfortunately, the response of some in the armed forces was to suggest that things were approaching 100 per cent successful, that the errors of the past had been totally rectified and that problems were not going to occur into the future. Some of the press comments that came out of the ADF that day, when the Senate committee report came out, were frankly misleading. The Senate committee did indeed make some comments but the comments were of a bipar-
tisan nature—the report from the committee was unanimous—and its findings were deliberately of concern. The committee was sending a message to government that it does not accept that a lot of government programs and a lot of the government’s response to date are being taken sufficiently seriously by elements of the Australian armed forces and that a lot of the press comment latterly has been little more than spin in attempting to cover up what is not yet an acceptable level of behaviour within the Australian defence forces. Indeed, as latterly as August, two months ago, the committee said:

... a major shift is required in the attitudes of all ADF personnel to achieve lasting change in the military justice system.

It said that the prevailing culture—the current culture in the ADF—may well undermine the success of current reforms. Improvements in process will not of themselves change these attitudes of a deeply entrenched culture. Ominous signs remain over the capability of service police, especially in the light of the handling of the investigation into the death of Private Kovco. The committee also said:

... a fundamental change in the ADF mindset must also occur to overcome the stigma attached to reporting wrongdoing or making a complaint.

So that Senate committee, which generally now comprises different personnel to those who were part of the original Senate inquiry into military justice, made a series of loud comments to government that a lot of the reforms that it was instituting as its response to improve military justice within the Australian defence forces were being blocked by certain elements within the Australian defence forces. If that is the case, if those findings in the first six-monthly review are correct, it means that we will have ongoing problems within the Australian defence forces in Australia on the issue of military justice and the way they treat people who make complaints relating to a range of matters. The attention of government needs to be refocused on this area to make sure that its express intent is given effect to.

In my final minute, I would like to mention the discussion, in a preliminary way, of the Australian military court that was conducted on Monday evening in this place. Frankly, the way the explanatory memorandum and the submission by Defence relating to that bill were presented to the committee was glaringly wrong. The facts were misrepresented and a range of submissions that, frankly, were inaccurate were put forward. The whole attitude of those who were responsible for the drafting of the bill leads one to say that there does not appear to have been any great change in attitude at all on the part of government to this issue of military justice.

Judicial Appointments Process

Senator MURRAY (Western Australia) (1.15 pm)—Unusually for me, during the last parliamentary sitting I took leave from the Senate for an afternoon, to go to Sydney to attend the Magna Carta lecture. The invitation from the British High Commission was hard to resist given the historical significance of the Magna Carta and the quality of the speaker. Signed 800 years ago, in 1215, this charter of freedoms and values is one of the bedrocks of democracy. The Magna Carta has been kept alive and is a charter that continues to resonate in the modern world. Australia has its own copy, which is proudly displayed here in Parliament House.

The lecture was titled ‘The role of judges in a modern democracy’ and was delivered by Lord Falconer of Thoroton. He is the Lord Chancellor and Secretary of State for Constitutional Affairs in the United Kingdom. Needless to say, he is a man of vast experience and considerable wisdom. The basic tenet of his address was that the judici-
ary’s role is subtly changing, particularly in relation to politics. It is a change that is occurring without the need to effect any constitutional change. It is also a change that is establishing a new form of relationship between the executive, the legislature and the judiciary. He stated:

We want them to undertake in a non-political way the resolution of issues which have either in the past been regarded as political or which are becoming more political.

To illustrate this, he focused on sentencing and human rights as areas where judges in the modern democracy seem to demonstrate many of the pressure points in the relationship between the public, the executive, the legislature and the judiciary. Drawing on the democratic ideal of equality before the law, he stated that the personal rights and freedoms of each individual can only be given effect to by protection under the law. The extent of this protection, he remarked:

... will involve judgements on whether executive action has exceeded the limits of freedom and freedom from discrimination to which the individual is entitled in a modern democracy.

However, I do not intend to elaborate on these aspects of his address—which is available on the web for those interested. Rather, I am going to focus on the fundamentals that Lord Falconer considers are essential for a modern and successful judiciary, in particular a better framework for appointing judges. This is an issue which has long concerned me. There have been renewed calls from within and outside the judiciary for a revised judicial appointments process. This has long been demanded. Back in 1998, Felicity Maher and I jointly published an article entitled ‘Judging the judges’ in the August edition of the Alternative Law Journal. In it we argued that, to ensure public confidence in our nation’s highest court and its pronouncements, High Court justices must be perceived as the most meritorious and as completely independent. We argued for a transparent process, but in Australia the procedures to appoint justices to the High Court remain clouded in secrecy.

Under section 72 of the Commonwealth Constitution, only two requirements need be satisfied. They are that appointments must be made by the Governor-General and that appointees are to be less than 70 years of age. Additionally, the High Court of Australia Act 1979 sets out two further requirements: section 6 states that, before appointments are made, the Commonwealth Attorney-General must consult with the states’ attorneys-general; and section 7 states that a candidate must have served as a judge of a court or must have been admitted as a barrister or solicitor for not less than five years. These requirements are an insufficient safeguard because the modern practice of government allows a blatantly partisan executive too much discretion in appointing High Court justices.

The increasing public perception seems now to be that, when a government is able to choose who is to fill judicial vacancies, it will more likely than not choose those sympathetic towards the views of that party and will look for attitudes and philosophies in candidates that it likes. Whether that is fair or unfair, that is quite a common perception. My heart froze at the horrifying confirmation that this was the coalition government’s agenda when the then Deputy Prime Minister declared that what was needed in Australia were capital ‘C’ conservative judges. I could feel the breath of tyranny, and an assault on liberty, in those words. What a slur he put on every judicial appointment with those words! Not only that but this was a dangerous thing to do, because, if as judgements accumulate those judges end up being perceived as partisan to one side of politics, public confidence in the independence of the judiciary will suffer.
This is most true when great and hotly contested political decisions are at stake, such as on government advertising practices, freedom of information laws and industrial relations laws. It may not be fair, but, as the old adage goes, it is much easier to lose a reputation than to gain one, and in a democratic system of checks and balances public perception is a big factor.

On another front, the consequence of the existing judicial appointments system is a history of predominantly white, Anglo-Saxon, eastern states men on the High Court bench. It is a bench that to date has not reflected the diversity of communities they judge. Lord Falconer stressed in his address that a system of appointing judges must clearly demonstrate to the public that selection is made on merit, that selection is divorced from politics and that selection reflects the society they are to judge. We need judges each with different world views. We need the mix to include those who have been outspoken on the rule of law, those who have been activists and those who are left, right and in the centre. What we do not need is to have even a hint that the scales of justice might be unbalanced through the appointment of judges or magistrates who the government or the public believe will defer to the government line because of patronage.

In his closing remarks, Lord Falconer stated that judges require an indefinable wisdom when making decisions, a wisdom that ensures public confidence is retained. He stated:

They must seek to give effect not to their personal views but to the values inherent in their legal system. Those values must reflect the society that system serves ... Our societies can ask for no more from their judges, but, to make our system work, our societies must expect no less.

Australian society can indeed ask for and expect more in our system. Political parties here occasionally complain about judicial appointments but, once in power, have made little administrative or legislative change to make the process more transparent. Not so in the United Kingdom. A more transparent and democratic process of appointing judges was ushered in under reforms announced by Prime Minister Blair in June 2003.

This process now involves a judicial appointments commission that recommends candidates to the Lord Chancellor, who then has limited power to reject those candidates. The expressions of interest process and the selection process are transparent, and appointment recommendations are based solely on merit. The task of setting out the criteria against which merit is tested lies with the commission. Although the final decision still remains in the hands of the government, those on the short list have all been ticked off by an independent body. No longer is the partisan political executive the sole selector of who should judge their society.

And neither should it be here. There are many countries where judicial appointment commissions exist. These include Ireland, Canada, South Africa, Israel, France, Germany, Italy, the Netherlands, Portugal and Spain. Numerous states in the United States also have them, and we are all aware how presidential nominees for the Supreme Court are put through close scrutiny by the parliament in the United States.

The Australian Democrats believe that a new process of appointing judges should be implemented here to ensure full public confidence and trust in the High Court. Three principles underlie our model. First, the candidate search and appointment procedures must be completely transparent, second, that merit is the fundamental selection criterion, and third, that there are no discriminatory obstacles for suitably qualified women and minority group representatives.
The appointment process should be depoliticised, even if that politicisation is just a perceived politicisation. This can be achieved by implementing a two-pronged model, one similar to the new United Kingdom system. The first prong is the creation of an independent judicial appointments committee and the second prong is the publication of selection criteria in a protocol periodically reviewed by the committee. This model can be achieved without resorting to the rigorous elements required for constitutional change under section 128 of the Constitution.

Instead, section 6 of the High Court of Australia Act could be amended to provide for the establishment, constitution and functions of a judicial appointments committee. Further, section 7 could be amended by adding to the qualifications requirement a protocol of criteria to be drafted by the committee. General recognition of the principles of equal opportunity, independence and integrity could also be given statutory force.

Reforms to achieve such a model are central to a modern and robust democracy. They are central to the separation of powers doctrine, whereby the judiciary is completely and transparently independent from the executive and legislature. Lord Falconer remarked:

… each part of the state needs a clear understanding of the interdependency of each of their roles. The legislature [and executive] cannot pass laws which they suspect the courts will … construe in a way which does not deliver their intent.

If the political system fails in its decisions, as it is bound to do periodically, we need an independent judiciary that can address those failings in law, with no public perception that the bench is stacked and the process tainted.

The Chief Justice of Australia is alert to the task that is presently at hand, recently remarking that, in the contest between the new laws that address national security and that in the process transgress upon our liberties, the judiciary will be called upon to make decisions that may not be at all popular. He stressed the need to hold to the strongest traditions attached to judicial determination and the rule of law.

So back to the capital ‘C’ conservative judges that the then Deputy Prime Minister told the world we should and were going to get. Unfortunately for them, and despite their obvious ability and merit, the Howard government’s judicial appointments have to live with those political remarks and are affected by them in public perception terms. They can only prove the perception wrong by their conduct and judgements. And it is in the area where there is a great political clash that they will be watched most closely.

The recent High Court decision in Michael McKinnon v Secretary, Department of Treasury is a case in point. The applicant’s case obviously had merit because it was a split decision, but the effect of the decision was a blow to accountability and public scrutiny in the public interest. It did nothing for the spirit of freedom of information. News Ltd chairman and chief executive Mr John Hartigan stated in the *Australian* on 7 September the decision was:

… extremely disappointing … not just for The Australian newspaper but for Australians everywhere who value freedom of information and freedom of speech.

Other commentators have remarked negatively on some of the prevailing judgements in the court. Former New South Wales Auditor-General Tony Harris, coming as he does from a strong accountability background, in the *Australian Financial Review* on 12 September noted that, in the Work Choices advertising case, this majority judgement was based on an ‘obscure aside’ which was not part of the statute and which overrode the
principle endorsed by the parliament requiring appropriations to be used for specified outcomes. Effectively, the 3-2 split decision gave the government unfettered discretionary power over spending departmental appropriations. We currently await another decision, with the High Court now considering a third politically contentious case—that is, whether the Commonwealth’s corporation powers validate the federal government’s hostile takeover of the states’ industrial relations power.

To conclude, I will briefly return to Lord Falconer’s speech. Not only did it reveal the need to protect the essential principles of the rule of law and the separation of powers; it also revealed how it is possible to strengthen the law and judiciary in modern democracies and deal with a necessary tension that must exist between the political and judicial worlds. Former Labor chief of staff Michael Costello, in an opinion piece on Lord Falconer’s address published in the Australian on 15 September, concluded his piece with these words:

We do have Australians who can speak with the quality and gravitas of a Falconer. Unfortunately, neither our Prime Minister nor our Attorney-General are among them: not from any incapacity but because the Howard Government has proven intolerant of constraints on prime ministerial power.

I can only trust that, when Labor eventually comes to power, steps will be taken to ensure that the principle of an independent judiciary is reinforced and that we will never hear a Labor Deputy Prime Minister saying that they will appoint capital ‘L’ Laborites to counteract Mr Howard’s capital ‘C’ conservatives. We need a judicial appointments system that frees us from the fear of such taints or perceptions. The health of our democracy demands it.

Judicial Appointments Process
Rural and Regional Australia

Senator IAN MACDONALD (Queensland) (1.29 pm)—I listened with interest to Senator Murray’s very careful and erudite presentation, as most of his contributions are. But I have one comment in relation to his last comment: I wish. The thought that a Labor staffer writing in a paper would suggest that a Labor government would do as he suggests is pretty well contrary to the experience we have seen with federal Labor governments. Indeed, Senator Murray, if you look around any of the states at the moment you will see some appointments to judicial office which are only made because of the question of who is known and not what is known. My state of Queensland has provided some fairly good and high-profile examples of how the Queensland government has appointed members of the magistracy more, it would seem, because of their membership or association with the Labor Party than for their judicial merit. History has shown that their judicial merit is not always particularly useful.

Today in my presentation to this debate on matters of public interest I want to reflect on what a wonderful place Australia is. One of the great things about going overseas is that you always have a better appreciation of Australia when you come back home. Our country is a wealthy country with a magnificent people, if I might use that term. The geography and the scenery—the natural attributes of this country—leave most other continents of the world behind. Look around this country. We have magnificent beaches, forests, snowfields, harbours, rivers and inland parts of Australia. It is a magnificent country. It is so wealthy. Our people are perhaps our greatest wealth, but there is a lot of natural wealth here and a lot of wealth that has come from the land. What we have pro-
duced in ideas and in things that have been manufactured over our history have shown that Australia is really a great place to be and a very lucky country.

But it is a sad fact—and I am not sure what can be done about this—that there really are two major classes of Australians. There are Australians who live in areas of this country where they have access to everything—to hospitals, taxis, trains, lawyers, decent roads, theatre, sporting events, cultural activities; anything that a person living in this modern world might want is available to some Australians. There are the other Australians who do not have the same sort of access to the amenities of life. Of course, the divide is between those Australians who live in the capital cities and perhaps even some of the major provincial cities and those who live in country Australia distantly removed from those capital or major provincial cities.

As one who lives in a country town in Australia, I do not know that I would want to change my position at all. In the many times I am forced to go to Sydney, I love the bustle and the hustle and love having a look at the harbour, but I would hate to live there. The traffic getting to and from work would simply drive me crazy. But there are many amenities that country people do without simply because of the geography of the nation. It is something that I think governments have to strive to address. It is always going to be difficult to address politically, because the mere numbers require that in the capital cities where there are lots of people you get lots of members of parliament who want to do the very best for their own people and they are the people who make up governments. People not in the major centres of population do not have the same voice in state or federal parliaments as those in the more populated areas. That means that it is difficult for parliamentarians who represent the more remote parts of the country to get their message across.

Having been in this parliament in the time of the previous Labor government and under our government, it is quite clear that our government has paid a lot more attention to people in the country and has tried to be fairer with the way that the largesse and benefits of this nation have been divided. In the Labor days, of course, it simply went to the majority in the capital cities. Not only did Labor do things which suited the capital cities but they were very quick to take away benefits or wealth from country areas because it did not really affect the city people but it gave them a good feeling.

An example that springs to mind in relation to that particular matter is the ‘environmental’ legislation that former Senator Richardson, then minister for environment in the Hawke and Keating governments, brought in about the harvesting of native forests. There were—Senator McLucas will remember this—people in many towns in Far North Queensland, up where Senator McLucas comes from, who were simply thrown out of work at the time not for any sensible environmental reason but simply because it gave people in the cities a good feeling to say, ‘Look, we’re saving the rainforests,’ although they had never seen them.

Rainforests had been logged for over 100 years but people in the cities thought they were pristine rainforests and they had to be saved. It did not matter about all the jobs in country Australia that were thrown overboard. It did not matter about the communities that were almost devastated by that and are only now, 20 years later, starting to recover. The Labor people in the city did not understand that you could have a sustainable forestry industry in these areas and you could have tourism—and that indeed happened. I
remember going back in those days to the little town of Ravenshoe, which Senator McLucas would know well.

Senator McLucas—I was born there.

Senator IAN MACDONALD—So you were born in Ravenshoe. Senator, you were born there when it was a thriving town, a town that was happily working. People were employed in real jobs and were harvesting some magnificent timbers.

I remember going there when Senator Richardson shut all that down and threw people out of work mercilessly. I remember seeing this sign—it will live with me until the day I die: ‘Richardson says these forests are pristine and need to be saved. These pristine forests have been logged for 100 years.’ Yet neither Senator Richardson nor the greenies, the political activists in the city, could tell the difference, because the harvesting had been done so carefully—it was so well managed—that there was no damage to the rainforest. Tourism boomed then, as it does now; it has got better of course. It has got better because time has moved on and we are a more affluent country and we are able to save our money and travel a bit more. But that little town of Ravenshoe is just one of the towns that for the last 10 to 15 years have really become welfare towns. It is just getting out of it now. To a certain degree that situation was enhanced by the mismanagement of the former Labor government, who gave some compensation to a mill in that town but the compensation ended up not in Ravenshoe but somehow in Northern Rivers, New South Wales. Despite my best efforts in estimates committees in those days, I was unable to get the then Labor government to explain how money had been transferred from there down to northern New South Wales.

That is just one example of such policies being initiated. Senator Richardson made it quite clear in his book *Whatever It Takes* that he had no interest at all in the environment. He had a very good sense of politics so he could understand that the cycle was turning a bit and that people in the cities were starting to think about these issues. Senator Richardson quite unashamedly said later on in his book that here were some votes to be got, so ‘Don’t worry about the people who will lose their jobs and don’t worry about the communities that will be sent down; let’s think about the votes in Sydney, and by raising this we’ll stay in government’—and they did.

It happened again when Senator Faulkner was the Minister for Environment, Sport and Territories. He wanted to stop a development at what was called Port Hinchinbrook. It was of course on the mainland across the way from Hinchinbrook Island, but the Labor Party and their friends in the green movement, for political purposes in the capital cities, desperately tried to stop that development—the world would have come to an end! It was the same with the Cairns skyrail. Do you remember the magnificent skyrail project in Cairns, Senator McLucas?

Senator McLucas—Labor didn’t oppose that. Labor never opposed that.

Senator IAN MACDONALD—It attracts tourists from all over the world. Yet back in those days Labor tried to shut that down on the back of urgings from the radical green movement, because they wanted their votes. They wanted their second preference votes so they tried their best to shut that down.

Senator McLucas interjecting—

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—Order! Senator McLucas, I see your name is next on the list. You could perhaps wait until your turn comes without interjecting.

Senator IAN MACDONALD—The world was going to come to an end if the skyrail were built! The world was going to
come to an end if Port Hinchinbrook were developed! Yet here we are, five to 10 years later, and the skyrail is a huge tourist attraction—and has it had any impact on the environment, on the rainforests, there? Not one bit, not one iota, except that it has allowed ordinary mums and dads to see the rainforests. You do not have to be an out-of-work radical green ‘environmentalist’ to walk through the rainforests and enjoy them; you can now do that in a cable car up the top with no impact on the environment. It is the same with Port Hinchinbrook, a marvellous development that attracts a lot of people, gives a lot of people enjoyment and is an amenity for that town. The world has not come to an end. The mangrove trees are still growing. Senator Faulkner, another Sydney based environment minister, might be surprised to know, given some of the things he said in this chamber at the time, that the mangroves have continued to grow, as we all told him they would.

The point I am making in all of these things is that governments, in the decisions that they make, should be very careful about what impacts those decisions will have on people living in country areas. I think it is very important that if for good and serious reasons governments as a whole take decisions which impact upon people’s livelihoods—and I do not think the instances I mention fit into the category where it is actually necessary, but some of the things done with the Great Barrier Reef were serious and sensible things that needed to be done—those people must be compensated by the government, in other words by every other Australian, for the loss of their employment, their income-making ability. It is essential that that happens. Our government was good in that respect in relation to the Great Barrier Reef Marine Park zoning plans. It has not been quite so good, I understand, in relation to some marine parks in the Tasmanian area, and that is something that I will be following through. But it is essential, as a principle, that where governments do take these steps for the proper purposes of the environment those affected must be compensated by the government. (Time expired)

National Disability Advocacy Program

Senator McLucas (Queensland) (1.44 pm)—Today I raise the issue of the future of the National Disability Advocacy Program as a matter of public interest, because of the Howard government’s ineptitude and lack of action, which is resulting in death by delay to services funded by the Disability Advocacy Program. Advocacy is an essential service for people with a disability. People with disability need advocates to speak on their behalf and with their direction, both as individuals and as groups of people with disabilities. Individual advocacy assists people with disability to navigate the complex system of services and to achieve justice through legal processes. Systematic advocacy is aimed at changing systems in society which are barriers to participation by people with disabilities. Both types of advocacy are essential services for people with disability. These services are needed now more than ever.

There are well-founded and confirmed fears in the disability sector that changes to the welfare system will increase the need for advocacy to resolve disputes and support people with disabilities in their interactions on income support and employment issues, amongst others. But what we see from this government is that 71 disability advocacy services around the country are at risk of closure because the Minister for Community Services, Mr Cobb, cannot or will not make a decision about future funding for each of the services. Because of uncertainty of funding beyond December, advocacy groups—which support some of the most vulnerable in our society—are unable to take new cli-
ents and are unable to extend office and equipment leases. And good, committed staff with concerns about job security are leaving. This is all caused by the incompetence of this government.

The government commissioned a review of the program and arranged a series of consultations earlier this year. Because of this review, the current funding for the 71 advocacy groups was extended until 31 December 2006. At the time of the receipt of the consultant’s report into the Disability Advocacy Program, the minister said:

FaCSIA needs to meet with the reference group to discuss the review findings and recommendations before considering options for taking the review forward.

He also said:

Until this critical consultation occurs, no decisions will be made on the findings and recommendations of the review.

The reference group met in June 2006 to discuss and progress the findings and recommendations of the review. The minister gave an indication that final decisions would be announced by the end of August. But, instead of making any final or funding decisions, all the minister did after this so-called ‘critical consultation’ was post yet another report, another consultation piece, on his website on 29 September—a full month after he had promised there would be a response available. It is clearly evident to me that that occurred only after a call from Senator Patterson, who was concerned by evidence she was hearing from witnesses in the current Senate inquiry into the funding and operation of the Commonwealth State Territory Disability Agreement. The report did not announce any funding decision. It did not indicate which services would be continued and which would be defunded. Instead, it sought further consultation by 27 October.

What are these advocacy groups supposed to do now? They cannot take new clients. They have to work out what they can do with their current clients if their funding is not renewed. They cannot renew leases because they do not have any certainty of funding. And good staff are leaving because they do not have security of employment. Does Minister Cobb have any idea how these services operate? How does he think they are going to operate if they have no certainty of funding beyond December?

Maybe the minister could indicate which services are going to have their funding renewed and which are not, so that they can get their affairs in order. Or could the minister perhaps provide interim funding until, say, June 2007 so that there is more time while he is twiddling his thumbs making a decision? In an article in the Courier-Mail on 2 October, the minister said:

No one has to be jumping up and down saying I’ll have to close my doors, that is wrong and it would be mischievous for anyone to say that.

Can I inform the minister that I have met with a series of delegations from advocacy groups that are very concerned about their loss of funding. I understand that he has met with them too. I have personally received many letters from clients and former clients of advocacy services who are concerned about the loss of funding to their respective service. The Community Affairs Committee has heard from several groups giving evidence at the current Senate inquiry who are concerned about the loss of funding. How much more jumping up and down do people need to do? Also in the article in the Courier-Mail on 2 October, the minister is quoted as saying:

... none of the services will close.

How does this fit with the minister’s consultation paper? It says:
From January 2007, current service providers could be offered 18 month funding agreements to cover services until June 2008. The word is ‘could’. It is not ‘will’; it is ‘could’. The minister’s consultation paper also says:

In September 2007, a competitive funding round could be scheduled to ensure that the $12 million in the National Disability Advocacy Program is more fairly directed across different regions in Australia. The funding round would be open to organisations that are not currently providing services under the National Disability Advocacy Program, as well as organisations that are currently funded.

The report goes on to say:

In February 2008, the results of the competitive funding round could be announced and transitional arrangements put in place to make sure existing clients of unsuccessful services were not disadvantaged.

Keep in mind that this is all going to be coming from the same current funding pool of $12 million per year. The minister’s consultation paper does not fit what he told the Courier-Mail. He said categorically:

... none of the services will close.

How, then, can the same amount of funding be offered to new programs without jeopardising the viability of those that are currently funded? If ‘none of the services will close’, why is the minister considering transitional arrangements to make sure that existing clients of unsuccessful services are not disadvantaged? The minister needs to come clean on what his real intentions are.

The Senate inquiry into the CSTDA is currently underway and a number of witnesses expressed their grave concerns about the future of this program, including the Office of the Public Advocate in Victoria. The office’s submission said:

A serious problem in the operation of the CSTDA has been the neglect of the advocacy program.

The administering Department—that is, FaCSIA—has undertaken several reviews of the advocacy program during the life of the CSTDAs. ... The affected advocacy organisations have only been funded until the end of 2006. The current review will apparently result in a large scale reorganisation of the funded sector on the basis of the Department’s view about how advocacy should be organised and structured.

The Office of the Public Advocate in Victoria also said that they believe:

... that a vibrant community advocacy sector is vital to the achievement of the CSTDA vision and can make a critical contribution to service innovation and development. Community based advocacy is also an essential response to vulnerable individuals experiencing systemic disadvantage, discrimination and ill-treatment.

Additional concerns were raised by the National Ethnic Disability Alliance, whose representative said:

The advocacy system is actually under review at the moment. We have some concerns about the review and the push towards fewer advocacy services.

She also said that their four non-English-speaking background, NESB, specific services:

... are funded until the end of this year. We have not heard anything further as to whether their contracts will be extended beyond the end of this year, so there is a real fear, because the end of the year is fast approaching: what are you going to do with your staff and what are you going to do with your clients? The services are saying that they need to be accountable as employers and as service providers, yet so far they still do not know whether as of 1 January they are going to be able to open their doors.

Brain Injury Australia said that the current review of the National Disability Advocacy Program is a significant threat for people with an acquired brain injury. Their representative said:
With the current review and the fact that all disability advocacy providers were in receipt of a letter saying their funding is ceasing at the end of December, you can imagine small organisations trying to run their businesses and support individuals with whom they may be midstream while also having responsibilities to employees. We are already beginning to see a loss of some of the ABI specialist advocacy workforce ... This is happening at a time of implementation of Welfare to Work. The needs of people with an ABI are not understood in that system and in the systems that have been put in place by DEWR, Centrelink and DHS.

She also said:

The issue with us at the moment is that, as a funded advocacy service, we are awaiting the release of a paper which is now a month late. We have three months to go. Most of our services will need to close to clients within four weeks in order to allow us to wind up. We are actually in a situation at the moment where staff are leaving our agencies because they require security. We employed three people through our funding and two people are moving already. So we are losing that expertise. It is a critical issue. It cannot really wait for this process to go through because we will probably be gone by the time that is done.

She went on:

There seems to be little understanding that organisations are run and operated by committees of management, or boards of management, who have responsibilities. They have responsibilities to staff; they have responsibilities to the people they meet with. They cannot wait until the eleventh hour to make decisions about their future.

Instead of yet another consultation paper that requires yet another response by the end of October and then another response from the government, the Minister for Community Services needs to make a decision about the funding of these programs now. The minister is allowing these services to fail by attrition. This is one of the worst cases of mismanagement I have seen, and the people affected—people with disabilities; some of the most vulnerable people in Australia—deserve better.

QUESTIONS WITHOUT NOTICE

Workplace Relations

Senator SHERRY (2.00 pm)—My question is to Senator Minchin, the Minister for Finance and Administration. I refer to the minister’s decision not to ensure that 1,800 Telstra employees receive the superannuation pension benefit they were promised as a consequence of Telstra privatisation. Can the minister confirm that Telstra advised the T3 sale task force that there was ‘a compelling case’ in support of Telstra’s CSS members remaining in the CSS on the basis of legal advice that the 2004 deed of release was a legally binding document? On what basis has the minister made a decision which is, on Telstra’s advice, possibly illegal? Will the minister now table all material relevant to this decision, including the legal advice on which he based his decision to break the superannuation promise for 1,800 Telstra employees?

Senator MINCHIN—Mr President, I am not aware of the Telstra advice to which Senator Sherry refers. I am happy to check the facts. I am not, on the face of it, calling Senator Sherry a liar. I am happy to check on that advice but I do not have an immediate recollection of it. I simply point out to Senator Sherry, as I did in the debate to take note of answers given yesterday, that it is 13 months since I put on the record in this Senate the situation that will apply to employees of Telstra who are members of the CSS and PSS schemes. I made it clear 13 months ago, on the record, that for those Telstra employees who are members of the Commonwealth Superannuation Scheme membership will cease once the Australian government ceases to hold majority ownership of Telstra and that the government will continue to be responsible for meeting the obligations going
forward in respect of the past service of those employees. That is the position, enunciated 13 months ago.

As I said yesterday, it is entirely consistent with the position adopted by all governments, including Senator Sherry’s former Labor government, with respect to employees of government owned businesses when those businesses are no longer owned by the government. The responsibility for the superannuation arrangements going forward moves to the new owners of the business and is a matter for the shareholders of that business. The Commonwealth, on behalf of taxpayers, will continue to honour its obligations for the accrued superannuation entitlements of those employees but, once ownership changes, the superannuation arrangements going forward are a matter for the new owners of the business and not the responsibility of taxpayers. I am happy to recollect or have refreshed the situation with respect to any Telstra advice and come back to Senator Sherry.

Senator Sherry—And I am happy to assist. I seek leave to table the confidential advice between Telstra and the minister’s department on this matter.

Leave granted.

Senator SHERRY—Mr President, I ask a supplementary question. Further to the minister possibly acting contrary to law on this matter, did he or the T3 sales task force seek advice from the guardian and regulator of defined benefits superannuation funds, the Australian Prudential Regulatory Authority, APRA, concerning the legality of reducing promised pension benefits for existing employees in a defined benefits scheme? If not, why not? If the minister did seek advice from APRA, will he now table that advice? What is the minister hiding on this matter? Is this just further evidence of the minister’s and the government’s incompetence around the sale of Telstra?

Senator MINCHIN—This is one of the most professionally handled sales in the history of sales of Commonwealth government businesses. It is one of the most expert and superbly handled sales, despite the opposition of those opposite. This lot are trying to wreck this sale. They are going around talking down this sale. They want to see taxpayers lose on this deal—it is outrageous. They have already cost taxpayers $50 billion by not supporting a full sale in 1990. Now they are spending their whole time talking down this sale. It is outrageous behaviour on their part to so seek to destroy shareholder value. I will get back to Senator Sherry with any advice that we have in relation to the document he has tabled. I am happy to come back on that but I can assure the Senate that we have acted within the law at every step of this exhaustive process.

Workplace Relations

Senator FIFIELD (2.05 pm)—My question is to the Minister representing the Minister for Employment and Workplace Relations, Senator Abetz. Will the minister outline to the Senate how the government’s Australian workplace agreements are boosting wages and employment? Is the minister aware of any indications of support for the continuation of AWAs and is the minister aware of any alternative policies?

Senator ABETZ—I thank Senator Fifield for his important question, which recognises the value of Australian workplace agreements to our nation. Since Work Choices came into effect, a massive 175,000 new jobs, of which 128,000 are full time, have been created and wages have continued to rise. There are now over one million AWAs signed in this country. The simple fact is that AWAs encourage job creation because they give employees and employers the flexibility
to agree to mutually acceptable working conditions, underpinned, of course, by a very strong safety net of minimum conditions. AWAs have contributed to real wages growth. Senator Fifield asked about indications of support for the continuance of AWAs. It is very apt that that question was asked by a Victorian senator—I will get to that later.

We all know that federal Labor’s policy is unambiguous—that is, to rip up AWAs. Mr Beazley has promised the people of Australia that he will abolish AWAs and the extra jobs and higher wages to which they have led. What is interesting, though, is that it is not just the workers and the employers who have engaged in AWAs who want to keep the system; it is also Mr Beazley’s state Labor colleagues. The Western Australian Labor Premier, Mr Carpenter, has already voiced his qualms about Mr Beazley’s foolhardy decision. Yesterday, the Victorian Minister for Industrial Relations, Mr Hulls, declined not once, not twice, not even three times—at which time you would have thought a rooster might have started to crow—to agree with Mr Beazley’s policies. It was not four times or five times, and not even half-a-dozen times; Mr Hulls was given seven opportunities in an interview to agree to Mr Beazley’s policies. Seven times he denied himself the opportunity to say that he fully supports Mr Beazley’s policy. You would have thought that, after seven times, there would be a whole barnyard of roosters crowing over that. But, of course, the Labor Party was deadly silent.

What has happened here, and it is quite obvious, is that some Labor governments, when they are actually in government, are mugged by reality. That is why the Western Australian Labor government supports AWAs and that is why Mr Hulls from the Victorian Labor government was not willing to support Mr Beazley. That is the reason Mr Tony Blair, when he came to government in the UK, refused to rip up or roll back the reforms of Mrs Thatcher, and that is the reason Ms Helen Clark, the Labour Prime Minister of New Zealand, refused to rip up or roll back the reforms in New Zealand.

So what we can hope for is that reality will finally mug the Labor Party. Mr Beazley should know from his attempt in 1998 to surf into government on the back of a fear and scaremongering campaign that that does not work. What we need is good, sound policies from Labor. Until Mr Beazley comes up with alternative policies, as opposed to scaremongering, he is unfit to be the Prime Minister of this country.

**Telstra**

*Senator Wong:* My question is to Senator Minchin, the Minister for Finance and Administration. Does the minister agree with Senator Coonan’s statement in question time on Monday about the T3 prospectus, when she said: 

ASIC has signed off on the prospectus. Clearly, the prospectus complies with ASIC’s view as to what are appropriate regulatory conclusions. 

Is the minister aware that the Corporations Act expressly states that ASIC takes no responsibility for the content of a prospectus? Can the minister clarify whether Senator Coonan is simply ignorant of the law as to ASIC’s role, or can he confirm whether he or any other minister asked ASIC to specifically approve the T3 prospectus? What was the nature of the approval that was sought and, according to Senator Coonan, granted by ASIC for the contents of the T3 prospectus?

*Senator Minchin:* The prospectus has to be registered with ASIC, so all appropriate steps were taken to make sure that the document was in a form that was capable of being registered with ASIC. That was successfully concluded, and the document has been registered with ASIC. With our 10 teams of law-
yers who were working on this document there was of course constant interaction with ASIC to ensure that the risk disclosure statements were of a nature that was capable of being registered with ASIC. That is absolutely right.

Senator WONG—Mr President, I ask a supplementary question. Can the minister explain exactly what ASIC’s role was in relation to the specific parts of the T3 prospectus and whether it approved the final version, particularly in relation to the ‘Cousins risk’? Further, can the minister advise whether Senator Coonan was wrong when she said that ASIC had ‘signed off on the prospectus’? Will the minister now ensure that this misleading information is corrected and communicated to the market? Aren’t potential investors entitled to know the nature of ASIC’s involvement in the prospectus, and will the minister now take steps to ensure the market is appropriately informed?

Senator MINCHIN—This is just about idiotic semantics. Of course we complied fully with the Corporations Law. As I said, we have had 10 teams of lawyers crawling all over this. The document had to be registered with ASIC. If Senator Coonan used a more colloquial expression to describe the process by which the document was registered with ASIC, so be it. She has not misled the Senate in any way or misled anybody. The document has been registered with ASIC and, to the extent that ASIC was required to be involved in discussion as to the description of the risks, it was to ensure that the document could be registered with ASIC.

Climate Change

Senator CHAPMAN (2.12 pm)—My question is to the Minister for the Environment and Heritage. Will the minister inform the Senate of the important role of nuclear energy in reducing greenhouse gas emissions? Is the minister aware of any barriers to Australia playing its part in the nuclear fuel cycle and reducing the world’s greenhouse gas emissions?

Senator IAN CAMPBELL—That is indeed an incredibly important question. The world, and Australia in particular, is well aware of the substantial challenge that we face as a result of pumping greenhouse gases into the atmosphere. As Senator Chapman knows, over a trillion tonnes of carbon have been pumped into the atmosphere over the last 150 years, and we are on track to pump in about another trillion tonnes of carbon over the next 50 years. So we do need to address that.

We know that the globe is warming. The science tells us that it is already starting to warm and that the oceans are starting to warm, and that is likely to have substantial negative impacts on Australia. That is why Australia has led the world in mitigation measures to stop greenhouse gases going up. That is why we are one of the few countries in the world which is likely—and I say ‘likely’ in an informed way—to meet its agreed Kyoto target, the 108 per cent target signed up to at Kyoto.

It is worth noting, however, that it takes a lot of hard effort to ensure that we do meet that target. I congratulate governments like the South Australian government for the effort they have put in as well as a number of other governments and also industry. Last night I attended the Greenhouse Challenge Plus celebration, at which we presented Yalumba Wines, from South Australia, with an award for achieving their greenhouse target of a seven per cent reduction.

The Australian nation has achieved 85 megatonnes of carbon abatement a year because of the efforts of industry. The Greenhouse Challenge partners have achieved 15 million tonnes of abatement, and Australia has achieved 85 megatonnes. But we are go-
...ing to have to work hard and harder to achieve 108 per cent. It is going to be difficult in such a strongly growing economy. We will not back off from achieving the target, Mr President, I assure you of that. But we do need to ensure that the world and Australia have all of their options open. We need to ensure that we stop deforestation and land clearing and to ensure the sorts of forward-looking programs under our forestry policy, so ably overseen by Senator Abetz, that will see three million hectares of trees planted in Australia by 2020.

*Senator Bob Brown interjecting—*

*Senator IAN CAMPBELL—* Of course, we have Senator Brown opposing that. He wants to have dairy farms, not forest plantations. The Natural Heritage Trust will see us plant over 400,000 hectares of forests. In Western Australia I and Kim Chance, the state Minister for Agriculture and Food, recently signed off on a $68 million investment to plant another 25 million trees there. So we have to do that.

However, Senator Chapman asked about the role of nuclear. Nuclear does have a role in the world. It has an important role in the world. Professor Socolow, from Princeton University, says that we will have to expand the amount of nuclear energy produced if we are to achieve climate change and beat the challenge of climate change. Yes, there are oppositions to Australia’s role in the nuclear fuel cycle in Australia. Mr Albanese has said the recent ballot for the presidency of the Labor Party was a referendum on nuclear power. It was a referendum where Senator Faulkner won and Mr Rann probably lost. The vote is in but it is the environment that has lost because, if we do not have nuclear power, if we do not have uranium from Australia replacing fossil fuel in other parts of the world, we will not solve the problem of the world’s greenhouse gases. The Labor Party are not serious about climate change because they have now defeated Mike Rann, who is actually serious about it, who cares about solar energy, who cares about wind power and who cares about ensuring uranium. (Time expired)

**Telstra**

*Senator McLucas* (2.16 pm)—My question is to Senator Coonan, Minister for Communications, Information Technology and the Arts. Is the minister aware of reports today about the closure of Telstra call centres in Cairns and Maroochydore, with the loss of around 180 jobs? Is it true that these employees were told by Telstra yesterday, the day after the T3 prospectus was released, that the centres were to close and that they would all lose their jobs just before Christmas? Wasn’t this callous decision affecting 180 families in two regional centres taken by Telstra in pursuit of their policy of high revenue sales and minimising the number of Telstra locations? What does the minister have to say to these workers and their families about why they are being sacrificed by Telstra this Christmas?

*Senator Coonan*—Thank you to Senator McLucas for the question. I share her disappointment to hear of Telstra’s decision to close two regional call centres, one in Cairns and a second one in Maroochydore, and that 83 staff in each call centre will be affected. The government never likes to hear about job losses, particularly in regional communities. The matter has been raised with Telstra, and they have advised that all affected staff in Cairns and Maroochydore will receive full redundancy benefits to assist them to find other employment, either internally or externally. That includes assistance with career planning, financial planning and advice, preparation of CVs, and interview skills and assistance with both internal and external job searches.
The job cuts are part of Telstra’s much publicised transformation program, which was announced in November 2005. The transformation program involves reducing its workforce numbers by around 10,000 over the next five years as a result of the introduction of new technologies, improvements to business systems and increasing competition. This of course includes rationalising call centre operations and adjusting resources to remove duplication, to improve efficiencies and to reduce costs. Naturally, as Senator McLucas would appreciate, we are disappointed by this decision, particularly in regional centres where these cuts will be felt more deeply and other suitable jobs may be more difficult to find, even though of course we are experiencing record low unemployment rates.

Having said that, it raises the question as to where Labor’s credibility is when it comes to workforce issues. Let me remind the Senate that when Labor was last in power unemployment was at 10.9 per cent and a million Australians were unemployed. Over the last 9½ years we have seen 1.8 million extra jobs created in Australia. Almost a million of those 1.8 million jobs have been full-time jobs. In relation to Telstra jobs in particular Labor has a pitiful record. Telstra staff numbers fell from 90,000 to 76,000 between 1990 and 1992. I ask you: who was the communication minister at that time? It was none other than Mr Beazley. Since then, the competitive framework set by the government has allowed more than 150 new providers of telecommunications services and, according to the International Telecommunication Union, that now employs approximately 77,000 people. Work commissioned by ACMA has estimated that the government’s competition reforms, commenced in 1997, have increased employment by about another 23,300. Labor has nowhere to go in criticising this government on jobs. Labor has nowhere to go, and this government’s record on jobs stands without blemish. This government will not be flip-flopping; we will continue to look after the consumers of Australia.

**Senator McLucas** (2.21 pm)—Mr President, I ask a supplementary question. Can the minister confirm that these two centres have been the recipients of Telstra awards for excellent performance? Can the minister guarantee that the work performed by staff at the two call centres in regional Queensland will not be transferred overseas or outsourced?

**Senator Coonan**—If I can borrow from Senator Minchin’s earlier answer: this is semantic nonsense. The most important thing to understand here is that there are now 150 new telecommunication providers providing extra jobs in telecommunications and there is a very proper program to look after the redundancies of Telstra employees, which I have outlined. Before Labor comes in here and tries to cast stones at this government I remind the Senate that Labor practically drove this country to the brink of bankruptcy, with one million unemployed people, small businesses thrown on the scrap heap and very few people with any opportunity of getting a new job. Wake up to yourselves and realise that this is part of a redundancy program with the proper safeguards in place.

**Australia’s Refugee and Humanitarian Program**

**Senator Patterson** (2.22 pm)—My question is to the Minister for Immigration and Multicultural Affairs, Senator Vanstone. Will the minister advise the Senate what the coalition government has been doing to assist the states and territories in settling refugees and humanitarian entrants to Australia? Is the minister aware of any alternative approaches?
Senator VANSTONE—I thank Senator Patterson for her question and for her interest in Australia’s refugee and humanitarian program, which I believe is second to none in the world. It is a generous program. It has an intake of 13,000, with 6,000 refugees and 7,000 humanitarian entrants. It consistently ranks us, along with the United States and Canada, in the top three countries accepting people in need of resettlement. These are people who cannot go home, people who have no other choice but to be resettled.

Bringing people here, of course, is not the end of the task. We have to ensure that they settle in and become active participants in our community and that they get the opportunity to take advantage of everything that Australia has to offer. Successful settlement is absolutely vital to our program, so English language is vital. How many people remember women from families that migrated here years ago who did not get all the opportunities Australia had to offer because nobody encouraged them to learn English and therefore to learn of the opportunities that were available to them to get a job, to understand Australian values and to get into mainstream activities?

We do work closely with the states and territories—all Labor—to ensure as best we can that both levels of government provide appropriate services when and where they are needed. We can always do better. My own department is on the move to improve across the board—and that, of course, includes the refugee and humanitarian area. Recently we launched a series of publications which are not of themselves newsworthy but very useful to the states in resettling humanitarian entrants and to the NGOs that are involved in delivering these services.

The booklets provide information for service providers about humanitarian settlement—for example, who has arrived here in the past and where they have come from; who is expected to arrive over the next year and where they are coming from; where they are settling, by local government area; the make-up of families; the level of English ability; and particular settlement needs. This is all very useful material to state governments, to the federal government and to the agencies therein.

It is important to ensure that services meet the mark by helping service providers plan and prepare for humanitarian entrants and by having a good understanding of their situation. For example, how can a nurse or a doctor really understand anything about Ethiopia if they are not given some information? We have a range of booklets that cover the situation in the main countries that people are coming from for resettlement here, and they will be updated annually.

Senator Patterson also asked me about alternative approaches. I am convinced that we need to look at an alternative approach in this area, and at one part in particular thereof. We need to ensure that new entrants who come to Australia have all the support that they need. That means that when someone signs on as a sponsor they are capable of being a sponsor, of being an anchor person for the new refugee or humanitarian entrant who is coming and of providing the sponsorship that is required. I do not think you can do that unless you have a regular job. How else can you possibly have the time, the understanding and the capacity to help someone settle in? I think we need to look at tightening up on who can sponsor people to come here, not to be mean to the people who are here but to be fair to the ones who are coming, to make sure that the people who sponsor them have the capacity to be a good sponsor. We will release a discussion paper on this. We will discuss it with community groups and stakeholders, but I am sure we can all do a better job.
Judicial Appointments Process

Senator MURRAY (2.27 pm)—My question is to the Minister representing the Attorney-General, Senator Ellison. Is the minister aware of a paper on an independent judicial appointments commission which was presented to last Sunday’s judicial conference of Australia by two senior Australian academics? Is the minister aware of the authors of that paper saying that it is ‘a notorious fact that judicial officers have been appointed whose character and intellectual and legal capacities have been doubted and whose appointments have been identified as instances of political patronage’? Is the minister aware that, like many other countries, the United Kingdom has introduced an independent judicial appointments commission that ensures the short list given to the government is transparently selected on merit. Will the Australian government even consider reviewing its judicial appointments process?

Senator ELLISON—I am aware of the report that Senator Murray mentions, although I have not read it, and also that the shadow Attorney-General in Queensland said that a coalition government in Queensland would introduce new guidelines to ensure appointment on merit and also mandate consultation with certain office holders.

I think it is fair to say that the process for selecting judges at the Commonwealth level in Australia has produced a judiciary that is held in high regard both domestically and internationally. Of course the essential criterion for the appointment of a judge at the federal level will continue to be merit. Merit means legal excellence, a demonstrated capacity for industry and a temperament suited to the performance of the judicial function. Those three attributes are essential to any position of judicial office holding.

As well as that, I can tell the Senate that in any cabinet appointment of a judicial nature an extensive consultation process is engaged in by the Attorney-General. That can involve a number of bodies. For instance, from time to time the Attorney-General consults with legal professional bodies such as the Law Council, the Australian Bar Association and the relevant state and territory bar associations and law societies around the country.

The Attorney has also put on record that from time to time he has discussions with serving and former judges. That is an extensive process which has been followed under this government in relation to the appointment of judicial office holders. I understand that the United Kingdom has embarked upon a judicial appointments process change which involves the creation of a judicial appointments commission. While a judicial appointments commission may be appropriate for the United Kingdom, it is not a precedent which the government believes should be followed here in Australia. In the UK, there is one central government which is responsible for most appointments. In Australia, of course, we have a very different system. The make-up of our governments and our Federation are quite different.

The total number of federal judicial office holders in Australia, I am advised, is around 135. It would be unusual for the government to make more than 15 appointments in a year. In the UK, there are about 3,500 judicial office holders and the Lord Chancellor was responsible for an enormous number of appointments—far more than the Commonwealth Attorney-General would ever have to consider. With that number of appointments, it may well be that a judicial commission could have some benefit, and that is why the United Kingdom situation is quite different from what we have in Australia, where judicial appointments range across state, territory and Commonwealth jurisdictions. We believe the process that we have is transparent and has worked well, and that is evidenced by the
fact that we have an excellent federal judiciary.

Senator MURRAY—Mr President, I ask a supplementary question. I thank the minister for his answer. I comment in passing that I do not think the debate will go away, given that it has been put before the Judicial Conference of Australia. Minister, tied up with the question of appointments is the question of complaints. Is the Attorney-General considering the campaign by Senator Heffernan and others for a commission or a different process to manage complaints concerning the judiciary?

Senator ELLISON—As I understood the Attorney-General’s comments, he was considering that issue, although I think the preliminary comments have been that they would not favour a commission as such but that some aspect of accountability be looked at. That is the situation at the moment. The Attorney-General is certainly discussing this with a number of stakeholders—the judiciary and others. Senator Murray would be aware that this has been the subject of some estimates coverage, with Senator Heffernan asking a number of detailed questions in this regard. It has certainly been looked at by a number of state jurisdictions, and I think it is quite a topical issue in Australia today. I would agree with Senator Murray that both of these are issues which should be debated and are perhaps ones that you could fairly say will not go away. I include the judicial commission as one of them.

**Law Enforcement Cooperation**

Senator PAYNE (2.33 pm)—My question is also to the Minister for Justice and Customs, Senator Ellison. Would the minister update the Senate on recent developments in law enforcement cooperation between the nations of Australia and Cambodia?

Senator ELLISON—I thank Senator Payne, who has taken an active interest in our cooperation with Cambodia. The question is a very important one and Senator Payne has taken a vital interest in this area, particularly in the area of our cooperation with that country in relation to sex trafficking.

This is a timely question in view of the visit by Prime Minister Hun Sen from Cambodia. Today we signed a treaty for the transfer of prisoners between Cambodia and Australia. This is an important agreement between our two countries. As at May this year, there were five Australian prisoners in Cambodia and 13 Cambodian prisoners in Australia.

The prisoner transfer arrangement is a very important one. It is a practical measure which provides for people sentenced in another country to be transferred to their home country to serve out their period of sentence. I think that some people misunderstand the nature of it. It is not a means of reducing a sentence; it is a means of returning a person to their home country to serve out a sentence and also to come under the community supervision of their home country. It is interesting to note that some 85 per cent of transfers have been for prisoners out of Australia. That is quite a significant count, and there are benefits for our prison system in regard to population numbers.

Importantly, in relation to Cambodia, we also announced today a $30 million program over five years for the criminal justice system in Cambodia. It is important that Australia be involved in capacity building in such areas as good governance, human rights and particularly the criminal justice system. We have a close working relationship with the Cambodian government. I refer in particular to the Australian Federal Police, who have set up a transnational crime unit with the Cambodian police. This has had a great deal of success in the fight against illicit drugs.
and people trafficking, and also for security in the region.

It is fair to say that some of the challenges we face in the region are ones that we cannot deal with alone. Australia does need the cooperation of its neighbours in the South-East Asian region. In relation to Cambodia, we are grateful for the cooperation that we get. There is much work to be done. In the discussion that I had today with my counterpart, the Secretary of State, we agreed that we face common challenges, and both of us made a commitment to continue the close cooperation that we have. The Cambodian government has acknowledged the great work done by the Australian Federal Police not only in cooperation regarding the fight against transnational crime but also in the capacity building that is being carried out.

One of the features of that cooperation is the fight against people trafficking. Unfortunately, that is something which we are detecting in our region. In relation to that, we have had convictions in Australia for sex trafficking and Cambodia, of course, is regarded as a source country. We will continue that fight, and we will continue it with the cooperation of the Cambodian authorities. We look forward to an even closer relationship in that regard. I thank Senator Payne for what was an important question.

Western Australia: Land Use

Senator STERLE (2.37 pm)—My question is to Senator Ian Campbell, the Minister representing the Minister for Transport and Regional Services. Is the minister aware of attempts by the Western Australian government dating as far back as December 2004 to acquire Commonwealth land on the Perth Airport site to extend the Guildford cemetery to meet community needs? How is it that a decision to approve a brickworks against the express wishes of the community and the Liberal member for Hasluck can be made in a timely fashion but, after nearly two years, the government has still not given even in-principle support to dispose of land to expand an existing cemetery? Minister, is it the case that, as the land sought by the state government contains a track used by the Liberal member for O’Connor to train his horses, that has contributed to the minister’s delay in making a decision?

Senator IAN CAMPBELL—The question, and the quality of the question, reflect the Labor Party’s deep and well-understandable embarrassment in relation to the brickworks issue at the Perth Airport. It was revealed by the environmental assessment of the airport site that the Western Australian state government’s monitoring regime and approvals processes for brickworks in the metropolitan area, and particularly within the Swan Valley airshed, showed that there was no effective monitoring of the air in that area and that the Western Australian state Labor government had approved what was probably the biggest ever expansion of brickworks in that area with absolutely no public consultation, no environmental process and no notification of the public. We understand why the Labor Party are deeply embarrassed about approvals processes at the Perth Airport.

The approvals processes at the Perth Airport under the Commonwealth’s law surpass in all respects the approvals processes and environmental standards that apply outside the airport land under the auspices of the state Labor government. Their approvals processes are lax, if not non-existent. We stand by the approval processes at the airport.

Senator Chris Evans—Mr President, I raise a point of order. My point of order relates to relevance. The minister was asked a very serious question, in his capacity as the minister representing the minister for trans-
port, about the application to extend the cemetery. As it is a very serious question, I would ask the minister to address that, rather than have some sort of political rave about the state government. It is an important question and he ought to be drawn to answer the question.

The PRESIDENT—I hear your point of order, but the minister was asked about brickworks and I think he is answering that question. He has in excess of 2½ minutes to complete his answer.

Senator IAN CAMPBELL—It is absurd to ask a question about a state government applying for an activity on airport land, referring to a brickworks and then, when I answer and bring in all of those aspects, to take some spurious point of order. The question quite specifically goes to why we approved a brickworks on the site and did not approve something else. I am going directly to the issue because I am saying that if it is an application from a state government that has lax environmental standards—if they exist at all—which is prepared to say to the people of the Swan Valley, ‘We do not even want to take you into our confidence when it comes to approvals on the airport land,’ then I do not take seriously claims by the Labor Party or their comrades in the state government in relation to any other approval on that site. Any application for land at the airport will be dealt with using the very highest standards, both within the Department of Transport and Regional Services and when it comes to me and my department for advice in relation to the environmental impacts.

The environmental performance of the Labor Party in Western Australia in relation to the brickworks is an absolute disgrace. I am very glad that my department did a thorough analysis of the proposals at the airport, and I am very glad we were able to shine a very big light on the gross hypocrisy of the Australian Labor Party when it comes to air pollution in the Swan Valley airshed.

SenatorSTERLE (2.42 pm)—Mr President, I ask a supplementary question. Is the minister able to explain why the need of the community to find suitable land to lay their dearly departed to rest is less important than finding a place for a major donor to the Liberal Party to build a brickworks that no-one else wants?

Senator IAN CAMPBELL—I can assure the Senate that any proposal that goes towards use of land at the Perth Airport will be dealt with using all proper processes both within the department of transport and within the department of the environment where environmental impacts are concerned. This is in absolute contrast to the state Labor Party, Senator Sterle’s comrades, who, when it comes to approvals in that area, totally ignore the views of local people and totally ignore the potential pollution of the brickworks they have approved less than a mile away from the airport, in disgraceful circumstances.

Human Rights: Sleep Deprivation

Senator NETTLE (2.43 pm)—My question is to Senator Ellison, the Minister for Justice and Customs and Minister representing the Attorney-General. Does the minister consider sleep deprivation to be torture? Does he agree with the United Nations that sleep deprivation is a violation of the convention against torture? Can the minister rule out the use of sleep deprivation by Australian authorities in any circumstances?

Senator ELLISON—We need to look at this question in the context of what is being investigated and the operation which is being conducted. The Attorney-General recently, when discussing operations involving counter-terrorism, discussed the issue of sleep deprivation and said that in some circumstances it would not amount to torture.
But he did qualify that remark with the circumstances of it being a counter-terrorism exercise and also the circumstances of its use. In a criminal investigation—and we have legislation dealing with that—there are certain aspects to the way an interrogation is carried out, the way questions are asked and the admissibility of evidence in a court of law. That is a very different situation to that which was being described by that Attorney-General.

I agree with what the Attorney-General says—I think that you have to look at it in the context of the operation, because if it is a criminal investigation and you are looking at evidence to be adduced in a court of law then you are governed by the Crimes Act and other legislation dealing with the collection of evidence, and that then is relevant to its admissibility in a court. A court could then consider that issue when the defence conducts its case. That is the very point we are looking at in the criminal jurisdiction domestically in relation to our legislation—as opposed to a counter-terrorism operation where intelligence is being sought. We believe that in that environment sleep deprivation can be appropriate, but the question of its extent and manner is one which has to be exercised by those concerned in an appropriate way because, as the Attorney-General said, sleep deprivation per se in a counter-terrorism security exercise is not torture as such unless there are other circumstances which would rule it so—and in that event you look at the extent and the manner. You have to look at it in those two discrete areas: one is a criminal investigation and one is counter-terrorism intelligence gathering.

**Senator Nettle**—Mr President, I ask a supplementary question. I thank the minister for his extraordinary answer and ask him to address that issue of Australian authorities' use of these sleep deprivation tactics in both circumstances, criminal and counter-terrorism. Further to that, I ask the minister, given that last week the United States passed a law allowing coercive measures including sleep deprivation for use in US detention facilities for gathering evidence: does the minister think that it is acceptable for David Hicks to be subject to sleep deprivation?

**Senator Ellison**—Senator Nettle asked a number of questions in her supplementary question. I say at the outset that this government does not endorse torture in any shape or form. I want to make that very clear. I would also like to say that Australian authorities do not engage in torture and there is no endorsement of that. In relation to how we conduct our operations in counter-terrorism, I am not going to go into the detail of that. That is an operational matter. In relation to criminal investigations, I think it is well established in relation to the practice engaged in by federal police and others in this country as to how their investigations are carried out.

**Senator Bob Brown**—Mr President, I rise on a point of order. The minister was asked by Senator Nettle directly whether he condones the use of sleep deprivation with Australian David Hicks. He should answer that question.

**The President**—I do not believe there is a point of order there. The minister has 16 seconds to complete his answer.

**Senator Ellison**—I have nothing further to add.

**Senator Bob Brown**—Mr President, I rise on a point of order. Clearly the minister was asked a question and is obliged to answer it not duck it. It is a very important question about an Australian citizen and international law, and it is his obligation to give an answer, not to simply say that he will not. Mr President, I ask you to get him to give an answer to that question.
The PRESIDENT—Senator, I hear what you are saying but I cannot direct the minister to answer a question, nor can I tell him how to answer a question. That has been ruled on by many presidents. He has completed his answer and that is it.

Defence Cleaning Contract

Senator LUNDY (2.48 pm)—My question is to Senator Campbell, the Minister representing the Minister for Defence. Can the minister confirm that Defence personnel have been asked to volunteer for extra duties at overtime rates in order to escort cleaners while they do their job? Hasn’t this request been necessary because the new Defence cleaning contractor, Serco Sodexho, isn’t able to attract or retain enough qualified and security-cleared cleaners to clean Defence facilities around the nation? I ask the minister: is this problem a direct result of government pressure that the contractor employ its staff on Australian workplace agreements? Why has the government allowed its ideological obsession to lead to the ridiculous situation where Australian Defence Force personnel are being required, at great expense, to supervise cleaners?

Senator IAN CAMPBELL—A question about the arrangements within the Defence portfolio is always an important one. What this government has sought to do over the past few years is to deal with the ludicrous situation that applied when Labor was in charge—for example, when Mr Beazley was defence minister you had a situation where only around 42 per cent of Australian troops were combat ready. One of the clear philosophies that the Howard government have sought to put in place is to ensure that we move troops to being combat ready—to have a defence force which is far more focused on doing its job. We have increased the combat ready personnel to 62 per cent. It is incredibly important that we continue to focus on that.

In relation to the specific issue of maintenance contracts, and ACT defence garrison support, the Serco Sodexho contractor referred to by Senator Lundy has been selected as the best value for money provider for the ACT and southern New South Wales region, with a contract potentially worth around $300 million over nine years. In line with the Howard government’s philosophy of ensuring that we see the money hit the ground to ensure that our defence troops are in fact combat ready and deliver the crucial defence role, what we are trying to ensure with this contract—and we know that Senator Lundy would prefer to have those cleaning services performed by members of her union; we know that she would prefer to have her union comrades in those jobs—is that we get good value for money and that we get the services provided. We are confident that that can be achieved.

Senator LUNDY—Mr President, I ask a supplementary question, and I note in asking it that the minister did not answer my original question. I now ask the minister: will Serco Sodexho now be liable for the cost of the overtime that Defence has to pay its personnel so that they can act as escorts to cleaners at Defence facilities? Or will Defence itself simply pick up the tab, meaning that taxpayers will have to fork out to pay for the government’s ideological position on AWAs?

Senator IAN CAMPBELL—Unfortunately for Senator Lundy and her recruitment campaign for the union, the reality is that under this contract 80 per cent of the staff will actually receive better pay and conditions than they would have under previous arrangements. Our ideological commitment is to make sure Australia is well defended. Our ideological commitment is to
make sure that Australia has a strong Defence Force. That is why we have increased defence spending. We have increased the size of the force. We have made it more effective. We have armed it better. We have made it more combat ready. You only need to compare our record on defence with the Labor Party’s, and I know who the Australian people will continue to support if they care about the defence of Australia.

Senator Lundy—I rise on a point of order. My point of order is one of relevance. I specifically asked about the liability of the costs for overtime, and I would like the minister to answer.

The PRESIDENT—I believe the minister had finished answering the question. I believe he was asked about contracts, and I believe that seemed to be the only information he had. Nevertheless, I call Senator Adams.

Ageing

Senator ADAMS (2.53 pm)—My question is for the Minister for Ageing, Senator Santoro. Will the minister advise the Senate what activities took place in Australia to mark International Day for Older People and what the government is doing to promote healthy ageing amongst older Australians? Further, is the minister aware of any alternative policies?

Senator SANTORO—I thank Senator Adams for her question, and I say to her before her peers that I very much appreciate her valuable advice to me in relation to Australia’s commemoration of International Day for Older People. She is an abundant source of very good advice.

I am pleased to advise that there was a significant level of activity to mark the International Day for Older People on 1 October, the theme of which was ‘celebrating seniors’. Whilst I was in Goondiwindi on that day, I launched the Still Inspiring calendar, which profiles 12 active and still very inspiring older Australians. Elsewhere around the country, MPs and senators were given certificates to issue at ceremonies to publicly acknowledge the contributions of older people. Seven thousand five hundred certificates were sent out, and I am told that they were extremely popular with the older constituents of all people in the parliament, including our friends in the opposition.

However, one Labor figure who seems to be unaware of the great things that the government is doing to celebrate older Australians is the opposition shadow minister for ageing, Senator McLucas. Senator Adams asked me whether I am aware of any other policies, particularly those of the opposition. What I say is that, in her recent project—and I hesitate to call it a policy paper—Senator McLucas called on the government to introduce awards to recognise the contribution of older Australians. That is what Senator McLucas said: ‘to introduce awards’.

Senator Chris Evans interjecting—

Senator SANTORO—in response to the Leader of the Opposition in the Senate, to be positive, I would like to table, for the information of senators, a certificate. I would also like to table a copy of the Still Inspiring calendar, which I will circulate to all members of the Senate and all members of the parliament.

As I mentioned, 7,500 certificates were sent out last week for this very purpose: to recognise and celebrate the achievements of older Australians. So, as with the examples I gave yesterday, this so-called idea from Labor is something else that the government is actually doing. Perhaps I have been a bit harsh on Senator McLucas and her famous paper in the last couple of days, but there might actually be a good idea in there. Let me explain: she proposes a single card to allow older people to access the entire range
of government services. This will build, she says, on the seniors card, Medicare card and veterans gold card. ‘A single access card for all services,’ says Senator McLucas. I commend Senator McLucas for this very original idea, and I will urge my colleague Joe Hockey, the Minister for Human Services, to implement it as soon as possible!

I would respectfully say to Senator McLucas that what she needs to do is go out and become very well acquainted with what the government is actually doing in the Ministry for Ageing. Once you actually acquaint yourself, you will see—

Senator Robert Ray—‘You’!

Senator Santoro—Through you, Mr President: Senator McLucas will see that the vast majority of what she is suggesting—no prescriptive, no definite policy suggestions—is actually what the Howard government is doing in the vital areas of developing and implementing policies for ageing and frail Australians. I would strongly recommend that Senator McLucas gets serious and actually does some hard work in terms of developing alternative policies.

Solomon Islands

Senator Kirk (2.58 pm)—My question is to Senator Ellison, Minister for Justice and Customs.

Senator Chris Evans interjecting—

The President—Senator Evans! Your colleague is on her feet trying to ask a question.

Senator Kirk—My question concerns the attempt to extradite Mr Julian Moti, who reportedly remains a candidate for the position of Solomon Islands Attorney-General. Is the minister aware of reports that Mr Moti returned to Australia following the dismissal of child sex charges in Vanuatu? Were the Australian Federal Police aware of the incident that prompted the Vanuatu charges at the time of Mr Moti’s re-entry into Australia? Can the minister explain when the investigation into Mr Moti began, why the investigation has been delayed and why Mr Moti was not arrested and charged in Australia during the several years which he spent here?

Senator Ellison—The circumstances surrounding the charges against Mr Moti go back some time. In fact, the Vanuatuan authorities were dealing with this issue over a period of some years. As has been placed on the record by me, it was dealt with in Vanuatu and it never went to trial. It was a situation where the charges were dismissed. As I understand it, the appellate court referred it back to the magistrate, who dismissed the charges. There was then some inquiry regarding the circumstances surrounding the issue. Vanuatu requested assistance from Australia. There was some ongoing communication, if I can put it that way, between Vanuatu and Australia. The Vanuatuan authorities then decided that they would pursue the matter no further. That all took some time. It was only at the beginning of last year that we reached a point where the Australian Federal Police were able to take over the matter and embark upon their own investigation, which they did.

I advise the Senate that, in these circumstances—where you have an Australian citizen who is charged with offences overseas—the practice is to allow that jurisdiction to deal with the person first and await the outcome of that process. At the conclusion of that process, Australia then looks to take its own action if required. In this case, that is precisely what happened. The AFP then investigated the matter over the course of last year. A brief was sent to the Commonwealth Director of Public Prosecutions, who looked at it and confirmed that there was a case that should be prosecuted, that charges should be laid and that this would form the proper basis of a request for Mr Moti’s extradition.
Mr Moti is an Australian citizen and he has been in and out of Australia over a period of time. I do not have the dates, but I can get back to the Senate in relation to that. What I can say is that the Australian Federal Police could hardly be expected to arrest someone whilst they are still investigating a matter. They have to go through the process of evaluating the matter and then there is an investigation process and referral to the CDPP. The CDPP then confirms the brief and says it is appropriate to lay charges. Charges are then laid and extradition is sought. That is a process which in itself can take some time.

I will get further detail in relation to the timing of Mr Moti’s visits to Australia, but there is nothing in the fact that Mr Moti may well have been visiting Australia in that time because, in the first instance, he was being dealt with by the Vanuatuan authorities—which we leave with them—and then, when the AFP took over the matter, there was an investigation which was ongoing over a period of time. I believe we reached a point this year where we were able to seek his extradition, but we then had to establish his whereabouts. He was previously in India. We made a request to the Indian authorities. He left India. We understand that he was attempting to return to the Solomon Islands and transited Papua New Guinea. We then had to put in place the arrangements to seek his arrest there, which we did. Of course, he was arrested in Papua New Guinea and now he has fled to the Solomon Islands, where he is in custody. (Time expired)

Senator KIRK—Mr President, I thank the minister for his answer, but I asked whether Mr Moti was under investigation at the time of his last departure from Australia and, if he was under investigation, why the government allowed Mr Moti to exit Australia.

Senator ELLISON—The mere fact that someone is under investigation may not give you sufficient grounds to stop that person’s travel. I hasten to add that, as I was just about to say earlier, Mr Moti is now in the Solomon Islands and we are seeking his extradition. The point that is made here is that, because he is under investigation and comes to Australia, we then take action to arrest him at that point and stop him from leaving Australia. Of course, before you make that arrest, you have to have the investigation completed. In this case, the Australian Federal Police even referred the brief to the Director of Public Prosecutions, who confirmed that charges should be laid—and, of course, they were—and his extradition sought. But I do rely on the Australian Federal Police and the Commonwealth Director of Public Prosecutions to make that decision. I have total faith in the professionalism and competence of both of those agencies and we rely on their actions in this regard. (Time expired)

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Telstra

Senator MINCHIN (South Australia—Minister for Finance and Administration) (3.04 pm)—I would like to add to an answer I gave to Senator Sherry with respect to Telstra’s superannuation arrangements. As I explained to the Senate yesterday and today, the CSS is of course a superannuation scheme for public sector employees only. When a government business enterprise is owned by the government, then membership continues; but if that GBE is privatised and government ownership falls below 50 per cent, then of course those employees can no longer be part of the CSS—and that is exactly what Labor in government did with.
respect to the 1993 sale of Qantas and exactly what it did in 1994 with the sale of the Commonwealth Serum Laboratories.

Senator Sherry has tabled a letter today from the chief financial officer of Telstra. In that letter, Telstra sought to argue that the Commonwealth should change its policy and continue CSS membership for employees who are members of that scheme even after the full privatisation of Telstra. That was an attempt to seek a change in policy, and you can see from the point of view of Telstra why they would love it if the Commonwealth would continue to pay for membership of that scheme.

Telstra did try in that letter to link this CSS issue with an unrelated superannuation issue—that is, the payment by the Commonwealth in 2004 to the Telstra superannuation scheme to settle the Commonwealth’s outstanding liabilities to that scheme—a very good proposal that the Labor Party supported at that time. But there was no basis whatsoever to link the two proposals. Telstra’s argument had no foundation, and Telstra had no legal case. As can be seen from the response to Telstra by the Department of Finance and Administration, which Senator Sherry has also tabled, Finance, after due consideration, completely rejected Telstra’s argument.

The Commonwealth is clearly entirely within its rights—as was the then Labor government—to stop membership of the CSS. Once the company is in majority private hands, that responsibility should no longer fall on taxpayers but on the new owners of the business. There is also no obligation on the Commonwealth to continue CSS membership arising from that unrelated 2004 deed of release, which was, as I say, a completely unrelated super agreement.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS

Answers to Questions

Senator SHERRY (Tasmania) (3.07 pm)—I move:

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

I particularly want to raise the issue today that Senator Minchin has already referred to—that is, the future superannuation arrangements of some 1,800 Telstra employees who are to effectively receive a cut in their promised pension arrangements as a consequence of the privatisation of Telstra. As I raised yesterday by way of an example, the reductions in the promised defined benefit are significant. They vary from employee to employee, but I have been contacted by a number of existing employees of Telstra who, when they commenced employment with Telstra, joined the CSS. The example I gave yesterday was of a foreman-linesman who, because of the sale of Telstra and the new pension arrangements that will have to be entered into, will effectively have a cut in the promised pension benefit of $11,000 a year. The impacts vary depending on the circumstances of the 1,800 employees.

We would expect more from Senator Minchin. We do not expect much from Senator Coonan; in fact, we expect nothing from Senator Coonan in her role in this matter. Labor argues that one of the difficulties the government has with the treatment of these Telstra employees is that they have not even been offered any ongoing or comparable pension benefit. In the case of the Commonwealth Bank and Qantas, Senator Minchin is frankly being a bit disingenuous. He makes the correct point that the employees in those cases did not continue in the CSS. However, those employees, continuing in their service with Qantas and the Commonwealth Bank,
had at least a comparable superannuation benefit pension fund promise that was met by Qantas and the Commonwealth Bank. That is not the case with respect to Telstra privatisation.

In addition to that, today I have been able to release secret correspondence—it is not secret now, of course; I got hold of it, probably to Senator Minchin’s embarrassment—between Telstra and the privatisation unit of Telstra. It makes a point, I think a very valid legal point, that—aside from the possible illegality, given the successor arrangements that are being put in place for these 1,800 employees—at least questions Senator Minchin’s role in this. It refers to the 2004 deed of release signed between Telstra, the Commonwealth government and Telstra Superannuation Pty Ltd. It draws the attention of officers in the privatisation unit to legal advice that Telstra had received with respect to that deed of release. That is at least one of the legal arguments which Telstra presents to the government to say that continuing membership of the CSS should be allowed because of the deed of release. But I would argue—I have already referred to it—that, because the disadvantage to be suffered by these 1,800 employees with the cuts in their promised pension benefit is so significant, the government faces a significant legal issue.

I have asked the minister today whether in fact this matter has been considered by the pension regulator, APRA. APRA do take a very tough position with respect to any attempt to reduce the pension benefits that were promised with respect to a defined benefit. Did the government consult with APRA on this matter? There is a possible constitutional issue about reducing promised pension benefits. So, as a consequence, both the government and Telstra may be open to legal action by at least some, or all, of the 1,800 Telstra employees who are being significantly disadvantaged by the failure of the minister to deliver at least a comparable on-going pension benefit that has been promised to them as membership of the CSS. (Time expired)

Senator ADAMS (Western Australia) (3.13 pm)—Senator McLucas mentioned the Telstra job cuts in the Cairns and Maroochydore call centres. No doubt she is very concerned because those places are located in her electorate of Queensland. When Labor was last in power, unemployment was at 10.9 per cent and one million Australians were unemployed. Over the last 9½ years we have seen 1.8 million extra jobs created in Australia. Almost one million of those 1.8 million jobs have been full-time jobs. In relation to Telstra’s job numbers, Labor has no credibility. Telstra’s staff numbers fell from 90,000 to 76,000 between 1990 and 1992. At that time, Kim Beazley was the communications minister. Since then, the competitive framework set by the government has allowed more than 150 providers to enter the industry, which, according to the International Telecommunication Union, employs approximately 77,000 people. Work commissioned by the Australian Communications and Media Authority, ACMA, estimated that the government’s competition reforms in 1997 have increased employment by around 23,300 people. Service standards have also improved over this time.

The government is focused on ensuring that consumers reap the benefits of new technologies, lower prices and better services. And we will ensure that all carriers, including Telstra, comply with their regulatory obligations—unlike the Labor Party, which revealed yesterday that, if elected, it would water down the regulatory regime and the key consumer protections in order to boost Telstra’s share price. Labor opposes what it referred to yesterday as ‘government imposed regulation which threatens Telstra’s
earning prospects’. What this means is that Labor will water down the regulatory arrangements, leaving consumers stranded, all to boost the share price of the largest and most profitable telecommunications provider in the country—this from a party and a shadow spokesperson who have accused the government of fattening the Telstra calf for market day. What extraordinary hypocrisy from the Labor Party. The evidence shows that encouraging competition has benefited all Australians and the overall economy by creating jobs and reducing prices for telecommunications services.

Yes, Telstra is reducing its workforce. But remember that there are 150 other telecommunications companies in Australia who are employing Australians as well, and we now have record low unemployment in this country. Under Labor, unemployment was at record highs and the telecommunications market was a cosy duopoly consisting of just Telstra and Optus.

In relation to the Cairns and Maroochydore Telstra call centre closures, it is disappointing news because it does affect 83 staff in each centre. The government never likes to hear about job losses, particularly in regional communities. Telstra has advised that all affected staff in Cairns and Maroochydore will receive full redundancy benefits to assist them to find other employment, either internally or externally. This includes assistance with career planning, financial planning and advice, preparation of CVs and interview skills, and assistance with internal and external job searches. These job cuts are part of Telstra’s much-publicised transformation program, which was announced in November 2005. Telstra’s transformation program involves reducing its workforce numbers by around 10,000 over the next five years as a result of the introduction of new technologies—(Time expired)

**Senator LUNDY** (Australian Capital Territory) (3.18 pm)—I thought the answer given by the Minister for the Environment and Heritage was extraordinary because the minister did not know the answer to the question so he sought to waffle for approximately five minutes of his response time. But I would like to enlighten the minister as to what is going on in Defence facilities. An email has been circulated, titled ‘Opportunity for paid overtime’, that articulates how personnel are being sought to be security escorts for cleaners at Defence sites after hours and being paid for the overtime. The email states: ‘The security escorts will be required for possibly the next three weeks, Monday to Friday, from 1700 to approximately 2200 hours, with the possibility of some weekend security escorting from 10 o’clock through to six o’clock. Please advise your staff accordingly.’ And it goes on.

But this absolutely ludicrous situation—where Defence Force personnel are being paid overtime, and presumably penalty rates, to escort cleaners—has arisen because the new contractor, Serco Sodexho, has insisted on employing their workforce, as they take over that contract, on AWAs. That has resulted in a number of those cleaners saying, ‘No, we don’t want AWAs; we want an ongoing collective agreement as we have had in the past.’ The contractor has been insistent that AWAs be applied, so of course those qualified cleaners with their security clearances have either not applied for or not been offered a job with the new contractor.

I do not know whether the new contractor did not anticipate the issue of the requirement for security clearances, but I have to say I would commend Defence for that requirement, because they are obviously very conscious of the security requirements. I also have to say I commend the cleaners involved, because they obviously have to take very seriously those security clearances that
are provided to them. But it is easy to reflect on the Department of Defence providing this, because it raises the question: why is the Department of Defence willing to pay overtime to Defence personnel, to escort these cleaners, on the back of this issue of whether the contractor pay an AWA or pay a collective agreement? And it leaves me with very little choice but to make the assumption that there is some pressure on that contractor—and, indeed, on Defence—to stick with their line on the AWAs, because it makes no sense at all that there be an imposition on the taxpayer as a result of the additional cost to Defence by virtue of the overtime payments necessary to get these cleaners on-site.

What is going on here is the tail end, or perhaps the ongoing saga, of a dispute that relates to how these workers were transferred over. As the minister said, there is no doubt that Serco Sodexho have come in and won this contract from previous cleaning contractors. In the transfer of the workforce to the new contractors, they have hit a problem with negotiations. A union is involved, the LHMU, which has sought to represent the cleaners and initially had to argue, I think successfully, that the award rate of pay be reflected in the AWA that was being offered. But since that time the workers themselves have wanted to pursue specifically a collective agreement, and it was at that point when negotiations fell apart.

I know that Serco Sodexho do have collective agreements in other places, with other employees. Again, this is further evidence that there must be some pressure by this government to be using these contracts to perpetuate its ideological commitment to AWAs; whereas clearly this problem could be solved if the contractor were willing to negotiate a collective agreement with their workforce and with the union involved. This is prima facie evidence of how ideological this government is in pursuing AWAs. It is not only at the expense of the quality of life and the work experience of qualified and proud cleaners who have done this job for 10 years but at the expense of good management and, I would suggest, of the morale of Defence personnel. (Time expired)

Senator JOHNSTON (Western Australia) (3.23 pm)—In response to the answer given by the Minister for the Environment and Heritage, I will commence by acknowledging the fact that the proprietor of the brickworks concerned is a person who has achieved a great deal in Western Australia. Starting from a low base, he has built up a very diversified and successful business in building and construction, in cement and concrete manufacture, in the fabrication industry and in transport. In achieving that success, he has along the way alienated and aggravated the Australian Labor Party in Western Australia. One of the reasons he has aggravated and alienated them is that he does not bow or kowtow to union heavy-handedness or thuggery.

When we come to this place, obviously those who support such tactics want to make some mileage out of the recent approval by the Minister for Transport and Regional Services of a site at the Perth Airport for a new brickworks. The most important thing that can be said about the new brickworks is that it meets a very important demand, particularly for young people seeking to build their first homes in Western Australia. Anybody who has an understanding of the Western Australian building and construction industry, particularly the cottage industry, knows that there is a chronic shortage of bricks.

There are only two effective brick producers—the Midland Brick Company and Austral. That duopoly situation is very unhealthy for homebuyers, particularly young homebuyers. I note that that is not a concern of the Labor Party in this debate about the airport. I
note that they do not give a fig at all for the fact that bricks are scarce and very expensive. They do not care that builders are hard-pressed—and, unlike my learned friends on the other side of this chamber, I talk to builders about the fact that they are very hard-pressed to comply with their contractual time constraints, given the shortage of bricks.

I would have thought that, if senators on the other side and, indeed, the Western Australian government and the Australian Labor Party were doing the right thing, they would be interested to see the supply of bricks to the housing construction industry increase and, with that, the market constriction would be eased. But, no, they simply seek to make political points out of the fact that Mr Len Buckeridge and BGC have been given a leasehold, a commercial lease, on land at the Perth Airport upon which to construct a brickworks. The emissions from that new brickworks will be Australia’s lowest for a plant of that size and dimension. This is a world-class, cutting-edge, state-of-the-art brickworks which will emit virtually less than five per cent of the emissions of its comparative competing brickworks, so I am told.

The point about all this is that questions relating to the brickworks are about nothing more or less than crass politics. It really is a bit sad that senators from Western Australia on the other side of this chamber think that it is a good thing to attack someone who has built up an industry, built up a business, who seeks to provide an industrial capability to the people of Western Australia, as isolated as we are, for housing and construction, because they happen to be of a different political persuasion. That is, of course, indicative of the state of mind of very many in the Labor movement at the moment. It saddens me that someone who has achieved so much and who seeks to achieve more is going to be belittled and pilloried in his work because of that. My question is: why can’t we leave politics behind here and focus on the benefit to Western Australians in their ambition to acquire and construct a home?

Senator STERLE (Western Australia) (3.28 pm)—I take note of the contribution from Senator Johnston opposite, and I have a feeling that when he is referring to WA senators across the other side of the chamber he is referring to me. Senator Johnston, it is only fair for us to get a few points very clear. This is not about a personal attack on Mr Buckeridge and BGC. This follows on from 5,500 signatures on a petition from the people of Hasluck around the suburbs of High Wycombe, Maida Vale and Rosehill, where the proposed brickworks will be built. This is not a bunch of union thugs that have filled in 5,500 signatures; it is the people of the electorate of Hasluck. Senator Johnston, you know very well that not only have your colleagues Senator Adams and Senator Lightfoot been pulling out all stops to assist the 5,500 people in trying to stop this brickworks but also the Liberal member for Hasluck, Mr Stuart Henry, has been doing so.

Mr Stuart Henry has been putting out a lot of information opposing the brickworks in the seat of Hasluck too, Senator Johnston, so I do not think that was a fair interpretation of our efforts to try and stop the brickworks, approval for which has been granted to Mr Buckeridge. Whether it be Mr Buckeridge or any other builder who has come from blue-collar grassroots or wherever, congratulations to him. This is what it is all about: it is about trying to stand up for the people of Hasluck who do not want this brickworks in their backyard.

In rising to speak on the motion to take note of questions today, Mr President—I am sorry, Mr Deputy President; that is a faux pas but I hope it will come true in the future—I refer to the question asked of the Minister
representing the Minister for Transport and Regional Services. We saw a characteristically underwhelming and pathetic display. I was waiting for an answer to the question I had asked but it did not come forward. You have to wonder why the Prime Minister would hang Mr Stuart Henry, the member for Hasluck, out to dry. The Perth Airport brickworks will drag him down; there is no doubt about that. He has even admitted that, as can be seen in the latest newspaper clipping. The Prime Minister and the transport minister at the time, Mr Warren Truss, bent over backwards in their haste—this is what it is all about—to approve the availability of the airport land for Buckeridge to commence construction of these brickworks. In Mr Henry’s own admission, he went begging and pleading to the Prime Minister for the brickworks not to go ahead, but, sadly, his voice carries no weight within the party room. Unfortunately, there is a long history of Liberal Party ministers bending over backwards to help their mate Mr Buckeridge.

For those who are not aware—all Western Australians will remember—the Peppermint Grove Shire Council issued a stop-work order against Mr Buckeridge’s own company, Homestyle Pty Ltd, when it was found guilty of departing from council approved building plans. The then Liberal minister, Mr Paul Omodie, who is now the Leader of the Opposition in Western Australia, came out and rejected the advice of his own department and overturned the stop-work order. At least Mr Henry has been trying, as I say, but Mr Henry is just collateral damage in the war for campaign donations.

The people of Hasluck are not silly. They know that his voice carries no weight and they will make their decision come election time next year. To make matters worse for Mr Henry, there appears to be a concerted effort amongst his own Liberal colleagues and their strategist to kick him while he is down. In yesterday’s edition of the West Australian newspaper, reporter Mr Andrew Probyn published leaked details of Liberal Party-commissioned Crosby Textor polling which shows that Mr Henry is looking pretty crook. To add insult to injury, the leaker made the claim that Mr Henry was ‘not doing enough to save his seat from being returned to Labor’. It is very hard to be seen to be doing a lot to save your seat when your own colleagues come out, sharpen the knives, whack you between the eyes with an axe and stick a knife between your ribs. That is what has happened in the seat of Hasluck.

Senator Adams and Senator Lightfoot have been pushing out information, using their postage entitlements to get it all out there, and saying: ‘We are really doing a wonderful job. So is Mr Henry. But it is not our fault. It’s the state government’s fault.’ It is a greater insult to Mr Henry that the state government’s voice would carry more weight in the party room or with the Prime Minister than his own. It is a very sad state of affairs. 

(TIME EXPIRED)

Question agreed to.

Judicial Appointments Process

Senator MURRAY (Western Australia) (3.33 pm)—I move:

That the Senate take note of the answer given by the Minister for Justice and Customs (Senator Ellison) to a question without notice asked by Senator Murray today relating to the appointment of judicial officers.

The question related to a paper presented to last Sunday’s judicial conference of Australia by two Australian legal academics concerning the desirability of an independent judicial appointments commission. I have long been an advocate for appointments on merit, Mr Deputy President, as probably you and other senators present would remember. On over 30 occasions in this parliament in the last 10 years I have put the proposition that ap-
pointments to various boards, authorities and otherwise should be made on merit and on over 30 occasions the coalition government have voted them down, against the principle of pointments on merit as established through a proper criteria process.

The answer today reflected a similar attitude. But they cannot get away from this issue. They just cannot escape it. It is no accident that in Britain and in other countries pointments on merit have become a major issue, stretching as far back as 1995 when Lord Nolan, with his commission, introduced the principle of pointments on merit to British statutory agencies and others. Now of course, under the Blair government, from 2005 they have introduced a judicial appointments commission—which they initiated in 2003—which satisfies two criteria of pointments on merit. One is that the selection and recruitment process should be transparent and the second is that pointments which are entirely predicated on merit should be recommended to the government. The government are not going to be able to run away from this. It is no accident that this issue has been put before the recent Australian judicial conference. In 1998 Felicity Maher and I put a joint paper in the Alternative Law Journal covering this issue. We were not the first and we will not be the last.

The paper presented by the two legal academics—Simon Evans and John Williams—argues for reform in the process by which members of the Australian judiciary are selected. In advocating reform they do not suggest the appointment process to date has failed. Measured in historical and international terms, the Australian judiciary is acknowledged to be of outstanding quality and to have enjoyed the public’s confidence. Rather, they advocate reform in order to ensure two things: firstly, that the judiciary retains the independence that is essential for it to discharge its constitutional functions; and, secondly, that it reflects the society from which it is drawn and continues to enjoy the confidence of that society.

The two legal academics recommend that Australia adopt a process for judicial pointments that is based on the process recently established for England and Wales under the Constitution Reform Act 2005, where pointments, although they would continue to be made by the executive, would be short-listed from a judicial appointments commission consisting of three judicial members, three legal members and three non-legal members, including the chair, and they recommend to the executive three names from which the appointment is made. There would be a culmination of an evidence based process involving applications, references, interviews and, in some cases, a practical assessment of relevant skills. That paper was covered by the Financial Review journalist Marcus Priest in a front-page item on Tuesday, 10 October 2006. He quoted from the paper. The article said that the authors of the paper had said it is a ‘notorious fact that judicial officers have been appointed whose character and intellectual and legal capacities have been doubted and whose pointments have been identified as instances of political patronage’. Today, in matters of public interest, I discussed these very matters.

I note that in the follow-up article in the Australian Financial Review former Chief Justice of the High Court Anthony Mason gave support to it, as did former Victorian Supreme Court Judge Stephen Charles and Federal Court Judge Ronald Sackville, who said that Mr Ruddock’s resistance to these ideas would not be the end of the matter. It is one of those things, I am afraid, where support is building within the legal community for this particular area to be resolved. (Time expired)

Question agreed to.
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 the Uniting Church, Hampton Park, VIC, 3976 petition the Senate in support of the above mentioned motion.

And we, as in duty bound will ever pray.

by Senator Allison (from 39 citizens).

Information Technology: Internet Content
To the Honourable the President and Members of the Senate in Parliament assembled

We, the undersigned citizens of Australia draw to the attention of the Senate the common incidence of children being exposed to Internet websites portraying explicit sexual images. These images may involve children/teens, sexual violence, bestiality, and other disturbing material. Many such websites use aggressive, deceptive or intrusive techniques to induce viewing. We submit to the Senate that:

- Exposure to pornography is a form of sexual assault against children and should be considered, like all sexual abuse of children, as a serious matter causing lasting harm.
- It is not adequate to charge individual parents with the chief responsibility for protecting their children from Internet pornographers determined to promote their product, OR to expect parents to teach children to cope with the damaging effects of pornographic images AFTER exposure.
- It is the primary duty of community and Government to prevent children being exposed to pornography in the first place by placing restrictions on pornographers and those businesses distributing such material.
- Internet Service Providers (ISPs), should accept responsibility for protecting children from Internet pornography, including liability for harm caused to children by inadequate efforts to protect minors from exposure.

Your petitioners therefore, pray that the Senate take legislative action to restrict children’s exposure to Internet pornography. We support the introduction of mandatory filtering of pornographic content by ISPs and age verification technology to restrict minor’s access.

by Senator Carol Brown (from 15 citizens).

Petitions received.

NOTICES

Presentation

Senator Payne to move on the next day of sitting:

That the Legal and Constitutional Affairs Committee be authorised to hold a public meeting during the sitting of the Senate on Monday, 16 October 2006, from 7.30 pm, to take evidence for the committee’s inquiry into the performance of the Australian Federal Police, adopted by the committee pursuant to standing order 25(2)(b).

Senator Heffernan to move on the next day of sitting:

That the time for the presentation of the report of the Rural and Regional Affairs and Transport Committee on Australia’s future oil supply be extended to 27 November 2006.
Senator Johnston to move on the next day of sitting:

(1) 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 27 October 2006.

(2) That the committee may consider any proposed government amendments to the bill.

Senator Allison to move on the next day of sitting:

That the Senate—

(a) notes:

(i) the call last week by 135 respected global leaders, including former presidents, prime ministers, foreign and defence ministers, congressional leaders and heads of international organisations including Boutros Boutros-Ghali, Jimmy Carter, Mikhail Gorbachev, Bill Hayden, John Major and Mary Robinson, for a comprehensive settlement of the Arab-Israeli conflict,

(ii) that everyone has lost in this conflict except the extremists throughout the world who prosper on the rage that it continues to provoke,

(iii) that every passing day undermines prospects for a peaceful, enduring solution and that, as long as the conflict lasts, it will generate instability and violence in the region and beyond,

(iv) the need for United Nations (UN) Security Council resolutions 242 of 1967 and 338 of 1973, the Camp David peace accords of 1978, the Clinton Parameters of 2000, the Arab League Initiative of 2002, and the Roadmap proposed in 2003 by the Quartet (UN, United States of America, European Union and Russia) to be implemented in resolving the conflict, and

(v) that the goal must be security and full recognition to the state of Israel within internationally-recognised borders, an end to the occupation for the Palestinian people in a viable independent, sovereign state and the return of lost land to Syria; and

(b) calls on the Government to join these world leaders in pressing for a new international conference, held as soon as possible and attended by all relevant players, at which all the elements of a comprehensive peace agreement would be mapped, momentum generated for detailed negotiations and steps taken by the key players, including:

(i) support for a Palestinian national unity government, with an end to the political and financial boycott of the Palestinian Authority,

(ii) talks between Israel and the Palestinian leadership mediated by the Quartet and reinforced by the participation of the Arab League and key regional countries, on rapidly enhancing mutual security and allowing revival of the Palestinian economy,

(iii) talks between the Palestinian leadership and the Israeli Government, sponsored by a reinforced Quartet, on the core political issues that stand in the way of achieving a final status agreement, and

(iv) parallel talks of the reinforced Quartet with Israel, Syria and Lebanon, to discuss the foundations on which Israeli-Syrian and Israeli-Lebanese agreements can be reached.

Senator Bartlett to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to remove unfair impediments preventing holders of temporary protection visas from obtaining permanent protection visas, and for related purposes. Migration Legislation Amendment (Enabling Permanent Protection) Bill 2006.

Senator Allison to move on the next day of sitting:

That the Senate—

(a) notes the resolution of the International Physicians for the Prevention of Nuclear
War, on 10 September 2006 in Helsinki, calling for:

(i) relevant governments to make public all information relevant to the health and environmental consequences of their nuclear test explosions, including opening their archives to independent researchers,

(ii) long-term health and environmental effects of nuclear test explosions to be comprehensively and independently evaluated,

(iii) underground and underwater nuclear test sites and related contaminated areas to undergo best practice clean-up to be secured as much as feasible against radioactive and chemical toxic leakage into the biosphere and to be subject to long-term monitoring, and

(iv) responsibility for these public health measures to properly belong to the governments which conducted the nuclear test explosion;

(b) urges the Government to initiate talks with nuclear weapons states that have conducted tests and those states that have hosted these tests with a view to developing a treaty between the parties to at least put in place the measures called for in paragraph (a);

(c) encourages the Government to redouble efforts to encourage other countries to ratify the Comprehensive Nuclear-Test-Ban Treaty and bring it into force; and

(d) urges the Government to use its best diplomatic endeavours to dissuade North Korea from further nuclear weapons testing, and resist calls for military action against North Korea.

Senator Ellison to move on the next day of sitting:

(1) That the time allotted for the remaining stages of the Broadcasting Services Amendment (Media Ownership) Bill 2006 and three related bills be as follows:

<table>
<thead>
<tr>
<th>Stage</th>
<th>Date</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Committee stage</td>
<td>Thursday, 12 October 2006</td>
<td>immediately, until 1.15 pm</td>
</tr>
<tr>
<td>Third reading</td>
<td>Thursday, 12 October 2006</td>
<td>until 1.45 pm</td>
</tr>
</tbody>
</table>

(2) That this order operate as an allocation of time under standing order 142.

Senator Crossin to move on the next day of sitting:

That the Senate—

(a) notes that 12 October 2006 is World Sight Day;

(b) recognises that approximately 500,000 Australians are blind or have low vision;

(c) acknowledges that with Australia’s increasing ageing population, it is likely that the number of Australians who are blind or have low vision will increase;

(d) supports the commitment of the member organisations of Vision 2020 for raising awareness about conditions such as age-related macular degeneration, cataracts, diabetic eye disease, glaucoma, and refractive error and the serious level of trachoma in our Indigenous population; and

(e) commends the work of the many support groups available for those people who are blind or have low vision.

Senator Milne to move on the next day of sitting:

That the Senate—

(a) notes:

(i) the deteriorating security situation in North Asia following North Korea’s nuclear test,

(ii) that India is not a signatory to the Nuclear Non-Proliferation Treaty (NPT),

(iii) that the India-United States of America (US) nuclear deal contravenes the NPT, and

(iv) that any sale of Australian uranium would contravene the NPT; and

(b) calls on the Government to use its position in the Nuclear Suppliers Group to block the India-US nuclear deal and reject any sale of uranium to India.
Senator Bob Brown to move on the next day of sitting:
That the Senate—
(a) condemns the shooting by Chinese guards of 17-year-old nun Kelsang Namtso and a 13-year-old boy in the Himalayas on 30 September 2006; and
(b) calls on the Minister for Foreign Affairs (Mr Downer) to endeavour to establish the whereabouts and well-being of up to 30 Tibetan children, aged between 6 and 10 years, who were marched away by Red Army guards through the international climbers’ camp at Chu Oyu near Mt Everest.

Senator Milne to move on the next day of sitting:
That the Senate—
(a) notes that:
(i) the second week in October is National Weedbuster Week,
(ii) weeds seriously deplete biodiversity and cost the Australian economy approximately $4 billion per year,
(iii) climate change, as stated at the 15th Australian Weeds Conference, will make weed management increasingly more difficult, with sleeper weeds and warmer conditions leading to the habitat expansion of some weed species,
(iv) funding for the Defeating the Weed Menace Programme ends in the 2007-08 financial year, and
(v) the Weeds cooperative research centre ends its current term in 2008; and
(b) calls on the Government to:
(i) extend the Defeating the Weed Menace Programme beyond its current term with an increase in its scope and funding base; and
(ii) fulfil it promise to fund a program to increase public awareness of the weed problem in Australia.

COMMITTEES
Selection of Bills Committee
Report
 Senator FERRIS (South Australia) (3.41 pm)—I present the 11th report of 2006 of the Selection of Bills Committee and move:
That the report be adopted.
 Senator BARTLETT (Queensland) (3.42 pm)—I move:
At the end of the motion, add “but, in respect of the Environment and Heritage Legislation Amendment Bill (No. 1) 2006, the Environment, Communications, Information Technology and the Arts Committee report by the first sitting day in 2007”.

The report seeks to refer three bills to committee. The Democrats and I do not have any problem with the first two, but I do have a concern about the third. The proposal is to refer the Environment and Heritage Legislation Amendment Bill (No. 1) 2006 to the relevant Senate committee for inquiry and report by 17 November this year, and it has an appendix giving a statement of the reported reasons for referral. My amendment seeks to extend the reporting date to the first sitting day of 2007. For the record, I need to highlight a wider concern that I have—and this is not particularly aimed at the committee or the Government Whip; it is about a change that is occurring because of the attitude of the cabinet or a range of government ministers—that is, the very recent trend of the government to refer legislation for very short periods of time and to put in referrals before the legislation has even appeared.

Unless it has been tabled in the House of Representatives in the last few minutes—and I do not think it has—this particular legislation has not yet appeared. It is not completely unprecedented nor overly common, but it is becoming common for the government, presumably at the behest of ministers, to put in referrals to legislation that has not

CHAMBER
even appeared. In this case, and in many other cases, the Senate as a whole does not have much of an idea of what the legislation contains.

As a result of a range of phone calls in the last 24 hours I have managed to garner a very broad and vague understanding of what is in this particular legislation. I understand that it contains around 130 amendments to the Environment Protection and Biodiversity Conservation Act. As to the significance of those amendments, of course we are not in a position to judge, because we have not seen them—trying to ascertain the nature of them has been beyond me to this stage.

To have the Senate agreeing to what in any case would be a very short reporting date for legislation that we have not seen, that we do not know the detail of, I think is very poor practice. It is not the first time this has happened, of course, in the last 12 months. On this occasion the Democrats believe it is important enough to put on the record our concerns. What we are seeing is a growing number of occasions where the government is referring legislation instantly rather than allowing the legislation to sit—in many cases, in the House of Representatives—at least for a few days to allow people to look at it before they decide whether or not it needs referring, and giving it an extremely short reporting date.

This reporting date, 17 November, is not even a sitting day; it is the end of the first non-sitting week after the next sitting fortnight. There is another full non-sitting week after this that the committee could use, which will be denied to it, as well as of course the final two sitting weeks of the year. I would think that normally in such a circumstance there would be some justification given as to why it is sufficiently urgent that what sounds like very significant amending legislation needs to be passed through the whole parliament before the end of the year. We have not had that. Frankly, there is no reason, even if it does need to be passed by the end of the year, why it could not be the first sitting day back, which would be 27 November. By putting it at 17 November, the first non-sitting week, the committee will not be in a position to do anything other than perhaps have one or two very truncated hearing days. There will be very little opportunity for the community, for environment groups and for many of the other people in the wider community affected by this to have any input into the matter. I think that is an extremely poor process, one that is becoming very common. It is very much a departure from the way the normal Selection of Bills Committee process has operated for as long as I have been following it—which, I have to say, is now not only the nine years I have been in this place but about seven years prior to that.

(Time expired)

Senator CARR (Victoria) (3.47 pm)—The opposition will be supporting this amendment. As I understand the situation, we have a Selection of Bills Committee report where the government has proposed the reference of a bill to a committee, with essentially a two-week period of notice, to consider a bill that this chamber has not seen. I asked the clerks: ‘Where is the bill?’ They indicated to me that it has not been introduced to the Senate. I asked: ‘Perhaps it is in the House of Representatives?’ They indicated to me that, no, it has not been introduced into the House of Representatives. Then I asked what I thought was a perfectly reasonable question: ‘Well, can I have a copy of the bill?’ And I am told that a bill is not available! It’s not available!

Senator Ferris—Stop shouting.

Senator CARR—You ought to shout about this. This is the sort of thing that highlights the incredible arrogance of this gov-
ernment: a piece of legislation, which we have not seen, which we understand may involve 130 amendments, is being referred to a committee. And it is not just any piece of legislation; it is one of the most sensitive pieces of legislation in the armoury of the minister for the environment. And it is not as if it is any portfolio. It is a portfolio that has been characterised by one scandal after another by a minister who has demonstrated time and time again that he is prepared to intervene in a blatantly political manner to produce political results. He has acted quite clearly, with regard to heritage matters, in breach of the law. And now we are told we are going to have amendments to this legislation, contained in a bill that this chamber has not seen. And you ask me whether or not I should be upset about that! Every senator in this place should be very upset about that, because it demonstrates the complete contempt that this government is showing towards this parliament. It is a disgrace—a complete and total disgrace.

Why do we bother seeing any of the legislation, if this is the attitude? It has been through the cabinet, presumably—that is all we need. Perhaps we should ask the cabinet minister: ‘Have your colleagues agreed?’ That should be satisfactory, surely. Is that the standard you expect? It is not the standard that the opposition expects. We saw this minister with the fiasco around the parrots—where, in Bald Hills in Victoria, he sought to set that extraordinarily dangerous precedent of arbitrarily politically interfering in a major development and infrastructure process. He has sought to use his powers under this legislation to act in such an arbitrary way, and you want us to agree to amendments that we have not seen. You want to refer it to a committee, saying, ‘You should be able to wrap this up within a fortnight.’ Why bother?

Senator Ferris—It’s five weeks.

Senator CARR—There is a fortnight where there are no sittings. The parliament is sitting throughout the rest of that period. You say, ‘Oh, we’ll bring it back in a month.’ The parliament is sitting throughout that period. I do not know what you do, but with something like this I think you should be consulting the Australian people. That is what Senate committees used to do: they used to actually talk to people. Surely, there should be an opportunity to ask people what they think of these proposals. But, under this measure, no one has seen the bill—how would they know? I could ask you: how do you know? You have not seen it either. I bet that is the case. Senator Ferris, answer me this: have you seen this bill that you are proposing we refer to a Senate committee to report back within the month? Is that the case or not? I put it to you that you have not seen it and you are expecting us to agree to it. We are not as dopey as the government is on these matters. This is a shocking proposal. It is something that this Senate should reject. This opposition ought to be maintained right throughout this parliament. It is not the sort of behaviour that we should accept or tolerate.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.52 pm)—The behaviour of the government is outrageous in this matter. It is an affront not just to both houses of parliament and particularly the Senate in this regard but to 20 million Australians. This is a simple case of the government preparing legislation to comprehensively weaken and remove teeth from the nation’s Environment Protection and Biodiversity Conservation Act. The Greens opposed that back in 2000 when the legislation came through because we felt it was far too weak. But here is the government tugging its forelock to the resource extraction industries, not least the coal industry in this country, which do not want to have any environ-
mental assessment, any protection of this nation’s most magnificent natural and cultural sites put in the way of them making money.

It involves centrally the failed Minister for the Environment and Heritage, who would be better under the title of minister against the environment, who ought to be seeing that this weak legislation which Australia has in place is strengthened, not emasculated. But he, of course, is not in control of his portfolio. I listened to him in question time again today and yesterday in answer to Senator Siewert’s request for information, basically, as to whether he was going to stand up for the world’s great rock art site in the Burrup Peninsula. There is no alternative for that rock art if it is to be bulldozed, but there are good alternatives for Woodside if it is going to bring gas ashore. What we heard was the minister cavilling, demurring, quivering, backing down, and saying anything but that he will protect the environment.

We could have an honest delivery of legislation to the Senate, which could then pass it on to a committee inquiry with due time for the public and the environmental and cultural experts—not least the First Australians, the Aboriginal people of this great nation—to feed back to the parliament. Instead, when great heirlooms of this nation are being threatened, we have the information leaked out about this legislation to the Australian newspaper through Dennis Shanahan, political editor, who has a direct line to the Prime Minister’s office. You have the executive, which is the Prime Minister, treating both houses of this parliament with utter contempt. The control of the Senate by the Prime Minister has his vassals opposite weakly trying to defend the indefensible.

The Minister for Justice and Customs will be on his feet in a moment. One thing he will not do is to apologise for the outrageous move to give the Senate a few weeks to go to the public and the experts to look at a piece of legislation which comprehensively weakens environmental and cultural heritage protection in this country, because that is not what the big corporate backers of this government want. It might be what the Australian people want, but it is not what those corporate backers want. They are the people who will have on their logos—and the Prime Minister will be right up there with them—the use of Australia’s symbols in proclaiming their Australianness. What this legislation is about is devaluing, derogating duty towards and letting slide away more of this nation’s heritage by this corrosive and erosive process of weakening environmental laws and handing more across to the corporate domain to determine because this duplicitous and hypocritical government places profits before what makes us Australian and before what should be pride in this country.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.57 pm)—I am grateful to Senator Ferris for that great term ‘constructed nonsense’, because that is just what we have heard from the opposition and the Greens in relation to this matter. What we have in the first instance is the referral of this bill amending the Environment Protection and Biodiversity Conservation Act to a committee with a reporting date of 17 November.

Senator Carr—Where is this bill?

Senator ELLISON—It will be introduced tomorrow in the House of Representatives and then referred straightaway for consideration by a committee with a reporting date of 17 November this year. This is the plan that the government has. It is a reasonable one, and I would remind Senator Carr and those opposite that when Labor was last in government—I remember as a senator in 1993, when I came into this place—we had a
Friday committee and we used to have a turnaround of just a couple of weeks to consider most bills. That committee sat on the intervening Friday when there was no parliament. That is the sort of scrutiny we had then. I think that Senator Carr ought to take a cold shower and look at the time period we have here. We have two up weeks, which are available for Senate hearings, and also a further three weeks for people to make submissions. Five weeks is not an unreasonable time at all.

Let us turn to the urgency of this bill, because this is a very important environmental bill. It implements the government’s decision to make the legislation more effective and efficient and it allows for the use of more strategic approaches and provides greater certainty in decision making. I would have thought Senator Brown would have supported that wholeheartedly. In particular, this bill is going to reduce processing time and costs for development interests and also provide enhanced ability to deal with large-scale projects and give priority attention to projects of national importance through the use of strategic assessment and approval approaches. I would have thought Senator Brown would have supported that wholeheartedly. In particular, this bill is going to reduce processing time and costs for development interests and also provide enhanced ability to deal with large-scale projects and give priority attention to projects of national importance through the use of strategic assessment and approval approaches. I would have thought Senator Brown would have supported that wholeheartedly. In particular, this bill is going to reduce processing time and costs for development interests and also provide enhanced ability to deal with large-scale projects and give priority attention to projects of national importance through the use of strategic assessment and approval approaches.

But this bill will also enable a better focus on protecting threatened species—

Senator Carr—Like those parrots?

Senator ELLISON—and ecological communities and heritage places that are of real national importance.

Senator Bob Brown interjecting—

Senator ELLISON—I suppose the Greens are not interested in that. They are more interested in constructed nonsense. What they are not interested in is helping to better focus on protecting threatened species, ecological communities and heritage places. That is what this bill is going to do, and that is why it is so urgent. That is why it is so important. We want this through in the spring sittings, and the Minister for the Environment and Heritage, Senator Ian Campbell, is being thoroughly responsible and diligent in seeing the passage of this legislation through. If he did not, those opposite would be the first to complain. They would be the first to say that he was being tardy and was not attending to his ministerial duties. What the minister is doing here is ensuring that a very important piece of legislation is passed, with due scrutiny by a Senate committee over five weeks, and we have had that in many instances before—in fact, it was less time in Labor’s day, when they were in government.

It is important to remember that these amendments will provide the necessary regulatory framework to provide streamlined and certain decision making under the Environment Protection and Biodiversity Conservation Act, and that is very important when you consider that it will provide that with more focused environmental protection and an enhanced enforcement regime. That spells good news all round for the Australian community. We are proposing a five-week period for this bill to be scrutinised, and we say that that should be—as it is for normal legislation, important legislation—more than ample time for the committee to address this bill and to address it sufficiently.

I simply dismiss as totally hypocritical Senator Carr’s mock outrage. When you look at the previous Labor government, we used to get just a Friday committee to look at most legislation. We did not get five weeks, as this is allowing. This is an important bill. Quite rightly, the minister for the environment is diligently pursuing this. He is pursuing it appropriately. It needs to be looked at and it
needs to be passed by this parliament for the good interests of this country.

Question put:

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

The Senate divided. [4.06 pm]
(The President—Senator the Hon. Paul Calvert)

Ayes…………… 32
Noes…………… 35
Majority……… 3

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

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

PAIRS
Conroy, S.M.   Campbell, I.G.
Faulkner, J.P.  Vanstone, A.E.
Marshall, G.   Minchin, N.H.
Stott Despoja, N. Kemp, C.R.
* denotes teller

Question negatived.

Original question agreed to.

Senator FERRIS (South Australia) (4.09 pm) I seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE
REPORT NO. 11 OF 2006
(1) The committee met in private session on Tuesday, 10 October 2006 at 4.18 pm.

(2) The committee resolved to recommend—

That—

(a) the provisions of the Families, Community Services and Indigenous Affairs and Veterans’ Affairs Legislation Amendment (2006 Budget Measures) Bill 2006 be referred immediately to the Legal and Constitutional Affairs Committee for inquiry and report by 22 November 2006 (see appendix 1 for a statement of reasons for referral);

(b) the provisions of the Australian Participants in British Nuclear Tests (Treatment) Bill 2006 and the Australian Participants in British Nuclear Tests (Treatment) (Consequential Amendments and Transitional Provisions) Bill 2006 be referred immediately to the Foreign Affairs, Defence and Trade Committee for inquiry and report by 7 November 2006 (see appendix 2 for a statement of reasons for referral); and

(c) upon its introduction in the House of Representatives the provisions of the Environment and Heritage Legislation Amendment Bill (No. 1) 2006 be referred to the Environment, Communications, Information Technology and the Arts Committee for inquiry and report

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Wednesday, 11 October 2006

by 17 November 2006 (see appendix 3 for a statement of reasons for referral).

(3) The committee resolved to recommend—

That the following bills not be referred to committees:

- Financial Sector Legislation Amendment (Trans-Tasman Banking Supervision) Bill 2006
- Judiciary Legislation Amendment Bill 2006
- Law and Justice Legislation Amendment (Marking of Plastic Explosives) Bill 2006
- Medical Indemnity Legislation Amendment Bill 2006
- Social Security (Helping Pensioners Hit by the Skills Shortage) Bill 2006.

The committee recommends accordingly.

(4) The committee deferred consideration of the following bill to its next meeting:

- Migration Amendment (Border Integrity) Bill 2006.

(Jeannie Ferris)

Chair
11 October 2006

Appendix 1
Proposal to refer a bill to a committee
Name of bill(s):
Families, Community Services and Indigenous Affairs and Veterans’ Affairs Legislation Amendment (2006 Budget Measures) Bill 2006

Reasons for referral/principal issues for consideration
Schedule 2 of the bill proposes the introduction of significant new search and seizure powers for Centrelink.

These powers, and the circumstances under which they will be used, should be examined by the Legal and Constitutional Affairs Committee.

Possible submissions or evidence from:
Law and justice groups (eg law council), welfare rights organisations, civil liberties groups

Committee to which bill is referred:
Legal and Constitutional Affairs Committee

Possible hearing date:
Possible reporting date(s): 29 November 2006

Appendix 2
Proposal to refer a bill to a committee
Name of bill(s):
Australian Participants in British Nuclear Tests (Treatment) Bill 2006 and the Australian Participants in British Nuclear Tests (Treatment) (Consequential Amendments and Transitional Provisions) Bill 2006

Reasons for referral/principal issues for consideration
To examine the provisions of the bill.

Possible submissions or evidence from:
Friends of the Earth,
Alan Parkinson—nuclear engineer
Medical Association for the Prevention of War
Australian Nuclear Veterans Association
Australian Medical Association
Department of Veterans’ Affairs

Committee to which bill is referred:
Foreign Affairs, Defence and Trade Committee

Possible hearing date:
Possible reporting date(s): 7 November 2006

Appendix 3
Proposal to refer a bill to a committee
Name of bill(s):
Environment and Heritage Legislation Amendment Bill (No. 1) 2006

Reasons for referral/principal issues for consideration
Examination of the bill as necessary.

Possible submissions or evidence from:

Committee to which bill is referred:
Environment, Communications, Information Technology and the Arts Committee
LEAVE OF ABSENCE

Senator GEORGE CAMPBELL (New South Wales) (4.10 pm)—by leave—I move:

That leave of absence be granted to Senator Marshall for the period 10 October to 19 October 2006, on account of parliamentary business overseas.

Question agreed to.

KING ISLAND COUNCIL

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.10 pm)—I move:

That the Senate—

(a) congratulates the King Island Council on its success in banning plantation forestry from its farmland; and

(b) commends the Minister for Fisheries, Forestry and Conservation (Senator Abetz) for understanding ‘the view of the King Island Council and local farmers in wanting to protect their icon [sic] beef and cheese industries’.

Question put.

A division having been called and the bells being rung—

Senator Bob Brown—Madam Acting Deputy President, I raise a point of order. Might the bells ring an extra minute so that Senator Abetz has time to get here to support the Greens motion congratulating him?

The ACTING DEPUTY PRESIDENT (Senator Crossin)—That is not a point of order.

The Senate divided. [4.15 pm]

(The Acting Deputy President—Senator PM Crossin)

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

AYES
Allison, L.F.
Brown, B.J.
Murray, A.J.M.
Siewert, R.*

NOES
Adams, J.
Bernardi, C.
Brandis, G.H.
Campbell, G.
Chapman, H.G.P.
Crossin, P.M.
Ellison, C.M.
Ferris, J.M.
Fifield, M.P.
Hurley, A.
Johnston, D.
Ludwig, J.W.
Macdonald, I.
McEwen, A.
McLucas, J.E.
Nash, F.
Parry, S.
Payne, M.A.
Ronaldson, M.
Scullion, N.G.*
Stephens, U.
Trood, R.B.
Webber, R.
Wortley, D.

* denotes teller

Question negatived.

REVA ELECTRIC CAR

Senator MILNE (Tasmania) (4.19 pm)—by leave—I move the motion as amended:

That the Senate—

(a) notes that:

(i) the Reva electric car has been approved for use in the European Union, Japan and Malta and is being test marketed in the United States of America, Sri Lanka, Norway, Ireland, Switzerland, Romania and Cyprus,

(ii) electric vehicles can reduce both Australia’s dependence on foreign oil and its greenhouse gas emissions, particularly when recharged with renewable electricity, and
(iii) based on accident and insurance data, the chance of a fatality occurring in a Reva is around 50 per cent less than in an ordinary car; and

(b) calls on the Government to:

(i) remove any impediment that would prevent the import of 20 Revas into Australia for a trial,

(ii) investigate the adoption of the United Nations Economic Commission for Europe Heavy Quadricycle category 92/61/EC as a vehicle class, and

(iii) extend the import permit to delay the destruction or export of the one Reva vehicle currently in Australia until such time as a final decision is taken in regard to adoption of the heavy quadricycle vehicle category.

Question put.
The Senate divided. [4.24 pm]
(The President—Senator the Hon. Paul Calvert)

Ayes…………  31
Noes…………  34
Majority………..  3

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

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

* denotes teller

Question negatived.

MENTAL HEALTH

Senator STEPHENS (New South Wales) (4.27 pm)—I move:

That the Senate—

(a) notes that the week beginning 9 October 2006 is National Mental Health Week in Australia, incorporating World Mental Health Day which is celebrated on 10 October;

(b) acknowledges that suicide can be a tragic consequence of a failure to recognise and treat mental illness;

(c) notes that many lives are being saved by early recognition and treatment of people at risk;

(d) recognises the impact of mental illness on carers and families and acknowledges their essential role in supporting those with mental illness;

(e) notes that the Council of Australian Governments has designated mental health as a major health priority; and

(f) supports the call by the national Mental Health Council of Australia for recognition that, left untreated, mental illnesses
can be fatal and thus must be addressed as an issue of utmost importance.

Question agreed to.

VIOLENCE AGAINST WOMEN IN PAPUA NEW GUINEA

Senator ALLISON (Victoria—Leader of the Australian Democrats) (4.28 pm)—I move:

That the Senate—

(a) notes the report by Amnesty International, *Papua New Guinea: Violence against women: Not inevitable, never acceptable*, which reports that:

(i) violence against women is endemic in Papua New Guinea, affecting the majority of women and girls in some parts of the country,

(ii) healthcare, counselling services, emergency accommodation and other forms of support for survivors of gender-based violence are insufficiently available outside the capital Port Moresby, as is access to legal advice and formal justice processes, and

(iii) current harmful practices are common throughout society and contribute to high levels of violence against women;

(b) acknowledges that gender-based violence in Papua New Guinea curtails women’s freedom of movement and in turn limits women’s access to education and employment and their ability to participate freely in public life, as well as contributing to the spread of HIV/AIDS in Papua New Guinea; and

(c) calls on the Government to:

(i) urge the Government of Papua New Guinea to resource the Papua New Guinea Ombudsman Commission to enable it to fulfil its role of promoting human rights in Papua New Guinea, and

(ii) encourage the Government of Papua New Guinea to strengthen its support and increase resources for programs that will improve the implementation of Papua New Guinea laws that recognise violence against women as criminal offences.

Question agreed to.

HIGH SEAS BOTTOM TRAWLING

Senator SIEWERT (Western Australia) (4.28 pm)—by leave—I move the motion as amended:

That the Senate—

(a) acknowledges and supports the Government’s position to adopt an immediate ban on all unmanaged high seas bottom trawling;

(b) acknowledges the Australian position for a ban on fishing practices which have destructive impacts on vulnerable marine ecosystems in areas beyond national jurisdiction from 1 August 2007 where Regional Fisheries Management Organisations (RFMOs) are under negotiation, unless and until conservation and management measures are implemented; and a ban from 1 January 2008 within existing RFMOs, unless and until conservation and management measures are implemented;

(c) supports the commitment to applying the precautionary approach with independent peer review so that bans on high seas bottom trawling cannot be lifted unless it can be shown scientifically that it will not damage fragile marine ecosystems;

(d) acknowledges the commitment to strengthen conservation and management of deep sea biodiversity in areas beyond national jurisdiction;

(e) welcomes the efforts of the Australian delegation to advance the position on high seas bottom trawling within the United Nations (UN) General Assembly negotiations; and

(f) urges the Government to pursue all diplomatic avenues to ensure that this position prevails when a formal decision is taken in the UN General Assembly in early December 2006.

Question agreed to.
COMMITTEES
Electoral Matters Committee
Meeting
Senator SCULLION (Northern Territory) (4.30 pm)—At the request of Senator Mason, I move:
That the Joint Standing Committee on Electoral Matters be authorised to hold a public meeting during the sitting of the Senate on Thursday, 19 October 2006, from 9.30 am to 10.30 am, to take evidence for the committee’s inquiry into civics and electoral education.

Question agreed to.

Rural and Regional Affairs and Transport Committee
Meeting
Senator SCULLION (Northern Territory) (4.30 pm)—At the request of Senator Hef- ferman, I move:
That the Rural and Regional Affairs and Transport Committee be authorised to hold public meetings during the sittings of the Senate to take evidence for the committee’s inquiry into water policy initiatives, on the following days:
(a) Thursday, 12 October 2006, from 4.30 pm to 6 pm; and
(b) Wednesday, 18 October 2006, from 4.30 pm to 6.30 pm.

Question agreed to.

MATTERS OF URGENCY
Nuclear Nonproliferation
The ACTING DEPUTY PRESIDENT (Senator Crossin)—The President has received the following letter, dated 11 October 2006, from Senator Milne:

Dear Mr President
Pursuant to standing order 75, I give notice that today I propose to move “That, in the opinion of the Senate, the following is a matter of urgency:
The need for the Australian government to take actions that strengthen and not undermine the Nuclear Non-Proliferation Treaty following North Korea’s nuclear weapons test.

Yours sincerely
Christine Milne
Senator for the State of Tasmania

Is the proposal supported?

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

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

Senator MILNE (Tasmania) (4.31 pm)—I move:
That, in the opinion of the Senate, the following is a matter of urgency:
The need for the Australian Government to take actions that strengthen and not undermine the Nuclear Non-Proliferation Treaty following North Korea’s nuclear weapons test.

With the news this week that North Korea has detonated a nuclear weapon and news since that time that North Korea is using the threat of the use of a weapon to try to force the United States to the negotiating table, on top of our awareness that Iran’s nuclear aspirations are destabilising global security, together with calls from the new head of al-Qaeda in Iraq for nuclear specialists from around the world to provide the materials for a terrorist bomb, I think it is fair to say that the world is on the cusp of a new era of accelerated nuclear proliferation. If ever there was a matter of urgency for the Senate to discuss, it is what response Australia should have to this particularly frightening new development in terms of global peace and nuclear proliferation.

We are aware that we have come a very long way from the time when former Prime Minister Keating established the Canberra Commission on the Elimination of Nuclear
It is a tragedy for Australia that the initiative taken by a Labor prime minister in 1995 was ended—that initiative ended with the election of the Howard government—and that effort to lead Australia to offer global leadership in nuclear non-proliferation has largely dissipated in the last decade, such that Australia, having had a leadership role, is now being seen as a deputy sheriff to the United States in a world that is becoming increasingly dangerous.

Following the explosion of nuclear weapons in Hiroshima and Nagasaki at the end of the Second World War, the world was shocked into the reality of what nuclear weapons could do. In 1953, US President Eisenhower made his famous ‘Atoms for peace’ speech based on his conviction at that time that the world was racing towards catastrophe. He said:

So my country’s purpose is to help us move out of the dark chamber of horrors into the light …

… … … …

It is not enough to take this weapon out of the hands of the soldiers. It must be put into the hands of those who will know how to strip its military casing and adapt it to the arts of peace.

He proposed disarmament. By 1968 we had the nuclear non-proliferation treaty, which essentially codified a bargain that the five existing nuclear weapon states—the United States, the USSR, China, France and Great Britain—were to negotiate in good faith to disarm and that the non-nuclear states were to be guaranteed assistance in developing civilian nuclear power in return for agreeing not to pursue their own weapons. By the mid-1970s, however, things were deteriorating. In 1974, India conducted a nuclear test, and it is obvious that the expertise and material for India to be able to do that were provided by the United States. By the early seventies it was very clear that the peaceful atom and the destructive atom could not be kept separate. The spirit and the spread of nuclear knowledge and technology for peaceful purposes was clearly spreading weapons—and it still does to this day.

Since then we have had news of the Khan network. For 30 years this Pakistani used his knowledge and networks from Pakistan to build a clandestine procurement network around the world. For many countries, the nuclear bomb represented security and prestige, and countries used the proliferation of nuclear technology for strategic priorities. The US gave it to the UK, France gave it to Israel, the Soviet Union gave it to China and China gave it to Pakistan—and now we are on the verge of the United States giving it to India, outside the nuclear non-proliferation treaty and with the support of Australia.

What I think we should be looking at today is whether or not Australia will sell its uranium to India. (Time expired)

Senator PAYNE (New South Wales) (4.36 pm)—I appreciate the opportunity to take part in this discussion this afternoon and particularly to place on the Senate record Australia’s strong record of leadership in this area. I want to refer to a few different aspects of this discussion. I begin by saying that the country of which we are speaking, North Korea, has one of the most appalling human rights records in the world. The longstanding food crisis that North Korea has allowed to develop over years and years has resulted in chronic malnutrition amongst children in particular and amongst urban populations, particularly in the northern provinces. In a country where fundamental rights such as freedom of expression, freedom of association and freedom of movement continue to be denied and where access by independent monitors is severely restricted, it is of no surprise that this is the sort of behaviour that in this instance we end up with. There are well-documented reports of widespread political imprisonment, of appalling conditions
in detention and of both torture and ill-treatment, and extrajudicial executions are regarded as an unfortunate matter of course in a country like North Korea. But the bottom line is that those who lose the most from the regime’s behaviour on this occasion are their own poor and starving millions—again and again and again.

In relation to the motion that Senator Milne has moved noting the need for the Australian government to take actions that strengthen and not undermine the nuclear non-proliferation treaty following this nuclear weapon’s test, I think it is important to state very early in the debate that the prevention of the further spread of nuclear weapons and their means of delivery is a longstanding national security priority for Australia. Not just this government but successive Australian governments have recognised that if more states were to acquire nuclear weapons, even those that are far-removed from Australia, it would increase the risk of nuclear weapons being used, would destabilise both regional and international relations and would undermine global restraints on nuclear proliferation. More recently, we note that the emergence of a new form of global terrorism only adds urgency to the threat that terrorists might one day themselves carry out an act of nuclear or radiological terrorism.

The nuclear non-proliferation treaty, the NPT, which entered into force in 1970, was ratified by Australia in 1973. It is the centrepiece of the nuclear non-proliferation regime. We have been one of the longest and strongest supporters of the NPT, recognising at a very early stage that its future would have a major impact on the future security environment both globally and in Australia’s own region. It is the most widely supported arms control treaty ever. Only India, Pakistan and Israel have never joined. North Korea in theory joined but claims to have withdrawn.

It has, though, come under challenge in recent years. Some states have clearly been able to pursue clandestine nuclear programs while still being a party to the NPT and subject to IAEA safeguards, and that indicates that there are weaknesses in the verification mechanisms to ensure that states are adhering to their NPT obligations. The announced withdrawal by North Korea from the NPT in 2003 brought to the fore the risk of states acquiring sensitive nuclear technology on the basis of being an NPT member and for ostensibly peaceful use and then subsequently withdrawing from the treaty to pursue nuclear weapons. The announcement on 9 October—in quite bizarre terms, it seems to me—that North Korea had conducted a nuclear test is indeed a grave threat to peace and security in the region and beyond and a further serious challenge to the NPT based nuclear non-proliferation regime.

As far as the NPT itself is concerned, the parties meet every five years to review the operation of the treaty. They met in May 2005. We have been a strong contributor at all of those review conferences and we have used them to pursue strengthened operation of the treaty. In fact, in 2005 at the review conference the Minister for Foreign Affairs, Mr Downer, said—and I quote briefly from his remarks:

... no multilateral treaty has done as much to strengthen our collective and national security as the NPT in its 35 years. But he warned:

... if the NPT is to continue serving our interests well, this Review Conference must tackle the serious challenges we now face.

Of course, that conference is on record as not reaching consensus on measures to strengthen the treaty, and Australia noted its disappointment in that regard, because we had worked very hard to find common ground at the conference. We worked with
Japan, in particular, producing a joint paper on nuclear disarmament measures, and many members shared our strong support for entry into force of the Comprehensive Nuclear Test Ban Treaty and for the negotiation of a treaty to ban the production of fissile material for nuclear weapons. In that context of the discussion, we coordinated a small group of countries, the G10, which submitted proposals on nuclear safeguards and peaceful uses of nuclear energy issues. But we also noted, having seen the disappointing result, that the future of the NPT did not hinge on the outcome of that review conference. It was disappointing that it did not produce a final document, but it was not fatal. Other review conferences have suffered from the same defect. Australia maintains its absolutely strong support for the NPT, marked by its participation in that review conference process.

I want to make some brief remarks about the IAEA safeguards and in particular note that the weaknesses in those safeguard systems, which were exposed by the 1991 discovery of Iraq’s clandestine nuclear weapons program, are now being remedied by the IAEA’s strengthened safeguard system and, in particular, the adoption of the additional protocol to those safeguard agreements which extends and improves the IAEA’s inspection, information and access rights.

In 1997, we were the first country to conclude an additional protocol with the IAEA and in 2005 we announced our intention to make the additional protocol a condition for the supply of Australian uranium to non-nuclear weapons states. We worked very actively in that process. In relation to the Comprehensive Nuclear Test Ban Treaty, that treaty itself reinforces the nuclear non-proliferation regime by banning all nuclear explosions, and we strongly support the CTBT’s entry into force. While it did not overcome the final hurdle of being adopted in the conference on disarmament, in 1996, Australia led international action through the foreign minister in taking the treaty to the UN in New York, where an overwhelming majority of countries adopted it. In 2005 the foreign minister chaired a conference of CTBT parties in New York on ways to accelerate its entry into force, and he chaired a further meeting of those parties in September 2006. So we operate at a very high level in that regard and do take the sort of leadership that Senator Milne commented on in her earlier remarks.

We have also been active in supporting international efforts to strengthen controls on the spread of sensitive nuclear technology. At the NPT review conference to which I referred earlier, in May 2005, the minister called for the development of a new framework to limit the spread of sensitive nuclear technology while respecting rights to peaceful nuclear energy. We have a long record in this country of demonstrating strong support for the rights of NPT parties to benefit from the peaceful uses of nuclear energy. We note that these rights are not unqualified and do not automatically extend to proliferation-sensitive technologies. We are a very active participant in the international dialogue on sensitive nuclear technology issues and we follow those very closely, not only from the non-proliferation perspective but also in view of our role as a major uranium supplier.

In terms of the stronger physical security of nuclear and other radioactive materials and nuclear facilities, we know that physical security is essential to protecting against nuclear and radiological terrorism and we also know that the IAEA makes a crucial contribution in that area. We were one of the first countries to contribute to the IAEA’s Nuclear Security Fund, which was set up to support their 2002 action plan which was designed to upgrade worldwide protection against acts of
terrorism that involved nuclear and other radioactive materials.

We are a very strong advocate of the Convention on the Physical Protection of Nuclear Material, which seeks to prevent illicit trafficking of nuclear material and the acquisition of nuclear material by terrorists. We have been an active contributor in negotiations on amendments to the CPPNM to extend its application. We chaired the main committee on that at the July 2005 diplomatic conference. In 2003 we also chaired negotiations in the IAEA which developed the Code of Conduct on the Safety and Security of Radioactive Sources. In 2004 we hosted a conference in this region, the ministerial-level Asia-Pacific Nuclear Safeguards and Security Conference. It is not true to say that Australia is not continuing to take a role in leadership in this area, and it would be disappointing to ignore all of those facts.

I note that part of the discussion which Senator Milne began before she concluded her earlier remarks—and I know she will continue later—was in relation to Australia’s sale of uranium and Australia’s uranium export policy. And that important element of Australia’s support for the non-proliferation regime is the policy which we run at the moment—(Time expired)

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (4.47 pm)—I rise on behalf of the Labor opposition to speak in support of the motion put by Senator Milne:

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

The need for the Australian government to take actions that strengthen and not undermine the Nuclear Non-Proliferation Treaty following North Korea’s nuclear weapons test.

This motion arises in response to an underground nuclear test carried out by North Korea on 9 October, following an indication six days earlier of its intention to carry out such a test. This test follows North Korea’s highly provocative testing of its long-range missiles in July this year, which led to a UN Security Council resolution condemning the missile tests and calling on member states to prevent the sale of arms and technology to North Korea. For some time now, the North Korean regime has used the threat of a potential nuclear arsenal to influence the international community.

I want to reiterate Labor’s unequivocal condemnation of this action by North Korea and its destabilising effect on the region. I note reports this morning that North Korea may have conducted a second underground test. We obviously have to wait for confirmation of those reports but if they prove to be correct it makes the situation even more disturbing. Monday’s nuclear test by the North Korean regime is highly provocative and threatens the delicate regional security balance in North Asia. It has serious implications for North Korea’s relations with its neighbours, for an escalation of regional tension and possibly for a regional arms build-up which could see other countries in North Asia look to develop a nuclear capability. Instability in North Asia and the broader Asian region presents a challenge to Australian national security—and, of course, to our international trade, as North Asia takes about 39 per cent of our total exports.

Labor calls for a very strong United Nations Security Council resolution imposing tougher sanctions on North Korea and enforceable under chapter 7 of the UN charter. We also offer our in-principle support for the draft proposal being circulated by the US, which would impose tougher sanctions on the regime. We do believe, however, that further sanctions should not impact on the humanitarian assistance to the people of North Korea. The humanitarian situation facing the North Korean population is of
deep concern and it is disturbing that the regime would choose to pursue hostile military technologies while failing to provide for the most basic welfare of its people. It beggars belief that the regime would commit such extensive resources to weapons of mass destruction and military capability when so many of its citizens go hungry and have to rely on international humanitarian support.

In response to this week’s test, Labor has called upon the Howard government to build a diplomatic initiative, working with regional foreign ministers to develop consensus on the way forward. Labor strongly supports the non-proliferation treaty, strengthening safeguards against further horizontal proliferation and encouraging reductions in nuclear armaments. We believe that Australia should be at the forefront of international efforts towards these objectives.

For some time, Labor has been urging the government to launch a diplomatic initiative to strengthen the nuclear non-proliferation regime. In July this year, Kim Beazley, the Leader of the Opposition, called for the development of a diplomatic caucus of countries committed to the principles of non-proliferation and pushing nonproliferation to the centre of international politics. Among the objectives of this group would be the strengthening of the non-proliferation treaty, new incentives encouraging countries to restrict their nuclear activities to peaceful purposes, ensuring that those countries were supported in maintaining their national security without nuclear arms, and pursuing the recommendations of the Canberra Commission on the Elimination of Nuclear Weapons, established by Labor in government and never reconvened by the Howard government. I am mindful of the disdain that the Minister for Foreign Affairs showed for the Canberra commission when he called it ‘a stunt’. But, had it continued its work from its inception in 1995, it could have made a significant contribution to regional security and stability.

We now have a new opportunity emerging from this week’s events. That is why, as I have indicated, Labor has this week called for a meeting of regional foreign ministers. In recent months, Kevin Rudd, our shadow minister for foreign affairs, has spoken on a number of occasions about the need to reinvigorate the non-proliferation agenda. He has indicated Labor’s intention to re-establish the Canberra commission and to task it with developing new and innovative ways to confront the threat of weapons of mass destruction and missile technology, particularly in our region.

There is a difference between Labor’s and the Howard government’s approach to national security, and it is no better illustrated than by our commitment to regional stability. Labor believes that Australia must focus our energy, resources and diplomatic efforts in our region. It is here that our efforts and resources can be best used to advance our national interests and wider interests. We have entered a new security era, and the Howard government is failing the Australian people by not adjusting to the new security challenges we all face. We need to concentrate in our region.

Last month Kevin Rudd spoke of the dangers of a breakdown of the non-proliferation regime, including a nuclear arms race in our region, and called for diplomatic action to strengthen the integrity of the non-proliferation regime. A cooperative multilateral approach, such as that encouraged by the non-proliferation treaty, can contribute to stability and to global and regional security. This week’s action by North Korea is clearly evident of the pressing need to reinvigorate non-proliferation efforts and make them a focus of our activities. That is why Labor
provides its full support to Senator Milne’s motion.

The Howard government needs to be working in the international community to strengthen the non-proliferation treaty. As a non-nuclear state, the non-proliferation agenda is strongly in our national interests and if the government needs evidence of that we have seen it this week. Labor is deeply concerned that the government may actually be working against Australia’s national security interests by weakening the non-proliferation regime.

In recent months the Prime Minister has been pushing the idea of selling Australian uranium to India. Labor strongly opposes such a move. India is not a signatory to the non-proliferation treaty, and on that basis alone the Prime Minister should rule out the sale of Australian uranium to the Indian government. It is hard to see how any economic benefits of such a sale would compensate for the potential undermining of the integrity of the non-proliferation treaty. Sales to India would put us outside the treaty regime, they would undermine our commitment to that instrument, and they would undermine Australia’s ability to work towards non-proliferation and arms control, more generally.

A further breakdown in the non-proliferation regime could further contribute to the development of a nuclear arms race in the Asian region and would present a considerable challenge to Australian security policy. Our national interest is in strengthening the treaty regime and contributing to stability and cooperation in the region, including in South Asia. I understand that Senator Trood spoke in the coalition party room yesterday and raised those concerns. I know of his considerable expertise in this area, and I hope that he has an influence on government policy.

Labor believes that sales of uranium to India would send the wrong message to both North Korea and Iran. I note also that the Minister for Foreign Affairs has indicated that the government has no current plans to supply uranium to India. While that provides some reassurance, given the Prime Minister’s public comments it would be helpful if the Prime Minister could clarify whether that is in fact the government position. He needs to rule out uranium sales to India or to any other country that remains outside the non-proliferation treaty and to actively work to build and strengthen that regime.

Beyond that, the Prime Minister and the government need to get strongly behind the non-proliferation treaty and efforts in this area. Labor has indicated a number of ways in which Australia can do this, and I have alluded to a few of those today. The promotion and support of the non-proliferation agenda, particularly in the Asian region, is in our national interest—a point so vividly highlighted by this week’s events.

Let it be clear: Labor absolutely condemns the North Korean actions. We call upon the government to make nonproliferation a priority. It is an area where the Howard government needs to show far greater commitment and to be more active. I hope that the government heeds the message of this motion. I hope that the motion is carried by the Senate and that it helps to build community support for nonproliferation and for enhancing the non-proliferation treaty and its impact so that we can add to a pressing need to preserve regional stability. I urge senators to support the motion.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (4.56 pm)—The Democrats also strongly support Senator Milne’s urgency motion. We join the rest of the world in condemning North Korea’s nuclear test, but we urge caution; knee-jerk
threats of military action will just inflame the situation.

Australia and nuclear weapons states must also take responsibility for this new crisis, having failed to disarm the 27,000 or so nuclear weapons still in existence and having failed to dissuade India, Pakistan and Israel from taking them up. The complete lack of progress at the New York review of the nuclear non-proliferation treaty last year and the failure to ratify the comprehensive test ban treaty have sent powerful messages to rogue states that different rules apply to those in the nuclear club and those that are not. Despite the devastation that nuclear weapons and their testing have caused, we still do not have an enforceable ban on nuclear testing; disarmament has stalled; and there are almost as many nuclear weapons around now as there were when the nuclear non-proliferation treaty was first signed.

The global council of the Parliamentary Network for Nuclear Disarmament, of which I am a member, yesterday issued this statement:

As parliamentarians from across the political spectrum, and from countries around the world, we share a concern about the announcement by the Democratic Peoples Republic of Korea on October 8 that they have tested a nuclear weapon for the first time.

This act increases tensions in North East Asia and is in violation of obligations of North Korea and all other countries to end nuclear testing and work for the prohibition and elimination of nuclear weapons.

There have been over 2000 nuclear weapons test explosions conducted by China, France, India, Pakistan, Russia, the United Kingdom and the United States, each one contaminating the environment, threatening the peace and stimulating the nuclear arms race. There is no need for any more testing by any country.

We welcome the negotiation of the Comprehensive Test Ban Treaty and the overwhelming support it has already received. We call on those few States that have not yet ratified the treaty—particularly those with nuclear capabilities including North Korea, China, India, Israel, Pakistan and the United States—to do so.

We also call on North Korea to rejoin the Six Party talks, with China, Japan, South Korea, Russia and the United States, for the denuclearization of the Korean Peninsula, and to explore the possibility for a nuclear-weapon-free zone in North East Asia. We call on all six parties to refrain from any further provocative actions that could derail these talks, including any threats to use force against any of the parties.

We are encouraged by the international monitoring system developed by the Comprehensive Test Ban Treaty Organisation, which has the technical capacity to detect nuclear tests anywhere in the world. And we look forward to the treaty’s entry into force in order to make available its compliance mechanisms in the case of a treaty violation.

This morning I circulated this to all members of parliament, inviting them to endorse the statement, which will be used to encourage a diplomatic solution and an end to nuclear testing. This is an opportunity for Australian parliamentarians to reinforce their commitment to nonproliferation and to encourage progress on disarmament.

North Korea’s test shows that there is a link between the civil and military uses of nuclear technology. It is a clear sign that we need to take action. The federal government could do that. It could stop exporting uranium to countries that have not ratified the comprehensive test ban treaty. It could use its uranium as leverage to encourage nuclear weapons states to disarm, instead of setting yellowcake as a royalty cash cow. It should halt its current flirtation with uranium enrichment. It is not viable, there is no lack of capacity world wide and it is likely to add to the current provocation of rogue states like North Korea. I urge that cool heads prevail.

Senator JOHNSTON (Western Australia) (5.00 pm)—I want to deal with Senator Milne’s matter of urgency by expressing
deep concern that, following the alleged nuclear test by North Korea, at 4 pm on Tuesday 10 October, the Australian Greens leader Bob Brown and nuclear spokesperson Ms Christine Milne met the ambassador of North Korea, Chon Jae Hong. In a press release dated 11 October, following that meeting, it is expressed that Senator Brown asked the ambassador to explain his government’s actions. In response, the ambassador said:

... North Korea felt vulnerable to a pre-emptive nuclear strike and took its action in response to:

The Bush administration’s abandonment of the arrangement between the Clinton administration and North Korea;

President Bush’s declaring North Korea ‘evil’ and calling for regime change; and

There being 1000 American nuclear weapons deployed in the region coupled with the potential for a pre-emptive strike.

This press release is most curious. It is unclear as to the extent and level of rejection of the North Korean state’s nuclear testing and, indeed, rejection of the regime.

**Senator Milne**—Read the first sentence!

**Senator Johnston**—I must have struck a nerve because senators from the Australian Greens appear to be quite upset. I will read what the press release says:

Senator Brown told the ambassador that the Greens utterly condemn yesterday’s nuclear test and that North Korea’s action has made the region and the world a more dangerous place.

Nowhere in the document is the North Korean government, the North Korean state, the Marxist system under which North Korea operates condemned by the Australian Greens. In fact, when I read from the web the *Green Left Weekly*, citing a book by Mr Bruce Cumings, *North Korea: Another country*, it appears that the *Green Left Weekly*, which, I take it, has some broad political affiliation with the Australian Greens, apologises for the North Korean regime. Let me deal with what it says, in citing Mr Cumings book:

North Korea does not exist alone, in a vacuum ... It cannot be understood apart from a terrible fratricidal war that has never ended, the guerrilla struggle against Japanese imperialism in the 1930s, its initial emergence as a state in 1945, its fraught relationship with the South, its brittle and defensive reaction to the end of the Cold War and the collapse of the Soviet Union, and its interminable daily struggle with the United States of America.

It is clear that in terms of left-wing green politics in Australia there is a strong apologist approach to the North Korean regime. What I want Senator Milne or Senator Brown to do is tell the Senate and the Australian people that they utterly reject the North Korean regime, that they utterly reject the Marxist fundamentals and principles upon which North Korea is based. I want them to stand up and say that.

**Senator Bob Brown**—Mr Acting Deputy President, I rise on a point of order. We do reject the North Korean regime and that in Beijing.

**The ACTING DEPUTY PRESIDENT** (Senator Lightfoot)—What is your point of order, Senator Brown?

**Senator Bob Brown**—I challenge the member opposite to reject Beijing.

**The ACTING DEPUTY PRESIDENT**—Senator Brown, if you do not have a point of order, I ask you to resume your seat.

**Senator Johnston**—Thank you, Mr Acting Deputy President.

**Senator Bob Brown**—What about Beijing?

**The ACTING DEPUTY PRESIDENT**—Senator Brown!

**Senator Bob Brown**—He’s grovelling to Beijing.
The ACTING DEPUTY PRESIDENT—Senator Brown!

Senator Bob Brown—What an apologist for Beijing you are.

The ACTING DEPUTY PRESIDENT—Senator Brown!

Senator Bob Brown—Where’s yours?

The ACTING DEPUTY PRESIDENT—Senator Brown, that’s four times that I have had to speak to you. I ask you to remain silent while Senator Johnston makes his contribution.

Senator Johnston—I want to hear the Leader of the Australian Greens say that not only are they opposed to the detonation of a nuclear device but also they are opposed to the North Korean regime.

Senator Bob Brown—Where’s your statement?

The ACTING DEPUTY PRESIDENT—Order! Senator Brown, I have had to speak to you on six occasions in a very short period. You know the rules of this Senate chamber. I ask you to remain silent while Senator Johnston finishes his contribution.

Senator Conroy—Mr Acting Deputy President, I raise a point of order. On that matter, I think you are entirely correct to draw Senator Brown’s attention to the standing orders but it would help if Senator Johnston addressed his remarks through the chair.

The ACTING DEPUTY PRESIDENT—That is more advice to the chair, which I appreciate, Senator Conroy, rather than a point of order.

Senator Conroy—I just want to assist with the running of the chamber.

The ACTING DEPUTY PRESIDENT—Thank you, Senator Conroy. I appreciate your advice.

Senator Johnston—The point is that I simply want a clear and unequivocal statement with respect to the North Korean regime: that the people are in poverty, that this is one of the poorest nations in the world with one of the largest standing armies in the world and it is allegedly detonating a nuclear weapon. I want to hear Senator Bob Brown say that he rejects all of that, not just the fact that there has been a detonation but that he rejects the Marxist principles that underlie this regime. If he does make that statement, that will be good for us because we will know where he stands, because his press releases to this point have been equivocal and they leave open the strong hint that he is an apologist for that regime.

Senator Conroy interjecting—

The ACTING DEPUTY PRESIDENT—Senator Conroy, shouting down the chamber is unruly and you should desist!

Senator Johnston—Senator Milne argues that there is an undeniably strong correlation between nuclear weapons and nuclear power. If a country has nuclear power, then it will have nuclear weapons. This is what Senator Milne seeks to promote in the nature of some sort of rationale in opposition to Australia’s export of uranium.

Eight states in the world have nuclear weapons: the United States, Russia, the United Kingdom, France, China, India and Pakistan, and probably Israel. There are 35 countries in the world which have a nuclear power generating capability. There is a substantial, logical and rational distinction to be drawn on those numbers alone. Of course, Senator Milne will not accept the fundamental logic of the fact that there are 35 countries around the world which are seeking to safely, properly, diligently and economically advance the best interests of the power and energy needs of their people through the use of nuclear power but do not use nuclear weapons.
I want Senator Milne to understand and to explain to us why there are 35 as opposed to eight and why the correlation simply does not hang together as she would have us and the Australian people believe. I know that part of the Greens policy is founded upon a fear that uranium is bad. It is bad enough that the Labor Party has good uranium and bad uranium: some of the mines that are good have good uranium; mines that should come on stream obviously have bad uranium. But the Greens want to tell us that all uranium is bad.

This is an absolutely ridiculous argument. Australia has a very long and proud record of standing up for the nuclear non-proliferation treaty. On the other hand, the Greens have a very dubious and greatly contrasting history with respect to their support of outrageously despotic regimes. (Time expired)

Senator HOGG (Queensland) (5.10 pm)—I rise following the contribution from Senator Johnston to bring a different perspective back into this debate. I think it is important to bring a bit of perspective into the debate. I share the grave concern that Senator Evans and others have expressed here this afternoon about what has taken place in North Korea this week. Let me also say that this is not the first time, indeed in recent times, that we have had to express concern about nuclear tests in our region, and our region is quite expansive. The last significant occasion that this happened was back in 1998, when India and Pakistan both indulged themselves in exploding nuclear devices.

Senator George Campbell—What about Mururoa?

Senator HOGG—I am talking about India and Pakistan for a particular reason. As a result of those particular forays by those two neighbours in our region, we ended up with an inquiry by the then Senate Foreign Affairs, Defence and Trade References Committee into the issue of what was happening in the region in terms of nonproliferation and other things associated with the nuclear race.

Chapter 8 of that committee report is entitled ‘The way ahead’. I think that is a most important thing. The committee spoke of the way ahead, and the first thing it addressed was: ‘The genie is out of the bottle’. The fact is that the nuclear non-proliferation treaty has not worked as it should have. It has suffered backward steps; there is no argument about that. At the start of chapter 8, ‘The way ahead’, the report focused on the fact that the Cold War had ended and that there had been ‘a move towards the elimination of weapons of mass destruction’. That is the only way that the path that North Korea is going down now can be described: the path of weapons of mass destruction. The report gave a fairly reasoned analysis of what was taking place in this path of nuclear nonproliferation and recognised that nonproliferation was fairly stagnant. Paragraph 8.73 of the report particularly notes:

Australia has been in the forefront of international moves aimed at global disarmament of weapons of mass destruction, arguing that it is in our own interests for all such weapons to be eliminated. A lot of time, effort and expense has been devoted to fulfilling this goal.

However, the report then notes:

Yet, intellectual studies in academia on these issues have been made more difficult because of the closure of the Peace Research Centre at the Australian National University through departmental funding cuts. The Committee believes this is a short-sighted view given the importance attached to elimination of weapons of mass destruction by the Government in the interests of Australia’s security.

What a surprise that is! The committee then came up with a recommendation:

... consideration should be given to the establishment of a Peace Research Centre to rebuild Aus-
Australia’s academic expertise in regional security, peace and disarmament.

That came as no surprise, arising out of what the committee had just witnessed—that is, the explosions that had taken place at that time. Whether that would have stopped what happened in North Korea the other day I doubt very much. The committee went on in its report to note also the work that had been done by the Canberra commission. It was even conceded by people from the Department of Foreign Affairs and Trade at that time that there was merit in the Canberra commission report. At page 144, an official says: ‘The Canberra commission report has certainly nourished ongoing debate on the way forward on nuclear disarmament.’ And yet, when faced with the challenge of having the UN adopt the Canberra commission report, this government squibbed it. That was most unfortunate. It was seen as being a reasonable and logical way to proceed—a way which, whilst not necessarily averting what happened in North Korea the other day, was nonetheless a mechanism by which the issue could be addressed on an international basis.

Senator Evans alluded to the fact that Labor has called for the Australian government to launch a diplomatic initiative and to host a meeting of regional and foreign ministers to build consensus on the way forward. I think that is important because again we are looking at the way forward—not at what has happened before, because you cannot undo that. The way forward in non-proliferation is difficult indeed. It is not an easy task. It is a matter of one step forward and maybe two steps back sometimes. Sometimes it is two steps forward and one step back. But, given the uncertainty, given the interests that prevail in the area of security, one would think that it is essential that we would seek the highest and utmost cooperation with the neighbours who share a common responsibility with us for having a peaceful and worthwhile world in which to live.

In her speech this afternoon, Senator Payne outlined a number of government initiatives. Whilst some of those were indeed commendable, they did not go far enough. They did not take us to the area of engaging our region to confront this most horrendous fate that hangs over our heads: nuclear warfare. One would hope that we have a sophisticated society in which this can be countered by rational thought, rational debate and rational discussion rather than confrontation—and rather than going down the path that the government have chosen to go down, as they did in Iraq, to eliminate weapons of mass destruction. It is therefore an important part of this whole debate that it does not get lost—as has the report of the Senate committee, which was a unanimous report in the aftermath of what happened in India and Pakistan—and that the reports of this place do not get lost. The suggestions in there are not partisan suggestions in many instances; they are completely across political parties. They are designed to give the thoughts of the people who work, speak and operate in this place, regardless of whether they are government senators or opposition senators, to the government of the day.

It seems to me that when you have knee-jerk reactions by governments to an ongoing problem then those knee-jerk reactions will fail. The non-proliferation area is an area where an ongoing, long-term, dedicated negotiation is required, in a spirit of good faith and involving all our neighbours. If we do not have them in the can then we are fragmented in our opposition and we will achieve very little indeed. If there is a failure on the part of the government, that is the failure. Whilst governments have the rhetoric of opposition to what has happened in North Korea and whilst they will point to some of the initiatives that they have undertaken in
this area—and I commend them for those—that is not sufficient. It is not enough because we are still faced, eight years on from what happened in Pakistan and India, with the problems in Korea today. *(Time expired)*

**Senator Trood** (Queensland) (5.20 pm)—This is a welcome opportunity to participate in this debate, because the events on the Korean peninsula over the last few days are a matter of grave importance to the Senate and to our region. Although we bring different perspectives to this debate, I think there is some common ground. The obvious common ground is that this nuclear test by the North Korean regime represents a grave threat to peace, security and stability—potentially, anyway—in the East Asia region. Some of the previous speakers have referred to the possibility of an arms race occurring as a consequence, and that would indeed be a grave threat to stability in the region.

But there is a wider implication, of course, and that implication relates to the consequences of this test for the international non-proliferation regime, about which much has been said. In my view, in the light of these dangers, it is important that there is a strong and firm international response to these events in North Korea over the last couple of days. It is important that this takes place because it is fundamentally important that we discourage a wider break-out from the non-proliferation regime. It is important that we send messages to other countries in the international system, such as Iran, which might be inclined towards going down the proliferation route.

It is true, as Senator Milne has said, that the non-proliferation regime is under some threat. North Korea is an example. Iran is an example. The difficulties we are having at the moment in securing the ratification of the comprehensive test ban treaty is another example of the dangers to the regime. Senator Milne had a rather doomsday assessment of the situation and the plight in which we find ourselves in 2006, and I think it is important to get some clear perspective on this.

Part of that perspective requires us to recognise that since 1968, since the nuclear non-proliferation treaty was signed, many more countries have given up nuclear weapons than have taken them up; there are fewer nuclear weapons in the world and the United States and Russia have cooperated in relation to disarmament and arms control. One of the important consequences of that cooperation is that there has been a significant reduction in the vertical proliferation of nuclear weapons. Libya, of course, has given up any aspirations to be a nuclear weapons state. Whatever one might think of the situation in Iraq, one of the important consequences of the intervention there is that Iraq no longer represents a threat to the international community.

We have the US-led proliferation security initiative. And we ought not to forget the United Nations Security Council decision—I think it was in April 2004—passing resolution 1540, which actually improved the security of weapons and materials. In a sense, that created a criminalised regime in relation to that kind of activity. So over the last 30-odd years there have been some significant developments which have reinforced the non-proliferation regime.

Far from being complacent about this, far from treating it with disparate concern, I think the reality is that for 30-odd years Australia has been a consistent, strong, vigilant, determined and committed member of the international community determined to try to support and reinforce the nature of this regime. Far from taking the actions that Senator Milne and some of those from the Labor Party have suggested in this debate, Australia has been absolutely diligent for this period of
time in trying to reinforce the nature of the regime.

It is worth while recalling the extent to which we have been diligent. In doing that, I think it is useful to recall that the non-proliferation treaty is just the centrepiece of this international architecture. Hanging off this non-proliferation treaty is a whole series of other conventions and arrangements, all of which tend to reinforce the non-proliferation regime so that we end up with a regime, not just a treaty. When you look at the totality of all of those conventions and arrangements, you find that it is a very comprehensive regime.

Australia is at the centre of almost all of these particular arrangements—the non-proliferation treaty itself; the International Atomic Energy Agency safeguards; the efforts to try to secure ratification of the comprehensive test ban treaty; the efforts to try to secure a fissile material cut-off treaty; the work on the spread of sensitive nuclear technologies; Australia being an advocate of the Convention on the Physical Protection of Nuclear Materials; Australia’s support for nuclear weapons free zones; and resolution 1540, which I mentioned just a few moments ago. Australia’s own very comprehensive and detailed uranium export policy, which requires that states with which we deal in relation to uranium sign on to the additional protocol, is an important part of the regime.

The export controls are an important part of the regime and add a new dimension to this overall regime. The export controls and the financial controls run in various kinds of ways into a succession of committees of which Australia is absolutely at the centre—the Zangger Committee, the Nuclear Suppliers Group, the Australia Group, the Missile Technology Control Regime and the Wassenaar Arrangement. We should not forget the Australia Group, which Australia itself founded and in which we have been active since 1985, when that initiative was first put before the international community. So at every juncture Australia has been trying to reinforce the regime and do more than perhaps other states have tried to do. (Time expired)

Senator MILNE (Tasmania) (5.27 pm)—I thank senators for their contributions to the debate. I particularly note that three coalition senators have spoken in this debate and not one of them has rejected the sale of uranium to India. That is of great concern to me because, as Senator Trood has just said, Australia has had a strong record in upholding nuclear nonproliferation and in trying to support the treaty. What we now have is a critical situation. We are at a crossroads in this country with regard to nuclear nonproliferation, and it is because of the Howard government’s relationship with President Bush.

India is not a signatory to the nuclear non-proliferation treaty. The treaty states very clearly that we should not be supplying nuclear materials to a state party that is not a signatory to the convention. Australia has upheld that position time and time again until recently. Foreign Minister Downer has been strong in saying that that would continue to be the case, in spite of the fact that Australia is prepared to sell uranium to China, which is the other Communist regime in Asia which is not condemned by Senator Johnston. However, the fact of the matter is that the Greens oppose the export of uranium to both India and China. The Australian government will be undermining the nuclear non-proliferation treaty if it moves to sell uranium to India. And what has the Prime Minister had to say? He has been shifting position. He said:
We are examining all the implications of the Indian request—that is, for Australian uranium—
and the desire of India to be part of the nuclear system to get access to uranium for peaceful purposes, but it would require a change of policy.

He went on to say:

But as time goes by if India were to meet safeguard obligations some Australians would see it as anomalous that we would sell uranium to China but not to India.

On and on it has gone, and there is report after report in the Australian press that the Australian Prime Minister is shifting ground to endorse and support the sale of uranium to India. And why would that be so? It would be so because President Bush went to India earlier this year and struck a US-India technology deal. That deal has not been approved through the American political process yet—and may not be so if the mid-term elections change things in the US. The point is that the United States has gone outside the nuclear non-proliferation treaty. It is undermining the treaty. The Nuclear Suppliers Group will have to deal with this issue if it goes through the US parliamentary process, and the Nuclear Suppliers Group operates on a process of consensus. Australia could block the US-India deal in the Nuclear Suppliers Group if it chose to. If it were serious about the nuclear non-proliferation treaty it would do so.

Yesterday in Vienna there was a meeting of the Nuclear Suppliers Group. It was reported that the US-India deal would be discussed informally, but it will not be considered as a formal proposition until, of course, it is endorsed through the US process. But, if it were to be considered, what would Australia's position be? Australia would either support the US-India technology deal and began exporting uranium to India as well or do as Senator Trood has said and continue to take a leadership role globally in supporting the nuclear non-proliferation treaty. We are at this crossroad right now, and that is why this is a critical matter. That is why I have moved to strengthen the nuclear non-proliferation treaty, not to undermine it. That treaty, for all its failings—and I admit that it has been fraying in recent years, and what we have to do is strengthen it—is what we have under international law to stop proliferation.

Where we have been going in the last few years is for the US to undermine international law, and if you undermine international law, as Philippe Sands says, you have a lawless world. Australia must uphold the provisions of the nuclear non-proliferation treaty, and I am alarmed that not one of the three government senators today assured this chamber that Australia will not undermine the nuclear non-proliferation treaty by selling uranium to India. They made no comment about Australia's support for the US-India deal under that treaty. (Time expired)

Question put:

That the motion (Senator Milne's) be agreed to.

The Senate divided. [5.37 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes............ 32
Noes............ 33
Majority........ 1

AYES

Bartlett, A.J.J. Bishop, T.M.
Brown, B.J. Brown, C.L.
Campbell, G. * Carr, K.J.
Conroy, S.M. Crossin, P.M.
Faulkner, J.P. Fielding, S.
Forshaw, M.G. Hogg, J.J.
Hurley, A. Hutchins, S.P.
Kirk, L. Ludwig, J.W.
McEwen, A. McLucas, J.E.
Milne, C. Moore, C.
Murray, A.J.M. Nettle, K.
O'Brien, K.W.K. Polley, H.
Ray, R.F. Sherry, N.J.
Siewert, R. Stephens, U.
Sterle, G. Webber, R.
Wong, P. Wortley, D.
Abetz, E. Adams, J.
Barnett, G. Bernardi, C.
Boswell, R.L.D. Brandis, G.H.
Calvert, P.H. Coonan, H.L.
Colbeck, R. Ellison, C.M.
Eggleston, A. Ferguson, A.B.
Fierravanti-Wells, C. Fifield, M.P.
Heffernan, W. Johnston, D.
Joyce, B. Lightfoot, P.R.
Macdonald, J.A.L. Mason, B.J.
McGauran, J.J. Nash, F.
Parry, S. Patterson, K.C.
Payne, M.A. Ronalson, M.
Santoro, S. Scullion, N.G.
Troeth, J.M. Trood, R.B.
Watson, J.O.W.

* denotes teller

Question negatived.

COMMITTEES

Scrutiny of Bills Committee

Report

Senator ROBERT RAY (Victoria) (5.39 pm)—I present the eighth report of 2006 of the Senate Standing Committee for the Scrutiny of Bills. I also lay on the table Scrutiny of Bills Alert Digest No. 11 of 2006, dated 11 October 2006.

Ordered that the report be printed.

Senator ROBERT RAY—I move:

That the Senate take note of the report.

In tabling the committee’s Alert Digest No. 11 of 2006, I would like to draw senators’ attention to the committee’s consideration of the Defence Legislation Amendment Bill 2006. In considering this bill, the committee noted the 2005 report of the Senate Foreign Affairs, Defence and Trade References Committee and, in particular, that committee’s concerns regarding the means through which the need for operational effectiveness in the somewhat unique military environment is balanced against the individual rights of defence members and defence civilians, within the military justice system. This bill responds to certain of the recommendations of that report, including the establishment of an Australian Military Court, the appointment of a chief military judge and two military judges and the provision for certain classes of offences to be heard by a military judge and jury.

The committee notes that, under this bill, the Australian Military Court has jurisdiction to try any charge against any defence member or defence civilian and that the classes of offences to be heard by a military judge and jury could potentially include the offences of treason, murder and manslaughter. Given this breadth of jurisdiction and the seriousness of the offences, the committee is concerned that the bill provides for a military jury to be comprised of six members and provides for the question of guilt to be determined on the basis of a two-thirds majority. The committee notes that this falls well short of the model followed in relation to juries in civilian courts, which generally require as a minimum the agreement of 10 out of 12 jurors and then only in specific circumstances and with the approval of the judge.

Unfortunately, the explanatory memorandum offers no justification for the proposed constitution of a military jury and the determination of questions by such a jury. Nor does it provide any indication of the extent to which consideration was given to the need to balance the rights of the individual against the particular needs of the military justice system. The committee has therefore raised its concerns with the minister and sought his advice.

Question agreed to.

Economics Committee

Additional Information

Senator JOHNSTON (Western Australia) (5.46 pm)—At the request of the Chair of the Senate Standing Committee on Economics,
DELEGATION REPORTS
Parliamentary Delegation to Mozambique and Kenya

Senator JOHNSTON (Western Australia) (5.47 pm)—by leave—I present the report of the Australian parliamentary delegation to Mozambique and Kenya, which took place from 11 to 23 July 2004.

COMMITTEES
Finance and Public Administration Committee

Senator SCULLION (Northern Territory) (5.48 pm)—by leave—At the request of Senator Mason, I move:

That the Finance and Public Administration Committee be permitted to sit during the sitting of the Senate until 7 pm.

Question agreed to.

Foreign Affairs, Defence and Trade Committee

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (5.49 pm)—I indicate to the Senate that 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 received from the House of Representatives.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (5.50 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—
The introduction of this bill today represents a significant step forward in ensuring that the Commonwealth can divest ownership of the remaining mortgage insurance contracts written by the Housing Loans Insurance Corporation prior to its abolition in 1997.

Together with the Housing Loans Insurance Corporation (Transfer of Assets and Abolition) Repeal Bill 2006, this package of Bills will enable the Government to bring a long-running process to end its involvement in the mortgage insurance business, to a conclusion. At the same time, it also simplifies the operation of the law.

The Housing Loans Insurance Corporation was established as a statutory body over 40 years ago to meet a structural deficiency in the availability of mortgage insurance at the time. The Corporation insured lenders against the costs of mortgage defaults, thereby assisting low income earners with small deposits to obtain housing finance.

Since 1979, successive governments have recognised that there is no justification for the Commonwealth’s continued involvement in the mortgage insurance business as the private sector had a demonstrated capacity. In fact, its ongoing involvement was distorting prices and inhibiting the growth of the market, as well as imposing a burden on the budget.

Successive governments have made a number of attempts to sell the Corporation and exit the mortgage insurance business. An exit was first attempted by the then coalition government in 1979 but processes were overtaken by the election in 1983. Following the election, the then Labor government made two further attempts at a sale—neither of which was successful.

In 1996, the Australian Government restructured the Corporation to place it on a more commercial footing, the intention being to make it a more attractive sale proposition in time. The Housing Loans Insurance Corporation (Transfer of Assets and Abolition) Act 1996 gave effect to this restructure.

The restructure involved abolishing the Corporation and establishing a new company to continue the mortgage insurance business.

Contracts written by the Corporation prior to its abolition, known as the ‘pre-transfer contracts’, remained under the Commonwealth’s ownership. Claims against these contracts are managed on behalf of the Commonwealth under a management agreement.

In 1997, the Corporation was abolished. The new company and rights to the renewal business were sold to a private purchaser. To this day, however, the Commonwealth still remains involved in the business of mortgage insurance via its continued ownership of these residual pre-transfer contracts.

Importantly, the bill does not commit the Government to a transfer, but instead provides the necessary framework to enable any transfer of the contracts to occur, if desired.

And continuing ownership of these pre-transfer contracts is not desired. The Commonwealth’s involvement is no longer financially viable and will only become increasingly burdensome to administer over time. The current management agreement expires on 31 December 2006.

In addition, the Australian Government Actuary has advised that present market conditions and the current profile of the portfolio provides the Commonwealth with the best opportunity it has had to complete its exit from the lenders mortgage insurance business.

Any delay in amending the current legislation may diminish the Government’s negotiating position in the interests of the Australian public.

For these reasons, the Government considers that it is timely now to consider transferring ownership of these contracts to a private insurer to manage the run off of the remaining contracts.

This bill enables such a transfer to occur.

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On the transfer of the pre-transfer contracts, this bill repeals the existing redundant legislation which has achieved its purpose; that is, to restructure the Housing Loans Insurance Corporation and facilitate the sale of the Commonwealth’s interests in the company’s renewal business. These events occurred in 1997.

Full details of the measure in this bill are contained in the explanatory memorandum already presented.


This bill gives further effect to the Government’s package of reforms announced as part of the 2006 Budget. The measures will boost support for rural pensioners and people who have been subjected to domestic or family violence, and improve the delivery of income support and family payments to the community.

Age Pension age people living on farms and rural residential properties will be the winners from the first measure in this bill, based on an investment of over $173 million to improve the treatment of rural land under the social security and veterans’ affairs pension assets test. Currently, these people may not be paid a pension, or may be paid at a reduced rate, because only their home and adjacent land of up to two hectares is exempt from the assets test, even though the additional land may be held on the same title. The Government is now moving to a fairer assets test for people who have their home and adjacent land held on the same title document, provided they have a long-term attachment, of 20 years or more, to their home. The Government does not believe that older Australians should be forced to move from a home where they have lived for many years to ensure an adequate income in retirement.

To access the fairer assets test the person must show that land with commercial potential is being used productively to generate an income. The Government recognises that some pensioners will have the potential to make an income themselves, while others will have lease arrangements in place or have the younger generation working their properties. Other properties will have very limited capacity to generate income (such as many rural residential properties). This bill recognises this fact.

The measure will enable some rural Age Pension or Carer Payment recipients of Age Pension age and qualifying Service Pensioners to have all the land adjacent to the family home, that is held on the same title document, excluded from the assets test. Clearly, this will increase pension payments, or allow pensions to be paid for the first time, to these rural people, improving their living standards while allowing them to stay in their long-term family home. Most meaningfully, perhaps, it will help retired farmers, who are no longer able to work their properties, to stay on their land while encouraging the land to be worked to its potential by those who are capable. The Government has taken seriously community concerns over whether older Australians in rural and city areas were being treated equally, when city dwellers had recently experienced substantial increases in the value of their home properties, yet still were not being asset-tested.

The bill also includes important new one-off payment support for people who have been subjected to domestic or family violence who choose to stay in their own homes. The support is in the form of a crisis payment, currently around $230 and payable up to four times in any 12-month period if appropriate. Crisis payment is already available to people experiencing hardship in certain personal crisis situations, such as if they have to leave home and start afresh because of domestic violence.

However, some people who have been subjected to domestic or family violence find it more viable to remain in their own homes, particularly if striving to maintain stability for children. Even so, there are often costs associated with such a crisis situation, especially in securing the home and other related expenses. Making crisis payment available will give valuable support to people to make these practical arrangements at these challenging times in their lives.
Additional amendments will be made by the bill to relevant provisions dealing with information management, as part of the Government’s ongoing programme to reduce debts and improve the accuracy of payments. To achieve the proper targeting of income support payments, the assets test needs accurate valuations of people’s assets. Real estate assets have been identified as a particular area in which valuations held in the system may no longer be accurate, often because of rising property values. Also, pensioners who own real estate other than their own homes may not be aware the current value of those properties could affect their pensions, and may fail to declare them as they should. To reduce the possibility of incorrect payments, the law will be amended so Centrelink can check land titles records held by state and territory governments, and more regular valuations will be conducted.

Another area that is a debt risk for social security customers is if people receiving carer payment when caring for a frail or aged person overlook the need to tell Centrelink when the person they are caring for permanently enters residential aged care. Carer payment should stop in these circumstances however, if it continues, potentially large debts can arise. To streamline the arrangements in this area, amendments will allow the Department of Health and Ageing to give Centrelink information about people permanently entering residential aged care so the data can be checked against information on people receiving carer payment. This will identify cases in which the carer payment should be reviewed.

Proper privacy procedures will be followed to safeguard personal information provided through these new processes.

Lastly, the bill will introduce several provisions to enhance Centrelink’s capacity to detect and investigate serious and complex cases of fraud. Centrelink’s current powers to pursue investigations into suspected fraud are limited to provisions that may be used to require the provision of relevant information and, if appropriate, search warrants executed by the Australian Federal Police under the Crimes Act. Over recent years, Centrelink’s investigative capability has been developing, to allow the detection, investigation and prosecution of more serious fraud against welfare payments, including a significantly increased focus on the cash economy and identity fraud. To put this capability to its best use in protecting the integrity of the payments system, this bill introduces, for social security, family assistance and related student assistance payments, provisions for entry and search of premises, and copying and seizing material relevant to pursuing these investigations. These new provisions will mirror provisions already available to other Commonwealth agencies, such as the Health Insurance Commission, the Australian Taxation Office, the Child Support Agency and the Department of Immigration and Multicultural Affairs, in their similar activities.

Debate (on motion by Senator Coonan) adjourned.

Ordered that the Families, Community Services and Indigenous Affairs and Veterans’ Affairs Legislation Amendment (2006 Budget Measures) Bill 2006 be listed on the Notice Paper as a separate order of the day.

CUSTOMS AMENDMENT (2007 HARMONIZED SYSTEM CHANGES) BILL 2006

CUSTOMS TARIFF AMENDMENT (2007 HARMONIZED SYSTEM CHANGES) BILL 2006

Report of Foreign Affairs, Defence and Trade Committee

Senator JOHNSTON (Western Australia) (5.51 pm)—I present 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, together with documents presented to the committee.

Ordered that the report be printed.
Second Reading

Debate resumed.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (5.52 pm)—I will now sum up on behalf of the government the Broadcasting Services Amendment (Media Ownership) Bill 2006, the Broadcasting Legislation Amendment (Digital Television) Bill 2006, the Communications Legislation Amendment (Enforcement Powers) Bill 2006 and the Television Licence Fees Amendment Bill 2006.

Pressures on our traditional media platforms are coming from all angles. If we want the services we know and value to be able to survive and compete and if we expect, for example, free-to-air broadcasters to continue to meet their 55 per cent Australian content obligations, we must free up some of the regulation and allow them to adapt and invest in a new digital environment while diversity continues to be protected. Without these changes the traditional media industry will continue to watch other less heavily regulated media platforms, such as the internet, encroach on their traditional businesses. They will not be able to move while new media simply eats their lunch.

Amending the ownership rules will let the media market operate more efficiently, benefiting industry and consumers alike by permitting greater competition and economies of scale and scope and investment in the services consumers expect and want. At the same time, the government remains firmly committed to protecting diversity—diversity not merely of ownership but also of content. The bill will remove broadcasting-specific restrictions on foreign investment in Australia’s media sector. However, the government’s foreign investment policy will ensure that all direct media investment and all portfolio investments over five per cent will be required to be notified to and approved by the Treasurer.

I note that during the debate Labor has reiterated the opposition position that it supports reform of the foreign investment restrictions on media but not reform of the cross-media rules. To my way of thinking,
and to the government’s, this is an absurd position which would allow only new overseas investment in our media sector and prevent Australian media companies from competing. Clearly the opposition is only opposed to concentration of media ownership in Australia by the domestic industry and current players, and its plan for diversity is to allow only foreign companies to invest. That is not the government’s approach.

The bill relaxes the cross-media rules so that cross-media mergers in radio licence areas will be permitted, but subject to a number of significant safeguards on competition and diversity. Clearly any reform needs to protect diversity of ownership, and it can be done in a way that is less restrictive than the current regime. At least five separate media groups will be required to remain after any merger activity in mainland state capitals and four groups in licence areas elsewhere—including regional areas. Any media merger, including one that is not a cross-media merger, will not be permitted if it will reduce the number of media groups in a licence area below the minimum level.

The bill establishes a requirement for public disclosure, when a media outlet reports on the activities of a cross-held entity. The bill also establishes significant safeguards for diversity and local content in regional media in particular, including requirements for commercial television and radio, to maintain minimum levels of local content in regional areas and to have local content plans in the event of a merger or other trigger event.

Amendments to the bill, which will be debated during the committee stage, will further strengthen the protection of diversity both of ownership and of content. A two out of three rule will further strengthen the protection of diversity around Australia and ensure that undue concentration of the media is not permitted by preventing three-way mergers between commercial TV, commercial radio and an associated newspaper in a licence area. Additional local content requirements would ensure that legitimate community expectations in regional areas about amounts of local news and other programming are met. I will instruct the regulator, ACMA, to consider in their broader local content review, due for completion by 30 June 2007, that the specific issue of news and current affairs and any recommendation to mandate specific levels be addressed. Further, I will also instruct the regulator to consider the likely impacts of trigger events on small family-held licensees.

In combination with reforms to the digital broadcasting framework provided in the digital television bill currently being considered, and the reforms to ACMA’s enforcement powers, the bill will open up opportunities for a range of innovative new services for consumers while maintaining the existing services that the community already relies on and enjoys, including quality free-to-air television services. The proposed reforms will enable existing players to make the most of emerging digital technologies and give them the flexibility to structure their businesses to be globally competitive media companies and to continue to deliver quality services to their audiences.

It is consumers who will be the biggest winners from these reforms, with access to a range of new services, including several new digital channels and even more to come in the full transition to digital television. During the debate, Labor have queried why we need to consider the digital TV reforms in conjunction with ownership reforms. I must say that if that is not understood by now—that is, the important link between reform to the media sector and the challenges of transitioning to digital—I fear it will never be apparent to them.
This brings me now to the Broadcasting Legislation Amendment (Digital Television) Bill 2006. The digital television bill reforms several aspects of the digital television conversion framework and the commercial television broadcasting regulatory framework. In addition to the benefits that media ownership reform will bring, the digital television reforms will open up significant opportunities for new services. There will be two channels of currently unallocated spectrum made available for new in-home and other services, one option of which is mobile TV; the national broadcasters will be able to provide a broader range of content on their multichannels; and the free-to-air broadcasters will be permitted to provide an HD—that is, high-definition—multichannel from next year and a standard definition multichannel from 1 January 2009. Once we reach switch-over to a fully digitised broadcasting environment commencing in 2010-12 and a significant amount of additional spectrum is freed up, even more opportunities for new services will emerge.

In addition, the government will be introducing amendments during the committee stage which strengthen these reforms and ensure that digital services will be as widely available as possible. Amendments will also provide a framework for the allocation of the two new channels for new digital services as well as a range of new code- and standards-making powers for the Australian Communications and Media Authority, or ACMA.

The bill removes the existing high-definition TV quota at the end of the simulcast period. This will allow enough time for HDTV to establish itself in the market before allowing broadcasters to have much greater flexibility over the use of their spectrum.

The bill implements several changes to the licensing of future commercial television services. Consistent with the government’s election commitment, it modifies the power to allocate the new commercial television broadcasting licences within the broadcasting services bands such that ACMA cannot exercise this power unless a decision has been taken by the minister that such a licence should be allocated. The minister’s decision would be informed by a review. It similarly provides a power to the minister to veto an application made to ACMA for a new commercial television broadcasting licence outside the broadcasting services band under section 40 of the act on the basis that the allocation of the licence would be contrary to the public interest. It also provides that certain standard licence conditions and program standards for commercial television broadcasting licences will not apply to commercial television services operating outside the BSB and that certain tailored conditions and standards apply to these types of licences.

In relation to antisiphoning, the bill prohibits free-to-air broadcasters from premiering antisiphoning list events or parts of events not broadcast as part of a news or current affairs program on digital multichannels. This will ensure that valuable, listed events continue to be available to the widest possible free-to-air audiences, but it will not prevent broadcasters from showing on multichannels sport that is not on the antisiphoning list. This can be shown at any time and listed sports can be shown if they have already been or are simultaneously shown on the main channel. Importantly, the bill provides for a statutory review of the ongoing
rationale for, and operation of, the antisiphoning scheme prior to 31 December 2009. The government has also announced that it will implement a ‘use it or lose it’ system for sport on the antisiphoning list from 1 January 2007.

Amendments will also be moved to this bill during the committee stage to provide a framework for the allocation of two nationwide channels for the new digital services—channel A and channel B. Channel A will be used for new in-home services and channel B may be used for a broader range of services. As I said, mobile TV is one which has been mentioned on many occasions, although this is but one option.

In response to recommendations of the Senate committee to enable diversity of content on the new digital services, the government will introduce amendments to establish access arrangements for channel B. Any person wishing to bid for the channel B licence will be required to submit an access undertaking to the ACCC in accordance with predetermined criteria to be eligible to bid. This arrangement will ensure that there are appropriate safeguards in place to prevent the licensee for channel B inappropriately restricting the marketplace for new emerging services such, for example, as mobile TV.

During the debate on the digital television bill some senators suggested that we should remove HDTV obligations and indeed scrap HDTV services altogether. The quota was introduced to provide some assurance that consumers who purchase HD compatible digital receiver equipment can be confident that some high-definition TV programming will be provided for them to enjoy, manufacturers have some level of certainty in making decisions about bringing consumer HDTV equipment to market and local production companies have potential markets for HDTV material in Australia. We believe that the advantage of having these assurances is ongoing.

Consistent with the staged approach for lifting multichannelling restrictions and the transitional nature of these reforms at switch-over, the government considers that the appropriate approach, which is the approach contained in the bill, is to remove the HDTV quota obligations at the same time as full multichannelling by commercial broadcasters is permitted. It will mean that from this time broadcasters will be free to choose the balance of standard-definition and high-definition services that they provide. This could be expected to be driven largely by viewer demand.

I want to say something about the availability of high-definition to remote licence areas, because it came up in some contributions made during the second reading debate. Some senators have raised concerns that these services will not be provided to remote broadcasting areas, such as those of areas of Western Australia outside Perth. I can confirm that this bill does not preclude the commercial broadcasters in remote areas providing high-definition services in the future should they wish to do so. The digital conversion model in remote Western Australia, which is currently the subject of a bill in the House of Representatives, currently provides for multichannelling of the two parent services and the third digital-only service with exemption from any high-definition requirements which might be applied in remote areas. The existing legislation also provides for regional broadcasters in certain circumstances to elect to multiplex their services with exemption from high-definition obligations. Amendments to the digital television bill make specific provision for commercial broadcasters to change this arrangement and commence high-definition broadcasts should they wish to do so.
To conclude my remarks, the Broadcasting Legislation Amendment (Digital Television) Bill 2006 introduces measures that will continue the smooth transition to digital television. The measures will provide new benefits for consumers while at the same time providing industry time to adjust to a new digital environment. The measures are closely linked to the changes contained in the Broadcasting Services Amendment (Media Ownership) Bill 2006, which implements the government’s longstanding policy to amend the current restricted and outdated media ownership framework. The far-reaching changes in the package are the product of extensive consultation, undertaken since 2005 by the government, involving the media industry, key stakeholders and of course the public. The government has sought to balance the views and needs of industry, consumers and other stakeholders to develop a comprehensive plan that sets the foundations for a strong media industry in Australia ready to tackle the challenges posed by innovation and technological change in the sector.

I would particularly like to thank the members of the Senate Standing Committee on Environment, Communications, Information Technology and the Arts for what I would call their outstanding work and recommendations, most of which I have accepted, and my other parliamentary colleagues who have taken a particularly close interest over a long period of time in the development of this complex package of reforms. So I do thank them for their support and for their interest in the development of these reforms that are now being considered. I think everyone has worked together very constructively. It has been very much a team effort to achieve a reform package which I am confident will enable Australia to move its media sector into the 21st century.

Question put:

That these bills be now read a second time.

The Senate divided. [6.13 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes............ 35
Noes............ 31
Majority........ 4

AYES

NOES

PAIRS
Campbell, I.G. Humphries, G. Kemp, C.R. Stott Despoja, N. Lundy, K.A. Marshall, G.
Minchin, N.H. Evans, C.V.
Santoro, S. Allison, L.F.

* denotes teller

Question agreed to.

Bills read a second time.

In Committee

BROADCASTING SERVICES AMENDMENT (MEDIA OWNERSHIP) BILL 2006

Bill—by leave—taken as a whole.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (6.17 pm)—I table nine supplementary explanatory memoranda relating to the government amendments to be moved to the Broadcasting Services Amendment (Media Ownership) Bill 2006, the Broadcasting Legislation Amendment (Digital Television) Bill 2006 and the Communications Legislation Amendment (Enforcement Powers) Bill 2006. The memoranda were circulated in the chamber on 10 and 11 October 2006.

Senator CONROY (Victoria) (6.17 pm)—I thought I should start by at least commenting on what a complete disgrace this process has been. As we have all just witnessed, there are nine new explanatory memoranda being tabled at the beginning—

Senator Robert Ray—Nine?

Senator CONROY—Nine?

Senator CONROY—That is right, Senator Ray: nine—at the beginning of the committee stage; no chance to read them. Amendments have been raining down like confetti for the last 24 hours, with no chance to examine them.

I want to take up the point that Senator Coonan made in her closing contribution to the second reading debate, that there has been genuine interest from many senators in this chamber who actually have genuine concerns about where this bill has gone. Senator Boswell is on the record as saying he does not even want the bill. Senator Joyce and Senator Nash made genuine attempts to improve this bill, genuine attempts to try and deal with some of the complex issues in this bill, as did Senator Ian Macdonald. Even Senator Ronaldson, for all his bluff and bluster, has made a genuine attempt. And Senator Brandis has made some important contributions in the committee stage. But what we are seeing now is an absolute farce: a guillotine—

Senator Murray—You left me out!

Senator CONROY—I apologise! I was really just talking about the government senators. I know there are many senators on this side who have made substantive contributions, Senator Murray, and I am sure you will make a substantive contribution.

The TEMPORARY CHAIRMAN (Senator Forshaw)—Senator Conroy, you will direct your remarks through the chair, thank you.

Senator CONROY—The point is that we have gone through a committee stage where the minister announced, before the committee members had even met, the closing date of the committee hearings. We then went into a two-day farce in which 30 witnesses were crammed into the hearings. Witnesses were instructed before they commenced their contributions that they could only speak for five minutes. Opposition senators were only allowed 10 minutes and Democrats and minor party senators were allowed five minutes. We now come to the actual debate in the committee stage and the guillotine is scheduled to be moved tomorrow morning, which will only allow a further four hours to deal with the hundreds of amendments that the government are moving.

The government are even moving amendments to their own amendments. How on earth is the chamber meant to deal with this? Or are we going to see a repeat of the
disgrace of the Telstra debate, where the minister was so incapable of answering any questions about her own legislation that she had her own senators filibuster a guillotine in the debate. Are we going to be witness to Senator Ronaldson, Senator Macdonald and others—Senator Brandis, an expert when it comes to the filibuster—standing up and taking up the only four hours this chamber is going to get to deal with these hundreds of amendments? Is that the plan again, Senator Ronaldson? Minister, perhaps you could answer that question. Are you so afraid of questions on this bill that you need your own side to waste the time? I would actually like a genuine answer to that. Everyone knows the farce that the Telstra debate was, where your own senators actual stood up.

**Government senators interjecting—**

**Senator CONROY**—I will take those interjections saying, ‘Let’s move onto the substantive issues,’ because there are too many for us to spend too much time on this. Maybe some of the National Party senators could explain to me how they fell for this. I am intrigued by a statement that says: We are going to have these local content rules, but they are not going to come into place until after we have had a review.

How can we have a review of the local content rules before they have come into place? Does this suggest we are not going to have them? Did you win a concession that said you get a review? You haven’t even got a commitment to get them introduced. Where are they?

**Senator Ian Macdonald**—Have a look at the legislation.

**Senator CONROY**—We would love to! We would genuinely like for you to give us some information about that. This is an easy one—you might actually know the answer to this one. We would like you to explain to us how this process is going to work because, other than the one line in your press release and the amendments that have been tabled now and in the last 24 hours, that is all we know about it. So, quite genuinely, we would like you to explain this process to us.

**Senator COONAN** (New South Wales—Minister for Communications, Information Technology and the Arts) (6.22 pm)—I am delighted to take up Senator Conroy’s invitation to make a few comments about some of these matters. The first thing is that I think it is a very good idea that we get down to the substance of this debate instead of making pejorative comments when, quite clearly, you do not appear to have read the amendments.

**Senator Conroy**—You just tabled nine explanatory memoranda!

**Senator COONAN**—Do you want to hear or don’t you? I think when we get to moving the amendments, Senator Conroy, you will be able to comprehend that a lot of the local content requirements are on the trigger events, so you will be able to find out what that is all about. In respect of the local content requirements, you will also find that there is a certain amount imposed, but there will be an inquiry to make sure that the actual amount to be imposed properly reflects what is a reasonable amount for programming for regional radio. You will find that. You will also find that it applies to news and to broader local content. That is how it works, and I think that even you, Senator Conroy, would not think it is appropriate to simply drop specified amounts of local content out of the sky on regional operators without at least being certain as to what would be an appropriate amount for those regional radio operators to provide. That is the mechanism and, when we come to the amendment, you can have a much better look at it and I will answer some further questions about it if it is not clear.
Senator MURRAY (Western Australia) (6.24 pm)—I would like to open our side of the debate with some general remarks. I want to begin with a congratulatory note to the minister, because I think that this has been a brilliant example of very clever issues management. If I wanted to suppress dissent and ensure something very complex and rather awkward and ugly got through the Senate as quickly as possible, this is how I would manage it: you have a very short, intense and difficult to interact with process of Senate inquiry—which, I might say, is no discredit to the participants in that inquiry, from both the government side and the non-government side, as they all worked their little butts off collectively—and you do not introduce all of the bills that have to be dealt with until very late in the piece; you produce nine sets of supplementary explanatory memoranda and all the amendments late in the piece, all of which require some consideration and understanding; you bring on the debate as early as possible; and, of course, you conclude it with a guillotine. I think professionally speaking, through the chair, that is a brilliant example of chamber and political issues management to get the outcome you want!

Senator Conroy—I am trusting that is said with irony.

Senator MURRAY—Yes, I am sure that Hansard will put in nice little parentheses that this was said ironically. It was a brilliant piece of management. And if, as I do, you recognise that some—not all—of the corporates are partners in not wanting to agitate the populace on this issue and are running this at a relatively low level of exposure, debate and interaction, of course it becomes even more apparent that it is a very capable and clever issues management exercise. So, professionally speaking, as one professional to another, I think that is well done.

The side of it which would worry me if I were in the coalition is that it requires the bank of backbenchers—those who are not intertwined with the politics and the nature of this legislation—to adopt a ‘trust me’ approach. If there has ever been a set of bills on which you should not adopt a ‘trust me’ approach, it is this, because it goes to the heart of our democratic institutions and the protections that surround them.

I also want to say that senators in this place know that, by and large, I try and adopt a fairly equable demeanour, can take the punches when they come and try not to overreact. However, I must confess that this is one of the few debates and processes where I have genuinely felt agitated. I have genuinely felt agitated, out of sorts and irritable about this debate. I have been irritable in a general sense with how the journalists have conducted their examination of these issues. I can understand why many of them have not got across it, because they have been taken with the pace of it as much as we have. But I have played a little game this week with every journalist who has contacted or talked to me. I have said, ‘Have you read the Liberal report, the Labor report, the Democrats report and The Nationals report?’ and, to their credit, most of the journalists have answered, honestly, ‘No.’ So most of those journalists that I have spoken to have not got across all the issues.

Secondly, I have observed that the journalists are dealing with this in the normal fashion of: ‘Here we have a balance of power situation. What will we get out of a deal?’, whereas I almost feel like I can see the flames outside the building and the people on the dance floor are still dancing. I cannot understand why they do not react as I do because of the threat I see not just to democratic institutions but to their livelihoods. I cannot understand why not quite the same sense of the importance of this legislation is
apparent with them. Perhaps it is because of my own background. Sometimes your background, your character and your nature put blinkers across your eyes.

I remind the chamber that I do come from southern Africa. I have had a deal of experience with tyrannical regimes, both white and black. I am very conscious of the way in which the media can influence very difficult situations in those countries and how much I admired the fourth estate who went to jail and stood out on behalf of the downtrodden in South Africa and how much I despised the toe lickers and forelock tuggers who did the opposite. I attach meanings to the fourth estate which perhaps are not the same as others, and I do not seek to impose those views on you. I have been agitated about, if I may describe it as such, the broad journalistic response.

A third area has agitated me and I have made a small practice of asking members of the coalition I respect and like a simple question. I suppose it is me engaging the right side of my brain, which I should not do too much. I keep saying to them: ‘What about this is in your political interest or the economic interest of Australia? As a Liberal person or as a National person what about this is in your interest? I just do not get it.’ Mostly, with one or two exceptions who seem to think, ‘She’ll be right,’ they look at me blankly and say, ‘I don’t know.’ In other words, they are back to a ‘trust me’ basis: they trust the minister and the cabinet and the loyal soldier comes in.

By the way, I am not casting a general view on all the Liberal and National senators or on the Liberal and National members of parliament, because it is certainly not true of all of them. But nowhere was this more evident when, before all these changes, the Liberal folk were right behind the minister, ‘We’ve got the best package, let’s go for it.’ Then when all the changes came in they said, ‘That’s great, we’ll go for that too.’ It completely altered the thing and I thought, ‘They’re behaving like loyal troops not like thinking parliamentarians whose future may be affected by this.’ I go back to that central question: why is it in the interests of any political party or political person for there to be less big media competition because that is what is going to result here? I cannot see any other consequences. I cannot see why that is in the interests of anybody. Perhaps the minister can explain, and that is the question I am putting.

As everyone knows, I indulge myself in the economic area, and I look at the economic side and I say, ‘Why is this in the economic interests of Australia?’ I have a really simple view: I think more competition is good for the economy, not less. I think concentration, whilst sometimes a consequence of the modern economy in the way in which you develop the economy, is an inevitable concept but here we are actually encouraging it. We do not have the regulatory tools, I might say, to restrain it sufficiently. So this bill will result in more economic concentration for big media and I cannot understand why that is in the interests of Australia.

Again, I turn to my coalition colleagues and say, ‘What good work, Senator Joyce, Senator Nash and Paul Neville and the backers in the National Party did, and what good work Senator Brandis, Senator Macdonald, Senator Ronaldson and others did; I must compliment them on their efforts.’ There are others who have been out there battling away regardless and there is the good, late response from the Treasurer who said, ‘Let’s make sure that we are one country here—that we have the same benefits in the metro as in the bush area,’ which I agree with. But regardless of all that good work, we still end up with a situation where we are going to have a greater concentration of media power.
I cannot understand why that is in our economic interest or in our political interest.

Frankly, it does not affect me much. I am out of here, folks; June 2008 is it for me. It does not affect me personally. I am not arguing from self-interest here; I am arguing from Australia’s interest. I cannot see why it is in our interest to do this. I just cannot. Minister, I can understand the digital TV stuff. Yes, I do understand the communications bill, no problem; the fees bill, no problem. By and large, give or take a tweak or two, those three bills we can live with. I am even happy with the foreign investment side of it, subject to a few concerns which I want to explore in the debate. So all we are concerned with, out of four bills and all this whack of paper, is one schedule in that bill which deals with cross-media ownership and hurts Australia.

Please someone, stand up and explain to me why this is in our political interest and why it is in our economic interest. Just answer me that question. You can see from my demeanour that this is not usual for me. This floors me. My equability has gone. I am agitated and I am upset. I cannot comprehend it. I feel like I am talking to Mongolians. Mongolians are lovely people but I do not understand them, and I do not understand the Liberal and National parties’ decision in this respect. Yes, you have achieved a better package than we first had—I am grateful for it and well done—but you have not achieved a package which is in Australia’s interest.

Senator CONROY (Victoria) (6.36 pm)—Thank you for that contribution, Senator Murray. I want to follow up. I did ask a specific question at the end of my speech and I was wondering if you would tell me, Minister, where in the bill is the mandating of a minimum 12.5 minutes of local news on at least five days a week?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (6.36 pm)—I will get the reference for you, Senator Conroy.

Senator Conroy—Please.

Senator COONAN—In response to Senator Murray’s contribution, media is a very complex issue. It is largely comprised of people who have views such as those expressed by Senator Murray and by those whom I might otherwise characterise as seeing the bigger picture, the interrelationship between the restrictions and regulations of certain media and the interaction with unregulated media and the way in which that has developed over the past several years, and is accelerating and developing even more quickly.

The first point I want to make is, in terms of the considerable number of amendments, you really are damned if you do or damned if you don’t, to use that old parlance. If you take an intractable view towards legislation of this scope and complexity and you put in place a Senate committee, I think it is the height of arrogance to have absolutely no regard whatsoever for the recommendations of your colleagues. I have done that, I have looked critically at what I regard as some sensible recommendations. I have listened to my colleagues and have thought that they have some sensible things that could add to this package of bills. That is why I wanted to have a Senate committee and why I asked for one. It probably would have happened in any event, but it certainly happened on my motion. I am very pleased that it did happen and I am very grateful for all the contributions. I make no disparaging comments about anyone’s contribution to that committee. I think it is an important part of the process.

I know I am not going to convince those who have their minds made up and have a certain view about the significance of re-
stricting some media but not others. All I can say is that one has to approach this on the basis that, in effect, this industry has not been changed—there have been some changes in digital but there has been no substantial change to the industry structure and restrictions—for over 20 years. That was before there was, largely, any other unregulated media. It was when pay TV was in its absolute infancy and the internet was certainly only appreciated by academics, and there certainly was not the extraordinary growth and plethora of opportunities to be informed through these other platforms.

To assume that you continue to need to quarantine what is referred to as ‘old media’ and do absolutely nothing to assist their regulation and the way in which they need to invest in all of the new digital technology is fanciful, quite frankly. If you speak to these people, if you go out to studios and look at what kind of commitment is required from free-to-air broadcasters, for example, in order to take advantage of these new digital services and to provide them for consumers—ultimately, this is all about giving consumers what they now expect and want.

Senator Murray has said that he is all for competition. That is terrific! But how do you compete with losing most of your eyeballs to some other sort of platform, particularly young people whose first choice certainly for entertainment, and frequently for finding out any information and interacting with their peers, is all online? It is not by sitting and watching linear television. On top of that, the free-to-air stations are required to provide, and they are the principal providers, 55 per cent of Australian content. What they are providing is all about our culture. To require them to do that but have absolutely no comprehension about how they need to access appropriately these new digital platforms, invest in this new technology, is not appreciating the way in which media is now both distributed and consumed.

That brings me to the next point, and I will be very brief. If there had not been an opportunity for people to get information from other sources—and I know that it can largely be from traditional sources that are also providing their content online. That is changing exponentially. There are surveys to prove it and I can produce a reference to that later in this debate—if there were not those additional sources, plus up to about five stations that the ABC has in metropolitan areas and in a great number of regional areas, plus ABC TV, SBS TV and a pay TV industry that has been developing apace and out-of-area newspapers such as the Australian and the Financial Review, which are not even included in any of this, one starts to understand, Senator Murray, that it is a much more complex picture than simply confining all your attention in a very narrow focus to the old, regulated platforms of print, newspapers and free-to-air television. That simply does not reflect the way in which media is now consumed and accessed. It will ultimately consign Australia’s free-to-air media, and certainly the media on the old platforms, to a very challenged environment and possibly even a slow death if they cannot grow and invest and deploy their assets appropriately.

The biggest issue in this debate, apart from moving to digital—and that, to me, is the centrepiece of this debate—is to ensure that the safeguards against excessive concentration are robust, that at least those changes be achieved and that they be done in a context of providing new services. I think I said that on about the first day I was in this portfolio, and I have said it continually since. The government’s media discussion paper in this matter very clearly articulated that it would only be appropriate to be looking at changes to cross-media and foreign ownership, in my view—and ultimately that has
been the view of the government and my colleagues—in the context of ensuring more diversity and new services. That has been the objective of the whole exercise.

Senator JOYCE (Queensland) (6.44 pm)—I share a lot of the concerns that Senator Murray has laid out, although I understand that there are a lot of sections of this bill that are correct—obviously the digital sections and the foreign sections; I have no real concerns with them. But I think the issue that people have a concern with is cross-media ownership. On the issue that eyeballs have moved: I agree that maybe eyeballs are moving, but they are moving to an unregulated format where the majors that are protected by legislation can move as well. They can move there as well, and they can be as active on the internet as anybody else who wants to be active on the internet. So, when they are deploying their assets and want to redeploy their assets, they are going to redeploy their assets to areas that are controlled by legislation.

No-one has a problem if the majors want to be big in the internet; they can become as big in the internet as they want. But the issue that everybody has a concern about is how big they become in the controlled mechanisms—which are obviously television and radio, because they are controlled by licences, controlled by the government—and in print, where they can exercise their powers. There is not free entry into and free exit from the print media. When there is an entry by a new operator into the print media, the majors have the ability to—and they do—predatory-price the person out of the market. There is always an extremely aggressive fight for advertising revenue on the entry of a new paper.

Those are the concerns I think quite a number of people have. They have them quietly or not quietly, but those are the concerns they have. There is so much in this bill that is good and there are so many amendments that have been attained that—as all pieces of legislation are—it is both good and bad. I know what the numbers are. Even if I wanted an amendment, I would not get it, because I know that Family First will be supporting all amendments, so the legislation is going to go through.

But the concern is that the responsibility of this place is to protect the freedom of this nation. That is first and foremost the responsibility of this place. There is a building, up the other end of the street from this building, called the War Memorial, where there are records of a lot of other people who protected the freedom of this nation. Their names are engraved on it. One of the essences of the freedoms they were protecting is the freedom of the media. If an overarching control by a couple of organisations were to develop—maybe it is not foreseen now; they say it is not going to happen, but if that were to develop—what is the power that we have to reverse it? What is the power that we are going to exercise to try and control that? It is incumbent upon this place to make sure that we do that. That responsibility rides above all other responsibilities in this place, because otherwise you are taking the sacrifices of other people for granted, and you cannot do that. So it is an issue of the protection mechanisms if we happen to be wrong—the protection mechanisms if, on passage of this legislation, in a couple of years time that brings about a virtual oligopoly or a duopoly in the market. What protection mechanism do we have? Where is it now? Remember, we will have to try and bring in that protection mechanism in the future, knowing that the person who monitors everything that is said out there in the public is the person you are going to try to take on. That person is going to be in an extraordinarily powerful
position as the gatekeeper of information between here and the public. Unfortunately, when we talk about the internet, the internet is not that powerful. There is not a whole range of people who tune in every day to watch what is happening in this chamber. We think there is, but there is not. They pick up the paper and they get an idea from that. They get an idea from the news that they watch at night. They listen to the radio when they are going to work or when they are stuck in the traffic. That is their primary source of information. If they want more, they may go to the internet. That is the secondary source. It is not only us who say that; it is also the view of the ACCC—

Senator Murray interjecting—

Senator JOYCE—Sorry, the APC. The APC said that the internet has not turned into a viable mechanism, an alternate force of media. So they are the concerns that I have on this legislation. The legislation comes with some good amendments. The two out of three rule is a good amendment. What is the purpose of the other amendments on local content? Is it just to keep journalists in the local area? If you have a journalist in the area then you have some chance of getting a view out there. They are good amendments. But the overarching issue—

The TEMPORARY CHAIRMAN (Senator Forshaw)—Senator Joyce, it being 6.50, the committee shall report. Minister?

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (6.50 pm)—I was just going to give Senator Conroy the reference that he asked for. It is on PZ249, schedule 2, item 7, where, amongst other things, it defines ‘eligible local news bulletins’ and there, in (b), says ‘the bulletins broadcast on each of those days have a total duration of at least 12.5 minutes’.

Progress reported.

DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—Order! It being 6.50 pm, the Senate will proceed to the consideration of government documents.

Members of Parliament (Staff) Act 1984

Senator ROBERT RAY (Victoria) (6.51 pm)—I move:

That the Senate take note of the document.

This document, the annual report 2005-06 on consultants engaged under section 4 of the act, is required, deriving from the Members of Parliament (Staff) Act 1984. The act requires, annually, a description of which consultants are employed in government. Now that this report is down, it is fairly easy to establish that the government has one consultant, a Mr Geoffrey Cousins, whose period of engagement is from 1 January 2005 to 31 December 2005 and again from January 2006 through to 31 December 2006, although I do understand—I think only from press reports, but I am sure it is right—that he is no longer employed as a consultant to the Prime Minister.

Mr Cousins’s tasks were, firstly, to advise and assist the Prime Minister in relation to the formulation of communications strategies to promote government policies; and, secondly, to undertake tasks from time to time as specified by the Prime Minister. Mr Cousins was engaged on a part-time basis and paid a salary. Not surprisingly, on a number of occasions Senator Faulkner and I have asked about Mr Cousins’s role in assisting the Prime Minister and the government, and all we have ever really had in response is masterful dissembling. We have never had any accurate answers as to what real role Mr Cousins has played—not to say that he was an overpaid consultant, because he worked part time. But we did ask what his duties
were, where he had worked and what contribution he had made, and we could never ever get an answer to those particular questions.

I think we should note that Mr Cousins was employed to help communicate government policies, not to give advice on government communications policy. I think that is an import distinction. In other words, Mr Cousins was a spin doctor for the government. He assisted, as we understand it, ministers in their public presentations. At one stage, hot on the hunt, we thought Mr Cousins was the famous non-existent smirk consultant for the Treasurer, Mr Costello. But of course that proved to be a furphy. Apparently no-one was ever engaged as a smirk consultant to the Treasurer. In fact, I remember a press release coming from the Treasurer’s office that denied this, and I accept that—the evidence is still there. Obviously, if Mr Cousins had been employed for that purpose, it did not work.

All along we have suspected that, as Mr Cousins was a close mate of the Prime Minister, this position was a bit of a sinecure, a bit of a pay-off for campaign services rendered—not an expensive pay-off, I must stress. We have seen consultants paid heaps of money over the years. Mr Cousins has come relatively cheap to Prime Minister Howard and his government over the last nine years that he has been employed on and off as a consultant—more on than off.

But of late Mr Cousins is a matter of notoriety. He will be appointed to the Telstra board—or I assume he will be. With 51 per cent of the vote, I cannot imagine how he could lose. It is the old conundrum, isn’t it: where does a gorilla sleep? Wherever it likes. So he will be appointed to the Telstra board at their annual general meeting. The thesis goes, apparently from critics all around and from the other Telstra directors, that he may have been put on this board to just run the government’s agenda, just to be disruptive.

I concede that that is a possibility. But, given his track record of employment by the Prime Minister, there is another possibility: that he was just given this position as a sinecure; that he is going to sit on the board and do absolutely nothing; that, in line with the appointment of Senator Alston to London or Mr Reith to the European Bank for Reconstruction and Development, this is just another job for the boys. I hope people consider that. It is equally as plausible as those conspiracy theories that say that Mr Cousins has been put on the Telstra board to do the Prime Minister’s bidding. It does not work like that in this government. If you have some association, especially with the New South Wales branch of the Liberal Party, you get a job. It is the most guaranteed employment in this country. If you buy a raffle ticket from the New South Wales branch of the Liberal Party, you are on a promise, and it is a promise that is always delivered. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**Office of the Renewable Energy Regulator**

**Senator MILNE** (Tasmania) (6.56 pm)—

I move:

That the Senate take note of the document.

I rise tonight particularly to note that, although the Office of the Renewable Energy Regulator is a statutory authority and supposedly has some degree of independence, I am really disappointed with its annual report of 2005-06. It is reporting on significant issues and developments with regard to the whole process of the mandatory renewable energy target, and it really ducks the truth about what occurred. It says:

The report of the Tambling committee, appointed to conduct the review of the MRET (as required under section 162 of the Renewable Energy (Electricity) Act 2000) reported in January 2004.
The review confirmed support for the continuation of the scheme, and also recommended a number of changes to the administrative and policy settings supporting the target.

It then goes on to say that the new act implements the changes and so on. What it does not say is that it failed to adopt the main recommendation of the Tambling report. So anyone reading this annual report who does not know what Tambling said finds in here a reference to the Tambling committee that implies that the recommendations of Tambling were somehow accommodated when Tambling said that MRET targets should continue to increase beyond 2010 at a rate equal to the rate before 2010 and to stabilise at 20,000 gigawatt hours in 2020—in other words, to increase the target and extend the period of time. There is no reference to that here.

In looking at this whole issue of renewable energy and significant issues and developments, the annual report fails to point out that, as a result of the refusal of the government to extend the target, we are going to have a situation where, by 2020, renewable energy will make up a mere 8.5 per cent of energy generated from renewables because there has been no extension of the target. I am really disappointed that this statutory authority has failed to report accurately on what the Tambling report actually said in its review of MRET. It just implies that everything is going along normally and does not indicate to anyone reading this that the failure to extend the target means that we are going backwards on renewable energy, and I find that really disconcerting.

Also, it talks about the installation rate of solar water heaters but fails to say that the government is phasing out support for solar water heating because it is phasing out the rebate. No mention of that in this report either—just a statement saying:

The installation rate of solar water heaters ... continues to rise, increasing the volume of RECs related to this particular energy source.

So I find it unacceptable that you can get a report from a statutory authority, the whole purpose of which is to oversee the Mandatory Renewable Energy Target Scheme, and it does not actually talk about what it means when the government fails to implement the main finding of the independent review.

I am glad Minister Campbell is in here, because I would like him to respond to that and to explain whether his office, or he personally, had anything to do with the fact that this report does not accurately reflect what the Tambling report said in its assessment of the MRET and in fact does not accurately reflect those recommendations. We know that, because of the government’s failure to extend MRET, Vestas has gone overseas; Roaring 40s has gone—they have gone to China because of the failure to increase the MRET; and Origin Energy and their sliver cells are going—they require $100 million in order to commercialise; they have their pilot plant in Adelaide and they are going.

We have China with a 15 per cent renewable energy target, India with a 20 per cent target, the UK with a 10 per cent target—and Australia with its measly two per cent, which has already been achieved in this country. And we cannot even set anything as ambitious as those other countries have done. Australia must increase its mandatory renewable energy target, and the minister should explain to this House why the report of the regulator does not in fact point out that we are going backwards rather than forwards as a result of the government’s failure to implement this main recommendation of the Tambling report. We have a situation where the renewable energy sector is unanimously calling for an increase in the target—(Time expired)
Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (7.01 pm)—I rise to speak on the same report. I think it is a very useful opportunity to address some of the myths that the Greens’ Senator Milne has just sought to put onto the record. It would of course, as you would know, Mr Acting Deputy President Forshaw, be absolutely outside the remit of an independent statutory authority to make in its report a comment about a matter of government policy—a policy decision taken by the government. That would be absolutely outrageous for a statutory authority.

This is a statutory authority established by the Commonwealth when we established one of the very first mandatory renewable energy targets and, therefore, renewable energy schemes, on the planet. It was way ahead of its time, and it sought to create a domestic renewables industry in Australia. It is a program that has given substantial support to the wind energy sector. It has seen a massive increase in the number of wind turbines in Australia, from roughly 20 prior to the election of the Howard government to now where we are on track to get close to 700; they are either under construction or planned or approved to be built.

The Roaring 40s company that Senator Milne talks about is a very successful Australian company which is, yes, exporting to and working in China. In fact, this time next week I will be up there with the Managing Director of Roaring 40s and, at his invitation, will be opening up a wind farm in China that was created through a joint venture with a Chinese company.

The problem of greenhouse gas emissions, the problem of climate change, is the mother of all global problems. People talk about ‘Think global, act local’. There are a whole range of environmental issues which you can talk about as being global—obviously, ocean type issues and water quality type issues can be quasi-global. But when it comes to greenhouse gases and climate change, a tonne of carbon saved in Australia or a tonne of carbon saved in China has an absolutely identical benefit for the environment. And, quite frankly, this government is very keen to see more companies like Roaring 40s build up their intellectual property, build up their capacity and export those to every other country in the world. That is what we want to see. That was one of the fundamental underpinnings of the renewable energy policies of this government, MRET being one of them.

But Senator Milne, because it suits her, ignores all of the other renewables programs this government has put in place—$600 million worth of investment in the renewables sector and the nearly 70 R&D projects on solar energy that we tabled in the parliament this week. Take the photovoltaic rebate scheme—it was given an acronym which no-one ever knows, but I call it the solar homes program. We are on track to roll out 12,000 solar cells on the rooftops of schools and homes across Australia—again, Australian leadership in solar energy.

Take this myth about Origin Energy and sliver cells—which is Australian technology. We have just given Origin a $6 million grant, under the renewable development energy initiative I think it is called, and we had this myth spun around by the left wing and the Greens that Origin were not going to develop it. I went to the head of Origin Energy that very evening. I met him and I said, ‘Grant, we’re being told this by the Left and by the Greens and the people who like to talk Australia down all the time on climate change.’ We are one of the few countries in the world which will meet its committed Kyoto target, or we are on track to meet it at the moment—we will struggle to meet it, but we are one of the few who will even get close and I am determined to make sure we get there.
We are one of about five countries in the world who might get there. And yet this mob over here, Senator Milne’s mob, want to talk us down. You have got thousands of businesses across Australia, leadership in the Australian government, leadership in state governments, and this mob over here want to talk us down all the time, to talk Australia down, when we are doing so much and achieving so much. And Grant King from Origin Energy said, ‘No, we are very happy with the Commonwealth’s support.’ I asked: ‘Do you need any more money? We’ve given you $6 million—are we short? Is there something else you need?’ He said, ‘No, we are absolutely delighted by the support of the Australian government—absolutely delighted, and we are very excited about sliver cell technology development.’ But once again you have the Greens hiding the truth, spreading myths about our climate change policies and not giving credit where it is due to the thousands of Australians who have saved, between them, 85 megatonnes of carbon because of our policies. We know we have to do more and we will, but not with the Greens’ help. (Time expired)

Question agreed to.

Superannuation (Government Co-contribution for Low Income Earners) Act 2003

Senator WATSON (Tasmania) (7.07 pm)—I move:

That the Senate take note of the document.

As part of the last budget, the government released a plan to streamline superannuation by sweeping away the current tax complexities faced by retirees, by improving retirement incomes, by giving greater flexibility over how superannuation savings can be drawn down and by improving incentives to work and to save. These came on top of a number of other big initiatives in recent years. The proposals represent the most significant reform of Australia’s superannuation system in about 20 years. They build on the previous tax cuts in the superannuation system and the introduction of co-contribution, which this report is all about, for low income earners. This is part of the coalition’s ongoing plan to build a strong future for Australia. The complexity associated with taxing superannuation benefits confuses retirement decisions, clouds incentives to invest in super and imposes unnecessary costs on retirees.

The superannuation co-contribution scheme is an excellent initiative, and I was pleased to see the actual detail handed down by the Commissioner of Taxation in the quarterly and annual reports during the April-June quarter of 2006, when 147,588 people were beneficiaries of super co-contributions, which amounted to $128,805,000. This figure becomes even more impressive when you look at the annual report for the year. The annual report states that the total number of beneficiaries in 2004 was 45,273. In the next year, 2005, the number grew to 1,193,304. I must commend the Treasurer for his excellent selling of this government initiative, which will see over a million low-income earners accrue nearly $1 billion dollars extra to their superannuation.

In the past, the government’s co-contribution scheme unfortunately has come under attack from those on the other side. Indeed, Senator Sherry has said in this place that the scheme will not help middle Australia, and that too few lower income earners will be able to benefit from it. Senator Sherry, it appears that 171,844 people earning less than $20,000 per annum disagree with you. Indeed, the total number of people earning less than $58,000 a year using this scheme is well over one million—I repeat: one million.
I also note that the industry super funds strongly support Treasurer Costello’s bold super initiatives—first the co-contribution and its extension, and a year later the simplification changes. Gary Weaven, former ACTU industry fund advocate, said:

... the Government’s Budget initiatives have proved the Liberal Party is now the official party for superannuation.

The Investment and Financial Services Association CEO, Richard Gilbert, said:

The co-contributions partnership between Government and Australians saving for their retirement will foster a savings culture—with benefits beyond better retirement incomes.

On the other hand, we have an earlier quote from the Association of Superannuation Funds of Australia chief executive, Philippa Smith. She said that the ALP’s proposed cuts to the co-contribution scheme in the 2004 election were ‘disappointing and excessive’. She went on:

Just at a time when we should be helping to boost people’s savings, the ALP fails to deliver on a national priority.

It is not surprising that the Liberal-National coalition is now the party of superannuation. I would comment further on Labor’s position on the co-contribution scheme, but it has been 125 days since the budget was announced, and the Leader of the Opposition has not given us his opinion on the recent changes.

We see that the co-contribution scheme, as part of the government’s policy, has broad support from industry. This money will pay real dividends to our society as it is an effective measure to help ameliorate the effects of our ageing population. We are in great need of initiatives like this scheme, and I hope that the evidence presented in this report will ensure that it has the full support of everyone in this chamber.

Senator SHERRY (Tasmania) (7.13 pm)—I disagree with some of the points Senator Watson has made, and I will comment on those as I go. That is despite my considerable respect for Senator Watson and his knowledge of superannuation—I would acknowledge that; certainly he is the most knowledgeable on the government side.

In dealing with the issue of the existing co-contribution, let me refer to the just over 1.1 million low- to middle-income earners. They are not all low- to middle-income earners if you look at the family tax arrangements, Senator Watson, and that detail is provided. In fact, about one in 10 partners of low- to middle-income earners earn incomes higher than $58,000, which is the phase-out level. When you have the couple’s family income details provided, it is clear that on that basis some people at a higher income level are indirectly benefiting. But put that issue aside.

Senator Watson interjecting—

Senator SHERRY—Yes, you are right, Senator Watson: 1.1 million people is a lot of people. But I seem to recall the Labor Party having a co-contribution scheme, which we announced in 1995 and the Liberal Party signed up to prior to the election in 1996, which was to provide a co-contribution to some eight to nine million Australians. I want to contrast that with the outcome of the existing co-contribution, which is solid and substantial. I acknowledge that; indeed, the Labor Party has announced we will be keeping what is effectively a much watered down co-contribution compared to the co-contribution that Labor announced some 11 years ago, which this government, despite the fact that it signed up to it prior to the 1996 election, then scrapped in 1997—not in 1996, when the budget balancing measures occurred; it scrapped it a year later. I will just point out for the record that, as I said, that
would have delivered a co-contribution to eight to nine million working Australians and, on figures at the time, would have delivered an additional contribution to superannuation of approximately $4½ billion to $5 billion per year.

It is in that context that I remind the Senate, and Senator Watson in particular, that what in fact the government have done is scrapped a massive Labor initiative and announcement, even though they promised and committed to it prior to the 1996 election, and then effectively delivered a considerably watered down version of Labor’s co-contribution. But I accept the generally positive contribution of Senator Watson that the current scheme has made a difference to a substantial number of people. I make my comments in that context, and Labor is committed to continuing the scheme.

I would also point out that, if we look at the latest APRA figures on the total level of savings in superannuation—I think it is at around $910 billion or $915 billion, approximately—and if you analyse the APRA figures for the growth in superannuation from about $35 billion or $40 billion just prior to the introduction of compulsory superannuation, which was a Labor initiative back in 1987, the overwhelming reason for the growth in superannuation assets in this country is not the co-contribution; it is not the spouse rebate; it is that superannuation is compulsory in this country. That is the fundamental reason why we have seen such a big growth in superannuation assets over the last 20 years. The other major reason is that we have had good, positive rates of return, at least in the last three years. They are the fundamental drivers of the asset growth in superannuation in this country. Whilst the government’s watered down co-contribution, as compared to Labor’s proposed initiative, is useful for those people—we acknowledge and accept that, and we endorse the scheme—it should be seen in that context.

Finally, we look forward to seeing the legislation and the detailed costings of the government’s superannuation announcement. I think it is reasonable to actually receive those details before the shadow ministry considers the government’s announcements. We are in general support of those changes, but we want to see those details before the shadow ministry considers them. (Time expired)

Question agreed to.

Indigenous Education and Training

Senator CROSSIN (Northern Territory) (7.19 pm)—I move:

That the Senate take note of the document.

I will take the opportunity to say what I can in the short time available, because the annual report into Indigenous education and training is always a very significant report. This is the 2004 report and, if I get a chance to say anything in the minute that I have, I do want people to know that this report is in fact one year late. This report should have been tabled last September or October, so the government are running behind by 12 months in their agenda to report to this nation on the progress of Indigenous education. They might say to me in estimates that it is because they are waiting for states and territories to get figures to them—that may well be the case. If that is the case then something drastically needs to be done to ensure states and territories report more efficiently and promptly so that that is not an excuse this federal government can give us. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—Order! It being 7.20 pm, I propose the question:
That the Senate do now adjourn.

**Secondary Education**

**Senator FIFIELD** (Victoria) (7.20 pm)—Labor have always held up year 12 retention rates as something to be proud of and as an indicator, in themselves, of the health of our school system. Last week, Labor ‘middle-bencher’ Craig Emerson advocated going further. He advocated that completion of secondary education—completion of years 11 and 12—should in fact be mandatory; it should be compulsory; you should have to continue years 11 and 12 to completion. This is precisely the mindset that this government has been trying to undo—the view that there is virtue in and of itself in completing year 12 and that year 12 completion is some sort of educational Holy Grail. This mindset is based on three false premises: first, that the longer students stay at school the better; second, that it is more important to do years 11 and 12 than to get a trade and a job; and, third, that as many people as possible should go to university.

This is an approach that has done a lot of damage to a lot of people in Australia by denying them the opportunities that best suit them. Labor’s approach, at both state and federal levels, has led to a stigmatisation of the traditional trades and an elevation of university study over and above all other post-school options. This side of the chamber has been seeking to undo that mindset and to establish an environment where a good trade qualification is as highly regarded as a good university education.

In Dr Emerson’s commentary, he cited the current mining-driven jobs boom as a cause for concern. The fact that you actually have a lot of people getting a lot of good jobs is, for him, a cause for concern. He predicted that, when the resources boom ends, those currently employed in those industries in that sector will find themselves jobless and lacking the skills to seek further work. He must be assuming that Labor will one day win office, kill the economy and kill those industries and that people will be out of work. I guess I can understand his point of view, taking that view as to what a Labor government might do.

**Senator Ian Campbell**—They’ve got a bit of form!

**Senator FIFIELD**—They do indeed have form. But Dr Emerson believes that completion of secondary education offers a better solution and ensures a greater degree of employability, that these people who are taking these good jobs in the mining industry would be better off if they stayed at school. The statistics tell us that not all students want to complete secondary schooling and move on to higher education. Seventy per cent of young people do not go directly from school to university, and one-third of those who do do not complete their studies.

Not all students want to finish year 12. Not all students should finish year 12. Not everyone should go to university. We have gone too far down the wrong path. Indeed, we have gone so far down the wrong path that many universities can no longer find the students to fill the places that are funded by the government. Basically we are now at a point where everyone who wants to go to a university can do so, and we need to recognise that simply forcing kids into traditional schooling will not work.

We have been hearing a lot from Labor bemoaning the skills shortage, but we have to recognise that the skills shortage is partly a function of the fact that we have a strong and growing economy and that we are near full employment. The proof of this is that, in a dead economy with high unemployment, you do not have a skills shortage; you have got plenty of skills to go around for available jobs. And further proof: we do not have a
shortage of just skilled labour in Australia; we also have a shortage of unskilled labour. We have a labour shortage full stop: a growing economy, close to full employment, a labour shortage is what we have.

But, to the extent there is a lack of particular skills, we need only look to Labor for the reason why. It was the Labor Party at a state level that abolished the old tech schools around Australia in the 1980s. It was the Labor Party that elevated university education above technical and practical education. And it was the Labor Party that converted the good colleges of advanced education into universities and effectively laid waste to a fantastic sector that taught good, practical and needed courses.

So it is ironic to see Mr Beazley spending the last couple of months mapping out his plan for education and his plan to address the skills shortage. Only last week, Mr Beazley alleged the government had not done enough to encourage young people into technical education. Mr Beazley said:

… in our education system if kids aren’t in an academic stream, they need encouragement into a trade.

Sounds reasonable, but hello! Which side of politics abolished the tech schools? Which side of politics abolished the CAEs? Which side of politics stigmatised traditional trades and elevated university education above all else? Which side of politics created the public mindset that, if you have not completed year 12, if you have not gone to university, you are somehow a failure? And who is paying the price now? It is employers and it is those who did not get the education that would have best suited them. Mr Beazley has also declared that he now supports:

Schools which specialise in particular trades. Schools which specialise in particular academic pursuits …

It sounds like he is talking about having choice. That is great, but it was Labor that abolished the tech schools, Labor that abolished the CAEs, and now Labor is complaining about the skills shortage and now Labor has rediscovered practical education and vocational courses.

Unfortunately, while Mr Beazley might sound like he has discovered a correct path, he cannot help himself. He is always attracted to complexity in policy; he is always attracted to prolixity in speech. Remember Knowledge Nation—or, as it was better and more commonly known, ‘noodle nation’, in reference to that fantastic spaghetti diagram which Barry Jones insisted having in the ‘noodle nation’ document. But Mr Beazley has learnt nothing from those ‘noodle nation’ days. Mr Deputy President, listen to this. Mr Beazley wants to establish:

… a network of new innovation centres across the country to connect people in business with the ideas people.

I do not have a clue what that means. What about this other policy initiative from Mr Beazley? He wants to create Australian knowledge transfer partnerships: … to build … collaboration between experts in science and research, and people in business …

These partnerships will be built between business and a university or TAFE so that a graduate or TAFE diploma holder can become:

… the living link between what business needs and what research can provide.

Again, I do not have a clue what that means; it is all noodles to me.

Mr Beazley, how about this for a policy: Australian technical colleges—$289 million, 24 new tech colleges, tuition for 7,200 kids in years 11 and 12, both academic and vocational training while kids complete their school studies? How is that for a policy? These colleges are going to be critical in ad-
dressing the skills problem that we have and also in offering a real alternative to students. It is not the complete answer, but it is part of it. I do not know why, but tonight I have a feeling in my waters that the government is going to do even more to deal with skills shortages in Australia. It is just a funny feeling I have.

But there is also hope in the Victorian opposition, which sees the need for change, for greater variety and choice. The Victorian opposition has proposed the establishment of more academically selective schools and centres of excellence in music, science and language. It is a state party that, when in government, wants to reintroduce state technical colleges. This is great news, but unfortunately the Victorian Labor education minister referred to part of this package as elitist. She was referring to the academically selective schools, but there is nothing elitist about choice; there is nothing elitist about opportunity; there is nothing elitist about giving people the chance to meet their full potential. Victorian opposition leader Ted Baillieu and shadow education minister Martin Dixon should be commended for their policy. They are not offering compulsion along the lines of Dr Emerson; they are offering choice. They are not offering the mind-numbing policy complexity of Mr Beazley but clear and practical options for students.

We should all listen to former ALP President Barry Jones, whose recent autobiography damned Mr Beazley for shunning major reform and for being the most conservative leader in Labor history. The Labor Party does not promote choice. It does not promote excellence. Labor has not learnt its lessons in education and it does not deserve to be back on this side of the chamber.

**Biotechnology**

Senator STEPHENS (New South Wales) (7.29 pm)—This evening I want to speak briefly about the issue of biotechnology. There is no doubt that recent major breakthroughs in biotechnology have made a huge contribution to human life. We do not have to look far to think of examples—remember how the human tissue grown into new skin was used by Dr Fiona Wood and her team to save the life of the victims of the Bali bombings. Or think about the family members or friends who are finding relief for conditions where antibody based drugs have made landmark breakthroughs in medical therapies, treating diseases such as arthritis, multiple sclerosis and hepatitis, not to mention cancer. How wonderful to know that Herceptin, the first drug approved for use with a matching diagnostic test, is now available to treat breast cancer in women whose cancer cells express the protein HER2.

It is good to remember, since this is Mental Health Week, that not all illnesses are physical. In the field of mental health, too, the pharmacological advances have improved the quality of life of many sufferers. In my role as Convener of the Parliamentary Friends of Schizophrenia, for instance, I have been fortunate to learn of the developments, to hear the stories, to meet people and gain some insight into the pain of this condition, as well as the biotechnological advances in treatment.

At the launch of National Mental Health Week yesterday, we heard the exceptional testimony of Geraldine Quinn, who provided unusual insights into her brother’s mental illness and challenged us as policymakers to do better in caring for those with mental illness. We heard about the creativity and uniqueness of those who contributed to the exhibition ‘For Matthew and Others—Journeys with Schizophrenia’, and were able to appreciate some of the outstanding artwork that has been included in the exhibition.
So it may seem churlish to introduce a note of caution in a discussion about the role of biotech discoveries in our future directions as human beings, but it is an important part of the bioethical debate being played out in the literature across the world. Part of being human is the desire, even the urge, to become better—to strive for perfection, as my old teachers used to put it. And who could begrudge such an urge? But equally, part of what makes us human is our differences, our very imperfections. To achieve perfection, be it moral, mental or physical, would, of course, constrain us from being human.

To my mind, it is important that we think clearly about the path we are on towards the solution of all our human imperfections. How do we continue to cherish our diversity and individual uniqueness even while we try to use our human talents to improve our lot? How to reconcile these questions is not an isolated, theoretical, philosophical quandary without any bearing on our role here as legislators; on the contrary, it is central to what we are here for. It is the kind of thorny question that occupies my mind as I try to come to terms with a number of the issues raised in the findings and recommendations of the Lockhart report. While the Senate committee is charged with the responsibility of examining the detail of the Patterson bill, some of these issues, not directly related to the content of the bill, may not receive consideration, given the time constraints and the terms of reference of the inquiry.

A good starting point in this discussion is Professor Francis Fukuyama’s book *Our Posthuman Future: Consequences of the Biotechnology Revolution*. Professor Fukuyama is the Bernard L. Schwartz Professor of International Political Economy at Johns Hopkins University, and his provocative book argues, very persuasively, that the biotechnology revolution will ultimately have profound consequences for our society, and some of these may be quite damaging. For example, he sees the most significant threat posed by contemporary biotechnology as the possibility that it will alter human nature and thereby move us into what he calls a ’post-human’ stage of history.

This is a very tantalising argument. The concept of human nature has provided stable continuity to our experience as a species. It defines our most basic values and it shapes and constrains the possible kinds of political regimes. So a technology that is powerful enough to reshape what we are can conceivably result in poor consequences for liberal democracy and the nature of politics itself. Liberal democracy is the belief that all human beings are equal by nature. We are generally an egalitarian species and use our intellect and our resources as well as our good fortune to ensure the survival of our species. This applies to whether we live in the developed world of the have or the developing world of the have nots.

The notion that many individuals have come to think of as commonplace—the idea of biotechnology as a way of improving us or our children—goes to this notion of altering human nature and its impacts. We could consider this to be at one end of the interventionist spectrum that Professor Fukuyama seeks to address. At the core of his argument is the fact that biotechnology is allowing us to modify human behaviour and that we need to be aware of the costs as well as the benefits of embracing it without question. As he so cogently puts it:

Biotechnology in contrast to many other scientific advances mixes obvious benefits with subtle harms in one seamless package.

Right now we are facing ethical choices about genetic privacy, proper use of drugs, research involving embryos and human cloning. Lockhart takes us further—into the
realms of embryo selection and the degree to which medical technologies can be used for enhancement rather than therapeutic purposes.

But biotechnology is much broader than genetic engineering. Putting aside the cloning and embryonic stem cell debate for the moment, to look at other applications of biotechnology provides an opportunity to consider less emotive issues that highlight the seamlessness to which Professor Fukuyama refers. The ultimate destination, or prize, of the biotech revolution will be intervention in the germ line to manipulate the DNA of all of one person’s descendants. This may happen for a variety of reasons—to eliminate Huntington’s disease, for instance, or for more questionable purposes.

As biotechnology increasingly confers the power to manipulate our biological make-up, there is a distinct possibility, and a danger, that ordinary, or at least wealthy, parents will seek to use this technology to ‘improve’ their children. This is not in the realm of fantasy but is the concern of many thinkers who are following the biotech revolution closely. For example, Gregory Stock, in his book Redesigning Humans, suggests that musical people might want to enhance their children’s musical abilities or athletes might want to enhance their children’s athletic abilities. Think about this: we may also want to enhance for more ideological or political reasons as well. And if this trend goes far enough, it may lead us to shift the way we think about genetically different classes of human beings, which will then inevitably affect our view of human rights.

‘Improving’ human beings can be an extremely ambiguous enterprise, particularly when it comes to modifying elements of our emotional system and personality. Would people be improved by being made less aggressive? Would that not simultaneously cut out a good deal of innovation and positive competition as well? The fact is that some individual genes have multiple effects and sometimes it takes the interaction of many genes working together at different points to produce other effects. This complexity is what makes germ-line engineering different from conventional medicine: the bottom line is that if you make a mistake when you genetically engineer a child you cannot correct it. Hence the urging to proceed with caution, particularly in terms of decision making. And this leads me back to our role and our responsibilities as elected representatives of all Australians.

We are all aware of the democratic tendency to delegate decision making to expert communities in certain areas that require great technical expertise. This has always been true of biomedicine, where drug regulation, rules concerning human experimentation and the like have always been within the purview of a limited expert community, with occasional interventions by government. Our tendency to consider behavioural differences as medical conditions—coupled with society’s respect for medical solutions—makes it all the more essential that we think carefully about the issue of regulation.

When we consider the Lockhart recommendations, these are the kinds of conversations we all have to be having. Too often our discussion descends to a mutually disrespectful debate in which opponents are simply pigeonholed into crude categories such as irresponsible futurists, repressive conservatives, secular redesigners or religious closed minds. It is not only valid but it is imperative that we ask probing questions, all the more so if they are uncomfortable, unfamiliar questions that yield no simple, forthright answers.
Native Title

Senator SIEWERT (Western Australia) (7.40 pm)—I would like to start by acknowledging the traditional owners and my respect for the fact that I am speaking on Ngunnawal land. On 19 September 2006 Justice Wilcox handed down his decision recognising Nyungar native title over an area of 6,000 square kilometres including the Perth metropolitan area but excluding all freehold and most leasehold land. It is fair to say that this caused a great deal of excitement in the Nyungar community in Perth. But I have been concerned by the reaction of both the state and federal governments and disappointed by a number of misleading public statements which seem to be aimed at creating a climate of fear around this claim.

Justice Wilcox’s decision recognised that there was a single Nyungar community occupying the Perth metropolitan region in 1829 that has maintained its connection to the land, its language, its law and its culture. The Nyungar community has faced an uphill battle to maintain their law and culture in the face of European settlement. It is a tribute to their strength and determination that they have survived policies that removed their children and sought to wipe out their language and culture. It is particularly disappointing that, in the face of this brave struggle, the Commonwealth and state governments are challenging this claim on the grounds of the unity and continuity of Nyungar culture. It is all the more shameful because, as Justice Wilcox said, this recognition is predominantly of ‘symbolic and psychological importance’.

For many years Nyungar language, culture and law were effectively pushed underground, but the fact that it continued out of sight of white authorities is well documented and clearly demonstrated by the extent of contemporary language and cultural knowledge. There is the example that when Nyungar children were removed from their families under the 1905 act and placed in institutions, like Moore River or Sister Kate’s, they were strictly forbidden from using their language and were subject to harsh punishments if caught. Despite this, the Nyungar language and culture are strong and are experiencing a renewed resurgence. The community hopes that this native title recognition will give extra impetus to this resurgence.

Legal experts have debunked the claims that the decision is inconsistent with the findings of the Yorta Yorta case; that is, that native title claimants need to demonstrate that they have substantially continued to observe traditional laws and customs. There are two important facts about the situation of the Nyungars in Perth that are different from the case of the Yorta Yorta and any other likely native title claim over a capital city. The settlement of Perth happened relatively late: the Crown declared sovereignty in 1829. There is a wealth of written, documented evidence from the time of settlement that reports Nyungar traditions and documents responsibilities for areas of land. As Justice Wilcox wrote:

The cumulative effect of these writings is to provide an insight into Aboriginal life, including Aboriginal laws and customs, in and about the date of settlement, which is possibly not replicated elsewhere in Australia.

The Nyungar people have clearly demonstrated the preservation and continued observance of their laws and customs since 1829.

I want to speak specifically to the misleading, scaremongering comments made by the Attorney-General, Philip Ruddock. For example, he said on ABC Radio:

In a major capital city where you do have very extensive areas of parklands, waterforeshores, beaches, matters of that sort, you could well find that ... native title owners would be able to exclude other people from access to those areas ...
You would think that the Attorney-General would know better. It seems inconceivable to me that he could make such a misleading public statement on one of his key portfolio areas. Justice Wilcox clearly spelt out the limitations of native title rights in delivering his judgement, indicating that the reservation of land for public purposes clearly extinguishes native title. He wrote specifically:

Having regard to the extent of urban development and intensive farming in the claim area, the result is that a large proportion of the land within the claim area (the Perth metropolitan area) is unaffected ...

Respected corporate law firms, such as Deacons and Freehills, agree with Justice Wilcox’s analysis. Public access to beaches, foreshores and parklands subject to native title claims is specifically protected by enabling legislation in Western Australia, Queensland and Victoria. While this is the first time that native title has been granted over a capital city—Perth is our fourth largest city—this is not the first time it has been established over areas of highly settled land, including town sites and cities.

So, what then of the Attorney-General’s claims? A threat to block public access to recreational areas is only theoretically possible if there are situations where there are recreational areas accessed by the public—such as beaches, parks or forests—and their recreational use has not technically been properly reserved or dedicated. Under these circumstances, the Nyungar people would need to seek to be granted exclusive access to these areas and would have to actually be granted exclusive access by the courts, which is extremely unlikely.

The Nyungar people have clearly stated that they are not interested in excluding anyone from any recreation areas. The only conclusion can be that this is a scare campaign with no real substance. To the credit of the wider community, it seems that they have not been scared by this scare campaign.

The approach taken by the federal government on this issue is disappointing but not entirely unpredictable. It is consistent with their wider approach to Indigenous affairs and fits in with their recent legislative and administrative changes which undermine Aboriginal communities and seek to replace any last vestige of self-determination with a new paternalism. It is disappointing that I have not heard many voices raised that are positive about the findings on native title for the Nyungar community.

However, this is nothing compared with the disappointment and disillusionment of the Aboriginal community with the WA state Labor government. The gap between rhetoric and reality in this case is astounding. The state Attorney-General, Jim McGinty, has been tying himself into knots trying to claim that the Carpenter government does not want to defeat Nyungar native title as such but rather wants to challenge the grounds for the judgment—that is, the coherence and continuity of Nyungar society.

This is a double slap in the face for the Nyungar, who have consistently stated that acknowledgement and recognition are their primary concern, that they want the opportunity to be recognised as custodians of the land and be able to play a greater part in decisions about how it is managed—in such areas, for example, as natural resource management. They want to be able to teach their children their law, culture and language. They feel abandoned and betrayed.

This challenge effectively means that the major beneficiaries of this case in the foreseeable future will be the lawyers rather than the Nyungar community. Imagine if the millions that are to be spent on challenging this case in court were to be spent on the Nyungar community. The process will be expen-
sive, but this expense will fade into insignificance compared with the cost of continuing down this road.

There is a risk that the challenge to the notion of a ‘single’ Nyungar society could lead to a situation in which we are instead forced to deal with a large number of overlapping native title claims for individual family groups, greatly increasing the legal complexity, and of course cost, without delivering any better result for the Nyungar community, other communities in the future, the state or federal governments or the community. And if the Nyungar are successful in defeating this challenge, they might choose to continue down the path of litigation.

To this end I urge the governments—particularly the state government—to withdraw their challenges to the native title claim and I urge the state government to return to its commitment to negotiation rather than litigation and to start talking in good faith with the Nyungar community so that the outcomes of the native title case can genuinely start to have a positive effect for the Nyungar community of Perth.

Senate adjourned at 7.49 pm

DOCUMENTS

Tabling

The following government documents were tabled:

- Bundanon Trust—Report for 2005-06.
- Crimes Act 1914—Controlled operations—Report for 2005-06.
- International Air Services Commission—Report for 2005-06.
- Repatriation Commission, Department of Veterans’ Affairs and the National Treatment Monitoring Committee—Reports for 2005-06.

The following documents were tabled by the Clerk:

- Defence Act—Determinations under section 58B—Defence Determinations—
  - 2006/51—Travel period—amendment.
  - 2006/52—Annual review of housing-related allowances and charges.
  - 2006/54—Additional retention bonus for other rank members.
  - 2006/55—Completion bonus scheme—Navy Aviation Technician categories.
  - 2006/56—Remuneration reform project—consequential amendments.
  - 2006/57—International campaign allowance—amendment.
- Product Rulings—Notices of Withdrawal—
  - PR 2006/112.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Wilderness Society
(Question No. 2401)

Senator Bob Brown asked the Minister representing the Treasurer, upon notice, on 17 August 2006:
Has the Minister met with representatives of the Wilderness Society in the past 5 years; if so, on what dates.

Senator Minchin—The Treasurer has provided the following answer to the honourable senator’s question:
No.

Wilderness Society
(Question No. 2405)

Senator Bob Brown asked the Minister representing the Minister for Health and Ageing, upon notice, on 17 August 2006:
Has the Minister met with representatives of the Wilderness Society in the past 5 years; if so, on what dates.

Senator Santoro—The Minister for Health and Ageing has provided the following answer to the honourable senator’s question:
No.

Wilderness Society
(Question No. 2408)

Senator Bob Brown asked the Minister for Immigration and Multicultural Affairs, upon notice, on 17 August 2006:
Has the Minister met with representatives of the Wilderness Society in the past 5 years; if so, on what dates.

Senator Vanstone—The answer to the honourable senator’s question is as follows:
My office has no electronic record of a meeting request or that a meeting has taken place with representatives of the Wilderness Society in the past 5 years.

Wilderness Society
(Question No. 2409)

Senator Bob Brown asked the Minister representing the Minister for Defence, upon notice, on 17 August 2006:
Has the Minister met with representatives of the Wilderness Society in the past 5 years; if so, on what dates.

Senator Ian Campbell—The Minister for Defence has provided the following answer to the honourable senator’s question:
Yes, on 8 June 2006.
Wilderness Society
(Question No. 2410)

Senator Bob Brown asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 17 August 2006:
Has the Minister met with representatives of the Wilderness Society in the past 5 years; if so, on what dates.

Senator Minchin—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator’s question:
The Minister has not met with representatives of the Wilderness Society in the past 5 years. There is no record of any request from the Wilderness Society for a meeting with the Minister.

Wilderness Society
(Question No. 2412)

Senator Bob Brown asked the Minister for the Environment and Heritage, upon notice, on 4 September 2006:
Has the Minister met with representatives of the Wilderness Society in the past 5 years; if so, on what dates.

Senator Ian Campbell—The answer to the honourable senator’s question is as follows:
The Minister for the Environment and Heritage meets many organisations to discuss issues important to them.

Wilderness Society
(Question No. 2415)

Senator Bob Brown asked the Minister representing the Minister for Education, Science and Training, upon notice, on 17 August 2006:
Has the Minister met with representatives of the Wilderness Society in the past 5 years; if so, on what dates.

Senator Vanstone—The Minister for Education, Science and Training has provided the following answer to the honourable Senator’s question:
No.

Civil Aviation Safety Authority
(Question No. 2417)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 18 August 2006:
With reference to the answer to the question on notice no 1819, (Hansard 9 August 2006, p.110); can details be provided of the prosecution initiated by the Civil Aviation Authority (sic) pursuant to Regulation 215, as contained in the Civil Aviation Regulations 1988 including: (a) the operator; (b) the nature of the breach; and (c) the outcome.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:
(a) The action was taken against an individual, Mr Tony Richard Rawson, who was employed by O’Connor Airlines as a captain on their Jetstream aircraft.
(b) Mr Rawson was charged under subregulation 215(9) of the Civil Aviation Regulations 1988 (CAR) for failing to comply with a safety-related direction contained in the O’Connor Airlines operations manual; to inform the Chief Pilot that he was taking medication.

(c) Mr Rawson was also charged with two offences under section 135.1 of the Criminal Code Act 1995 (Criminal Code) (General dishonesty – obtaining a gain) on the basis of his false answers to the questions asked as part of his medical examination, relating to the taking of opiates and the taking of prescribed drugs for longer than two consecutive weeks.

(d) In relation to the Criminal Code offences, Mr Rawson was convicted and given an 18 month gaol sentence which was immediately suspended upon his entering a two year, $500, good behaviour bond. He was also given a two year exclusion period in relation to his pilot licence. Given the punishment imposed under the Criminal Code, Captain Rawson was convicted without penalty on the CAR 215 offence.

Aged Care
(Question No. 2421)

Senator McLucas asked the Minister for Ageing, upon notice, on 21 August 2006:

With reference to senior aged care facilities in Australia:

(1) From January 2006 to date, by month, what is the number of support contacts (unannounced) and review audits (unannounced).

(2) Will the findings from support contacts (unannounced) and review audits (unannounced) be made publicly available; if so, when and where will these findings be available.

Senator Santoro—The answer to the honourable senator’s question is as follows:

(1) From January 2006 to 30 June 2006:

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<tr>
<th></th>
<th>Jan-06</th>
<th>Feb-06</th>
<th>Mar-06</th>
<th>Apr-06</th>
<th>May-06</th>
<th>Jun-06</th>
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<tr>
<td>Unannounced Support Contacts</td>
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<td>108</td>
<td>106</td>
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<td>137</td>
<td>627</td>
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<td>4</td>
<td>1</td>
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<td>2</td>
<td>14</td>
</tr>
</tbody>
</table>

(2) Information arising from support contacts is ‘protected information’ under Division 86 of the Aged Care Act 1997.

Decisions and reports arising from review audits are placed on the Aged Care Standards and Accreditation Agency’s website at www.accreditation.org.au.

Defence Land
(Question No. 2423)

Senator Nettle asked the Minister representing the Minister for Defence, upon notice, on 21 August 2006:

With reference to the land known as Hill 60 at Port Kembla, New South Wales:

(1) Is the Minister aware of any agreements, formal or informal, written or unwritten, implied or direct, made with aboriginal people regarding their removal (at the time of the Second World War) from and possible return to, this land.

(2) Will the Minister honour the agreements made with aboriginal people, at the time of their removal from this land, in relation to their promised return to the land at the end of the Second World War.

(3) Will the Minister agree to the deferment of the intended sale of the departmentally owned land, until the issues of ownership, significance and as yet unfulfilled agreements are discussed and resolved with aboriginal elders.

QUESTIONS ON NOTICE
(4) Will the Minister meet with aboriginal elders and members of the Port Kembla community to discuss and resolve issues of ownership, significance and unfulfilled agreements, relating to this land.

**Senator Ian Campbell**—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) No.

(2) There does not appear to be any evidence that an agreement was made. Legal advice is that native title has been extinguished.

(3) The Government is considering its options regarding the future of the site including possible ongoing public ownership.

(4) Community concerns have been clearly expressed to the Government and will be considered in deliberations on the future of the site.

Visas

(Question No. 2428)

**Senator Nettle** asked the Minister for Immigration and Multicultural Affairs, upon notice, on 24 August 2006:

(1) How many forestry workers have entered Australia on visas in relation to working holiday makers.

(2) Which states were/are they working in.

**Senator Vanstone**—The answer to the honourable senator’s question is as follows:

(1) My Department is unable to precisely determine how many forestry workers have entered Australia on Working Holiday visas. Although applicants are requested to indicate their usual and intended occupation in the application form, they are free to describe their occupation as they see fit, and there may be countless variations of any one occupation. Further, my Department does not systematically collect information on the actual work undertaken by working holiday makers whilst in Australia.

To obtain an accurate picture of the usual and intended occupations of working holiday makers would involve a significant diversion of departmental resources and in the circumstances, I do not consider that the additional work can be justified.

However, to assist the Senator’s understanding of this issue, my Department has examined Working Holiday electronic visa applications lodged in September 2005 and March 2006. The sample totalled 21,014 applications, of which, in the application form:

- 0.12% (26) of applicants stated that their usual occupation was forestry-related; and
- 0.08% (17) of applicants stated that they intended to undertake forestry-related work during their stay in Australia.

Forestry-related work includes occupations described by an applicant as tree planting, tree surgery, arborist, or forestry work.

(2) My Department does not monitor the movements of Working Holiday visa holders within Australia. They are free to move around the country as they wish and may undertake work in any state or territory.

Australian Protective Services Certified Agreement

(Question No. 2430)

**Senator Ludwig** asked the Minister for Justice and Customs, upon notice, on 24 August 2006:
With reference to the Collective Agreement between Protective Service officers and Australian Protective Services:

(1) Has the current agreement expired; if so, when did it expire; if not, when does it expire.

(2) Have either or both parties forwarded a log of claims to the other in respect of a new agreement; if so, when did this occur; if not, why not.

(3) Have either or both of the parties responded to the log of claims submitted by the other; if so, when did this occur; if not: (a) which of the parties has not responded to the log of claims; and (b) why not.

(4) Has there been any protected industrial action; if so, can details of the date and length be provided.

(5) What is the current status of the negotiations.

(6) Has a draft agreement been reached.

(7) Can a copy be provided of any bulletins, memorandums or any other correspondence issued to Protective Service officers in respect of the negotiations for the new agreement.

Senator Ellison—The answer to the honourable senator’s question is as follows:

(1) The AFP Protective Service Officer Certified Agreement 2005 nominally expired on 19 April 2006.

(2) The AFP did not submit a log of claims in this instance. The Single Bargaining Unit (SBU), comprised of the Australian Federal Police Association and the Community and Public Sector Union, presented its log of claims to the AFP at a negotiation meeting on 12 April 2006.

(3) The AFP provided a response to the SBU log of claims at the negotiation meeting on 26 April 2006. The negotiation between the bargaining position of the AFP and the SBU log of claims is ongoing.

(4) No.

(5) Negotiations are continuing.

(6) No.

(7) The previous eight ‘AFP/PS CA 2006 Staff Updates’ are attached for your information.

AFP/PS CA 2006 Staff Update No 1
11 January 2006

In this update
• The new Work Choices Bill
• What is the first move?
• Who are the players?
• The Timeframe
• Next issue

This update is the first in a series of regular information sheets that will outline some of the processes and requirements we have to comply with and to keep you up to date on the negotiations of the next AFP Certified Agreement’s. We hope to bring you a mix of information in these updates and supply you with links to further information on the AFPHub. Ultimately our aim is to provide you what you require so that you are able to make an informed vote on your terms and conditions later in the year.

THE NEW WORK CHOICES BILL

There has been a lot of public debate and discussion about the new Workplace Relations (Work Choices) Bill 2005 and the impact this will have on employees and employers. We have been tracking
these issues closely. It is not possible to perform a full assessment of the Bill until the Regulations have been released as a significant number of clauses are reliant on the Regulations. However, we do not believe the Bill will alter the AFP’s planned industrial approach of employee engagement in establishing an overt, clear, governance driven employment framework. Once the Regulations have been released we will provide you with an overview of the impact the legislation will have on the AFP.

WHAT IS THE FIRST MOVE?

Our current AFP Certified Agreement has a nominal expiry date of 30 June 2006 and we will commence negotiating our new Certified Agreement in February 2006, with the expectation that we will have a new Certified Agreement in place by 1 July 2006.

The Protective Service Officers Certified Agreement has a nominal expiry date of 19 April 2006. This agreement will be negotiated concurrently with the AFP Certified Agreement with the goal of progressing terms and conditions as much as possible to achieve a unified AFP workforce.

WHO ARE THE PLAYERS?

The Certified Agreement is your agreement and you vote to have it accepted for a period of up to three years. As such everyone should take an interest in what it contains and keep up to date with the progress of negotiations. You will be able to have input into the process in a number of ways and we will detail these later.

The AFP has a team of people negotiating the agreement on behalf of you and the organisation. The negotiating team is made up of National Manager Human Resources - Mark Ney, a/g Coordinator Employee Relations - Andrew Brennan, Coordinator Workforce Policy and Planning - John Blake and Kylie Daugherty. Underpinning this group will be the Certified Agreement Management Group including regional HR Managers/Client Managers who will help to collect and distribute information on your behalf, to keep you up to date, and to offer a range of options so that you can have your say.

THE TIMEFRAME

We will be working towards the following milestones to ensure that we have our Certified Agreement’s ready by 1 July 2006.

Collective Agreement Timetable

<table>
<thead>
<tr>
<th>Month</th>
<th>Action</th>
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<tbody>
<tr>
<td>February</td>
<td>First negotiation meeting</td>
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<tr>
<td></td>
<td>Management agenda to be drafted</td>
</tr>
<tr>
<td>February / March</td>
<td>Regular negotiation meetings</td>
</tr>
<tr>
<td>April</td>
<td>Draft Certified Agreement’s go through internal and external vetting/endorsement process</td>
</tr>
<tr>
<td>May</td>
<td>Final agreement’s distributed to all staff for consideration prior to ballot</td>
</tr>
<tr>
<td>June</td>
<td>Agreement is lodged by end of June</td>
</tr>
</tbody>
</table>

NEXT ISSUE

We will look to give you an update on progress regarding the consultative mechanisms the AFP is putting in place to facilitate the negotiations of your next Certified Agreement’s.

Comments & feedback on the Certified Agreement are encouraged and can be sent through your regional HR area, Team Leader, Office Manager or to this email address: AFP-Certified-Agreement

Page owner: National Manager Human Resources Last editor: AFP12148

QUESTIONS ON NOTICE
To enable the AFP negotiation team to accurately consider all staff views on the Collective Agreement we need to gather important feedback from you about the effectiveness of our current Certified Agreement and your suggestions for its improvement.

What will we provide you?
We appreciate you taking the time to involve yourself in the agency agreement process and we will be providing you with several options to ensure you are able to ask your questions and give feedback in a format that suits you.

Some of these options will have a formal approach, with set information days and topics for discussion, while others will enable you to have a say about issues that you think are important, in a less structured way.

What are my feedback options?
Regionally we will provide you with:

- Facilitation of timely information - this will be through a variety of mechanisms to ensure total coverage and may include discussion at regular team meetings, information disseminated via e-mail for teams that do not meet regularly. Updates provided at all staff musters and establishment of targeted forums and focus groups as the need arises.
- Point of contact - your Team Leader and/or Coordinator will be able to respond to and escalate any questions you may have regarding the progress of the agreement and the associated process. Alternatively, your regional HR team or Client Manager will be able to respond to such escalated topics.
- Collation point - your regional HR team or Client Manager will collate all feedback received regionally and escalate this up to the negotiation team. This means that your HR team or Client Manager will be best placed to provide you with information regarding the issues specifically relating to your region or area.

Nationally we will provide you with:

- Collective Agreement 2006 Staff Updates - a regular newsletter for all staff on developments and progress of negotiations, key areas of focus for the new Collective Agreement, confirmation of issues that each of the parties wish to discuss, feedback on the consultative forums etc.
- Collective Agreement Leadership discussion topics - a structured approach for AFP Leaders, providing briefing material to be discussed with their teams with outcomes being fed back through the regional consultative network to the negotiation team.
- E-Mail AFP-Certified-Agreement - a dedicated email address at is available at for you to offer opinions and ideas on topics relating to the Collective Agreement.
- HR managers, AFP leaders, local staff - will be kept up-to-date on the progress of the agreement so that you are able to talk to people with whom you are familiar. They will be able to provide you
with information on the Collective Agreement or facilitate answers for you through their particular networks.

- AFP Collective Agreement AFPHub page - we will post all public information relating to the Collective Agreement process on a dedicated page on the AFP Hub for your information.

Next issue
We will check up on the implementation of the consultation process and any feedback regarding negotiations.

Comments & feedback on the Certified Agreement are encouraged and can be sent through your regional HR area, Team Leader, Office Manager or to this email address: AFP-Certified-Agreement

AFP/PS CA 2006 Staff Update No 3
30 January 2006
On this page
- What is the problem?
- What are we doing about it?
- What issues need to be addressed in light of WorkChoices?
- Starting the consultative process

The AFP needs to review the dispute resolution processes contained in our current certified agreement, in light of the new Workplace Relations Amendment (WorkChoices) Act 2005 (WorkChoices). In examining these issues, we have identified that the current Board of Reference as contained in both the PS and APF certified agreements may have been operating inconsistently with the Workplace Relations Act 1996 (current Act).

WHAT IS THE PROBLEM?
The Board of Reference is required to be constituted in a manner consistent with section 131 of the Workplace Relations Act 1996, as outlined in part 6 clause 8 of the AFP Certified Agreement 2003 – 2006.

For this to occur, the Australian Industrial Relations Commission (AIRC) must make an order to appoint and authorise a Board of Reference to perform its functions as detailed in the Certified Agreement.

In undertaking the review of our current dispute resolution processes, we have been unable to confirm that any such Order has been given. This means that the Board of Reference has not been properly constituted. This poses serious governance concerns for the AFP and we are seeking to resolve the issues as soon as possible.

WHAT ARE WE DOING ABOUT IT?
The AFP has no intention to revisit the decisions made by the Board of Reference and will stand by these outcomes.

The AFP has invited the AFP Association (AFPA) to meet and discuss these issues to establish an agreed way forward. In the interim, employees will not be disadvantaged by this predicament as the current Act provides a mechanism for the AIRC to deal with escalated industrial disputes.

The current Act empowers the AIRC to acts as the impartial third party in any conciliation or arbitration process. Section 89 of the current Act describes the functions of the AIRC in relations to dispute resolution as:

QUESTIONS ON NOTICE
“The functions of the Commission are:

a. to prevent and settle industrial disputes:
   i. so far as possible, by conciliations; and
   ii. as a last resort and within the limits specified in this Act, by arbitration; and
b. such other functions as are conferred on the Commission by this Act, the Registration and Accountability of Organisations Schedule or any other Act.”

Additionally, Part 6 clause 9 provides for an internal dispute resolution process and continues to provide an avenue for dispute resolution.

WHAT ISSUES NEED TO BE ADDRESSED IN LIGHT OF WORKCHOICES?

The ability for the AFP to refer matters to a Board of Reference has changed under WorkChoices. We will need to further explore alternative options.

We also need to consider the requirement as detailed in Reg-24 of the AFP Regulations 1979 providing that a process for review of employment decisions must exist at all times and how this relates to the industrial dispute resolution mechanisms as required under WorkChoices.

STARTING THE CONSULTATIVE PROCESS

The AFP has written to the AFPA and the CPSU inviting the parties to meet on 13 February to establish the negotiating process and agree on dates and times for future meetings. Both parties have accepted this invitation. We will continue to consult with all staff on the matters raised in these meeting through the established communication mechanisms as outlined in the Staff Update #2.

Comments & feedback on the Certified Agreement are encouraged and can be sent through your regional HR area, Team Leader, Office Manager or to this email address: AFP-Certified-Agreement

Page owner: National Manager Human Resources Last editor: AFP12148
Last updated: 02/02/2006 11:01 Next review due: 02/08/2006

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AFP/PS CA 2006 Staff Update No 4

On this page

• Principles for Negotiation
• Hot Issues
• One Agreement or Two?
• Current Issues
• What Next?

15 February 2006

The first consultative meeting for the PS Collective Agreement took place on Monday 13 February 2006. Representatives from the AFPA and CPSU met with the Collective Agreement Negotiation Team for preliminary discussions as to how the negotiation process will be conducted. A meeting with the AFPA on 14 February 2006, was conducted in respect of the AFP general certified agreement.

PRINCIPLES FOR NEGOTIATION

It was agreed that all parties would make a genuine attempt to have the agreements in place in the briefest possible time. An indicative agenda for future negotiation meetings for both the AFP and PS agreements will be on the AFPHub shortly.

To achieve the tight timeframe, we proposed a number of negotiation principles supporting efficient and timely outcomes. These principles are;

QUESTIONS ON NOTICE
QUESTIONS ON NOTICE

1. all meeting are business meetings and include:
   a. agenda,
   b. documented outcomes and action items,
   c. evidence based discussions.
2. AFP seeks a cooperative negotiating environment focussing on problem identification and solving. If due to rising tensions it is determined that no fruitful outcome will be achieved, the meeting will be suspended; and
3. negotiated outcomes are not agreed until the documents are drafted and consultative processes by the parties have concluded.

HOT ISSUES
A range of issues have been identified for discussion. Most of the issues raised are consistent with the five key pressure points for the CA, identified by the AFP executive last year;
1. definition of roles
2. composites and working patterns
3. classification structure
4. deployment
5. dispute resolution

ONE AGREEMENT OR TWO?
Parties agree that a single collective agreement for the entire AFP would be a desirable outcome, in future years. However, after discussion with the AFPA and CPSU we have agreed to continue negotiations for two separate agreements, using this opportunity to discuss and resolve the remaining issues relating to outstanding differences between the two agreements.

CURRENT ISSUES
There are a number of outstanding issues with the current agreements that we are attempting to address. There was general agreement that the prompt resolution of these issues was a vital element in progressing negotiations for the next CA’s. Meetings regarding outstanding review processes will be held over the following weeks with outcomes being communicated and considered through the CA process.

WHAT NEXT?
The next round of CA meetings will be in the last week of February (If required, an earlier meeting may be scheduled due to review outcomes). This will be the first full meeting between the parties.
Comments & feedback on the Certified Agreement are encouraged and can be sent through your regional HR area, Team Leader, Office Manager or to this email address: AFP-Certified-Agreement

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AFP/PS CA 2006 Staff Update No 6

On this page
Timeframes
Technical Changes
What Next?
31 March 2006
The latest round of negotiation meetings for the AFP and PS Collective Agreements took place from the 28th to the 30th of March. The CPSU and AFPA met with the Collective Agreement Negotiation Group to discuss the technical changes that are required as a result of the Workchoices amendments to the Workplace Relations Act 1996 (these amendments came into force on Monday 27 March 2006). The AFPA Zone Coordinators were also provided with an overview of the AFP’s Strategic Directional issues.

TIMEFRAMES
After further discussion regarding the proposed timeframes for negotiations we have provided the CPSU and AFPA written confirmation of the AFP’s commitment to having an agreement in place as soon as possible. We have also confirmed that the AFP will continue negotiations for two separate agreements without limiting the option of a single agreement if circumstances permit. A copy of this letter will be available on the Hub shortly.

TECHNICAL CHANGES
The amended Workplace Relations Act 1996 requires several technical changes to future agreements. It requires the removal of ‘prohibited content’, specifies required content and identifies the way in which ‘protected allowable award matters’ are addressed (Further detail on these elements will be provided shortly).

The types of changes required are:

• Technical matters such as
  - date of effect is from date of lodgement;
  - Agreements are between parties no longer requiring ‘parties bound’ terminology; and
  - Agreements now operate to the exclusion of awards and previous agreements cease to have effect therefore, clauses displacing these provisions are no longer required.

• Terminology contained in leave provisions updated to reflect legislative provisions contained in the minimum standards;

• Leave to accrue monthly; and

• Considerations for reasonable additional hours expanded.

While most required changes do not detract from current provisions, there are a few aspects regarding leave that may inconvenience some staff. These are:

• We can no longer offer employees the flexibility to transfer leave balances to their spouse (when both employed by AFP); and

• Prospective sale of leave can not result in an accrued entitlement dropping below 4 weeks over a 12 month period (being the legislated minimum standard). We are also seeking advice that this arrangement is still permitted under the legislation.

WHAT NEXT?
The next negotiation meetings will occur on 11 – 13 April 2006. The agenda for these meetings will be established shortly but is likely to include technical issues (for the AFPCA), classification and working patterns.

We are getting a great response from the first discussion topic and will be posting the analysis from this on the AFPHub shortly. Stay tuned for the next discussion topic.

Comments & feedback on the Certified Agreement are encouraged and can be sent through your regional HR area, Team Leader, Office Manager or to this email address: AFP-Certified-Agreement

Page owner: National Manager Human Resources Last editor: AFP12148
Last updated: 03/04/2006 07:36 Next review due: 03/10/2006
The AFP CA negotiating group has been meeting with the AFPA and CPSU over the past three months to further the negotiations for the Protective Service Collective Agreement. The main topics for discussion have revolved around PS translating onto the AFP general salary spine and the introduction of a Composite allowance in lieu of penalties. AFP GENERAL SALARY SPINE

It is a priority for the AFP to work towards an integrated workforce. As part of this integration, we are proposing to translate all PS staff onto the general AFP salary spine. The proposed translation points see PSO 1 employees being placed within the current AFP Band 2 structure, PSO 2s within the current AFP Band 3 structure and SPSO’s within the current AFP Band 4 structure. In addition to this, we are proposing that PS employees translated to the AFP Band 2/3/4 classifications will also be able to have access to additional pay points in the next classification based on experience and articulated skill/capability (such as BAO, overseas experience and Regional Trainers). The proposed translation would provide all PS employees with an immediate minimum 3% increase to base salary (with an average increase of 5%).

Access to the additional pay points will also provide employees with a greater earning capacity improving overall pay outcomes. Current PSO 1 employees receive incremental advancement increases of 10% over 5 years; the proposed translation model will result in PSO 1 employees receiving incremental increases of up to 20% over 7 years. Likewise, PSO 2 employees will go from 7% over 4 years to up to 21% over 7 years and SPSO employees going from 7% over 4 years to up to 18% over 6 years.

COMPOSITES

The AFP is also proposing to move away from penalties towards a composite model. We tabled our initial calculations that saw actual figures for penalties amounting to between 26% and 29% depending on working pattern and location, with the majority fitting into the 26% range.

We have proposed a composite figure of 28% with public holidays being managed separately, an additional loading for hours worked between midnight and 0600 and for the composite to be paid during leave (except Long Service Leave). The proposed composite will count as salary for superannuation.

ALLOWANCES

The AFP is proposing the rolling up of salary related allowances to be paid as either annualised amounts or as part of base salaries through incremental advancements. This will maintain total remuneration and provide efficiencies in administration.

WHAT NEXT?

Negotiation meetings will continue to progress a final outcome with consideration of any pay rises and appropriate timing attached to productivity savings, in line with Government Policy Parameters. Comments & feedback on the Certified Agreement are encouraged and can be sent through your regional HR area, Team Leader, Office Manager or to this email address: AFP-Certified-Agreement

Page owner: National Manager Human Resources Last editor: AFP12148
Last updated: 04/07/2006 09:33 Next review due: 04/01/2007
INFORMATION ON 38 HOUR WEEK

One of the changes as a result of the WorkChoices Act 2006 (amending the Workplace Relations Act 1996) includes a requirement that employees are not required to work more than 38 hours per week plus reasonable additional hours.

As the AFP works a 40 hour week, we sought legal advice regarding the impact this legislative change may have on our terms and conditions contained in our post reform Workplace Agreements.

The Australian Government Solicitor has confirmed that the AFP may continue to operate on a 40 hour week so long as it is clearly articulated in our Collective Agreement that employees are required to work an average of 38 hours plus 2 reasonable additional hours per week.

This advice is comforting as the AFP has bought out a thirty eight hour week as part of the 1999-2002 agreement, and as part of the PSO 170 MX Award delivered by the Industrial Relations Commission in 2001 and any required reduction in working hours would need to be balanced by other terms and conditions. We are currently drafting an appropriate clause providing for the continuation of an average 40 hour working week consistent with this legal advice.

REVIEW OF SALARY SPINE (AFP CA 2003-06)

Part 2 (19 & 20) of the current AFP Certified Agreement commit the parties to a review of the AFP Salary Spine with a view to ensuring that salaries have not fallen behind as a result of increases to the cost of living as measured by the wage cost index as calculated by the Department of Finance and Administration (DOFA).

The citation of DOFA is incorrect, as the wage cost index was maintained by the Australian Bureau of Statistics (ABS) and the index has changed since 2003 to the Labour Price Index (LPI).

The ABS have published data indicating that the LPI movement has been; FY 2003-04 – 3.6%, FY 2004-05 – 3.8%, and March 2005-March 06 – 4%. As the data for FY 2005-06 is incomplete, any final review or adjustment can not be completed until the years data is accumulated and published by the ABS. Over the life of the CA LPI = 11.4% and the CA = 12%. Unless the data moves significantly in the last quarter of FY 2005-06 (+0.6%), it is unlikely that there will be any adjustment to the AFP salary spine. I will provide that advice to you as soon as the ABS delivers the final quarter data.

PAY RISES - PRODUCTIVITY FOR CA

A fundamental requirement for the AFP to deliver pay rises to staff is meeting Government Policy Parameters, set by the Department of Employment and Workplace Relations (DEWR). They can be found at:


In essence, the policy parameter that governs pay rises state that the agency will provide internal productivity and savings to budget to enable pay rises (self funded). These productivities are delivered through doing business better, smarter and more efficiently. Without a direct linkage to productivity, DEWR will not support agreements that provide pay rises. Such productivities have included reduction in pay processing through rolling up allowances and payments, better rostering practices, reductions in
unplanned leave absences, etc. As we are continuing negotiations, any pay rises will be determined by our ability to establish productivities.

Comments & feedback on the Certified Agreement are encouraged and can be sent through your regional HR area, Team Leader, Office Manager or to this email address: AFP-Certified-Agreement

The AFP has been meeting with the AFPA, progressing the negotiations for the next AFP Collective Agreement. Subject to the affordability of a total agreement costs, there are a range of key issues that the AFP and AFPA are fundamentally in agreement on;

**Composites**

Composites should be paid for the working patterns that are relevant to the area where the employee is deployed, as opposed to the limited functional descriptions in the current CA;

- This will address the concerns raised by employees regarding the current perceived inequities and lack of flexibility with the payment of composites and the working patterns people are actually working.

**Salary for superannuation**

The component of the composite paid for working patterns traditionally attracting penalty payments will count as salary for superannuation;

- This means that the composite for employees working shift work will count as salary for superannuation;

A component of other composites that represents shift penalties will also be included as salary for superannuation. However these calculations are yet to be confirmed.

**Overtime**

The flexibility to recognise additional hours is included through an overtime provision;

- Every proposed working pattern includes the ability to pay overtime where reasonable additional hours (in excess of the relevant working patterns) are required;

- It is proposed to pay overtime at double time of base salary and/or to include a pre-purchase of additional hours.

**Band 5 - Policing stream**

Band 5 is recognised in the policing stream providing increased flexibility across the workforce, and recognising increased role size and responsibility;
• The proposal includes a broadband AFP band 3 – AFP band 5 with a firm barrier between AFP band 4 and AFP band 5. Advancement across this barrier will be subject to employees having obtained specific experience and skills relevant to AFP Band 5 classification.

Maximum continuous working hours

Generally, the maximum continuous working hours is not more than 16 hours before the overtime provision kicks in.

Industrial hearings/arbitration

There will be capacity to have industrial matters heard and arbitrated by an appropriate industrial body, subject to the finalisation of internal dispute resolution processes.

Other matters

There are a range of other matters still to be addressed and the AFP and AFPA will continue to meet and progress matters relating to the Collective Agreement process. Further communiqués will be disseminated as we get closer to resolution.

The AFPA have also raised the issue of the finalisation of the AFP 2003-06 agreement and the operation of Part 2 Clauses 19 and 20. The AFP has accepted the interpretation by the AFPA that an adjustment to the salary spine should occur in line with the supplementation of budget provided by the Department of Finance and Administration and not the interpretation which Mark Ney circulated in the CA Update of Friday 30 June 2006. That figure will be established over the course of the next week and subject of a future joint communiqué.

Australian Protective Service

(Question No. 2434)

Senator Ludwig asked the Minister for Justice and Customs, upon notice, on 24 August 2006:

(1) Subsequent to the amalgamation of the Australian Protective Service with the Australian Federal Police, by financial year, how many private contracts for the supply of security or guarding services have been entered into for the provision of Protective Service officers?

(2) What is the total price of these contracts?

(3) What happens to the money paid to the Protective Service officers for the supply of these services, for example, is it recouped by the Protective Service officers or is it transferred to consolidated revenue, etc?

Senator Ellison—The answer to the honourable senator’s question is as follows:

(1) No private contracts have been entered into for the supply of Protective Service Officers.

(2) Nil.

(3) Not applicable.

Job Network

(Question No. 2439)

Senator Chris Evans asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on Friday 25 August 2006:
(1) Can a list be provided of the top 30 performing Job Network providers in achieving Indigenous employment outcomes for the 2005-06 financial year.

(2) For each of those Job Network providers can the following details be provided: (a) the name; (b) the physical location; (c) the number of initial employment outcomes; (d) the number of employment outcomes at 13 weeks; (e) the number of employment outcomes at 26 weeks; and (f) is the provider an Indigenous Employment Centre

Senator Abetz—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator’s question:

(1) No, the department does not calculate relative performance rankings for Job Network sites on the basis of Indigenous job seekers alone. Job Network performance is measured through Star Ratings which take into account performance for all job seekers serviced. The Star Ratings provides a comparative, like-to-like measure of performance taking into account the characteristics of each job seeker assisted, speed and sustainability of outcomes, and local labour market conditions. Sustainable jobs for Indigenous Australian job seekers attract additional weight within the Star Ratings formula. Star Ratings for each JNM site are published at: www.workplace.gov.au/workplace/Category/SchemesInitiatives/JobNetwork/JobNetworkPerformance.htm

(2) (a) to (e) The details of the thirty Job Network sites which reported the largest number of long term (13 week) jobs for Indigenous Australian job seekers in 2005-06 are listed at Attachment A.

(f) None of these organisations hold a contract or deed to deliver Indigenous Employment Centre services in the Employment Services Areas in which these sites are located.

ATTACHMENT A

TOP THIRTY PERFORMING JOB NETWORK PROVIDERS ACHIEVING INDIGENOUS EMPLOYMENT OUTCOMES FOR 2005-06

<table>
<thead>
<tr>
<th>Rank</th>
<th>Site Description</th>
<th>Location</th>
<th>Total Job Placements</th>
<th>Long Term Jobs</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Minniecon &amp; Burke Employment Services</td>
<td>North Rockhampton</td>
<td>356</td>
<td>140</td>
</tr>
<tr>
<td>2</td>
<td>ITEC Employment</td>
<td>Thursday Island</td>
<td>213</td>
<td>111</td>
</tr>
<tr>
<td>3</td>
<td>ITEC Employment</td>
<td>Cairns</td>
<td>338</td>
<td>108</td>
</tr>
<tr>
<td>4</td>
<td>Minniecon &amp; Burke Employment Services</td>
<td>Mackay</td>
<td>249</td>
<td>98</td>
</tr>
<tr>
<td>5</td>
<td>Centacare Employment</td>
<td>Mount Isa</td>
<td>291</td>
<td>94</td>
</tr>
<tr>
<td>6</td>
<td>MAX Employment</td>
<td>Darwin</td>
<td>246</td>
<td>93</td>
</tr>
<tr>
<td>7</td>
<td>Job Futures/Kullarri Employment Services</td>
<td>Broome</td>
<td>151</td>
<td>93</td>
</tr>
<tr>
<td>8</td>
<td>MAX Employment</td>
<td>Casuarina</td>
<td>216</td>
<td>92</td>
</tr>
<tr>
<td>9</td>
<td>EmployNET &amp; Apprentice Traineeship Services</td>
<td>Townsville</td>
<td>216</td>
<td>89</td>
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<tr>
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<td>Complete Personnel</td>
<td>Port Augusta</td>
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<td>89</td>
</tr>
<tr>
<td>11</td>
<td>Joblink Plus</td>
<td>Tamworth</td>
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<tr>
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<td>Job Futures/BBREETAC</td>
<td>Dubbo</td>
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<tr>
<td>13</td>
<td>Jobfind Centre</td>
<td>Casuarina</td>
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<td>Armidale</td>
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<td>NEATO Employment Services</td>
<td>North Rockhampton</td>
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<td>78</td>
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<tr>
<td>16</td>
<td>JobFutures/Manguri Employment Services</td>
<td>East Perth</td>
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<td>Job Futures Pilbara</td>
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<td>21</td>
<td>The Salvation Army Employment Plus</td>
<td>Geraldton</td>
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NOTE: Job Network Members cannot achieve 13 and 26 week job outcomes for all job placements recorded. Sufficient time may not have elapsed since the time of placement. Also, under the Job Network contract 13 week Intensive Support Outcomes can only be achieved for Job Seekers who have commenced Intensive Support services, generally those unemployed for at least three months before gaining employment or who are highly disadvantaged. Generally, results for 26 week placements are only reported for Job Seekers who are twelve months unemployed or longer at the time of placement or highly disadvantaged. It should also be noted that some of the long term outcomes may be the result of placements which commenced prior to 2005-06.

### Aged Care: Consultancies

**Senator McLucas** asked the Minister for Ageing, upon notice, on 25 August 2006:

1. **(a)** How many consultancies have been commissioned since the document *The Way Forward* was released in August 2004; and **(b)** in each case what is: (i) the name of the consultancy, and (ii) the cost of the consultancy.

2. Which of these consultants’ reports have been finalised and released.

3. For the reports that have not yet been released, what is: (a) the contracted completion date; (b) the anticipated completion date; and (c) the release date.

4. Given the high level of interest among the community in relation to these consultancies: (a) what process will be used to provide feedback; and (b) when can the community care field expect to see action in the various areas on which consultancies have been carried out.

5. Was the decision to introduce the Extended Aged Care at Home Dementia packages based on any consultancy report; if so, can details be provided.

6. What are the dates, numbers and names of approved residential care providers that have refused entry to staff of the Aged Care and Accreditation Agency (ACAA) making routine audit visits and unannounced visits.

7. What action does the department intend taking to uphold the authority of the ACAA and the Aged Care Act 1997 against aged care providers who refuse entry to staff of the ACAA.

**Senator Santoro**—The answer to the honourable senator’s question is as follows:

1. **(a)** Fourteen consultancies
## QUESTIONS ON NOTICE

<table>
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<tr>
<th>(1)(b)(i) Consultancy</th>
<th>(1)(b)(ii) Cost</th>
<th>(2) Date Finalised</th>
<th>(3)(a) Contract completion date</th>
<th>(3)(b) Anticipated completion date</th>
<th>(3)(c) Release date</th>
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<td>$508,827</td>
<td>Not finalised</td>
<td>Dec 2006</td>
<td>Dec 2006</td>
<td>Report not finalised</td>
</tr>
<tr>
<td>Research and advice for carer eligibility and needs assessment for the National Respite for Carers Program (NRCP) Project</td>
<td>$109,732</td>
<td>Stage 1 of two part process finalised. Stage 2 underway (see next item below)</td>
<td>Dec 2005</td>
<td>-</td>
<td>Stage 2 of project still underway. Survey and discussion paper from Stage 1 can be found on the Centre for Health Service Development website: <a href="http://www.uow.edu.au/commerce/chsd/cap.html">www.uow.edu.au/commerce/chsd/cap.html</a></td>
</tr>
<tr>
<td>Technical Trial Phase Carer Eligibility and Needs Assessment for the NRCP Project</td>
<td>$216,598</td>
<td>Not finalised</td>
<td>Dec 2006</td>
<td>Dec 2006</td>
<td>Report not finalised</td>
</tr>
<tr>
<td>Trial of the Department’s Quality Reporting Model with Service Providers Funded for the CACP/EACH/NRCP Information Management</td>
<td>$246,455</td>
<td>Not finalised</td>
<td>Feb 2007</td>
<td>Feb 2007</td>
<td>Report not finalised</td>
</tr>
<tr>
<td></td>
<td>$48,469</td>
<td>Feb 2005</td>
<td>Feb 2005</td>
<td>Confidential</td>
<td>Not applicable. Report contains information on specific providers.</td>
</tr>
</tbody>
</table>
(1)(b)(i) Consultancy (1)(b)(ii) Cost
(2) Date Finalised (3)(a) Contract completion date (3)(b) Anticipated completion date (3)(c) Release date

<table>
<thead>
<tr>
<th>Provision of an Information Needs Analysis for the Community Care Branch</th>
<th>$68,310</th>
<th>Not finalised</th>
<th>Nov 2006</th>
<th>Nov 2006</th>
<th>Report not finalised</th>
</tr>
</thead>
</table>

(1)-b (i) Consultancy (1)-b(ii) Cost
(2) Date Finalised (3)(a) Contract completion date (3)(b) Anticipated completion date (3)(c) Release date

| Streamlining of Commonwealth Carelink Centres and Commonwealth Carer Respite Centres Project | $231,539 | Not finalised | Nov 2006 | Nov 2006 | Report not finalised |

(4) (a) Feedback on projects is already occurring through:
- components of research projects themselves
- information on the Department’s website and other relevant websites
- letters and fact sheets to industry
- presentations at national, state and regional conferences and forums
- meetings with stakeholders, including providers and peaks
- presentation and discussions at industry and reference group meetings
- information flow through state and territory governments

(b) Much of the finalised work to date has been preliminary research. Technical testing of some options flowing from the research and development work (for example in the area of assessment) has now commenced – but further refinement will be required. Implementation is outlined to start from this financial year onwards, with roll-out of various components staggered over three years with reference to ensuring sector capacity, training and processes are in place.

(5) The decision to introduce Extended Aged Care at Home Dementia (EACHD) packages was not based on a consultancy report. The government made a decision to introduce EACHD packages to the community in response to the needs of people with dementia and their carers. Dementia is a growing health and social issue and affects around 185,000 Australians and this figure is expected to grow as our population ages.

(6) There has only been one approved provider which has refused entry to staff of the Aged Care Standards and Accreditation Agency. The Eyre Peninsula Old Folks Home Inc. in South Australia initially refused entry on:
- 23 September 2004; and

This was subsequently resolved.
Under the Aged Care Act 1997 the Department may undertake compliance action which could include the imposition of sanctions, where an approved provider does not allow people acting for the accreditation body to have access to the service.

Access to Premises Standard
(Question No. 2443)

Senator McLucas asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 28 August 2006:

With reference to the development of the Access to Premises Standard under the Disability Discrimination Act 1992:

(1) What is the process for consultation with state and territory governments concerning the inclusion of the standard in the Building Code of Australia (BCA).

(2) Given that the majority of signatories to the Inter-Government Agreement on the operation of the Australian Building Codes Board (ABCB) are planning ministers, will consultation occur through the Local Government and Planning Ministers' Council (LGPMC); if so, why was the issue not on the agenda for the LGPMC meeting on 4 August 2006.

(3) Given that the terms of reference for the Building Access Policy Committee (BAPC) indicate that ABCB will publish BAPC recommendations for changes to the BCA, when are these recommendations going to be published.

(4) Given that BAPC terms of reference state that ABCB will provide reasons to BAPC and afford BAPC an opportunity to comment if ABCB decides that a recommendation of BAPC will not be accepted; has ABCB been given any opportunity to comment on the ABCB advice to ministers; if not, when will BAPC be given an opportunity to comment on proposed changes to the BCA and what process will be followed.

(5) Is it intended that amendments to the BCA, that take into account the standard, will come into operation on the same day as the standard takes effect under the Disability Discrimination Act 1992.

(6) Has the Minister requested that the ABCB or the department undertake any further work on the standard since 29 March 2006; if so, did this work include any further analysis of the costs and benefits of the proposed standard.

(7) Does the fact that $200 000 has been set aside by the ABCB in its budget for the 2006-07 financial year, in case further work is required on the standard, indicate that ministers have foreshadowed the potential for significant further work.

Senator Minchin—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator’s question:

(1) Each State and Territory Government is formally represented on the Australian Building Codes Board. It is up to each of these members to determine how they consult within their respective jurisdictions. Amendments to the BCA arising from a Premises Standard would follow the usual amendment process established by the ABCB.

(2) No, the ABCB is accountable to Ministers responsible for building regulation.

(3) The BAPC’s recommendations for changes to the BCA were published and released for public comment in January 2004. The BAPC subsequently provided additional advice to the ABCB. The Board considered this advice and put forward a proposal to Ministers. This advice and the Board’s proposal is the subject of ongoing policy consideration and hence remains confidential at this time.

(4) The Board’s advice to Ministers remains confidential at this time.

(5) The Government has not yet made a decision on a Premises Standard. Any proposal for a Premises Standard would seek to align the requirements of the Building Code of Australia with the DDA, but…
the details, including the commencement of the amendments to the BCA and the Premises Standards, are yet to be determined.

(6) No.

(7) An amount of $200 000 has been set aside by the ABCB in its budget for the 2006-07 financial year as a contingency for either work to be undertaken on further development of proposed changes to the BCA if required, or on implementation of the proposed changes (including national awareness seminars) if Ministers support the Board’s proposal.

Access to Premises Standard
(Question No. 2444)

Senator McLucas asked the Minister representing the Attorney-General, upon notice, on 28 August 2006:

With reference to the development of the Access to Premises Standard under the Disability Discrimination Act 1992:

(1) What is the proposed process for consultation with state and territory Attorneys General concerning the standard.

(2) Why was no progress report on this issue placed on the agenda for the most recent Standing Committee of Attorneys General.

(3) Will the Commonwealth also directly consult state and territory ministers with responsibility for matters relating to building, since it proposed to incorporate the standard in the Building Code of Australia.

(4) When is it expected that the proposed standard will be made public.

(5) Approximately when does the Minister anticipate the tabling of the proposed standard.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) Details of consultation will be decided when a proposal is finalised. The matter will continue to be listed as an out of session update item for the Standing Committee of Attorneys-General.

(2) Development of the proposed Premises Standard was covered in the human rights update paper noted by the Standing Committee of Attorneys-General in July 2006.

(3) The Australian Government will consult with the States and Territories before implementing any Premises Standard.

(4) The Government has not yet made a decision on a Premises Standard. The timing of any discussion and release of proposals is a matter for Government.

(5) The proposed Premises Standard will be tabled once it has been formulated by the Attorney-General, in accordance with the procedures in the Disability Discrimination Act 1992.

Accessible Housing Report
(Question No. 2445)

Senator McLucas asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 28 August 2006:

Will the consultancy report on accessible housing, jointly commissioned by the Australian Building Codes Board and the Victorian Building Commission, be publicly released; if so, when.

Senator Minchin—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator’s question:

QUESTIONS ON NOTICE
The Australian Building Codes Board (ABCB) considered the matter at its November 2005 meeting and decided that, when complete, the final report should be referred to relevant State and Territory bodies through ABCB Board members in-confidence for consideration as the report contains matters that go outside of the ABCB’s domain.

The report is currently with the State and Territory Governments and the ABCB awaits their advice on the release of the report.

**Migration Occupations**  
(Question No. 2454)

Senator Chris Evans asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 28 August 2006:

With reference to the ‘migration occupations in demand’ lists prepared by the department:

1. Can a copy be provided for each occasion on which the list was issued during the financial years, 2003-04, 2004-05 and 2005-06.
2. What estimates of shortages are used by the department in generating these lists.
3. What is the minimum numerical shortage for an occupation to be included on the list.
4. What is the department’s numerical estimate of the shortage for each occupation included on these lists.

Senator Abetz—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator’s question:

1. The ‘Migration Occupations in Demand’ List (MODL) is gazetted by the Minister for Immigration and Multicultural Affairs, and is based on research undertaken by the Department of Employment and Workplace Relations (DEWR).

   The Department of Immigration and Multicultural Affairs (DIMA) has provided DEWR with copies of the MODL (available from the Senate Table Office), which came into effect on the following dates:
   - 17 December 2003
   - 20 May 2004
   - 8 September 2004
   - 4 May 2005
   - 1 November 2005
   - 15 December 2005
   - 28 March 2006

2. DEWR undertakes research into skills in demand based on a sample Survey of Employers Who Have Recently Advertised (SERA) which follows up employers who have advertised for skilled workers to identify their success in filling vacancies and discuss their recruitment experience. DEWR does not attempt to quantify shortages.

3. Occupations are rated as being in shortage or not in shortage. There is no numerical estimate made of the extent of shortages.

4. The Department does not estimate the extent of shortages.
Endangered Species Program  
(Question No. 2456)

Senator Chris Evans asked the Minister for the Environment and Heritage, upon notice, on 28 August 2006:

With reference to the Minister’s statement, in Senate question time on 9 August 2006, that ‘The Commonwealth Government has spent in excess of $1 million on orange-bellied parrot recovery programs’:

(1) Can a detailed breakdown be provided of how the $1 million in funding was spent, indicating: (a) the year or years in which it was spent; (b) the amount spent in each year; and (c) the programs funded.

(2) How much funding has been allocated for the programs in the 2006-07 financial year.

Senator Ian Campbell—The answer to the honourable senator’s question is as follows:

(1) The Australian Government has spent over $1 million for direct actions to address Orange-bellied Parrot recovery.

(a) Funding has been provided in each financial year since 1989/90 with the exception of 1990/91, 1997/98 and 2001/02.

(b) and (c) In the first year $3000 was provided through the Australian Government Endangered Species Program for captive breeding and surveys in South Australia. In 1991/92 a further $81,730 helped to develop a recovery plan and implement actions. From 1992/93 to 1995/96 the following amounts were provided: $134,050; $68,200; $64,200; and $57,450. All payments contributed towards implementation actions aimed at protecting and enhancing habitat, maintaining captive breeding, conducting genetic investigations, raising public awareness, and education.

In 1996/97 the Endangered Species Program continued under the Australian Government funded Natural Heritage Trust. To assist with a breeding survey, $54,000 enabled winter counts and data analysis, as well as refinement of the draft recovery plan.

To assist coordination of the species’ recovery across all jurisdictions, manage species habitat and reduce threats, $210,000 was provided in 1998/99. Further funding of $80,000 per year was provided in 1999/2000 and 2000/01. The National recovery plan was adopted under the Environment Protection and Biodiversity Conservation Act 1999 (the EPBC Act) in March 2001. Monitoring and evaluation, and the investigation of the species’ habitat and food availability added to implementation actions undertaken. A final payment under the Australian Government Endangered Species Program of $85,223 assisted the management of the captive breeding and release programme for the species, and assisted education projects and community awareness raising.

In 2002/03, the Australian Government’s Natural Heritage Trust National Bushcare Component provided $167,732, for ongoing implementation actions including captive breeding support. In 2003/04 funding of $6000 underwrote a study to assess risks confronted by the species. In 2004/05 funding of $8250 contributed to implementation actions for the Orange-bellied Parrot in Victoria. This funding was provided from the Australian Government’s Natural Heritage Trust Regional Component. During 2005/06, the Orange-bellied Parrot benefited from $70,000 as the final contribution in a four-year project to enhance habitat and remove predators and weeds on the Deen Maar Indigenous protected area. Over this time, there has been significant improvement of the wetland habitat which is important habitat for the Orange-bellied Parrot.

(2) Funding of $3.2 million has been allocated from the Australian Government through the Natural Heritage Trust’s National Component to be spent in the 2006/07 and 2007/08 financial years.

QUESTIONS ON NOTICE
Environment Protection and Biodiversity Conservation Act: Referrals  
(Question No. 2457)  

Senator Chris Evans asked the Minister for the Environment and Heritage, upon notice, on 28 August 2006:  

With reference to referrals lodged in the 2004-05 financial year for assessment and approval under the Environment Protection and Biodiversity Conservation Act 1999:  

(1) (a) Of these referrals, how many did the department recommend that the action was not controlled under the Act; and (b) did the Minister overturn any of these recommendations; if so, how many.  

(2) (a) Of these referrals, how many did the department recommend that the action was controlled under the Act; and (b) did the Minister overturn any of these recommendations; if so, how many.  

(3) (a) Of the referrals that were determined to be controlled actions, how many did the department recommend be approved without conditions under the Act; and (b) did the Minister overturn any of these recommendations; if so, how many.  

(4) (a) Of the referrals that were determined to be controlled actions, how many did the department recommend be approved with conditions under the Act; and (b) did the Minister overturn any of these recommendations; if so, how many.  

(5) (a) Of the referrals that were determined to be controlled actions, how many did the department recommend not be approved under the Act; and (b) did the Minister overturn any of these recommendations; if so, how many.  

Senator Ian Campbell—The answer to the honourable senator’s question is as follows:  

(1) (a) 297 (b) No.  

(2) (a) 63 (b) No.  

(3) (a) None (b) No.  

(4) (a) 20 (b) No.  

(5) (a) 1 (b) No.  

Aged Care  
(Question No. 2462)  

Senator McLucas asked the Minister for Ageing, upon notice, on 4 September 2006:  


(1) What is the average waiting time for an Aged Care Assessment Team (ACAT) assessment, by each state and territory and nationally.  

(2) What are the numbers of people, on a national level, who were recommended as requiring a Community Aged Care Package (CACP), low care and high care.  

(3) What are the numbers of people on a national level who were recommended as requiring both low care and high care (at the same assessment).  

(4) What are the numbers of people, on a national level, who were recommended as requiring both a CACP and low care (at the same assessment).  

(5) What is the length of time from the ACAT assessment to the time when people are able to access the care they were assessed as requiring by CACP, low care and high care.  

Senator Santoro—The answer to the honourable senator’s question is as follows:
The Australian Government has been working jointly with the state and territory governments to develop standard data on aged care assessments, and more robust reporting requirements. This included the staged introduction of a revised data set from 2003-04.

(1) Average time in days from referral to first face-to-face contact

<table>
<thead>
<tr>
<th>State</th>
<th>2003-04</th>
<th>2004-05</th>
<th>2005-06</th>
</tr>
</thead>
<tbody>
<tr>
<td>NSW</td>
<td>19.6</td>
<td>20.7</td>
<td>20.1</td>
</tr>
<tr>
<td>Vic</td>
<td>14.9</td>
<td>14.9</td>
<td>14.1</td>
</tr>
<tr>
<td>Qld</td>
<td>22.6</td>
<td>20.2</td>
<td>22.3</td>
</tr>
<tr>
<td>SA</td>
<td>22.7</td>
<td>20.7</td>
<td>12.3</td>
</tr>
<tr>
<td>WA</td>
<td>10.5</td>
<td>10.6</td>
<td>10.2</td>
</tr>
<tr>
<td>Tas</td>
<td>20.9</td>
<td>15.3</td>
<td>16.4</td>
</tr>
<tr>
<td>NT</td>
<td>16.8</td>
<td>14.9</td>
<td>*</td>
</tr>
<tr>
<td>ACT</td>
<td>38.2</td>
<td>32.4</td>
<td>*</td>
</tr>
<tr>
<td>National</td>
<td>18.4</td>
<td>18.1</td>
<td>NA</td>
</tr>
</tbody>
</table>

Note that:
• This data has only been collected since 2003-04.
• 2005-06 data is interim only and subject to further work to ensure completeness
• * Northern Territory and ACT data not included for the 2005-06 quarter as the numbers are too small to be a valid indicator.

(2) Numbers of people approved for CACP, low care and high care

<table>
<thead>
<tr>
<th>Year</th>
<th>2003-04</th>
<th>2004-05</th>
<th>2005-06</th>
</tr>
</thead>
<tbody>
<tr>
<td>CACPs</td>
<td>20,141</td>
<td>33,049</td>
<td>8,257</td>
</tr>
<tr>
<td>Low Level Care</td>
<td>26,393</td>
<td>33,635</td>
<td>11,163</td>
</tr>
<tr>
<td>High Level Care</td>
<td>23,498</td>
<td>42,796</td>
<td>9,396</td>
</tr>
</tbody>
</table>

Note that:
• This data has only been collected since 2003-04.
• 2005-06 data is interim only and subject to further work to ensure completeness
• Due to the staged introduction of the revised data set, this information is not available for some New South Wales teams until the second quarter of 2004-05, nor for any Queensland ACATs until 1 October 2005.
• Due to a systematic coding/data transmission error, information on this item is not available for South Australia

(3) This information is not available and not possible to ascertain. An approval for high care does not preclude a person from receiving low care, if the approved provider assesses that the person’s care needs can be met through a low care service.

(4) Numbers of people approved for CACP and low care (at the same assessment)

<table>
<thead>
<tr>
<th>Year</th>
<th>2003-04</th>
<th>2004-05</th>
<th>2005-06</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of people</td>
<td>10,926</td>
<td>18,696</td>
<td>15,597</td>
</tr>
</tbody>
</table>

Note that:
• This data has only been collected since 2003-04.
• 2005-06 data is interim only and subject to further work to ensure completeness.
• Due to the staged introduction of the revised data set, this information is not available for some New South Wales ACATs until the second quarter of 2004-05, nor for any Queensland ACATs until 1 October 2005.
• Due to systems coding and transmission errors, information on this item is not available for South Australia, nor for Western Australia until the third quarter 2003-04.

(5) Average time from assessment to accessing care (CACP, low care and high care)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>CACP recipients who entered care</td>
<td>NA</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>NA</td>
</tr>
<tr>
<td>Within 1 month</td>
<td>47.3%</td>
<td>37.7%</td>
<td>36.6%</td>
<td>34.4%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Within 3 month</td>
<td>75.0%</td>
<td>67.2%</td>
<td>67.0%</td>
<td>63.6%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Within 9 months</td>
<td>94.9%</td>
<td>94.5%</td>
<td>94.4%</td>
<td>93.1%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Low Level Care recipients who entered care</td>
<td>NA</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Within 1 month</td>
<td>33.4%</td>
<td>32.7%</td>
<td>31.9%</td>
<td>31.9%</td>
<td>31.1%</td>
<td></td>
</tr>
<tr>
<td>Within 3 months</td>
<td>64.3%</td>
<td>62.3%</td>
<td>61.5%</td>
<td>60.9%</td>
<td>60.6%</td>
<td></td>
</tr>
<tr>
<td>Within 9 months</td>
<td>94.0%</td>
<td>92.6%</td>
<td>92.7%</td>
<td>92.3%</td>
<td>92.0%</td>
<td></td>
</tr>
<tr>
<td>High level care recipients who entered care</td>
<td>NA</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Within 1 month</td>
<td>55.3%</td>
<td>54.5%</td>
<td>56.5%</td>
<td>56.5%</td>
<td>54.4%</td>
<td></td>
</tr>
<tr>
<td>Within 3 months</td>
<td>82.0%</td>
<td>81.1%</td>
<td>81.5%</td>
<td>82.0%</td>
<td>78.9%</td>
<td></td>
</tr>
<tr>
<td>Within 9 months</td>
<td>97.5%</td>
<td>97.1%</td>
<td>97.2%</td>
<td>97.2%</td>
<td>96.3%</td>
<td></td>
</tr>
</tbody>
</table>

Note that:
• 2005-06 data is not available, nor is data on CACPs for 2000-01.
• This data needs to be interpreted with care as it does not take into account factors which influence the time a person may take to enter a care service. These factors were highlighted by the Australian Institute of Health and Welfare (AIHW) in their report ‘Entry Period for Residential Aged Care’ (2002) and include:
  • Residential care places offered but not accepted;
  • the availability of other care services;
  • the availability of carers;
  • hospital discharge polices and practices; and
  • strong preferences of people to remain in the community, even if they have an approval for residential care.

Passenger Transport Operations
(Question No. 2463)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 4 September 2006:

For each year since 2000 and for all airlines conducting regular passenger transport operations in Australia: (a) what is the number of immediately reportable matters by type; (b) what is the number of routine reportable matters by type; and (c) what action has been taken by the Australian Transport Safety Bureau or any other body as a result of these reports.

Senator Ian Campbell—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:
(a) Refer to attachment A
(b) Refer to attachment B
(c) Refer to attachment C

Attachment A

Immediately Reportable Matters

<table>
<thead>
<tr>
<th>Immediately Reportable Matter defined in TSI Regulation 2.3</th>
<th>Jul-Dec 2003 (6 months)</th>
<th>Jan-Dec 2004 (12 months)</th>
<th>Jan-Dec 2005 (12 months)</th>
<th>Jan-Jul 2006 (12 months)</th>
</tr>
</thead>
<tbody>
<tr>
<td>The death of, or a serious injury to a person on board the aircraft or in contact with the aircraft or anything attached to the aircraft or anything that has become detached from the aircraft.</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>The aircraft suffering serious damage, or the existence of reasonable grounds for believing that the aircraft has suffered serious damage</td>
<td>3</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>A breakdown of separation standards, being a failure to maintain a recognised separation standard (vertical, lateral or longitudinal) between aircraft that are being provided with an air traffic service separation service or an airprox</td>
<td>59</td>
<td>94</td>
<td>99</td>
<td>57</td>
</tr>
<tr>
<td>Violation of controlled airspace</td>
<td>9</td>
<td>33</td>
<td>25</td>
<td>10</td>
</tr>
<tr>
<td>The rejection of a take-off from a closed or occupied runway</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>A fire (even if subsequently extinguished), smoke, fumes or an explosion on or in any part of the aircraft</td>
<td>17</td>
<td>37</td>
<td>65</td>
<td>26</td>
</tr>
<tr>
<td>A flight crew member becoming incapacitated during flight</td>
<td>6</td>
<td>20</td>
<td>30</td>
<td>6</td>
</tr>
<tr>
<td>Fuel exhaustion</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Serious damage to, or destruction of, any property outside the aircraft caused by contact with the aircraft or anything that has become detached from the aircraft</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
</tbody>
</table>

Notes:

1. The data recorded in the ATSB database has a 1980’s origin and in a number of areas differs from the specific types of reportable matters that are now required to be reported to the ATSB in accordance with the TSI Act 2003 and regulations.

2. A reportable matter may encompass several of the prescribed types, e.g. an engine shutdown may be caused by a mechanical failure and involve a malfunction of an aircraft system, and a procedure for overcoming an emergency. Where a single reportable event may encompass more than one type of Immediately Reportable Matter or Routine Reportable Matter, the data in these tables reflect a single event. The choice of this event has been influenced by the ease of extraction using the existing OASIS database software. When the budget-funded Safety Investigation and Information Management System (SIIMS) comes on line from 2007, the ATSB will be much better placed to meet data requests.
### Routine Reportable Matters

<table>
<thead>
<tr>
<th>Routine Reportable Matter defined in TSI Regulation 2.4</th>
<th>Jul-Dec 2003 (6 months)</th>
<th>Jan-Dec 2004 (12 months)</th>
<th>Jan-Dec 2005 (12 months)</th>
<th>Jan-Jul 2006 (12 months)</th>
</tr>
</thead>
<tbody>
<tr>
<td>An injury, other than a serious injury to a person on board the aircraft or in contact with the aircraft or anything attached to the aircraft or anything that has become detached from the aircraft.</td>
<td>2</td>
<td>4</td>
<td>10</td>
<td>0</td>
</tr>
<tr>
<td>The aircraft suffering damage that compromises or has the potential to compromise the safety of the flight but is not serious damage</td>
<td>29</td>
<td>97</td>
<td>69</td>
<td>39</td>
</tr>
<tr>
<td>Flight below the minimum altitude, except in accordance with a normal arrival or departure procedure</td>
<td>6</td>
<td>9</td>
<td>9</td>
<td>7</td>
</tr>
<tr>
<td>A ground proximity warning system alert</td>
<td>38</td>
<td>177</td>
<td>256</td>
<td>85 (see Note 5)</td>
</tr>
<tr>
<td>A critical rejected take-off, except on a closed or occupied runway</td>
<td>24</td>
<td>78</td>
<td>82</td>
<td>70</td>
</tr>
<tr>
<td>A runway incursion</td>
<td>23</td>
<td>60</td>
<td>45</td>
<td>18</td>
</tr>
<tr>
<td>Any of the following occurrences, if the occurrence compromises or has the potential to compromise the safety of the flight: (i) a failure to achieve predicted performance during take-off or initial climb; (ii) malfunction of an aircraft system, if the malfunction does not seriously affect the operation of the aircraft; (iii) fuel starvation that does not require the declaration of an emergency</td>
<td>42</td>
<td>85</td>
<td>45</td>
<td>17</td>
</tr>
<tr>
<td>Any of the following occurrences, if the occurrence compromises or has the potential to compromise the safety of the flight but does not cause difficulty controlling the aircraft: (i) a weather phenomenon; (ii) operation outside the aircraft’s approved flight envelope failure or inadequacy of a facility used in connection with the air transport operation, such as:</td>
<td>14</td>
<td>41</td>
<td>67</td>
<td>19</td>
</tr>
<tr>
<td>Failure or inadequacy of a facility used in connection with the air transport operation, such as: (i) a navigation or communication aid; or (ii) an air traffic control service or general operational service; or (iii) an airfield facility, including lighting or a manoeuvring, taxiing or take-off surface</td>
<td>184</td>
<td>426</td>
<td>581</td>
<td>234</td>
</tr>
<tr>
<td>Misinterpretation by a flight crew member of information or instructions, including: (i) the incorrect setting of a transponder code; (ii) flight on a level or route different to the level or route allocated for the flight; (iii) the incorrect receipt or interpretation of a significant radio, telephone or electronic text message.</td>
<td>7</td>
<td>42</td>
<td>177</td>
<td>48</td>
</tr>
<tr>
<td>Breakdown of coordination, being an occurrence in which traffic related information flow within the air traffic service system is late, incorrect, incomplete or absent</td>
<td>13</td>
<td>29</td>
<td>74</td>
<td>50</td>
</tr>
<tr>
<td>Failure of air traffic services to provide adequate traffic information to a pilot in relation to other aircraft</td>
<td>65</td>
<td>142</td>
<td>105</td>
<td>8 (see Note 6)</td>
</tr>
</tbody>
</table>

**QUESTIONS ON NOTICE**
An occurrence arising from the loading or carriage of passengers, cargo or fuel, such as:

(i) the loading of an incorrect quantity of fuel, if the loading of the incorrect quantity is likely to have a significant effect on aircraft endurance, performance, balance or structural integrity; or

(ii) the loading of an incorrect type of fuel or other essential fluid, or contaminated fuel or other essential fluid; or

(iii) the incorrect loading of passengers, baggage or cargo, if the incorrect loading has a significant effect on the mass or balance of the aircraft; or

(iv) the carriage of dangerous goods in contravention of Commonwealth, State or Territory legislation; or

(v) the incorrect securing of cargo containers or significant items of cargo; or

(vi) the incorrect stowage of baggage or cargo, if the incorrect stowage is likely to cause a hazard to the aircraft or its equipment or occupants, or to impede emergency evacuation; (vii) a significant contamination of the aircraft structure, systems or equipment, arising from the carriage of baggage or cargo; or

(viii) the presence of a violent or armed passenger.

<table>
<thead>
<tr>
<th>Routine Reportable Matter defined in TSI Regulation 2.4</th>
<th>Jul-Dec 2003 (6 months)</th>
<th>Jan-Dec 2004 (12 months)</th>
<th>Jan-Dec 2005 (12 months)</th>
<th>Jan-Jul 2006 (12 months)</th>
</tr>
</thead>
<tbody>
<tr>
<td>An occurrence arising from the loading or carriage of passengers, cargo or fuel, such as: (i) the loading of an incorrect quantity of fuel, if the loading of the incorrect quantity is likely to have a significant effect on aircraft endurance, performance, balance or structural integrity; or (ii) the loading of an incorrect type of fuel or other essential fluid, or contaminated fuel or other essential fluid; or (iii) the incorrect loading of passengers, baggage or cargo, if the incorrect loading has a significant effect on the mass or balance of the aircraft; or (iv) the carriage of dangerous goods in contravention of Commonwealth, State or Territory legislation; or (v) the incorrect securing of cargo containers or significant items of cargo; or (vi) the incorrect stowage of baggage or cargo, if the incorrect stowage is likely to cause a hazard to the aircraft or its equipment or occupants, or to impede emergency evacuation; (vii) a significant contamination of the aircraft structure, systems or equipment, arising from the carriage of baggage or cargo; or (viii) the presence of a violent or armed passenger.</td>
<td>5</td>
<td>27</td>
<td>18</td>
<td>8</td>
</tr>
<tr>
<td>Immediate Reportable Matter</td>
<td>3</td>
<td>20</td>
<td>14</td>
<td>13</td>
</tr>
<tr>
<td>A collision with an animal</td>
<td>253</td>
<td>742</td>
<td>834</td>
<td>457</td>
</tr>
<tr>
<td>A collision with a bird</td>
<td>3</td>
<td>20</td>
<td>14</td>
<td>13</td>
</tr>
</tbody>
</table>

Notes:
1. The data recorded in the ATSB database has a 1980’s origin and in a number of areas differs from the specific types of reportable matters that are now required to be reported to the ATSB in accordance with the TSI Act 2003 and regulations.
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3. There has been a trend of increased reporting as the aviation industry becomes more familiar with the TSI legislation.
4. Some matters reported to the ATSB are not recorded in the ATSB database because they are assessed as not being air safety matters under the TSI Act 2003, e.g. security issues, which are forwarded to the Office of Transport Security for assessment.
5. The reduction in numbers recorded in the database in 2006 is a result of a change in ATSB policy, where GPWS alerts are not recorded in the ATSB database if they occur in visual meteorological condition and/or were expected (such as in the terminal area).
6. The reduction in numbers recorded in the database in 2006 is a result of a change in ATSB policy, where resolution advisory alerts are not recorded in the ATSB database if they were expected and were not the result of a reduction in separation standards.
Attachment C

Action Taken as a Result of Reports

The ATSB has conducted 107 investigations as listed below. Safety action by Airservices Australia, the Civil Aviation Safety Authority or the relevant operator is listed in the final report or under a post-report safety action (available at www.atsb.gov.au). Other action taken by Airservices Australia, the Civil Aviation Safety Authority or the relevant operator is not readily available.

<table>
<thead>
<tr>
<th>Occurrence Number</th>
<th>Date of Occurrence</th>
<th>Category</th>
<th>Status of investigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>200305447</td>
<td>1-Jul-03</td>
<td>3</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200302980</td>
<td>2-Jul-03</td>
<td>3</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200303726</td>
<td>24-Aug-03</td>
<td>3</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200303861</td>
<td>6-Sep-03</td>
<td>3</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200304400</td>
<td>26-Oct-03</td>
<td>3</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200304938</td>
<td>27-Nov-03</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200304918</td>
<td>30-Nov-03</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200304963</td>
<td>3-Dec-03</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200305203</td>
<td>17-Dec-03</td>
<td>3</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200305235</td>
<td>24-Dec-03</td>
<td>3</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200400726</td>
<td>28-Feb-04</td>
<td>3</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200400856</td>
<td>9-Mar-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200400998</td>
<td>22-Mar-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200401270</td>
<td>6-Apr-04</td>
<td>3</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200401273</td>
<td>7-Apr-04</td>
<td>3</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
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<tr>
<td>200401353</td>
<td>16-Apr-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200401411</td>
<td>19-Apr-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200401390</td>
<td>20-Apr-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200401756</td>
<td>15-May-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200401904</td>
<td>27-May-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>Occurrence Number</td>
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</tr>
<tr>
<td>-------------------</td>
<td>--------------------</td>
<td>----------</td>
<td>------------------------</td>
</tr>
<tr>
<td>200402025</td>
<td>3-Jun-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200402415</td>
<td>18-Jun-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200402287</td>
<td>21-Jun-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200402622</td>
<td>2-Jul-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200402542</td>
<td>9-Jul-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200402626</td>
<td>13-Jul-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200402667</td>
<td>13-Jul-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200402648</td>
<td>17-Jul-04</td>
<td>3</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200402747</td>
<td>24-Jul-04</td>
<td>3</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200402749</td>
<td>26-Jul-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200402819</td>
<td>28-Jul-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200402839</td>
<td>2-Aug-04</td>
<td>3</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200402948</td>
<td>10-Aug-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200403110</td>
<td>25-Aug-04</td>
<td>3</td>
<td>Currently under investigation.</td>
</tr>
<tr>
<td>200403227</td>
<td>31-Aug-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200403238</td>
<td>31-Aug-04</td>
<td>4</td>
<td>Currently under investigation.</td>
</tr>
<tr>
<td>200403722</td>
<td>4-Oct-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200403800</td>
<td>6-Oct-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200403825</td>
<td>8-Oct-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200403857</td>
<td>11-Oct-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200403868</td>
<td>11-Oct-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200404287</td>
<td>1-Nov-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200404823</td>
<td>6-Dec-04</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200405118</td>
<td>19-Dec-04</td>
<td>3</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
</tbody>
</table>
### QUESTIONS ON NOTICE

<table>
<thead>
<tr>
<th>Occurrence Number</th>
<th>Date of Occurrence</th>
<th>Category</th>
<th>Status of investigation</th>
</tr>
</thead>
<tbody>
<tr>
<td>200500074</td>
<td>12-Jan-05</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200500141</td>
<td>15-Jan-05</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200500145</td>
<td>18-Jan-05</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200500285</td>
<td>22-Jan-05</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200500302</td>
<td>25-Jan-05</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200500355</td>
<td>31-Jan-05</td>
<td>3</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200500382</td>
<td>1-Feb-05</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200500395</td>
<td>2-Feb-05</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200500857</td>
<td>2-Feb-05</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200500860</td>
<td>10-Feb-05</td>
<td>4</td>
<td>Currently under investigation.</td>
</tr>
<tr>
<td>200500654</td>
<td>15-Feb-05</td>
<td>4</td>
<td>Currently under investigation.</td>
</tr>
<tr>
<td>200500719</td>
<td>17-Feb-05</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200500778</td>
<td>19-Feb-05</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200500838</td>
<td>20-Feb-05</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200500925</td>
<td>3-Mar-05</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200500994</td>
<td>4-Mar-05</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200501189</td>
<td>18-Mar-05</td>
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<td>Currently under investigation.</td>
</tr>
<tr>
<td>200501392</td>
<td>6-Apr-05</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200501462</td>
<td>8-Apr-05</td>
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<td>Currently under investigation.</td>
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<td>200501628</td>
<td>14-Apr-05</td>
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<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
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<td>200501720</td>
<td>19-Apr-05</td>
<td>3</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
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<td>200501819</td>
<td>24-Apr-05</td>
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<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200501921</td>
<td>30-Apr-05</td>
<td>4</td>
<td>Currently under investigation.</td>
</tr>
<tr>
<td>200501977</td>
<td>7-May-05</td>
<td>2</td>
<td>Currently under investigation.</td>
</tr>
<tr>
<td>200502137</td>
<td>17-May-05</td>
<td>3</td>
<td>Currently under investigation.</td>
</tr>
<tr>
<td>200502400</td>
<td>30-May-05</td>
<td>3</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200502968</td>
<td>25-Jun-05</td>
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<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200504018</td>
<td>29-Jul-05</td>
<td>4</td>
<td>Currently under investigation.</td>
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<tr>
<td>Occurrence Number</td>
<td>Date of Occurrence</td>
<td>Category</td>
<td>Status of investigation</td>
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<td>200503694</td>
<td>1-Aug-05</td>
<td>4</td>
<td>Investigation completed. Full report and details of any safety action is available on the ATSB website.</td>
</tr>
<tr>
<td>200503722</td>
<td>1-Aug-05</td>
<td>3</td>
<td>Currently under investigation.</td>
</tr>
<tr>
<td>200503971</td>
<td>9-Aug-05</td>
<td>4</td>
<td>Currently under investigation.</td>
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RAAF Williams Point Cook
(Question No. 2466)

Senator Allison asked the Minister representing the Minister for Defence, upon notice, on 4 September 2006:

(1) Is the Minister aware that Point Cook Flying Club and various other businesses are being evicted from the southern tarmac at RAAF Williams, Point Cook.

(2) Why are the businesses being evicted.

(3) Has the Government reneged on its 2004 decision not to sell RAAF Williams, Point Cook; if so, why.

(4) What consultation has taken place on this eviction; if there has been no consultation, is this standard practice.

(5) What options have been investigated with relocate these businesses.

(6) Have any arrangements been put in place to assist these businesses and the other clubs and community-based organisations that use their premises; if so, what are they.

Senator Ian Campbell—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) Yes.

(2) Recent surveys on buildings in the southern tarmac area have determined that four Bellman hangars are not safe for occupancy and use in their present condition. In addition, extensive works are planned in the southern tarmac area and Defence is concerned for the safety of the occupants of all buildings in the southern tarmac area.

(3) No. In November 2005, the Government announced that RAAF Williams Point Cook would remain in Defence ownership and management indefinitely. Defence is currently reviewing the future use of the base. When that review is concluded, the option for commercial leases on the site will be considered. The review is expected to be concluded by June 2007.

(4) The tenants were aware that surveys of the hangars were to be conducted in May 2006. On 17 and 18 July 2006, tenants were advised verbally that the review had been completed and that termination of licence agreements was an option being considered. This option was adopted and eviction notices were issued on 10 August 2006.

(5) Any relocation of these businesses is the responsibility of the tenants. See also response to question 6.

(6) Defence has offered tenants land at RAAF Williams Point Cook on which to store equipment or to erect temporary facilities at their expense in which to store equipment and/or continue to operate. Tenants will be able to use this land until the outcomes of the Defence review into the future use of RAAF Williams Point Cook are known and this is expected by June 2007. Defence has also advised the Point Cook Flying Club that it may continue to use the club rooms in the southern tarmac area while Defence reviews options for offering alternative facilities to be used as clubrooms.

Aged Care
(Question No. 2469)

Senator McLucas asked the Minister for Ageing, upon notice, on 4 September 2006:

For each of the years 2000, 2001, 2002, 2003, 2004, 2005 and 2006 to date, by aged care planning region, what is the number of applicants and the number of bed licences applied for, in the Aged Care Approvals Rounds.
Senator Santoro—The answer to the honourable senator’s question is as follows:

The information is at Attachment A.

Please note that in reply to Question Number 2099, the Department advised me that data on the number of applications for residential places was not available for 2000. The Department of Health and Ageing has subsequently reconstructed the data for 2000, which is now included in the attachment.

Some of the data provided in response to Question Number 2099 has been updated.

It should also be noted that historical data about applications can be difficult to reconstruct as providers can submit a single application for more than one purpose, (for example an application for places and a capital grant) and that in any application providers may apply for both a maximum and minimum number of places. In responding to this question, the maximum number of places sought by applicants has been provided.

The data for 2006 is current as at 13 September 2006.

Attachment A

New South Wales – residential aged care places

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<th>Region</th>
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Victoria – residential aged care places

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### Queensland – residential aged care places

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### Western Australia – residential aged care places

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**QUESTIONS ON NOTICE**
### South Australia – residential aged care places

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TOTALS: 46, 760, 85, 2,161, 46, 1,166, 39, 995

### Tasmania – residential aged care places

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TOTALS: 20, 248, 30, 447, 16, 177, 24, 751

### Australian Capital Territory – residential aged care places

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TOTALS: 6, 78, 8, 167, 10, 296, 7, 184

### Northern Territory – residential aged care places

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TOTALS: 4, 71, 1, 5, 1, 7, 1, 10
Foreign Affairs and Trade: Emergency Call Unit
(Question No. 2478)

Senator Hurley asked the Minister representing the Minister for Foreign Affairs, upon notice, on 6 September 2006:

With reference to the recent Middle East conflict and the department’s hotline established to assist the evacuation of Lebanese Australians:

(1) On what dates did the hotline: (a) commence operating; and (b) cease operating.
(2) How many calls did the hotline receive in this time.
(3) How many phone operators were employed during this time.
(4) How many Arabic speaking operators were employed during this time.
(5) Was an Arabic speaking operator on duty at all times.
(6) What was the maximum and minimum number of Arabic speaking operators working during any one shift while the hotline was operational.
(7) Was the Lebanese community consulted regarding the establishment of the hotline; if so, who was consulted.
(8) What was the cost of establishing and running the hotline.

Senator Coonan—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) (a) 13/07/2006, (b) 29/08/2006
(2) 35,993
(3) 189 (DFAT), Over 200 (Centrelink)
(4) There were 3 Arabic speaking staff and 2 Arabic speaking contractors employed in DFAT’s Emergency Call Unit.
(5) No
(6) There was up to one Arabic speaker on duty, however access to an Arabic speaker was available to both DFAT and Centrelink staff at all times.
(7) No
(8) The cost of establishing and running the hotline has not been finalised at this stage.

Australian Defence Force: Medical and Dental Checks
(Question No. 2480)

Senator Faulkner asked the Minister representing the Minister for Defence, upon notice, on 6 September 2006:

(1) What medical and dental checks are made to Australian Defence Force (ADF) personnel before their dispatch to Iraq and Afghanistan.
(2) What medical and dental services are provided to ADF personnel on deployment to Iraq and Afghanistan.
(3) Are these services provided in-country by ADF medical and dental officers and staff.
(4) Are ADF personnel in Iraq and in Afghanistan, who require urgent or routine dental assistance, moved to Germany for treatment.

Senator Ian Campbell—The Minister Assisting the Minister for Defence has provided the following answer to the honourable senator’s question:

QUESTIONS ON NOTICE
(1) All ADF personnel are subject to annual medical and dental assessments. Prior to deployment, each member’s medical and dental record is checked to ensure compliance with the specified standards for that deployment. Annual assessments that would fall due during the deployment are conducted prior to deployment. Pre-deployment health checklists are reviewed by a medical and dental officer within seven to 14 days of the deployment to verify all health standards have been met.

(2) ADF personnel have access to a comprehensive range of health services while deployed to Iraq and Afghanistan, including primary health care, dental, specialist medical care and evacuation systems.

(3) Primary health care and environmental health services are provided by ADF medical staff. Higher levels of medical care and dental services are accessed under Coalition arrangements.

(4) ADF personnel requiring urgent or routine dental care are treated in the Middle East Area of Operations and are not evacuated to Germany.