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SITTING DAYS—2006

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RADIO BROADCASTS

Broadcasts of proceedings of the Parliament can be heard on the following Parliamentary and News
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FORTY-FIRST PARLIAMENT
FIRST SESSION—SEVENTH PERIOD

Governor-General

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

Senate Officeholders

President—Senator the Hon. Paul Henry Calvert
Deputy President and Chairman of Committees—Senator John Joseph Hogg
Leader of the Government in the Senate—Senator the Hon. Nicholas Hugh Minchin
Deputy Leader of the Government in the Senate—Senator the Hon. Helen Lloyd Coonan
Leader of the Opposition in the Senate—Senator Christopher Vaughan Evans
Deputy Leader of the Opposition in the Senate—Senator Stephen Michael Conroy
Manager of Government Business in the Senate—Senator the Hon. Christopher Martin Ellison
Manager of Opposition Business in the Senate—Senator Joseph William Ludwig

Senate Party Leaders and Whips

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

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

**PARTY ABBREVIATIONS**

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

**Heads of Parliamentary Departments**

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

Prime Minister
Minister for Transport and Regional Services and Deputy Prime Minister
Treasurer
Minister for Trade
Minister for Defence
Minister for Foreign Affairs
Minister for Health and Ageing and Leader of the House
Attorney-General
Minister for Finance and Administration, Leader of the Government in the Senate and Vice-President of the Executive Council
Minister for Agriculture, Fisheries and Forestry and Deputy Leader of the House
Minister for Immigration and Multicultural Affairs
Minister for Education, Science and Training and Minister Assisting the Prime Minister for Women’s Issues
Minister for Families, Community Services and Indigenous Affairs
Minister Assisting the Prime Minister for Indigenous Affairs
Minister for Industry, Tourism and Resources
Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service
Minister for Communications, Information Technology and the Arts and Deputy Leader of the Government in the Senate
Minister for the Environment and Heritage

The Hon. John Winston Howard MP
The Hon. Mark Anthony James Vaile MP
The Hon. Peter Howard Costello MP
The Hon. Warren Errol Truss MP
The Hon. Dr Brendan John Nelson MP
The Hon. Alexander John Gosse Downer MP
The Hon. Anthony John Abbott MP
The Hon. Philip Maxwell Ruddock MP
Senator the Hon. Nicholas Hugh Minchin
The Hon. Peter John McGauran MP
Senator the Hon. Amanda Eloise Vanstone
The Hon. Julie Isabel Bishop MP
The Hon. Malcolm Thomas Brough MP
The Hon. Ian Elgin Macfarlane MP
The Hon. Kevin James Andrews MP
Senator the Hon. Helen Lloyd Coonan
Senator the Hon. Ian Gordon Campbell

(The above ministers constitute the cabinet)
<table>
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<tr>
<td>Minister for Justice and Customs and Manager of Government Business in the Senate</td>
<td>Senator the Hon. Christopher Martin Ellison</td>
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<tr>
<td>Minister for Fisheries, Forestry and Conservation</td>
<td>Senator the Hon. Eric Abetz</td>
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<td>Minister for the Arts and Sport</td>
<td>Senator the Hon. Charles Roderick Kemp</td>
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<td>Minister for Human Services and Minister Assisting the Minister for Workplace Relations</td>
<td>The Hon. Joseph Benedict Hockey MP</td>
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<td>Minister for Community Services</td>
<td>The Hon. John Kenneth Cobb MP</td>
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<tr>
<td>Minister for Revenue and Assistant Treasurer</td>
<td>The Hon. Peter Craig Dutton MP</td>
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<tr>
<td>Special Minister of State</td>
<td>The Hon. Gary Roy Nairn MP</td>
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<tr>
<td>Minister for Vocational and Technical Education and Minister Assisting the Prime Minister</td>
<td>The Hon. Gary Douglas Hardgrave MP</td>
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<td>Minister for Ageing</td>
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<td>Minister for Small Business and Tourism</td>
<td>The Hon. Frances Esther Bailey MP</td>
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<tr>
<td>Minister for Local Government, Territories and Roads</td>
<td>The Hon. James Eric Lloyd MP</td>
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<tr>
<td>Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence</td>
<td>The Hon. Bruce Frederick Billson MP</td>
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<tr>
<td>Minister for Workforce Participation</td>
<td>The Hon. Dr Sharman Nancy Stone MP</td>
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<tr>
<td>Parliamentary Secretary to the Minister for Finance and Administration</td>
<td>Senator the Hon. Richard Mansell Colbeck</td>
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<td>The Hon. Christopher John Pearce MP</td>
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<td>Parliamentary Secretary to the Minister for the Environment and Heritage</td>
<td>The Hon. Gregory Andrew Hunt MP</td>
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<tr>
<td>Parliamentary Secretary (Foreign Affairs)</td>
<td>The Hon. Teresa Gambaro MP</td>
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SHADOW MINISTRY

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

(The above are shadow cabinet ministers)
<table>
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<td>Shadow Minister for Overseas Aid and Pacific Island Affairs</td>
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<td>Shadow Parliamentary Secretary for Reconciliation and the Arts</td>
<td>Peter Robert Garrett MP</td>
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<td>Shadow Parliamentary Secretary for Immigration</td>
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<td>Shadow Parliamentary Secretary for Treasury</td>
<td>Senator Ursula Mary Stephens</td>
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<td>Shadow Parliamentary Secretary for Science and Water</td>
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<td>Shadow Parliamentary Secretary for Northern Australia and Indigenous</td>
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Tuesday, 5 December 2006

The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 12.30 pm and read prayers.

BUSINESS

Rearrangement

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.31 pm)—I move:

That government business notice of motion No. 1, proposing the exemption of bills from the cut-off order, be postponed till a later hour of the day.

Question agreed to.

MEDIBANK PRIVATE SALE BILL 2006

In Committee

Consideration resumed from 4 December.

The CHAIRMAN—The question is that Senator Nettle’s amendments (1) and (2) on sheet 5161 be agreed to.

Senator NETTLE (New South Wales) (12.31 pm)—These two amendments abolish the private health insurance rebate. For some time now, the position of the Australian Greens has been that this over $3 billion of public funds which the government uses each year to support private health insurance should be redirected and instead spent on our public healthcare system. It is a position that the Greens have taken because of our strong commitment to social justice. When we were debating this bill last night, we heard from each of the parties represented here and I note that we heard no support for the idea of redirecting these public funds, and making sure that that money that taxpayers contribute to the government to ensure that there is a quality healthcare system that can be accessed by all Australians is invested in the public health system. Instead we continue to see both of the major parties supporting the redirection of wealth from taxpayers into the pockets of those people who have private health insurance.

In this chamber I have been through many times before the Greens’ analysis of which people in the community do have private health insurance: predominantly they can be found in the wealthier, Liberal-held electorates. It is the constituents of the poorer electorates—predominantly Labor held, and indeed in National Party electorates, where we see some of the lowest levels of income and also the very lowest levels of private health insurance—who are subsidising those in Liberal Party electorates such as that of health minister Tony Abbott, whose electorate has the highest level of private health insurance.

So this money, this over $3 billion of public funds, is available for people who live in the wealthy suburbs of Sydney or the wealthy suburbs of Melbourne, but those other Australians, particularly in regional areas, do not get access to these public funds. And they do not have private health insurance. Why would you? There is no private hospital or private hospital services. So, effectively, what we see are people living in National Party electorates and people living in Labor electorates subsidising the private health insurance of people who live in Liberal Party electorates. For all of the areas that the Greens’ analysis is based on—I have looked at Sydney, I have looked at Melbourne and I have looked nationally—the pattern is the same. The pattern is the same across the board: it is Australians in poorer parts and regional parts of this country who subsidise the private health insurance of people who live in wealthy Liberal suburbs like those in the health minister’s electorate.

What the Greens are saying is that we want some social justice injected into the system. We want to ensure that that over $3 billion of public funds is spent on the health-
care system that delivers the most efficient outcomes, on the healthcare system that is available to all Australians, regardless of their capacity to pay—and that is the public health system. The Greens support the public health system and we want to see this money going into ensuring there is a quality system that all Australians can access regardless of their capacity to pay. So I commend these amendments to the Senate because they inject social justice into the way in which health care is funded in this country.

Question put:
That the amendments (Senator Nettle’s) be agreed to.

The committee divided. [12.40 pm]
(The Chairman—Senator JJ Hogg)

Ayes………… 4
Noes………… 51
Majority……. 47

AYES
Brown, B.J.
Nettle, K.
Milne, C.
Siewert, R. *

NOES
Bernardi, C.
Boswell, R.L.D.
Brown, C.L.
Carr, K.J.
Colbeck, R.
Eggleston, A.
Ferguson, A.B.
Fielding, S.
Fifield, M.P.
Hogg, J.J.
Hurley, A.
Johnston, D.
Kemp, C.R.
Lightfoot, P.R.
Lundy, K.A.
Marshall, G.
McGauran, J.J.
Minchin, N.H.
Murray, A.J.M.
Parry, S. *
Payne, M.A.
Ray, R.F.

Ronaldson, M.
Stephens, U.
Troeth, J.M.
Webber, R.
Wortley, D.

* denotes teller

Question negatived.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator MINCHIN (South Australia—Minister for Finance and Administration) (12.43 pm)—I move:

That this bill be now read a third time.

Question put.

The Senate divided. [12.47 pm]
(The President—Senator the Hon. Paul Calvert)

Ayes………… 34
Noes………… 31
Majority……. 3

AYES
Abetz, E.
Boswell, R.L.D.
Calvert, P.H.
Chapman, H.G.P.
Coonan, H.L.
Ellison, C.M.
Ferris, J.M. *
Fifield, M.P.
Johnston, D.
Kemp, C.R.
Macdonald, I.
McGauran, J.J.
Nash, F.
Patterson, K.C.
Ronaldson, M.
Scullion, N.G.

NOES
Allison, L.F.
Bartlett, A.J.J.
Bishop, T.M.
Brown, B.J.
Brown, C.L.

Bernardi, C.
Brandis, G.H.
Campbell, I.G.
Colbeck, R.
Eggleston, A.
Ferguson, A.B.
Fierravanti-Wells, C.
Heffernan, W.
Joyce, B.
Lightfoot, P.R.
Macdonald, I.A.L.
Melnich, N.H.
Parry, S.
Payne, M.A.
Santoro, S.
Scullion, N.G.
Troeth, J.M.
Vanstone, A.E.

CHAMBER
Evans, C.V.  
Fielding, S.  
Hogg, J.J.  
Hutchins, S.P.  
Ludwig, J.W.  
McEwen, A. *  
Milne, C.  
Nettle, K.  
Ray, R.F.  
Siewert, R.  
Sterle, G.  
Webber, R.  
Wortley, D.  
Faulkner, J.P.  
Forshaw, M.G.  
Hurley, A.  
Kirk, L.  
Lundy, K.A.  
McLucas, J.E.  
Moore, C.  
Polley, H.  
Sherry, N.J.  
Stephens, U.  
Stott Despoja, N.  
Wong, P.  

PAIRS  
Adams, J.  
Barnett, G.  
Humphries, G.  
Mason, B.J.  
Watson, J.O.W.  
Conroy, S.M.  
Carr, K.J.  
Crossin, P.M.  
Marshall, G.  
O’Brien, K.W.K.  

* denotes teller  

Question agreed to.  

Bill read a third time.  

BUSINESS  
Consideration of Legislation  

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.50 pm)—I move:  

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:  

- Defence Legislation Amendment Bill 2006  
- Royal Commissions Amendment (Records) Bill 2006.  

Question agreed to.  

Senator Bob Brown—Mr President, would you record the Greens’ opposition to that motion?  

The PRESIDENT—I do not record it but it will be recorded.  

COMMONWEALTH RADIOACTIVE WASTE MANAGEMENT LEGISLATION AMENDMENT BILL 2006  
Second Reading  

Debate resumed from 30 November, on motion by Senator Ian Campbell:  

That this bill be now read a second time.  

Senator STEPHENS (New South Wales) (12.50 pm)—The Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006 before the Senate today amends the Administrative Decisions (Judicial Review) Act 1997 and the principal act, the Commonwealth Radioactive Waste Management Act 2005, to make land nominations—as distinct from decisions—non-reviewable under the ADJR Act; provides that failure to comply with the site nomination rules in the CRWM Act will not affect the validity of the minister’s approval of a nomination; and removes any entitlement to procedural fairness in relation to the nomination of a site.  

The bill also amends the principal 2005 act to provide for the return of nominated Aboriginal land used for a radioactive waste management facility when no longer required for the facility and indemnifies traditional owners following the land return against any damages claims arising from the use of the land for a facility.  

Labor will oppose this bill. This is the latest instalment in a series of three extreme, arrogant and heavy-handed bills. Labor will defend the right of communities, including Indigenous communities, to be properly and fully consulted before decisions are made about the location of radioactive waste dumps. This bill continues the Howard government’s sneaky and misleading practice of removing the voice of local communities in the government’s campaign to impose a waste dump on the Northern Territory. This
campaign should be seen for exactly what it is: a pointer to the methods the Howard government intends to use in imposing nuclear power stations and high-level waste dumps on unsuspecting communities right around Australia; tricky tactics, like denying its real intentions before an election then springing it onto a community straight after; and misusing parliamentary numbers to override every legislative right, every protection and every safeguard normally available to everyday Australians when they want to have their say on government decisions that affect them.

To begin with I want to remind the Senate of the circumstances underlying the 2005 bill pushed through this parliament late last year. The stated purpose of the Commonwealth Radioactive Waste Management Act 2005 was to put beyond doubt the Commonwealth’s power to conduct activities relating to siting, constructing and operating a radioactive waste management facility in the Northern Territory. The 2005 act contains a number of provisions excluding procedural fairness in relation to selecting a site for the facility. The Commonwealth Radioactive Waste Management (Related Amendments) Act 2005 excludes application of judicial review under the ADJR Act to the minister’s decision on a facility site. Labor opposed the 2005 bills on a number of grounds, all of which remain relevant today.

The government’s acknowledged purpose for these provisions is to prevent local individuals or communities, representative bodies or state or territory governments from being able to undertake legal objections to the Commonwealth’s actions, which might delay the project. The government stated at the time of the parliamentary debate that these provisions give the Commonwealth some certainty, subject to normal regulatory processes, of having a facility operating by 2011 when repatriation of spent fuel reprocessing waste from the United Kingdom is currently due to commence.

Labor does not oppose the establishment of a nuclear waste facility per se; indeed, Labor explicitly agrees that there is a need for a properly sited, properly operating facility to securely handle and store the low- and intermediate-level waste produced by the use of radioactive materials for research, industrial, health and medical purposes. However, Labor firmly remains of the view that the siting, establishment and operation of such a facility needs to be done in an open and transparent way, in full consultation with local communities and with the relevant state and territory governments. Such a process would be in full compliance with the recommended approach set out by the International Atomic Energy Agency. The original 2005 act was for assessments of three potential sites, on defence land, for the Commonwealth waste dump—those being Fishers Ridge near Katherine; Harts Range, 200 kilometres north-east of Alice Springs; and Mount Everard, approximately 42 kilometres north-west of Alice Springs—but this bill makes those provisions more difficult.

I turn to the specific provisions of the amendment bill before the Senate. They all relate in one way or another to the nomination process placed in the bill by the member for Solomon late last year. While the Minister for Education, Science and Training chose not to reveal this important fact in her second reading speech to the House, the Senate statement of reasons for introduction briefly states the circumstances which have led to the drafting of this bill, namely:

The bill addresses concerns raised by the Northern Land Council (NLC) in relation to nominating a site under the CRWM Act. If not addressed, the NLC may be unwilling to nominate a site should a community within its jurisdiction wish to volunteer its land.
When the opposition made inquiries of departmental officers as to the nature of the concerns raised by the Northern Land Council, apparently no further information could be made available. Therefore I seek a response from the minister, when closing this debate, on the nature of the concerns raised by the Northern Land Council so that the Senate can decide for itself whether the bill before us properly meets the concerns raised.

The acknowledged purpose of the legal challenge provisions of the 2005 act is to prevent local individuals or communities, representative bodies or state or territory governments being able to undertake legal objections to the Commonwealth’s actions which may delay the project. Due to the late consideration of the Tollner amendments, departmental officers advise that the same protections against legal challenges to the Commonwealth’s actions were not applied consistently to the site nomination procedures inserted by the Tollner amendments. In effect, the provision of the bill before us today will extend the current protection from judicial review even further to the processes and decision making of the land councils in the Northern Territory, who are statutory agencies for the purpose of the ADJR Act. Similarly, the bill proposes to extend the current provision that no person is entitled to procedural fairness so as to ensure that it applies to the nomination of a site as provided for by the Tollner amendments to the principal act. Labor opposed the corresponding provisions in the 2005 bill on the grounds that they were a heavy-handed attempt to remove important rights to judicial scrutiny and review from the site decision-making process, and Labor will oppose the provisions of the current bill which remove those same rights from the nomination decision-making process.

Before I turn to the third specific set of provisions of the amendment bill before the Senate relating to the rules of nomination, the Senate needs to consider the nature of the amendments to the 2005 bill moved from the floor on 1 November last year by the government member for Solomon, Mr Tollner, which the government supported into law. These were the 30 pieces of silver that the government threw the member for Solomon to get him to recant his pre-election promise that the Northern Territory would not have a radioactive waste dump foisted on it.

Those amendments provided for the Northern Territory Chief Minister and Aboriginal land trusts or land councils to nominate potential sites for the waste dump in addition to the three sites set out in that bill. Given that the Chief Minister has always been and remains implacably committed to representing her community’s opposition to this waste dump being imposed on the Territory, these amendments were clearly designed to smooth the way for a nomination by a land council. Given that the Central Land Council also remains utterly opposed, that only leaves the Northern Land Council as a realistic possibility.

Included in the amendments moved by the member for Solomon was a set of criteria or rules against which such a nomination should be judged, including provisions that the process of nomination by a land council must demonstrate evidence of consultation with traditional owners, that the traditional owners must understand the nomination, that they have consented as a group and that any community or group that may be affected has been consulted and had adequate opportunity to express its view. Interestingly, the member for Solomon chose not to inform the House why he chose to deem valid those particular rules for nominations.

I turn now to the clauses of the bill which address the issue of potential invalid nominations made under those provisions inserted
into the principal act by the member for Solomon—which I will call the Tollner amendments. There are two ways any nomination of land for a radioactive waste dump would be made invalid: through procedural inadequacies or—a more substantive issue—by a failure to comply with the rules of nomination so carefully inserted by the member for Solomon. Given that procedural inadequacy, such as not lodging such a nomination in writing, is extremely unlikely, we can only conclude that the only likely noncompliance of any future nomination relates to those nomination rules. In other words, this bill proposes to validate a nomination which otherwise would be automatically ruled invalid for ministerial consideration. So the fact that traditional owners have not been informed of the nomination, did not properly understand that their land was being nominated or had not consented to the nomination—or the fact that other affected communities or groups, such as those in neighbouring lands, have not been consulted or given an opportunity to express their view—can no longer invalidate a nomination.

The bill before us proposes a new section 7(5A), which provides that a failure to abide by these currently binding rules of nomination will not affect the validity of a nomination. In effect, these statutory rules would become mere guidance, because a failure of the minister or land council to abide by these rules will not render a nomination unacceptable. A site could still be nominated and accepted even though traditional owners do not know it has been or do not agree with it being used to dump radioactive waste.

In addition, it is important to recognise that this provision would remove the current statutory right of affected neighbouring communities or groups to be even consulted or to express their view. Given that under the Tollner amendments these groups are not required to consent to the proposed nomination, the provision aims squarely to block their statutory right to even express a view. As well as being an almighty slap in the face for the member for Solomon through this outright repudiation of his rules of nomination, the Howard government has also completely backtracked on its own rhetoric about fully consulting with, and achieving informed consent from, all affected local communities and groups—in particular, the Indigenous traditional owners of any nominated sites.

The provisions of the bill in this regard are a direct contradiction of the minister’s own commitments to the parliament in her second reading speech on this bill in which she stated:

Current provisions of the act set down a number of criteria that should be met if a land council decides to make a nomination. Importantly, these criteria include that the owners of the land in question have understood the proposal and have consented to the nomination, and that other Aboriginal communities with an interest in the land have also been consulted.

And she emphasised:

I can assure the House that, should a nomination be made, I will only accept it if satisfied that these criteria have been met.

The minister’s words in her second reading speech are just that—hollow, condescending words. Faced with the clear intent and outcomes of the bill before us, the minister’s contradictory commitment in her speech is simply meaningless rhetoric providing no comfort whatsoever to traditional owners or their representatives.

Importantly, the outcome of the proposals contained in this bill are also in conflict with the Northern Land Council’s full council resolution of October 2005 which provided a mandate for the Northern Land Council’s further dialogue with the government on a possible nomination. The resolution stated:
The Northern Land Council supports an amendment to the Commonwealth Radioactive Waste Management Bill 2005 to enable a Land Council to nominate a site in the Northern Territory as a radioactive waste facility, provided that:

(i) the traditional owners of the site agree;
(ii) sacred sites and heritage are protected (including under current Commonwealth and NT legislation);
(iii) environment protection requirements are met (including under current Commonwealth and NT legislation);
(iv) Aboriginal land is not acquired or native title extinguished (unless with traditional owners’ consent).

Given the clear intent of this resolution, there is a serious question to be asked here: has the Northern Land Council approved the proposal to remove the mandatory nomination rules which closely parallel their own requirements? In effect, the current bill proposes to relegate both the Northern Land Council’s resolution and the nomination rules inserted by the government’s own member for Solomon into irrelevance, and they will be opposed by Labor as an important matter of principle.

We need to be very clear about this. Under this bill, traditional owners or affected persons will have no enforceable rights to be even informed of such moves—to ensure that the implications are fully understood—or to give or withhold consent for their traditional lands, which can be compulsorily acquired and used for the handling and storage of radioactive waste for at least 300 years. And, as if that is not enough, they will have no enforceable right to get their land back once the Commonwealth’s use of it as a waste dump has concluded, because the bill simply provides that it may be handed back.

All traditional owners, all of their representative groups and all Northern Territorians should understand this point. The Howard government is intent on making sure that you cannot express your views and that you have no rights, no legal review avenues, no informed consent and absolutely no say in its blind pursuit of being able to dump nuclear waste in the Northern Territory.

I want to now turn to the provisions of the bill relating to the return of that land to the original Indigenous owners. Section 119 of the Lands Acquisition Act 1989 allows the Commonwealth to dispose of Commonwealth land. However, the department has advised the opposition that there is some legal doubt that this power allows the Commonwealth to grant land title with the same status as land granted under the Aboriginal Land Rights (Northern Territory) Act 1976. Accordingly, the government argues that the provisions of this bill are necessary to ensure that, where acquired land is Aboriginal land immediately before the acquisition, such land may be returned with the same status as Aboriginal land.

The department has indicated that any site chosen will be required for the operations of a waste facility for at least 100 years and that, even when waste is no longer being accepted into the site, it will need to be closely monitored for a further 200-year period. So any possible return of land to original owners will not take place for at least 300 years. However, legal advice received by the opposition indicates that the proposed provision is not legally necessary as the government of the time could simply hand the land over to traditional owners under the provisions of the land rights act if it applies at the time.

Under this bill the government does not have to make any such hand-back but simply provides for a hand-back should the minister of the time determine that it is safe to do so. It appears that this bill is simply providing some political cover for the Northern Land Council should they make a nomination and
subsequently face criticism for giving away hard-won ownership of traditional lands for three centuries or more.

This is an extraordinarily bothersome piece of legislation and Labor is not supporting it. The government’s history in relation to the nuclear waste facility in the Northern Territory gives us a real indication of how they propose to move on nuclear issues at large and in taking Australia much further down the nuclear road, with 25 nuclear power stations and radioactive waste dumps. If the Howard government cannot consult, cannot build community consensus, cannot leave important legal rights untrampled and cannot gain the informed consent of Indigenous people for a low- and medium-level waste facility, what hope do we have that they can comply with best-practice guidelines in relation to nuclear power and the resulting radioactive waste? Labor will not support this bill. I move:

Omit all words after “that”, substitute:

“but the Senate:

(1) Condemns the government for:

(a) the continuing arrogant approach imposing a nuclear waste dump on the people of the Northern Territory without proper scientific assessment and consultation processes;

(b) broken election commitments to not locate a waste dump in the Northern Territory;

(c) overriding many federal, state and territory legal protections, rights and safeguards;

(d) destruction of any recourse to procedural fairness provisions for anyone wishing to challenge the Minister’s decision to impose a waste dump on the people of the Northern Territory;

(e) continuing and aggravated disregard of the International Atomic Energy Commission’s recommendations on good social practices like consultation and transparency in relation to nuclear waste;

(f) their failure to deliver a national waste repository after ten long years in government.

(2) In light of the Howard Government’s imposition of a nuclear waste dump on the Northern Territory community, and the recent High Court decision in the work choices case, expresses deep concern that the Howard Government will override community objections and state and territory laws to impose nuclear reactors and high level nuclear waste dumps on local communities across Australia”.

Senator MILNE (Tasmania) (1.10 pm)—I rise today to oppose the Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006 and to put it in the context of the Howard government’s nuclear agenda for Australia, because it has to be seen in that context. The government is currently working on three separate fronts to advance the cause of George Bush’s Global Nuclear Energy Partnership. That is what we are talking about here today. Earlier this year, in 2006, President Bush announced his grand nuclear vision for the world: the US would set up a number of nuclear fuel supply centres around the world, they would produce the nuclear fuel, it would be leased to other countries and then those nuclear fuel supply centres would take back the waste.

Up until that point, the Howard government’s total nuclear agenda had been about expanded uranium mining. That is something that a large number of Labor Party supporters and members object to. But others in the party, like Mr Martin Ferguson, actually want that to occur. That debate will happen at the ALP conference next year. Either way, up until President Bush’s announcement earlier this year, the government’s agenda had been expanded uranium mining and exports
to China, Russia and anywhere else they could get away with sending it to. That included a debate about whether they would sell it to India, even though India is not a signatory to the nuclear non-proliferation treaty.

In May this year Prime Minister Howard went to the United States, where he had a meeting with President Bush and was told that, if Australia did not engage in President Bush’s Global Nuclear Energy Partnership, Australia would not be invited to meetings at the table. That was a horrendous indication to Prime Minister Howard that he would not be part of George Bush’s grand plan. It was from that point that things changed.

What facilitated the change was the role of someone whose name is not on the lips of most Australians—in fact, they have never heard of him. But they should hear of him. He is Dr John White, chairman of the federal government’s Uranium Industry Framework. He is also head of Australian waste company Global Renewables, which is a strange name for essentially a nuclear waste dump management company.

Dr White went to Washington at the same time that Prime Minister Howard was there. He is the person who links all of these politicians. In an interview with an Australian journalist with regard to Australia setting up a nuclear waste dump to take high-level nuclear waste from around the world—in particular, from the US—this is what he had to say:

If we agree to do this for America, we will never again have to put young Australians in the line of fire. We will never have to prove our loyalty to the US by sending our soldiers to fight in their wars, because a project like this would settle the question of our loyalty once and for all.

Of course, the project he was talking about was the nuclear waste dump in Australia—a waste dump to be developed by an international consortium of nuclear experts, US think tanks and businessmen from around the world. It fed into the Prime Minister’s nuclear task force and into the House of Representatives report on nuclear energy, which came out yesterday.

The interesting thing is that Mr White, the chairman of the Prime Minister’s Uranium Industry Framework, has already spent $45 million developing an Australian nuclear fuel leasing company, which would facilitate and manage enrichment, fabrication, leasing, transport and storage of 15 to 20 per cent of the world’s nuclear fuel needs. This person has a very grand vision for Australia as a global waste dump.

We are now seeing all of this coming to fruition via the Howard government’s legislation. Let us go through it. We have already had the ANSTO legislation through this house. What did that do? Firstly, it gave to ANSTO the power to manage nuclear waste dumps in Australia and, secondly, it gave to ANSTO the capacity to accept the management of waste generated outside Australia, not from within Australia.

Then we have the EPBC amendments before this house. What they do is set up a number of loopholes which would allow the federal environment minister not to examine a nuclear waste dump proposal under the environmental legislation of this country. They do that by saying that if the minister determines that a nuclear waste dump is consistent with the principles of a bioregional plan then it would not have to be assessed, could be the subject of a ministerial declaration and could be the subject of a partnership arrangement. Of course, in this case the way in which a nuclear waste dump is being envisaged by Mr White, and no doubt the Howard government, is that it would be a private sector investment. In fact, the Prime Minister’s task force report said that any nu-
clear enrichment facility in Australia would not see Australian companies managing it, that there is a very high entry level, that it is likely that it would be managed by multinational corporations and that either a UK or a US company would be facilitated in that regard.

Then we have the report of the House of Representatives Standing Committee on Industry and Resources released yesterday. What does it say? I am very pleased that Senator Stephens has stated clearly that a Labor government would not overrule consultation with Indigenous people because, unfortunately, three Labor MPs signed on to this report: Mr Martin Ferguson, Mr Dick Adams and Mr Michael Hatton. They have signed on to a report that, at recommendation 9, says:

The Committee recommends that the Australian Government, through the Council of Australian Governments, seek to remedy the impediments to the development of the uranium industry identified in this report and, specifically ... • ensure that processes associated with issues including land access, Native Title, assessment and approvals, and reporting are streamlined ...

Here we have three Labor MPs signing on to a government report which says ‘get rid of the impediments’, which is code for saying, ‘get rid of native title legislation in this country that might hold up our nuclear ambitions and particularly our nuclear waste dump.’ So I am glad that the Labor Party has got this amendment in here. And I hope that the new leader of the Labor Party will pull Mr Ferguson, Mr Adams and Mr Hatton into line, because what they are doing is undermining the capacity of traditional owners to exercise the ownership rights that they have over their land. It flies completely in the face of all the talk from the new leader about community rights, public participation and so on.

Also in the House of Representatives report we have further proof that the whole Global Nuclear Energy Partnership—the George Bush plan, the John White plan and the Uranium Industry Framework plan—is alive and well. Recommendation 12 recommends that the Australian and state governments:

... examine whether, in light of the advances in spent fuel management proposed in the GNEP initiative, there is in fact a potential role for Australia in the back-end of the fuel cycle ... ‘Back-end of the fuel cycle’ is code for ‘nuclear waste dump’. That is also something that the three Labor members signed on to and, of course, it supports the government’s total initiative in this regard.

Sadly, they also signed on to the ludicrous proposition that there be a community education campaign that is nothing other than a propaganda campaign to be put through Australian schools. Specifically, the report recommends that the government:

... seek to rectify any inaccuracies or lack of balance in school and university curricula pertaining to uranium mining and nuclear power ...

In other words, ‘Let’s run a propaganda campaign through Australian schools to promote nuclear power.’ The government should, the report goes on to say:

• encourage companies to conduct programs of visits to uranium mines for teachers, school groups, media representatives and political leaders; and
• encourage industry to be forthright in engaging in public debate, where this may assist in providing a more balanced perspective on the industry and its impacts.

As soon as you see the words ‘balanced perspective’ used in relation to the curriculum you know that it means the government’s view is underrepresented. So what you have is Prime Minister Howard’s vision for the country whereby you do not get school funding unless you have a flagpole in the front
yard, and you do not get school funding unless you teach history—and the history that you teach is the John Howard version of history. And now we have a curricula directive on putting in a nuclear education campaign. I wonder if the version of history that is going to be taught in Australian schools will include the hideous nuclear accident at Chernobyl, the use of nuclear bombs at Hiroshima and Nagasaki or, indeed, the current nuclear arms race that is going on around the world. Or will that be deemed to be not ‘balanced’ in the curriculum that is envisaged?

And so I come to the current legislation, which we now have before us, the government having already given ANSTO the right to manage the dumps and take back waste from overseas and having brought in amendments to the EPBC. Interestingly again, the House of Representatives report recommends that the EPBC should be amended to abolish the prohibitions that relate to nuclear facilities which are already in the EPBC. The report says to abolish them, so the Labor members signed on to the abolition of those particular clauses in the current legislation.

Now we have before us a bill which does three things. First, it says that if a waste dump is put forward it can be accepted as an appropriate nomination even if it has not complied with the requirements of consultation under the Native Title Act and other provisions associated with Aboriginal rights. It says quite clearly, ‘It does not matter if you haven’t consulted the traditional owners, if they haven’t given prior consent and if they do not understand; you, as the minister, are quite within your rights to accept it as an appropriately nominated site.’

Second, the bill goes on to say, ‘Having accepted the nomination on that basis you can approve that nomination and be exempt from judicial review if the judicial review relates to procedural fairness.’ So we have abolished procedural fairness. I find it extraordinary that any government could come in here—having already done this time and time again in relation to Indigenous people—and extend the abolition of procedural fairness to the issue of nuclear waste dumps and the approval of those dumps and then say it is exempt from judicial review.

All you are going to do is block up the High Court. That is what will happen. That is what happened under immigration law. When you tried to remove procedural fairness it ended up as a prerogative writ case in the High Court, and that is precisely what is going to happen here. If you think that taking away these rights in this matter is going to stop Indigenous people standing up for their own rights, and advocacy groups working with Indigenous people and helping them to take it to the High Court, then you are sadly mistaken. That is where this is going to be fought out, and I do not think the High Court will appreciate the fact that, once again, you have shoved a whole new workload up to the High Court because you have abused due legal process.

There are fundamental principles in the law and procedural fairness is one of them. The right to judicial review if you have been denied procedural fairness is a basic tenet of law. It demonstrates what hubris has set in in the Howard government—that it should take away and try to deny people the most fundamental rights they have in a democracy. And it will go to the High Court with one of the prerogative writs. We will see that occurring when the government moves on this agenda.

Third, the Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006 says that the government has a discretionary right or ability to return to Indigenous people any nominated waste site that
has operated as a waste dump. You know how that is going to play out. It will be managed, for as long as it is profitable, by a private company. And then as soon as it is no longer profitable—as soon as liability issues kick in and vast amounts of money have to be paid in liability claims—the government will exercise its discretionary right to hand back the mess to Indigenous people. The government will hand Indigenous people back their own land, degraded by the onslaught and assault on the spiritual integrity of the land by a waste dump, and then say, ‘Here, you can have it back; we’ve finished with it and we don’t want to engage in and have to put up with the liability issues.’

Earlier this year I went to one of these prospective sites—Mount Everard in the Northern Territory—and I spoke to some of the traditional owners. They took me to where the proposed site is going to be. They told me what an affront it will be to their cultural integrity if that site is undermined and destroyed by what the government intends to do. Even then they only had a vague idea of what a nuclear waste dump might be like. Unlike in the United States, where there have been huge cases—huge protests about the Yucca Mountain site—these Indigenous people have no idea of what is coming their way. In fact, they were flown down to Sydney to look at Lucas Heights and told, ‘There you are; it is just going to be a small repository taking this. Don’t worry, this’ll all be sorted. No problem here.’ What the government is doing with this decision to impose on Indigenous people a radioactive waste dump is completely dishonest and disingenuous.

So when I see the collective of what the government is doing I have to stand in the Senate and ask myself about the state of democracy in Australia under a Howard government, which is using its majority power in both houses to undermine the fundamental principles of participatory democracy and the fundamental principles of fairness. I can see that people are amused by this. I can see advisers in the box amused by the notion that this is my view of the world. Well, it is how I see it. I happen to have sat out there with Indigenous people and shared with them and listened to their stories about how they are feeling about this assault on them and their land without consultation and prior consent.

I do not know how anybody who says that they embrace Australian and family values which relate to fairness, decency and honesty, could bring in a piece of legislation—on top of the other two lots of legislation—which is setting up the whole process for the Howard government to go down the path of expanded uranium mining and taking back high-level waste.

What happens with enrichment in the middle, with fuel fabrication and transport remains to be seen. I have always thought that the nuclear reactors issue was just a distraction from the main game, but I know that Prime Minister Howard is locked in with President Bush to the Global Nuclear Energy Partnership. The key to who is facilitating all this is John White of the Uranium Industry Framework. Those linkages needed to be examined here, and I hope that when history looks at the fact that the government was able to force this legislation through the Senate, when a waste dump site is selected, when it does not comply with consultation with Indigenous people, when it is approved, having taken away procedural fairness and judicial review and when it ends up in the courts and there are protests around the country, people might recognise the damage that has been done to democracy in this country by a majority Howard government. That is why I will be opposing this legislation.
Senator ALLISON (Victoria—Leader of the Australian Democrats) (1.29 pm)—I too rise to speak on the Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006. This is an extraordinary bill. It paves the way for the Commonwealth to take away native title rights, in essence, in order to site the very unpopular national radioactive waste facility in the Northern Territory. Like much of what is happening here, where legislation is being rammed through, where legislation is being pushed through very short inquiry processes, this is ramming through a proposal to put a radioactive waste dump in the Northern Territory, despite the objections of those traditional owners who oppose it.

I agree with Senator Milne that this is part of a much bigger picture. This is about bringing Australia into the nuclear cycle. It is pretty obvious that the government is not prepared to ban high-level waste at this dump. I recall Democrats amendments that have been put up to that effect being opposed by the government. It is in the same week that the House of Representatives Standing Committee on Industry and Resources tabled its report, which is full of glowing recommendations about us engaging in everything from enrichment to uranium leasing, whereby we would take back waste from countries that use our uranium in order to generate electricity. So it is an extraordinary time. It is a bit like a tsunami that has hit this country. We were, for a time, a country that wanted nothing to do with nuclear power. We were strongly opposed to nuclear weapons proliferation. We were very careful, as much as one can be, about where our uranium went around the world—not considering countries like China, which has not signed the comprehensive test ban treaty, and certainly not considering India, which has also not signed the non-proliferation treaty.

In the last few years we have seen more and more nuclear weapons grace the world, if I can put it that way. In fact, there are almost as many now as there were when the non-proliferation treaty was signed more than 30 years ago. So it feels like Australia is becoming very engaged in nuclear matters, whether it is expanding uranium mining, whether it is contemplating enrichment, whether it is setting ourselves up as a waste dump for the rest of the world. There are parts of this picture that are now starting to come together which I think Australians are very concerned about. However, back to the bill.

As I said, what this bill allows is for this site to be imposed on communities that do not want it. It removes procedural fairness, it removes a whole lot of processes that might have come to play had this bill not been introduced. We can all see that it is going to pass; the government obviously has the numbers, so it is hardly going to be a surprise. But the fact of the matter is that traditional owners will not have any right of appeal against the arbitrary decisions of land councils or of the minister. It is currently mandatory for land councils to consult and receive consent from traditional owners about the intended uses of their land. But all that goes now, because the government wants no delays whatsoever in imposing its radioactive waste dump on the landowners unfortunate enough to have had their land selected.

The very short hearing into this bill was unable to discover how politically motivated appeals, which is what this bill is described as preventing, would be defined. So we can only assume that all appeals would be categorised in this way. There was an extraordinary exchange with the department in trying to understand what was the real intent of this idea of ‘politically motivated.’ Not only was the hearing very short—just a couple of
hours—but the time allowed for submissions was a mere two weeks. As I recall, much the same complaint was made when we dealt with the original bill that this amends. On neither occasion did the committee have an opportunity to visit the Northern Territory to gauge local opinion or to inform itself about the complex issues beneath the government’s policy gloss. No traditional owner was invited to appear before the committee in Canberra. We did have a teleconference hook-up with members of the land council but it was unsatisfactory in terms of reaching those people who we understand are opposed to the choice of the likely site.

The haste would not be such a problem if the government was prepared to be more transparent in its consultation and policy-making processes. But this whole sorry affair is cloaked in so-called commercial-in-confidence agreements. We were asked, as the committee, to swallow the highly improbable claim that the privacy of Indigenous people would be at risk if the Senate were to be privy to any details of negotiations between the government, through the Department of Education, Science and Training, and the Northern Land Council. Group officials who came before the committee said that details of their meetings with land councils and traditional owners could not be disclosed, on the grounds that they were commercial-in-confidence. The committee was not given any reason for how this might be the case, despite our questions. Presumably, commercial-in-confidence agreements relate to financial transactions of some kind, but there is no provision for this in the bill and officers denied that they were empowered to discuss financial considerations for site nominations. So we can only conclude that there were no discussions about money which might change hands, which makes it difficult to understand why commercial-in-confidence would apply at all.

But to step back: the government has been quite consistent on all of this. It abandoned what was described as a bipartisan approach to selecting a site when it had great difficulty getting one up in South Australia, so it chose the Northern Territory. It is a lot easier to override Northern Territory law, as we all know, and it would seem it is a lot easier to change native title in order to fast track or make smooth the passage of this site. So the amendments to the bill that we passed earlier allowed land councils and the Chief Minister of the Northern Territory to nominate sites for assessment as a radioactive waste dump on land which they control. I think it is interesting to note that the act as amended during its passage restored the statutory right provisions similar to those applying to the land rights act.

The problem is that it is widely believed that Muckaty Station is the site that has been chosen or is likely to be nominated by the Northern Land Council. That station is just north of Tennant Creek and is within the Northern Land Council boundary. The Muckaty nomination is considered likely because the station is said to be close to a railway line, with a spur constructed for use by a local mine, geologically stable and distant from surface or underground water. But, despite the fact that officers and anthropologists were seen at the site, we were not able to get any confirmation from the department that this had happened and so the reports in the paper are all that we have to go by. It is highly problematic that, at this stage in our deliberations, we are not able to know just what has gone on to bring us to this point. It is clear that those who live close to this site but not in the NLC area are disaffected. They have not been consulted. They have been given propaganda and the education, apparently, but they have not been seriously consulted and, more importantly, their consent has not been given. Muckaty Station is the
site everyone is anticipating will be the waste dump and the waste dump is what this legislation is all about.

Land councils are required to consult with their communities about projects that require approval and the crux of the problem with this bill is that it removes a whole lot of conditions related to this from the act. Those conditions are: consulting with traditional owners; having regard to the interests of traditional owners; not taking action without the consent of traditional owners; ensuring that traditional owners understand any proposal; ensuring any affected Aboriginal community has expressed its views; and complying with traditional decision making processes. New subclause 3B(2A) says that failure to comply with any of the points I have just mentioned does not affect the validity of the nomination. That is the key to this whole bill. We once had a set of things that the Northern Territory government or land councils had to go through before offering up a site, but this bill now says, ‘If you don’t do any or all of those things, that does not invalidate the nomination.’ It is, in effect, an invitation to ignore the provisions of the original act, weakening Indigenous land rights. As the Central Land Council stated in its submission:

Removing the need to comply with the procedures for consultation laid down in Waste Law 1 is the most problematic for traditional owners because it is these procedures for consultation which allow them to have their say. Not having to comply with them would necessarily repeal the consultation provisions under sections 23 and 77A of the Land Rights Act and sections 203BC and 251B of the Native Title Act to the extent they apply to site nomination.

This a very convoluted and deceptive way of removing protections for Indigenous people. The changes appear to be designed to obscure the real intent of the government—mind you, it did not take people very long to understand what they meant.

In her second reading speech, the Minister for Education, Science and Training, Julie Bishop, asked the parliament to be reassured. She said:

Current provision of the Act set down a number of criteria that should be met if a land council decided to make a nomination. Importantly, these criteria include that the owners of the land in question have understood the proposal and have consented to the nomination, and that other Aboriginal communities with an interest in the land have also been consulted ... I can assure the House that, should a nomination be made, I will only accept it if satisfied that these criteria have been met.

Again, I would ask: how is her satisfaction going to be made public? How will we know that she is satisfied? There is no process for us to understand that. Is that also going to be commercial-in-confidence? If we put a question on notice to the minister after she determines the site, will she tell us exactly what it was that satisfied her about the process? We say that it is not good enough just to have that in a speech; it ought to be in the legislation. We should remove entirely the reference to the nomination not being invalidated if any of those conditions are not met.

On procedural fairness, the other significant amendment is the removal of judicial review. We are similarly very much opposed to this erosion of administrative and judicial safeguards against the arbitrary powers of governments. The current act removed procedural fairness, giving the minister unfettered discretion over decisions. This bill extends that to exclude the entitlement to the right to judicial review under the Administrative Decisions (Judicial Review) Act 1989 in relation to site nominations. The minister explained in her second reading speech that this was intended to prevent politically motivated challenges to land council nomina-
tions. As the minister told the House of Representatives, the government will not accept what she describes as speculative legal challenges intended to delay the establishment of waste facilities. You cannot have a system whereby all the traditional owners need to agree, as was the case, and then say, ‘We’ll talk about some as being politically motivated and others speculative.’ It is not good enough—either you have consent or you do not have consent. We are extremely concerned about the fact that this bill waters that down.

As I said earlier, we were unable to get any definition of what politically motivated challenges might look like. Mr Ross, the Director of the Central Land Council, said:

... it also talks very clearly about the ability of the Commonwealth to do what it wants to do in regard to ... what it considers to be politically motivated challenges. I think the real issue here is that Aboriginal people are not interested in the politically motivated challenges; they are interested in their rights and in being consulted about what is to take place or what is not to take place on their land. That is what interests Aboriginal people more than anything else.

The Human Rights and Equal Opportunity Commission also pointed out that the effects go further than this:

They prevent legitimate challenges to a nomination based on grounds such as a denial of procedural fairness or other grounds of judicial review such as bias, bad faith, fraud or lack of evidence.

So we are not altogether sure what the government is going to do by way of implementing this legislation, but we can be fairly confident that whatever site is nominated is likely to go ahead without too much pesky objection, whether by Indigenous people or by pastoralists. We did hear how much they would be affected by this dump going to Muckaty Station, or any other site for that matter, in the Northern Territory. The point was made by the local member that Australia has a reputation of being clean and green and that that reputation would be well and truly shot if a radioactive waste dump of this scale were to be built in the area. This legislation has a lot of ramifications. It is about Indigenous owners and their rights, but it is also about the reputation of the whole of the Northern Territory and this region in particular.

South Australia managed to ward off the government’s efforts to put a dump there. South Australia has borne the brunt of nuclear activity with Roxby Downs and with Maralinga. It has had its fair share of nuclear engagement. No doubt the government thinks that the Northern Territory with its uranium mines is the next most likely state to accept the dump but, as we have argued many times in this place before, it is not appropriate for there to be a single national dump.

The Democrats are realistic in understanding that there needs to be a safe repository for nuclear waste, whether it is from Lucas Heights or from hospitals. We accept that it is important that there is a national engagement in all of this, but we do not accept that it should go to one state alone and certainly not one as distant from the sites of generation as this one is proposed to be. The out of sight, out of mind mentality is not a good one. It is far better for this material to be kept—as it is at present—close to the site of production so that it can be monitored, but instead of that we are putting it into Aboriginal land. Typically, that is the easy answer: out of sight, out of mind, a long way away from metropolitan parts of the country so that other people carry the burden of the waste which, by and large, is generated by others.

It is a sad day to see a bill like this go through the parliament. I think it is an indication that the government is willing to trample
over the rights of anyone and, in particular Indigenous people, who are already so disaffected, so seriously disadvantaged in economic development and in every area you can name. The most we can give them is a dump in their backyard. I am sure that when the site is nominated, there will be lots of extraordinary claims about how good this will be for Indigenous communities, about the jobs that will be created and so forth and the roads that will be put in. Who knows? But, at the end of the day, it is not much of a choice for Aboriginal Australians in this area.

Senator STERLE (Western Australia) (1.49 pm)—I rise to make a few brief remarks on the Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006 following on from my contribution to the debate on the Australian Nuclear Science and Technology Organisation Amendment Bill 2006. The Commonwealth Radioactive Waste Management Act 2005, which the Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006 amends, was rammed through both houses of parliament without adequate scrutiny. It is an extreme piece of legislation. It imposes a toxic nuclear waste dump on the people of the Northern Territory and it overrides the Howard government’s own environment and heritage protection laws. It overrides the Native Title Act and the Lands Acquisition Act. It removes procedural fairness. It allows the Commonwealth government to do whatever it deems necessary to establish or operate a nuclear waste dump and whatever it pleases to ensure the nuclear waste gets transported to the nuclear waste site. In other words, the bill brushes aside critical environmental protection, community safety and Aboriginal rights laws to ensure that Territorians get dumped with a toxic nuclear waste dump.

This bill amends the Administrative Decisions (Judicial Review) Act 1977 and the principal act, the Commonwealth Radioactive Waste Management Act 2005, to make land nominations as distinct from decisions not reviewable under the Administrative Decisions (Judicial Review) Act. This bill provides that failure to comply with the site nomination rules in the Commonwealth Radioactive Waste Management Act 2005 will not affect the validity of the minister’s approval of a nomination. This bill proposes to validate a nomination which would otherwise be automatically ruled invalid for ministerial consideration because, for example, traditional owners had not been informed of the nomination or traditional owners did not properly understand that their land was being nominated or traditional owners had not consented to the nomination. The provisions of the bill in this regard are a direct contradiction of the commitments of the Minister for Education, Science and Training to the parliament in her second reading speech on this bill, when she stated:

Current provisions of the act set down a number of criteria that should be met if a land council decides to make a nomination. Importantly, these criteria include that the owners of the land in question have understood the proposal and have consented to the nomination, and that other Aboriginal communities with an interest in the land have also been consulted.

A site could still be nominated and accepted even though traditional owners do not know it has been or do not agree with it being used to dump radioactive wastes. This bill also removes any entitlement to procedural fairness in relation to a nomination of a site. The bill also amends the principal 2005 act to provide for the return of nominated Aboriginal land used for a radioactive waste management facility, when no longer required in around 300 years, and indemnifies traditional owners, following the land return, against any damages claims arising from the use of the land for a facility.
Before the last election the people of the Northern Territory were given an undertaking—a promise, in fact—by the Howard government that there would not be a dump in the Northern Territory. When this government needed to be re-elected it could not wait to reassure Territorians that there would be no nuclear waste dump in the Territory. Just prior to the federal election, the Minister for the Environment and Heritage ruled out the Northern Territory as a site for a nuclear waste dump. He said:

The Commonwealth is not pursuing any options anywhere on the mainland, so we can be quite categorical about that, because the Northern Territory is on the mainland.

However, once the Howard government was safely back in office it seems that it could not break that commitment fast enough. Just last year, Mr Tollner, the member for Solomon, continued to claim not to support the nuclear waste dump in the Territory. At that time, he said:

There’s not going to be a national nuclear waste dump in the Northern Territory ... That was the commitment undertaken in the lead-up to the federal election and I haven’t heard anything apart from that view expressed since that election. Unfortunately Mr Tollner showed his constituents what he is made of when he rolled over and got his tummy tickled by the Prime Minister and voted for this bill. But we should not be surprised.

We know that the coalition have form when it comes to the location of nuclear facilities. They certainly know how to keep them secret. In 1997, the government considered a short list of 14 possible sites for nuclear research reactors, and they kept the list secret from the public. The confidential briefing—signed with ‘Good work’ by the former science minister, Mr Peter McGauran—said that the short list should be kept secret because release of information about alternative sites may unnecessarily alarm communities in the broad areas under consideration. But it seems that the new generation of coalition MPs do not share Mr McGauran’s caution.

Dr Jensen, the member for Tangney, has the prescription for what ails you. He has already told the parliament:

Having evolved in the surrounding radiation, our bodies not only adapted to radiation but, indeed, need radiation to survive.

In his speech in the second reading debate on this bill, Dr Jensen expanded on his theories on what is good for the people of Western Australia. Just in case honourable senators missed what he had to say, I am more than happy to enlighten them. He said:

I believe that Western Australia should have a role and responsibility to look after its own nuclear waste.

He then went on to say:

The placement of nuclear waste is a matter beyond the concerns of states alone. It is a national concern and a matter that clearly should be dealt with by the federal parliament. This is not a matter for parochial ‘nimbyness’. The ‘not in my backyard’ mentality exists all too freely.

So here we have Dr Jensen, the member for Tangney, the Prime Minister’s favourite whose neck the Prime Minister personally pulled off the chopping block, in spite of the express wishes of the local Liberal Party preselectors, telling parliament that not only should Western Australia be used to store nuclear waste but the Commonwealth should make it happen against the Western Australian state government’s will. According to Dr Jensen, all these people who respectfully disagree with Dr Jensen’s view, people who consider that turning the beautiful expanses of Western Australia into a radioactive rubbish dump is a bad idea are just a bunch of parochial nimby’s. The main reason put forward by Dr Jensen for wanting to use Commonwealth power to force Western Australia to become a nuclear rubbish dump was:
... the waste from ... is only harmful for a period of 200 to 300 years.

What a relief. Dr Jensen might feel comfortable leaving a toxic legacy for his great, great, great, great, great, great, great grandchildren. But, personally, I am not so comfortable. Dr Jensen finished his speech with an invitation to us all, when he said:

I want to re-encourage members ... to investigate and discover for themselves the exciting technologies that are significantly contributing to the global solutions on nuclear waste.

Dr Jensen has a friend in Mr Wilson Tuckey, the member for O’Connor. In his speech in the second reading debate on this bill, Mr Tuckey told the parliament:

I am neither frightened of nor concerned about a nuclear power industry. In fact, I have advocated for the storage of international nuclear waste in Australia ...

Maybe Mr Tuckey will take up Dr Jensen’s offer and they can both visit Chernobyl together on their next study tour. Maybe at Chernobyl they will get all the beneficial radiation that Dr Jensen would have us exposed to. The waste dump that is being planned by this government is intended to house water from the new reactor presently under construction; the old reactor, which is still operational, including waste from France and the United Kingdom; defence waste held at various sites across Australia, including contaminated soil from the Woomera test site; Commonwealth Scientific and Industrial Research Organisation accelerator waste; and other Commonwealth waste. But none of the sites under consideration were short-listed when scientific and environmental criteria were used to assess alternative sites around Australia in 1997.

This is a government that ignores science, ignores economics and ignores the environment. Australia should remember this track record when they consider John Howard’s determination to impose no less than 25 nuclear reactors across Australia. But they are not the only ones being deceptive. That fawning toad Piers Akerman has criticised the Labor Party for its concerns about the potential dangers posed by nuclear reactors. In an article in the Hobart Mercury on 19 June 2006, he said:

... Albanese talked about nuclear safety as if everyone—

Senator Kemp—Madam Acting Deputy President, on a point of order: that was a very unfortunate expression used by the senator about a distinguished journalist. I invite the senator to withdraw that comment.

The ACTING DEPUTY PRESIDENT (Senator Kirk)—Senator Kemp, journalists are not protected by the standing orders, and I ask Senator Sterle to continue.

Senator STERLE—I am quoting—

Senator Kemp—Madam Acting Deputy President, I would invite you to reconsider the ruling. This was an absolutely insulting comment that was made and without any basis whatsoever. I think it would be in the interests of the Senate and the senator to withdraw.

The ACTING DEPUTY PRESIDENT—There is no point of order. Please continue, Senator Sterle.

Senator STERLE—He even had concerns over Lucas Heights. The toad then went on to say:

If he knows something that the workers there don’t, he should outline his concerns to the staff there—or apologise, and shut up.

Debate interrupted.

QUESTIONS WITHOUT NOTICE
Military Justice

Senator MARK BISHOP (2.00 pm)—My question is to Senator Ian Campbell, the Minister representing the Minister for Defence. Can the minister confirm that yesterday’s audit report into the ADF’s military
police concluded that the system is so seri-
ously flawed that even with ‘unremitting
resolve and commitment’ it will take ‘no less
than five years to correct and remedy’? Don’t
these findings echo Ernst and Young’s report
into the Army military police in 2004, which
identified the same deficiencies of a lack
of qualified military police and expert
forensic skills? Given that two reports have
found the same problems, can the minister
explain why the government rejected the
unanimous recommendation of the Senate
military justice inquiry to transfer responsi-
bility for criminal investigations to the Aus-
tralian Federal Police? Why has the govern-
ment continued to fail ADF personnel and
their families by allowing the current flawed
system to continue?

Senator IAN CAMPBELL—I thank
Senator Bishop for the question. If the audit
report into military justice and the military
police has just been tabled, I am sure the
government and the minister will respond to
it in due course. It is an incredibly serious
issue, and the reason you have these audit
reports is to look at the capabilities, the proc-
esses and the effectiveness of the system. I
am sure that is what the minister will do.

Senator MARK BISHOP—Mr Presi-
dent, I ask a supplementary question. For the
advice of the minister, the report was rec-
commended; the government accepted the
recommendations on the advice of the Chief
of the Defence Force. So it is not a matter of
further work; it is a matter of answering that
question—and you should be aware of it,
Minister. In that context, my supplementary
question is this: isn’t it the case that the bun-
gled investigation of Private Kovco’s tragic
death occurred because of the military’s lack
of forensic skills and experience? Isn’t this
the same problem that was clearly identified
three years ago by both the Senate committee
and Ernst and Young reports? Hasn’t the au-
dit report also concluded ‘that it would be
futile to maintain the ADF investigative ca-
pability as it presently exists’? When will the
government take responsibility for fixing this
mess so that military personnel and their
families can receive the justice they deserve?

Senator IAN CAMPBELL—These are
very serious issues; they are issues that the
government take very seriously. The opposi-
tion obviously do not take them seriously.
They seek to make cheap political mileage
out of the Kovco investigation at the risk of
upsetting Private Kovco’s family and his
friends and loved ones. The minister and the
government will respond in due course to the
findings of the audit report. We take these
issues seriously. Senator Bishop and the La-
bor Party want to play cheap politics with it.

Senator Chris Evans—Read your brief;
they have responded!

The PRESIDENT—Order! Senator Evans,
shouting across the chamber is disor-
derly.

Wheat Exports

Senator JOHNSTON (2.03 pm)—My
question is to Senator Abetz, the Minister
representing the Minister for Agriculture,
Fisheries and Forestry. Will the minister in-
form the Senate how the Howard govern-
ment is acting to remove uncertainty and
secure the livelihood of Australian wheat
growers?

Senator ABETZ—I thank Senator Johns-
ton for his question and also acknowledge
his very keen interest in ensuring that Austra-
lian wheat growers, particularly those from
his home state of Western Australia, some of
whom are fortunate enough to have a crop
this year, are not disadvantaged by the fallout
from the Cole inquiry. The government has
moved quickly and expeditiously to remove
the uncertainty facing our wheat growers
following the handing down of Commis-
sioner Cole’s report late last month.
I can inform the Senate that the government will expeditiously introduce the necessary legislation tomorrow to remove AWB’s veto power over wheat exports for a period of six months. In the current climate the government does not deem it appropriate for AWB to retain this veto power. For the duration of that period this veto power will instead be vested in my colleague the Minister for Agriculture, Fisheries and Forestry, Mr McGauran.

This will achieve two goals. Firstly, it will enable wheat growers, particularly those in Western Australia, to export their wheat other than through the AWB with the approval, of course, of Minister McGauran. Secondly, the six-month period will allow the government an appropriate period of time to fully consider the long-term future of AWB’s management of the national wheat pool. This consideration will be done in lock step with the wheat growers of this country to ensure that the final decision we arrive at as a government is the consensus of both government and growers.

We all know that Australia’s farmers are doing it tough at the moment. The drought has impacted very heavily on most of this nation’s wheat crop. The government did not consider it appropriate that on top of this terrible drought wheat growers be dealt a double blow due to the AWB affair. It is important to put in place an interim arrangement for the export of wheat, and I am confident that the government’s proposal will meet with the approval of the vast majority of Australian wheat growers. For this reason I urge all members of this place to support the enacting legislation when it comes before us for our consideration. Australian wheat growers cannot afford to wait.

In summary, it is not the government’s intention that the veto remain with the government in the long term, and we emphasise that these changes are not intended to pre-empt or predetermine any policy considerations by the government. The single desk is a longstanding policy and it is important that full consideration be given to all perspectives to find the best solution for Australia’s wheat growers.

Wheat Exports

Senator O’BRIEN (2.07 pm)—My question is to Senator Minchin, the Minister representing the Prime Minister, and follows the answer from Senator Abetz that was just given. In relation to the government’s decision today on wheat export arrangements, can he confirm that AWB will retain its single-desk monopoly? Hasn’t the government just shifted AWB’s veto power to a National Party minister who has been a defender of AWB’s monopoly? Will the minister for agriculture be consulting with AWB in deciding whether to exercise the veto power? Doesn’t this arrangement confirm the concerns of the member for O’Connor that the government is ‘guilty of trusting a mob of agropoliticians with close ties to the National Party’? Did the minister and others in cabinet who support the end of the single desk get rolled to placate The Nationals, who have ensured that they remain in control of AWB’s monopoly?

Senator MINCHIN—I thank Senator O’Brien for his question but note that I think Senator Abetz very lucidly and eloquently set out the government’s position on this matter. He made it clear that, following the release of the Cole commission of inquiry report and what it had to say about AWB, and in light of the particular circumstances of Western Australian wheat growers and our concern to ensure that in due course we put in place suitable long-term arrangements for the future marketing of wheat, we have decided as a government, and as approved by our coalition party room, that we will introduce legislation this week—which we look
forward to the Labor Party supporting—to provide for the amendment of the Wheat Marketing Act so that the veto, which currently rests with AWB, will rest for six months with the minister for agriculture.

In the meantime, while that position pertains, the government will engage in a significant and comprehensive consultation process with the wheat industry and all growers to ascertain their views as to where we as a country go with wheat marketing, given the outcome of the oil for food scandal in Iraq, the role that AWB had in that matter and the report of the Cole commission of inquiry. We will conduct that consultation process during this six-month period. We will complete it in three months. The government will then consider, based on that consultation process, what the future direction will be for wheat marketing in this country. The Prime Minister indicated that, in effect, all options are on the table, ranging from the continuation of the single desk through to full deregulation. All options are open. We want to know what the growers in the industry think should be the future and then we will come to a decision, and no doubt we will bring further legislation to this parliament to give effect to the government’s decisions sometime next year. We think this is a proper and sensible course.

I reject absolutely the innuendo from Senator O’Brien. Minister McGauran is an outstanding member of this coalition government. He is a member of a coalition cabinet that has produced 10½ years of outstanding government in this country. That would not have been possible without the strength, unity and cohesion of the coalition, and the great contribution made by National Party members, senators and ministers to this government. Along with Liberal members and senators, they are proud defenders of the interests of rural Australia, which the Labor Party ignored for all its period in government and has paid no regard to during the wasted 10 years that it has had in opposition.

Senator O’Brien—I ask a supplementary question, Mr President. Can the minister confirm what criteria Minister McGauran will apply in deciding whether to apply the veto power to block wheat exports, while he holds it? How can wheat growers have any confidence in the minister for agriculture using the veto power responsibly when he has publicly defended the single desk and AWB’s monopoly? And, for that matter, how can the community have any confidence in the minister for agriculture when he presumably will continue to argue for the single desk while exercising the veto power and working with AWB?

Senator Minchin—Minister McGauran will of course be consulting with Western Australian growers, CBH, AWB and others with respect to the issue of Western Australian wheat exports and will then be reporting back to cabinet, and cabinet will consider the matter. Any veto that is or is not applied will then be, under due law, the responsibility of the minister. But, of course, the minister in his consultations will be keeping cabinet constantly informed, and cabinet will have much to say on the matter. The arrangements we have put in place are a very sensible outcome and will ensure that the interests of Western Australian growers are properly considered in the future of Australian wheat marketing.

Burrup Peninsula

Senator Eggleston (2.13 pm)—My question is to the Minister for the Environment and Heritage, Senator Campbell. Will the minister update the Senate on the heritage nomination of the Burrup Peninsula and actions the Australian government is taking to get a good outcome for the environment and industry? Is the minister aware of any alternative approaches?
Senator IAN CAMPBELL—I thank Senator Eggleston, a senator who comes from the north of Western Australia—a part of Western Australia that contributes phenomenally to Australia’s economic success and, because of the exports of liquefied natural gas from the North West Shelf, contributes substantially to the production of the world’s greater energy needs but does so with substantially lower greenhouse gas emissions. It should be recorded and well known in this place that when exports of natural gas from the North West Shelf substitute for coal or oil in the Northern Hemisphere, China, Japan, Korea or North America—where we are hoping to export to soon—that gas will replace some 25 megatons of reductions in greenhouse gas emissions. Replacing coal or oil with natural gas gives a 50, 60 and, sometimes, 70 per cent reduction in greenhouse gas emissions. To put that in context, Australia produces around 550 million tonnes of greenhouse gas emissions; this industry in the North West Shelf over 20 years, for example, would replace all of Australia’s annual greenhouse gas emissions. Ensuring we have a healthy investment environment for expanding the natural gas exports from the Burrup Peninsula is phenomenally important for the global environment.

I have been progressing the consideration of a heritage nomination for the rock art on the Burrup Peninsula in the Dampier Archipelago over recent months and I have made it quite clear that the government will not do a heritage listing that in any way constrains the expansion of that important natural gas industry in the Burrup. Yes, when it expands it does disturb rock art—it does—but let’s put this in perspective as well. The rock art on the Burrup Peninsula in the Dampier Archipelago stretches over 27,000 hectares—about the size of the city of Perth—and it includes no less than roughly a million pieces of rock art, and Woodside are looking at disturbing 165 pieces. That is less than 0.02 of one per cent of the art on the peninsula. We want to have an approach that protects the economic development of Australia—that is, 80,000 direct and indirect jobs; $10 billion a year in export revenue—but also includes protection for the rock art.

Senator Eggleston asked about alternative approaches. Within 24 hours of Kevin Rudd taking over the leadership of the Labor Party, we have from the Australian Labor Party an emergency heritage listing nomination for the Burrup Peninsula. That is, a heritage protection measure from Dr Carmen Lawrence—from Mr Rudd’s Labor Party; from a senior member of Rudd Labor—wanting to close down the expansion of Woodside’s project, to threaten the exports of natural gas from north-west Western Australia. I want to see a reform to Australia’s heritage laws go through this parliament this week which will enable the heritage process to be changed. I have the support of the Carpenter Labor government in this. I call on Kevin Rudd to call Carmen Lawrence into line and say that he supports our natural gas exports, supports the contribution Australia can make to reduce greenhouse gas emissions and supports a sensible approach to heritage listing—a win, win, win for Australia. It is time that Rudd’s Labor called Carmen Lawrence in and said, ‘Withdraw this heritage nomination immediately.’ It is an absolute scandal and it is the first test for Mr Rudd on his first day as Leader of the Opposition.

Senator Chris Evans interjecting—

The PRESIDENT—Order! Senator Evans, your colleague is on her feet.

Petrol Sniffing

Senator CROSSIN (2.17 pm)—My question is to Senator Santoro, Minister representing the Minister for Health and Ageing. I
refer the minister to the tragic deaths of two teenagers—and another is on life support in Royal Darwin Hospital—due to petrol sniffing last weekend at Oenpelli in the Northern Territory. It is a tragedy that has plunged the whole community into total grief and despair. Can the minister confirm that non-sniffable Opal fuel has not been rolled out to Oenpelli and the surrounding area? Is the minister aware of a study by Access Economics earlier this year which found that a widespread rollout of Opal would have a net benefit for governments through savings to the health and criminal justice systems? Didn’t this research conclude that the cost of not rolling out Opal is higher than the cost of doing so and that a more widespread rollout could prevent loss of life? Given those findings and the latest deaths at Oenpelli, will the government now commit to an immediate rollout of Opal fuel across all communities affected by petrol sniffing?

Senator SANTORO—I am sure that all senators would share my feelings, and that is that I am very sad to hear of the deaths of the two teenage boys from the community of Oenpelli in the Northern Territory which the media has, in fact, indicated is the result of petrol fumes. Senators would be aware that petrol sniffing is a very complex issue and that supplying unleaded Opal fuel into a community can assist in addressing this problem. However, I am sure all senators would also agree that the community has an essential role to play in addressing petrol sniffing.

Oenpelli, senators may be interested to know, is approved for the Australian government’s petrol sniffing prevention program and has received regular deliveries of unleaded Opal fuel in drums since May 2006. As further information for honourable senators, they may be interested to know that Oenpelli—for those who are not familiar with Oenpelli—is 3,000 kilometres south-east of Darwin and has a population of 1,500 people, with approximately 20 regular sniffers. The community has been approved for the petrol sniffing prevention program and had its first supply of unleaded fuel delivered in May 2006. It has one service station that only supplies diesel fuel through its bowser. The local fuel supplier has confirmed that regular deliveries of unleaded Opal fuel have been provided in 200-litre drums to Oenpelli since May 2006. According to media sources, the Oenpelli Council banned the use of regular unleaded fuel in the community last week. The nearest source of regular unleaded fuel is at Jabiru, 70 kilometres away.

I think this indicates that the government has been acting as expeditiously as possible. It has the assistance of the local community. Obviously, the government will continue to keep a very close eye on the situation, particularly in view of the very regrettable deaths of the two teenage boys who are the subject of the question.

Senator CROSSIN—Mr President, I ask a supplementary question. I thank the minister for his answer, but I ask the minister to take on notice for me his information about the supply of Opal fuel to Oenpelli. I am aware that the CEO of Oenpelli Council is reported in today’s newspapers as saying that the community has applied to the government for Opal fuel in Oenpelli. So would you please confirm for us that the Department of Health and Ageing has in fact received an application specifically for Oenpelli and not surrounding communities? Also, please explain why Opal fuel, as I understand it, has not been made available to Oenpelli. If in fact it has, would you please reconfirm the advice you have been given?

Senator SANTORO—I will take that question by the senator on notice, although I do wish to refer her to the substance of my
first answer to the question, where I clearly indicated that, in fact, Oenpelli did receive the first supply of unleaded fuel in May 2006 in 200-litre drums. Nevertheless, I undertake to take the question on notice. If I can add to my answer either today or at a later stage—hopefully before the Senate rises this year—I will certainly do so.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the President’s gallery of the Hon. Falah Bakir, Minister of Foreign Affairs in the Kurdistan Regional Government, accompanied by His Excellency, the Iraqi ambassador. On behalf of all senators, I warmly welcome the minister to the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Family Payments

Senator TROETH (2.22 pm)—My question is to Senator Kemp, the Minister representing the Minister for Families, Community Services and Indigenous Affairs. What response has the government received to its proposals to ensure children at risk of neglect continue to benefit from federal payments to families?

Senator KEMP—I thank Senator Troeth for her important question. Australian families are benefiting from coalition policies that are delivering a stronger economy, more jobs, greater security and greater prosperity. As Australia’s economy has grown on this government’s watch, the coalition has placed even more emphasis on helping families, particularly those with children. In fact, senators will recall that total family assistance payments have increased from $14 billion in 1996-97 to nearly $28 billion in 2006-07. Combined with the tax relief the coalition has delivered in recent years, this family assistance has significantly reduced the financial burden on families. The coalition government is committed to continuing to develop policies that provide support and security for Australian families.

Recently, the Minister for Families, Community Services and Indigenous Affairs made another significant announcement on family payment policy at the 50th annual conference of the Australian Council of Social Services, most commonly known as ACOSS. While most of the welfare money provided by Australian governments to families is used wisely, in some cases it has to be said this benefit does not flow to children. The sad reality is that, where drugs, alcohol or gambling are a problem, children are often missing out on the basic nutrition, secure housing, clothing and education that we all consider a child’s basic rights. At the ACOSS conference, the minister proposed to allow a proportion of welfare payments to be quarantine for children’s needs in cases where children have been identified as being at risk of neglect. This proposal will not take one cent of welfare from families but it will provide another tool to child protection authorities.

Over the five years between 1999 and 2004, child protection notifications across Australia more than doubled from 107,000 to 235,000. The latest proposal is an important tool in our efforts to promote child protection. This new proposal will be introduced—and I stress this—in consultation with the states. The minister has proposed three steps that he wishes to discuss with state governments: (1) to look at ways in which the current use of the Centrepay facility can be made mandatory in cases already identified by state child protection systems where there is a risk to the child but the child remains with the family; (2) further development in conjunction with state authorities and service deliveries for quarantine payments to be further differentiated for food, clothing, educa-
tion and other specific needs, and allocated to families using a more refined debit systems; and (3) the application of quarantining provisions in cases of serial truancy. This proposal builds on a recent COAG commitment by state and national leaders to reinforce compulsory school education.

I am pleased to report some positive responses. For example, the Queensland minister for child protection said that if a voucher system could prevent parents blowing money on drugs or alcohol instead of feeding and clothing their kids then it would have merit. The coalition government are committed to continuing to build on supporting Australian families, and we look forward to working with the states and territories towards protecting children at risk.

**Bushfires**

*Senator BOB BROWN (2.27 pm)*—My question is to Senator Ellison, the Minister representing the Attorney-General, and it is also about the security of Australian families. I ask the minister: in relation to the excellent government initiative for a Bushfire Cooperative Research Centre in Melbourne, what work has been done on the impact of increasing bushfire danger through climate change? Can the minister say what work has been done on the scourge of the bushfire season, which is arson? Is the research centre looking at the problem of arsonists and what action—

*Senator Ian Macdonald interjecting—*

*Senator BOB BROWN*—this is a serious question, Senator—may be taken to detect and prevent arsonists from setting fire to the Australian bush in the coming summer?

*Senator ELLISON*—The issue of bushfires is an important one, particularly when you are mindful of the fact that a number of our bushfires are lit by people deliberately. There are of course cases where it is negligence and it is caused by other means. A while ago, I recall taking this up with the states and territories to seek uniform laws for a Criminal Code offence specifically aimed at bushfires. The question of arson relates primarily to property, buildings and the like, and what we were targeting was the question of where someone is reckless in a park or in the bush—where they behaved with reckless disregard for the consequences of their actions. As I recall, a number of states have implemented specific bushfire offences.

In relation to research on arsonists, I think the Australian Institute of Criminology has done a paper on this—I will get back to the Senate about that. As far as the Attorney-General’s portfolio is concerned, we deal with Emergency Management Australia in relation to the containment of bushfires, bringing together resources for aerial water bombing. But I take it that Senator Brown is asking a question aimed more at the reasons for arson—those people who go about lighting fires, particularly bushfires, as I understand it. I will get back to the Senate if there is anything more I can advise in relation to this matter.

*Senator BOB BROWN*—Mr President, I ask a supplementary question. I thank the minister for his considered answer, because the problem with arson is an enormous one here and around the world. Following up on that, I ask the minister: has the government given consideration to lifting the cooperative research centre’s funding so that it may indeed become an international centre for research and action related to bushfires?

*Senator ELLISON*—I will take that question on notice and get back to Senator Brown. I do not have a brief in relation to that particular aspect, but I do say that we regard this as a very important issue, especially coming up to the summer months and what is predicted to be a long, hot summer.
Budget Surplus

Senator JOYCE (2.30 pm)—My question is to the Minister for Finance and Administration, Senator Minchin. Will the minister inform the Senate of the importance of running strong budget surpluses in the current economic conditions? Is the minister aware of any alternative policies?

Senator MINCHIN—I thank Senator Joyce for that very appropriate question and note that as a professional accountant of course he has a very keen interest in good accounting. I am pleased that the coalition government, of which he is a member, have been able to deliver. It has been one of our strongest commitments to good accounting. When we came into office Labor had left us with a deficit of $10 billion per annum and there was $96 billion in accumulated debts. Since then we have had surpluses in eight out of 10 years and have now repaid every last cent of Labor’s debt. We have established the Future Fund, which will soon have some $50 billion under management.

A key aspect of our government’s economic management has been to ensure that every budget is appropriate for the prevailing economic circumstances. For the last three years, with a strong domestic economy and a commodity boom driving company profits and business investment, it has been appropriate to run budget surpluses of around one per cent of gross domestic product. We have already started work on preparing next year’s budget, to be delivered in May, and, with private investment activity still strong and unemployment at 30-year lows, it continues to remain appropriate that governments run strong surpluses. This financial year, 2006-07, we are on track to deliver a surplus of around $10 billion.

Regrettably, Labor state governments are undermining that fiscal performance by projecting combined deficits of $5 billion. Every state government other than WA forecasts a deficit in this financial year. The worst offenders are New South Wales, Victoria and Queensland, and we will all have to find extra money to pay for their lavish election promises. Federal Labor have already committed to a range of policies which would slash the surplus and, in concert with their colleagues at the state level, would drive the combined state and federal bottom line back down to an overall deficit. Federal Labor are committed to raiding the Future Fund by spending their annual earnings on pet projects and they have also pledged to raid the $2 billion Communications Fund, which would see a further rundown in the surplus. Those two promises alone could see the annual surplus run down by around $4 billion a year, almost halving the surplus—just with those two commitments. It is a particular paradox that Mr Rudd has come to the leadership criticising short-termism when his own policy is to raid the money we have set aside to meet future obligations in order for the Labor Party to pay for their election promises.

We also know that federal Labor are committed to a long list of new spending commitments. Every shadow minister comes out every day with a new commitment: childcare centres, broadband networks, a coast guard—they have still got the old coast guard—and $200 million set aside for something called ‘enterprise connect centres’. And of course their new deputy leader, Ms Gillard, is infamous as the shadow minister who went to the last election promising Medicare Gold, the most financially reckless policy ever put to the Australian people. Only last week Ms Gillard was proposing that the government—

Senator Sherry interjecting—
The PRESIDENT—Order, Senator Sherry! Shouting across the chamber is disorderly.

Senator MINCHIN—simply fund Gardasil without any negotiation over price. She was going to do it without any discussions or negotiation with the company about the cost-effective delivery of Gardasil, which would have cost taxpayers hundreds of millions of dollars. Even without Mr Rudd’s new policy program, it is pretty clear that Labor’s promises and their approach to financial management will see a return to the big spending, big deficit policies we saw in the past under Mr Keating and what we are now seeing under all the state Labor governments.

Iraq

Senator KIRK (2.35 pm)—My question is to Senator Minchin, the Minister representing the Prime Minister. Is the minister aware that the leaked memo by former US defense secretary Donald Rumsfeld suggested that the US should consider whether ‘conduct an accelerated draw-down of US bases’? The memo continued:

We have already reduced from 110 to 55 bases. Plan to get down to 10 to 15 bases by April 2007, and to 5 bases by July 2007.

Given the minister’s comments yesterday that ‘we keep our position under review’ and that ‘we are working with our coalition partners to ensure that our contribution is the most appropriate’, can he indicate whether the US plans to reduce the number of US troops in Iraq next year? What impact will an accelerated draw-down of US troops have on Australia’s ongoing commitment to Iraq?

Senator MINCHIN—I do not really have a lot to add to the answer that I gave to the similar question from Senator Evans yesterday. The former US Secretary of Defense, Donald Rumsfeld, did write a memo which referred to the tactics which the United States should pursue in respect of Iraq. It was not about the strategic position of the United States; it was about the tactics to pursue. In any intervention of this kind, the tactics are constantly kept under review. It was in the context of the James Baker led group which is reporting to the United States President on the way forward with respect to Iraq. It is quite clear that the United States and indeed Australia do remain committed to helping Iraq become a country that can govern, sustain and defend itself.

Along with the United States we continue to believe that there is still a job for us to do in Iraq and that it would be absolutely the wrong thing to do to just abandon Iraq now, and abandon the Iraqi people to terrorists, insurgents and murderers. We will not do that. The question of the ultimate withdrawal of Australian troops is one that will be based on the conditions that I set down yesterday. It will not be based on some arbitrary calendar—that, of course, was the Mark Latham policy and it seems to be the policy of Mr Rudd, who professes to be an ‘all the way with LBJ’ US supporter. We will wait to see. As I said yesterday, Mr Rudd was right out there as one of the most keen and active proponents of the proposition that Saddam Hussein possessed weapons of mass destruction. It is our view that Australian troops still have a very important role in supporting the Iraqi security forces and we will remain there while we believe that role is important.

Senator KIRK—Mr President, I ask a supplementary question. Given that the leaking of the Rumsfeld memo comes on top of the UK’s announcement of their intention to hand over security in Basra next year, will the government undertake a formal review of Australia’s military commitment in Iraq? Is the government concerned about the sustainability of its ‘staying the course’ strategy,
given the policy changes occurring with our allies?

Senator MINCHIN—It is typical of this cut-and-run opposition that they are seeking to make much more out of the positions of the United States and Britain than is in fact the case. We are proud to have served with the United States, Britain and many other partners in Iraq—under a UN mandate, which has just been unanimously re-endorsed—ensuring that we do bring peace, order and good government to the people of Iraq. We are not going to do what the Labor Party is proposing to do—that is, just abandon the people of Iraq to their fate. We are not going to do that. We are not going to leave them to murderers, thugs and terrorists like the Labor Party would—the most appalling policy position adopted by the opposition.

Indigenous Land Leases

Senator BARTLETT (2.39 pm)—My question is to Senator Kemp, the Minister representing the Minister for Families, Community Services and Indigenous Affairs. As the minister would know, the government recently changed the Northern Territory land rights act to allow 99-year leases on Aboriginal land and gave the reason for this change as enabling increased economic development for Indigenous communities in the Territory. Could the minister explain why the Indigenous affairs minister has blocked the proposal by the Thamarrurr council at Wadeye to grant and manage 20-year leases on their own land? Is it the case that the minister will only allow Aboriginal people to lease their land to government-controlled entities?

Senator KEMP—I am aware of this issue at least in part, because the senator and I debated this extensively as the bill passed through this chamber. The government’s policy was quite clear, and it seemed to me that you strongly opposed that policy at the time. In fact, I did point out to Senator Bartlett and others that the government policy in this area was strongly supported by the Labor government in the Northern Territory.

Senator Chris Evans—They are rethinking their position, as I understand it.

Senator KEMP—Senator Evans says that they are rethinking their position at the moment. I am not aware of that, Senator. You have obviously been in close touch with them.

Senator Chris Evans—No, you just have to look at the papers.

Senator KEMP—You are obviously in close touch with them. The support we received from the Chief Minister on this, if I recall correctly, was important. Of course, this caused great embarrassment to Labor senators during the debate on this bill.

Senator Chris Evans—We don’t need to be embarrassed.

Senator KEMP—From where I sat, Senator, it was very clear that you were severely embarrassed on this issue, I have to say. I think the government policy is clear on this. Senator Bartlett has raised an issue about a particular leasehold. What I shall do is go back to the minister and seek some advice from him. I will convey it to the Senate as soon as is practicable.

Senator BARTLETT—Mr President, I ask a supplementary question. I thank the minister for his answer, such as it was.

Senator Sherry—You sound like you’re passing judgement!

Senator BARTLETT—Yes, I am. Given that the government’s policy is quite clearly, as the minister has confirmed, to allow leases, saying that enabling leases will encourage economic development, what are the criteria that the government have used to block the Thamarrurr council’s proposal to lease their land? In his response to the Sen-
ate, can the minister indicate why some leases to government-controlled entities are okay on the minister’s terms, but other leases on the terms put forward by Aboriginal people are not okay and will not lead to economic development?

Senator KEMP—Senator, you can always be assured that you will get a very comprehensive answer from me to your questions. I would not worry in the slightest. I will go to the minister and ask him to assist the Senate by providing a response to your answer. I do recall that, in one of your famous quotes before one of the committees, you indicated that as far as you were concerned you would always take the advice of the Indigenous communities. It seemed to me to be a curious thing for a senator to abrogate his or her responsibilities in this area.

Senator Bartlett interjecting—

Senator KEMP—Yes, you did say that, Senator. I thought it was a very strange thing for you to say—a very strange thing indeed. But, rest assured, I will come back to the Senate with a response.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the President’s gallery of members of the Parliamentary Portfolio Committee on Safety and Security from the Republic of South Africa, led by Ms Sotyu MP. On behalf of all senators, I give you a warm welcome to Australia and, in particular, to the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Aged Care

Senator MARSHALL (2.44 pm)—My question is to the Minister for Ageing, Senator Santoro. Can the minister confirm that, after having been accredited for a full three years earlier this year, the Viewhills Manor nursing home in Victoria was found to have failed six critical care standards in October? Is the minister aware that, despite there being 36 residents with high-care needs in the facility, there was no division 1 registered nurse employed to evaluate resident care and provide appropriate clinical supervision? Didn’t the assessment team also find that the residents were not receiving the right medication in the right dosage at all times? Can the minister explain to residents and families why no sanctions were imposed on a facility that was failing to ensure that it had the required qualified nursing staff and appropriate medication procedures?

Senator SANTORO—I can inform the Senate that a person has made a complaint about the care received by her father at Rosanna Views residential aged-care facility—is that the nursing home?

Senator Chris Evans—No. Viewhills Manor.

Senator SANTORO—Mr President, if it had been the Rosanna nursing home, I could have provided the senator with a comprehensive answer. I do not have a brief in relation to that particular facility, but I undertake to come back to the Senate as soon as possible.

Senator MARSHALL—Mr President, I ask a supplementary question. I would appreciate the minister following that up. Can the minister explain how the Viewhills Manor facility could have been accredited early in 2006 only to be found to be not employing appropriately qualified nursing staff in October? How can residents and families have any confidence in an accreditation system that gives facilities a tick when they are not employing the required qualified staff?

Senator SANTORO—Mr President, as I just mentioned to the senator, I do not have specific details about what the senator is asking. However, I do undertake to find some
answers and come back to the senator as soon as possible.

**Passports**

**Senator TROOD** (2.46 pm)—My question is to the Minister for Immigration and Multicultural Affairs, Senator Vanstone. Will the minister advise of any changes to passport arrangements which may effect holders of Greek passports living in or visiting Australia?

**Senator VANSTONE**—I thank Senator Trood for the question. There is an important issue for Greek passport holders that becomes vitally important at the end of this month. On 1 January this year, the Greek government commenced issuing a new-series passport. It is designed to ensure compliance with European Union regulations and includes a biometric facial image. From 1 January 2007, all old passports—that is, all passports produced before 1 January this year—will no longer be valid. They will become invalid regardless of the validity date shown on the passport.

This is of particular interest to Australians because we have so many people who have both passports. We have a very high Greek population in Australia and especially in the state of Victoria. From 1 January, people travelling on an old Greek passport must have a new passport to enter Australia. The Greek embassy has assured my department that the changes have been very well publicised. Following that, I issued a media statement at the weekend, at large and to all the Greek media outlets, encouraging those in Australia affected by the change to contact the Greek embassy or consulate to confirm the arrangements.

I want to reinforce that, as far as practicable, the efforts of the Greek government have been significant. But, given the size of the Greek community in Australia, we do not want to have tears at the airport, either from people seeking to enter Australia finding they do not have a valid passport or from people seeking to leave. Electronic travel authorities granted in old Greek passports will cease to be valid for travel from 1 January 2007 because an ETA is valid for the life of the ETA or the passport, whichever ends first. This could affect over 5,000 people with ETAs in old Greek passports that will cease to be valid for travel from 1 January.

People with other valid Australian visas in the old Greek passports, and who are overseas on 1 January 2007, may have difficulty travelling to Australia. People in Australia on temporary visas in the old Greek passports will be impacted. Their ability to return will depend on their capacity to secure another passport quickly or on the position of individual airlines.

A lot is being done, as I said. I have issued a statement. The department is making systems enhancements to identify Greek passport holders applying for a visa both onshore and offshore to advise them directly of the need to secure a new passport if they intend travelling to or remaining in Australia after 1 January. The client contact centres are being briefed, the migrant resource centres have been alerted and, of course, the Greek organisations have been alerted. I urge all senators and members to discuss the issue within the Greek communities in their electorates. People wanting a new passport in Australia should contact the Greek embassy or consulate in Australia nearest to them. Australian citizens and permanent residents travelling overseas on Greek passports should contact the Greek national passports centre if they wish to receive a new Greek passport. Those that qualify for an Australian passport can of course contact their nearest Australian embassy or consulate.
Seasprite Helicopters

Senator HOGG (2.50 pm)—My question is to Senator Campbell, Minister representing the Minister for Defence. I refer the minister to a Defence media release from 13 November 2006 about joint Australia-New Zealand Navy exercises off Perth this month. Can the minister confirm that the New Zealand ship HMNZS Te Kaha had an SH2G Seasprite helicopter on board? Is it not the case that New Zealand has had its Seasprite helicopters in service since 2001? Weren’t the 11 Seasprite helicopters ordered by Australia also supposed to have been delivered in 2001? Why is it, despite $1 billion of public money having been spent, that five years after the due date we are still waiting for a final decision as to whether the project will proceed or be dumped?

Senator IAN CAMPBELL—I thank Senator Hogg for the question in relation to defence procurement. I have had a look through a list of the defence procurement briefs in a rather hefty file on that, and there is not one on that.

Senator Chris Evans—On the Seasprite?

Senator IAN CAMPBELL—No, there is not. I think a broader point needs to be made, and it is this: the Department of Defence does manage projects of national significance. The defence procurement is of an unparalleled size, cost, timescale, risk profile and level of technological complexity. These are very important questions. The federal Howard government has invested in a $28 billion boost to defence across the past decade. The examples of our defence procurement include an armed reconnaissance helicopter of $1.9 billion, of which expenditure in this current financial year is $262 million; the Anzac ship project of $5.372 billion, or $181 million in the current financial year; the Jindalee Operational Radar Network of $1.245 billion; the airborne early warning and control procurement of $3.53 billion, with current expenditure of $339 million; the additional troop lift helicopter of $3.75 billion, of which we are spending $120 million this year; the strategic airlift capability, another $1 billion plus; the Armidale class patrol boat of $548 million; the ADF’s air refuelling—

Senator Hogg—I rise on a point of order on relevance, Mr President. I asked a specific question about the Seasprite. The minister has been unable to answer that question. I ask you to direct him to the question and to answer the question.

The PRESIDENT—Minister, you have been asked a specific question. I think perhaps you should take it on notice.

Senator IAN CAMPBELL—Mr President, I am making a point about defence procurement. The defence procurement program of the Commonwealth government is a substantial increase over and above what Senator Hogg’s Labor Party government spent. If the opposition are serious about specific defence procurement programs and if they want to take specific questions about specific projects in a range of—

Opposition senators interjecting—

The PRESIDENT—Order! Order on my left! Senator Campbell, I remind you of the question.

Senator IAN CAMPBELL—The Seasprite is one of in excess of 200 major defence contracts that this government has entered into because we care deeply about the defence of Australia. We have increased defence spending on Australia, as opposed to Labor, who ran it down. If they took it seriously, I would take them seriously.

Senator HOGG—I have a supplementary question, Mr President. I ask the minister, even though he has not indicated that he will, to take my primary questions on notice and
get answers. Whilst he is at it, why is it that nine years after the contract was signed Australia still does not have any mission-capable Seaspire helicopters? Hasn’t $1 billion in public money been spent on this project? Why has the government spent $1 billion on a project that has not delivered a single fully functional aircraft to defence?

Senator IAN CAMPBELL—Defence is spending $28 billion on improving Australia’s defence capability over a decade. I have just outlined a number of major defence procurement contracts. They are of unparalleled size, cost, timescale and risk profile. The defence of Australia is a serious issue and I am very happy to get the details that Senator Hogg requests.

Aged Care

Senator BERNARDI (2.55 pm)—My question is to the Minister for Ageing, Senator Santoro. Would the minister provide some examples of how the Howard government is working cooperatively with the state and territory governments to provide quality care for Australia’s frail and aged?

Senator SANTORO—I thank Senator Bernardi for his very thoughtful question and I would like to go on the record as saying that, in his short time in the Senate, Senator Bernardi has been a very energetic advocate for the aged-care sector of South Australia. The Howard government has a strong record of working cooperatively with the state and territory governments to improve services to older Australians.

I am pleased to inform the Senate that this collaborative approach to service provision is continuing in my portfolio of ageing. After nearly 12 months of constructive negotiations I have today written to my state and territory counterparts with the offer of a new agreement for the ongoing operation of the Home and Community Care, or HACC, program. This financial year HACC funding will be about $1.5 billion, with the Commonwealth contributing 60 per cent, or more than $900 million of these funds. As my colleagues here would know, the HACC program is a joint venture between the Australian government and the states and territories. With the cooperation of the state and territory governments this year we will be supporting more than 750,000 frail older Australians as well as younger people with disabilities in their own homes.

As I announced in July this year, this new agreement will include a $30 million bonus pool of new money designed to further improve national consistency of the HACC program and reduce red tape. Because of the cooperative nature of the negotiations to date, I am confident of an early sign-off by my colleagues in the states and territories on the offer that I have sent to them today.

HACC is just one area in which the Howard government is working closely with the states and territories to deliver quality services for older and frail Australians. In 2004 the government established the transition care program, a joint project with the states and territories that helps older people return home after being discharged from hospital. I am currently in the process of working with my state and territory counterparts to announce the third allocation of places under the program. We have now allocated 2,000 places under the transition care program, in line with our 2004 budget commitment.

A further example of cooperation across levels of government is the recent tripartite agreement in Tasmania between the Commonwealth government, the state government and the Local Government Association of Tasmania.

Senator Abetz—A very, very good agreement!

Senator SANTORO—I take the interjection from Senator Abetz; it is a good agree-
ment. I remember Senator Abetz being one of the senators in this place, together, I should say, with senators on the other side, who encouraged me—and I see Senator Polley nodding—to get to Tasmania as quickly as possible so that we could sign a very worthwhile agreement which I know is very much supported by every senator in this place.

The agreement is designed to better streamline the activities of each of the three levels of government in order to speed up the process of providing quality care for older Australians. I will be exploring opportunities in other states and territories to establish similar tripartite agreements and I urge the Labor premiers and chief ministers to follow the excellent Tasmanian example.

These are not ‘bridges too far’; in fact they are bridges that this government has spent 10 years successfully building. While the Leader of the Opposition wrangles with new federalism and forks in the road, the Howard government is getting on with the job of service delivery. What I have had to say here is a very clear indication of just how seriously the Howard government undertakes the task of cooperative federalism. It is a cooperative federalism that is based on genuine consultation, on a genuine desire to work with governments of any political colour in order that we go about looking after the people that we, the Commonwealth government and state governments—and indeed, as I indicated in part of my answer, local governments—are jointly meant to be serving. (Time expired)

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

QUESTIONS WITHOUT NOTICE:
ADDITIONAL ANSWERS

Bushfires

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.00 pm)—Senator Bob Brown asked me a question about bushfires and related research. I can say that I released a report in 2001 dealing with a model bushfire criminal offence and a report in 2004 by the Australian Institute of Criminology entitled Bushfire arson: a review of the literature. I seek to now table more recent research by the Australian Institute of Criminology, which I mentioned earlier, dealing with intervention programs, bushfire arson investigation and bushfire arson prevention, and also an update on the legislation in relation to the Model Criminal Code in relation to bushfire offences.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.01 pm)—Mr President, through you I would ask the minister if he could provide me with a copy of the tabled documents.

The PRESIDENT—They have been tabled and they will be copied.

ANSWERS TO QUESTIONS ON NOTICE

Question No. 2505

Senator ALLISON (Victoria—Leader of the Australian Democrats) (3.02 pm)—Pursuant to standing order 74(5) I ask Minister Ellison, the Minister representing the Attorney-General, for an explanation as to why an answer has not been provided to my question on notice No. 2505 asked on 25 September relating to fire safe cigarettes.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.02 pm)—I understand there was an answer given to that question. If that has not been received yet by Senator Allison, I can advise the Senate that that was a question that was
asked on 25 September 2006 with five parts relating to cigarettes, the cause of fires by cigarettes and RIP cigarettes. Without detaining the Senate I can table that question and provide a copy to Senator Allison, if that is satisfactory. Or I can read it into the record if it is so wished.

The PRESIDENT—I think it might be wise to incorporate it in Hansard.

Senator ELLISON—I seek leave to incorporate it in Hansard.

Leave granted.

The document read as follows—
(Question No. 2505)

Senator Allison asked the Minister representing the Attorney-General, upon notice, on 25 September 2006:

(1) How many Australians lose their lives to fires caused by cigarettes each year.

(2) Can the Minister confirm that in March 2005, Australia’s fire chiefs and all state emergency services ministers unanimously called for the fast tracking of reduced-ignition propensity (RIP) cigarettes legislation.

(3) Have any of the three major tobacco companies operating in Australia voluntarily introduced RIP cigarettes.

(4) (a) Are consumer safety standards for cigarettes routinely set to laboratory standardised conditions; and (b) does this include testing for tar and nicotine yields.

(5) What is the timeframe for further action now that Standards Australia has released the draft standard, Determination of the extinction propensity of cigarettes.

Senator Ellison—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) Six deaths per annum.

(2) The Ministers did not call for legislation. The Ministers agreed to the development of a standard for Reduced Ignition Propensity cigarettes. The standard is currently in draft.

(3) No.

(4) (a) The draft standard, Determination of the extinction propensity of cigarettes, does include laboratory standardised conditions.

(b) The draft standard does not include testing for tar and nicotine yields.

(5) The issue was discussed at the Ministerial Council of Police and Emergency Management on 17 November 2006. The Council: agreed to request the Australian Government Treasurer to introduce a compulsory consumer product (Safety) standard under the Trade Practices Act 1974 requiring that all cigarettes manufactured in or imported into Australia must meet an identified performance standard based on that adopted in the USA and Canada. That is, that no more than 25 percent of cigarettes tested in accordance with the Australian Standard will exhibit a full length burn.

New South Wales will lead the development of a Regulatory Impact Statement including consideration of any possible toxicity and liability issues. It is expected that this will take between 12 and 18 months subject to COAG and other processes. The Regulatory Impact Statement is required under the COAG Principles and Guidelines for National Standard Setting and Regulatory Action by Ministerial Councils and Standard-Setting Bodies.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS

Petrol Sniffing

Military Justice

Senator CROSSIN (Northern Territory) (3.03 pm)—I move:

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

Before I get to that I want to pay my deepest and most sincere regrets to the community of Oenpelli, who, as we know, lost two teenagers to the awful addictive habit of petrol sniffing last week. One of the four teenagers involved in this incident remains in a critical
condition on life support at Royal Darwin Hospital.

In the intervening time between Senator Santoro’s answer to me and now, at five past three, I have had my office re-ring the community of Oenpelli. I notice that Senator Scullion during question time was trying to allude to the fact that Oenpelli has Opal fuel. In fact, I knew my sources were correct. It beggars belief that a minister in question time can have such inaccurate information when it comes to providing answers on such a critical national problem in relation to Indigenous people in this country.

The community council at Oenpelli has Opal fuel for use in its own council vehicles. There is no retail outlet of Opal fuel at Oenpelli—that is, nobody at Oenpelli can buy Opal fuel; it is only bought by the council for use in its own vehicles. So that would mean that in fact it is not accessible to the majority of the community at Oenpelli and it is certainly not available for retail—that is, for public and private use.

My sources tell me that on 28 November—only last week—the community council at Oenpelli approved a request by the service station and its owners in that community to apply for Opal fuel. That request was agreed to by the community council, which will now embark on a joint process with the service station to put in the paperwork to apply for the subsidy. But really the issue here is why this government did not, immediately on receipt of that news, send some activity on behalf of this government to say to the community: ‘Don’t worry about the paperwork. Let’s get that done in weeks or months time, but let’s just get Opal rolling in here as fast as we can.’ But a week has gone by and there has been no activity on behalf of this government in relation to what is happening with respect to these young Indigenous people around our country.

In June this year the Senate Community Affairs Committee tabled a report called Beyond petrol sniffing: renewing hope for Indigenous communities. We have referred to this report numerous times. Six months on we are still waiting for this federal government to respond to this report. Let me take you to recommendation 22:

That Commonwealth Government discuss with BP Australia what role they may have to assist the distribution of information on Opal and the distribution of Opal identification stickers.

Recommendation 23 states:

That the Commonwealth and State and Territory Governments examine the procedure at Maningrida—a community very close to Oenpelli—whereby contracts are used to prevent contractors bringing regular unleaded petrol into their communities …

These are two recommendations I want to concentrate on in the next couple of minutes, as well as the fact that this report suggests that Opal should be rolled out as soon as possible. The kids at Oenpelli were trying to break into a shipping container of leaded fuel that was going to contractors, so another issue that has now come to light that we did not pick up on in our inquiry is that there could be immediate discussions with land councils about ensuring that nobody, no contractor, gets a permit to go onto those lands to do any work unless they are using unleaded petrol.

In recent weeks there was a debacle in Alice Springs with the shameful advertising and reporting in the media that Opal fuel somehow wrecks cars. We know from our inquiry that that is simply not true. We know that the federal government’s communications backbench is sitting on a strategy to roll out Opal fuel and to advise retailers and con-
sumers in Alice Springs that it has no detri-
mental effect. We know that they met on 12
December and that nothing will happen until
next February. (Time expired)

Senator JOHNSTON (Western Australia)
(3.08 pm)—I want to respond to a question
asked by Senator Bishop of the Minister rep-
resenting the Minister for Defence, Senator
Ian Campbell, on the performance of military
police surrounding and following the un-
timely death of Jacob Kovco in Iraq. Jacob
Kovco died on 21 April 2006 as a result of a
single gunshot wound whilst serving with the
Australian security detachment inside the
green zone in Baghdad in Iraq. The Chief of
Defence, Air Chief Marshal Angus Houston,
appointed a board of inquiry to investigate
the facts surrounding the death of Private
Kovco, including the incident in which he
lost his life, relevant instructions and proce-
dures, and the adequacy of training and
equipment involved therewith. The board of
inquiry commenced at Victoria Barracks in
Sydney on 19 June 2006.

Defence went to great lengths to accom-
modate an open and transparent inquiry in
the face of serious safety concerns for many
of the witnesses involved, who were serving
at the time in a potentially lethal operational
environment. That is why all deployed per-
sonnel involved in the inquiry were referred
to by a randomly chosen number rather than
by name. This measure ensured that Defence
provided these personnel with the confidence
that their evidence would not jeopardise their
safety, the safety of people they were
charged with protecting or the safety or pri-
cacy of their family members. The measure
ceased immediately upon the return of the
soldiers to Australia.

The board was headed by Group Captain
Warren Cook, an RAAF specialist reservist
who is also a retired magistrate and a former
coroner. He was supported by a civilian
member, Jim O’Sullivan, a former Queen-
sland Commissioner of Police, and Colonel
Michael Charles, a reservist with an exten-
sive military background. The board was
also assisted by a number of witnesses and
subject matter experts from the New South
Wales Police Service investigations branch,
forensic and ballistics specialists and leaders
in the field of psychiatry. As a result of the
report that I believe was presented yesterday,
the Chief of Defence, Air Chief Marshal An-
gus Houston, acknowledged a number of
shortcomings in the performance of the mili-
tary police. The Air Chief Marshal has said
that those shortcomings have been observed
and identified and that he is going to conduct
a proper response to those so that appropriate
action can be taken.

This matter is one of ongoing concern.
There has been a number of inquiries on this.
Also, with respect to boards of inquiry, we
have undertaken substantial reform wherein
a number of civilian personnel have been
enabled through amendments to the defence
inquiry regulations to be contracted into su-
pervised boards of inquiry.

The point of all this is that, as far back as
2005, the Senate Foreign Affairs, Defence
and Trade Committee inquiry into the effec-
tiveness of Australia’s military justice system
made a number of recommendations and the
government response was quite emphatic,
with more than 30 of the 40 recommenda-
tions accepted. One of those committee rec-
ommendations was that:

... the ADF conduct a tri-service audit of current
military police staffing, equipment, training and
resources to determine the current capacity of the
criminal investigations services. This audit should
be conducted in conjunction with a scoping exer-
cise to examine the benefit of creating a tri-
ervice criminal investigation unit.

This recommendation has been undertaken.
The government will conduct a tri-service
audit of service police to establish the best
means for developing investigative capability. These establishments are underway and are being conducted.

The problem is that the Australian Defence Force is under intense operational requirements at the moment in Iraq—and may I say that I have been to Iraq—Afghanistan, the Solomons, Fiji and East Timor. This has put an enormous burden upon the Australian Defence Force. Angus Houston, the Chief of Defence, has committed to sorting these matters out. I have great faith in his ability to do that. (Time expired)

Senator MOORE (Queensland) (3.13 pm)—I also rise to take note of the response Senator Santoro gave to us this afternoon on the question about petrol sniffing. I agree totally with one of the comments that Senator Santoro made, and that was his opening comment that the issue around petrol sniffing is a complex one. There is no doubt about that. Along with Senator Crossin, I want to—as I am sure we all do—send my deepest thoughts and sympathy to the community of Oenpelli as they struggle with the loss of two more of their children to the scourge of petrol sniffing, and also the prospective loss of other kids facing this horror.

However, I want to continue with comments we have made before in this place. I see that Senator Siewert, who has also spoken on this issue, is in the chamber. It is now six months after the extensive inquiry we had into the issue of petrol sniffing where we were able to receive evidence from so many people who acknowledged how bad the problem was, acknowledged the complex reasons behind the problem and also shared that there were ways forward. One of the many ways forward was the access to Opal fuel. It is particularly frustrating that we cannot get a clear answer.

The minister today tells us that some Opal fuel has been rolled out to the community. We have other information that that is not widespread and that the major suppliers of fuel in the community are not Opal exclusive. That is such a simple issue in regard to what we were able to find out about how petrol sniffing affects communities. We know that where there is access to petrol, for a whole range of reasons to do with community development and community opportunities, people will turn to petrol sniffing—not just Indigenous people. This is not just an issue that has an impact on Indigenous people, but today, particularly in the community of Oenpelli, there are a number of young Indigenous people who are suffering from the end result of the ineffective process of engaging people not only locally and federally but also, most importantly, individually in families to work together to address the range of complaints.

What we have is uncertainty even though six months ago representatives from the federal government, from the Territory government and from a range of local communities could spell out really clearly what needed to occur. What was needed was to make sure that Opal fuel was available in communities and to make sure there was a widespread personalised education program about options and about what people could do to regain hope in their communities, not just for the young people involved but also for the people who supply and sell fuel so that they could see that they had a particular role to play.

Increasingly we found similar shared experiences. People were repeating the same questions but they also knew the answers. What we did not have was action. We heard from the department, FaCSIA at the time, and OIPC that there was a plan in place that was going to be implemented immediately but also with a long rollout time to ensure that, while there would not be an immediate solution, they knew what had to happen.
There was a sense of confidence that, whilst these issues about the impact of fuel, a relatively cheap substance which people could take to remove themselves emotionally from whatever was troubling them, have been discussed for so long—in fact we had people going back 20 and 30 years—people understood the problem.

What I am offended by is that we only ever seem to see the headlines; we only ever seem to get responses or action when there is a tragedy. The fact that some young people have died has actually refracted the attention of the community on the issue. We should not need those tragedies. We should be able to take the recommendations of our committee report. We should be able to take the goodwill, intelligence and knowledge of a range of people who came and gave evidence to that committee and we should be able to take the clear understanding of what needs to happen and make it happen. Instead we hear again of tragedy, when we should be hearing of successes where communities have taken the opportunity to improve what is going on and ensure their kids are not dying. That should be our expectation.

I would hope that when the minister comes back to the chamber with the extended information that he has promised today, we will be able to get some confirmation of exactly what the response of the department is going to be. I do not want to come back when we meet again in February to hear more stories about communities where, during the wet season when there was no other activity, when there was no community involvement, more kids have died. 

(Time expired)

Senator PAYNE (New South Wales) (3.18 pm)—I rise to take note of the answer given by Senator Ian Campbell to a question from Senator Bishop in question time in relation to the report of an audit of the Australian Defence Force investigative capability. The audit report into the ADF investigative capability has resulted from the government’s response to a Senate Foreign Affairs, Defence and Trade References Committee inquiry tabled in 2005 into military justice—a report which has been much discussed in this chamber in very many of its aspects and a report which has had far-reaching ramifications both in the broad of the Australian Defence Force and for many of the Defence Force community. The sixth recommendation of the military justice report was:

… that the ADF conduct a tri-service audit of current military police staffing, equipment, training and resources to determine the current capacity of the criminal investigations services. This audit should be conducted in conjunction with a scoping exercise to examine the benefit of creating a tri-service criminal investigation unit.

What we have before us today, made available publicly by the Chief of the Defence Force, Air Chief Marshal Angus Houston, is the result of the acceptance by the government of that recommendation in full. Even a cursory glance at the report, made public this week by the chief and produced by Adrien Whiddett and Rear Admiral Adams, shows that the government has responded comprehensively to the recommendation of the Senate inquiry. The report in eight or nine chapters is a very forensic examination of the current operations of service investigation processes and makes a raft of recommendations, I understand numbering 99, all of which are accepted by the chief and by government for implementation.

The report goes to the effort of examining the different nature of ADF investigations as compared to civilian investigations in many cases. It contemplates the different environment in which those investigations are conducted and that is a very important aspect of this particular area of Defence Force activity and something which, I believe it is fair to...
say, came to the Senate committee inquiry’s attention on more than one occasion. But we are not talking about apples and apples when we are talking about civilian investigative approaches and military investigative approaches; we are, in fact, talking in many cases about apples and oranges, to use that tired metaphor.

The report goes on to look at the current service police investigative capability, the legislation, the policy and the doctrine that underlies all of those activities and the powers that are provided to service police. It looks at the training that currently exists within the organisations within the different services and how appropriate the resources devoted to this area are. The report then provides a very comprehensive examination of new service police command, of organisation and conditions of service arrangement and then, very usefully, I think, the eighth chapter of the report looks at an action plan for how this is to be implemented.

One of the most important things to do in the chamber this afternoon is to acknowledge Adrien Whiddett and Rear Admiral Adams for the work they have done on this very comprehensive audit. It is a very valuable tool both for the ADF and for those members of the Senate Foreign Affairs, Defence and Trade Committee, chaired by Senator David Johnston, who continue to have an oversight role, as you would be more than well aware, Mr Deputy President, on this particular aspect of military justice. It is one on which the implementation team, headed by Rear Admiral Mark Bonser and colleagues, reports regularly through the CDF to the Senate committee. We have discussed at least one of those reports as well in this chamber. The responsiveness of the ADF to some of the very serious concerns raised through the military justice inquiry, and the preparedness of the ADF to accept all 99 of these recommendations, some of which are very sweeping and some of which canvass the serious issues which we had already identified—in many cases with the service investigative capability—and implement them, is a very good sign. (Time expired)

Senator MARK BISHOP (Western Australia) (3.23 pm)—I rise to take note of answers by Senator Campbell to questions from me and Senator Hogg. I was going to make some remarks generally on the issue of military justice, on the reaction of the government to the Kovco inquiry and on the more recent release of the audit report, which both Senator Johnston and Senator Payne have more than adequately addressed in this debate. But I think it is time to place on the record the outrage being felt by the opposition in the way the Minister representing the Minister for Defence in this place deliberately chooses to go about his work and about his business.

In the last two days three questions have been asked on the Joint Strike Fighter project, Private Kovco and military justice. The last question was on Seasprite helicopters. Over the last six to 12 months there has been a huge amount of press on each of those issues. There has also been constant questioning and debate in the various committees of this parliament, and the minister himself has made numerous press releases on each of those issues. They are topical, they are of public interest and they involve, in some instances, huge outlays of taxpayers’ dollars. Any reasonably competent person acting as a representative in this chamber would have properly anticipated that an opposition would ask questions on those topical issues, as we have indicated repeatedly, via press release and other mechanisms, that we would.

But the response from Senator Campbell has been characterised by ignorance, belligerence, bullying and a refusal to answer. His response is insulting, offensive, ignorant and,
twice today, just plain wrong. His response is insulting to the Senate in that legitimate questions which should properly be anticipated are not answered. It is not that the department has not provided a brief, and it is not that there are not numerous references in the files as to the questions and possible suggestions for answers, but because the minister refuses to bring the brief into this place and, if he does, he refuses to open it to read the agenda and see where the brief is located. That is nothing other than insulting to the proper role of the Senate.

Secondly, as well as being insulting, his answers are offensive to the family of Private Kovco and offensive to thousands of people in the armed forces who want to represent their country and who expect to be protected by just laws passed by their government. Senator Campbell’s response is offensive to both of those interest groups. Worse, for a minister representing an important portfolio in this area, Senator Campbell is ignorant of the government’s own policy and decisions in both areas.

With regard to the audit report, both Senator Johnston and Senator Payne outlined that the government has released it. It was made pursuant to a recommendation by the Senate inquiry and had 99 recommendations. The government and the Chief of the Defence Force have publicly, via a media release, accepted each of those recommendations. But Senator Campbell’s response was, ‘We will get round to it in due course; it’s an important matter but we haven’t yet had the opportunity to do it.’ Two days ago the government made a response. Two days ago the government said that it would accept the 99 recommendations. What is worse—to be lazy or to be incompetent? In the case of Senator Campbell, it is both. It is deliberate and it is belligerent. He refuses to answer questions, he refuses to make himself familiar with the work he has been allocated and he refuses even to open the file that has the answers to questions that can reasonably be anticipated.

In respect of the report into Private Kovco, that has been in the press almost every day for the last nine months. When the government released its response via the chief of the armed forces, it put out a 30-part implementation plan addressing each of the recommendations and a time plan for implementation. *(Time expired)*

Question agreed to.

**Burrup Peninsula**

*Senator SIEWERT* (Western Australia) *(3.28 pm)—I move:*

That the Senate take note of the answer given by the Minister for the Environment and Heritage (Senator Ian Campbell) to a question without notice asked by Senator Eggleston today relating to the Burrup Peninsula, Western Australia.

Today we had yet another embarrassing display from the Minister for the Environment and Heritage, who is better known as the minister for development. Yet again we had the minister talking about the need to develop the Burrup Peninsula rather than actually articulating what action he was going to be taking to protect the peninsula’s heritage. Given that he is the Minister for the Environment and Heritage, I would have thought he would be taking responsibility for the peninsula’s heritage rather than acting to facilitate the Burrup’s development. I am quite horrified that the minister for heritage thinks that it is okay to trade off national heritage and what many of us believe is world heritage to develop a gas plant. He claims that it is okay to trash our national heritage because we will be producing gas, which will help with climate change. We have trashed the planet through climate change, so now we will trash our heritage to address our mistakes on climate change!

The Burrup meets the criteria for listing on the National Heritage List. The minister
has clearly been told this by the Australian Heritage Council in their submission on the nomination of Burrup to the National Heritage List. The minister, as I have articulated on numerous occasions in this place, has decided not to list the area yet and to go into further consultations so he can find a way to allow development to occur on the Burrup before he heritage lists it.

As I have also articulated in this place on numerous occasions, it does not have to be a trade of one for the other; you can have a win-win situation. The Woodside development proposed for sites A and B—the Pluto development—could easily fit on the North West Shelf joint venturers’ site. In fact, I wrote to the joint venture partners and received replies from all of them saying they were prepared to negotiate to collocate the Woodside development on that site. Therefore the developers would not have to clear petroglyphs and clear our natural heritage; we could have both.

I take offence at the minister implying that the Australian Greens are trying to stop development on the Burrup in favour of the petroglyphs. We want to protect the petroglyphs but we are earnestly trying to find an alternative. The minister could be a hero in this situation by actually facilitating negotiations between the joint venturers and Woodside to have a win-win situation: save the petroglyphs—save the rock art—while also having development.

We heard recently that in fact Woodside were starting to move the petroglyphs from site A on the Burrup, thereby compromising their heritage values. Today Dr Carmen Lawrence, Mr Peter Andren and I emergency listed the Burrup. That requires the minister to make a decision in 10 days time about whether to list the Burrup on the National Heritage List. It is time that he stopped wasting time. The minister is trying to buy time so that development can go ahead before he needs to make any decisions. It is time that he moved on. It is time that he moved the development to a more appropriate site, being (a) the North West Shelf joint venturers’ site, (b) the Onslow site, or (c) what I understand is the least favoured site, the maintenance site. He has got choices.

It is shameful that he tries to imply that if he lists the Burrup Peninsula that will curtail development on it. It will not. Woodside have also indicated that they are happy to move to the joint venturers’ site if they can find a way forward. Surely the minister, if he were truly carrying out his duties as the minister for heritage, would be facilitating these negotiations. If the minister had already facilitated these negotiations, we would not have had to emergency list the Burrup. We did not take that decision lightly, because we believed that the normal process should be allowed to take place. But given the immediate threat of destruction posed by moving the petroglyphs—once you move them you take away their cultural relevance and cultural heritage values—we believed that we needed to move immediately to emergency list the site. The site was under the immediate threat being posed by the development of the Burrup. It is time that the minister got a grip on his portfolio, got a grip on his responsibilities under the act and moved to protect the Burrup through National Heritage listing. (Time expired)

Question agreed to.

PETITIONS

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

Child Abuse

The Australian Government should do all it can to combat the production and transmission of material depicting child abuse and child pornography. Transmission of such material by post is a serious offence but is not recognised as such under
Commonwealth law, and offenders do not receive the penalties they should.

To the Honourable President and members of the Senate in parliament assembled:

This petition of certain citizens of Australia draws to the attention of the Senate, the lack of a specific offence covering the transmission of child pornography and child abuse material via mail within Australia.

Your petitioners therefore ask the Senate to make laws that:

- Create a new offence of transmission by mail of child pornography and child abuse material, with a maximum penalty of ten years imprisonment.

by The President (from 14 citizens).

Health

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

This petition of certain citizens of Australia draws to the attention of the Senate, the crisis in the medical workforce due to the neglect of the Howard Government.

Your petitioners therefore ask the Senate to:

- Increase the number of undergraduate university places for medical students,
- Increase the number of medical training places, and
- Ensure Australia trains enough Australian doctors, nurses and other medical professionals to maintain the quality care provided by our hospitals and other health services in the future.

by Senator Hogg (from 103 citizens).

Petitions received.

NOTICES

Presentation

Senator Humphries to move on the next day of sitting:

That the time for the presentation of the report of the Community Affairs Committee on the funding and operation of the Commonwealth-State/Territory Disability Agreement be extended to 8 February 2007.

Senator Ellison to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to amend the Bankruptcy Act 1966, and for other purposes. Bankruptcy Legislation Amendment (Superannuation Contributions) Bill 2006.

Senator Coonan to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to amend laws about non-proliferation of nuclear and chemical weapons, and for related purposes. Non-Proliferation Legislation Amendment Bill 2006.

Senator Ellison to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to make various amendments of the statute law of the Commonwealth, to repeal certain obsolete Acts, and for related purposes. Statute Law Revision Bill (No. 2) 2006.

Senator Ellison to move on the next day of sitting:

That—

(a) the following bill be introduced: A Bill for an Act to amend the Wheat Marketing Act 1989, and for related purposes [Wheat Marketing Amendment Bill 2006]; and

(b) the provisions of paragraphs (5) to (8) of standing order 111 not apply to the bill, allowing it to be considered during this period of sittings.

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

That the Senate calls on the Government to link the promotion of the 2008 Beijing Olympics with the promotion of democracy in China.

Senator Milne to move on the next day of sitting:

That the Senate—

(a) notes that:
Senator Nettle to move on the next day of sitting:

That the Senate—

(a) notes that Mr David Hicks has spent nearly 5 years in detention in Guantanamo Bay; and

(b) calls on the Government to:

(i) acknowledge that climate change is a moral and ethical issue, and

(ii) act accordingly.

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

That the Senate supports a new debate in this Parliament on the right of terminally ill Australians to die with dignity according to their own wishes.

Postponement

The following item of business was postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Siewert for today, proposing the disallowance of the 2006/07 SBT Australian National Catch Allocation Determination, postponed till 7 December 2006.
The speech read as follows—

The purpose of the Cluster Munitions (Prohibition) Bill 2006 is to ensure that innocent civilians in conflict zones are not maimed, killed or put at risk as a result of Australians possessing, using or manufacturing cluster munitions. Its introduction into the Senate comes three months after more than one million cluster sub-munitions were dropped in the south of Lebanon and one month after a landmark report revealed that 98 per cent of people killed from unexploded cluster sub-munitions are civilians.

I recently visited schools, hospitals and homes in southern Lebanon to add my voice to an international campaign seeking to place a ban on cluster munitions. Those that are dropped in populated areas almost invariably kill and maim civilians because of the imprecision of their dispersal and because anywhere between two and 30 per cent of the sub-munitions are left unexploded to terrorise populations for years to come.

Around the world, roughly 30 per cent of cluster munition casualties are young children who mistake the sub-munitions for toys. Some of the sub-munitions dropped in Lebanon three months ago look like tennis balls, butterflies and torch batteries with ribbons attached to them. They are generally difficult to detect, especially in long grass and the rubble of bombed-out buildings. The process for clearing them is expensive and painstakingly slow.

The international community must unite in an effort to ensure that these horrific weapons are never used again. We have a moral imperative to act. Earlier in the year—even before the war in Lebanon broke out—Belgium legislated to ban the weapons and Norway declared a moratorium on their use. Several countries, including Austria, Ireland, Mexico, New Zealand and Switzerland, have called for a treaty to be drafted and put into force. I believe that the Cluster Munitions (Prohibition) Bill 2006, if enacted, would be a positive step towards achieving that end.

The problem of cluster munition use is not limited to Lebanon. It is widespread. The coalition of the willing dropped more than 1.9 million sub-munitions on Iraq in 2003 and 248,000 on Afghanistan in 2001 to 2002. In recent times, large quantities have also been dropped on Chechnya, the Sudan, Kosovo, Eritrea and Ethiopia. The BLU97 cluster munitions dropped by the United States Air Force on Afghanistan had the same yellow packaging as the food rations it had dropped earlier. The implications of their use are still being lived out today.

I would like to refer now to the particulars of the bill before this parliament. Its specific objective is to prevent members of the Australian Defence Force, whether serving in Australia or elsewhere, and whether serving with the Australian Defence Force or any other defence force, from deploying cluster munitions.

Under the bill, a person must not intentionally develop, produce, acquire, stockpile, retain, transfer, use or engage in military preparations to use cluster munitions, container units or sub-munitions. Further, a member of the Australian Defence Force must not engage in military preparations for a member of the defence force of another country to use cluster munitions, container units or sub-munitions. Further, a member of the Australian Defence Force must not engage in military preparations for a member of the defence force of another country to use cluster munitions, container units or sub-munitions. The bill extends to acts by an Australian citizen outside Australia and to acts done on board Australian ships and aircraft. The offences set out in the bill do not apply in relation to the clearing of unexploded sub-munitions, education in relation to cluster munitions, or decommissioning.

Under the bill, the Defence Minister must, within three months of the date of commencement, table in both houses of this parliament a report on stockpiles and a decommissioning plan. Further, he or she must, within one year, decommission all cluster munitions in the possession of the Australian Defence Force. Any Australian citizen and resident of Australia or an external territory may seek a writ of mandamus, prohibition or certiorari, or an injunction or declaration in relation to this bill.

If, as a result of an offence under the Act, a cluster munition is deployed, then that munition must be cleared, removed or destroyed in accordance with Australia’s obligations under the Protocol on Explosive Remnants of War to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate
Effects, to which Australia recently added its signature.

I urge my parliamentary colleagues to support this important bill, and I commend the bill to the Senate.

I table the explanatory memorandum and seek leave to continue my remarks later.

Leave granted; debate adjourned.

**WORLD HERITAGE CONVENTION**

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

That the Senate supports the World Heritage Convention, including its requirement that sites of potential World Heritage value should be protected until a full evaluation has been made.

Question put.

The Senate divided. [3.44 pm]

(The Deputy President—Senator JJ Hogg)

**AYES**

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

**NOES**

Bernardi, C. Bishop, T.M.
Brown, C.L. Chapman, H.G.P.
Colbeck, R. Crossin, P.M.
Eggleston, A. Ellison, C.M.
Ferguson, A.B. Ferris, J.M. *
Fielding, S. Fierravanti-Wells, C.
Fifield, M.P. Hogg, J.J.
Humphries, G. Hurley, A.
Hutchins, S.P. Johnston, D.
Kirk, L. Ludwig, J.W.
Lundy, K.A. Marshall, G.
McEwen, A. McCluskey, J.E.
Moore, C. Nash, F.
O’Brien, K.W.K. Parry, S.
Patterson, K.C. Payne, M.A.
Polley, H. Randalson, M.
Scullion, N.G. Sherry, N.J.

* denotes teller

Question negatived.

**COMMITTEES**

**Mental Health Services Committee**

**Establishment**

**Senator ALLISON** (Victoria—Leader of the Australian Democrats) (3.47 pm)—I move:

(1) That a select committee, to be known as the Select Committee on Mental Health Services, be appointed to inquire into, monitor and report by 30 June 2008 on ongoing efforts towards improving mental health services in Australia.

(2) That the committee have the power to consider and use for its purposes the transcripts of evidence and records of the Select Committee on Mental Health appointed on 8 March 2005.

(3) That the committee have the power to send for and examine persons and documents, call for and receive submissions, and convene public hearings, roundtables and symposia on developments in mental health including new and changing issues in policy.

(4) That the committee may report from time to time its proceedings and evidence and any recommendations, and shall make regular reports of the progress of the proceedings of the committee.

(5) That the committee shall have reference to the reports of the Select Committee on Mental Health A national approach to mental health - from crisis to community, the National Action Plan on Mental Health agreed to at the July 2006 meeting of the Council of Australian Governments, and the National Mental Health Strategy and associated plans.

(6) That the committee consist of 7 senators, 3 nominated by the Leader of the Gover
ernment in the Senate, 3 nominated by the Leader of the Opposition in the Senate and 1 nominated by the Leader of the Australian Democrats.

(7) That the chair of the committee be elected by the committee from the members nominated by the Leader of the Government in the Senate.

(8) In the absence of agreement on the selection of a chair, duly notified to the President, the allocation of the chair be determined by the Senate.

(9) That the deputy chair of the committee be elected by and from the members of the committee immediately after the election of the chair.

(10) That the deputy chair act as chair when there is no chair or the chair is not present at a meeting.

(11) That the quorum of the committee be 3 members.

(12) Where the votes on any question before the committee are equally divided, the chair, or the deputy chair when acting as chair, shall have a casting vote.

(13) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings and the evidence taken and such interim recommendations as it may deem fit.

(14) That the committee have power to appoint subcommittees consisting of 3 or more of its members and to refer to any such subcommittee any of the matters which the committee is empowered to consider.

(15) That the quorum of a subcommittee be 2 members.

(16) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.

(17) That the committee be empowered to print from day to day such documents and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public.

Question put.

The Senate divided. [3.51 pm]

(The President—Senator the Hon. Paul Calvert)

| Ayes | 31 |
| Noes | 33 |
| Majority | 2 |

AYES

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

NOES

Abetz, E.  Bernardi, C.
Boswell, R.L.D.  Brandis, G.H.
Calvert, P.H.  Campbell, I.G.
Chapman, H.G.P.  Colbeck, R.
Eggleston, A.  Ellison, C.M.
Ferguson, A.B.  Ferris, J.M.
Fierravanti-Wells,  Fifield, M.P.
Heffernan, W.  Humphries, G.
Johnston, D.  Joyce, B.
Kemp, C.R.  Lightfoot, P.R.
Macdonald, I.  Macdonald, J.A.L.
McGauran, J.J.J.  Nash, F.
Parry, S.  Patterson, K.C.
Payne, M.A.  Ronaldson, M.
Santoro, S.  Scullion, N.G.
Senator SIEWERT (Western Australia)  
(3.54 pm)—I, and also on behalf of Senator Moore, move:  
That the Senate—  
(a) notes:  
(i) the important role that the non-sniffable fuel Opal plays in addressing the scourge of petrol sniffing in remote Aboriginal communities, and  
(ii) the announcement by the Government in September 2006 of the roll-out of Opal fuel in Alice Springs;  
(b) notes, with concern:  
(i) that misinformation about negative impacts of Opal fuel on car engines has caused a number of petrol stations to cease selling Opal fuel, and  
(ii) the delay in the promised promotional campaign to support Opal fuel in Alice Springs; and  
(c) calls on the Federal Government to start to actively promote Opal fuel in Alice Springs immediately.

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

| Ayes | 30 |
| Noes | 32 |
| Majority | 2 |

AYES  
Allison, L.F.  
Bishop, T.M.  
Brown, C.L.  
Fielding, S.  
Hogg, J.J.  
Hutchins, S.P.  
Ludwig, J.W.  
Marshall, G.  
McLucas, J.E.  
Moore, C.  
Nette, K.  
Polley, H.  
Siewert, R.  
Stott Despoja, N.  
Wong, P.  

NOES  
Abetz, E.  
Boswell, R.L.D.  
Calvert, P.H.  
Chapman, H.G.P.  
Eggleston, A.  
Ferguson, A.B.  
Fierravanti-Wells, T.  
Hetherington, W.  
Joyce, B.  
Lightfoot, P.R.  
Macdonald, J.A.L.  
Nash, F.  
Patterson, K.C.  
Ronaldson, M.  
Scullion, N.G.  
Troeth, J.M.  
Wright, J.O.W.  

* denotes teller  

Question negatived.  

DAVID HICKS  
Senator NETTLE (New South Wales)  
(3.58 pm)—I move:  
That the Senate—  

Ayes…………… 30  
Noes…………… 32  
Majority……… 2  

* denotes teller  

Question negatived.
(a) notes that Australian citizen, Mr David Hicks has been detained for 1,822 days; and
(b) calls on the Australian government to ensure the release of Mr Hicks from Guantanamo Bay.

Question put.

The Senate divided. [4.00 pm]

(The President—Senator the Hon. Paul Calvert)

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

AYES
Allison, L.F.
Bishop, T.M.
Brown, C.L.
Fielding, S.
Hogg, J.J.
Hutchins, S.P.
Ludwig, J.W.
Marshall, G.
McLucas, J.E.
Moore, C.
Nettle, K.
Polley, H.
Siewert, R.
Wong, P.

NOES
Abetz, E.
Boswell, R.L.D.
Calvert, P.H.
Chapman, H.G.P.
Eggleston, A.
Ferguson, A.B.
Fierravanti-Wells, T.
Heffernan, W.
Joyce, B.
Lightfoot, P.R.
Macdonald, J.A.L.
Nash, F.
Patterson, K.C.
Ronaldson, M.
Scullion, N.G.
Trood, R.B.

PAIRS
Campbell, G.
Carr, K.J.
Conroy, S.M.
Evans, C.V.
Faukner, J.P.
Ray, R.F.
Sterle, G.

* denotes teller

Question negatived.

OLD GROWTH FORESTS

Senator MILNE (Tasmania) (4.02 pm)— I move:

That the Senate—

(a) notes that:

(i) in regard to the promise by the Prime Minister (Mr Howard) in the 2004 election to protect 18,700 hectares of old-growth forest in the Styx and Florentine valleys, the Minister representing the Prime Minister, Senator Minchin, stated in the Senate on 30 March 2006 that ‘It is absolutely outrageous to suggest that the Prime Minister has not honoured his promise. He is honouring his promises to the people of Tasmania in full. This was a major commitment to the people of Tasmania to achieve both the protection of vital forests and the protection of jobs...’;

(ii) Senator Minchin’s claims are contradicted by the admission by the Minister for Fisheries, Forestry and Conservation (Senator Abetz), as reported in the Mercury on 30 November 2006, that ‘not all the Upper Florentine Valley was protected as pledged during the 2004 election campaign’;

(iii) Senator Minchin’s statement is contradicted by the Government’s own literature about the outcome of the election promises, ‘The Tasmanian Community Forest Agreement: Fact sheet no. 3’ (May 2005), which admits the failure to meet the Prime Minister’s election promise because the protected areas in the Styx and Florentine contain 4,730 hectares.'
hectares of old-growth eucalypt against a target of 18,700 hectares,

(iv) the Federal Government is funding logging operations in the Styx and Upper Florentine valleys and publicly-funded road construction is planned to continue in the Upper Florentine; and

(b) calls on the Government to immediately protect in full all areas that the Prime Minister promised to protect during the 2004 election.

Question put.
The Senate divided. [4.04 pm]
(The President—Senator the Hon. Paul Calvert)

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

NOES
Bernardi, C. Bishop, T.M.
Boswell, R.L.D. Brandis, G.H.
Calvert, P.H. Carr, K.J.
Chapman, H.G.P. Colbeck, R.
Crossin, P.M. Eggleston, A.
Ferris, I.M. Fielding, S.
Fierravanti-Wells, Fifield, M.P.
Forshaw, M.G. Heffernan, W.
Hogg, J.J. Hurley, A.
Hutchins, S.P. Johnston, D.
Joyce, B. Kirk, L.
Ludwig, J.W. Lundy, K.A.
Marshall, G. McEwen, A.
McLucas, J.E. Moore, C.
Nash, F. O’Brien, K.W.K.
Parry, S. Patterson, K.C.
Payne, M.A. Polley, H.
Ronaldson, M. Scullion, N.G.
Sherry, N.J. Stephens, U.
Troeth, J.M. Trood, R.B.
Watson, J.O.W. Webber, R. *
Wong, P. Wortley, D.

* denotes teller

Question negatived.

AUDITOR-GENERAL’S REPORTS
Report No. 13 of 2006-07


COMMITTEES

Finance and Public Administration References Committee

Report: Government Response

Senator SCULLION (Northern Territory) (4.07 pm)—On behalf of the Minister for Justice and Customs, I present the government’s response to the report of the former Finance and Public Administration References Committee on its inquiry into regional partnerships and sustainable regions programs, and I seek leave to incorporate the document in Hansard.

Leave granted.

The document read as follows—

SENA TE REPORT FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE REGIONAL PARTNERSHIPS AND SUSTAINABLE REGIONS PROGRAMMES GOVERNMENT RESPONSE

November 2006

Introduction

On 2 December 2004 the Senate referred a number of matters to the Finance and Public Administration References Committee (the Committee) regarding the administration of the Regional Partnerships and Sustainable Regions programmes.

The Committee tabled its report in the Senate on 6 October 2005. The report comprised a majority report and a minority report from Government Senators.
Government Response

The majority report of the Committee responds to allegations of misuse of the programmes in the period prior to the 2004 election, serious impropriety in approval and announcement processes, concealed processes and political conditions placed on grants. The report fails to substantiate any of these allegations and reaches the conclusion that the administration of both programmes is ‘reasonably sound’.

The Government welcomes this finding and with it the bipartisan endorsement of the role of the Area Consultative Committee (ACC) network and Sustainable Regions Advisory Committees (SRACs) in delivering positive outcomes for Australian communities.

The minority report highlights the hundreds of successful projects across the country and the benefits these projects are providing to local communities. Some $250 million has been approved for nearly 1000 projects identified by local communities as high priority since 2001.

Six case studies cited in the Report from which the majority of conclusions have been drawn are atypical of most projects funded.

Two of these projects (Primary Energy and Beaudesert Rail) were originally assessed under arrangements that existed prior to commencement of the Regional Partnerships programme.

In two of the six cases (A2 Dairy Marketers and Tumbi Creek) no Australian Government funds had been spent at the conclusion of the Inquiry, and approval for the A2 Dairy Marketers project had been withdrawn.

The Committee found no evidence of inappropriate interference by Ministers in the assessment of projects and has not identified any breach of the established caretaker conventions prior to the 2004 election.

The Committee also received evidence in this Inquiry that the distribution of approved projects closely reflects the pattern of applications received. The Government encourages all Senators and Members of Parliament across all States and electorates to work with their local communities to identify worthwhile projects within their communities that may be eligible for assistance under the Regional Partnerships and Sustainable Regions programmes.

The majority report claims to have been hindered by a lack of cooperation by the Department of Transport and Regional Services (DOTARS). It is critical of claimed “misleading information” provided by the Department to ACCs and for failure to table all documents sought by the Committee, particularly in relation to the Department’s advice to Ministers.

The Department operated over the course of this Inquiry within long-standing conventions accepted by successive Governments relating to non-disclosure of advice provided to Ministers. The Department’s position was supported by advice from across the public service and Ministers. Consistent with that advice, the approval of the Minister was sought before documents were released to the Committee.

RESPONSE TO RECOMMENDATIONS

Response to Majority Report Recommendations

Regional Partnerships Program

Recommendation 1: The Committee recommends that the operation of the SONA guidelines cease.

Government Response – Noted

The Government announced on 15 November 2005 that changes to the Regional Partnerships programme will permit the Government to direct a pool of funds within the Regional Partnerships programme for specific investment priorities which may not otherwise be brought forward by Area Consultative Committees (ACCs).

The Regional Partnerships programme has been used by the Government to deliver associated programmes. One such example is the Rural Medical Infrastructure Fund, which is based on Regional Partnerships programme guidelines but is also subject to specific criteria. These criteria are published on the Regional Partnerships web site. When new Government priority areas are identified, additional or modified guidelines or criteria may be issued as required, and published on the Regional Partnerships web site.

The SONA procedures have not been used since August 2004 and it is considered that special con-
Considerations such as those made under SONA procedures will no longer be required.

**Recommendation 2:** The Committee recommends it be mandatory for all Regional Partnerships program applications to be developed in consultation with local Area Consultative Committees.

**Government Response – Disagree**

It is usual practice for ACCs to be consulted in relation to Regional Partnerships applications, however, it is important that the Government maintains the ability to fund projects which have not come to its attention through the work of ACCs and which it regards as a high strategic priority. It is also important for reasons of fairness that applicants retain the ability to have an application assessed under the programme even if it is not supported by an ACC.

**Recommendation 3:** The Committee recommends that Area Consultative Committees must receive relevant applications and be afforded an opportunity to consider and make recommendations not less than ten working days from receipt of the application.

**Government Response – Agree**

This is existing practice under the Regional Partnerships programme. It is normal practice for ACCs to comment on applications and generally have at least ten working days for comments.

See response to Recommendation 2.

**Recommendation 4:** The Committee recommends that the Department of Transport and Regional Services incorporates and outlines appropriate assessment procedures for multi-region funding applications into the published Regional Partnerships guidelines.

**Government Response – Agree in part**

There has never been an impediment to multi-region projects under the Regional Partnerships programme. The published guidelines apply to multi-regional projects.

As part of the Government’s proposed enhancements to the Regional Partnerships programme, DOTARS Regional Offices will work with local ACCs to facilitate the development of quality projects including the coordination of projects which cross ACC boundaries.²

**Recommendation 5:** The Committee recommends that multi-region funding applications be referred to all relevant Area Consultative Committees for review comments and recommendations.

**Government Response – Agree**

This is existing practice under the Regional Partnerships programme.

See also response to Recommendations 2 and 3.

**Recommendation 6:** The Committee recommends that a biannual statement be tabled in the Senate by the Minister representing the Minister for Transport and Regional Services, listing:

- the Regional Partnerships program grants approved in the preceding six month period;
- the Department of Transport and Regional Services and Area Consultative Committee’s recommendations; and
- where the funding decision is inconsistent with the departmental and/or Area Consultative Committee recommendations, a statement of the reasons for the decision.

**Government Response – Disagree**

The Government is not persuaded that this proposal would improve programme accountability. The publication of advice concerning recommendations made to the Minister for Transport and Regional Services by departmental advisers and by other bodies such as ACCs, is not supported. Publication of such advice would make it difficult for ACCs to provide a critical assessment of projects. This approach is consistent with long-standing practice in relation to the confidentiality of departmental advice to Ministers.

A list of all projects funded under both programmes is already available on the Department’s web site.

**Recommendation 7:** The Committee recommends that the Government address inequities in the distribution of Regional Partnerships program funding consistent with the ANAO Better Practice Guide.

**Government Response – Agree in part**
The distribution of approved projects reflects closely the pattern of applications received. ACCs are already required to ensure equitable distribution of projects within their regions under key performance indicators imposed by the Department.

In accordance with ANAO’s Better Practice Guide, all applications for funding under the Regional Partnerships and Sustainable Regions programmes, are assessed “in accordance with requirements of procedural fairness” (page 45).

Recommendation 8: The Committee recommends that the exclusion of the Australian Capital Territory (ACT) from eligibility for Regional Partnerships program funding be rescinded.

Government Response – Agree
Current programme policy permits Australian territories to apply for funding. However the programme guidelines do not permit the funding of projects which would result in cost-shifting from Territory Governments to the Australian Government. Guidelines will be changed to clarify Territory government eligibility.

Recommendation 9: The Committee recommends that the Government review resourcing of Area Consultative Committees, and training for committee members and employees, to ensure that they can adequately perform their role in relation to the Regional Partnerships program.

Government Response – Agree
See also response to Recommendation 10.

Recommendation 10: The Committee recommends the introduction of three-year operational funding contracts for Area Consultative Committees.

Government Response – Agree
The Government announced on 15 November 2005 that funding to meet the annual operating costs of ACCs, which is currently met from within the funds appropriated to the Regional Partnerships programme as a whole, will be separately identified and ACCs will be allocated funding in accordance with a three year contract. This three year contract will encourage ACCs to continue to facilitate other Government programmes though they will not be permitted to reduce the level of effort involved in developing suitable Regional Partnerships projects.

The operational funding appropriation for ACCs will also be indexed within existing appropriations. 3

Recommendation 11: The Committee recommends that the Government negotiates with each Area Consultative Committee in relation to key performance indicators including job creation and partnership support, to ensure performance measures are regionally appropriate.

Government Response – Agree in part
Key performance indicators currently apply to ACCs to ensure programme objectives are met. Performance indicators for ACCs will be reviewed this year. While the review will involve consultation with ACCs, effective measurement of ACC performance and performance across the Regional Partnerships programme, requires a national set of indicators.

The Government announced on 15 November 2005 that the Minister for Transport and Regional Services will provide written advice and guidelines each year to ACCs outlining the Government’s broad policy priorities for the Regional Partnerships programme. 4

Recommendation 12: The Committee recommends that Area Consultative Committee recommendations be disclosed to funding applicants on request.

Government Response - Disagree
The Department provides unsuccessful applicants with advice setting out the reasons their projects did not meet the programme’s criteria, including the extent of support for the project. It is not appropriate to release the views of ACCs or other bodies and individuals which are provided to the Minister for Transport and Regional Services in the course of considering the merits of individual projects. To do so would reduce the ability of ACCs to provide a frank assessment of the priority of individual projects.

Recommendation 13: The Committee recommends that the Government conduct a review of the role of Area Consultative Committees to ensure that their contribution to regional development is maximised.
Government Response - Disagree

The Inquiry report reaches positive conclusions regarding the role of ACCs. ACCs often make suggestions for improvements to the Minister for Transport and Regional Services and the Department which are often adopted. The need for a further review is not considered necessary at this time beyond the normal processes for ensuring continuous improvement.

The Government is implementing a series of changes to improve the effectiveness of ACCs and their governance arrangements that were announced on 15 November 2005. These changes include:

- local communities and local Members of Parliament will be consulted more extensively by ACCs in the process of developing each ACC’s strategic regional plan;
- funding to meet the annual operating costs of ACCs, which is currently met from within the funds appropriated to the Regional Partnerships programme as a whole, will be separately identified and ACCs will be allocated funding in accordance with a three year contract;
- the Government will appoint the Chair and Deputy Chair of each ACC, and provide guidelines for the appointment of other members to help committees be representative of the communities they serve; and
- ACC boundaries will be reviewed to ensure boundaries of rural ACCs reflect areas of common interest, and consider whether the boundaries and number of metropolitan ACCs are appropriate.

Sustainable Regions Program

Recommendation 14: The Committee recommends that the appointment process for Sustainable Regions Advisory Committee members, including selection criteria, be made public.

Government Response - Disagree

It is not usual practice to disclose the reasons for the appointment or non-appointment of Board members. The case has not been made to depart from that convention in relation to this programme.

Recommendation 15: The Committee recommends that the Government adopt a skills-based approach in relation to the appointment of future Sustainable Regions Advisory Committees, including the two new bodies announced during the 2004 election campaign.

Government Response - Agree

This has been the approach adopted.

Regional Partnerships and Sustainable Regions Programs

Recommendation 16: The Committee recommends that the Australian National Audit Office audit the administration of the Regional Partnerships and Sustainable Regions programs, with particular reference to case studies highlighted in this report.

Government Response - Noted

The Australian National Audit Office is conducting a performance audit of the Regional Partnerships programme in 2006.

Recommendation 17: The Committee recommends that projects that cannot obtain or have not yet obtained relevant approvals or licences not be eligible for Regional Partnerships or Sustainable Regions funding.

Government Response - Agree in part

This is already generally the case. However, there are some instances where it is not appropriate to insist on development approvals ahead of assessment. For instance, a community group that has raised funds through raffles and similar activities should not necessarily be forced to use those funds seeking approvals while there is high uncertainty about a project proceeding because they have not secured programme funding. In such cases approvals are made subject to securing relevant consents.

Recommendation 18: The Committee recommends that competitive neutrality procedures be strengthened, including the introduction of a procedure for potential competitors to lodge objections.

Government Response - Agree in part

The Government announced on 15 November 2005 that greater emphasis will be placed on assessment of competitive neutrality issues associated with applications. Projects where assistance greater than $25,000 is sought for a business or commercial venture will require a statement from...
the ACC Chair that identifies any competitive neutrality risks posed by the project, prior to the assessment of the project for funding approval.

**Recommendation 19:** The Committee recommends that due diligence procedures be strengthened, including a routine inquiry into legal action against applicants.

**Government Response – Disagree**

Due diligence is already assessed rigorously. The scope to continually improve processes will be reviewed. It is not considered appropriate to exclude consideration of an applicant due to pending legal action as such action may have no basis.

**Recommendation 20:** The Committee recommends that no funding be approved for projects that do not meet Regional Partnerships and Sustainable Regions guidelines and fail other tests including proper due diligence.

**Government Response – Agree in part**

See response to Recommendation 1.

**Recommendation 21:** The Committee recommends that it become formal policy that ministers and their staff are kept strictly at arm’s length from decisions, including all relevant departmental advice, on applications from their own electorates. The portfolio minister and his or her staff should not be included in the circulation of departmental advice on applications for projects in the minister’s electorate.

**Government Response – Agree in part**

The Government announced on 15 November 2005 that funding approval will be subject to decision by a new Committee comprising the Minister for Transport and Regional Services, the Minister for Local Government, Territories and Roads, and the Special Minister for State.

The Committee has adopted the practice that, where there is consideration of a project in the electorate of one of the Ministers, the Minister in question does not take part in the decision-making process.

However, the Government considers that Ministers should retain the normal capacity of Members and Senators to make representations on behalf of their constituents in respect of an application for funding.

**Recommendation 22:** The Committee recommends that Ministers and Parliamentary Secretaries, and their staff, should be prohibited from intervening in the assessment of grants.

**Government Response – Agree in principle**

No evidence of inappropriate interference has been identified by the Inquiry.

**Recommendation 23:** The Committee recommends that from 1 July preceding a general election, the following procedures apply to grant approvals and announcements: when a Minister’s decision to approve or not approve a grant is different to the recommendation of either the Area Consultative Committee or the Department, or the funding amount approved is different from the amount recommended, then the grant approval decision be made in conjunction with the relevant Shadow Minister. The Committee further recommends that all grants approved in these circumstances be jointly announced by the Minister and the Shadow Minister.

**Government Response – Disagree**

Established caretaker conventions already exist which prescribe grant decision making practice ahead of an election. The Committee found no evidence that there was any breach of caretaker conventions prior to the 2004 election in the case of these programmes.

**Recommendation 24:** The Committee recommends that the government develops and discloses procedures to govern cessation or transition of Regional Partnerships and Sustainable Regions programs.

**Government Response – Agree in principle**

As such transitions are now complete, there would appear no need for such procedures. However, this recommendation will be considered should such circumstances again eventuate.

**Recommendation 25:** The Committee recommends that the government reviews the efficacy of a grants-based approach to regional development.

**Government Response – Disagree**

The Government is committed to a grants-based approach to regional development.

The Stronger Regions Statement of 2001 sets out the Australian Government’s policy for regional
development which contains the following principles:

- regions and communities taking responsibility for dealing with the challenges and opportunities confronting them;
- the Australian Government standing by as a partner to help regions and communities realise the future they want for themselves; and
- a recognition that regions and communities almost always have a better understanding of their needs and opportunities than central agencies or governments.

**Recommendation 26**: The Committee recommends that the Regional Partnerships and Sustainable Regions programs should complement, not compete with state and local government funding programs.

**Government Response – Agree**

Regional programmes are aimed at working partnerships with a wide range organisations, government agencies and businesses.

The programmes leverage on average three dollars for every dollar of Australian Government support. State and/or local governments are funding partners in relation to the majority of projects. Contributions to projects by state governments equate to an average of $0.93 for every $1 of support from the Australian Government under the Regional Partnerships programme. Contributions to projects by funding co-partners (including state governments) equates to an average of $2.15 for every $1 funded under the Sustainable Regions programme.

**Response to Minority Report Recommendations**

**Recommendation 1**: The Government Senators recommend that the Government promotes the RP and SR programs and educates the public on how the programs work, to restore the public’s confidence in these programs following the misperceptions generated by this inquiry.

**Government Response - Agree**

Options to best promote the support available under these initiatives are being considered. Area Consultative Committees and Sustainable Regions Advisory Committees will continue to play a key role in assisting their regions to understand the programme guidelines to enable them to access this assistance.

**Recommendation 2**: The Government Senators recommend that the Key Performance Indicators be promoted publicly, to assist in educating the public about the benefits of the programs and the outstanding returns delivered to local communities.

**Government Response - Agree**

Key performance indicators for ACCs have been put on the Regional Partnerships and ACC web pages (www.regionalpartnerships.gov.au and www.acc.gov.au). Aggregate results against indicators will be published when available.

**Recommendation 3**: Government Senators recommend that project applications requiring co-funding be considered simultaneously by the relevant levels of government.

**Government Response - Disagree**

Implementation of this proposal could adversely affect applicants and could delay approval of applications. State and local government programmes have different mechanisms for considering proposals, including annual funding rounds.

**Recommendation 4**: Government Senators recommend that restrictions on ACC media activities be lessened.

**Government Response - Disagree**

As organisations that receive the majority of their funding from the Australian Government, it is appropriate that the current procedures for marketing of ACC activities be retained so that consistent messages about programmes and the ACC network can be communicated.

**Recommendation 5**: Government Senators recommend that template marketing material be developed for only minor adjustment by individual ACCs.

**Government Response – Agree**

ACCs are provided with generic marketing material. Templates that ACCs can tailor for their own purposes are being developed as part of ongoing support for ACCs.

**Recommendation 6**: Government Senators recommend that ACCs be advised of grant approvals in advance, and that they be encouraged to assist
with arranging grant announcements and any follow up matters relevant to their local projects.

**Government Response – Agree in part**

Members of Parliament and Senators are encouraged to include their local ACCs in the announcement of successful applicants and any subsequent public events including launches and openings.

1  Minister for Transport and Regional Services – Media Release – “Changes to make Regional Partnerships stronger” – 15 November 2005

2  Media Release – 15 November 2005

3  Media Release – 15 November 2005

4  Media Release – 15 November 2005

5  Media Release – 15 November 2005

6  Media Release – 15 November 2005

**Senator O’BRIEN** (Tasmania) (4.08 pm)—by leave—I move:

That the Senate take note of the document.

Better late than never: 14 months after this very important committee report was presented to the Senate, we see this document presented. Having had the opportunity to look at the document, I now know why—because this is a feeble response to a very important committee report which was presented to the Senate. In the last sitting week of 2006, we see this document presented.

Let me remind the Senate that this report shows that the government had taken advantage of its stewardship of the public purse to fund projects willy-nilly around the country, with more regard to its electoral prospects than to the interests of the taxpayer, fairness or proper process. As a result, quite a number of recommendations—some of which have actually been accepted by the government—were proposed by this committee. Let me remind the Senate that I said when the report was presented that it was a report which would shock the nation, and indeed it did. At that time, I named some projects where the spending total of $5 million was to do such things as fund a steam train that would not go, a creek that dredged itself, a milk company that folded before the ink on the funding announcement was dry, an ethanol company worth $1 that still has yet to produce a drop of fuel and a hotel funded to run ‘Wacky Wednesdays’ and stunt bikini babes while other communities on the Atherton tableland cry out for potable drinking water. What a travesty!

And, 14 months later, what particular matters was the government keen not to agree to in this report? Surprise, surprise, from the point of view of the majority report of the committee: the government has declined to agree with those recommendations which allowed better scrutiny of the government’s administration of this program, ‘regional rorts’. That is what the public came to know this program as. ‘Regional rorts’ were editorialised around the country as shocking misbehaviour by this government in the exercise of its administrative responsibilities—spending from the public purse basically for the purpose of funding the government’s election campaign rather than really funding the interests of regional Australia.

We see that, where the committee recommended that area consultative committee recommendations be disclosed to funding applicants, the government disagreed. Where the committee recommended that the government conduct a review of the role of area consultative committees to ensure their contribution to regional development is maximised, the government disagreed. Where the committee recommended that biannual statements be tabled in the Senate by the minister representing Minister for Transport and Regional Services, listing the Regional Partnership Program grants approved in the preceding six-month period, the Department of Transport and Regional Services’ and the area consultative committees’ recommendations, the government disagreed. Where the
committee recommended that, where funding decisions were inconsistent with the department and/or area consultative committee recommendations, a statement for the reason for the decision be tabled, the government disagreed. Where the committee recommended that, to avoid the suggestion that this program was being used simply as a means of courting electoral approval as we got close to an election, the government effectively extend the caretaker provision of this program, the government disagreed.

In relation to the Regional Partnerships and Sustainable Regions programs, better known around the country as ‘regional rorts’, we have seen that this government is keen to maintain the ability to use this program for the purpose of funding its electoral campaigns, in effect, putting money into regions where it either thinks it needs to build up its support to retain a seat or is seeking to campaign to take a seat—potentially, probably from one of the Independents in this parliament, as they attempted to with the seat of New England at the last election.

The public has had enough of issues such as the abuse of process that was involved in the Tumbi Creek grant. Two grants were announced by the Prime Minister. But we found out that, before there was approval of the process, storms had led to a partial dredging of the creek—in other words, the ordinary course of running water from the storm had done part of the job that the Commonwealth was going to pay for. We saw a steam train in Queensland that ceased to operate even though over $1 million had been paid towards the project. We saw, on the Atherton tablelands, a hotel being given funds to improve its competitive position in relation to others in that town—but, in the same community, we found a town that had drinking water that was barely drinkable and water pressure that did not allow the community to fight fire. What a travesty! What an outrageous performance by this government—and no contrition at all in relation to this program.

What the government are keen to do is maintain their ability to pump money out during the lead-up to an election campaign and make promises during an election campaign without the constraint of actually having to show that the projects have the support of the organisations that the government has set up to, in part, vet these projects—the area consultative committees. They are not prepared to show the public that this body that they have set up is supposed to have the expertise to deal with these matters, that is supposed to have the interests of the region at heart and that is impartial to government supports the project. They are not even prepared to say that. They are not even prepared to say that where there is a disagreement between the government and this body—this body that the government are setting up; they have total control over who is on this body—the government will make a statement of reasons or actually publish that fact.

They are not prepared to allow the applicants who think that perhaps they are not being properly dealt with by the area consultative committee to know whether the area consultative committee actually approved their application in the process of consideration by government. What the government are clearly indicating here is that they intend to go through the same process again. They intend to follow the discredited process of using this program in the way that has become known—as a series of regional rorts to deliver electoral advantage to the government.

I think the Australian community has had enough of this. I think the Australian community expects that, as taxpayers, when they pay money this government will account for the way they use it and account properly. I
think the Australian community is sick and tired of governments using their money simply as a means of currying electoral favour. When the government makes these announcements they had better be prepared for a backlash. It may seem that there are opportunities for electoral advantage, but the reality is that a lot of people in the community are going to be asking questions about how this is being funded, who is paying for it, what the process has been and why other projects which are in the pipeline did not get funded when the ones that the government selected did get funded.

This will become a poisoned chalice for the government. When it comes to the consideration of these projects, the opposition will be pointing out to the Australian people that this government wants to shield from the public the way that they handle this process, just as they shielded from the committee originally the determinations by the department and details of the particular projects, where even the department’s advice was overturned by ministers so that the minister could deliver the political advantage that they thought they had.

I was going to seek leave to continue my remarks, but Senator Forshaw is going to seek the call, and perhaps there will be someone else. This is a very shabby response to the committee’s report. It is eight months late, inadequate and one to which we will return and make sure the public is aware of.

(\textit{Time expired})

\textbf{Senator FORSHAW} (New South Wales) (4.18 pm)—I rise to speak to this motion to take note of the government response to the report of the former Senate Finance and Public Administration References Committee into the Regional Partnerships and Sustainable Regions programs. As Senator O’Brien has pointed out, it is a totally inadequate response, I believe, to the very serious, important and constructive recommendations made in the majority report. It is particularly inadequate because it has been 14 months since the report was handed down and we get the response from the government to it in the very last days of this year’s parliament. The report was tabled in October 2005 and it has taken almost 14 months for the government to present what I believe is pretty much a pathetic response.

I note that the government response indicates that they agree with a number of the recommendations, or agree in part with a number of the recommendations, of the committee, and I welcome that. But the government have rejected the substantial recommendations, the key recommendations that go to the heart of better accountability and particularly accountability to the parliament.

I note that the government tries to make some capital out of the fact that the committee’s report found the overall administration of the programs to be reasonably sound. We did, and we have always said as an opposition that these programs, properly administered—certainly, the Regional Partnerships program—were a worthwhile way of funding important projects to promote employment and development in regional areas, particularly in areas that had otherwise undergone significant restructuring with the downsizing of rural industries or that had suffered economic hardship more than the rest of the country. The fact that the committee found that does not mean the government can just escape responsibility for the substantial and glaring inadequacies in the administration of the program.

The government response says:

Six case studies cited in the Report from which the majority of conclusions have been drawn are atypical of most projects funded.
The fact of the matter is that the committee, in the time it had available, took the approach of looking at six very important projects or case studies that had been funded under these programs. The flaws, poor administration and political interference in those case studies were substantial. The amounts of money that were involved were substantial. In the case of Beaudesert Rail, for instance, it was of the order of almost $6 million—$6 million of public money put into a venture which was pretty much doomed from the outset, no matter what the good intentions of the proponents were. There was a litany of mistakes and a litany of failure to take action at a time when it would have prevented a substantial waste of taxpayers’ funds.

The Atherton Hotel project has become notorious. I notice that Senator Carr is in the chamber. I am sure he can comment even more about the scandal—

Senator Carr—The tabletop dancers!

Senator FORSHAW—Yes, the tabletop dancers project, as it was referred to. Other worthwhile projects were simply ignored or not considered in any proper way.

There was the Tumbi Creek fiasco, where money was advanced for a project to dredge a creek. There were serious questions about whether it was an appropriate project, given the wider consideration of problems in that region. When the money was no longer needed because the rain actually flushed out the creek and the dredging was not required, attempts were made to divert these funds to some other projects. There is no doubt in my mind that there was political interference by people associated with it—indeed, members of the coalition parties. That evidence was overwhelming. There was evidence that staff of ministers had engaged in an exchange of secret emails to divert those funds to other works.

When we tried to have that matter brought before the Privileges Committee—and, from my recollection, the President concluded that it should have been given precedence in going to the Privileges Committee—the government used its numbers to stop that. That is the only occasion that longstanding members on that committee can recall where a matter was not referred to the Privileges Committee when there was a clear, prima facie case of political interference.

This government just says: ‘Oh well, there are only six projects that the committee looked at. They were atypical.’ Then they say, ‘In the case of Tumbi Creek and A2 Dairy Marketers, no Australian government funds were spent by the conclusion of the inquiry.’ That is not the point. The reason that the funds were not ultimately spent was that the facts were out in the open and, in the end, the government became embarrassed and pulled the funds. The facts are that this committee looked at the processes involved in considering the applications that had been lodged and whether they had been approved or rejected by the department and, ultimately, by the minister.

There was evidence of other projects where, after the area consultative committee had considered the merits of a proposal, the department determined that in their considered view the projects should not receive funding. Yet those projects did receive funding. It seemed to be a situation where the government, or somebody, had decided: ‘Maybe it should proceed. It is in a marginal electorate, and there is an election coming up.’ That is all on the record.

The other point I want to draw attention to in the time I have available—and I think we could speak for a lot longer about this extensive inquiry—are the steps that were taken by the department to, in my view, sandbag the operation of the committee and prevent
the committee from carrying out its properly constituted task of conducting this inquiry into this substantial government funded program. We sought information from the area consultative committees—documentation and other forms of information—about projects that they had considered. After the committee had written seeking that information, the department wrote to the area consultative committees and told them that they did not have to comply with our request. They gave them advice that privacy considerations meant that they really had not only no obligation to comply with the Senate committee’s request but also probably a duty not to comply. When it was pointed out that that was really a severe interference with the committee’s processes and was also incorrect legal advice, the department then said, ‘It’s up to you to decide if you want to comply.’ In the end, of course, we received the information but it took us a lot of effort. In fact, in the end we had to subpoena some of that information in a couple of cases. This committee was hamstrung by the failure of departmental officials who were maybe acting on instructions not to cooperate—I believe that, but testing it is another issue. I think this is a totally inadequate response. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Rural and Regional Affairs and Transport Committee

Report

Senator HEFFERNAN (New South Wales) (4.28 pm)—I present the report of the Rural and Regional Affairs and Transport Committee, Water policy initiatives, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator HEFFERNAN—I seek leave to move a motion in relation to the report.

Leave granted.

Senator HEFFERNAN—I move:

That the Senate take note of the report.

This is a reference that was set up under the old arrangements of the Senate committee system. It is an important inquiry. The terms of reference included: the impact on rural water usage of recent water policy initiatives and the possible role for Commonwealth agencies, with particular reference to the development of water property titles; methods of protection for rivers and aquifers; farming innovation; monitoring drought and predicting farm water demand; and the implications for agriculture of predicted changes in patterns of precipitation and temperature—in other words, climate change.

I congratulate the members of my committee and acknowledge the hardworking and diligent secretarial backup that we have had. An interesting lot of evidence was taken, and I have to say that a lot of it was not news to me. It is patently obvious that in Australia we have had some catastrophic mismanagement of water under the present administrative rules, which basically means that the states run water. Even though nature says that rivers do not stop at the borders, the legislation does, which does not make a lot of sense to me.

I will not speak for very long because I am sure that other members of the committee wish to speak. I intend to speak on another occasion in great detail on what I think should be the creation of some federal influence in the management of Australia’s water resources and the investigation of the 60 per cent of Australia’s water that is in three catchments in the north of Australia.

Australia is in a fortunate position. With climate change there will be significant pain, and that is being felt at the present time in everything from the sheep market and the cattle market to the land market and our farmers, with their crops. But in southern
Australia, if you believe the science, there will be a considerable reduction in run-off—
in fact, something like 3,000 gigalitres—in the Murray-Darling Basin; mainly in the southern Murray-Darling Basin, where 38 per cent of the run-off comes from two per cent of the landscape.

Today there was a rice growers lunch—I have forgotten the name of the group. The rice industry is very efficient. They now have their challenges. Australia’s dairy farmers using irrigation have certainly got some great challenges with the price of water. These are all challenges we will have to meet. There was some anxiety from some environmental groups about developing the north and making the mistakes of the south.

One message that this committee got out of some of the evidence was that Australia needs to put all its information onto one database and give serious consideration to understanding our water resources before we allocate them. Obviously, some serious mistakes were made in the past—none more spectacular than the overallocation of some of our groundwater aquifers and a complete breakdown of water auditing, which has been evident this year. A lot of farmers in the southern Murray-Darling Basin, the Murrumbidgee and the Murray catchments thought they were implementing good drought policy by acquiring water from outside, in the water-trading market, and were then told that, despite the fact that they had bought the water, they would not get the water. All of these issues are being considered.

We collected evidence of water thieving, both from flood plains and by other means. It is blatant water thieving. With some of the wetlands—there is certainly the spectacular example of the Macquarie Marshes—there is an argument, which I have to say is a furphy, that they should not send the environmental flows to the wetlands, because the wetlands are dying. But we quickly discovered, and we have the evidence, that in fact the 50,000 megs, or whatever it was, that were sent down there were actually diverted before they got there. That is why the wetlands were in a poor state. There is quite obvious evidence of unlicensed, unauthorised earthworks that divert this water onto private land. There is some beautiful feed growing on some private land there, and the water should actually be in the wetlands. I was pleased to see a motion in this chamber the other day that the government accept that we have to do something about that and put everyone on notice.

Obviously we dealt with the contentious Lower Balonne issues. There is a recommendation from our committee, which I am sure other members will articulate, that there ought to be an independent scientific study—a genuine study, that is; there have been some studies which have, shall I say, been selectively quoted—on the impact of overland floodplain harvesting and the interception of downstream riparian rights in that process. The committee thinks that all consideration of future overland or floodplain harvesting licences should be halted until there is an independent study, because there is a potential lurking with the process that is under way in the Lower Balonne. You would issue a whole lot of licences—and bear in mind that the committee thinks that there are some strong conflicts of interest at work there, which would be laughable if they were not so serious—and those licences should not be issued until there is consideration of the impact in the long term.

Peter Cullen has certainly pointed to the fact—in his selectively quoted study—that the river itself is in reasonable order, but, if the capacity of flood harvesting is put in place, there will be long-term damage. All of that needs to be considered because, if we issue the licence to them, there will be a case
for compensation. We ought to look at the overallocation before we look at the compensation. I note that the Mayor of St George said, ‘Of course there’s damage downstream with the graziers, and the solution to that is to not send them water but send them money.’ I do not know what nature thinks about that.

It is a comprehensive report. I congratulate the committee. Obviously, I have a strong view that, because of climate change and the positives, within a constructive and scientific way, with the right data on the right database, we could have some development in the north of Australia that would complement the development of some of those remote communities and, at the same time, not damage the environment. From a previous inquiry that took evidence in Kununurra, which I will not bore the Senate with today, there are some fundamental issues that have delayed that development process up there. I would like to make a detailed and full speech on this matter at an appropriate time. As we are pressed for time at the moment, I would like to give my deputy chair a full shot at this, so I will sit down.

Senator SIEWERT (Western Australia) (4.38 pm)—This is an extremely important issue at an extremely important, critical stage. We heard today that ABARE has released its latest forecasts for December. We have heard again that our winter crops are down 62 per cent and the forecast for summer crops is very poor, likely to be down at least 33 per cent, so the issue of drought, climate variability and climate change is of critical importance and on everybody’s minds. We have also heard evidence about various wetlands being degraded and suffering. We also heard that the Murray is receiving its lowest flows ever, month after month—I think October was the lowest on record—and that by April-May next year our storages will be empty. The Murray river system in particular is running on empty.

We also heard that dams around Australia—as I think we covered in the interim report—are suffering and most of them are carrying water below 50 per cent in all our capital cities. We heard significant evidence of overallocation and of the confusion that still exists over water entitlements and water allocations. We heard about the lack of data, the inconsistency in data between states, the way data is recorded and that some states do not have data. We also heard of states being unwilling to share their data.

While the Greens support the majority report, we also submitted additional comments because we would have liked to have seen some significant issues addressed in greater detail. We are fully aware that it is likely that reduced rainfall, increased temperatures and increased climatic variability are going to have a significant impact on our water resources and that there is an urgent need for appropriate forward planning. There is a need to develop appropriate adaptation strategies on the critical issues of water scarcity and water security in Australia. All these things need to be addressed if we are going to ensure that Australia has a sense of security about water.

The Australian Greens believe that these issues are not being addressed with the degree of urgency and level of detail that is required. The clear consensus among the scientific experts in the areas of water resources, climate and agriculture is that climate change, in particular, poses a major threat to the security of our water resources and the ongoing viability of our agricultural zones. The evidence presented to the committee clearly demonstrates there is a pressing need to act decisively on these issues. We need to urgently re-evaluate our water resource security planning. We need to look at
our priorities for water use, the way we allocate our water resources and the way we allocate risk. We need to take very seriously the issue of developing adaptation strategies based on the best science. The Australian Greens believe that we need to consider the flexibility and adaptation of our allocation systems to deal with the likely impacts of climate change.

The fundamental importance of factoring the impacts of climate change into our systems of water management and allocation was very clearly put to us by CSIRO in their submission to the inquiry. They stated:

Under the present water reforms, longer term water security is not guaranteed since these reforms do not explicitly take into account threats to water quantity and quality due to enhanced climate variability and change.

CSIRO suggests there are significant knowledge gaps in terms of the impact on climate change, irrigation, water management, regional planning and the economy. Further, they stated:

It is crucial to understand the impact climate change would have on water demand and potential land use changes as water is tied to the highest value product.

They further recommended:

... a multi-stakeholder national initiative is needed to consider climate change impacts on farm to regional levels, and to devise robust policy options for the viability of irrigated agriculture, hydroelectric power generation, rural industries and regional communities.

And they stated:

There is a need to incorporate climate variability and change scenarios into understanding the sustainable footprint of irrigation, irrigation demand management, whole farm planning and environmental management.

We also had some very interesting submissions from a number of farming organisations. In particular, the Queensland Farmers Federation noted that they recognise:

... responding to and managing for climate variability and change is fundamentally a responsibility of farmers and rural industries. It is also recognised that this management effort must also be supported by clearly defined government policy and targeted scientific research.

QFF—
The Queensland Farmers Federation—
does not believe that current drought programs adequately address the needs of intensive agricultural industries, continuous production systems, and those impacted beyond the farm gate.

They also made a series of recommendations on how to deal with climate change. They suggest:

... that a national approach to drought preparedness and drought management is a preferred position to the present reactive and uneven approaches embedded in the ‘Exceptional Circumstance’ programs.

So we need to urgently address climate change and, as I said, I do not think that extreme sense of urgency was picked up. We recommend that this urgency needs to be dealt with.

As a committee we were also required to look specifically at the impact of rural water usage of recent policy initiatives and the possible role of Commonwealth agencies. The National Water Initiative has not been under way that long, and that was acknowledged. We did not get a lot of evidence on this. However, we must note that the NWI was signed by most parties on 25 June 2004, and this built on a previous COAG framework that had been in place for a decade. So the lack of progress on the initiative and the difficulty faced in identifying and assessing its major impacts, I believe, is cause for concern.

Given the increased risk to water security currently facing Australia, we should have gone further in the report in assessing and
commenting upon the current impacts of the policy and had perhaps a much more detailed discussion on how we can ramp up the NWI to deal with the emergency situation that we are currently in. While it is acknowledged that many of the issues around water security are in fact a state responsibility, there is a requirement on the Commonwealth, I believe, to show leadership. Unfortunately, it has not been above politicising some of the water issues.

This was no more apparent than in Toowoomba, where pressure from the federal government did lead to politicising the referendum around the recycling of water there. This has now resulted in their not having a clear option for dealing with the water crisis there. It became a political issue—and I will not repeat some of the language that was used in the debate because I think it is probably unparliamentary—and it was very clear that the focus on securing water resources was not the focus of the debate. It became a political debate and unfortunately that has set back the issue of recycling around the whole of Australia.

The issue of the adaptation of Australia’s agriculture to reduced rainfall, higher temperatures and increased climate variability is particularly important to regional Australia and its future. We are concerned that the implications of climate change and climate variability are not being adequately assessed in terms of the impact they are having on rural communities. There is a pressing need for further research and development of adaptation strategies and a need to look beyond some of the options that are suggested, such as GM cotton, drought-resistant wheat varieties and improved irrigation practices.

These alone are not going to solve the issue of our water security crisis—and I am deeply concerned that people may think that if we do these things we are going to deal with this issue when, clearly, we are not. There is a very clear need for better data collection, for information generation and for decision-making tools that enable our farmers, our farming communities, the broader community and in particular our regional communities to make adequate decisions on water use allocations and on adapting to climate change. There is an urgent need to address the issue of overallocation in our systems around Australia but particularly in the Murray-Darling system. Unless we fix the governance process, the way we make our decisions, and deal with information and information generation, from now on we are always going to be running the Murray on empty. I believe the Australian community finds that unacceptable. We need to act collectively to address these issues. I commend the report to the chamber, both the majority report and the additional comments.

Senator JOYCE (Queensland) (4.48 pm)—It is very hard when you are dealing with water to get agreement. Since man has been on this planet it is what seems to start wars. The fact that we have managed to get a report that is supported by both the government and other parties is quite something, and I commend all those who have worked so hard in that process. Water is the source of wealth. It is also the source of all the problems that can occur if the mix is wrong and the mathematics incorrect. Often when we do a report on water we are actually doing a report on drought and, as everyone knows, drought is a complete lack of water. For instance, in our area now I can assure you that there is no water above us, no water on us and no water below us. There is just no water. It has not rained, and that can inspire a sense of hopelessness in people who live without water.

When you live without water things can be very dire—in fact, it will send you broke. This charges the debate with emotion, and
people feel that the only way you can get through the emotion of the debate is to find an answer to no rain. There is no answer to no rain. The only answer to no rain is rain. It would be marvellous if someone in this chamber could work out how to do that. We would certainly have something newsworthy then.

I want to concentrate on a positive outcome of this report, one that deals with the fact that we in this nation must start to look to the way in which we are going to put people where the water is rather than always trying to recalibrate the issue of moving water to where the people are or somehow dividing up the water cake when there is no more water cake to divide up. One of the recommendations is that the government must look to tax incentives or managed investment schemes or other government incentives to start giving people a very strong reason to live in different corners of this nation. What Senator Siewert said is correct: you cannot go back to the Murray-Darling Basin because there is nothing more there to divide up. It is a fully allocated system and, some would strongly suggest, overallocated.

So that either puts a cap on our growth or suggests that we have to start looking at other areas and start giving people a back-pocket reason to go to other areas. We have to start giving that leadership reason to go to other areas of our nation. There is a great opportunity politically for whoever wants to take up the cudgels to come up with a program that further develops some of the water we have in our north and give people an alternative to being in the Murray-Darling Basin.

There are also great alternatives before the government if they wish to offer incentives to people to use less water-intensive crops and in so doing, if there is a real financial incentive for them to do it, say to them that the quid pro quo of that deal is that they must put water back into the river. They must give back to the river the water that they save and, for that benefit, they could get a financial advantage—for instance, higher depreciation rates or tax deductibility. Maybe they could even get grants for moving to a less water-intensive crop.

With this report we can also look at positive aspects and the way forward. It is all very well to comment on the problems. We can do that every day. But commenting on the problems just becomes an echo. The really smart thing is to come up with a path forward that causes the least hurt. There are comments, obviously, about the Lower Balonne and Condamine—the area from which I come. There are two sides to every coin, of course. There is a sense of the benefits that water, when it is used efficiently, can produce.

In an area such as St George we do not have some of the social problems that they have in other towns. When water is about, there is a sense of prosperity. There is a sense of people moving through the social stratification that can sometimes inhibit the growth of areas. We have Indigenous people who have actually become very wealthy members of our community. That is a positive outcome. There is a sense of egalitarianism, fair play and hope. There is a sense that water can deliver prosperity and a style and quality of life that fixes so many of the problems that are sometimes associated with remote regional towns.

In a place like St George we have a diversity of industry—and I put that on the back of water. We have a number of doctors. I think that, in a town of 3,000, we have about seven doctors. We have got around a lot of the ailments that have afflicted other areas. I firmly put that down to the utilisation of the water resources. I caution very strongly
against the idea of putting water use up as a complete demon, because the use of water is not demonic. In fact, the use of water is sometimes a catalyst: it starts to actually deliver hope to areas. It was the fact that water was around that motivated me to move to St George and set up a business from scratch. It sustained me, my wife, my family and a number of employees—four employees at times. What I implore senators is that, in the reading of this report, we do not just see usage of water as something bad. Usage of water is something that, in so many cases throughout the world, is the inception of wealth.

The good thing about this report is that it asks people to look at the path forward—where you can go to deal with some of the problems that have arisen or may arise. That is what a good report does. It does not just wallow in grief. It does not partake in some hoary chestnut of a debate that gets kicked around. It gives a path forward.

I think those on both sides of this chamber would want to acknowledge that, if we are to do something worthwhile, it should be that we do not deliver fear to those people who are utilising water and whose lives have for once gone ahead by reason of the utilisation of this resource. We should deliver hope with regard to how we can better utilise it and further develop it in other areas.

The next stage for this nation is what we do in the north—how we get a better process and get further development in those areas where the demands on water have probably not been exceeded and where there is scope. From the Ord right around to the Burdekin, there is hope. Let us deliver hope to some of those gulf communities—especially in my state; places like Burketown—right around to Senator Nigel Scullion’s state and right up to Nhulunbuy. Let us deliver to them the hope that the people of the Murray-Darling Basin have in a lot of areas. It is not fair that we can just sit down here and say: ‘We’ve prospered. We’ve got ahead, but no-one else can do that. No-one else is allowed to partake of the wealth of our nation, only us.’ If we are a just and fair nation, we should look to those people in these areas who do not have the benefits that have been delivered to other areas and start thinking about them.

I believe that this government has a great chance to lay down a path for the Australian people at the next election, showing how they are going to deliver a true vision that the Australian people can remember this government by—how they can deliver that fairness, prosperity, justice, sense of hope, increase in the social structure and the ability for people to climb through social structures that is evident where water is properly and fairly used. I think that would be one of the greatest outcomes of this report. I commend the report to the Senate.

**Senator STEPHENS** (New South Wales) (4.57 pm)—I too rise to take note of the report. In doing so, I begin by thanking the members of the committee very much for their concerted effort in actually finding some pathways through the difficulties that we had in drafting this report. There was quite a lot of negotiation. We had some very heated discussions about the kinds of comments that should be in this report, given that the future of rural water use is something that we on all sides of the chamber are passionately concerned about. Thanks too to the secretariat, which steered us through some pretty difficult challenges in getting this report to the Senate by the end of this year.

Having reflected on the comments of Senator Siewert, Senator Joyce and Senator Heffernan, I would like to do much more revisit the recommendations of the report but reflect a little bit on some of the discussions and findings of the committee as we deliber-
ated this issue. First of all, I think that both Senator Joyce and Senator Siewert made very important points in the sense that we cannot be seduced into trying to find some short-term solutions and drought responses that are inconsistent. I seek leave to continue my remarks.

Leave granted; debate adjourned.

INDEPENDENT CONTRACTORS BILL 2006

WORKPLACE RELATIONS LEGISLATION AMENDMENT (INDEPENDENT CONTRACTORS) BILL 2006

Returned from the House of Representatives

Messages received from the House of Representatives agreeing to the amendments made by the Senate to the bills.

COMMONWEALTH RADIOACTIVE WASTE MANAGEMENT LEGISLATION AMENDMENT BILL 2006

Second Reading

Debate resumed.

Senator STERLE (Western Australia) (5.00 pm)—In continuing my remarks on the Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006, I would like to briefly conclude the comments I was making before being rudely interrupted by Senator Kemp prior to question time. I was explaining to the Senate that the Howard government were not the only ones being deceptive about nuclear safety issues. I was in the process of pointing out that the obsequious and fawning toad Piers Ackerman has criticised the Labor Party for its concerns about the potential dangers posed by nuclear reactors. In an article in the Hobart Mercury on 19 June 2006, he had this to say:

Albanese talked about nuclear safety as if every one of the 440 nuclear reactors currently operat-ting around the world was a ticking bomb. He even had concerns over Lucas Heights.

Unfortunately, the toad went on to say:

If he knows something that the workers there don’t, he should outline his concerns to the staff there - or apologise, and shut up.

How very touchy. Piers Ackerman is either deceptive or very ill informed. To be fair to him, it seems his only source of information is to grovel for scraps off the Prime Minister’s desk. If he ever bothered to do some independent research of his own, he might learn that Sydney’s Lucas Heights nuclear reactor recorded no less than 13 safety breaches in only 18 months prior to his article.

Senator Polley—Thirteen?

Senator STERLE—Yes, Senator Polley, 13—including an incident only weeks before the article in which radioactive gases, including krypton, escaped after an explosion inside a radioactive hot cell. But I guess publishing that information would not have served Piers Ackerman’s bigoted, anti-Labor ranting.

This series of three bills makes it clear that the Howard government will override community objections and, unfortunately, state and territory laws to impose nuclear reactors and high-level nuclear waste dumps on local communities across Australia. If the Howard government cannot consult, cannot build community consensus, cannot leave important legal rights untrampled and cannot gain the informed consent of Indigenous people for a low- and medium-level nuclear waste facility, what hope can we have that they will comply with International Atomic Energy Agency best practice guidelines in relation to nuclear power and the resulting high-level radioactive waste? On that note, I urge all senators to vote against this bill. (Quorum formed)
Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (5.05 pm)—As earlier speakers made clear, Labor is opposing the Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006. The bill seeks to make land nominations for a Commonwealth radioactive waste facility non-reviewable under the Administrative Decisions (Judicial Review) Act 1977. It also seeks to ensure that noncompliance with the site nomination rules in the 2005 act will not affect the validity of the minister’s approval of a nomination. The bill will remove any entitlement to procedural fairness regarding site nominations. It also makes amendments to the Commonwealth Radioactive Waste Management Act 2005 concerning the return of Aboriginal land used for a waste management facility. And it provides an indemnity to traditional owners against any damages which may arise out of the use of land for a facility.

In removing the mechanisms for appeal and transparency over site nominations and weakening the requirements for consultation, the government has run roughshod over affected Indigenous communities, and that is why I join this debate. The legislation is a major attack on the rights of Aboriginal traditional owners and an abuse of the power of the Howard government. Labor recognises the need for the establishment of a domestic radioactive waste facility. It has been known of course for the last 10 years that the government has been seeking to establish a facility; it is now having to rush that project because of the scheduled repatriation of Australian radioactive waste in 2011. What we are dealing with here is the removal of any potential obstacle as the government rushes to meet the deadline. The obstacle being removed is the right of Aboriginal traditional owners to have a say over what happens on their land. As has been usual throughout our history, the rights of Aboriginal people will be overridden.

The intent of the government’s 2005 legislation was to put beyond doubt its capacity to pursue activities concerning the siting, construction and operation of a waste facility in the Northern Territory. Labor opposed that legislation because it undermined the rights of Indigenous people in the Northern Territory and Territorians more generally, it broke a coalition election promise, it overrode a number of federal legal protections and it was implemented without hearing the concerns of Territorians.

The legislation explicitly removed the right to procedural fairness regarding the selection of a site for the facility. The 2005 related amendment excluded application of the Administrative Decisions (Judicial Review) Act 1977 to ministerial decisions on a facility site. The CLP member for Solomon moved amendments to last year’s legislation to allow for the nomination by the Northern Territory Chief Minister or a land council of land to be assessed for a site. Those amendments set down statutory rules that would have to be followed by land councils in the nomination process. These included demonstrated evidence that traditional owners had been consulted, had understood the nomination and had consented as a group. They also required that any affected, adjacent community or group be consulted and given the opportunity to express their view.

The legislation before us today downgrades those statutory rules to the status of guidelines. The bill therefore seeks to remove the requirement for consultation with and informed consent of traditional owners. It removes the right of adjacent communities to even be consulted and removes recourse to judicial review and procedural fairness.

With this bill the government is reneging on the commitment to consultation, consent
and process which it made by accepting one of its own backbenchers’ amendments last year. Where Aboriginal owners and communities currently have a statutory right to proper process, they are now seeing that replaced with an unenforceable undertaking by the current Minister for Education, Science and Training, who in her second reading speech said:

Current provisions of the act set down a number of criteria that should be met if a land council decides to make a nomination. Importantly, these criteria include that the owners of the land in question have understood the proposal and have consented to the nomination, and that other Aboriginal communities with an interest in the land have also been consulted.

I can assure the House that, should a nomination be made, I will only accept it if satisfied that these criteria have been met.

That assurance is a pretty flimsy replacement for a set of legal rights. You have to be cynical about the value of a promise to uphold proper process made by a minister as she legislates to remove the right to such a process.

The establishment of a radioactive waste dump on Aboriginal land will have a major impact on the affected landowners. It could mean traditional owners losing access to their land for anything up to 300 years and it could have ramifications in regard to environmental health for nearby communities. That is not to say that all Aboriginal people are necessarily opposed to the establishment of a facility on their land. It that is a decision for them to be informed about and to make after proper consultation. But how the traditional owners use their land is very much a decision for them and their communities. In doing so they should have the right to a transparent process, legal protections and procedural fairness.

Given the extremely long-term nature of a waste disposal facility, and its potential health and environmental impacts, it stands to reason that community consultation, consent and process are of the utmost importance. In the report of the Senate inquiry into these measures, government senators concluded that the overriding concern was the establishment of a facility and that ‘questions of due process and appeal rights are minor and subsidiary’. How dismissive and insulting! This is not a position which I think reflects well on those senators. I think many people would question whether those senators would have come to the same conclusion if it were their property rights and their entitlement to due process which were at stake. And I think many people would question why the government’s decade-long failure to establish a facility means that Aboriginal people’s property rights should now be diminished. Again, it is Aboriginal people whose rights are going to be overridden in order to facilitate government policy.

This legislation is being debated in the context of the changes to the Aboriginal land rights regime that were passed in the Senate in August. Those changes were the most radical redefinition of that framework since its enactment three decades ago. The government pursed its agenda without paying the basic respect of consulting with or gaining the consent of Aboriginal traditional owners. As such they trashed the long-established bipartisan commitment to the land rights regime—one of the most important and significant acts of reconciliation in Australian history.

The government is now seeking to coerce Aboriginal communities to sign up to 99-year leases on their land in exchange for basic services such as education. This is a calculated undermining of basic citizenship rights of Aboriginal people. The restoration of land to its traditional Indigenous owners was a vital step in reconciliation between black and white Australia. The government’s
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undermining of Indigenous rights over Aborigi

dinal land—either through imposing changes to the land rights act or through the bill before us today—reflect a return to an approach that views Aboriginal people’s rights as some sort of gift of the government, to be removed at the government’s pleasure.

The siting of a radioactive waste facility on Aboriginal land is a decision of huge and long-term significance. To remove the legal rights that Aboriginal people have in that process is to do them a terrible wrong. It further entrenches the despair of so many Aboriginal people at their treatment and the continued lack of respect shown to them. It sends a clear message that the Howard government believes that Aboriginal rights are expendable and Aboriginal views can be ignored. It is not a message this Senate ought to endorse. It is not a message that this parliament ought to send to Indigenous people. I urge the Senate to reject the bill.

Senator WEBBER (Western Australia)
(5.14 pm)—Through my role in representing the state of Western Australia I come into contact with a number of people who live in the west who are highly and deeply suspicious of any form of centralised government and any edict that comes from Canberra. In fact, those of us who represent Western Australia are often accused, even by some on our own side, of being somewhat parochial. We admit to that, and we are quite proudly so. But when we debate legislation like the Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006, and when you consider the track record of this government and statements by some of its ministers, it is little wonder that people in Perth, let alone in rural and regional Western Australia, are suspicious of the conduct of this government.

Consideration of legislation like this involves a couple of significant issues. As Senator Evans has said, this legislation goes to the heart of removing any say that traditional owners of the land have about where the siting of a radioactive waste dump will be. But it also highlights the fact that this government seeks to legislate away opposition rather than consult or try to have a constructive relationship with either state or territory governments or traditional owners. When faced with any form of criticism or opposition, its solution is to legislate it away.

The fear of a nuclear power industry and the siting of a nuclear waste facility is one that has been discussed in my state for quite some time. And that is little wonder, because federal members of the Liberal Party have put it on the agenda. Last year the member for O’Connor, Mr Tuckey, was talking about the issue. Who can forget the comments that he made as well as those made by the federal member for Kalgoorlie, Mr Haase, and indeed the infamous comments of the federal member for Tangney, Dr Dennis Jensen. When you add together those comments with those of the former state leader of the Liberal Party, Mr Matt Birney, the state member for Kalgoorlie, then you really have to be deeply suspicious of what this government is up to.

Mr Birney, when he was leader of the Liberal Party, Leader of the Opposition in the state parliament, when the state parliament had passed the Nuclear Waste (Storage) Prohibition Act, went on the record last year to say that, if he were in government, he would repeal that legislation, that he was happy for a nuclear waste dump to be in Western Australia. He said that one of the first things he would do would be to repeal legislation passed by the state parliament in March of the previous year—he said this last year, so in March 2004—which bans radioactive waste dumps being established in Western Australia. So when you match Mr Birney’s comments with those of some of the federal representatives of the Liberal Party, it is
something that people in my state should be suspicious of. They should be suspicious of what this government has in mind for them. Add to that the report from the *Australian* on 24 May this year that reported the federal member for Kalgoorlie, Mr Haase, as saying that Australia, and particularly Western Australia:

... should also consider storing high-level radioactive waste and was in the perfect position to “charge like a wounded bull for those services”.

In the same article the Liberal member for O’Connor, the infamous Mr Tuckey, was quoted as saying:

We are the ideal repository for those spent fuel rods for the simple reason we have the best geological stability …

Then there is the federal Liberal member for Tangney, Dr Dennis Jensen. He also backed the option of storing high-level nuclear waste in Western Australia.

So when you add together this government’s drive to not in any way allow the traditional owners of the land any say on whether they are going to have to deal with the radioactive waste to Mr Birney’s pledge—no doubt he is on the way back to the front bench of the Liberal Party in Western Australia, and I am sure one day we will see him completely resurrect his political career—to repeal the state legislation that outlaws a radioactive waste dump in Western Australia and to this government’s drive to expand the nuclear industry in this country, and the significant comments of leading members of the federal Liberal Party from Western Australia, it is obvious that there is a plan and that the plan goes beyond the bill that is currently before us. It is obvious that there is a plan being generated by the government, and that is to soften up people in my home state to agree to the state becoming a nuclear waste dump. As even Mr Tuckey has conceded in some quarters, and I know Senator Minchin has in others, it is not something that is electorally popular, it is not something that the people of Western Australia are prepared to be softened up for and it is not something that any of them will stand for.

This is an issue that people in WA feel very strongly about. They do not trust what people are talking about here. They have seen what has happened with this government overriding the wishes of the Northern Territory government and insisting that the site will be there. Let’s face it: that is because it is a territory and they can do it; it is not because there has been any consultation or any agreement. Now they want to remove the rights of traditional owners to have a say. People are legitimately suspicious of what is going on here.

And then who can forget the leaked cabinet submission that talked about sites for the spent fuel processing plant, the leaked submission to the federal cabinet of 1997. It talked about Perth being a likely site for a nuclear power station; it talked about what electorates they were going to be in; it talked about not releasing information about alternative sites because that may unnecessarily alarm communities in the broad areas under consideration. It is little wonder that people in Western Australia are a bit sensitive, a bit suspicious and a bit parochial. You cannot take what this government says about these issues on face value. It is just chipping away, legislating away opposition so that it can get its own way and ride roughshod over what local communities want, not just traditional owners but all local communities. I am sure the people of the Northern Territory—a territory that I spent a significant part of my early childhood growing up in—are pretty suspicious of this government.

This issue is something that people in my home state are quite legitimately concerned
about because the government keeps using its numbers to chip away section after section of the legislation and to prevent one group of people after another from having a say in what is going to happen within their communities. When you add that to the stance that is taken by key Liberal Party politicians in state parliament, we really should be worried about the plans that the Liberal Party has for our community in Western Australia.

There is no doubt in looking at the roles of Dr Jensen and Mr Tuckey and in adding the comments of Mr Haase to those of his state colleague Mr Birney—whose star is on the rise again; I am sure he will have a significant contribution to make to the state Liberal Party—that there obviously is a plan, at least in the Western Australian division of the Liberal Party, to turn my home state into not just a state that has nuclear power but also one that has a radioactive waste dump. What is being said by these significant Liberal politicians is part of the softening-up process. We are not being parochial; we are being quite rightly concerned about the conduct of some of these significant Liberal politicians and what they have planned for Western Australia. These issues are not as simple as the government would have us believe. You cannot just accept what it has to say at face value; you have to look at its conduct as a whole. I think it is important that people in Western Australia understand the real plans that the Liberal Party has for our state.

Senator SCULLION (Northern Territory) (5.24 pm)—I rise to support the Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006. This should not be surprising; it was me who introduced particular amendments that allowed for three other classes of land. One was a class of land that could be nominated by the Northern Territory government—a very large landholder in the Northern Territory and principally responsible for land. The other two principal landholders are the Northern Land Council, which is effectively responsible for the northern half of the Northern Territory, and the Central Land Council, which is responsible for those remaining lands in the southern half of the Northern Territory.

The purpose of this bill falls principally into two parts. The first part is to provide for the return of land when the facility may no longer be required and also to indemnify those landholders following the return of the land against potential damages arising from the original use of the land. The second aspect of the bill deals with a number of issues that may cause a delay in the nomination process. We are all pretty familiar in this place with the history of this legislation, and the siting of a radioactive repository on behalf of all Australians—which was the original idea, and a very laudable one at that—with years of effort to try to get it right. I think everybody knows that that effort has been thwarted by those who create mischief by saying, ‘I will do anything to prevent a radioactive facility from being sited anywhere in Australia.’ That is not in anyone’s interest. This bill is very important because the second aspect of it deals with ensuring that there is no more mischief to be made in this matter. We have put beyond reach of the mischief makers the ability to cause any further, and clearly unnecessary, delays in this matter.

The bill also deals with the Administrative Decisions (Judicial Review) Act 1977 and makes some amendments to the land nomination process, particularly section 3A. This has the effect of adding a site nomination under proposed section 3A of the Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006 to the classes of decisions that are not decisions to which the Administrative Decisions (Judicial Review) Act applies. Again, we think that it is a...
bit of a hole in what we consider to be a pretty clear future. This bill is all about making sure that there are no more holes in the future and no more little avenues where people can make some mischief.

It is also important to note that these amendments principally come from the Northern Land Council. Under the Aboriginal Land Rights Act, the Northern Land Council has a great deal of responsibility for not only the land under their jurisdiction but also the Aboriginal people who are the traditional owners of that land and it has the responsibility to ensure that the wishes of those people are met on a number of matters such as development and change and the siting of things, whether it be fishing entitlements, mining or railways. Historically, the Northern Land Council is quite expert on this matter and I have to commend it for its efforts in ensuring that traditional owners have an option, one which is in the amendments that I have put forward in this place. That option is that they can consider whether or not this is something they would like to have sited on their land or otherwise. This council has gone a long way to ensure that the processes are in place so that people are well-informed of the options before them.

Particular parts of these amendments, as I say, come from the Northern Land Council. Their concern is that a challenge may be raised on the basis that the Northern Land Council did not properly consult all interested parties, as required by subsection 3B(1) of the act, prior to making a nomination and the seeking of judicial review under the nomination under the AD(JR) Act, which I previously covered. Of course, the government shares that concern.

The Australian Government Solicitor believes on balance that, whilst a failure to comply with subsection 3B(1) of the Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006 would not affect the validity of the nomination, there is not an insignificant risk that a court may decide otherwise. So the AGS considered the greatest risk was from a successful challenge to any siting decision made under section 7 of the Commonwealth Radioactive Waste Management Act or from an ongoing court action that prevented progress in making that decision, so that a challenge could be made at any time in the future after considerable time and effort has been spent on assessing a nominated site. Given the possibility of receiving a nomination of land adjacent to the Central Land Council’s jurisdiction, the prospect of a legal challenge is considered high, given the Central Land Council’s vocal opposition to the facility.

I have to say that there is a stark contrast between the behaviour of Northern Land Council and the Central Land Council in regard to these matters. It was interesting that I knew exactly what the Central Land Council thought about the amendments and the opportunity to be included in the discussion over the siting of a radioactive storage facility almost the following day after I made the amendments in this place, because there were yells and screams from the Central Land Council: ‘No, we’re not going to have it. We’ll have absolutely none of that.’ I have to say I was amazed at the time it took to consult so many people over those lands. It seemed like the next day they had it all squared away. There was no way they were going to have it on their land.

I had the opportunity during a committee hearing on Monday, 27 November to place a question on notice. They certainly put in the evidence that their position was a solid position because they had unanimous support for that decision. I actually asked them in a question on notice if they could provide the minutes of meetings reflecting upon who was there and that will obviously give me
some guidance in that matter. I am looking forward to that answer.

It is in stark contrast to the Northern Land Council, who have, I consider, done an absolutely outstanding job. I inquired as to how Mr John Daly, the chairman of the Northern Land Council, a traditional owner himself, had gone about the process of informing individuals. He was able to tell me that the full council of 80 Indigenous traditional owners from the Northern Land Council region met in a place not far from Darwin in the Northern Territory—in Bynoe Harbour, I believe. They met for two full days and considered no other issue apart from informing the traditional owners what the amendments I brought before this place enabled them to do. They had two full days of deliberations where they invited ANSTO scientists to provide information about what it actually meant and they were able to question and deliberate slowly and, in a proper way, make a decision. Their decision was not, ‘Yes, we are going to have something on our land.’ Their decision was not, ‘Yes, we want it here.’ It simply informed those people from the Northern Land Council and they unanimously decided that they would allow and assist people in making a nomination should the landholders require it. It is, as I said, in pretty stark contrast to the Central Land Council. The Northern Land Council certainly made it clear in an announcement on 21 October last year which read:

The full council of the NLC has called for an amendment to the Commonwealth Radioactive Waste Management Bill 2005 so that the Land Council can nominate an alternative site in the Northern Territory for a waste facility provided that the traditional owners agree.

I have heard a lot of absolutely unadulterated garbage from the other side—I have only been listening to the debate for short time—but I did note a couple of comments from the Leader of the Opposition in the Senate and I must say it brought me some sadness to hear him say that Aboriginal people have had their rights taken from them. I note that later in his submission he said that Aboriginal people have the right to make determination on their own land. The single word ‘self-determination’ I thought would come with the respect to stand up in this place and say that, if individuals from the Northern Land Council and the traditional owners want to make up their minds, they can choose to nominate a site to do anything they like on that country.

From my perspective, if you ignore the fearmongering from the other side, this process is no different from the process of establishing a corridor for a railway. It is a very important thing for the Northern Territory. Of course, the Northern Land Council did exactly the same in that matter and ensured that everybody was consulted for the entire length of the Territory. You can imagine the difficulties in doing that. They are very good at this. Why would we change the respect that was afforded them at that stage now? Why do we think this development is any different? Of course, it is because there is mischief afoot.

I have to say that the main mischief has been that provided by the Labor Party. The word ‘disingenuous’ starts paling into insignificance when you look at a bit of the history here. In this country some time ago—I was still catching fish when all this was happening—there was a principal agreement between the heads of the states and territories in Australia that it seemed very fair and reasonable that we would study that. I understand that it took some four years to go through that process and they established
that it would be in the Officer Basin in whatever the section is in Woomera. They decided that that would be the very best place to have it. Of course, that is when the mischief starts. Mr Rann decided he was not doing too well in the polls, so a bit of fear and loathing would not hurt, and he suddenly said, ‘We’re not having radioactive waste in my backyard.’ He said that at the last moment.

**Senator Wong**—He did all right in the last election.

**Senator SCULLION**—Senator Wong, I can tell you right now that you should hang your head in shame. Right at the moment, you are dragging the good names of the traditional owners of the Northern Land Council through the mud. If you want to stand up and—

**The ACTING DEPUTY PRESIDENT (Senator Kirk)**—Order! Senator Scullion, I suggest that you address your remarks through the chair.

**Senator SCULLION**—Madam Acting Deputy President, I think that Senator Wong should hang her head in shame over this entire issue, because I can tell you right now that we would not be in this very sorry circumstance—

**Senator Kemp**—Madam Acting Deputy President, on a point of order: I have observed what has happened. It is very rare that I would ever question a ruling of the chair, but my colleague was being seriously provoked by Senator Wong’s interjections, and I think she should have been asked to restrain herself, as would be entirely appropriate.

**The ACTING DEPUTY PRESIDENT**—Senator, there is no point of order.

**Senator Wong**—Madam Acting Deputy President, on a point of order: the minister has passed a very serious aspersion on the chair, and I ask him to withdraw it.

**Senator Kemp**—Yes, of course, I do. But I make the point that Senator Wong was calling out, and it is entirely appropriate for the chair to call Senator Wong to order.

**The ACTING DEPUTY PRESIDENT**—I was calling both senators to order. Please continue, Senator Scullion.

**Senator SCULLION**—I thank Senator Wong her for her interjection, because she reminds me that any senators from South Australia, if they are fair dinkum about this issue, must understand that they need to bear some of the shame in history that makes us face up to this particularly perilous set of circumstances we find ourselves in today. The more mischief—

**Senator Crossin**—Dumping waste in the Territory! It’s an excuse to dump it in the Territory.

**Senator SCULLION**—The dump—we have more fear and loathing from Senator Crossin. She refuses to call it a repository because it is sexy in the media. She is supposed to inform people in this place but, instead of informing people, she uses this whole rattle of fear and loathing. That is why the Labor Party have absolutely nowhere to be on this issue. The mischief of the Labor Party continues. We know they will be out there, whether it is Elliott McAdam down there in Tennant Creek saying, ‘This is all very terrible; you need to be very careful of all these sorts of things,’ and then—

**Senator Crossin**—Madam Acting Deputy President, on a point of order. That would be Minister Elliott McAdam from the Northern Territory government, I believe.

**The ACTING DEPUTY PRESIDENT**—Senator Scullion, I remind you to refer to all members of parliament according to their proper titles.

**Senator SCULLION**—I have to say, Madam Acting Deputy President, that that
was not an intentional slight. I was not sure whether he is still a minister or not. Whether he is Minister for Local Government or Minister for Central Australia, I will certainly refer to him as Minister McAdam. When I was questioning him during the Senate process, I was not pulled up for that; perhaps that is what led me to that error.

The main mischief is the Labor Party. History shows that Mike Rann started us off on this. Isn’t it interesting that we have people saying, ‘It’s really dangerous; it’s radioactive.’

The ACTING DEPUTY PRESIDENT—Senator, again, would you refer to the Premier of South Australia according to his correct title.

Senator SCULLION—Premier Mike Rann—certainly; continue to remind me if I forget those things. Premier Mike Rann started off this process by being disingenuous and saying right at the last minute that waste would not be stored in South Australia. Everybody had decided it was in the very best interests of Australia. He has some short-term political gains, so suddenly the entire process that everybody had agreed to has been absolutely thrown to the wind.

The Commonwealth has to show some leadership in this matter. As far as I am concerned—and as far as most clear-thinking Australians and most people in the Senate are concerned, I would have to say—this is a very important issue for the health of Australians. This is not an issue about a repository; this is an issue about access to fundamental health for Australians. I really do not understand the agenda of those who stand in the way of it. At the end of the day, this is about health and this is a very important issue for all Australians.

Of course, the mischief of Labor continues. The Minister for Central Australia, Elliott McAdam, whilst giving evidence, was putting it about the place that people in Central Australia had not been consulted. He was generally putting it about the place that there was something uncomfortable or dangerous about this radioactive facility. Anybody, including those people, could have afforded themselves of a process that informed them, which the Northern Land Council did. They actually visited ANSTO and asked some questions. They asked questions about safety. They wanted to see the materials, touch them, look at them and understand more about them. When they did, they came to the same conclusion I have. I went through exactly the same process, and the conclusion I have come to is that this is an extremely safe process.

Today we know that the Central Land Council are now saying that they would like to have a say over the traditional owners in a completely separate jurisdiction. I have been dealing with Indigenous people for a very long time, and to want to have a say over somebody else’s country is, I believe, beyond the pale. Again, we know that mischief is afoot and we need to pass legislation that puts beyond doubt all of those things. The process we have gone through identifies all the processes where I think there will be a bit of mischief, and I really hope that this will eventually put to bed any delays that come this way.

I have to say to those people in this place who say that we have trampled all over the rights of Indigenous Territorians that I think that is an absolute fallacy; it is quite the opposite. Indigenous Territorians have said quite clearly that they want the right to nominate a site on their land if they choose. I can remember clearly the times when the only three sites that were nominated were Commonwealth sites. The same people were jumping up and down and yelling in the aisles that that was a terrible affront and a terrible tragedy. I came up with some good
amendments that said: ‘Let’s have much better scientific amenity. Rather than having it just anywhere, we should put it where it would best be.’ The Northern Territory government has completely failed. From day one they have said: ‘We won’t be putting in a nomination because we’re fundamentalists. We are simply ignoring the wider benefits to Australia in this and we’re going to play politics.’

That is interesting. Premier Mike Rann and Chief Minister Clare Martin are the very same ones who got together and said that radioactivity is bad. But somehow Mike Rann can put his yellowcake on the train or on a truck and send it right up through the Northern Territory—Clare Martin does not mind that, I have to say. It can go through Alice Springs, Tennant Creek and Katherine into Darwin, on to the Darwin wharf and get unloaded. Of course they have a mutual interest: Mike Rann actually wants to export his yellowcake; Clare Martin is interested in exporting Ranger uranium, of which we have been big supporters. But suddenly when it comes to fundamentally protecting the health of Australians it is: ‘Let’s make a bit of political mischief.’

The purposes of this bill are very basic. First of all, it is to ensure that the land is returned to Indigenous Australians after the facility is no longer required. Secondly, it ensures that it is put beyond the reach of those causing mischief—and I have to say that most of that is driven by those opposite. I hope that this is the last time we look to amending this legislation. I commend the bill to the house.

Senator CROSSIN (Northern Territory) (5.45 pm)—I rise to provide a contribution to this debate on the Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006. This bill perpetuates the lies and half-truths that were told to Territorians before the last election about the placement of this nation’s radioactive waste, which is now going to be dumped in the Northern Territory. This is despite the fact that we were given a categorical assurance that the dump would not be built in the Northern Territory and that an offshore option was being considered. This was never ever the intention of this dishonest government.

This time last year we were faced with the first piece of legislation that bulldozed the Territory’s legislation out of existence. It overrode the Territory’s right to conduct its own affairs and it began the process of finding a place at which to dump the nation’s nuclear waste. The original bill, which the government is trying to amend today, was a huge embarrassment in the Northern Territory for Senator Scullion and his mate in the other place. I might add, as I refer to Senator Scullion’s mate one Mr David Tollner that, while reading the Hansard of last week’s proceedings of the House of Representatives, I noted that Mr Tollner did not even bother to make a contribution to the debate on this bill when it went through that house. He has given up trying to defend his position of overriding the rights of the Territory.

Senator Scullion—He voted for it.

Senator CROSSIN—Senator Scullion, I will take that interjection. You are right: he did vote for this legislation, as you will vote for it.

Senator Scullion—Absolutely.

Senator CROSSIN—This shows that you have simply sold the Territory down the drain. I remember a number of previous senators representing the Northern Territory simply being chastised if they did not stand up for the rights of Territory legislation, particularly in respect of internet gambling and the euthanasia debate. I have referred to these in previous debates about this matter. It
seems that in this day and age it is okay for people like Mr Tollner and Senator Scullion to simply support and protect their federal Liberal and National Party mates and completely sell out the Territory.

As a face saver, the Northern Land Council came to Senator Scullion’s aid, saying, ‘We might be interested in a dump.’ Senator Scullion, it is interesting that you have again confessed that some of these legislative amendments have been brought about by the request of the Northern Land Council. It is funny that that is not what your minister said in a Stateline interview last Friday night. I will get to that in the minute.

The Central Land Council opposes these amendments but the Northern Land Council does not, so what are we doing here? We have legislation that is driven at the behest of one land council in the Northern Territory because it suits their political agenda. It is a pity, Senator Scullion, that you did not seek to inform yourself about the extensive consultations that the Central Land Council have had on this matter. In fact, only two weeks ago there was a three-day meeting at Finke. While I know you are avid about what has happened during the Northern Land Council’s meetings, you should inform yourself about what has happened at the Central Land Council’s meetings. I note that at a meeting of the Northern Land Council—I do so with all due respect; it is not my intention to criticise it here—only DEST and ANSTO appeared, not the Australian Conservation Foundation or the Medical Association for the Prevention of War or other experts in this field who might provide an alternative view. They were never given the opportunity to brief or to talk to traditional owners about this matter.

Anyway, let us get back to last year when Senator Scullion was able to wriggle around his embarrassment, saying, ‘We’re going to have a dump in the Territory whether we like it or not and if you don’t like the proposed site we’ll amend the bill to let the Northern Territory or a land council propose one for us.’ Of course the bill was amended to allow this to happen. The Northern Land Council said, ‘Okay, we’ll have a look at it but we want some further changes to ensure that traditional owners are in control.’ As government senators noted in their report from the Senate committee of inquiry into the first bill:

It is clear that the NLC’s support for the legislation is conditional on traditional owners retaining a final veto right concerning the location of a waste facility on the basis of sacred site and environmental considerations.

Twelve months on, we now have this bill indicating that traditional owners or affected persons will have no final say on the siting of the dump. What we are doing today is legislating to remove traditional owners’ final veto right. A submission from Katherine Residents Against Nuclear Dump noted:

The implications of this are extraordinary, as it reduces the former rules of nomination to guidelines, allowing Land Councils to nominate land for a Commonwealth dump irrespective of traditional owners’ opposition and concerns, contrary to their usual, statutory obligations under the Land Rights Act.

The bill explicitly says there will be no right to procedural fairness or judicial review. The government’s legislation was to block what it called ‘politically motivated challenges’ to the process, but, as David Ross, the director of the Central Land Council, said in its submission in the last week or so:

I think the real issue here is that Aboriginal people are not interested in the politically motivated challenges; they are interested in their rights and in being consulted about what is to take place or what is not to take place on their land. That is what interests Aboriginal people more than anything else.
The site nomination by the land council will be the end of the process as far as traditional owners are concerned. The Northern Land Council correctly points out that leases granted over Aboriginal land cannot be invalidated on the basis of faulty consultation. However, under this bill, once a site is given up by traditional owners it will be a done deal for those people—before the government does the environmental assessment, or the designs for the facility and the access corridors, or any other work involved in getting the dump off the ground. Traditional owners will be effectively shut out, well before any of those other processes happen. That is why the provisions of this bill are, unlike other agreements, protected from any disputes about faulty consultation by the Land Rights Act.

Under the Land Rights Act, the protection of the agreement occurs at the end of the negotiation process, perhaps a few years down the track when all the details have been negotiated and what is to be done on the land that is to be leased would be well known by the interested parties. But, under this amended bill, once the site is nominated by the land council, and before the government even has a clear idea of what it will do at the site or in any access corridors, there is simply no further redress or say for traditional owners, even though they may find out a whole lot more about the waste facility, its size and its impact on their country.

This bill absolves the government of any responsibility to traditional owners of a site to ensure that they agree with it becoming a radioactive dump site and losing access to it. It also absolves the land council of meeting its responsibilities under the Land Rights Act to act only on the advice of traditional owners.

The Central Land Council in its submission to the inquiry last week asked:

Why are Australia’s most disadvantaged group being denied a basic entitlement to accountable and transparent process merely because of the possibility of “politically motivated challenges”? It is ironic that after years of the Country Liberal Party accusing land councils of not acting in the interests of traditional owners, here is the very same Country Liberal Party and their coalition partners actually legislating to encourage it.

The Conservation Foundation said in its submission:

The new provisions in the CRWM Amendment (2006) Bill which specify that failure to comply with 3B(1) would not invalidate a nomination by a Land Council—or declaration by the Minister—just as clearly are intended to revoke Traditional Owners existing rights.

It is extraordinary and profoundly shameful that in a matter as controversial and contested as the siting of a nuclear waste dump such long held and procedurally proper processes are being circumvented.

Senator Scullion’s previous amendments to the dump legislation in 2005 made great play of giving traditional owners control of nominating their land for a dump. Now, in the interests of fast-tracking this dump at all costs, traditional owners will be shut out.

The No Waste Alliance in Darwin’s submission noted that the minister, in her second reading speech, has given a personal assurance that:

... should a nomination be made, I will only accept it if satisfied that these criteria have been met.

The submission continued:

Why, then, has the Minister proposed amendments which specifically state that failure to adhere to these criteria would not validate a nomination—or her declaration—of a site for a Commonwealth nuclear waste dump?

If the minister is being honest with traditional owners in the Northern Territory, and if she would only accept a nomination if she
were satisfied the criteria had been met, I ask: why then do we need this legislation?

In the face of repeated lies and broken promises by federal politicians on the various parameters of dumping nuclear waste in the Territory, this empty assurance rings as hollow as her colleague Senator Campbell’s ‘categorical assurance’ two days before the last federal election that the Northern Territory would not be used to dump Commonwealth nuclear waste.

This government purports this bill is really about returning the land to traditional owners after hundreds of years, but—if that ever happens—it can be done at the government’s discretion already, without this legislation. What this bill is really about is blocking the rights of traditional owners or others from challenging any nomination of Aboriginal land for a dump site. But to take the government’s claim at face value: how likely is the return of the land in the foreseeable future?

Australia has just opened its new nuclear reactor in Sydney. It will be producing both low level and intermediate level waste for years to come. Trucks will be rolling into the dump for years and years. In Senate estimates, Mr Davoren of DEST Science Group spoke of the best case scenario with even low-level waste. He said:

You deal with radioactive material that, in the case of low-level radioactive material, for instance, might be disposed of to the environment and is regarded as posing a potential hazard for an institutional control period. If the facility is closed in 50 years, you would maintain surveillance over that site for the institutional control period, which might be 200 or 300 years.

Unless there is a great scientific leap forward, I imagine we will still be producing low-level waste in 50 years time, so why would the government close the facility then, when it is going to be monitored for hundreds of years into the future anyway?

That is the low-level waste; the intermediate waste is too dangerous to just be left in the desert to rot, so it will be stored, temporarily, possibly in the desert, so the government says. That is the same as all other intermediate and high-level waste in the world, which is ‘temporarily stored’ because no scientist anywhere in the world has yet devised a means of building a permanent disposal facility.

The reality is that traditional owners will be waiting a very long time—perhaps generations—until Australia finds a cheap, scientific and sound solution to storing intermediate waste and moves it, eventually, off their land. As the Northern Territory local member for the area of Aboriginal land most likely to nominated, the member for Barkly, Minister Elliott McAdam, said in his submission to the Senate inquiry:

The reality is however, that if radioactive waste is buried, the land will never be returned. If there is contamination from the storage of radioactive waste [on the] land it will never be returned and if no other site is ever found to relocate this radioactive waste, the land will never be returned.

Once again the government has used its numbers to ram through legislation and to allow only the most token of Senate inquiries into this important area. I note comments from my other colleagues about the process of dealing with these Commonwealth waste management bills. This is the second time we have dealt with the bill, the second time that the Senate Standing Committee on Employment, Workplace Relations and Education has looked into what is contained in the detail of this bill, and this is the second time we have been denied an opportunity to travel to the Northern Territory to meet local people concerned, to hear from traditional owners and to meet with the people who will be most affected by this radioactive waste dump.
The hearings have been held here in Canberra—and, if it were not bad enough that we did not give people the opportunity to fly down here, the hearing last Monday week was held by teleconference. It was a total abrogation of the right of people in the Northern Territory to attend a Senate inquiry and to take the time that is needed to put to the Senate committee their objections and concerns about this whole process. In its submission to the inquiry, No Waste Alliance Darwin notes that:

The lack of time for written submissions undoubtedly leaves all parties particularly keen to present further oral submissions to the inquiry. It is therefore once again a source of disappointment that the Committee will not be visiting the impacted regions, let alone the major cities, of the Northern Territory.

No justification or rationale has been presented for this unseemly haste; we can only speculate. One clear reason for rushing this Amendment through at high speed must be to evade unwanted scrutiny of its assault on the existing rights held by Traditional land Owners in the Northern Territory. Further, this haste denies impacted communities and electorates not only access to participation in, but also observation of the process.

As I said, this bill compromises the rights of Indigenous people living in the Territory to make decisions based on free, prior and informed consent. It negates the rights of procedural fairness and natural justice by excluding, under the Administrative Decisions (Judicial Review) Act, any judicial review process in respect of proposed sites for the location of a Commonwealth radioactive waste facility.

The Human Rights and Equal Opportunity Commission provided a submission to the inquiry. On page 6 of the submission they talk about the United Nations Declaration on the Rights of Indigenous People. They say that article 29 of that declaration states:

2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.

This government’s own draft report on uranium mining, processing and nuclear energy—the Switkowski report—says that it is widely accepted that ‘effective community engagement is a common element in the successful siting of repository investigation sites’. There has been no effective communication in the Northern Territory by the federal government through this process—and, of course, there is no intention to have any effective communication.

But let us cut to the chase. On Stateline last Friday night, Minister Bishop suggested that the need for these provisions is a result of the numerous threats by the Northern Territory government to oppose this government’s actions by any means available, including legal challenges. She is very incorrect. There has never been any suggestion by the Northern Territory government that they would make any legal challenges to oppose this dump. They have never said that. That was an incorrect statement by the Minister on Stateline last Friday night—and I hope that, at some stage, she will have the courage to correct the record in respect of the actions of the Northern Territory government.

But let us be really clear what this is about. This is about ensuring that this government’s proposal to push this dump towards being on Muckaty Station is realised. Let us line up all the dominoes here. Earlier this year the Office of the Registrar of Aboriginal Corporations amended the constitution of the Muckaty Trust Association—with, I might say, some concern from the members of the Muckaty Land Trust, who believed they were not well informed by ORAC prior to that happening. ORAC tightened up their constitution, broadened the representation and ironed out a few rough edges in terms of
the way in which the Muckaty trust can be managed.

This is also about the five families who belong to Muckaty Station, three of whom live on adjoining land. Senator Scullion himself said—and I will be interested to see the *Hansard* at some stage—that this was about ensuring that anyone who was on land adjacent to the Northern Land Council boundaries could provide no objections. That is exactly the political reality of this bill. This bill is about cutting out all the people affected by Muckaty Station, not just some of the traditional owners but a majority of them—not the ones who live within the Northern Land Council boundary but the ones who live within the Central Land Council boundary. I have a copy of a letter that was written by those people to the chairperson of the Northern Land Council, Mr John Daly, back in July. It states:

Dear Mr Daly,

We write to you with deep concern.

In the past, we have trusted the Northern Land Council (NLC) to protect our Homelands …

Mr Daly, why are you talking to David Tollner and Nigel Scullion for us about our country? Why are you helping the Commonwealth Government to take control of our land to build a nuclear waste facility?

Mr Daly, we ask you to stop talking for us. We do not want a nuclear waste facility built on our land. This bill is exactly about silencing these traditional owners. (*Time expired*)

**Senator IAN MACDONALD** (Queensland) (6.05 pm)—It would be hard to recall better representatives for the Northern Territory than Senator Nigel Scullion and Mr David Tollner. We have had some good representatives from the Country Liberal Party over the years—the representatives from the Labor Party have not always been so hot—but you would go a long way to find better representatives than Senator Scullion and Mr Tollner. They both have the interests of the Northern Territory and Australia at heart in all the decisions that they make—and they do that again in relation to the Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006. They do not act from some left wing ideology like the Labor representatives from the Northern Territory. They act in the interests of their constituents and in the interests of Australia.

I do not want to keep the Senate long, but I do want to indicate that I am in favour of the safe and responsible management of nuclear waste and I am in favour of Aboriginal people being able to make their own decisions about infrastructure development on their own land. Accordingly, I support the amendments.

It seems from the previous speaker’s speech that she and her party are in favour of Aboriginal people being able to make their own decisions only when it is Aboriginal people who happen to have the same view of life as they do. If it happens to be an Aboriginal group such as the Northern Land Council, who have indicated quite clearly that they want something, and it does not accord with the left wing view of the Labor Party, then the Labor Party are not very interested in what Aboriginal people want. Senator Crossin said she was not here to criticise the Northern Land Council but then she spent a fair proportion of her speech doing just that. I hope that the Northern Land Council and other Aboriginal people understand that Senator Crossin and her party are more interested in the Big Brother approach of saying: ‘We will tell Aboriginal people what is good for them. If they happen to have a view that doesn’t accord with ours, then that is not good for them. They don’t understand what is happening. We will tell them what is right.’ I am proud of Sena-
tor Scullion and the member for Solomon, Mr Tollner, in standing up for Northern Territorians, standing up for these Aboriginal people who have indicated what they want to do through their land council, and pursuing this particular policy.

Senator Crossin said with some feigned amazement, one would think, that the Australian Conservation Foundation, the ACF, was not invited to peddle their view on life around the Northern Territory. Why would you get the Australian Conservation Foundation in? Everybody knows that, for many a year now, they and the Australian Labor Party have been working very closely together, which is why they have not been treated as a genuine conservation group, as opposed to a political lobby group, for some time now.

As senators have mentioned, this bill provides a discretionary legislative mechanism for the return of land that has been used as a radioactive waste storage facility to the land trust to which it belonged, removes the process of nominating a site for consideration for use as a Commonwealth radioactive waste storage facility from the application of the AD(JR) Act and also removes the mandatory nature of the requirements governing the process for making nomination. I support this bill because it addresses issues that have been raised by the Northern Land Council in relation to the sensitivities for Aboriginal groups that may be considering putting forward their land for nomination to accommodate a Commonwealth radioactive waste management facility.

This debate has ranged far and wide. The general approach from the Labor Party and from some of the other speakers indicates a head-in-the-sand attitude to Australia’s future energy needs. I note that some members of the Labor Party, such as the member for Batman, Mr Martin Ferguson, believe there should be a debate on nuclear energy, as those of us on this side do. I am not saying that is the be-all and end-all of our energy requirements and greenhouse gas questions; I am simply saying that nuclear energy should be part of the mix. It should also include hydro—I am always surprised about this—which the Greens seem to be opposed to. I invite the Greens, as I have previously done, to explain to me why hydro is bad. It would seem to me to be the best energy source that would have the least impact on greenhouse gas emissions. The Greens also seem to be opposed to biomass when it comes to helping reduce greenhouse gas emissions. I think they both need to be looked at and put in the mix. The Greens now say they are all in favour of wind power. However, it was not so long ago the Greens were opposing wind power because of what they class as visual and noise pollution.

This government believes that there should be a wide range of energy sources put into the mix. An interesting one that the member for O’Connor, Mr Wilson Tuckey, and many of his Western Australian colleagues, including Senator Eggleston and Senator Johnston, have long been advocating is the use tidal power in the north-west of Western Australia. I must congratulate those Western Australians who have put a hell of a lot of work into looking at tidal power in the north west. I do not claim any expertise on this but it seems to be a great initiative that deserves further consideration and so, too, the government’s clean coal initiatives.

While the Greens, the Labor Party and the Democrats seem to be totally opposed to nuclear power, they always laud France, Great Britain and Europe, with their greenhouse gas emissions. However, they always forget to mention that those European countries have ‘proportionately’ low greenhouse gas emissions because they have a substantial commitment to, and usage of, nuclear
power. When I was in the United Kingdom with a delegation a few months ago, the United Kingdom government was renewing its commitment to the use of nuclear power as part of a mix. One of the reasons used was that nuclear power limited their greenhouse gas emissions. They are the sorts of facts that those opposed to even putting it on the table for debate think about when it comes to the question of whether or not nuclear power should be included in the debate on future energy needs not only for Australia but also for the world.

Time moves on. Issues in this debate have been widely canvassed by all speakers. I commend the bill to the Senate and urge its adoption.

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Finance and Administration) (6.14 pm)—I thank honourable senators for their contributions to the debate on the Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006. I must concur with my colleagues on this side about some of the hysteria that has been peddled in relation to this. Any piece of legislation that relates to nuclear energy seems to attract an extraordinary level of hysteria. I think it just goes to show that there is a maturity on one side of the Senate in being willing to debate these issues sensibly, which is lacking in some other places. I do thank honourable senators for their contributions.

The minority report of the Employment, Workplace Relations and Education Committee’s inquiry into this bill contains much speculation as to the intent of the bill. I read that the bill is purportedly about overcoming opposition from traditional owners to the nomination of their land without weakening Aboriginal land rights and about denying legitimate challenges to land nomination. These alleged intentions of the government are just not supported by any sensible reading of the bill. The intent of this bill is clear: to allow an Indigenous community, if and only if it so desires, to nominate its land for a radioactive waste facility without interference from those ideologically opposed to the establishment of a facility.

The government is trying to facilitate a voluntary nomination of land that could be considered for a facility. The minister has repeatedly given assurances to the parliament that, should a nomination be made, she will only accept it if satisfied that the criteria listed in the act have been met. What the government will not accept are speculative legal challenges that are designed not to ensure that Aboriginal people’s wishes are respected but to frustrate and delay the establishment of the facility. The need for these provisions comes as a result of the numerous threats by the Northern Territory government to oppose this government’s actions by using any means available, including legal challenges. Anti-nuclear green groups have also demonstrated a track record of taking legal action against government activities involving nuclear materials.

None of these threats are based on any objective analysis of the safety of the planned waste facility. The safety and security of the facility is assured by the comprehensive and stringent Australian environmental and regulatory requirements that apply to it. Following completion of the scientific and technical works and the presentation of a detailed assessment of any chosen site, people with a genuine belief that there are unresolved safety issues will have the opportunity to formally put their case to the independent regulators. These threats of legal action are to stop the government commencing the proper process: selecting a site to undergo full, independent environmental and regulatory scrutiny. These threats are to stop In-
Indigenous communities nominating their land for the facility if they so wish.

Under existing provisions of the act, a nomination may only be made by a land council or the Northern Territory Chief Minister. It is an entirely voluntary process. This bill does not alter that requirement in any way. The land councils have made it clear that they cannot and will not nominate Aboriginal land without the consent of the traditional owners concerned. The Aboriginal Land Rights (Northern Territory) Act 1976 lists the functions of a land council as including consultation with traditional owners of Aboriginal land with respect to any proposal relating to the use of that land. In fact the suggestion that a council would act against the express wishes of its constituents I find insulting to the councils concerned. As the chairman of the Northern Land Council told the Senate inquiry, he would be swinging from the nearest bloodwood tree if he nominated land contrary to the wishes of the traditional owners.

Of course, there is another important element of the bill which has been largely overlooked in this debate—that is, to ensure that, should a voluntary site be selected for the facility, there is a mechanism for the land to be returned to its original owners or successors when the site is no longer required for the facility. Again, this can only be done with the consent of those wishing to receive their land back. We have heard from the Northern Land Council that there is interest amongst Aboriginal groups within its area in nominating land. Further, they have indicated that it is concerning for groups to permanently give up their freehold title to that land. This government is responding to those concerns in a sensible and constructive way. These provisions are being made to protect the rights and interests of the traditional owners of Aboriginal land. That these provisions came after concerns were raised by the Northern Land Council indicates that the only thing the Northern Land Council is protecting is its constituents.

As to the Central Land Council’s outright objection to the bill, I would simply make the point that if there is no nomination of land within the CLC’s area then the bill will not have any impact whatsoever on Indigenous interests within their jurisdiction. As the CLC and the Northern Territory Chief Minister are vocal opponents of a facility, a nomination of land within the CLC’s area seems highly improbable, but it is entirely within their own control. The government is responsibly proceeding with the technical investigation of three potential sites on existing Commonwealth Defence land. If we do not receive a nomination, we will go ahead with one of those three sites. However, the government would welcome the opportunity to discuss the possible nomination of land with Indigenous communities who are prepared to take a mature and responsible approach to radioactive waste management and any opportunities it presents.

The Australian government has had to take responsibility for waste management due to the state government’s ideological and ‘not in my backyard’ approach to this issue. The states are happy to benefit from the medical radioisotopes produced by the Australian government’s premier nuclear science and research organisation, ANSTO. They are happy for their citizens to receive treatment for cancer and other life-threatening illnesses, but they refuse to take any responsibility for the disposal of the small volumes of waste that is a consequence of the Australian government’s production of nuclear medicines for the benefit of all Australians. In the interests of all Australians, and to protect the interests of Indigenous Australians in the Northern Territory who might be contemplating a land nomination, I commend this bill to the Senate.
Question put:
That the amendment (Senator Stephens’s) be agreed to.

The Senate divided. [6.25 pm]
(The President—Senator the Hon. Paul Calvert)

Ayes………… 30
Noes………… 34
Majority……… 4

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.
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.
Stott Despoja, N. Webber, R.
Wong, P.       Wortley, D.

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

PAIRS
Conroy, S.M.    Mason, B.J.
Faulkner, J.P.  Santoro, S.
Hogg, J.J.      Vanstone, A.E.
Lundy, K.A.    Minchin, N.H.
Marshall, G.    Barnett, G.
Sterle, G.      Adams, J.

* denotes teller

Question negatived.

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

The Senate divided. [6.28 pm]
(The President—Senator the Hon. Paul Calvert)

Ayes………… 33
Noes………… 30
Majority……… 3

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

NOES
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.
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.
Stott Despoja, N. Webber, R.
Wong, P.       Wortley, D.
Pair S

Adams, J. Sterle, G.
Barnett, G. Marshall, G.
Mason, B.J. Conroy, S.M.
Minchin, N.H. Lundy, K.A.
Santoro, S. Faulkner, J.P.
Vanstone, A.E. Hogg, J.J.

* denotes teller

Question agreed to.
Bill read a second time.

Sitting suspended from 6.30 pm to 7.30 pm

Third Reading

Senator SANTORO (Queensland—Minister for Ageing) (7.30 pm)—I move:

That this bill be now read a third time.

Senator BARTLETT (Queensland) (7.30 pm)—I was originally intending to speak in the second reading debate on the Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006 but was unavailable at the appropriate moment. In some ways, I want to make more of a summary comment, which probably suits the third reading of this bill. I want to make clear on an individual level that I oppose this legislation. It was the Democrats clear-cut election commitment, prior to the last election, that we oppose radioactive waste facilities such as this legislation seeks to enable. It is worth reminding the Senate that it was also a clear-cut commitment of the federal coalition not to build this facility in the Territory. Nevertheless, the parliament has passed legislation already in an effort to enable it to happen. This legislation will also pass, I assume, to further facilitate that.

I wanted to make the broader comment that, whilst I am opposed personally to this legislation, I think there are some problematic aspects to some of the comments made by those opposed to it. The Democrats have always had a very strong commitment to the principle of self-determination for Indigenous people. Frankly, it is a principle that has not been given a decent trial at any level of government or by governments of any type, colour or persuasion in Australia, and I really think it is time governments did.

A key part of self-determination is that you cannot apply it selectively. You cannot say it is okay for self-determination when Indigenous people do something you agree with and then, if they decide to do something with their land that you do not agree with, to ignore that principle. Anything that anybody, Indigenous or otherwise, wants to do on their land must be in accordance with the law; I do not suggest otherwise. But it is important that the principle of self-determination is supported, and it is probably more important that it is supported when it is inconvenient than when it is convenient. To that extent, I agree with at least that part of the comments that Senator Scullion made.

I know there are differences of opinion amongst Aboriginal people in the Territory. There is obviously a very clear difference of opinion between the Central Land Council and the Northern Land Council boards. I am sure there are differences of opinion amongst traditional owners at the grassroots level as well. Those disputes are for those people to sort out themselves, frankly. If there are traditional owners of lands in the Northern Land Council area that are potential dump sites, and they are unhappy with what the Northern Land Council does, then that is a matter that I am sure they would need to and would take up with the officials of the Northern Land Council, many of whom are of course traditional owners themselves. The board members are obviously traditional owners, but they are traditional owners of different country. If there are disagreements then I do not seek to take sides in those disagreements. I know the Northern Land Council has a reasonably good record of
consulting. That does not mean that everybody will support decisions that are made.

There are risks with this legislation. I think any legislation that, in effect, removes the right to ensure procedural fairness is a problem. That is one of the reasons why I oppose it. I think it is important to put on record my belief—and it has, as I said, been a longstanding Democrat principle—that self-determination is one of the most fundamental principles we should seek to apply in political affairs in Australia. It is something that you cannot apply selectively, which is a habit of all sides of politics. I am certainly not applying that to just those who oppose this facility; it is something that all sides of politics do. All sides are quite happy, as the government has done on this occasion, to point to a group of Indigenous people and say, ‘They support this and we should support them in their right to do whatever they want on their land.’ It is a good principle. I would like to see the government apply it consistently.

In question time today, we heard that Senator Kemp, the Minister representing the Minister for Families, Community Services and Indigenous Affairs, seemingly has no concern about the fact that the federal minister has blocked a proposal by the council that oversees the city of Wadeye to lease some of their land. The government wants them to lease land only when it is on terms that the government likes—not on terms that the Aboriginal council wants. We had the extraordinary circumstance of Senator Kemp thinking that it is somehow, to use his words, ‘curious’ and ‘very strange’ for me to want to take the advice of Indigenous communities. It is a pretty sad day when you have the official representative in the Senate of the minister for Indigenous affairs thinking that it is somehow strange to want to seek the advice of Indigenous communities. I would like to think that that is done as a matter of course, although I know that it is not.

I note reports today on consultations that were happening in Alice Springs about potential sites for proposed temporary accommodation for visitors from Aboriginal communities coming to Alice Springs. Those consultations were aimed at making people informed about the proposal and seeking their views. But, at the same time, according to this report—I am assuming it is accurate—the representative of the federal minister said:

The risk is the Australian government will say, ‘If we are just going to get ourselves bogged down in some tacky argument then quite frankly there are a lot of other communities that have similar problems to Alice Springs and maybe we should invest there.’ We have to be very careful about making sure the federal government is backed.

I am assuming that quote is accurate. It is in quotation marks. If it is accurate then that is another indication of the selective application of this principle from the federal government’s side of things. When they want to do something then the views of Indigenous people are not taken into account unless they happen to match what the federal government already wants to do. If they do not then their concerns are basically ignored. So it is a problem across the board. It is a concern I have in regard to arguments made by people across the political spectrum: that they pull out the principle of self-determination when it suits the action that they support but will ignore it when it does not.

I really think we need to recognise that self-determination is more important than that. As long as it is legal for something to be done on a particular piece of land, then if the Aboriginal people wish, in an informed way, to allow that activity to take place on that land we have to accept that they have the ability to make the choice about that.
Of course, the other issue that has to be raised in that context is the need to provide more genuine choices and opportunities for Indigenous people and Indigenous communities, not just in the Territory but around Australia, because in many cases it is the lack of other opportunities and the lack of viable alternatives that can unnecessarily pressure Indigenous communities or particular groups to go down a path that they would not otherwise take, or to agree to a course of action that they would prefer not to agree to if there were other alternatives. So a key part of self-determination and any sort of informed consent involves a genuine commitment to providing a range of alternatives and genuine opportunities to Indigenous people, including young Aboriginal and Torres Strait Islander people around the country.

I do not want to stray too wide and too far from the single purpose of the legislation but I think those broader points need to be made. We need to be consistent in regard to the principle of self-determination. I would like to see the government apply it much more consistently. I am quite happy to try and ensure that people on my side of the political spectrum also apply it more consistently than we sometimes do.

Question agreed to.

Bill read a third time.

BUSINESS
Rearrangement

Senator SANTORO (Queensland—Minister for Ageing) (7.40 pm)—I move:

That intervening business be postponed till after consideration of the government business order of the day relating to the Defence Legislation Amendment Bill 2006.

Question agreed to.
civilian model. This is a deep philosophical divide marking the determination of the traditional defence establishment to remain a law unto itself, as it has been for many centuries.

Labor was critical of the government’s acceptance of the military review rejecting the committee’s recommendations and, to this date, we remain so. The unanimous, all-party committee view was that, on the damning evidence to that committee, radical reform was essential. Until the essential reform of making the military justice system truly independent, outside the chain of command, the system would remain compromised. It would remain biased and unfair and continue to fail those seeking justice.

This bill implementing the government’s response provides little remedy. In fact, this bill is more of another propaganda effort. The minimal change proposed is presented here as groundbreaking reform. That, by the way, is also the view of the Senate committee. The committee’s views, especially the dissenting views of Labor senators, ought to be noted. The amendments, as we have now seen, are limited. Whilst they have addressed some weaknesses, overall they fail to address our fundamental objection.

The simple reason for Labor’s opposition is that the so-called new system remains part of the military hierarchy. It is staffed by military personnel without any of the attributes which denote proper systems of justice in the modern world. The use of the word ‘independent’ by the minister to describe this new system is simply spin—nothing other than spin.

The presentation of the bill, in both the minister’s speech and the explanatory memorandum, is misleading. The bottom line is that the government wants no change to military justice and is happy to fudge it so that the dysfunctional system will effectively remain in place. As a result, Australia’s fine men and women in the ADF will continue to endure a system of justice that is less than the community standard. We believe they deserve much, much better.

The detail of the Labor argument critical of the bill as a whole has been set out by my colleagues in the House of Representatives chapter and verse. I will not repeat all of those arguments, but I do want to deal with the substance of the amendments. Our original criticism of the military court established by this bill was that it was not a court at all. The old system was prone to bias, compromise, unfairness and abuse of individual rights. The Senate committee recommended that a new military court be established of similar nature to that established under chapter III of the Australian Constitution. As such the court would be established outside the chain of command. It would operate in the same way as a civil court, with independently appointed judges in the standard manner considering all evidence fairly and with all due process. Judges would be drawn from experienced and well-qualified legal people in the community. Defence experience would be secondary to judicial qualifications. As such they would have similar security of tenure as other civil judges and would be appointed by the Governor-General. In short, the committee could see no reason for such a court to retain any trappings of the military.

The court proposed in this bill bears no resemblance to the committee’s model. It is to be comprised of serving military officers who are legally qualified but do not necessarily have judicial experience. Originally, they were to be appointed by the minister for five years only, ceasing automatically on retirement, and denied promotion during office. At least, however, the government has now conceded those weaknesses. The amendments, which we support, transfer the power of appointment and dismissal to
Governor-General. That is a clear win. They also extend the term of appointment to 10 years, though still terminating on retirement from the ADF. That provides for some greater certainty and for building continuity and expertise but it still retains the connection with the chain of command. That is a limited improvement and a minor win.

Retirement from the ADF ought not disqualify any judicial appointment. In fact, it contradicts the power of appointment and removal by the Governor-General alone—and, as we have seen, retirement from the ADF is pretty easy to secure. That attitude was previously expressed in the explanatory memorandum such that if a judge ‘no longer meets his or her individual service deployment requirements’ they may be dismissed. How that sits with the power of the Governor-General is not clear.

Promotion for judges, while still denied during office, is to be automatic after the first five years but to a ceiling rank of brigadier or the equivalent rank in the RAAF or the Navy. This concession at least might remove one small disincentive to becoming a judge. We also support that amendment.

Another amendment changes significantly the attitude to jury trials for category 1 offences—that is, offences of a serious criminal nature. Instead of the provision of six-man juries with majority decisions, the amendment provides for 12-man juries with unanimous verdicts. That is also a win and at least bears some resemblance to the modern civilian model of justice which the government seems hell-bent on denying ADF personnel.

Another amendment to jury trials alters the majority verdict for lesser classifications of offences from four out of six to five out of six. This may be minor but at least it is a concession heading in the right direction, in favour of civilian standards of fairness.

Finally, and most importantly, the amendments concede the point the committee made that this court, whatever its shortcomings, should be a court of record. In fact, it remains breathtaking that the government should have denied this elementary point of fairness and justice in the original bill. But, as always, there is a list of qualifications which potentially render this major concession useless. Clause 13B provides at the end of section 148 the following escape route for secrecy and cover-up—the bane of military justice:

… the Court may order that the whole or a specified part of a record under subsection (1) is not to be published if the Court considers that such a publication would be inappropriate—a wonderful word, inappropriate—taking account of the interests of security or defence of Australia, the proper administration of justice, public morals or any other matter it considers relevant.

Think about that for a minute. Firstly, we have the most mealy-mouthed word possible that you use whenever you make a commitment but you want to enter a caveat to not deliver the commitment—that is, whatever is ‘appropriate’ in the circumstances. Then we say you can take into account the interests of ‘security or defence of Australia’. I am a reasonable man. There may well be a sound proposition that in a military court you should have proper regard to the interests of security or defence when trialling important matters. I believe there is probably an argument for that. But cop this: now the caveat not to have a record of proceeding is extended to ‘the proper administration of justice’. So we are in the situation where we have a tribunal, called a court, dispensing justice, but the ‘proper administration of justice’ can be used as a reason not to have a record of proceedings. If that is not Monty Pythonesque, what is?
But it gets even better. Whatever are ‘public morals’ in relation to the administration of military justice for serving personnel charged with civilian or other offences? If that is not good enough, if that is not wide enough—interests of security, defence, proper administration of justice, public morals—there is ‘any other matter it considers relevant’. That is the caveat that is entered into the creation of a court of record. So the extent to which the new court might be a court of record could easily become a fiction, as we have seen these smokescreens used time and time again to cover the truth. Putting it politely, we appreciate the concession but remain sceptical as to the honour of its intent.

There are various other amendments concerning terms and conditions of appointment from state jurisdictions and contempt of court matters which were clearly drafting oversights. Refinements have also been made to the process of jury deliberation. The opportunity has been taken to finetune those provisions as well as others in what seems to have been a pretty hasty drafting task in its first instance. The opposition supports those amendments. They go some way towards removing the committee’s objections to the bill, but stop well short of an ideal solution. It is a salutary experience to have dragged a stubborn government so far, but we know that the quality of military justice will improve, albeit not to optimum levels. On behalf of serving ADF personnel, we live in hope that the government’s attitude, denying them the standards of civil justice, might continue to mellow.

There remains, however, a significant issue with this proposed military court which is yet to be resolved. It concerns the status of the court as considered by the High Court. This particularly concerns the court’s jurisdiction over criminal matters, for which it is considered to be ill-equipped. In legal terms, there has long been a debate about the authority of military tribunals, which have been challenged in the High Court for their lack of judicial independence and impartiality. The view expressed by the Judge Advocate General is that, the closer such a tribunal can be aligned with arrangements for a court established along the lines of a chapter 3 court, the less likely a challenge might be. The pity is that, if the government had accepted the committee’s recommendations for a military court akin to those established under chapter 3 of the Constitution, this doubt could have been avoided. In fact, there is now a number of new applications before the High Court retesting this very issue with respect to existing military tribunal decisions.

These amendments do go some way to giving the court some enhanced status compared with the original draft. This especially concerns the court being made a court of record—though the qualifications, as I discussed before, are of ongoing concern. The court still looks like it is part of the chain of command, and the minister’s fine words change nothing. Indeed, as the Judge Advocate General of the ADF has stated in evidence to the Senate committee, this court looks like a tribunal. The consequences, however, are very serious. As the JAG pointed out in his evidence to the committee:

The AMC will have complete (and exclusive) Australian jurisdiction over members of the ADF outside Australia ... Given the present and likely future tempo of operations and exercises, it is entirely foreseeable, if not likely, that there will be charges of the most serious offences (such as rape or murder) against members of the ADF at some stage. The AMC would be the only Australian court which would have jurisdiction. The notion that such charges would be dealt with by a body described as a ‘tribunal’ ... is extraordinary.

The JAG went on to say that the bill represented a wasted opportunity to establish a military court with proper independent status.
Labor’s view is that, if this court is to remain, it should have its jurisdiction limited to service disciplinary matters. As a minimum, it should not preside over civilian criminal offences committed overseas. The Law Council of Australia is equally scathing in its criticism of the proposed court. This is not just for legal reasons but also for practical reasons of recruitment, retention, and the strong perception of a lack of independence.

In my few remaining minutes I will turn to the other main provision, that of the proposed Chief of Defence Force commission of inquiry. This does have something to recommend it in that such inquiries will be mandatory and the appointee to conduct it will be a civilian with judicial experience. This would appear to be somewhat of a contradiction to the hardline attitude to the military court on which only ADF personnel can serve. So what is it about a CDF commission which is so different with respect to real independence from the chain of command? It would seem that, at last, the repeated tragic deaths by suicide of young people in particular have hit home. If this is a personal expression by the CDF of his commitment to fix the problem, we are all pleased. We support this proposal because it is a step in the right direction. Indeed, it is a great pity that the initiative was not taken many years ago. As I am advised, it is something which does not need legislation. In fact, there has been speculation that the process could have been used in lieu of the board of inquiry into the death of Private Kovco. It is a great pity that such an opportunity was not taken. As we have seen, the board of inquiry report has already been widely reported in the media as a whitewash. Regrettably, a comparison of the evidence taken, and the contents of the report, do lead to that conclusion.

In the last decade, 79 ADF personnel have taken their own lives. That is both distressing and appalling. Yet we know so little of the causes, except that bullying and harassment seem to be common elements. Having an improved system of investigation truly independent of the military is a good start. Beyond that, though, it is difficult to see any other change for the better. A culture of bullying and harassment is entrenched in the ADF and little has been seen to change. For example, of those 79 suicides, no disciplinary action was ever taken against a single person. This is perhaps further evidence of the link between a failed military justice system and failed discipline.

The government would like us to think that the evil of bullying has been exorcised. If we could believe recent media stories of the new world, such as the very rosy story that appeared on Four Corners a few weeks ago—and we would like to—we should all be pleased. Then again, it is not long since the death of Trooper Lawrence from heatstroke in the Northern Territory last year on which no action was taken. The coroner found that the death was the result of negligence and Comcare is suing Defence for the maximum penalty under Commonwealth occupational health and safety law. Yet, in answers to my questions on notice, the coroner’s opinion was dismissed and the evidence of a prior warning was denied. This is simply not credible, so we await the Federal Court decision on the appeal with great interest.

However, this proposal for CDF commissions is also subject to some serious criticism from the Law Council—again, unheeded. The Law Council’s view is that, if this provision is to be enacted through regulation, there may be undesirable consequences. The council believes that, given its seriousness, the essential provision should be in legislation, not in regulations, and subject to direct parliamentary scrutiny. Labor supports that proposition. The reason for this view is
that there are many practical considerations which have been overlooked.

First, it is not considered practical to have such an inquiry into every death in the ADF, including road accidents. It is noted, though, that the council includes suicides in this category, with which we could not agree except to the extent that a CDF inquiry should not proceed until the coroner has determined cause of death. There is nothing more distressing than the suicide of a young person in particular, and we believe such occasions must be examined with the utmost care. The conflict with the powers and responsibilities of state coroners and the lack of suitable arrangements with some states is cited as another concern whereby the CDF inquiry could be unnecessarily complicated.

Finally, the Law Council is concerned at the availability of civilian judges to conduct what could be up to 40 inquiries a year, when the demands on the judiciary are already very high. The council’s suggestion that a wider pool of expertise be provided for, including retired judges, QCs and SCs, is a sensible recommendation which we support. The opposition supports the bill and its principal amendments.

Senator BARTLETT (Queensland) (8.00 pm)—Senator Bishop has just gone quite thoroughly through all the provisions of the Defence Legislation Amendment Bill 2006 and the amendments that will be made to the act, so I will not go over the same ground again. I would like to reinforce some of the concerns that he raised and associate the Democrats with them. Being on the cross-benches with a lot of different areas I have to try to cover, I have not been able to follow this issue with the detail that I would like.

I was involved to a relatively small degree in the original Senate committee inquiry into the military justice system and I thought it was a very good report. I was pleased to be a part of it and I have been seeking to follow progress since that time. I share the concerns in regard to the inadequacy of some of the responses. I suppose I have to say, to be balanced, that compared with the way that many ministers respond to other Senate committee reports the government and the Defence Force are doing pretty well. It would not be hard to do well by comparison because most government responses to committee reports are abysmal. They are extremely slow for starters and often fairly dismissive as well when their response does finally come down. I would at least acknowledge again on the record there was a relatively prompt response by the then Minister for Defence, Minister Hill, which was accompanied by some action, and there is continuing action.

I do think it is appropriate to acknowledge that, even so, I am not satisfied with all that has been done but it is also appropriate to acknowledge that there has been action, there continues to be and there will be further action. I know the committee, which I am no longer a member of due to time constraints, is continuing to follow through, to pressure the government and defence forces and also to monitor progress. That is very commendable because one area where committees sometimes fall down is in the follow-through when they have produced the report and urged everybody to take it on board but do not actually then follow through with the issues. The committee is doing that and I think it should be commended for that.

I have said a number of times in this place—I do not think it can be repeated often enough—that one of the core issues that affect recruitment and retention of personnel relates to how people in the ADF are treated, and the military justice system is a key part of that. When people get a raw deal then not only they but their families really sense that injustice and they let a lot of other people know about it as well. It is a very big signal
to a lot of people who are thinking about joining the military that perhaps they might want to think again. If people do not think they will get a fair deal when they run into difficulty in any organisation, line of activity, pursuit or profession then, not surprisingly, they are far less likely to go into that line of activity. So it is very much in the national interest as well as just in the general interest of the people in the ADF that we continue to get positive reform in this area.

This legislation does go some way towards doing that. We saw today in reports of another internal investigation inquiry into the way the ADF deals with discipline and justice matters that there are still significant problems, and you cannot fix all of those by legislation or by changing structures. Those matters are important, but it is about the culture and that is something where significant improvement is still needed.

I have a lot of respect for the current head of the ADF and I believe there is a genuine desire to move things forward, but it is always a difficult job to make the sort of quite major changes that have been recommended and that I believe are still needed. I do not think any organisation has a history or role quite like the defence forces do, but in any group of that size and with that sort of history it is quite difficult to dramatically change cultures, attitudes and approaches in a short space of time. Structural reform is a key part of ensuring attitudinal change as well and that is why continued progress in this area is important. From the Democrats' point of view that is really the key issue here.

I will not go into the fine print in the way that Senator Bishop has done but that broad principle is still important and I would also take the opportunity to link it to the equally important area, beyond the scope of this particular legislation, of how we treat service personnel, ex-service personnel and veterans when they have been injured, been wounded or run into other difficulties. I think we still have a lot of room for improvement there as well. That has some linkage to the military justice system but goes wider than that.

Whilst I always try to be balanced and to acknowledge positive moves forward when things are being done well—and I do acknowledge that you will never have everybody 100 per cent happy and have everything perfect—I think we still have significant room for improvement in the way ex-service personnel are treated and the support that needs to be provided to them when they run into difficulty. Although there have been improvements, I think there is still significant room for improvement in that area as well. On behalf of the Democrats I am keen to try to play a role in maintaining pressure and continuing to get the change that is needed.

Senator KIRK (South Australia) (8.07 pm)—I seek leave to incorporate a speech by Senator Hutchins on this matter.

Leave granted.

Senator HUTCHINS (New South Wales) (8.08 pm)—The incorporated speech read as follows—

The process by which this legislation has come about has been long and involved a great deal of exposition of the personal pain of many individuals formerly and currently serving in the ADF. This bill is directly a response to the recommendations of the then Senate Foreign Affairs, Defence and Trade Committee References Committee's report into military justice in 2005.

I chaired that inquiry, and I, like other Senate colleagues also serving on that committee, heard from numerous witnesses who had been dealt with poorly by the military justice system. Military justice in this country has been exposed to significant examination over the past 10 years, ostensibly stemming from a continual failure in its ability to deliver justice in a fair and independent way.
Three High Court challenges and another under-way, as well as six separate coronial, judicial and Parliamentary inquiries have all challenged the legitimacy of the system of justice administered by the defence forces.

Notwithstanding the valid argument that the ADF at times has cases particular to it, it is not true to say that only the ADF is best disposed to handle those cases.

In fact, the evidence before us suggests the opposite. The evidence before us suggests that the ADF is incapable of properly investigating cases and prosecuting them in a fair and timely manner.

There was a litany of examples brought before the 2005 inquiry of just such inadequacies.

That inquiry found that the administration of complaints was not adequate, and this was reflected in many of the submissions. There is an unfortunate and obviously incompatible convergence of the principles of criminal law and the heaving machinery of Defence bureaucracy. This nexus has produced a system rife with untrained or inadequately trained investigators; delays of several years, in some cases, in the processing of complaints; and a general lack of independence.

This has led to complainants and witnesses receiving no protection from those higher in the chain of command, and in fact have fallen victim to a culture that disproves of a ‘breaking of the ranks’.

None of this is news to the Government, and in fact the point has been made continually over the past decade, and most recently this week with the release of the ADF-commissioned audit into its investigative capabilities.

The audit showed a culture of obstructing investigations by commanding officers and a chronic lack of skilled military police whose enormous caseloads are leading to delays in the resolution of investigations.

Not surprisingly, a great chunk of complaints about military justice—one in six, as a matter of fact—are directed against the military police.

The consequences of the failings of the military justice system have a very human face. They are the individuals who have felt victimised and persecuted because they have spoken out against injustices they have witnessed in the ADF, but have not been afforded the appropriate protections by senior personnel. Some of these individuals have seen their career stall or lie in tatters after spending years defending themselves against what they see as a service-wide hostility towards them. In more extreme cases, those particular individuals have been driven to more desperate means and resorted to suicide.

Left behind are the families of these individuals who have seen their loved ones crumble under incredible pressure and never dealt the justice they were searching for.

This legislation is the Government’s response to the deficiencies in the system I have just outlined.

This response, however, is entirely inadequate.

At the centre of the Government’s approach to this issue is its belief that the military justice system should remain wholly within the hierarchy of Defence.

The situation that this perpetuates is that the military judges the military. The justice meted out by the military is steeped in the very culture that the dozens of people who came forward before the Senate inquiry complained of.

This is the culture that has also been blamed for obstruction in the ADF audit into the effectiveness of its military police.

We needed to see in this legislation a ground-up reform, where the military justice system was removed from the chain of command and made truly independent.

This bill claims to do that by allowing a fixed, 10-year tenure for military judges, who would be, according to the logic of this legislation, above and beyond the chain of command.

But those who are appointed military judges are still derived from the military itself.

They are required to have sufficient experience in the services, and equally sufficient judicial skills.

This will lead only to the selection of people who are products of the culture that has attracted so much criticism.

The bottom line is the Government is not supportive of systematic reform, they are content to fiddle at the edges and see the continuation of the injustices the system has produced thus far.
Senator SANDY MACDONALD (New South Wales—Parliamentary Secretary to the Minister for Defence) (8.08 pm)—by leave—I take the opportunity to sum up and acknowledge the opposition’s general support for the Defence Legislation Amendment Bill 2006. I also acknowledge the contribution that the shadow minister, Senator Bishop, made to this debate and his interest in this very important area of reform.

As the Senate will recall, in October 2005, in his speech tabling the government’s response to the 2005 Senate report into the effectiveness of Australia’s military justice system by the Senate Foreign Affairs, Defence and Trade References Committee, a committee that I was on—and I think you were too, Mr Acting Deputy President Hutchins—the previous Minister for Defence, Senator Robert Hill, commented that the Australian Defence Force does a truly magnificent job in defending this nation and its interests. Those words were very prescient, of course, as the last couple of years have certainly shown, as they continue to do a truly magnificent job in protecting our interests both at home and abroad.

He also added that the government was committed to providing the best equipment and conditions of service to ensure that the ADF is a modern fighting force and that hand in hand with this is a determination to provide a military justice system that is effective and as fair as possible. The government continues to express its admiration of defence personnel undertaking important and often dangerous activities in Australia and on overseas operations. The government is also committed to reforming the military justice system to address the concerns of defence personnel, the parliament and the community by continuing its commitment to the objectives outlined by Senator Hill at that time. This bill is designed to make a significant enhancement to the military justice system which, in turn, will facilitate a confidence in that system among those that it serves. I would say that if further reforms are necessary as time goes by, they will certainly be considered by the government.

There were a number of questions that Senator Bishop raised that I will respond to in a general sense. The first question he raised was: how will the Australian Military Court ensure its impartiality and judicial independence? He made that general reference. The AMC will be a statutorily established service tribunal which will be independent of the chain of command to enhance its impartiality. The AMC will report to the parliament, not the chain of command. Military judges will be statutorily appointed by the Governor-General and will have security of tenure and remuneration set by the Commonwealth Remuneration Tribunal, further enhancing this independence from the chain of command. The court will be provided with appropriate administrative support, led by the statutorily appointed registrar, so that it can function independent of the chain of command. The military judges will also not be subject to the DFDA in performance of their judicial function. Specialist legal advice from the Australian Government Solicitor was obtained to confirm these arrangements. The AMC will give members of the ADF an impartial, independent court.

A second question that Senator Bishop raised was: will the creation of the AMC provide the ADF with a best practice military trial system? The answer to that is yes. The AMC will contribute to the military justice system’s aims of impartial, rigorous and fair outcomes through enhanced oversight, greater transparency and improved timeliness. The provisions for the AMC include a limited jurisdiction, statutorily appointed military judges, a military jury for certain offences and a statutorily appointed registrar. Offences will be prosecuted only through the
office of a statutory DMP. An accused will have defence counsel in all cases, and this would be a legal officer, at no expense to the accused. Provision of defence counsel will be managed by the Director of Defence Counsel Services. In combination, these provisions are world’s best practice for a military court.

Senator Bishop also raised some questions about the CDF commissions of inquiry. I will pose the question: why are those personnel with civilian judicial experience able to preside over a CDF COI and not as a military judge on the AMC? The response is that the AMC and a CDF commission of inquiry serve different legal purposes. The AMC tries service offences and may impose a conviction and punishment under the Defence Force Discipline Act. A CDF commission of inquiry is a fact-finding administrative inquiry. The AMC is deployable and must be able to try service offences on overseas operations. Accordingly, it is necessary for a military judge to be a member of the ADF, who meets military standards for deployments.

A civilian with judicial experience who is a president of a CDF commission of inquiry conducts a fact-finding administrative inquiry. The procedures for a CDF commission of inquiry are set out in the Defence (Inquiry) Regulations 1985. This form of inquiry is similar to a general court of inquiry appointed by the minister, a combined board of inquiry by the minister; a board of inquiry by the Secretary of Defence and the CDF; the CDF, the service chiefs or other designated persons; an investigating officer inquiry by the CDF, service chiefs and other commanders; and investigations by the Inspector General ADF are all set out in the Defence (Inquiry) Regulations 1985. Consistent with this arrangement, the essential provisions relating to a CDF commission of inquiry are being included in the regulations rather than in the act.

The placement of legislative provisions concerning the appointment and procedures for a CDF commission of inquiry in the regulations will ensure consistency with all other ADF inquiries legislation. Additionally, in order to clarify the role of coroners and the ADF, in the event of a service death, the ADF and state/territory coroners have been negotiating a form of understanding governing the relationship and operating procedures between the various parties concerning deaths of service personnel and coronial ju-
It was agreed that each coroner would write separately to the CDF outlining the protocols to be observed between the two parties with regard to that particular coronial jurisdiction. To date both Victoria and Tasmania have provided such protocols. The remaining coroners are engaged with Defence with a view to agreeing on similar protocols.

Finally, do members of the ADF give up their rights as an Australian once they have joined the ADF? Clearly, no; Defence Force personnel are subject to the same laws and rights as apply to other Australians in addition to the Defence Force Discipline Act. However, the ADF applies a far greater level of additional regulation than that encountered in other forms of employment and demands behaviour which is consistent with its roles as an armed force. In that regard it is a unique employer.

Proscribed behaviour under the DFDA includes not only matters of a criminal nature applicable to the general community but a range of service disciplinary matters which constitute significant failings in the context of a disciplined armed force frequently serving overseas. While discipline is clearly fundamental to an effective military force, it must be tempered with a concern for individuals and their rights. Finding the balance between discipline and the rights of individuals is the key to achieving operational effectiveness and success.

The ADF has been praised for exemplary performance in operations. The military justice system, in providing the balance between discipline and individual rights, has underpinned the operational success of the ADF over recent years. An effective military justice system, as a core function of command, is necessary in addition to the civil code of justice.

I think that covers the points that I wish to take up as to Senator Bishop’s contribution. This is an important piece of legislation. It has been a long time coming. It was a pleasure—with you, Mr Acting Deputy President Hutchins, and other members of the Senate Foreign Affairs, Defence and Trade References Committee—to be part of the nurturing process of this particular piece of legislation. I know, Mr Acting Deputy President, that you took a particular interest in it. We heard some terrible stories, but in the scheme of things I think there was recognition by all of us involved in the inquiry that the ADF, for their part, did not approach it with the point of view of a lack of goodwill to finding a suitable solution and bringing the military justice system into the 21st century, which this legislation substantially does. A modern and professional ADF deserves a modern and effective system of military justice. With the reforms contained in this bill the government will provide a system that will better ensure impartial and fair outcomes and will strike a balance. The most important thing is to strike a balance between the need to ensure effective discipline within the Australian Defence Force and the need to protect individuals and their rights. I commend the bill to the Senate.

Senator MARK BISHOP (Western Australia) (8.20 pm)—by leave—I wish to respond briefly to the remarks of the Parliamentary Secretary to the Minister for Defence. While I had not asked any questions, the parliamentary secretary correctly identified the half a dozen issues that the opposition had been pursuing at the committee level, in contributions this evening on the Defence Legislation Amendment Bill 2006 and, I suspect, in contributions on the bill in the other house the other month. I thank him and his advisers for having taken the trouble to prepare notes to put on the record some responses to those half a dozen issues of in-
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Interest. I undertake to give consideration to those responses over the next few days.

Question agreed to.

Bill read a second time.

Third Reading

Senator SANDY MACDONALD (New South Wales—Parliamentary Secretary to the Minister for Defence) (8.22 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

BUSINESS

Rearrangement

Senator SANDY MACDONALD (New South Wales—Parliamentary Secretary to the Minister for Defence) (8.22 pm)—I move:

That intervening business be postponed until after consideration of government business order of the day no. 5, the Environment and Heritage Legislation Amendment Bill (No. 1) 2006.

Question agreed to.

ENVIRONMENT AND HERITAGE LEGISLATION AMENDMENT BILL (No. 1) 2006

In Committee

Consideration resumed from 1 December.

The TEMPORARY CHAIRMAN (Senator Hutchins)—Order! The committee is considering the Environment and Heritage Legislation Amendment Bill (No. 1) 2006 and opposition amendments Nos (1) and (2) on sheet 5151 moved by Senator Carr. The question is that opposition amendments Nos (1) and (2) on sheet 5151 be agreed to.

Senator SIEWERT (Western Australia) (8.23 pm)—I asked a question in our discussion of this legislation on 1 December about the line of argument that if we make climate change a trigger, the minister will have to say no. I asked:

Does that mean that we can expect him to say no from now on to all the other actions that are considered under the current triggers?

I was interested in whether the minister’s opposition to the climate change trigger meant that he would have to say no to a whole lot of coalmining proposals and whether that in fact extended to other developments—for example, on Christmas Island. He did not answer the question. In fact, he turned it around to ask the ALP. I am quite happy to ask the ALP that question at some stage in the future, but I actually wanted to know what the government thought about it. I also wanted to find out whether that means that the answer on anything related to matters of national environmental significance will be no. And, specifically, I ask: does that mean the minister will be saying no to mining on Christmas Island?

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (8.24 pm)—I may well say no to mining on Christmas Island when I read the assessment. But we are making an assessment, so I can say either yes or no. I have a question to those who want to say, ‘Let’s put an assessment requirement into the act which will require every coalmine in Australia to be subjected to an assessment based on greenhouse impact’.

You can already accurately assess the greenhouse contribution of a coalmine, based on—as Senator Siewert would understand quite well—a fairly simple calculation about the greenhouse gas emissions from each tonne of coal. Depending on the quality of the coal, you will know exactly—give or take a small percentage error—what the greenhouse gas emissions will be for a coalmine when the coal is burnt. That is quite easy.

I do not think it is so much a question for the Greens to answer, because I think Sena-
tor Milne very explicitly and very honestly said that—I do not want to verbal her on this but I think she said—’On a moral and ethical basis we would say no to coalmines, knowing that the coal will be burnt and will create greenhouse gases.’ The real question—I think I said last week—is one for either Beazley Labor or, potentially as it was then, Rudd Labor. I made the point that we do not take any joy out of leadership fights; we have been through a lot ourselves on this side. But there is an issue for Rudd Labor if they are proposing to apply a Commonwealth assessment for greenhouse gas emissions to coalmines. And this is even more interesting because Mr Rudd is from Queensland and he is pushing the idea of cooperative federalism. He needs to now tell Mr Beattie why he would put a new layer of Commonwealth assessment process across every potential coalmine in Queensland, if, in fact, a future environment minister—say, Peter Garrett in a Rudd Labor government—were not going to say no to opening a new coalmine in Queensland. I think it is a very important question for Labor to answer. I repeat the view that—and I do not want to go on ad nauseam; I would like to keep my answers shorter today—

Senator Carr—you’re not doing a very good job then, are you!

Senator IAN CAMPBELL—I think I am doing pretty well so far; in 2½ minutes I have covered a few fairly crucial issues.

Senator Carr—Waffle! You haven’t answered the question.

Senator IAN CAMPBELL—I actually answered it in the opening sentence—

Senator Carr—Then sit down!

Senator IAN CAMPBELL—but you wouldn’t understand.

Senator Ferris interjecting—

Senator IAN CAMPBELL—He is an obnoxious character, isn’t he! The biggest greenhouse gas producer on the Senate floor is Senator Carr. But the real question then becomes—and it is a very awkward question; you do not wonder why Senator Carr would get obstreperous and short-tempered, because it is a big issue for Rudd Labor now—

Senator Carr—you’re talking drivel now—absolute drivel.

Senator IAN CAMPBELL—We know that you get upset, Senator Carr. But you have got away now for about three years with having no policy on greenhouse except signing Kyoto—when the whole world is moving beyond Kyoto—and having a national emissions trading scheme to which the two big growth states in Australia have said, ‘No; we are not going to be part of it.’

So you have actually got to do some hard work. You have got to come up with some practical policies which will actually reduce greenhouse gases. Even putting a trigger into the EPBC is irrelevant unless you answer the question that the Greens have answered honestly. And the Greens and the coalition, from different perspectives, are sick and tired of the Labor Party getting a free ride on the environment. You cannot send Peter Garrett off to the Greens to say, ‘We’re anti coal,’ and then send Martin Ferguson off to say, ‘We’re pro coal.’ You can’t have Martin Ferguson going off to the uranium mining industry and saying, ‘We’re pro uranium,’ and then have Peter Garrett saying, ‘We’re anti it.’ You cannot get away with that for very long. The Greens are shining a light on your hypocrisy and your duplicity and so am I.

I have answered Senator Siewert’s question. I will get an assessment about mining on Christmas Island, I will look at that assessment, I will make a decision based on the science in the assessment and I will say yea
or nay to mining on Christmas Island. I may say no, or I may say, ‘Yes, subject to a whole load of different changes.’ They are the sorts of parameters I would have on any environmental assessment.

Labor are proposing an amendment. They want to put a new assessment requirement on every coalmine—in fact, every industrial facility—in Australia. If a Rudd government gets an assessment on a coalmine in Queensland or the Hunter Valley—a Sonoma mine or an Anvil mine—and it tells them it is going to produce millions of tonnes of greenhouse gas emissions when they burn that coal overseas, will the environment minister, be it Peter Garrett or Kim Carr—Senator Carr interjecting—

Senator IAN CAMPBELL—I do not think Kevin Rudd would appoint a member of the Liberal Party as his environment minister—even though each of the Howard government environment ministers has done far more for the environment than any Labor environment minister has ever done. This government has been the best friend the environment has ever had; that is just a matter of fact. But, as Senator Siewert asked: when Labor puts the anti coalmining trigger into the federal environment law, the EPBC Act, will Rudd Labor pull it? Senator Carr wants to bring this to a vote as soon as he can. I think he owes it to Australia to tell us whether he, Kevin Rudd or Peter Garrett—or whoever the environment minister is—will pull that trigger. Otherwise, why have the trigger? It is a fair question.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (8.31 pm)—And that was the minister ‘for’ the environment! The minister says that you can work out on the back of an envelope the amount of greenhouse gas that any coalmine in Australia is going to produce—whether or not it is exported overseas. But then he says he is opposed to a trigger. He argues himself into a corner. If it is such a simple matter to do an assessment of the greenhouse gas impact of coalmines—or thermal power stations or any other entity—then why not do it? One can only be left with the glaringly obvious conclusion that this minister for the environment does not want an assessment of how much greenhouse gas his action and his dereliction of duty will lead to in an age where climate change, as Senator Milne says, is at a tipping point.

If it is so easy to assess the greenhouse gas production from any coalmine—whether or not the coal is exported—why not do it? That is plain, clear information. The answer is that the minister would then have to act on that information. At the moment, he can fail to act in defence of the environment—as he so often does—whether it be the global environment or the environment of this great country of ours.

What is the minister’s assessment of reports that climate change is leading to the unhinging of the Ross icesheet in Antarctica and that, in coming years, this could rapidly lead to a sea level rise of between five and 17 metres around the world? Does the minister give any credence to these scientific reports coming from New Zealand? Which of the measurements—five metres or 17 metres—is true, or does the minister have some other assessment? What is the minister’s action plan for this nation in the event of that catastrophe? As the scientists are linking this to greenhouse gas production, does the minister not think it reasonable that we measure greenhouse gas production and expect action to prevent it so that such catastrophes can, in turn, be prevented down the line?

Senator CARR (Victoria) (8.34 pm)—I take this opportunity to canvass some of these matters. The Minister for the Environment and Heritage, Senator Ian Campbell, is
a former Manager of Government Business in the Senate. He spent a considerable amount of time in that job—in fact, some say he spent far too long in that job because the government did not have the confidence to move him from that job. I think he was in that job for six or seven years, so he would surely understand the importance of seeking to progress legislation in an orderly and timely manner at this time of year. I have no doubt that the government strategists—or what passes for strategy within this government—understand that principle. They would not have brought on at this particular time of year such a highly controversial piece of legislation, which has had so little public debate and consultation with the community, unless they understood that these are the circumstances in which governments seek to have legislation passed without proper consideration.

I am in fact quite grateful that the minister at the table is able to draw our attention to some of these questions. It is quite clear that he wants a protracted debate. It is quite clear that he wants these matters canvassed thoroughly and completely—and, if necessary, for some days—and I am only too happy to help them in that regard. It is quite clear that the minister wishes not to pursue the issues properly but to make tendentious points—which forces me to point out that the minister’s contributions are totally spurious. He makes the claim that the opposition is in the business of closing down mines. It is quite clear that the minister wishes not to pursue the issues properly but to make tendentious points—which forces me to point out that the government benches to be included in this legislation.

The government has failed to do what everyone else in the country is talking about, and that is to address the issue of climate change. That is what these amendments do. The government seeks to cover up its negligence and its incompetence by trying to misrepresent the opposition’s position by suggesting that, in a country which has 300 years of secure fuel supplies from coal, we would turn our back on the coal industry. The minister must think we are as stupid as he is to buy such a notion—300 years of fuel supply—that the coal industry is going to be closed down overnight, when he knows full well the opposition’s views on the question of clean coal and when he knows only too well my personal views on the work that CSIRO is undertaking and on other substantial research efforts being made within the scientific community in this country in terms of improving the efficiency and the capacity of our coal industry to respond to the whole question of the greenhouse gas challenge.

Senator Campbell has sought to propagate his ignorant and buffoonish attitudes up and down this country as if people were not awake to the sheer hypocrisy of this government and as if the public were not fully aware of the way in which this government has ducked and weaved on this issue over the last 10 years. This government has gone on its guts to the United States on these questions and moved its position according to the changes within US policy. This government has denigrated its own public servants, who as I have said on many occasions are some of the leading public servants in the world on these matters, and has vilified their work by suggesting that the whole Kyoto process is essentially a waste of space.

We know that the former environment minister did not share the current minister’s
view, because Senator Hill understood the need for a climate change trigger. If Senator Campbell were to be consistent with the position taken by this government in 1999, he would be supporting these Labor amendments. On 10 December 1999 Robert Hill released a consultation paper on the possible application of a greenhouse trigger under the EPBC Act. At that time Senator Hill said that ‘introducing a greenhouse trigger would provide another measure for addressing our international responsibilities in relation to climate change and ensuring Australia meets its Kyoto target’. But this minister tries to hoodwink the public into presuming that this was never the position of the Howard government. People who know something about the issue know what complete nonsense Senator Campbell is saying. We used to have an environment minister who actually cared about the environment; we now have an environment minister strutting around the country preoccupied with playing political games with parrots and whatever device he can come up with to protect the political interests of the Liberal Party. He is not about protecting the interests of the environment.

When Senator Campbell was a Democrat, when he learnt his basic politics as a member of the Democrats, he understood the importance of these issues. But since that time he has moved somewhat across the political spectrum to the point now where he is on the extreme right of the Liberal Party. I understand that he has had some problems with Noel Crichton-Browne and a few others in the ugly faction of the right in Western Australia. He now feels he has to mouth these platitudes to try to recapture the ground they once held and thus sees the need to denigrate the work of the moderates within the Liberal Party—and, of course, Senator Hill was one of those moderates. Under the policies that are being pursued by this minister the reputation of those moderates is being destroyed.

We have an extremist government with an extremist minister pandering to the most reactionary elements of the business community in this country with the view to pretending that he has an interest in environmental questions. We have seen the appalling sight of the environment minister seeking to push the line in various committees of this parliament that somehow or another Labor is advancing a position which is anti coal because we are proposing that there should be environment protection measures—in this particular bill it is a proposal for a climate change trigger. No-one ever accused Senator Hill of being anti coal when he put up a position very similar to the one that the Labor Party is proposing now. I do not think anyone with any real understanding of the politics of this country would buy for a moment the minister’s slurs, the minister’s contemptible defamations, in terms of the Australian Labor Party’s attitude towards the coal industry; nor would anyone for a moment take the view that the Labor Party was not interested in ensuring the advancement of the coal industry to the development of clean coal. What Labor Party leaders have said time and time again is that the Labor Party, if elected, will go down the path of clean coal and renewables. It is as simple as that. The minister knows that but he is seeking to completely misrepresent Labor’s position, as he has done here tonight.

I say to the minister that, if he wants to continue this discussion, I am only too happy to oblige him. We will go round for round, pound for pound, for as long as it takes. But as a former Manager of Government Business in the Senate, the minister would understand the consequences of the actions he has taken. I am sure his colleagues, some of whom might occasionally glance at the television screen tonight while enjoying the Christmas cheer, would be very impressed with his performance. I am sure Senator
Minchin would be very impressed with the sort of nonsensical, provocative and dilletante attitudes this minister is expressing.

In conclusion, we simply say that, when it comes to these matters, it is appropriate, reasonable and entirely in keeping with public sentiment that there be a simple measure included in legislation of this type that the minister should undertake an examination of projects on the basis of the merits of a particular project and should undertake an assessment in terms of the effect of climate change.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (8.45 pm)—I would like to make a couple of points. Senator Brown asked an entirely reasonable question. I think the last 11 minutes that Senator Carr blustered and filibustered for did not raise a single question. He needs to answer the question: what will he do when he has an assessment that says the Sonoma coalmine in Queensland will produce X million tonnes when the coal is burnt somewhere? He needs to answer the question: what will happen when a future Labor minister is given an assessment that says that the Anvil Hill mine will create 10 million tonnes? He just blustered on and wasted 10 minutes. He did not answer that question. What he failed to address was the fact that many members of the Australian Labor Party, mostly in his own diminishing faction or mini faction, have gone on the record making it quite clear that they oppose coal. Mr Beazley was unable to do this in his time as leader, but it is time that the Leader of the Opposition made a clear statement in relation to coal.

A Labor Party member of the House of Representatives has written to me. Her letter, above her own signature, states quite clearly, and I quote:

The Hunter is one of the world’s carbon capitals and is home to a rapacious coal-mining industry. Anvil Hill is a key part of the Hunter Valley coal export expansion which needs to be stopped if the world is to avoid climate change.

I would say that Senator Milne and Kelly Hoare are of like mind on that statement. The Newcastle Council, the Waverly Council and Labor Party members have all said that we cannot have coal if we are to save the climate, when in fact sensible people know that coal, whether we like it or not, will form a substantial part of the baseload power provision for the planet over the next 25 or 30 years at the very least. There will be an expansion from about 4½ million tonnes of coal to 7½ million tonnes of coal—I might have that figure wrong; I might have about two noughts missing there. There will be an expansion of about 30 or 40 per cent in the extraction and use of coal for baseload power across the planet in that time. So the real challenge, if you are serious about addressing climate change, is in fact to realise that.

This government is putting hundreds and hundreds of millions of dollars into renewables. Labor are not promising any money; they are just mouthing platitudes as usual. This is a big challenge for Kevin Rudd and his team. Rather than just saying, ‘Oh, we like renewables and we like clean coal,’ they should put up a budget for clean coal. Let us put a price on it and make a choice. He should say to the Australian people: ‘We’ll spend this much on education. We’ll spend this much on clean coal.’ Do not just say, ‘Oh, we like clean coal,’ or ‘We like renewables,’ put a budget on it. We have put up over $2 billion. We are spending that money. We are rolling out programs. We can be judged on our performance. I will be very happy to be judged on our performance of delivering practical programs to abate carbon dioxide and other greenhouse gases such as methane.
There is one other point I need to respond to from Senator Carr. Senator Hill did put out a discussion paper as promised in relation to the desirability of a greenhouse trigger. I think it needs to be put on the Senate record that every single state Labor government responded to that discussion paper, as did the two territory governments. Every single state Labor government opposed the greenhouse trigger. Senator Carr, being an active member of a faction in Victoria—as I said, a diminishing faction—talked about my factional allegiances and my role as Manager of Government Business. We know that Senator Carr’s record will show that he was the shortest-serving Manager of Opposition Business, probably for good reason.

Senator Carr—That’s not quite true.

Senator IAN CAMPBELL—I am happy for you to correct the record, but you were opposition manager for a very short period of time.

Senator Carr—Is that right? Check that again.

Senator IAN CAMPBELL—It seemed that way to me anyway. Maybe I was manager for too long. Maybe you are right and it is all comparative. But you were manager for a very short and ineffective time. I think the person who took over from you is doing a good job, as the person who has taken over from me, I suspect, is doing a better job than I did. I am happy to congratulate Senator Ellison and Senator Ludwig because I think they are managing the affairs of the chamber well.

Of course you will always get an interjection when a fact lands on the table that Senator Carr does not like. But every state Labor government says that they do not want this trigger. There was one government that said they did not mind the trigger. We could play the Senator Abetz game of ‘who said it’ but of course it was in fact Jon Stanhope. I think the mining and industrial activities within the ACT might lead you to wonder why that was. All of the other states said no. So the Labor Party, root and branch, rank and file, right across the country said no to this—and for good reason.

Senator Brown asked a serious question about the science. I accept the consensus of the science. We spent about $32 million of Australian taxpayers’ money on developing the best quality science across the country on a whole range of greenhouse gas and climate change issues. One of the most important reports was one by Professor Will Steffen that we commissioned from the ANU. We asked Professor Steffen to analyse all of the best research across the world to I guess, in a way, give us a lead towards which will be in the Intergovernmental Panel on Climate Change report that we will see next year.

His predictions are that generally the last IPCC report’s predictions were more likely to come in on the earlier range rather than the later range in terms of warming. Professor Steffen made the point—and I do not have the report at hand—that, yes, you could get sea level rises of some metres if you see, for example, the Greenland ice shelf melt. I think the prediction is for something like 7 metres. But, when he was questioned on that, he said that sea level rise would occur over a period of 1,000 years. When questioned about sea level rises in this century, I think his report said that the consensus is around about half a metre over the next 100 years. From the preliminary briefings I have had about the intergovernmental panel, they would coalesce around that figure as well. I accept those figures.

I think that practical, sensible action domestically, tied with international agreements, processes and policies that deliver real outcomes, are a matter of vital significance for Australia and the world—contrary
to what Senator Carr says when he verbals us as saying that the Kyoto process is a waste of space. Regardless of what he may think, perhaps he should sit down with Anthony Albanese one night and talk about what the Australian delegation did at the Nairobi conference. Mr Albanese was a member of the Australian delegation, and he saw what we did over there. If there were any parallel between what he said to me and what he says to his Labor Party comrades on the performance of the Australian delegation, Senator Carr could not possibly say that we were not deeply involved in the UN FCCC processes. The processes, contrary to what Senator Milne said on Friday, where we were deeply involved—

Senator Carr—As observers!

Senator IAN CAMPBELL—No, we weren’t observers.

Senator Carr—You were—you were watching the traffic!

The TEMPORARY CHAIRMAN (Senator Brandis)—Senator Carr, order!

Senator IAN CAMPBELL—One day, if Senator Carr ever—and God help the Labor Party if it happens—becomes environment spokesperson, maybe he will go on a delegation to the UN FCCC. He will realise that, in saying that, he is denigrating and reducing the efforts—I am happy to put my efforts aside—of a very dedicated, highly respected Australian delegation who worked in all of the processes of the United Nations framework convention over a period of two weeks and achieved all of the outcomes we set out to achieve. The core one was to get a robust and timely review of the Kyoto protocol, working shoulder to shoulder with European and other friends who are trying to get a global and comprehensive agreement on climate change action.

It saddens me that I would extend an invitation to a Labor Party spokesman to attend as a member of the delegation and that you either do not talk to Mr Albanese or that, if you do speak to him, he would say one thing to me and another thing to you. But I do not think that is the case: I respect the role that Mr Albanese played on that delegation, and he would tell you that Australia played a significant role in all of the forums of the UN FCCC. To describe our role as that of an observer is absolutely inaccurate, fictitious and a deep insult to the dedicated—

Senator Carr—But true!

Senator IAN CAMPBELL—No, totally untrue, totally misleading, pure propaganda coming from a failed and hopeless member of the Socialist Left whose ideals on these issues—secure energy and climate change—belong back in the 1960s.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (8.56 pm)—I wish to check: the minister said he accepted the science of the reports coming out this year. I asked specifically about the reports from New Zealand scientists about the Ross icesheet and the prospect of it melting and delivering a five- to 17-metre sea level rise around the world, with the West Antarctic icecap. I wondered if the minister could say whether he accepts that science.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (8.56 pm)—My preliminary advice is that that science is not accepted by the intergovernmental panel or by scientists around the world. It certainly would be a risk, but I think that has come from one scientist. It has certainly come from New Zealand. I think there is enormous value—and I am someone who sees enormous value, as the government does, because we make a major contribution to it—in the concept of having a very good panel across the globe of the best scientists available from all of the different parties to the United Nations.
Framework Convention on Climate Change. I think that one of the great achievements of the framework convention is that it has established the intergovernmental panel, and it ensures that any piece of science, such as that which has come out of New Zealand on the Ross iceshelf, can be peer reviewed, can be evaluated and can feed into sensible policy. As I understand it, that is not what the Intergovernmental Panel on Climate Change will accept as being the sort of science that we should base policy on.

My understanding from preliminary briefings on the Intergovernmental Panel on Climate Change is that—if you want to get a window on what is likely to come out of that—the work of Professor Will Steffen from the ANU, in the document that I published and that we commissioned on the best available science on the planet, is the best guidance. I would commend it to Senator Brown if he has not read it. That, from my point of view as environment minister, is the science that I would most recommend to people and take forward in any of my discussions within the government or internationally. It does say that the assessments made by the Intergovernmental Panel on Climate Change in its last report were more likely to come in earlier rather than later. The science is coalescing around the fact that the planet is warming more quickly than the last intergovernmental panel said, at around 0.6 to 0.7 degrees of warming over the last 100 years and double that rate at the poles. So there is a high risk, if there is no action taken or if it is business as usual, of the Greenland icesheet melting. I know there is consensus on that. That is why the world needs practical, real, effective actions, and that is why the world needs an agreement that involves all of the major economies.

If we want to be serious about this, we need to recognise that the old Kyoto protocol, the existing protocol, does not have a pathway towards involvement in commitments by the most rapidly industrialising countries, and we do need that. You cannot have a new Kyoto agreement, a post-Kyoto agreement or a beyond Kyoto agreement—whatever you want to call it—that does not have a pathway towards commitments by rapidly industrialising economies such as China and India. That is not an excuse for not taking action domestically anywhere in the world. It is not an excuse for avoiding concerted international action. What it is, in fact, is an opportunity for a country like Australia to get deeply involved in finding a pathway towards those major rapidly industrialising economies getting involved.

Although Senator Carr and I think to a lesser extent Senator Milne seek to disparage the Australian government’s role, we have worked very hard over the last two years in particular to play a constructive role, and what I might call a bridging role, between the interests in Europe and the interests in our own region finding a way to get commitments from those rapidly industrialising countries. That is very much the focus of what we must do. Just having 35 or 40 per cent of the world’s economies involved in an agreement, and ignoring 60 or 70 per cent of the world’s emitters or economies, and particularly ignoring the rapidly growing ones, is to seek to ignore what can only be seen, by anyone who sits down for an hour or so and looks at the size and scope of the problem, as the real solution.

If you do care deeply about our planet, about our ecosystems and about mankind, that is the approach that we have to take. I think it is a sound approach and I think the Australian delegations at the last two conferences of the parties, the last two UNFCCC conferences and all of the associated intersessional forums have done well. I have been very proud to lead both those delegations and to be associated with people like Ambassa-
dor Adams and former Ambassador Bamsey, now the head of the dialogue on future action and playing on the international stage. They are great Australians who are working very hard not only for the Australian interest but also for the global interest.

Australia’s interests are intimately tied up with finding this international solution. You do not get the solution for Australia—you do not save the Barrier Reef from coral bleaching, you do not save our alpine regions from losing their snow cover and you do not save our river systems from losing their water inflows—unless you have a robust agreement internationally that delivers you reductions in greenhouse gas emissions. If you do not work hard to bring about that sort of agreement then you will not get that result. That is what Australia is doing and, judging by our results at the Montreal conference and our results at Nairobi, I think we have played a very significant and important role at both of those meetings.

Senator MILNE (Tasmania) (9.03 pm)—I want to ask the minister: what is the Australian government’s policy position on the appropriate level for atmospheric concentration of CO2 by 2100? I have asked the minister this before, and he has never given me an answer. I would really like to know because, in the absence of a greenhouse trigger, which he is not going to support, and in the absence of a national target other than our Kyoto target, which everybody agrees is inadequate, I think we need to know what decision the government has made about what level of concentration of CO2 in the atmosphere it believes is appropriate. If you say you want to stabilise greenhouse gases in such a way that you get less than two degrees of warming then that means that you are accepting a policy position of substantial cuts by 2050—more than 60 per cent. The figure of 60 per cent was an original estimate by the Blair government. The science is now coming in showing that global warming is accelerating at a faster rate, and people are now looking at upping that figure. There are calls for policy positions that take us to substantially more than that. The Greens have moved for a policy position of an 80 per cent reduction on 1990 levels by 2015. I would like to know what level of atmospheric concentration the government has decided is the level it intends to aim for and produce policies to deliver.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (9.06 pm)—That is the sort of question that you could speak about for at least an hour. I have been heaved by the opposition saying that by giving answers of three or four minutes I am somehow filibustering this debate, so I will be as succinct as I possibly can. The Stern report says, and I think it is right, that 550 parts per million is
getting very risky. I agree with that. I think any national government, whether it be of the UK, which makes up around just over two per cent of global emissions, or of Australia, which makes up just over 1.46 per cent of world emissions, can have a legitimate debate about whether it is 450 parts or 550 parts. It is an important debate.

The reason we have the Intergovernmental Panel on Climate Change is to help resolve those issues. When you have some of the best scientists from around the world, from all the participating members of the UN framework convention—Australia has very high quality representation within that panel—it is an issue best dealt with by that panel.

I am not trying to say that I do not think the Australian government should have a position or a target. I want to engage on this issue in a productive way but every time I speak for longer than a few minutes I get a lecture from the Labor Party saying that somehow I am trying to expand debate. They are a party that has a two-line policy on climate change; we are a government that have written hundreds of pages and spent billions of dollars on climate change, so we take it very seriously.

Let us consider what would happen if I were to say tonight, ‘We think you should see the world’s concentrations limited to 400 parts per million’—or go even lower if you want to be more extreme about it—‘and then adjust domestic greenhouse policy to a global target.’ The reality is that, if you set the target low enough, you could say, ‘To achieve that, Australia would have to make a contribution of, as you have said, an 80 per cent reduction.’ There are figures of between 60 per cent and 80 per cent. If you want to be seriously radical—and obviously this is not the real world—to make the case you could say: ‘Let’s have 100 per cent reduction in Australia. Let’s close down the whole of Australia.’

Quite frankly, when you start talking about 60 per cent or 80 per cent reductions, it is not a huge leap to go to 100 per cent. It illustrates the point—and it is a point that I made to Mr Blair when he was here in Australia a few months ago—that if you shut down the whole of Australia the expansion in energy production and consumption and greenhouse gas emissions from China alone would entirely wipe out the global greenhouse benefits of closing down the whole of Australia, within 10½ months. That is a scientific fact, because they are a building a new power station every six weeks in China. They are urbanising at the rate of a city the size of Brisbane every month. That is a fact that you have to deal with.

Mr Blair makes the point now in his speeches in Great Britain that, if he closed down the whole of the United Kingdom, the expansion of China’s greenhouse gas emissions would entirely neutralise the benefit of that decision within two years. I think that makes the point that it is incredibly important to have a thorough understanding at the national policy level of the impact of a certain level of carbon concentration in the atmosphere.

The fact is that the level of concentration of carbon dioxide in particular has been incredibly stable for some many thousands of years and it is now at a level that is substantially above that long-term average. My strong belief, and the government’s strong belief, is that the massive increase in the carbon concentrations in the atmosphere is contributing substantially to the warming of the atmosphere, that we must stabilise and then reduce greenhouse concentrations and that we must do that through sound domestic policy and by playing a constructive leadership role within the international community. I
accept that 550 parts per million is very risky. Further to that, I look forward to the further advice of the intergovernmental panel, which we will receive very shortly.

Senator MILNE (Tasmania) (9.11 pm)—I appreciate the minister’s remarks in that regard. The point is that when the United Kingdom made the decision to look at what they thought would be an unacceptable level of concentration they made it a 60 per cent reduction on 2050 levels to take into account emissions from developing countries. So they looked at the total global emissions and the total concentrations to see what the developed world would have to reduce their emissions by to take that into account. That is how they got to the 60 per cent by 2050. That is why I am asking about Australia’s position.

My greater concern here tonight is that we do not have a stated desired concentration level, because everything flows from that in terms of targets and how you get there. I particularly wanted to comment on it in relation to the adequacy of Australian government policy advice. I refer to this report, The Heat is on: the future of energy in Australia, by CSIRO and ABARE. I believe ABARE do the Australian people a complete and utter disservice when it comes to climate change. They do not believe that climate change is real. They do not factor it into any of their policy recommendations.

In fact, they are slowing down the capacity of the country to respond to climate change through their advice to government on issues like the differentiation between road and rail transport, their projections of oil prices and their suggestion that you can go to coal to liquids. They suggest that you can put climate change to one side. They actively say, ‘Put climate change to one side.’ They actively talk about carbon dioxide emissions as externalities. When the whole world is trying to come to terms with how you internalise the cost of carbon, ABARE are still fixed in some economic past and are giving the country bad advice.

So I would like to just put on record here that this report—this collaboration between CSIRO and ABARE—says:

A target for the stabilisation of atmospheric concentrations of carbon dioxide (CO₂) of 570 parts per million (ppm) by 2100 is investigated based on the A1T scenario from the Special Report on Emission Scenarios (SRES) (IPCC, 2000). In establishing this anchor point, the EFF does not endorse it or suggest that it would represent an acceptable level of emissions or consequent climate change. The choice represents a compromise between the desire to explore significant global emission reduction and the need to work within the constraints of ABARE’s economic models.

So this whole report is based on a base level scenario of 575 parts per million, which everybody accepts is dangerous for climate change and is unacceptable. So what is the point in a whole body of work simply made on a compromise because ABARE’s models are so constrained, out of date and unable to cope with the whole climate change scenarios that CSIRO has to allow for ABARE’s inadequacies and write a report based on a concentration which we all know is totally unacceptable?

I do not expect the minister to be critical of ABARE in the same way that I am but, frankly, I think they are holding back Treasury’s capacity to respond to climate change. The fact is that the Treasurer has never mentioned climate change as a risk to the Australian economy in all his years as Treasurer, including in this year’s budget speech, and he has never mentioned oil depletion as a significant risk to the Australian current account—because, apart from anything else, whether or not you believe in peak oil, the fact is Australia is losing its self-sufficiency in oil and the import bills are going to blow
out the trade deficit substantially in years to come, and are already doing so. Yet ABARE blithely advises Treasury: ‘Put climate change to one side. No problem with oil prices—we’ll just go to coal to liquids as a transport fuel.’ Frankly, they are so out of date they are an embarrassment.

I am frustrated that the policy advice that comes out of the Australian Greenhouse Office is somehow sidelined by a group of economists who have absolutely no relevance in global changed circumstances. I do not expect the minister to comment particularly but I would like him to take it on notice that this report is doing the Australian people a disservice. I do not disagree with a lot of its conclusions. It is basically agreeing with Stern that the cost of action now is nothing compared with the cost of not acting by 2100. They go through the kinds of things that we have all been saying. But I am horrified by the fact that they go through an exercise talking about 575 parts per million and then have to have a disclaimer saying that the authors do not endorse or suggest that it would represent an acceptable level of emissions or consequent climate change.

I encourage the minister to actually get from the government sources of advice something of a consensus about what they have determined is an appropriate level of atmospheric concentrations of CO2 and tell the Australian people what that is. We have the latest IPCC report coming out in May next year. Each year that this goes on assumes that we have time to deal with it. I accept what the minister says about the fact that, if the Greenland iceshelf just melts, you might have 100 years or you might have 50 years, but if it slides off you do not have very much time at all. Those of us who remember defrosting fridges in our youth, before they had those new fridges, remember that all you need to do is get a bit of a vacuum going under loads of ice and the lot comes off at once. That is the fear about rapid sea level rise—so-called ‘climate accidents’.

We already have ravines being formed in the Greenland iceshelf with the water going right down underneath and starting to form that kind of vacuum underneath. If that occurs, and it slides off, just like those of us who have defrosted fridges in the past where you open the door and the whole ice sheet comes off the box, you know that that is the scenario that could well occur. That is what we are talking about with severe climate accidents in the short term and huge sea level rises overnight, which would be a global catastrophe of unimaginable consequence. We are talking about 43 small island developing states disappearing, given their low level. If you look at Bangladesh you see the security ramifications as millions of refugees try to get out of the way. Manhattan would be gone.

The whole lot is an incredible scenario. It is not a scenario that should be discounted, especially when you look at the science, with what they are saying about the west Antarctic icesheet, with what they are seeing when they are looking at the Ross icesheet and the fact that it collapsed rapidly, within a decade, once before in geological time. That is why I think it is really important that we start to get to some sort of consensus in Australia about a level of concentration that we should aim for, taking into account the growing emissions from developing countries. I do not disagree that China, India and South Africa have to be taken into account, but that is why the British overestimated the extent of the cuts that would need to be made in developed economies.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (9.19 pm)—I think it is a good point that Senator Milne makes about the policy processes within the government of
the United Kingdom led by Prime Minister Blair. They have done some substantial work on global impacts, both on ecosystems and, importantly, under the Stern review, on the economics of responding to climate change and the costs and benefits over the next 100 years. On receiving that information the Blair government and their new Secretary of State for Environment, Food and Rural Affairs, David Miliband, both came out and changed their policy—for example, in relation to the role of nuclear energy in Great Britain.

As Professor Socolo has said with his Princeton University study, he believes that, of the seven billion tonnes of abatement you need to find over the next 35-odd years, about one billion needs to be from an expansion of the nuclear industry. It is to the credit of the Blair government and to the credit of the Howard government in Australia that they have looked at the science and there will be a debate about what is a dangerous level of carbon concentrations in the atmosphere that will go on for some time.

But I broadly accept what Nicholas Stern has said. I believe that the stabilisation range needs to be somewhere between 450 and 550 parts per million and that you need to be sensible and diligent when you know that you are playing with the potential scenarios that Senator Milne has outlined, that you could and are likely to get events that I think were dramatically exposed in parts of Al Gore’s movie and that the climate is not likely to be in a steady state—it is not likely to get a little bit worse, a little bit worse, a little bit worse; it is more likely that we will see some major weather events that could cause substantial actions. People call that the tipping point or they refer to what Senator Milne has said. So it is far safer to be risk averse.

Again, to make the point, Mr Blair and David Miliband and the cabinet of the government of the United Kingdom have looked at all of that information and they have realised, although it is politically tough for them to do so, that part of their response must be to overturn the policy of turning away from nuclear. They have made the politically tough call for a party of the Left or Centre Left that they will move towards an expansion of nuclear power in Great Britain. I think they are to be commended for having a practical approach.

The problem for the Labor Party and the Greens in Australia is that they will quote all of the same figures and science that Mr Blair relies upon to make his decisions within his cabinet—the same decisions that many other governments around the world are making—but they will say no to one of the technologies that we need to at least stabilise greenhouse gas emissions. They will stand in the way of a liquefied natural gas project on the North West Shelf which can help stabilise greenhouse gas emissions. A senior member of the Labor opposition, Carmen Lawrence, the member for Fremantle, is now opposing the export of natural gas from the Burrup Peninsula and wants to close down that project which will make a substantial contribution. The Greens and some elements of the Labor Party are opposing carbon geosequestration. The Princeton University study looks at seven different technologies, each of which can contribute about a billion tonnes of abatement annually. The Greens and the Labor Party are saying no to about three of seven billion tonnes a year of abatement because of ideological problems with abatement methods.

I say ‘hear, hear’ to Mr Blair’s government. It has looked at the science and said, ‘Let’s take practical action.’ If you look at the policies of the Howard government, you will see that we are doing the same thing. We have brought on a debate about what will supply baseload power in Australia and the
world in the future that is politically very tough for us. The Labor Party and other parties are creating a scare campaign around the location of a facility for low-level nuclear waste that fundamentally comes from the use of radioactive isotopes to save human lives through radiation therapy. When they are trying to score cheap political points on the location of a low-level nuclear waste facility with material that is primarily used for the treatment of life-threatening cancers in this country, you realise that the Left in Australia is ideologically bereft or ideologically handcuffed to a position that will not allow it to come to a practical and sensible position on climate change. If that is how they deal with low-level waste from the treatment of life-threatening cancers in this country, no wonder they cannot come to a sensible policy on Australia’s environment.

Senator SIEWERT (Western Australia) (9.25 pm)—I am glad the minister raised the issue of Burrup because it allows me to tell him this directly in the chamber while he is listening and to set the record straight. The Greens and, I am fairly certain, Dr Lawrence and Peter Andren, because I heard them say it at the media conference today, do not oppose the development that is proposed in the north-west of WA. We oppose the development going ahead on that particular site. We have asked the minister to facilitate that development moving onto the North West Shelf joint venture site so that the development can go ahead and address the issues that he has been talking about to do with reducing greenhouse gas emissions and also so that we can save the rock carvings. I would like to firmly put that on the record while the minister is in the chamber so that he will no longer repeat the fallacy that we are opposed to that development and to exporting that gas to China. If the minister could take that on board, it would be very much appreciated.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (9.26 pm)—I want to make it quite clear that the current leader of the Greens, Senator Brown—I believe his position may be under some threat in the party room ballot—has made it quite clear that the alternative site would be at the Maitland Estate. I do not know if Senator Siewert can say where she wants to shift it to, but shifting it to Maitland requires the construction of a new port at West Intercourse Island. What is on West Intercourse Island? Hundreds and hundreds of pieces of rock art. The Greens and Dr Lawrence, a senior member of the Labor opposition, say that they can take this action and it will have no consequences. The consequences of saying, ‘No, you cannot build it there,’ is that the project will not go ahead. It is not a cost-free action. It is not cost free for rock art because rock art extends over 27,000 hectares of the Dampier Archipelago and Burrup. They went to Canberra, Melbourne and Sydney to talk to the elites and pretended that building something in the north-west was going to destroy a lot of rock art. The reality is that, yes, some rock art will have to be shifted and disturbed, but it is 0.02 of one per cent of all the rock art throughout that entire province of 27,000 hectares where there is rock art everywhere. There are in excess of one million pieces of art and the Pluto proposal disturbs 164 pieces of it. They are trying to say that stopping the development from going there will still allow gas exports. All it will do is put up the sovereign risk for the entire industry, extend the approvals process, put another risk in place, put at risk people wanting to come to Australia to develop natural gas resources and put at risk the 80,000 people employed in an industry that creates $10 billion in foreign income.

Labor under Mr Rudd wants to take this sort of action and bring in an emergency list-
ing when there is already a sensible heritage process in place supported by the Western Australian government—a cooperative federalist approach. Mr Rudd says that he wants cooperative federalism. The WA state Labor government and the federal coalition government are working together on an agreed process to handle the Burrup Peninsula to ensure natural gas exports can continue and that the rock art is managed properly in the future. This is something that Dr Lawrence did not come anywhere near to doing when she was premier of the state. She could not have cared less about the Burrup Peninsula when she was premier, but she comes here and wants to appeal to the cafe latte set in the inner suburbs of Sydney, Melbourne and Canberra and so suddenly takes an interest.

The Labor Party will be condemned as hypocrites on this issue unless Mr Rudd comes out and says, ‘I will have no bar of a federal Labor Party putting yet another spoke in the wheel of natural gas exports.’ You cannot say, ‘I’m in favour of natural gas exports,’ and then try and close down the biggest project that is on the drawing board at the moment. You cannot take yourselves seriously. What you are trying to do is stop that project. It has taken years and years of work by hundreds of people to design this project and you say, ‘We’re just going to try and close it down but we can still have the gas industry.’ You think we can still have investment in the highly risky business of exploring for gas, developing it and trying to get the multibillion dollar investment in it. You say, ‘We still like exporting gas.’ Get serious, please; you cannot be taken seriously.

You are demanding that I take action to say, ‘Halt the development of this project.’ You are saying to me as minister that I have 10 days to decide whether I halt the development of the Pluto project and say, ‘No, you cannot continue.’ That is what Dr Lawrence has signed up for me to do—alongside you, Senator Siewert. You want me to say no to the project going ahead. But then on the other hand you say, ‘No, we like the gas industry.’ It is an absolutely absurd proposition.

I really hope if there is going to be a change between Beazley Labor and Rudd Labor, that Mr Rudd says to Dr Lawrence, ‘Get your name off that application.’ This is what Mr Rudd should say: ‘If I believe in cooperative federalism, if I believe in economic development and the benefits of economic development, you, Dr Lawrence, will withdraw federal Labor’s name from that application.’ That is the challenge for Labor. That is the challenge for Mr Rudd on his first day in the job. Please, for Australia’s sake detach the Labor Party from this idiocy that the Greens are progressing with. There is no need for Rudd Labor to be associated with the idiocy of the Greens in trying to stop the gas industry in Western Australia. It is a big test for Mr Rudd and I hope he meets the challenge; I really do for Australia’s sake.

Senator SIEWERT (Western Australia) (9.31 pm)—I have never heard in recent times such a case of selective deafness. Did anybody else in this chamber hear me say, ‘We want that proposal to be moved; it is only a couple of hundred metres up to the joint venture site’? I have written—I did not say this just then but I said it earlier in the chamber—to each of the joint venturers asking them whether they agree to their site, that project, being co-located. I have received responses saying, ‘Yes, they’d be prepared to negotiate.’ Woodside have told me that they would be prepared to negotiate. I have written to the minister to ask him to facilitate that development. I called again in this chamber today for that compromise to be negotiated. I have not received an answer.
What I just heard was the minister saying that I am trying to close down that development. I am not. The Greens are not; we want it moved. Maitland may not be the answer. And by the way, Minister, you do not have to develop Maitland off West Intercourse Island; you can do it another way, and I have had other proponents tell me that. You can go to Onslow. But the most sensible place is 200 or 300 metres up from the current site—they want to develop it there. So please do not repeat that misconception that we are trying to stop this development. You have not answered my question. Perhaps I should pose the question: have you approached the joint venturers or sought to facilitate a meeting between Woodside and the North West Shelf joint venturers so that that plant can be colocated on that site and there would be a true win-win situation for rock art and for development?

Senator CARR (Victoria) (9.33 pm)—I might draw to your attention, Mr Temporary Chairman Hutchins, because it may have escaped your notice, that we have now been debating this particular amendment for four hours. The minister at the table has managed, in the manner that he has adopted during that period, not one millimetre in four hours. As I have said before, as a former manager of government business, you would have thought he would know a little bit more about how to deal with legislation of this type. But he fails to appreciate the lessons—

Senator CARR—What’s your suggestion?

Senator CARR—I would suggest to you, Minister, that you actually address the legislation instead of behaving as the dilettante that you are and demonstrating to this Senate on a regular basis your complete ignorance of how to proceed to get legislation of this type through and debated properly. All we have heard from you—

Senator Ian Campbell—This is your amendment.

Senator CARR—That is exactly right. This is my amendment, and you have had the opportunity—

Senator Ian Campbell—Why don’t you address your amendment? I’ll take a point of order.

Senator CARR—Take as many points of order as you like.

Senator Ian Campbell—Mr Temporary Chairman, I rise on a point of order going to relevance. The shadow minister responsible for something needs to address his remarks to his amendment. He is not doing so.

The TEMPORARY CHAIRMAN (Senator Hutchins)—If you could address the amendment, Senator Carr.

Senator CARR—Thank you, Mr Temporary Chairman. What I have here is an amendment which, as I have said, has been before this chamber for four hours. We have a minister at the table who has had the opportunity to actually canvass the question that has been presented and to explain why the government is opposing this amendment. All we have heard from him is abuse of other senators, gross misrepresentations, defamations of other senators and slurs on other political parties in a manner which is clearly indicative of the fact that he does not want to face up to the fact that this government has failed to address the issue of climate change with this particular legislation. There are 409 pages of legislation and you have failed to deal with this question. You have yet to explain why the government is not supporting these amendments.

What we have heard in its place is a bizarre journey about the minister’s recollections of his world travels as an observer to world events, as a spectator on the question of Kyoto. We have seen the minister try to...
explain his abysmal performance in regard to changing tack three or four times on the question of greenhouse, where he has come from being a greenhouse gas sceptic and a climate change sceptic to a man who now claims to have been a born-again convert, to a position where he says: ‘Nonetheless, despite that we won’t sign up to Kyoto. We won’t sign up to any commitments on an international basis. We’ll wait for the next phase of international treaty development. We will say, “Yes, there are some very interesting films on this issue.”’

This is the contribution we are hearing from this minister. His own colleague Mr Ian Macfarlane made the point that Al Gore’s movie, An Inconvenient Truth, was just entertainment. That was the position the government took shortly before the United States elections and shortly before the government’s receipt of their latest polling information with the change in the direction it has taken. Their focus group’s research came back and explained that the government’s attitudes on these questions were all wrong, that the Australian community was not going to tolerate the contempt that this government were going to show.

What the Prime Minister sought to do in dealing with this position was to suggest, ‘The government have new directions to follow and new ideas to explore. We haven’t really exhausted our agenda; we have this new notion of nuclear power.’ So the government commissioned their old friend Dr Switkowski to report on the matter of nuclear reactors. Dr Switkowski brought back a report that says there will be 25 nuclear reactors across eastern Australia. If I recall rightly, the report pointed out that these new reactors will not actually reduce the level of Australia’s greenhouse gas emissions but will in fact increase them by 29 per cent by 2050. So, Minister, my question to you, given that you have this sudden conversion to nuclear power and despite the fact that—

Senator Ian Campbell—Mr Temporary Chairman Hutchins, on a point of order: you called the opposition senator to order for not addressing his amendment. He is still not addressing it. He needs to do so, even though he cares so little about climate change that he calls Kyoto ‘Kie-oto’ and he cannot pronounce the name of the chairman of the nuclear inquiry, Dr Switkowski. He must address his amendment. He has to explain why Labor is proposing to put a new trigger into the environment law of Australia against the wishes of all his Labor comrades in the states. He is proposing a whole new layer of regulation. He has failed to do so and he needs to be brought to order once again.

The TEMPORARY CHAIRMAN—Order! Minister, you have an opportunity to reply at some point.

Senator Ian Campbell—I am taking a point of order.

The TEMPORARY CHAIRMAN—I did not see that it was a point of order. Continue, please, Senator Carr.

Senator CARR—The minister has told us that he suddenly has a new interest in dealing with this whole issue of greenhouse gas emissions. We are now going to embark upon the magical mystery tour of nuclear power for Australia. This is in the context of what the Minister for Industry, Tourism and Resources, Mr Macfarlane, said when he said, ‘We could do this in 10 to 15 years.’ The Minister for Finance and Administration has indicated to this chamber that, given his extensive ministerial experience and his understanding of the Australian economy, particularly given his experience in the resources sector, he is an expert on the whole issue of nuclear power. He said that it would take 100 years to have viable nuclear power
in this country as an alternative source of baseload supply.

At the estimates hearings I asked the minister some simple questions, given his commitment to these new issues, as this is the answer to the government’s problem, its failure to deal with the whole issue of greenhouse emissions and its failure to develop a climate change trigger within its legislation. I was thinking of proposing these amendments, and I asked the government: if this is the new answer to our problems, what advice has the government sought from its own greenhouse gas office in regard to the questions on nuclear power? Minister, perhaps you could tell me now: what advice have you sought? I acknowledge that the minister may well have had an opportunity to get advice since that time, but when he was asked this question at the estimates hearings he advised the estimates committee that he had not sought the advice of his own greenhouse gas office experts on the question of nuclear power. In fact, he went on to advise us that he had not even sought to have advice from his department on the environmental impacts of nuclear power. My recollection is that the department had not made a formal submission to Dr Switkowski’s inquiry. It had made some statements about the formal processes of approvals but no other statement.

Senator Ian Campbell—Mr Temporary Chairman, on a point of order: it would be quite appropriate if we get to section 140A of the Environment Protection and Biodiversity Conservation Act, which deals with nuclear matters, to discuss these issues, but they have absolutely nothing to do with Senator Carr’s amendment. He is proposing an amendment to the Senate to put a new provision, a new section, into the law. He is being irrelevant. The Greens have been asking serious questions. He needs to address his amendment.

The TEMPORARY CHAIRMAN—Order! Minister, would you please sit down. You are not relevant there.

Senator Ian Campbell—Mr Temporary Chairman, I will raise a new point of order: the issues that Senator Carr is raising are to do with environmental approvals in relation to nuclear facilities. He is asking whether I have received advice from my department. Those questions can be addressed if we are addressing section 140 of the act. That is where nuclear issues are dealt with. He is not being relevant to his own—

The TEMPORARY CHAIRMAN—Order! Minister, you will have an opportunity to reply. Please sit down. If you do not like my ruling, move against it, but please sit down and let Senator Carr complete his remarks.

Senator CARR—The matters I raise are in response to the very matters that the minister himself has raised. What this minister has done is sought to canvass these issues far and wide, to slander his political opponents, to defame people and to make very crude and grossly inaccurate suggestions about the motivations of members of the opposition. He has raised these questions of nuclear power. He has raised allegations about what he claims to be Labor’s hostility to green coal. He has made a number of wild and woolly accusations, which he does on a regular basis, but he does not like it when someone comes back to him and says, ‘Minister, you are wasting the time of the Senate.’ You are grossly abusing your privileges as a minister of the Crown in this place. On behalf of this government, we now have a situation where four hours have proceeded on these issues and we have not moved one millimetre. We are going around and around with your puerile, offensive remarks, and you will be responded to blow for blow. That is a choice you make, but be under no illusions
that, as far as we are concerned, we are not going to put up with these slanders.

Senator Ian Campbell—Let’s have a vote then. Sit down and let’s have a vote.

Senator CARR—You had that option when these matters were brought on but what you sought to do was to waste the time of the chamber.

Senator Ian Campbell interjecting—

The TEMPORARY CHAIRMAN (Senator Hutchins)—Order! Minister, I would ask you to withdraw that comment.

Senator Ian Campbell—I withdraw that he is a hypocrite.

The TEMPORARY CHAIRMAN—No, you should—

Senator Ian Campbell—I withdraw it.

The TEMPORARY CHAIRMAN—Thank you.

Senator Ian Campbell—Let’s have the vote. Let’s put the question.

The TEMPORARY CHAIRMAN—Minister, please let Senator Carr make his contribution without any interjections.

Senator Ian Campbell—Let’s have a vote.

The TEMPORARY CHAIRMAN—Is this a point of order?

Senator Ian Campbell—Yes, Mr Temporary Chairman. Senator Carr is saying that we are wasting time and that we have not moved very far. Now is the time for him to not seek the call and—

The TEMPORARY CHAIRMAN—that is not a point of order. Sit down please, Minister.

Senator Ian Campbell—move that—

The TEMPORARY CHAIRMAN—Minister, please sit down. The more you interject the longer this debate is going to go.
ceed, and we have many other amendments to deal with before the end of this session. As a former manager of opposition business you would have understood this.

Senator Ian Campbell—Mr Temporary Chairman, I rise on a point of order. Once again the opposition spokesman cannot bring himself to discuss the Labor amendments which deal with putting a new trigger into the federal environment law. He has been on his feet for 11 minutes and has not addressed the amendments.

The TEMPORARY CHAIRMAN—That is not a point of order, Minister.

Senator Ian Campbell—He needs to be relevant.

The TEMPORARY CHAIRMAN—Thank you, Minister, but there is no point of order.

Senator CARR—Mr Temporary Chairman, I was explaining why these were valid amendments which the government should support. I was explaining that the government’s reaction to them was hysterical. It was based on the government’s gross insecurities about the fact that people were examining the record of this government and the hypocrisy of this government when it came to the issue of climate change and how, in the beginning of the life of this government, the government found it was popular to talk about the issue of climate change, to examine the issue of climate change itself and to even propose in this discussion paper that there be a climate change trigger. Of course at that time the government was even contemplating signing up to the Kyoto protocol. But of course there was a change of government in the United States—and this government is not a leader but a follower; this government is essentially a derivative of the more conservative elements of United States politics—so this government felt that, as a consequence of the change of government in the United States, it would change its policies as well.

Ever since, we have seen a series of global change sceptics propagate their somewhat old-fashioned views, until this year, until very recently when the opinion poll research came in, when the government of the United Kingdom produced a report which achieved some considerable public attention and when the United States elections highlighted that there was a change in attitude even within the United States government. So this government felt it had to change its position again, but not in reality; it had to change its position only in terms of the language it was using. So we heard this minister, who had been relegated to observer status on the margins of various international conferences, trying to claim before the Australian public that he was doing much more than he was. He followed a pattern, as we saw from various examples such as the orange-bellied parrot issue and other appalling acts of stupidity, as the government tried to pretend it was doing one thing when in fact it was doing something entirely different.

So, Minister, we now have the situation where I have an opportunity to explain exactly why you have been such an appalling failure and, as we run into the break, question why you should in fact stay in the job that you are currently in. As I understand the matter, it is only a question of time—and I presume you do want this legislation passed before you are moved from the portfolio—before your appalling record catches up with you in the Prime Minister’s office. Minister, you asked me the question of why it was taking so long. I answer you now: you are the problem. You have had four hours and you have chosen to provoke the situation in this manner. As a consequence, after four hours not one millimetre of progress has been made. You know exactly why that is, and you are entirely responsible.
Senator MILNE (Tasmania) (9.51 pm)—
I have a couple of matters that I would like to clarify. I note with interest that the minister made the leap from Britain, having made a decision that two degrees of warming was too much—and therefore it would set a target of a reduction of 60 per cent in greenhouse gas emissions on 1990 levels by 2050—to say that is why the Blair government had adopted nuclear power. I believe that is not in fact the case.

Britain’s move to nuclear power is in fact about upgrading existing nuclear power plants. It would cost £70 billion to decommission existing plants—a substantial cost. But the reason for Britain’s move to nuclear power is energy security for the UK rather than the greenhouse effect. The whole of Europe is traumatised by Russia having turned off the gas. I think it is fairly clear to everyone that Australia has very different policy positions and opportunities because we are blessed with abundant energy—particularly solar energy—and a whole range of energy options. Britain does not have those options; neither do other European countries. They are completely traumatised by the Russians turning off the gas, and that is why the focus has switched heavily onto energy security at the same time as people are trying to address climate change. Britain has decided to invest vast amounts in nuclear energy—against the advice of its sustainability commission, which recommended against it. But I would argue that the British imperative is as much about fear of the Russians turning off the gas as it is about anything else.

I would like to point out again, in relation to ABARE and nuclear energy in Australia—and the minister is now talking up nuclear—that ABARE tried their level best with this report to put the best possible spin on nuclear. They had to try very hard, but the best they could come up with was one or two nuclear plants operating by 2050, not the 25 that have been talked about. But the report rightly says that, had ABARE assumed nuclear power costs to be in the upper half of the estimated cost range from international literature and not in the lower half—which is what they did to come up with their one or two power plants—some or all of the contribution of nuclear power would have been displaced by other technologies.

So the economic reality is: if you price carbon, nuclear is still not going to stand up against renewables without a huge government subsidy. And the government cannot give us a price, right now, on the decommissioning of Lucas Heights. We cannot even get a price on the one single facility that we have, let alone an estimate of what you would pay for your power. The Switkowski report proposed that the costs of decommissioning be put onto the consumer in the price of energy from any nuclear facility. We have got no idea what that would be. So you are stuck in this situation where, if you put a price on carbon to try and make nuclear viable, you still have to subsidise it to the hilt, and the cost will be even greater because you have to incorporate into the cost the decommissioning costs.

The realities are, in that situation, that the renewables will absolutely be the most cost-effective scenario in terms of energy supply. But, once again, Minister, I put on the record here that ABARE tried its best for you, as it constantly does; it tried to assume that nuclear would be in the lower-cost half of the estimated cost range, even though international literature shows to the contrary.

In fact, they say in the report that you would only get a higher uptake of nuclear power if you had early confirmation that carbon capture and storage was not going to work, and that would not suit the government’s analysis, even though we have no
proven carbon capture and storage. They go on to say that there would have to be significant improvements in nuclear waste disposal capability. We do not have that. They do not have that at Yucca Mountain either. You would have to have technical breakthroughs in the ability of nuclear power to co-produce hydrogen and desalinated water, and a higher demand for these by-products, plus a reinvigorated UN supporting both a global treaty on nuclear materials proliferation and a new terrorism task force. I would suggest to you that the likelihood of those things coming together is remote. ABARE might be able to dream up scenarios in which all that occurs. Good luck to them, because it is not going to happen.

The reality is that, as the Switkowski report acknowledges, you are not going to have nuclear power in Australia. The private sector is not going to invest in it without bipartisan support. You have not got it. There is huge community opposition. And even if you brought all of those things on stream, the Achilles heel you have on climate change is that we have only 10 or 15 years to significantly reduce greenhouse gases, and nuclear will not be on-stream within that time frame.

By the time you built any reactor in Australia—given that all those issues were out of the way—you would be at the stage of locking in dangerous climate change, at least for 2100, within the next 10 or 15 years. And that is the big problem you have on nuclear: it cannot go anywhere near solving the greenhouse gas reduction issues in the 10 to 15 year time frame we have.

So I support the Labor amendment, but I would like to hear from Senator Carr about how, if the Labor trigger were in place—and, as the senator would be aware, ours is a much more stringent trigger, but let us assume the 500,000 tonne trigger was in place—this amendment would work in practice. If it were passed into law, how would an environment minister—having called in a project such as the Anvil Hill coalmine, which would generate 12½ million tonnes of carbon dioxide, an amount well over the trigger, by seven times or whatever—operate under the act if this trigger were in place? It obviously would be triggered by a development such as Anvil Hill. What would then happen? What would the minister do in relation to that information?

Senator CARR (Victoria) (9.58 pm)—The whole question of the Anvil Hill decision has been a matter of some considerable discussion and speculation. The Labor Party does not share the Greens’ interpretation of the nature of that decision. The question is: what is a reasonable level of threshold in terms of emissions? We take the view that the threshold should be 500,000 tonnes of carbon dioxide per year. The Greens have the view that it should be 100,000 tonnes. We say that the Greens’ position is, in effect, too harsh. We are seeking a higher target. That is essentially the difference in our political positions. We will look at each proposal on its merits. The minister alleges we are in the business of closing down all the coalmines in this country. We are not.

Senator Ian Campbell—You’ll have a trigger, but you won’t use it.

Senator CARR—We will look at the proposals and do a proper assessment.

Progress reported.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—Order! It being 10.00 pm, I propose the question:

That the Senate do now adjourn.

Tasmanian Legislative Jurisdiction

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (10.00
The Nature Conservation Amendment (Threatened Native Vegetation Communities) Bill 2006 recently passed both houses of the Tasmanian parliament. The bill seeks, by regulation of the state, to conserve native vegetation on private lands. The details of this legislation, and the way in which it was pushed through the Tasmanian upper house, quite rightly caused concern among many people in rural communities in Tasmania.

Regrettably, the Tasmanian government told stakeholders, most notably farmers and landholders, that the Australian government was forcing this legislation to be passed—under threat. The alleged threat was that, if the Tasmanian government did not put in place its own legislation to cover the issue of non-forest vegetation, the Australian government would come in over the top of the state government with legislation that would be far more draconian and, therefore, even more detrimental to our farmers. This is categorically wrong.

It was up to the Tasmanian government to draft the legislation and to implement the Tasmanian Community Forest Agreement on non-forest vegetation. There was no pressure from Canberra as to the exact form of this legislation and as to which native vegetation communities were to be protected. In addition, there was an assertion made that the Australian government was insisting on the inclusion of certain grass species on the list of vegetation protected by this legislation. Again, this is categorically wrong.

My federal Tasmanian colleagues and I take this matter extremely seriously. On their behalf, I have spoken with my colleagues the Minister for the Environment and Heritage, Senator Ian Campbell, and the Minister for Agriculture, Fisheries and Forestry, the Hon. Peter McGauran, to confirm the Australian government’s position. On 23 November, I received a letter from Senator Campbell which clearly outlines the position of the Australian government in relation to this land management issue. Senator Campbell’s letter reads, in part:

In May 2005, the Prime Minister and the Premier of Tasmania signed the Tasmanian Community Forest Agreement. Since then, the implementation of the non-forest vegetation legislation has been entirely an issue for the Tasmanian government...

And it is clear that the Tasmanian government has full jurisdiction on this matter. The letter goes on:

... there has been no role for the Australian government in that legislation, nor has any pressure been placed upon the Tasmanian Government as to how they should or should not implement their legislation or the particulars of what must or must not be included.

Given this clear and unequivocal position, it is regrettable that the state government has attempted to blame Canberra for its legislation. There are no two ways about it—the process is straightforward: the Tasmanian government has jurisdiction here, and it bears the responsibility.

The new Leader of the Opposition, Kevin Rudd—or, as we call him, Kevin Cliche—has muttered about the need for a better system of federalism in Australia. His first ‘fork in the road’ or ‘bridge’ might be to travel to Tasmania to let them know that state governments have responsibilities and need to act honestly with their constituents. They cannot hide behind the Australian government.

I recall a similar circumstance in my home state of Tasmania when an exceptional circumstances application made by the Central Highlands community was being considered. A devastating drought had gripped their region—in fact, I came off leave to help deal with the matter. When the extent of the support by the federal government was announced, some farmers complained about its lack of reach. True to form, the state Labor
government immediately blamed Canberra. Fortunately, I was able to locate the letter in which the Tasmanian government requested the degree and type of assistance sought—on which this government fully acted and delivered. There was no sense of responsibility and no apology; it was just a case of ‘blame Canberra’. At the time, the circulation of that letter from the Tasmanian government to the Australian government did put an end to this dishonest nonsense from the state government. I similarly trust that the letter from Senator Campbell on this occasion will put an end to the current dishonest nonsense that is being peddled.

I now return to the issue of certain grass species that have been nominated for the list of protected vegetation. A public nomination has been made to have two grass species listed on the EPBC. Contrary to assertions made by the Tasmanian government, this nomination is not being driven by Canberra. This nomination, received from the public, is part of an independent process which is subject to the usual scientific rigours and due process of any such nomination.

I trust that my contribution this evening clears up the issue. I call yet again on the Lennon Labor government in Tasmania to take responsibility for their legislation and explain it to those upon whom it will have an impact. Above all, I call on the Tasmanian government to desist from misleading Tasmanian landholders about the impact of their legislation.

**Multiculturalism**

**Senator HURLEY** (South Australia) (10.07 pm)—The Howard government has yet to come out and state clearly its position on the present policy of multiculturalism. Mr Andrew Robb, the Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs, has tiptoed around the edges but he is yet to state unequivocally whether or not the word ‘multiculturalism’ will be dropped.

Last week the Labor Party made its position clear by stating that, if elected, it will establish an office of citizenship and an office of integration and multicultural affairs and that those two offices will fall under the Department of Prime Minister and Cabinet. By placing these two offices under the Department of Prime Minister and Cabinet, Labor will ensure that national leadership and practical integration policy is provided across all areas of government—this way they have the best chance of success. Also, under Labor’s proposal citizenship is given the focus and priority that it must have, which can only be provided by including it within the Prime Minister’s responsibilities. Currently, when a school student googles ‘Australian citizenship’, they are directed to the Department of Immigration and Multicultural Affairs. Labor thinks that citizenship should be for all Australians, not just migrants. Therefore, under a Labor government, people would be directed to the Prime Minister’s website—a general website that covers all Australian citizens.

We also stated last week that we will conduct a review of the $153 million Adult Migrant English Program or AMEP. Labor says that such a program, which is a worthy program, must be reviewed since only 11 per cent of clients exit with functional English. Functional English is the standard that is regarded as essential for having a job in Australia, for working in Australia, yet only 11 per cent of people who start AMEP finish with functional English.

Integration has suffered through Howard government inaction. In contrast to Labor, who want to strengthen Australia’s integration policies, the Howard government has slashed funding to AMEP by almost $11 million; it has removed core funding to
migrant resource centres which provide essential services in assistance and integration for migrants; it has downgraded the portfolio responsibility for citizenship and multicultural affairs to the level of a parliamentary secretary—an interesting move in itself coming just two months after the Cronulla riots—and now it appears the government wants to drop the word ‘multiculturalism’ altogether.

Multiculturalism is a part of life but, due to the failure of the government’s integration policies, some groups have been excluded from economic and social participation. Policy decisions which lead to such exclusion and alienation are dangerous. It is a serious concern because, by alienating communities that could assist with national security issues, the Howard government risks placing Australia in a dangerous position with regard to its own homeland security. The Labor Party believes that integration in a multicultural society is too important to play politics with. While the Howard government has weakened its policies, we want to strengthen them.

On top of the two previous announcements I have mentioned, Labor will develop programs which teach respect in schools and which promote all students to respect democratic values, including their civic and legal responsibilities. It will also develop an initiative to have buddy programs between schools to facilitate friendships between students from different denominations. In addition, Labor will place conditions on school funding to ensure that young Australians are not exposed to extremist and inflammatory material.

The question still remains: what are Andrew Robb and John Howard going to do? They have yet to make a clear statement, so perhaps other members of the coalition need to do so. A number of coalition members have been making statements opposed to multiculturalism, not putting a policy in place which deals with the fact that many people in our community are from different cultures and different societies. There is a necessity to deal with that in policy terms.

This week the Australian Bureau of Statistics released New South Wales regional figures which include place of birth and language spoken at home. If you look closely at these figures, which are based on local government boundaries, they show some large percentages of families who speak a language other than English at home living in many coalition electorates. I am sure that many of these families would like to know whether their coalition member of parliament supports Andrew Robb’s call to drop the term ‘multiculturalism’.

Some examples of these figures include Baulkham Hills, an area which has 20.5 per cent of families who speak languages other than English at home. The sitting members in that area include Philip Ruddock and Alan Cadman in their respective seats of Berowra and Mitchell. In Blacktown, 28.9 per cent of families speak a language other than English at home, and their member, the member for Greenway, is Mrs Louise Markus. Liverpool, which has 43.6 per cent of families who speak languages other than English, is represented in Hughes by Ms Danna Vale and in Macarthur by Mr Pat Farmer. Indeed, the seat of Bennelong, which is held by the Prime Minister, Mr John Howard, has 38.8 per cent of people who speak a language other than English at home. So clearly we have come too far to just turn a blind eye to the fact that our society is other than multicultural. We do need ways and policies to deal with that aspect of our society.

The Labor Party itself has made a clear statement. Integration is far too important to be ignored and policies must be strength-
ened. By placing an office of citizenship and an office of integration and multicultural affairs under Prime Minister and Cabinet we intend that this policy be implemented. It is just not sufficient to almost double the number of immigrants over the 10 years of the Howard government and then turn a blind eye to the fact that we are bringing in people of different cultures and different languages. We need strong policies to deal with this and ways to integrate immigrants into our society to ensure that they do participate in society rather than being marginalised.

The Howard government has a process called living in harmony, which is meant to ensure that there is tolerance and integration within our community. The parliamentary secretary announced a series of grants yesterday and over the past couple of weeks for funding for this. South Australian projects, for example—my own state—received $103,000 in funding. There was a total of 561 applications received for the Living In Harmony grants. Only a fraction of those applications were actually successful. The fact that so many groups are applying for this funding indicates that there is great need within the community for better understanding and greater tolerance within society.

The Howard government responds with piecemeal grants, small grants to individual groups, rather than a connected, cohesive policy. This is what Labor seeks to bring by placing citizenship and multicultural affairs within the office of the Prime Minister and Cabinet to get all of the separate government departments to work together to achieve integration and harmony. The Liberal government prefers to pay lip-service through its Living In Harmony grants. Its Treasurer and Deputy Prime Minister speak against multiculturalism and against various members of society. (*Time expired*)

**Climate Change**

**Senator MURRAY** (Western Australia) (10.17 pm)—The Australian Democrats are pleased the issue of climate change has finally hit the mainstream consciousness. The Democrats have been actively involved in highlighting matters of climate change and environmental threat for three decades. When media owners finally take an interest, their employees dutifully take note and change tack; and so over the last few months many newspaper articles have highlighted both the problem and the many and varied solutions.

The question of what is to be done has become very much a hot topic in political circles. With the release of the British government’s Stern Review on the Economics of Climate Change on Monday 30 October 2006, climate change truly catapulted into both mainstream public and political debate internationally. The Stern review’s findings and conclusions were reported all over the world and in many of Australia’s newspapers.

Two key policy responses to the climate change problem are carbon taxes and emissions trading. It was the Democrats who initiated the groundbreaking November 2000 report of the Senate Environment, Communications, Information Technology and the Arts References Committee *The heat is on: Australia’s Greenhouse future*. That report was largely ignored then by Australia’s media. Although now six years old, the report is still very relevant and has a whole chapter on emissions trading, including Democrat senators’ recommendations on a carbon tax and a joint Labor-Democrats recommendation on emissions trading.

It is going to be a massive task to reduce emissions by what scientists say is necessary—which appears to be 50 to 60 per cent by 2050—just to stabilise carbon dioxide...
levels. This will apparently still mean average temperature increases of up to three degrees by 2100. Apart from the devastating environmental, economic and social impacts this would have, the Stern review predicts that dire economic consequences across the world will be the price to pay if serious steps to address the issue of climate change are not taken now. All in public life have a duty to future generations. Action is required. In human terms climate change may be slow moving, but we do not have that much time.

Australia’s current stance towards emissions reduction is still uncoordinated and almost non-existent. In my political and parliamentary life I look after matters of finance, taxation and economics for my party. On my website is a discussion paper on carbon taxes and emissions trading from those perspectives. Climate change cannot be viewed from a purely environmental perspective. It is a significant social and economic issue. Because of its economic effects, climate change forces governments, businesses and communities to think seriously on these matters. The response from many in the business and community sectors is quite encouraging. It will be costly to address climate change. It will be far more costly if it is not addressed.

Although morality and altruism have obvious appeal, Australia reacts to hip-pocket stimuli. It seems people and business are more inclined to hear, agree with and react to arguments which appeal to their economic behaviour. Insights from economics have shown that what is needed to achieve substantial and effective action is to introduce an element of economic behaviour into the policy mix. Carbon taxes and emissions trading schemes are designed with just that purpose in mind—although they are but two policy tools that ideally would form part of a greater policy toolkit. Although both are indeed economic instruments, their fundamental goals are to achieve socially and environmentally, and economically, desirable goals.

In simple terms, the result of either a carbon tax or an emissions trading scheme is to introduce a price on carbon which is borne by those who produce it, and of course by those who consume their goods. Because it burdens carbon producers with an extra cost, there is a genuine economic incentive to alter behaviour so as to minimise or reduce that cost aspect of their activities. In doing so, a serious negative externality is internalised and polluters are forced to pay the full and total cost of their actions. It should be a concern for everyone that at the moment the only people liable to pay for our current actions with respect to greenhouse gas emissions are future generations, who are either too young to influence current policy or not yet even born.

Australia is well suited to either an emissions trading scheme or a carbon tax, or both, because it is a sophisticated market economy and has a highly developed legal and political system which is relatively corruption free and politically stable—in other words, such policies can be introduced as a result of a mature democratic process. The real difficulty lies in gaining widespread political, public and industry support. In general, people do not like to hear that they will be burdened with a new tax or higher cost of electricity, especially when they are accustomed to having paid low prices for such a long time. But, as a number of energy experts have said, the time for cheap power is over and we will have to face up to the reality of the situation. What is needed is a shift in public perceptions and acceptance of this reality by the public. As the Stern review notes:

Mitigation—taking strong action to reduce emissions—must be viewed as an investment, a cost incurred now and in the coming few decades to
avoid the risks of very severe consequences in the future. If these investments are made wisely, the costs will be manageable, and there will be a wide range of opportunities for growth and development along the way.

I remember the first big energy shocks when the price of oil shot up. Human beings are wonderfully adaptable. They adjusted, with a huge investment in and consequent realisation of energy efficient vehicles.

Beyond public and political acceptance, however, lies the problem of Australia standing alone. Greenhouse gas emissions are a global problem, and the impacts are not confined within the borders of the country from which they are initially emitted. For Australia the ‘first mover problem’ has often been touted as a major obstacle, particularly by the Howard government. The problem in acting first and in a stand-alone fashion is that our economy is then expected to suffer the most. The argument goes that carbon-intensive industries will close down their operations and relocate them outside of Australia in countries where they do not face the operating constraints of a carbon price—in famous Australian terms, the ‘we’ll be rooned’ argument.

That type of argument is intuitively persuasive and it is an argument that is assumed to be true but, if it were true, why then, on a parallel example, did Australia unilaterally and massively reduce its tariffs? Surely it should have waited for other countries to move in concert. Australia did not, because, in exposing itself to the cold wind of international competition, it forced Australian industry to become more efficient and productive. There is a lesson there for the carbon price signal.

To wait for universal international agreement is to wait forever. I do not wish to advocate policies to tackle climate change that equate to harsh economic shocks for the Australian people, but nor do I wish for us to remain inactive on the issue of climate change until some mythical universal agreement can be reached. Gradual incremental but significant changes in Australia now will avoid drastic measures in the future, which would be to our greater detriment. Heavy investment in renewable energy now is in the national interest. I recognise that, whilst it is true that Australia contributes a relatively small proportion of global warming, we still have the potential to play a much bigger part in encouraging action both in the region and at a global level. As an advanced, industrialised economy it is up to Australia to help lead the way. We need to show that we are committed to dealing with the problem at hand and convince other regional governments that the only viable course of action is to start implementing appropriate policies.

The best way to do this is for the federal government to stop tiptoeing around the issue. Fortunately this year we have seen a shift in the Liberal Party from talking down the issue to accepting that the climate change problem is looming very large on the horizon and can no longer be ignored. Finally, with the Prime Minister wanting to be a champion of a new Kyoto and federal environment minister Ian Campbell saying that Australia could push for a regional carbon-trading scheme as part of the first step towards global action, we do have a chance to make better progress than to date. Coincidentally, this also lines up with one of the key findings of the Stern review, that:

Establishing a carbon price, through tax, trading or regulation, is an essential foundation for climate-change policy.

This conclusion is not new—if one reviews the literature over many years covering the most appropriate policy responses to climate change, the idea of introducing a carbon price signal is thoroughly discussed.
While I condemn the coalition for being so slow to wake up, it is not for me to attack the coalition on their awakening—not yet anyway. I welcome the signs that they might at last do something positive. (Time expired)

Regionalism

Senator TROOD (Queensland) (10.27 pm)—A hundred years after Federation, Australia has an increasingly centralised system of government. The recent High Court decision in the Work Choices case was further confirmation of this reality, but the movement towards the centre has been evident for a very long period of time. The extent of this movement would have surprised some of the founding fathers. They created a federal system to devolve power and anchor democracy in a country which, even by the start of the 20th century, exhibited growing political, economic and social diversity.

Given the strong drift towards centralism, it is perhaps not surprising that it has attracted frequent and increasingly vociferous criticism. Nor is it surprising that a long list of other ills are supposed to afflict the federal compact, including the vertical fiscal imbalance between the states and the Commonwealth. Without embracing the complaints of every critic, I share the belief of many that there is now a need for us to look seriously at the dysfunctional aspects of federalism and to think creatively about the way that we might address them. I am convinced that, when we do so, we will not reach an adequate resolution of the problems unless there is a strong dose of devolution or greater regionalism within the policy mix. Tonight I wish to argue briefly a case for a new regionalism.

When the six existing colonies formed one indissoluble federal Commonwealth of states in 1901, there was every expectation that new states would be admitted to the federation. Indeed, were the founding fathers to return today, they would be astonished to find that after 100 years this has not occurred. The last time there was any significant change to the political geography of the country was in 1911, when the Northern Territory was hived off from South Australia. Certainly, it was not expected that my own state of Queensland would remain unchanged. When it became a colony in 1859, it had a population of just 23,000 people. By the time of Federation the numbers had grown substantially and there was considerable anticipation that a new state would be created in North Queensland. It was this prospect that encouraged many in the north of the state to vote so strongly in support of the Federation referendum.

The expectations of the founding fathers have not been fulfilled, and the reality is that there is a low correlation between Australia’s real-life urban and rural regions and the levels of government designed to serve them. Put another way, the geopolitical boundaries that divide the nation—whether we talk about local government boundaries, state borders, the lines that mark out area consultative committees or even the myriad divisions created for the delivery of health, education and other government services—are often poorly aligned to the communities of interest they are designed to serve.

There is no necessary virtue in comprehensive regionalism and no ideal level of devolution for good governance. However, there is the well-established principle of subsidiarity. This principle holds that decisions should be taken, and responsibilities exercised, as close as possible to the citizens at the lowest level of competent authority. We have long given rhetorical support to this proposition but equally long disregarded it in practice. In these circumstances it is perhaps not surprising that Australia’s existing political geography is coming under increasing criticism from a wide range of perspectives.
Local government representatives routinely contend that they are closest to the people but deprived of the power and the resources and increasingly subject to the burden of cost-shifting from other levels of government. The states and territories complain constantly about fiscal centralisation, overlapping and duplicated functional responsibilities and, increasingly, federal policy control.

Nor is the Commonwealth satisfied with current arrangements. The states rightly earn blame for delaying and frustrating sensible Commonwealth reforms, for delinquency in failing to cut taxes under GST reforms, for a failure to spend on infrastructure development and for their tolerance of numerous regulatory inconsistencies that add massively to the costs of business, both local and international.

Finally in this litany of federal woes, it is useful to point out that the complaints and frustrations with current arrangements of federalism are not just confined to the three levels of government. In October 2006, the Business Council of Australia released a report which contended that overlap, duplication and cost-shifting between the Commonwealth and the states, unnecessary taxes and overspending on programs because of a lack of oversight and accountability cost Australians at least $9 billion a year, and perhaps as much as $20 billion a year, through higher taxes and poorer quality services.

It is not a natural instinct among politicians, especially at the federal level, to consider that part of the solution to the problem of federalism is to seek greater devolution. More often, greater centralisation is seen as a better response. For some, to contemplate the idea of more states and perhaps expanded regionalism as a solution to federalism is as near to a nightmare scenario as is possible.

This view fails to take account of the potentially productive power of the regions that could be released if serious reforms were achieved. It fails to acknowledge how political restructuring can help promote innovation and ensure economic sustainability in a globalised economy. It fails to appreciate that increasingly in Australia governance is a shared activity between local, state and federal authorities and that reform and the achievement of prosperity involve not so much competition as cooperation and collaboration between these different levels of government.

The idea that each of Australia’s levels of government are separate fiefdoms—autonomous in their decision making, separate in the management of their financial affairs, independent in the exercise of their responsibilities and in every other way removed from one another—is an old and thoroughly outdated view of the modern developed state. Of course, there need to be clear divisions of political authority and also comprehensive understandings of roles and responsibilities, but these must exist within a much more sophisticated model of contemporary intergovernmental relations.

The model of enhanced regionalism that will work best for Australia is a matter for debate. We could pursue more states created from existing ones, stronger regions with more widely devolved powers created within states or, of course, the even more radical idea of abolishing the states altogether and moving to a two-tier system of governance with many regions. All are possibilities. We can debate these options in due course. For the moment, we have a far greater challenge—that is, to imagine a new federal future around a stronger, more sustainable regionalism. Perhaps we should be concerned that the Australian people have no interest in such things. On this matter, I draw the Senate’s attention to the Constitutional Values
Survey in Queensland and New South Wales undertaken by researchers at Griffith University. They showed a remarkably high knowledge of the problems of federalism among the public and a willingness to embrace reform.

What, then, might be the possible benefits of a reformed system? First, there could be a more effective political system with better economic representation and accountability. Second, it would offer more efficient and responsive public administration. Finally, it would be possible to see communities with higher levels of social, economic and environmental sustainability. In Australia, arguments for greater devolution within federalism are often seen as arguments designed to benefit Australians in rural areas. This is a narrow prism through which to consider the arguments for change. Certainly, regional Australia could hope to be empowered through reform, but the shortcomings of federalism affect those in urban areas and certainly those in the rapidly growing sea change communities around our coast.

Regionalism is a program of reform for the whole country. I would be surprised if reform was to take place quickly, but the reality is that to date our efforts at federalism reform have been half-hearted and our interest in regionalism pursued without a serious commitment to the value of devolution. In a globalised world, where the challenges of maintaining economic prosperity, the integrity of our liberal democracy and a high measure of social cohesion are constantly before us, we can do so much better.

Work and Family

Senator FIELDING (Victoria—Leader of the Family First Party) (10.37 pm)—Australian families are being damaged because we put too much emphasis on ourselves as individuals and not enough on our families. Never before has materialism and self-interest been cultivated to the extent it is now. This is the result of a market driven approach adopted by both major parties.

Family First supports free enterprise, not unfettered free markets. In our market driven world we are constantly told that we are individuals and that we have choices. Marketing or advertising panders to our interests in ourselves; it encourages us to spend to satisfy ourselves. Of course, to compensate for that spending we have to work longer hours. Statistics show that full-time workers are working longer hours. It is becoming more common for people to work more than 50 hours a week. Two-income families are becoming the norm.

Market economics tells us that we are individuals making rational decisions in our own interests. But rather than being a theory that tries to explain how economies work, this theory has, to some extent, been used as a philosophy of how we should act. This philosophy forgets that we are who we are because of our relationships and our interactions with other people. We are children, brothers, sisters, mothers, fathers and grandparents. We are all members of families and we owe much of who we are to how we were brought up in families. Those of us fortunate enough to have children also owe much to our kids, who teach us about life. As members of families and communities, we should not make decisions in a vacuum, as if our decisions do not impact on others.

We have seen the struggle between individualism and the family in the debate over industrial relations laws. Under the antifamily Work Choices legislation, workers on agreements or contracts are no longer guaranteed public holidays, meal breaks and overtime. Families believe in a fair go and they need to feel financially safe and secure. We all know that many workers are not in a strong bargaining position with their em-
The latest example is the Australian workplace agreement that the Commonwealth Bank wants its staff to sign. The government has defended the agreement on the basis that it gives families more flexibility. But the Commonwealth Bank has not mentioned families. All it has talked about is the convenience of customers. However, that message still seems to slip past the guards of the major parties. As Professor Neil Gilbert from the University of California has observed:

... the quality of family life suffers when mothers with young children go to work: hence, policies that create incentives to shift informal labour invested in child care and domestic production to the realm of paid employment are not 'family friendly' in any genuine sense.

Nevertheless, it seems we are determined to ignore this reality. According to the Sunday Age the House of Representatives Standing Committee on Family and Human Services is about to present its report on work and family. It seems it is going to recommend tax deductibility for child-care payments, exemptions from fringe benefits tax for child-care payments and a national au pair program, likely to involve young foreign visitors.

While these policies might strike a chord with the well-to-do, they are likely to be less relevant to ordinary parents living in the outer suburban areas and regions. These proposals demonstrate Professor Gilbert’s observation that many policies promoted in the name of the family are market friendly rather than family friendly.

Family First has said it before: we work to live; we do not live to work. We have to pull things back into balance. The government has the important job of getting the policy right to support that balance, but each one of us has the important task of re-examining our priorities. That applies to politicians too. However, given the government’s workplace relations policies and now, it seems, the recommendations of this House of Representatives committee, I am not sure we are doing much of a job.

Children, of course, would be the prime victims of a society built on individualism. A world of individuals is a ruthless place. No one would have to like us or give us the time of day. So we would have to work even harder to be more self-reliant and to ensure our security. That is a world we are moving towards.

Families are the basic building blocks of a community, but they are also the basic training grounds in which each and every one of us learns how to live together. Families are the first place we learn about rights and responsibilities. Families are where we learn right from wrong, sharing, sacrificing for others and how to get on with each other. That is why Family First believes that family policy should be child focused and not employer focused or adult focused.

Family First’s view is that we should not be mandating particular child-care options for families. Rather than just offering to subsidise places at institutional child-care centres, why not allow parents to choose alternative child-care arrangements and receive the same subsidy? Parents may prefer to leave their children with a family member or a friend. Why won’t the government provide the same subsidy for parents to do that?

The report of the House of Representatives committee has not yet been released. When it is, the questions we shall need to ask include: who do the recommendations put first? Are the recommendations child driven so that the interests of children are paramount or are they instead focused on getting...
the most productivity from parents? Do the recommendations aid family life and time together or do they aim to increase workforce participation rates? Are the committee’s recommendations child driven rather than driven by the needs of parents?

Policies that purport to be family policies need to be family driven, not market driven. Family First awaits the release of the recommendations of the committee on balancing work and family and will be looking to see if these are truly family-friendly recommendations or just market-friendly ones that are concerned with work or family, not truly work and family.

**Australian Political Parties for Democracy**

Senator FAULKNER (New South Wales) (10.46 pm)—Tonight I want to take the opportunity to speak yet again about the Australian Labor Party’s participation in the Australian Political Parties for Democracy, or APPD, program. I do so because of the commitment of the Australian Labor Party to accountability and transparency in its APPD programs. As I have said in an earlier speech, I intend to keep the Senate informed of progress on these issues.

The APPD program was established by the Australian government in 2006. Funding for the program is set at $1 million per annum per grant recipient. The ALP has committed to use the APPD program for our international activities, including the provision of practical training to political parties in the Asia-Pacific. In relation to our international activities I can report to the Senate that the ALP has used APPD funds to build on relations with China and to further dialogue and exchange with China on key issues such as trade, security, economic development and political, industrial and social rights. We also plan to maintain multilateral links with political parties in Asia and the Pacific through organisations such as the International Conference of Asian Political Parties.

The former Western Australian Premier Dr Geoff Gallop took part in the fourth International Conference of Asian Political Parties, the ICAPP, general assembly in Seoul in September. ALP international projects will continue to strengthen links between progressive political parties around the world and will continue our engagement with multilateral organisations that serve to promote or consolidate democracy.

We supported the visit to Australia of Carl Gershman, President of the National Endowment for Democracy. That visit included speaking engagements and meetings with key ALP stakeholders involved in democracy building.

We are building professional linkages with the National Democratic Institute of International Affairs, the NDI, the United States progressive democracy building institute, in Indonesia, Timor-Leste, the Philippines and Washington. ALP staff and officials have participated in NDI training activities and will continue to do so throughout the coming financial year. Senior representatives of the NDI will take part in ALP international project activities throughout 2006-07.

We will continue to participate in the Socialist International where appropriate. In November we supported the involvement of IPDC committee member and former ALP international secretary—not to mention former senator—Sue West in the SI annual conference and Socialist International Women’s Caucus in Santiago, Chile.

In relation to our technical assistance program, APPD projects will help political parties in Asia and the Pacific develop better infrastructure, become more democratic, improve their campaigning and election strategies and become more effective in their policy development processes. To provide a fo-
cus for our programs, the ALP in fact identified a group of six target countries for technical assistance: Indonesia, the Philippines, Timor-Leste, Papua New Guinea, the Solomon Islands and Fiji. To ensure local relevance our technical assistance and training programs are undertaken only after in-depth evaluation of country conditions and local needs and demands. We have now conducted evaluation missions in Indonesia, Papua New Guinea, Timor-Leste and the Philippines. We will soon deliver training to political parties in Timor-Leste and Papua New Guinea as they prepare for their general elections next year.

The first of our technical assistance programs to be undertaken in Australia was conducted this November. Representatives of the major Indonesian political parties were invited to take part in an organised study program to observe the Victorian state election, which was held, as you know, Mr President, very recently—polling day was 25 November 2006. In fact, I note that since democratisation began in 1999, the Indonesian people have faced only two competitive elections. So this study tour provided delegates with briefings and seminars about modern political strategies in competitive electoral systems. Key themes included media and communications strategies, party administration structures, policy development, polling strategies and marginal seat campaigning. Along the campaign trail, the delegates had an opportunity to visit marginal seat campaigns in Caulfield and Geelong. The visit is going to be followed up by workshops in Indonesia, and through APPD we will continue to build our relationship with political parties in Indonesia through the development of a memorandum of understanding.

For the interest of senators, I seek leave to table the ALP national secretariat’s Australian Political Parties for Democracy program funding application, which was lodged with the Department of Finance and Administration.

Leave granted.

**Mental Health Services Committee: Establishment**

**Senator MOORE** (Queensland) (10.53 pm)—This afternoon in this place Senator Allison, on behalf of the Australian Democrats, with the support of the Labor Party and the Australian Greens, moved a motion recommending the creation of a special Senate select committee, to be known as the Senate select committee on mental health services, to inquire into and monitor ongoing efforts towards improving mental health services in Australia and report by 30 June 2008. The committee recommendation had a number of dot points about the administration of the proposed committee. We were surprised, and greatly disappointed, by the decision of the government to vote down that recommendation. We are as yet to receive any explanation as to why the government decided it was not worth while to look at having an ongoing role for a Senate select committee in this place considering the major issue of mental health.

The issue of mental health has been acknowledged by this Senate as extraordinarily important in our community. The Senate acknowledged and endorsed the role of the original Senate Select Committee on Mental Health, which commenced its work in March 2005, and heralded its work, which was completed in March 2006. There has been strong acknowledgement by all parties involved and all levels of government of the importance of mental health in our community. That gave us hope that there would be an acknowledgement that the work does not end when the committee reports, particularly now when there is such hope in the community because of the action of the Council of
Australian Governments to initiate another national action plan for mental health for the years 2006 to 2011. This was launched by all the leaders of government in this country—the Prime Minister and the various state and territory ministers—in July 2006. The action plan says:

The effects of mental illness are felt across our nation. Recent reports from Parliamentary inquiries and independent reviews have presented strong evidence for change in the way governments respond to mental illness.

It goes on to outline what needs to be done. It says that the Council of Australian Governments has agreed to this national action plan on mental health which is:

... a unique opportunity to support people to manage their mental illness and make best use of services that will work for them, their families and carers in a more integrated way.

That is the particular issue. The first national mental health plan that was brought down in 1992 had very simple and clear aims:

• to promote the mental health of the Australian community;
• to, where possible, prevent the development of mental disorder;
• to reduce the impact of mental disorder on individuals, families and the community; and
• to assure the rights of people with mental disorder.

Whilst some of those terms have changed, because language has changed a bit in the period since then, the aims have remained largely unchanged. The real issue is that, whilst the rhetoric and goodwill are there, there is a deep concern about the actual implementation. In 2003, when the second national mental health plan was being assessed, an extremely valuable report that was put out at that time by the Mental Health Council of Australia entitled Out of hospital, out of mind said—and I think this was one of the most worrying things that we heard in all of the evidence to the committee in 2006:

After two 5-year National Mental Health Plans—that is 10 years of allegedly concerted government work—this does not represent a failure of policy, but rather a failure of implementation. This includes poor government administration and accountability, lack of ongoing government commitment to genuine reform and failure to support the degree of community development required to achieve high quality mental health care outside institutions.

Evidence was presented to our committee by people on the harrowing experience of working through their own difficult processes of having mental health issues, we heard the very worrying and quite distressing evidence of people who had watched and worked with their family members who were experiencing mental health issues, and we heard of the experiences of mental health providers who work on a daily basis with people who desperately need their support. Our committee heard that evidence for over 12 months. Our committee did not meet every day but I can assure you, Mr President, that we thought about the issues on a daily basis. We were committed to ensuring that, this time, when there was the opportunity for governments to work together, there would be real implementation success.

The government has already agreed in the new national action plan that it will:

... report annually to COAG on implementation of the Plan, and on progress against the agreed outcomes. Governments have also agreed to an independent evaluation and review of the Plan after five years.

We hope that when there is an evaluation this time there will not just be an acknowledgement that people have tried and that there is a commitment to improving the lives of people with mental health issues but that there will not be a failure of implementation and that, this
time, with all the experience and knowledge that we have gained, there will be some real change achieved.

That is the background to the recommendation to the Senate that we actually have an ongoing link between the various plans that have been set up across every state and territory of this country and are coordinated by at least five federal government departments. That was why we thought it would be an appropriate action to have an ongoing link involving the Senate group that was involved in the first Senate Select Committee on Mental Health, such that we would have that ongoing link between the Senate and whatever was going on.

This was not something that just a few senators dreamed up because they thought it would be a good idea to continue to have a committee operating, rather it was a result of discussion with the people who came to us. I was fortunate enough to attend the Mental Health Services Conference in Townsville this year where there was enormous interest in the way that the Senate committee operated. There were requests from the floor at the conference to ensure that we, as senators, maintained our immediate interest in the program. This request came not just from people, as I said, who were working with their own issues in mental health but from the medical profession and also from representatives of the Mental Health Council of Australia in attendance. We were genuinely thrilled by the amount of interest that was shown by a range of people in what was happening in parliament. They felt secure and almost buoyed by the fact that the Senate was interested in the issues of mental health, that we had made a commitment to them, that we wanted to stay involved and that there would be a very active, ongoing monitoring role.

Given that kind of background, it is extremely disappointing that the government has decided that there is no need for that link. There may well be some alternative options offered that have not been explained to us. But most particularly, it has not been explained to those people who want to have this parliament involved in these particularly important issues. There is always a need for coordination and monitoring; it does not matter what program is put forward. In fact, consistently through our inquiry during 2005-06 we heard concerns about the lack of coordination. When the Hon. Christopher Pyne was outlining his view of the importance of addressing mental health issues in the National Mental Health Report 2004, he said:

I ... am aware that improving the mental health of the community requires coordination across diverse areas of public policy, both within and external to the health portfolio.

This has been picked up by having shared responsibility across a number of departments in the significant financial commitment that the federal government has made to the issues of mental health. We applaud that commitment. We were very thrilled to see the budgetary announcements made by the federal government through the COAG process—over $1.9 billion being dedicated to issues around mental health—but it is not good enough to just make the promises over a five-year period. What is needed is ongoing involvement, development and monitoring of what is being achieved.

We believe that there is a role for the parliament. We would like to know what the government’s position is on this. We would like to know how it thinks this will be achieved because we think that the establishment of a Senate select committee at no great cost, rather to meet as required, would maintain that commitment to the people who most need the support of their government.
Mental Health Services Committee: Establishment

Senator WEBBER (Western Australia) (11.03 pm)—I rise to speak on the same issue. Also a member of the former Senate Select Committee on Mental Health, I too was tragically disappointed by the government’s decision in the vote today and, whilst it is not my role to reflect on a decision of this chamber, it is my role to reflect on the decision of this government. This is a government that heralds its commitment to mental health. It heralds it particularly in Mental Health Week with numerous public functions to which only government members are invited. They do not seem to hold out the spirit of bipartisanship to reflect the priority that should be given to mental health by those in the community. Instead the Hon. Christopher Pyne, Parliamentary Secretary to the Minister for Health and Ageing, decides usually only to have government members attend select events and functions. He does not decide, anyway, to invite anyone else who may be committed and, in fact, may have an understanding of these issues.

This is a complete contrast to those of us on all sides of this chamber who were involved in the Senate select committee. We all put our partisanship to one side and came up with a unanimous report because we decided as opinion leaders and makers in this country that we needed to actually get onboard with the views of this community and give mental health the priority that the community has given it for a very long time. All of us on that committee still share that view, so it is very sad that the government, rather than individual members of the Liberal Party, decided to ram through this decision. I have been told that it is because we wanted a select committee. This is from the same government that declared they would not use or abuse their majority in this place. Apparently, it is because we wanted a select committee—if only we would agree to refer it to the Senate Standing Committee on Community Affairs. This is the same committee that deals with any piece of health, FaCSIA or other legislation that comes before this place. So it would seem to key members of the government rather than key members of this place that mental health should slot in with an increase in, say, the private health insurance rebate, the decision to sell Medibank Private or anything else—it is of the same standing.

I am sorry, but to the community it is not, to state and territory governments it is not, to members of this place it is not, to significant members of the Liberal Party it is not. I find it galling, to say the least, that the government has decided that it is. Those of us who were appointed to the Senate select committee agreed that we would put our partisanship to one side. People like me would cop due criticism of state governments for their failings in the delivery of mental health services just as members of the government would cop due criticism for the federal government’s failings. We would do our best to compromise and come up with a unanimous report.

It is therefore a pity, to say the least, that the spirit of that committee could not continue in this place and maintain the watching brief. I have been in this place before and talked about the challenge of maintaining a watching brief. Indeed, I did not write to all members of the committee when I said that I would, because I was led to believe that the government would actually maintain their commitment and reconvene in some way, be it formal or informal, that watching brief. So it is tragic, that they have decided today to use their numbers, to use their majority in this place, to sell short those who believed in that report, who believed in the government’s commitment and who believed in our commitment to deliver to those who are most in need of our service.
It is a tragedy that the government have decided to sell short the commitment of people like the former Premier of Victoria, Mr Kennett; former minister for health, Mr Rob Knowles, who I know personally is disappointed with this government’s decision; former Premier and my good friend Dr Geoff Gallop; the former Western Australian minister for health and former Chair of the Mental Health Council, Mr Keith Wilson; and, of course, the former Premier of New South Wales, Mr Bob Carr—all of whom are passionately committed to putting aside their partisan beliefs to deliver solutions to this disease burden and to deliver to this need in our community. The government, not the Liberal Party members in this place, have decided to ram through the rule that we can no longer have select committees. Apparently, this should just be another issue that the Senate Standing Committee on Community Affairs might get around to dealing with at some point, when in fact the chair of the community affairs committee said that he would prefer a select committee because the community affairs committee is too busy to deal with this issue. That is the reason we were given for the referral of the privatisation of Medibank Private. We were told: ‘You cannot send it to community affairs because they are very busy; it should go to the Senate Standing Committee on Finance and Public Administration.’

Well, I am sorry; the government cannot have it both ways. You either agree that this is a priority, that it needs to be bipartisan, that it is a community priority and that we are going to find a solution to this incredibly important issue or you are going to play partisan politics and you do not care. That is the decision we made today: you do not care. You do not care about the people who suffer from chronic depression and other mental illnesses. You just want to make it a side issue that will go to a Senate committee amongst every other issue. You do not think it is a significant issue, and that is a tragedy for the 20 per cent of our population who suffer from mental illness.

**Senate adjourned at 11.09 pm**

**DOCUMENTS**

**Tabling**

The following government documents were tabled:

- Queensland—Report, together with composite maps and compact disc of supporting information.
- Migration Act 1958—Section 486O—Assessment of appropriateness of detention arrangements—Personal identifiers 082/06 to 104/06—Commonwealth Ombudsman’s reports.
- Commonwealth Ombudsman’s reports—Government response.

**Tabling**

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]

Aviation Transport Security Act—Select Legislative Instrument 2006 No. 320—Aviation Transport Security Amendment Regulations 2006 (No. 5) [F2006L03921]*.

Chemical Weapons (Prohibition) Act—Select Legislative Instrument 2006 No. 313—Chemical Weapons (Prohibition) Amendment Regulations 2006 (No. 1) [F2006L03830]*.

Civil Aviation Act—Civil Aviation Regulations—Civil Aviation Order 40.0 Amendment Order (No. 1) 2006 [F2006L03912]*.

Civil Aviation Safety Regulations—Airworthiness Directives—Part 105—
AD/CASA/28—Outer to Centre Wing Attachment Fittings [F2006L03931]*.
AD/DAUPHIN/89—Main Rotor Head Frequency Adapters [F2006L03944]*.
AD/S-PUMA/67—Main Gearbox Casing [F2006L03942]*.

Instruments Nos—
CASA EX62/06—Exemption – participation in land and hold short operations [F2006L03653]*.
CASA EX66/06—Exemption – participation in land and hold short operations [F2006L03839]*.

Civil Aviation Regulations and Civil Aviation Safety Regulations—Instrument No. CASA EX67/06—Exemption – Rotary Air Force 2000 two place gyroplanes [F2006L03860]*.


Cocos (Keeling) Islands Act—Interpretation Amendment Ordinance 2006 (No. 1) [F2006L03825]*.
Standard Time and Daylight Saving Time Ordinance 2006 [F2006L03824]*.

Customs Act—Tariff Concession Orders—
0616108 [F2006L03900]*.
0616281 [F2006L03902]*.
0616333 [F2006L03904]*.
0616374 [F2006L03906]*.

Federal Court of Australia Act—Select Legislative Instrument 2006 No. 309—Federal Court of Australia Amendment Regulations 2006 (No. 3) [F2006L03829]*.

Foreign Acquisitions and Takeovers Act—Select Legislative Instrument 2006 No. 316—Foreign Acquisitions and Takeovers Amendment Regulations 2006 (No. 2) [F2006L03836]*.

Gene Technology Act—Select Legislative Instrument 2006 No. 314—Gene Technology Amendment Regulations 2006 (No. 1) [F2006L03558]*.

Health Insurance Act—
Determination HIB 33/2006 [F2006L03920]*.
Select Legislative Instrument 2006 No. 319—Health Insurance (Diagnostic Imaging Services Table) Amendment Regulations 2006 (No. 6) [F2006L03872]*.


Medical Indemnity Act—Medical Indemnity (Run-off Cover Claims and Administration) Protocol 2006 (No. 2) [F2006L03938]*.

Ozone Protection and Synthetic Greenhouse Gas Management Act—Select Legislative Instrument 2006 No. 312—Ozone Protection and Synthetic Greenhouse Gas
Management Amendment Regulations 2006 (No. 2) [F2006L03919]*.
Primary Industries (Customs) Charges Act—Select Legislative Instrument 2006 No. 317—Primary Industries (Customs) Charges Amendment Regulations 2006 (No. 5) [F2006L03885]*.
Primary Industries (Excise) Levies Act—Select Legislative Instrument 2006 No. 318—Primary Industries (Excise) Levies Amendment Regulations 2006 (No. 7) [F2006L03884]*.
Taxation Determinations—
Addenda—
    TD 92/150.
    TD 93/50.
    TD 20006/74.
Taxation Rulings—
Old Series—Notice of Withdrawal—IT 2245.
TR 2006/14.
Governor-General’s Proclamation—
Commencement of Provisions of an Act
Aviation Transport Security Amendment Act 2006—Items 1 to 19 and items 21 to 35 of Schedule 1—4 December 2006 [F2006L03915]*.
* Explanatory statement tabled with legislative instrument.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Agriculture, Fisheries and Forestry: Grants

(Question No. 991)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 24 June 2005:

For each of the financial years 2001-02, 2002-03, 2003-04 and 2004-05, has the Minister, the department or any agency or statutory authority for which the Minister is responsible, made grants or other payments to business organisations and/or associations, including but not necessarily limited to peak employer groups; if so, can information be provided for each grant or other payment including:

(a) the name and address of the recipient organisation;
(b) the quantum and purpose of the payment;
(c) the name of the program under which the grant or other payment was funded;
(d) who approved the grant or other payment; and
(e) whether the grant or payment was successfully acquitted; if so, when; if not, can details be provided, including action taken to recover the grant or other payment.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:
## QUESTIONS ON NOTICE

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<th>(a) Name of recipient</th>
<th>(a) Address of recipient</th>
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<th>(b) Purpose</th>
<th>(c) Program</th>
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<th>(e) Whether the grant or payment was successfully acquitted; if so, when; if not, can details be provided, including action taken to recover the grant or other payment.</th>
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<td>ZOOLOGICAL PARKS BOARD OF NSW</td>
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QUESTIONS ON NOTICE
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<td>SHORTHORN SOCIETY OF AUSTRALIA</td>
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### QUESTIONS ON NOTICE

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<td>AUSTRALIAN WOMEN IN AGRICULTURE LTD</td>
<td>PO BOX 152, LOXTON SA 5333</td>
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<td>NLP ACCOUNT, PO BOX 10 GLENTHOMPSON VIC 3293</td>
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</table>
## QUESTIONS ON NOTICE

**Financial Year** | **(a) Name of recipient** | **(a) Address of recipient** | **(b) Amount ($)** | **(b) Purpose** | **(c) Program** | **(d) Approved by** | **(e) Whether the grant or payment was successfully acquitted; if so, when; if not, can details be provided, including action taken to recover the grant or other payment.**
---|---|---|---|---|---|---|---
2001-02 | AUSVET ANIMAL HEALTH SERVICES PTY LTD | PO BOX 3180, SOUTH BRISBANE QLD 4101 | $6,502.00 | BUS/OP PLAN-SURVEILLANCE | Aquatic Animal Health: National Policy and Programs | DAFF | Yes
2001-02 | AUSVET ANIMAL HEALTH SERVICES PTY LTD | PO BOX 3180, SOUTH BRISBANE QLD 4101 | $6,502.00 | CONSULTANCY FEES | Aquatic Animal Health: National Policy and Programs | DAFF | Yes
2001-02 | AUSTRALIAN BARRA-MUNDI FARMERS ASSOC. | 6 ROPER COURT, NORTH WARD QLD 4810 | $210.00 | REGISTRATION I EAST CONG 5-6.8.01 | Aquatic Animal Health: National Policy and Programs | DAFF | Yes
2001-02 | AUSTRALIAN INDUSTRY GROUP | PO BOX 289, NORTH SYDNEY NSW 2059 | $980.00 | TRAINING COURSE | Australian Plague Locust Commission | DAFF | Yes
2001-02 | APPLE & PEAR AUSTRALIA LTD | 39 O’CONNELL STREET, NORTH MELBOURNE VIC 3051 | $862.40 | AUSTRALIAN APPLE & PEAR GROWERS | Residues: National Policy and Programs | DAFF | Yes
2001-02 | CATTLE COUNCIL OF AUSTRALIA | PO BOX E10, KINGSTON ACT 2604 | $1,004.68 | REIMBURSEMENT OF A FOX TFAP MTG OCT 01 | National Cattle Disease Account | Minister | Yes
2001-02 | CATTLE COUNCIL OF AUSTRALIA | PO BOX E10, KINGSTON ACT 2604 | $1,541.52 | REIMBURSEMENT OF R BRUNCKHORST TFAP MTG | National Cattle Disease Account | Minister | Yes
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## QUESTIONS ON NOTICE

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QUESTIONS ON NOTICE
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<td>AUSTRALIAN COTTON GROWERS RESEARCH ASSOC</td>
<td>KIA-ORA NARRABRI NSW 2390</td>
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<td>Sustainable Industry Initiative - Increase the adoption of land use strategies that maximise the contribution to catchment health made by cotton farms providing the necessary technical expertise to improve longer term NRM services provided to industry through extension network.</td>
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QUESTIONS ON NOTICE
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<th>(b) Purpose</th>
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<th>(e) Whether the grant or payment was successfully acquitted; if so, when; if not, can details be provided, including action taken to recover the grant or other payment.</th>
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<td>PO BOX 6014, HALIFAX ST, ADELAIDE SA 5000</td>
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<td>THE AUST SIMMENTAL BREEDERS ASSOC LTD</td>
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QUESTIONS ON NOTICE
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<td>NLP ACCOUNT, PO BOX 10 GLENTHOMPSON VIC 3293</td>
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<td>Sustainable Industry Initiative - Implementation and extension of a training and accreditation pilot (FERTCARE) to improve the sustainability, efficiency and cost-effectiveness of fertiliser use, thereby providing for improved NRM and increased productivity.</td>
<td>NLP National Component</td>
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<td>NLP National Component</td>
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<td>$22,000.00</td>
<td>Sustainable Industry Initiative - Supporting the National Wine Industry Environment Committee coordinate national implementation of NRM through the environment strategy “Sustaining Success” (2002).</td>
<td>NLP National Component</td>
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<td>Sustainable Industry Initiative - Supporting the National Wine Industry Environment Committee coordinate national implementation of NRM through the environment strategy “Sustaining Success” (2002).</td>
<td>NLP National Component</td>
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<td>Sustainable Industry Initiative - Supporting the National Wine Industry Environment Committee coordinate national implementation of NRM through the environment strategy “Sustaining Success” (2002).</td>
<td>NLP National Component</td>
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**Notes:**
- 1MPULS> Initiative: Improved Pasture Use and Salinity Land Stabilisation Initiative.
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<td>9 MEMORIAL ROAD, JERRAMUNGUP WA 6337</td>
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<td>Sustainable Industry Initiative - identifying priority actions at the farm level, link actions to catchment objectives and investigate viable sustainable NRM options.</td>
<td>NLP National Component</td>
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<td>Sustainable Industry Initiative - identifying priority actions at the farm level, link actions to catchment objectives and investigate viable sustainable NRM options.</td>
<td>NLP National Component</td>
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<td>NSW SUGAR MILLING CO-OP LTD</td>
<td>HARWOOD MILL, HARWOOD NSW 2465</td>
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<td>Sustainable Industry Initiative - Development of a whole of food chain sustainability reporting system exploring market based incentives for improved sustainable NRM practices.</td>
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<td>PO BOX 3180, SOUTH BRISBANE QLD 4101</td>
<td>$27,342.50</td>
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<td>AUSVET ANIMAL HEALTH SERVICES PTY LTD</td>
<td>PO BOX 3180, SOUTH BRISBANE QLD 4101</td>
<td>$5,522.00</td>
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<td>AUSVET ANIMAL HEALTH SERVICES PTY LTD</td>
<td>PO BOX 3180, SOUTH BRISBANE QLD 4101</td>
<td>$866.41</td>
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<td>Financial Year</td>
<td>(a) Name of recipient</td>
<td>(b) Address of recipient</td>
<td>(c) Program</td>
<td>(d) Approved by</td>
<td>(e) Whether the grant or payment was successfully acquitted; if so, when; if not, can details be provided, including action taken to recover the grant or other payment.</td>
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<td>2004-05</td>
<td>AUSTRALASIAN VET BOARDS COUNCIL INC</td>
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<td>DAFF</td>
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<td>AUSTRALASIAN VET BOARDS COUNCIL INC</td>
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<td>PER DIEM FEE 10/28 DEC 04</td>
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QUESTIONS ON NOTICE
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<tr>
<th>Financial Year</th>
<th>Name of recipient</th>
<th>Address of recipient</th>
<th>Amount ($)</th>
<th>Purpose</th>
<th>Program</th>
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<td>(a) Address of recipient</td>
<td>(b) Amount ($)</td>
<td>(b) Purpose</td>
<td>(c) Program</td>
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<td>$340.00</td>
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<td>GRANT PAYMENT</td>
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<td>DAFF</td>
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<td>(a) Name of recipient</td>
<td>(a) Address of recipient</td>
<td>(b) Amount ($)</td>
<td>(b) Purpose</td>
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<td>Wildlife &amp; Exotic Disease Preparedness</td>
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QUESTIONS ON NOTICE
Families, Community Services and Indigenous Affairs: Monetary Compensation
(Question No. 2000)

Senator O’Brien asked the Minister representing the Minister for Families, Community Services and Indigenous Affairs, upon notice, on 8 June 2006:

What is the quantum of payments made as settlements to claims for monetary compensation by the departments and agencies for which the Minister is responsible that are consistent with Legal Services Directions issued under section 55ZF of the Judiciary Act 1903, by financial year, since the first Legal Services Directions were issued.

Senator Kemp—The Minister for Families, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:

FaCSIA does not have a system set up to record these payments as the amount would be very small and is therefore unable to answer the question.

Australian Quarantine and Inspection Service: Audits
(Question No. 2508)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 26 September 2006:

With reference to the answer to question on notice no. 2051 (Senate Hansard, 7 September 2006, p. 98) and internal audits into functions within the Australian Quarantine and Inspection Service carried out in the financial years 2002-03, 2003-04, 2004-05 and 2005-06:

(1) On what dates in those financial years were audits initiated.

(2) On what dates were each of the audits completed.

(3) (a) What was the cause of each audit; (b) how many of these audits were scheduled; and (c) how many were unscheduled.

(4) (a) How many recommendations resulted from each audit; and (b) in each case, what were those recommendations.

(5) Which recommendations: (a) were implemented; (b) are yet to be implemented; and (c) will not be implemented.

(6) Where recommendations from any of the audits have not, or will not be implemented: (a) on what basis was each recommendation rejected; (b) in each case who made the decision to reject the recommendation; (c) what advice was provided to the Minister, or the Minister’s office, about the rejection of each of the recommendations; (d) when was that advice provided to the Minister, or the Minister’s office; and (e) when did the Minister, or the Minister’s office, provide a response to that advice.

Senator Abetz—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:
### Internal Audits into AQIS in the financial years 2002/03 to 2005/06

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Audit Title</th>
<th>Initiated</th>
<th>Completed</th>
<th>Cause</th>
<th>Scheduled / Unscheduled</th>
<th>No. of Recommendations</th>
<th>Recommendations</th>
<th>Implementation</th>
<th>Basis for rejection</th>
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<tr>
<td>2002/03</td>
<td>AQIS Bank Account</td>
<td>Aug 02</td>
<td>Sept 03</td>
<td>Part of 2002/2003 DAFF annual Internal Audit Programme</td>
<td>Scheduled</td>
<td>1</td>
<td>The audit highlighted that updating Departmental CEI10 will enhance the efficiency and effectiveness of business practices and processes associated with the management and control framework supporting the AQIS bank account.</td>
<td>Implemented</td>
<td>N/A</td>
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<tr>
<td>2002/03</td>
<td>Physical Security over Manual Systems</td>
<td>Feb 03</td>
<td>May 03</td>
<td>Part of 2002/2003 DAFF annual Internal Audit Programme</td>
<td>Scheduled</td>
<td>7</td>
<td>The audit made recommendations in relation to a policy on the production, distribution and security of AQIS stamps and seals.</td>
<td>Implemented</td>
<td>N/A</td>
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<tr>
<td>2002/03</td>
<td>AQIS Regional Office Review - QLD, VIC &amp; WA</td>
<td>Jan 03</td>
<td>June 03</td>
<td>Part of 2002/2003 DAFF annual Internal Audit Programme</td>
<td>Scheduled</td>
<td>4</td>
<td>The audit made recommendations in relation to the cross-subsidisation of state quarantine activities and IT infrastructure.</td>
<td>Implemented</td>
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<td>2002/03</td>
<td>Review of Work Instructions</td>
<td>Jan 03</td>
<td>April 03</td>
<td>Part of 2002/2003 DAFF annual Internal Audit Programme</td>
<td>Scheduled</td>
<td>5</td>
<td>The audit made recommendations in relation to an AQIS wide policy on the development, maintenance and review of work instructions.</td>
<td>Implemented</td>
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<td>2002/03</td>
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<td>Oct 02</td>
<td>June 03</td>
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<td>Scheduled</td>
<td>3</td>
<td>The audit made recommendations in relation to the access, retention and verification of production data.</td>
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**QUESTIONS ON NOTICE**
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<td>2003/04</td>
<td>AQIS Regional Office Review - NSW, Far Nth</td>
<td>Feb 04</td>
<td>Oct 04</td>
<td>Part of 2003/2004 DAFF annual Internal Audit Programme</td>
<td>Scheduled</td>
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<td>The audit made recommendations on minor issues of financial management, security of forms and IT performance.</td>
<td>Implemented</td>
<td>N/A</td>
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<td>2004/05</td>
<td>OH&amp;S in AQIS</td>
<td>Aug 04</td>
<td>Dec 04</td>
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<td>Scheduled</td>
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<td>The audit made recommendations in relation to the reporting, training and contract management of OH&amp;S as well as implementation of a Comcare recommendation.</td>
<td>Implemented</td>
<td>N/A</td>
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<td>2004/05</td>
<td>AQIS Regional Office Review - WA &amp; NT</td>
<td>Nov 04</td>
<td>May 05</td>
<td>Part of 2004/2005 DAFF annual Internal Audit Programme</td>
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<td>15</td>
<td>The audit made recommendations on aspects of travel, fleet utilisation, financial management, and the application of the Regional Office Compliance Self Assessment.</td>
<td>Implemented</td>
<td>N/A</td>
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<td>2004/05</td>
<td>Export Certification Review</td>
<td>Oct 04</td>
<td>May 05</td>
<td>Part of 2004/2005 DAFF annual Internal Audit Programme</td>
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<td>The audit made recommendations on aspects of processes, reporting and record keeping to support export certification.</td>
<td>Implemented</td>
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<td>AQIS Regional Office Review - VIC, TAS &amp; SA</td>
<td>Sept 05</td>
<td>Mar 06</td>
<td>Part of 2005/2006 DAFF annual Internal Audit Programme</td>
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<td>The audit made recommendations on aspects of cash management, fleet and asset management and aspects of travel.</td>
<td>Implemented</td>
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Textile, Clothing and Footwear Structural Adjustment Program  
(Question No. 2547)

Senator Marshall asked the Minister representing the Minister for Industry, Tourism and Resources, upon notice, on 9 October 2006:

With reference to the Textile, Clothing and Footwear Structural Adjustment Program for textile, clothing and footwear workers:

1. How will the Government ensure that retrenched textile, clothing and footwear workers leaving their industry are made aware of the program and their entitlements flowing from the program?

2. Can statistics be provided on how many retrenched textile, clothing and footwear workers across Australia have successfully registered for the program at Job Networks in the first year of its operation?

3. How many of these workers have been assisted into further training and ongoing employment through the current program.

4. How will the Government ensure accountability of the Department of Employment and Workplace Relations in reporting on outcomes of the program funding?

5. To date, what amount taken out of Job Seeker accounts has been spent on textile, clothing and footwear workers re-training?

6. How will the Government ensure that all future retrenched textile, clothing and footwear workers will have easy access to courses and qualifications over the first 12 months following their retrenchment?

7. Of the three parts of the program (support to retrenched workers through Job Networks, support to communities through the Regional Partnerships Program, and support to firms through a discretionary fund of the Department of Industry, Tourism and Resources under the Restructuring Initiatives Grants Scheme):

   (a) how much of the $50 million in funding for the program is designated for each of the three elements; and

   (b) how much has been spent to date against each of the three elements?

8. [No question eight.]

9. (a) How is funding for retrenched workers through Job Networks drawn upon by the Department for Employment and Workplace relations; and

   (b) is this done on a per head basis or by expenditure from Job Seeker accounts?

10. What mechanisms ensure that textile workers who lose their jobs through restructuring of the textile, clothing and footwear industry will be entitled to, and have access to, the program.

11. Does this eligibility cover textile workers working in companies in other industries?

Senator Minchin—The Minister for Industry, Tourism and Resources has provided the following answer to the honourable senator’s question:

(1) The Government has a number of communication strategies to ensure that there is wide knowledge of the Textile, Clothing and Footwear (TCF) Structural Adjustment Program (SAP).

   The Department of Employment and Workplace Relations (DEWR) administers Part 1 of TCF SAP (providing assistance to retrenched TCF employees) and has developed a communication strategy aimed at employers, affected workers and Job Network members. The strategy includes:

   • Having processes in place that allow it to be informed of impending redundancies. Under the Workplace Relations Act, employers are required to notify Centrelink of redundancies involving
15 or more employees. DEWR has well established processes in place with Centrelink to receive notification of these redundancies, including for the TCF industry. DEWR also receives industry intelligence passed on by the Department of Industry, Tourism and Resources (DITR).

- On becoming aware of redundancies, immediately contacting the employer to advise them about the package and to arrange for information to go to affected employees. Where the employer agrees, DEWR visits the site and provides information directly to workers. Where the employer does not agree to a visit, DEWR provides the employer with copies of an information kit to distribute to workers. The information kit is available in community languages if required.

- Communication with Job Network members. There are two components of the communication strategy for Job Network members:
  - Ongoing work to raise the awareness of the package including placing regular articles about the TCF SAP in the JNM journal; placing detailed information about the TCF SAP on the JNM secure website and writing to JNM Chief Executive Officers about the TCF SAP.
  - On becoming aware of redundancies, notifying local JNMs of the redundancies and the affected workers’ eligibility for the TCF SAP.

DITR, which administers Part 2 of TCF SAP, communications strategies include:

- having details on TCF SAP on its website;
- advising TCF firms looking at restructuring and/or downsizing of the assistance available for their employees under TCF SAP and putting them in direct contact with DEWR where required;
- dealing directly with firms seeking assistance under Part 2;
- writing to all key industry associations providing them with details of the Program when it was implemented; and
- liaising with DEWR and the Department of Transport and Regional Services (DOTARS), which administers Part 3 of TCF SAP.

DOTARS' communications strategies include:

- having details on TCF SAP on its website;
- ensuring that the Area Consultative Committees are aware of TCF SAP; and
- liaising with DITR.

(2) From 1 July 2005 to 30 June 2006, 337 retrenched TCF employees registered for assistance under TCF SAP.

(3) Job Network Members (JNMs) recorded 253 job placements in the same period. In addition, JNMs recorded 67 thirteen-week outcomes and 18 twenty-six week outcomes and one education outcome (placement into full-time education) in this period. TCF employees placed into a job in the later part of 2005-06 would only now be achieving 13 week outcomes. This is demonstrated by the number of 13 week employment outcomes already achieved in 2006-07 (51).

(4) DITR is working in close cooperation with DEWR on the delivery of Part 1 of TCF SAP. DEWR regularly provides DITR with updated reports on the number of retrenched TCF employees accessing TCF SAP. The outcomes for TCF SAP will be reported in DITR’s annual report.

(5) As at 16 October 2006, $46,469 has been spent from the Job Seeker Account and Training Account to provide re-training for retrenched TCF employees registered for TCF SAP. The Job Seeker Account has also been used to purchase a range of other goods and services; such as clothing and equipment, wage subsidies, transport assistance and interpreter services; to help job seekers find alternative employment.

(6) JNMs will continue to provide retrenched TCF employees with immediate access to Intensive Support Customised Assistance and an enhanced Job Seeker Account to purchase whatever goods and...
services are deemed appropriate to quickly secure them alternative employment, including access to courses and qualifications.

(7) (a) TCF SAP has a total allocation of $50 million over ten years to 2015, with an annual allocation of $5 million. This annual allocation has not been broken down between the three elements of the TCF SAP so that demand for each element can be met flexibly as required. If there are unspent funds from the annual $5million allocation, these are rolled over and added to the following year’s allocation in recognition that structural adjustment may have a higher impact in some years than others.

(b) As at 20 October 2006, the total amount spent for each part is:
   1. Part 1: $744,602.50;
   2. Part 2: $2.8 million; and
   3. Part 3: Nil

(8) [No question eight]

(9) (a) and (b) When a TCF SAP eligible worker commences with a Job Network member, DEWR, through its IT systems, credits the Job Seeker Account with $1,350. This forms a pool of funds that the Job Network member can draw down flexibly based on their assessment of the needs of each job seeker.

(10) Refer to the response for question 1.

(11) Assistance under Part 1 of TCF SAP is available to TCF employees retrenched by firms who undertake an eligible TCF activity as defined by section 1.6 of the TCF Post-2005 (SIP) Scheme. The TCF Post-2005 (SIP) Scheme is administered by DITR. When DEWR becomes aware of redundancies of TCF employees, it confirms that the manufacturing and/or design activity undertaken by the firm falls within the scope of the TCF Post-2005 (SIP) Scheme. Employees (regardless of whether or not they are covered by a TCF award) who are retrenched by a firm in another industry, are not eligible for assistance under TCF SAP.

Building Industry
(Question No. 2629)

Senator Marshall asked the Minister representing the Minister for Small Business and Tourism, upon notice, on 9 November 2006:

(1) What assistance is being given to domestic builders in Victoria who are: (a) being forced to underwrite insurance policies they purchase on behalf of their clients; and (b) denied insurance if those builders refuse to underwrite the mandatory warranty insurance policies purchased for their clients.

(2) Is the Minister aware of any: (a) cases of domestic builders in Victoria being issued demands for funds recovery under builders warranty insurance when the builder was not offered the opportunity to rectify the works until after the demand; and (b) domestic builders in Victoria who have been threatened by insurers under builders warranty insurance to withdraw eligibility for insurance from the builder for unjust reasons.

Senator Minchin—The Minister for Small Business and Tourism has provided the following answer to the honourable senator’s question:

(1) The Commonwealth is not responsible for insurance matters related to the building industry. State and Territory governments have statutory authority over these matters.

(2) (a) No. State and Territory governments have statutory authority over these matters. (b) No. State and Territory governments have statutory authority over these matters.