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

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

Governor-General

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

Senate Officeholders

President—Senator the Hon. Paul Henry Calvert

Deputy President and Chairman of Committees—Senator John Joseph Hogg


Leader of the Government in the Senate—Senator the Hon. Nicholas Hugh Minchin

Deputy Leader of the Government in the Senate—Senator the Hon. Helen Lloyd Coonan

Leader of the Opposition in the Senate—Senator Christopher Vaughan Evans

Deputy Leader of the Opposition in the Senate—Senator Stephen Michael Conroy

Manager of Government Business in the Senate—Senator the Hon. Christopher Martin Ellison

Manager of Opposition Business in the Senate—Senator Joseph William Ludwig

Senate Party Leaders and Whips

Leader of the Liberal Party of Australia—Senator the Hon. Nicholas Hugh Minchin

Deputy Leader of the Liberal Party of Australia—Senator the Hon. Helen Lloyd Coonan

Leader of The Nationals—Senator the Hon. Ronald Leslie Doyle Boswell

Deputy Leader of The Nationals—Senator the Hon. John Alexander Lindsay (Sandy) Macdonald

Leader of the Australian Labor Party—Senator Christopher Vaughan Evans

Deputy Leader of the Australian Labor Party—Senator Stephen Michael Conroy

Leader of the Australian Democrats—Senator Lynette Fay Allison

Leader of the Australian Greens—Senator Robert James Brown

Leader of the Family First Party—Senator Steve Fielding

Liberal Party of Australia Whips—Senators Jeannie Margaret Ferris and Stephen Parry

National Whip—Senator Nigel Gregory Scullion

Opposition Whips—Senators George Campbell, Linda Jean Kirk and Ruth Stephanie Webber

Australian Democrats Whip—Senator Andrew John Julian Bartlett

Australian Greens Whip—Senator Rachel Siewert

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## Members of the Senate

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

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

Heads of Parliamentary Departments

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

Prime Minister
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)
HOWARD MINISTRY—continued

Minister for Justice and Customs and Manager of Government Business in the Senate
Senator the Hon. Christopher Martin Ellison

Minister for Fisheries, Forestry and Conservation
Senator the Hon. Eric Abetz

Minister for the Arts and Sport
Senator the Hon. Charles Roderick Kemp

Minister for Human Services and Minister Assisting the Minister for Workplace Relations
The Hon. Joseph Benedict Hockey MP

Minister for Community Services
The Hon. John Kenneth Cobb MP

Minister for Revenue and Assistant Treasurer
The Hon. Peter Craig Dutton MP

Special Minister of State
The Hon. Gary Roy Nairn MP

Minister for Vocational and Technical Education and Minister Assisting the Prime Minister
The Hon. Gary Douglas Hardgrave MP

Minister for Ageing
Senator the Hon. Santo Santoro

Minister for Small Business and Tourism
The Hon. Frances Esther Bailey MP

Minister for Local Government, Territories and Roads
The Hon. James Eric Lloyd MP

Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence
The Hon. Bruce Frederick Billson MP

Minister for Workforce Participation
The Hon. Dr Sharman Nancy Stone MP

Parliamentary Secretary to the Minister for Finance and Administration
Senator the Hon. Richard Mansell Colbeck

Parliamentary Secretary to the Minister for Industry, Tourism and Resources
The Hon. Robert Charles Baldwin MP

Parliamentary Secretary to the Minister for Health and Ageing
The Hon. Christopher Maurice Pyne MP

Parliamentary Secretary to the Minister for Defence
Senator the Hon. John Alexander Lindsay (Sandy) Macdonald

Parliamentary Secretary to the Minister for Transport and Regional Services
The Hon. De-Anne Margaret Kelly MP

Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs
The Hon. Andrew John Robb MP

Parliamentary Secretary to the Prime Minister
The Hon. Malcolm Bligh Turnbull MP

Parliamentary Secretary to the Treasurer
The Hon. Christopher John Pearce MP

Parliamentary Secretary to the Minister for the Environment and Heritage
The Hon. Gregory Andrew Hunt MP

Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry
The Hon. Sussan Penelope Ley MP

Parliamentary Secretary to the Minister for Education, Science and Training
The Hon. Patrick Francis Farmer MP

Parliamentary Secretary (Foreign Affairs)
The Hon. Teresa Gambaro MP
SHADOW MINISTRY

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)
SHADOW MINISTRY—continued

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

Shadow Minister for Agriculture and Fisheries
Gavan Michael O’Connor MP
Shadow Assistant Treasurer, Shadow Minister for
Revenue and Shadow Minister for Small
Business and Competition
Joel Andrew Fitzgibbon MP

Shadow Minister for Transport
Senator Kerry Williams Kelso O’Brien

Shadow Minister for Sport and Recreation
Senator Kate Alexandra Lundy

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

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

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

Shadow Minister for Immigration
Anthony Stephen Burke MP

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

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

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

Shadow Minister for Citizenship and Multicultural
Affairs
Senator Annette Hurley

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

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

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

Shadow Parliamentary Secretary for Education
Kirsten Fiona Livermore MP

Shadow Parliamentary Secretary for Environment
and Heritage
Jennie George MP

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

Shadow Parliamentary Secretary for Immigration
Ann Kathleen Corcoran MP

Shadow Parliamentary Secretary for Treasury
Catherine Fiona King MP

Shadow Parliamentary Secretary for Science and
Water
Senator Ursula Mary Stephens

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

BANKRUPTCY LEGISLATION AMENDMENT (SUPERANNUATION CONTRIBUTIONS) BILL 2006

STATUTE LAW REVISION BILL (No. 2) 2006

First Reading

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

That the following bills be introduced:

A Bill for an Act to amend the Bankruptcy Act 1966, and for other purposes; and

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.

Question agreed to.

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

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

Question agreed to.

Bills read a first time.

Second Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.32 am)—I table the explanatory memoranda relating to the bills and move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

The Bankruptcy Legislation Amendment (Superannuation Contributions) Bill 2006

The Bankruptcy Legislation Amendment (Superannuation Contributions) Bill 2006 will amend the Bankruptcy Act 1966 to provide that bankruptcy trustees can recover superannuation contributions made to defeat the claims of creditors. These amendments respond to the High Court's decision in Cook v Benson, the effect of which has been to make it very difficult for bankruptcy trustees to recover superannuation contributions made by a person in the lead up to bankruptcy, even where those contributions were made specifically with the intention to defeat creditors. This represents a significant threat to the integrity of the bankruptcy system because it means that a person facing bankruptcy can transfer assets into superannuation to ensure they are not available to pay creditors. It also means that superannuation assets are treated differently from other assets which would be available to the trustee. As jointly announced by the Attorney-General and Minister for Revenue and Assistant Treasurer on 27 July 2006, the amendments will apply to superannuation contributions made on or after 28 July 2006.

The amendments provide an appropriate balance between the need to encourage people to save for retirement and the need to protect creditors from unscrupulous debtors who can currently attempt to avoid paying their debts by converting wealth into superannuation in the lead up to bankruptcy. They will allow superannuation contributions to be recovered only where there has been deliberate action by the bankrupt to avoid paying creditors.

The amendments have been developed following extensive public consultation. The approach taken by these amendments avoids the complexity of earlier proposals and is consistent with the Government’s plan to simplify and streamline superannuation.

The amendments are based on section 121 of the Act which deals with transfers of property by a person who subsequently becomes bankrupt where the transfer was made with the intention to defeat creditors. The new provisions will ensure superannuation contributions made with the same intent are recoverable on the same basis as other transfers. They will apply to superannuation con-
tributions made by the bankrupt for his or her own benefit or for the benefit of a third party. In addition, they will apply to contributions made by a third party for the bankrupt’s benefit where the bankrupt was complicit in an arrangement with that third party to defeat creditors. This may occur, for example, where the bankrupt had entered into a salary sacrifice arrangement with his or her employer to build up superannuation assets in the lead up to bankruptcy instead of other assets which would have been available to pay creditors. In line with section 121, the new rules will allow the trustee to assume that superannuation contributions were made with the intention to defeat creditors where the bankrupt was insolvent at the time of making the contributions. The Court will also be empowered to consider the bankrupt’s history of making superannuation contributions in determining whether the requisite intention existed at the time. If the bankrupt had no history of making substantial superannuation contributions but made such contributions shortly before becoming bankrupt, this may indicate that the contributions were made to defeat creditors. Where contributions are void under the new provisions, the Official Receiver will have the power to issue notices to the trustee of the superannuation plan requiring payments to be made to the bankruptcy trustee. These powers are already exercised by the Official Receiver under section 139ZQ of the Act in relation to other void transfers. Because there is a risk that the bankrupt may move money out of a superannuation plan before the trustee has finalised investigations and instigated recovery action, the trustee will also be able to request the Official Receiver to issue a superannuation account-freezing notice to prevent any dissipation of funds. There will be time limits on the effectiveness of these notices to ensure trustees do not unreasonably delay recovery action. The bill includes provisions allowing the Court to order payments to be made where the bankrupt has rolled-over the original contribution. This will ensure that a superannuation fund cannot be required to pay money which it no longer holds but will prevent an opportunity for bankrupts to avoid the operation of the new provisions. The bill also contains amendments designed to protect certain types of rural grants in the event of the recipient’s bankruptcy. The Bankruptcy Act already protects certain types of grants (for example, grants pursuant to the Dairy Exit Program and the Farm Help Re-establishment Grant Scheme. Currently, the Act must be amended every time a new class of grant becomes available which should be exempted from a bankrupt’s divisible property. To avoid this, the bill will include a power to prescribe these grants in regulations. This means regulations can be made at the time a new class of grant is created, without having to wait for the Act to be amended. Finally, the bill also includes some minor and technical amendments to improve the operation of the Bankruptcy Act. I commend the bill.

STATUTE LAW REVISION BILL (No. 2) 2006
Statute Law Revision bills are simple but important tools to pursue more effective and accessible laws. The process of reviewing, correcting and updating the body of Commonwealth legislation is a function well executed by the Office of Parliamentary Counsel who prepares these bills. On occasion, scrutiny of the statute book extends beyond the correction of minor errors and the clearing away of obsolete Acts. This bill, for example, will ensure that our laws are contemporary by removing references to outdated expressions and gender-specific language. The timely corrections and repeals effected by Statute Law Revision bills improve the quality and accuracy of Commonwealth legislation and facilitate the publication of consolidated versions of Acts. The bill has five schedules. Schedule 1 amends minor and technical errors contained in 18 principal Acts, such as incorrect spelling, punctuation or numbering. Schedule 2 amends errors con-
tained in 13 amending Acts. Many of these errors are misdescribed amendments that either incorrectly describe the text to be amended or specify the wrong location for the insertion of new text.

Schedule 3 repeals a total of 17 obsolete Acts. Part 1 proposes to repeal 15 Acts that are administered by the Minister for Transport and Regional Services. Part 2 proposes to repeal two Acts that are administered by the Minister for Industry, Tourism and Resources, and Part 3 proposes to remove references to the Acts that are repealed by Parts 1 and 2.

Schedule 4 repeals obsolete references to the out of date terms “official managers” and “official management” and Schedule 5 removes gender-specific language from the Customs Act 1901.

There are various commencement dates for the provisions listed in Schedules 1 and 2. The effect of the commencement provisions is that the errors are taken to have been corrected immediately after the error was made. All other provisions commence on Royal Assent.

While none of the amendments proposed by the Schedules will alter the content of the law, the bill will improve the quality and public accessibility of Commonwealth legislation.

I commend the bill.

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

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

WHEAT MARKETING AMENDMENT BILL 2006

First Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.32 am)—I move:

That:

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

I table a statement of reasons justifying the need for this bill to be considered during these sittings and seek leave to have the statement incorporated in Hansard.

Leave granted.

The statement read as follows—

Purpose of the bill

Amend the Wheat Marketing Act 1989 to transfer the power of veto for bulk wheat exports from AWB (International) Ltd to the Minister for Agriculture, Fisheries and Forestry.

Reasons for Urgency

The Government considers that urgent interim arrangements are needed to address current concerns within the wheat industry. Following the findings of the Cole Inquiry, the Government does not consider it appropriate that AWB (International) Ltd continue to hold the veto power, at least until such time as due consideration is given to longer term arrangements.

The interim arrangements are intended to be in place until 30 June 2007, during which time the Government intends to consult widely with industry to ensure the best outcome for wheat growers in deciding longer term wheat marketing arrangements.

(Circulated by authority of the Minister for Agriculture, Fisheries and Forestry)

I remind senators that we have had a statement of reasons for urgency circulated in the chamber. In fact, it was circulated yesterday. The Wheat Marketing Amendment Bill 2006 relates to, again, the recent Cole commission of inquiry. Of course, we have another bill which is different in form in response to that. This bill deals more with the marketing of wheat. Its urgency relates to the fact that, as a result of the Cole commission of inquiry, the government has considered the way in which wheat is marketed in Australia. There are urgent considerations because a harvest is
in the process of taking place across Australia. In fact, I would venture to say that the majority of the wheat has now been harvested.

The government considers that urgent interim measures are needed to address current concerns within the wheat industry. This bill will allow for the change to the veto power for an interim period of six months. The interim arrangements are intended to be in place until 30 June 2007, during which time the government intends to consult widely with industry to ensure the best outcome for wheat growers in deciding longer term wheat marketing arrangements. I stress to senators that this is an urgent interim measure. It was not foreseen; it comes as a result of the Cole commission findings. We need to put this interim measure in place to address at least this summer’s harvest of wheat across Australia. We have attempted to give senators as much notice as possible. It is not a complex bill. In fact, I would suggest it is a very short bill compared to others that we have seen.

Today I am proposing that, should this motion succeed, we proceed with this bill after the Tax Laws Amendment (2006 Measures No. 4) Bill 2006. That would give senators some time to consider their position. If necessary, government speakers could begin the second reading debate to allow further time for senators opposite to consider their position. And we could have the remainder of the debate concluded after question time today, which would give senators time to further consider their position. That is the proposal of the government. A draft was circulated yesterday—a slight amendment has been made to that—and the final draft was circulated this morning. As I said, it is a short bill; it is not complex. It deals with a very important and urgent issue of great concern to many of our farmers across Australia.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.36 am)—I thank the minister for that round-up about the Wheat Marketing Amendment Bill 2006. This is one of those occasions when there is genuine urgency for the legislation to be dealt with by the Senate at the end of a sitting year. The Greens, very unusually, will not be objecting to the exemption from the cut-off order. Senator Siewert has been dealing with this matter for the Greens. We will be ready to proceed with the debate later in the day, so the Greens will not be opposing this motion.

Senator LUDWIG (Queensland) (9.37 am)—Labor also accepts the urgency and the reasons put forward by the government for the Wheat Marketing Amendment Bill 2006 being declared an urgent bill. Labor does understand that there is a need for certainty in industry and will not be opposing the exemption from the cut-off. In terms of management of the bill, it is being introduced now and we have before us the second reading speech and the EM, together with the final version of the bill. We thank the government for the draft presented last night. It also assisted in helping us to formulate our view today. Labor will be in a position later this morning to be able to deal adequately with the bill. We understand the reasons behind it; they emanate from the Cole commission of inquiry. We appreciate both the Greens’ and the government’s position in bringing forward this bill and ensuring that we have been adequately informed about it and the need for urgency.

Question agreed to.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.38 am)—I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.
Bill read a first time.

Second Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.38 am)—I table an explanatory memorandum relating to the bill and move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

WHEAT MARKETING AMENDMENT BILL 2006

The Wheat Marketing Amendment Bill 2006 introduces temporary measures to address the immediate concerns of Australian wheat growers. This bill provides for the temporary transfer of the veto power for bulk wheat exports from AWB (International) Ltd (AWBI) to the Minister for Agriculture, Fisheries and Forestry until 30 June 2007. I must emphasise that these changes are not intended to pre-empt or pre-determine any long term policy considerations by the Government, nor does the Government intend to hold the veto in the long term.

This is a temporary measure which is being taken to address current concerns in the industry about the wheat marketing arrangements, particularly in Western Australia where there is not the same range of domestic marketing options as there is in the eastern states. The movement of the veto does not represent a change to the Australian Government’s single desk policy. For the six months in which the Minister holds the veto AWBI will continue to be exempt from requiring an export consent from the Wheat Export Authority (WEA) and will continue to be the buyer of last resort.

These temporary arrangements are also intended to address the uncertainty caused by the ongoing debate and consideration of the long term wheat marketing arrangements in light of the Cole Inquiry.

By temporarily transferring the veto from AWBI to the Minister for Agriculture, Fisheries and Forestry the Government will be able to carefully consider longer term arrangements while addressing the immediate concerns of growers. To rush the consideration of these long term arrangements would put at risk the future interests of Australian wheat growers. The Government’s dominant concern in the consideration of both long term and temporary arrangements is the interests of Australian wheat growers.

Importantly, by introducing these temporary measures it allows the Government to undertake thorough consultation with a range of stake-holders, particularly with growers in relation to wheat marketing arrangements for the long term. This will ensure all views are considered and the most appropriate arrangements identified for taking the industry forward.

The functions of the WEA in light of this bill, including the considerations that it applies when assessing applications from exporters other than AWBI, have not changed. The WEA will continue to assess each application in accordance with the legislation, seeking to complement any objective of Nominated Company B – AWBI – to maximise net returns for pools operated by that company, while at the same time seeking to facilitate the development of niche and other markets, where the WEA considers this may benefit both growers and the wider community. In conducting its functions the WEA will continue to consult with AWBI about each bulk export application and its possible impacts on the National Pool. Before approving or rejecting an application the WEA must obtain the agreement of the Minister.

The Minister’s decision will be based on broad consideration of the public interest and the Minister will have in mind obligations under the World Trade Organisation (WTO) in exercising these powers.

The WEA will provide its assessments of bulk wheat export applications to the Minister for his consideration. In conducting his assessment the Minister will consider the WEA’s views, including any impacts on the National Pool. The Minister will have a further responsibility to consider whether approving or rejecting an application is in the public interest. Such decisions will be made in consultation with other relevant Senior Government Ministers.

Where the Minister’s assessment, based on public interest, differs from the WEA’s assessment the
Minister has the power to direct the WEA to approve or reject the application.

The issuing of permits for exports of wheat in bags and containers will not change and will continue to be regulated by the WEA. This will ensure that traders continue to develop niche and other markets within the single desk framework for the benefit of growers and the industry.

This bill provides the Australian Government with the opportunity to address the urgent concerns of growers while allowing the Government to consult on, and consider, possible future wheat marketing arrangements. The measures implemented by this bill show that the Government will not rush to change this policy in the long term without due consideration.

The Australian Government’s principal concern is the wellbeing of Australian wheat growers. To this end, we are committed to working with the Australian wheat industry to secure the best outcome for Australian wheat growers.

Ordered that the resumption of the debate be made an order of the day for a later hour.

TAX LAWS AMENDMENT (2006 MEASURES No. 4) BILL 2006

Second Reading

Debate resumed from 16 October, on motion by Senator Santoro:

That this bill be now read a second time.

Senator SHERRY (Tasmania) (9.39 am)—I speak on this piece of legislation on behalf of the opposition. This is yet another tax omnibus bill that contains a variety of provisions. Firstly I wish to outline some aspects of the provisions contained in the Tax Laws Amendment (2006 Measures No. 4) Bill 2006. Firstly, schedule 1 deals with marriage breakdown rollover. Current law provides for the capital gains tax rollover from the sale of property caught by court order or court approved maintenance agreements occurring as a result of marriage breakdown. There is a problem with CGT treatment as a result of a binding agreement not approved by a court but still consistent with current family law.

The classic case is where a prenuptial agreement exists. This could mean that one party to the former marriage would be able to rent the former family home in a manner that would change the apportionment between the capital gains tax free component of the former family home and the assessable component in the event of a sale. One party could potentially use the current law to influence the capital gains tax treatment of the former family home to the possible detriment of the other party. The amendment is designed to ensure that both parties’ situations are taken into account when calculating how much of the property is capital gains tax free. The law also clarifies the fact that marriage breakdown settlements do not give rise to CGT liabilities. The schedule is a necessary policy change.

Schedule 2 deals with consolidation. The consolidation regime applies where two associated companies elect to be treated as a single entity for tax purposes. Companies can sometimes split or demerge. However, to protect against tax avoidance, current law provides that major transfers of assets just prior to the demerger are ignored. This was to ensure that the demerger was not used to manipulate the cost-setting rules that value assets of the group and reduce tax. In this case, the demerger would be unwound and the previous position would apply for tax purposes. However, the remerger is not tax avoidance and should not be part of the integrity measures. This change modifies the integrity rules to ensure that the remerger is not caught by this provision.
The change appears to be a reasonable correction of a problem but seeks to highlight the confusing nightmare that the consolidation provisions entail. This is at least the 12th time that these matters have been refined since introduction. The repeated amendments to the consolidation regime themselves now need to be consolidated. I repeat the position that Labor have put before the parliament: it would better for a major consolidation bill to be considered by the parliament. The process of considering amendment after amendment to this complex body of tax law does not reduce complexity; it certainly increases compliance costs and is against the broad thrust of seeking to reduce the size and complexity of the tax act. If the Treasurer were serious about reducing the complexity of the act he would do well to consider this proposal.

Schedule 3 simplifies the imputation system for New Zealand companies. Many New Zealand companies operating in Australia elect to be part of the Australian imputation system. But there are problems in allowing the imputation credits to flow to Australian companies as some dividends are non-portfolio dividends—less than 10 per cent shareholding—or otherwise exempt. Harmonisation of the two imputation systems is desirable and these provisions permit the franking credit to apply to non-portfolio dividends.

The original measure to allow cross-Tasman imputation recognition did have a cost in excess of $50 million per year. This bill corrects an unforeseen event and therefore gives effect to the original costing. Still, the measure as written has a cost, even if already included in a previous explanatory memorandum to a previous bill. It should have been given in the explanatory memorandum to this bill. This is yet another example of a costing deficiency in the explanatory memorandum to a tax bill.

Schedule 4 deals with non-resident capital gains tax. Schedule 4 seeks to align Australian international tax arrangements with the model OECD treaty in relation to taxation of capital gains for non-residents. Labor supports the policy intent in principle but is concerned that the reduction in the capital gains tax base for non-residents is significant.

This is a complex and controversial measure with two major impacts, and its total cost is $300 million over the forward estimates. The first measure involves a significant tax concession to foreign companies operating in Australia by restricting the capital gains tax base to real property—that is, land and income from land. Capital gains on non-resident shares are therefore now to be excluded. This is consistent with the OECD model tax treatment, and the government argues this approach is sought by other jurisdictions in tax treaty negotiations. However, there is a major compliance measure as well that is likely to be targeted at the mining and minerals exploration sector.

The basic principle of international taxation is that the host country taxes income that relates to operation in the host country, irrespective of where the company headquarters are located. So income from Australian operations is to be taxed here. But there is a major problem with so-called interposed companies. If a foreign company has a subsidiary with operations here, it pays capital gains tax if the assets are owned by an Australian subsidiary. But if the assets are held by an intermediate or interposed company then it is difficult and often impossible for Australia to effectively levy the capital gains tax on capital gains on assets held by these companies, and in some cases the right to claim this tax is disputed. Moreover, if a foreign company holds less than 10 per cent of an asset in Australia, the asset will lack a ‘necessary connection with Australia’. In this case, CGT is not levied on this company’s
capital gains from the sale of Australian assets.

So there is scope for an international company group to organise its Australian assets so each of the foreign interposed entities holds less than 10 per cent of a domestic asset, even though the total of the group may well exceed this 10 per cent threshold. This result is that most of these interposed groups can escape the Australian capital gains tax net. The proposed law states that for an international entity with 50 per cent or more of total assets in Australian real property our capital gains tax regime applies. This means that the ATO can look through the international corporate veil and apply capital gains tax on all these interposed entities’ capital gains if these entities are land rich.

This bill is an example of generic problems with tax bills. There are two government amendments to schedule 4 of this bill. This in itself is justification for Labor’s reference of the bill to the committee, and it also reveals a dangerous trend in tax legislation. Time and time again imperfect bills are being put to the parliament. How many times has the parliament been forced to consider amendments to consolidation measures and the international taxation measures? An example is the international tax participation bill of 2004. The debacle of the Tax Laws Amendment (Loss Recoupment Rules and Other Measures) Bill 2005 is still unresolved. Labor’s amendments were rejected in the morning and the bill was made subject to review in the afternoon—a review that is now eight months overdue. The legislative error rate in tax law matters is increasing all the time and it is just far too high.

Senators do not have to take my word for this; they need only hear from Justice Edmonds or the Inspector-General of Taxation, or even the minister himself, if they wish to find out how badly Treasury are being rated at the moment in terms of the production of tax law. Justice Edmonds, for example, was very critical of the way that explanatory memoranda are written, and this bill is sadly another example of the problem that Justice Edmonds referred to recently in his speech to the ATAX conference.

I want to talk about the problems with schedule 4. This schedule involves a major reduction in the capital gains tax base for non-residents. In evaluating this measure, there is of course the initial consideration of cost. The explanatory memorandum suggests a cost of $50 million to $65 million per annum. This in itself is significant, but Labor senators noted that this cost could be expected to increase substantially either as a result of proposed government amendments or as a result of prospective mergers. Such costs have to be weighed judiciously against the suggested economic benefits of increasing the attractiveness of Australia as a source of international capital. It is regrettable that this judgement was not assisted by adequate argument or modelling from the government or Treasury at the hearing. I am sure this is part of an increasing trend by this government to hide costings where it can. I do not blame the Treasury and Finance officials for this. They are under the political control of the ministers of the day. We are finding that information is being hidden and kept secret, particularly in the area of costings, where it is necessary to make a considered judgement about the worthiness of a particular piece of legislation.

In this case, the government has not put its argument with sufficient economic rigour. This may be the fault of the political process but, whatever the case is, it must be corrected. Labor calls on this Liberal government to devote more resources to making its arguments clear to the people through the parliament and through the committees, to desist from this increasing threat to openness.
and to ensure that costings and modelling are made publicly available.

Why doesn’t the government provide the parliament with the best analysis available? Why should Australia settle for second best in making difficult decisions of this nature? It is nothing but an attempt to undermine the parliament, particularly the role of the Senate. We have seen the increasing arrogance and contempt for the role of the parliament and the increasing domination by the executive, whether it be the Prime Minister, Mr Howard, or the arrogant Treasurer, Mr Costello. We have seen this contemptuous approach manifest in a number of ways that Labor has referred to on previous occasions, particularly now they have a Senate majority.

Labor senators considered this bill in an inquiry and put a number of questions to officials in advance of the hearing. We actually often put our questions on notice so officials have time to consider the matters, and we put questions on notice in advance of the primary hearing associated with this measure. We have sought to uncover the disadvantage to Australian firms relative to foreign firms, and if an increase in merger activity would lead to a significant cost blow-out. Labor senators were not given an answer to these questions that were put in advance of the hearing. This is not acceptable and I certainly hope that officials themselves have not been withholding information.

It is understandable that officials withhold information at the political direction of the government, which I suspect is what occurred on this occasion. There were some answers provided later but they were not adequate and were not covered in sufficient detail, and in some cases the responses were simply framed to avoid making a substantive and properly detailed answer. Labor senators did make some significant additional remarks, as did Senator Murray, the Australian Democrat shadow minister in this area. I acknowledge his active and effective contribution on these matters. I would like to endorse the broad sentiments of Senator Murray’s remarks in his additional comments.

I have noted the joint submission of the Minerals Council of Australia, the Australian Petroleum Production and Exploration Association, the Corporate Tax Association, and the comments of the Institute of Chartered Accountants in Australia at the hearing. The joint submission argued that taxable capital gains or losses on Australian real property need to be more precisely focused by specifying that only a proportion of the gain on the sale of interests in a resident or non-resident entity that is land-rich should be subject to CGT, equal to the Australian land-rich proportion. The amendment is worthy of further consideration and Labor is concerned that it was not more properly considered in the Senate report.

Labor has supported in the House of Representatives a further amendment to allow for the fact that the land-rich status of an entity may change between May 2005 and the timing of the bill. This amendment allows the ‘reset the clock’ amendment in relation to the cost base to also cover companies not land rich before May 2005 but who are now over the 50 per cent threshold. Labor notes that this further amendment at this late stage highlights again the deficiencies in the legislative process for this bill. Another amendment is expected to provide that the cost based adjustment also applies where the land-rich status of an entity has changed since May 2005, and that is a logical extension of the first amendment.

At a special briefing provided to Labor in relation to this amendment Labor reiterated its call for the two measures in schedule 4 to be disaggregated in terms of costing. How much is the cost to revenue of the reduction
in the CGT non-resident cost base net and how much is the gain to revenue from the new compliance measure? We know that officials were in a position to provide that information but the minister’s office did not grant officials the authorisation to inform Labor of this measure. This is a further example of contemptuous treatment of the parliament, and of the Senate in particular, in the legitimate gathering of information by the Australian Labor Party. I know that the Australian Democrats get frustrated at times. Keeping secret vital information on costings is in defiance, I have to say, of the Treasurer’s own much vaunted charter of budget honesty. Senator Murray is nodding; he knows that the Treasurer runs around saying: ‘We have got this charter of budget honesty. We are going to give full and open costings and access.’ Yet here is another case of this arrogant Treasurer refusing to reveal costings in accordance with his own charter of budget honesty.

Senator Murray—It is because they do not add up.

Senator SHERRY—I am sure that is part of the explanation, Senator Murray—you are quite right. The Treasurer, Mr Costello, has ruled out tax cuts for individuals and has expressed no interest in providing tax relief to small business, but he has found $300 million for tax breaks for foreign companies. We query the priorities of this government and they do not accord with Labor priorities. This is not the measure we would have chosen to advance at this time. However, given that this has been announced for two years—albeit continually botched and costings having been refused—and there are a number of investment proposals awaiting passage of this bill, Labor considers on balance in terms of being a responsible opposition that we will not seek to oppose the bill at this stage.
The operation of the integrity provision is also clarified, another amendment to what I would broadly describe as the consolidation regime. The explanatory memorandum claims that the anticipated cost to revenue will be $20 million for the financial year 2006-07 and $5 million for the financial years 2007-08 to 2009-10, totalling $35 million. Despite that cost, I think that amendment is valid and necessary, and it is consistent with the intentions of the consolidation regime.

Schedule 3 contains amendments to the imputation system relating to Australian and New Zealand companies. The proposed amendments in schedule 3 aim to solve the so-called triangular tax problem and will ensure that franking distributions by a New Zealand company which are exempt or are non-assessable, non-exempt income can be passed on by the Australian company on a pro rata basis to its shareholders. The explanatory memorandum estimates that the financial impact will be zero, with minimal compliance costs, and I think that is a useful rationalisation of the arrangements between Australian and New Zealand companies.

Schedule 4 contains amendments relating to capital gains tax and its operation in connection with foreign residents. It contains proposed and consequential amendments to the Income Tax Assessment Act 1997, the Income Tax Assessment Act 1936 and the Financial Corporations (Transfer of Assets and Liabilities) Act 1993. The bill will amend the CGT regime such that the capital gain or loss made by a foreign resident from a CGT event—the event by which a capital gain or loss arises—is disregarded unless the event relates to an asset that is ‘taxable Australian property’. Previously, the asset needed a ‘necessary connection with Australia’.

Broadly, ‘taxable Australian property’ will include taxable Australian real property, which is any real property situated in Australia, plus mining, prospecting and quarrying rights; indirect Australian real property interests, which are interests held by an interposing entity or entities; assets used in carrying on a business through a permanent establishment in Australia; an option or right to acquire one of these interests; and any CGT assets covered by section 104.165(4) of the Income Tax Assessment Act 1997. Additionally, the bill defines ‘indirect Australian real property interests’ as being those interests that pass the non-portfolio interest test—a non-portfolio interest is held by a foreign resident if the direct or indirect interest held by the foreign resident and associates is 10 per cent or greater—and the principal asset test, which is satisfied when the market value of an entity’s taxable Australian real property is more than 50 per cent of the market value of the entity’s assets.

Schedule 4 also contains consequential and other amendments arising from the proposed changes to the CGT regime relating to managed fund provisions, currency calculation provisions and interests in active foreign companies. According to the explanatory memorandum, the cost of the proposal is expected to be $50 million for 2006-07 and then $65 million for each of the following years 2007-08 to 2009-10, a total of $245 million. I famously—I hope!—described that as a thumb-suck. It might be an educated thumb-suck, but it is a thumb-suck.

Before discussing some of the specific concerns raised by the various schedules of amendments, I would just like to express my concern about the apparent lack of informed public awareness of the bill, although there has been some useful commentary in the more creditable newspapers and magazines. In the Senate Standing Committee on Economics inquiry into the provisions of the bill,
only four submissions were received in total, all of which came only from industry bodies and associations and all of which expressed support for the bill. As I said, there has been some media coverage; but, given that schedule 4 alone has a cost to revenue of $245 million over the years 2006-07 to 2009-10, I find the low-ish level of public awareness concerning, particularly since I think the consequences of this change will be dramatic for Australia with respect to a rapidly increased rate of foreign takeover and quite an amazing reduction, I expect, in revenue—far beyond what the government has calculated.

In terms of controversial issues, the bill is split fairly evenly down the middle. Schedule 3 relates to a technical taxation matter that was not dealt with in previous legislative efforts relating to trans-Tasman taxation arrangements. Schedule 2 is also relatively uncontroversial, although the validity of the forecast costs to revenue is always questionable in these matters. My view is that estimates by Treasury, whilst more educated than anyone else’s, are still only estimates. As those who have heard my remarks on consolidations over the years know, I have been consistently of the view that it will cost more than we anticipated. But that cost was actually necessary and justified, so there we are.

It is schedules 1 and 4 to which I wish to devote the majority of my attention, as they raise issues which merit further consideration. Schedule 1 extends the operation of certain marriage breakdown rollover provisions in relation to capital gains tax. However, as Bills Digest No. 16 notes at page 4: Parliament may note that the measure will make no changes to availability of the roll-over relief: only heterosexual couples, married or in de-facto relationships, will benefit from the expansion of the relief. It will continue to be unavailable to same-sex couples.

As most of my Senate colleagues will be aware, under my portfolios—economics, finance, tax and those sorts of portfolios—I have long campaigned to eliminate discrimination against same-sex couples in our tax, superannuation and property laws, although unfortunately not only have these efforts not borne much fruit so far but they have gone unrecognised by the larger community. So, to anyone who thinks that these are politically motivated efforts, I can assure you I get absolutely no political benefit from them.

In my view, I have also been moving these sorts of amendments consistently with the government’s support. As I understand it, according to coalition government policy and as enunciated by the Prime Minister, the coalition does not support the continued discrimination against gay and lesbian Australians with respect to property matters. Prime Minister John Howard, in a press conference at the Commonwealth Parliamentary Offices in Sydney on 22 December 2005, said that he was strongly in favour of removing any property and other discrimination that exists against people who have same-sex relationships. Well, that strong support does not translate into policy, so I am afraid I am not impressed.

As I stated during the Senate Standing Committee on Economics inquiry into the provisions of Tax Laws Amendment (2006 Measures No. 4) Bill, the continued discrimination against homosexuals is contrary to the way in which the government is moving. It is contrary to the remarks of the Prime Minister and the minister for finance and contrary to the view of most parliamentarians I know. It may also infringe international law. Some countries such as Canada allow marriage of same-sex couples, and this discriminates against those who are married overseas.
This bill continues to exact the sort of discrimination which the Prime Minister declares he is against. This is a new rule which further entrenches discrimination against same-sex couples in tax treatment and, when the government is forced to change its position and end this discrimination, this will be yet another rule on top of the already myriad number that exist which will need to be amended. Discrimination in our tax laws against people based on their sexuality is a serious concern for the equity of the system.

In this bill the government was presented with an opportunity to begin changing this position and that they chose to do nothing is frustrating. I can only hope that in time the government starts an action that will change it. There is overall community and parliamentary support for changing real property rights with relation to homosexual people.

Schedule 4, on the other hand, demonstrates that the government is able to come good on promises made to reform other aspects of our tax laws. The amendments in schedule 4 are the result of a promise by the Treasurer to deliver capital gains tax reform before the end of the 2005-06 financial year. The government contend in the explanatory memorandum that the CGT measures in the bill will further enhance Australia’s status as an attractive place for business and investment by addressing the deterrent effect for foreign investors of Australia’s current broad foreign resident CGT tax base. While this may be so, I have my doubts about the merits of this justification, especially in the light of comments by John Edwards, chief economist at Hong Kong and Shanghai Banking Corporation. Drawing on an International Monetary Fund report, Mr Edwards observed:

... over the last few years business investment in Australia has been markedly higher as a share of GDP than in the UK, the US, Germany or Japan... Though widely believed to in a mining boom, Australia has actually been experiencing an investment boom.

It is interesting to note that all of the submissions not only expressed their support for the bill—mind you, I say all the submissions but ‘all’ was only four—but also seemingly had no reservations as to the potential negative impacts of the bill. All emphasise that the changes would bring us into line with international practice, with the Institute of Chartered Accountants also citing that the amendments will encourage greater investment, enhance our competitiveness and encourage global companies to enhance their Australian operations.

While I am always able to support measures which aid the economic wellbeing of Australia—I have a long history in this place of having done so and my party has done so—I am concerned that changes to CGT of this sort as it relates to foreigners may be giving foreigners an unfair advantage, and that is an unfair advantage over Australians. It is an issue of equity. While most of our trading partners probably do have similar tax regimes to Australia in many respects, can Treasury guarantee with any certainty that no foreigners investing in Australia will be receiving an unfair advantage over Australian investors? The answer appears to be not yet.

Treasury has so far provided no modelling, no empirical evidence, no illustrative cameos to support their claims that non-Australians will not be given an unfair competitive advantage over Australian citizens and residents. In that respect, I want to support here in the Senate the remarks made by the Labor shadow minister with respect to the unwillingness and inability of Treasury to provide the sorts of answers to questions that were asked for.

I have a view of Treasury that they are very bright, very competent and highly professional and therefore their failure to pro-
vide that sort of response is a failure as a result of political direction, not as a result of failure of the policy officers to be able to deliver such information. It is an affront, as the shadow minister rightly said, to the official opposition of the parliament and to the people of Australia when the government and its principal economic agency start to treat the parliament as if we are mushrooms, as if we do not deserve to be properly informed. When this law goes through, as it is going to, given the way in which the numbers sit, we legislators will bear the consequence of this law. We bear the responsibility, not Treasury—we bear it. Therefore we are entitled to ask to be as fully informed on these matters as possible. With respect to this particular bill, I want to record my strong displeasure and disapproval at the way in which the committee and the Senate have been treated.

It is too easy, by the way, to label concerns about schedule 4 and the possibility of foreigners being given taxation advantages over Australian residents—both foreign and Australian citizens—as ‘economic xenophobia’, as one witness did. Apart from being completely wrong with respect to my and the Democrats’ huge contribution to supporting laws, which have modernised and internationalised Australia with respect to its tax regime and the way in which it operates internationally, we recognise that foreign investment is an important part of a modern and globally integrated economy. But the Democrats and I are deeply concerned that, when we change our tax rules to give foreigners advantages our own citizens and residents do not have, it is a basic measure of equity. Once again, this is about equity and capital gains treatment of Australian citizens and noncitizens. Australian tax law must not have the effect that foreign-born residents of Australia or Australians are treated less favourably than non-Australian residents abroad. This is foolish and would be inequitable.

When these questions were put to the Treasury officials they answered, ‘We disagree; we don’t think it will be inequitable.’ The problem is that they were not able to substantiate that opinion. They were not able to provide any empirical data, any cameos or any illustrative comparisons that would enable us to accept their assurance. As bright as they are, we know from the history of this country that Treasury have got it wrong in the past. They are not perfect. We know from the history of this country that governments have got it wrong. They are not perfect. And we know from the history of this country that at times the legislature has got it wrong. We are not perfect. Therefore, we are all entitled to be given the maximum information that enables us to make a considered decision. In this case you did not provide it and therefore you have not allayed my fears. Judging by the remarks of the shadow minister, despite the fact that Labor will end up supporting this bill, they share those broad fears and are concerned at the sort of treatment we have been given.

I am unable to give this bill full Democrat support without the CGT marriage and de facto breakdown provisions being amended so that they at least remove the discrimination against de facto homosexual couples. I understand that, if they are married, the law prevents that happening. But with respect to real property issues, de facto homosexual couples should not be discriminated against. I cannot give this bill full Democrat support without addressing the schedule 4 capital gains tax issues that we are concerned with. That was my position throughout the Senate inquiry into this bill. The inquiry did not allay my concerns and my fears, and therefore it remains my and the Democrats’ position now.
Senator FIELDING (Victoria—Leader of the Family First Party) (10.16 am)—What a rort. The Tax Laws Amendment (2006 Measures No. 4) Bill 2006 would exempt foreign residents from paying capital gains tax unless they are selling what are called ‘real property assets’ or taxable Australian property. The government says that this will make Australia a more attractive place for foreign investors. That is no surprise, when foreign investors are getting a special tax break. Using the same argument, we could make Australia a more attractive place for Australian investors if we were to abolish capital gains tax altogether. But the government is not proposing that.

The practical effect of this bill will be to give foreign companies an unfair advantage over Australian companies. I will say that again: the practical effect of this bill will be to give foreign companies an unfair advantage over Australian companies. It will give individual people from other countries a tax break that is not available to people in our own country. Australians have a very keen sense of fairness. They are prepared to give people a fair go if they follow the rules and if everyone is treated equally. But they do not like rorts, and this is a rort—where they are taxed and their government gives noncitizens a tax break. What is fair in that? What is fair when your own government taxes you for exactly the same transaction that someone else can make tax free? Ask ordinary Australians what they would think of giving special tax breaks to foreigners while continuing to tax Australians for the same thing, and they would say it is wrong, it is wrong and it is wrong. One of the government’s arguments is that the laws fit with the standards set by the Organisation for Economic Cooperation and Development. But we should never adopt laws that do not make sense. And we should never adopt laws just because some group tells us to.

So what would the practical effect of these laws be? If this rort is allowed we can expect to see a wave of international money hitting Australia in search of a fast buck. We have already seen in the last year the impact of private equity funds in Australia. For example, Kohlberg Kravis Roberts made an $18.2 billion bid for Coles Myer, which was rejected by the board. If this rort is allowed, expect to see KKR back for another go. With the sale of assets like Coles Myer, worth billions of taxpayers’ dollars, how much revenue would the Australian taxpayer lose if this rort is allowed? We do not know.

It is worth focusing for a moment on private equity funds—what are they and what do they do? Private equity funds typically look for companies they can quickly overhaul for a quick profit. They take on huge debt to make takeover bids for listed companies. They do not create and develop businesses; they simply restructure them for profit. Restructuring companies involves major changes, including cost cutting—and that means Australian jobs will go. Of course private equity funds want to make big profits. They increase company profits by fair means or foul then sell the asset. Under the rort—and it is a rort—in this bill foreign investors could pocket the capital gains as profit. Where is the fairness in that? Finance commentator Alan Kohler suggests a KKR takeover of Coles Myer would lead to thousands of Australian jobs disappearing. He has also predicted the break-up of the company, with the sale of divisions like Target and OfficeWorks.

Does this sort of behaviour sound familiar? It should. Private equity funds are simply leveraged buyout funds by another name. Leveraged buyouts are a familiar term from the 1980s. The character Gordon Gekko, who senators may remember from the 1987 movie Wall Street, accurately depicted 1980s corporate raiders who bought companies to
strip them for their assets. With this bill to slash tax for foreign raids on companies, it is no surprise that private equity funds are interested in Australia. A representative of the Institute of Chartered Accountants told the Financial Review last month that ‘there is certainly merger and acquisition activity being delayed’ in anticipation of this bill.

Obviously this rort, handing out tax exemptions to overseas investors, will also have a financial impact on our budget. But the full financial impact is unknown. The government estimates a loss of revenue of $65 million a year, but I understand from the committee report that they have not done modelling on what the benefits would be. If the government only knows the cost and not the benefits, that suggests this bill is no more than another way to continue its ideological crusade for free market economics.

Family First supports free enterprise but not the unfettered free market. Family First will not agree to a situation where we are taxing Australians for capital gains but giving foreign investors a tax break. That is not fair. That is a rort, and Australians will not buy it. As I said before, a representative of the Institute of Chartered Accountants told the Financial Review last month that ‘there is certainly merger and acquisition activity being delayed’ in anticipation of this bill. Family First will not agree to a situation where we are taxing Australians for capital gains but giving foreign investors a tax break and I urge Labor to reconsider its position, given that, in terms of fairness and a fair go for Australian families, this is a rort. I urge senators to vote against this bill.

Senator Joyce (Queensland) (10.23 am)—I am not going to comment on the Tax Laws Amendment (2006 Measures No. 4) Bill 2006, except for schedule 4, which I have some serious problems with. Schedule 4 is about discriminating against the Australian investor in favour of the overseas investor. Schedule 4 talks about the so-called capital-gains-tax-free world of people living overseas, which Australians do not get.

This bill is going to go through because the Labor Party support it. It is interesting that today, when we heard about Mr Rudd’s ‘fork in the road’, the first thing he will do at his fork in the road is look after people overseas at the expense of Australian investors. Apparently this fork in the road is going to be nothing more than some sort of slovenly roadside diner at which all that is dolloped out is disappointment to Australians.

It is quite clear that not only are we about to pass a piece of legislation that discriminates against Australians but we are doing it at the behest of other people in other corners of the globe. We are here to look after other people in other corners of the globe before we start looking after our own! Some of the figures that have been put up—I have been reading through the explanatory memorandum—indicate that it is going to cost the Australian economy $50 million in 2006-07, $85 million in 2007-08, $80 million in the following year and $75 million after that.

I will give you a bit of a run-down on some of the things that are happening. We have this takeover of Coles. The bid was for $18 billion but let us call it a $16 billion takeover. Let us say they get a 20 per cent write-up on that $16 billion takeover. That is $3.2 billion. We are going to compromise $960 million of our own money in that one transaction.

The Labor Party support this and it is complete lunacy. The Coles workers go to public hospitals, send their kids to public schools and go on public roads. They are supported by a defence force and a police force. All these things are supported by the Australian taxpayer, yet the benefits of that
transaction go to the United States treasury. So what are the Labor Party going to do? Are they going to send Kevin Rudd over there to knock on the door to ask for some of the money back?

Then we have Boral and Qantas which are up for takeover. How on earth did the Labor Party decide that they were going to agree with these figures? It is a peculiar day when the first thing we do at the fork in the road is follow someone else. The first thing the Labor Party have done, at the fork in the road, is to follow someone else. The Labor Party’s clear statement to the people of Parramatta and Ipswich today is that they are trying to find mates. That is what they are doing; they are trying to find mates. This is a piece of legislation to try and find mates. That is disappointing, because they had a chance to make a difference.

This legislation is going to be sneaked through. I agree with what Senator Murray said: it has not had the proper airing in the public realm that it should have had. I strongly question the numbers that have been put up. Do you know that today we have overseas equity firms that in the United States have put in a bid for Home Depot of $100 billion? They have the ability to remove $100 billion from the share market and the Labor Party is quite happy for that investment to be tax free. They are quite happy to completely desert the working class.

I will tell you what happens when these overseas equity funds buy up an Australian company—and this might be news to the Labor Party—they break them up, because they have to try to take cost-cutting measures. So the Labor Party are turbocharging the break-up of Australian companies with the loss of Australian jobs. That is what they are doing today. And then they wonder why people do not take the Labor Party seriously at their IR rallies. It is because people know that the Labor Party are not fair dinkum. They know the Labor Party are not the full bottle. Today the Labor Party are going to turbocharge the break-up of Australian companies, with the loss of Australian jobs. They have some pathetic excuse as to why they believe this is a good thing. I do not know whether this will get reported, but I hope that Labor Party constituents find out about this. I hope they bring the Labor Party to account on why they would discriminate against Australian companies, why they would exacerbate the break-up of Australian companies and why they would move Australian jobs overseas.

Why would the Labor Party, who want to get into power, do that? What is their excuse? Maybe the Kevin and Julia roadshow is getting out of here quickly so that they do not have to explain that to the Australian people. It is interesting that the first thing Mr Rudd will have to talk about at his so-called fork in the road roadside diner, the slovenly house of rhetoric, is his views about delivering this to the Australian people. Boral, at $4 billion, will be up for grabs, as will Coles. Even, I think, the market cap of BHP Billiton, our biggest company, is $164 billion. So if they can find $100 billion for a department store in the United States, I reckon they could start looking out for large sections of the Australian economy. What you are doing today is turbocharging that.

With regard to schedule 4, I will support Senator Murray in opposing that schedule. This is an issue we have brought up before. We have been trying to lobby support and get it out there in the public domain. It has been very hard to get some support, but I hope that the fourth estate is still vigilant enough to start running this scenario past people. On the argument that accountants support it: I can tell you right now that I am an accountant and I do not support it, and every other...
accountant I run it past cannot believe it; it just fascinates them.

Here is another bit of information: they say it is all about reciprocal agreements. I can affirm that when $1 billion is up for grabs, people might start using other tax-free companies to base their rating on. I will give you one place. It is not very far away and people might have heard of it: New Zealand. New Zealand has no capital gains tax, so you can launch from New Zealand, come into Australia, buy up Coles, hold it for a year, sell Coles, put your money in your pocket, take it back to New Zealand and not pay one cent of tax—and that is something you are agreeing to today.

Of course, you have the Bahamas, Lichtenstein and the Cayman Islands—all these are going to be assisted greatly. One would presume that Australia had a problem attracting foreign investment. I think the problem is that at times we might be attracting a bit too much of it. But there is no problem in attracting foreign investment to Australia. It is falling over itself to get in here. We have a safe, stable country; that is why they are coming here. What they are going to have now is a benefit that no-one in this chamber has, no-one in Ipswich, Queensland has, no-one in Mackay will have, no-one in Parramatta will have and that no-one in the suburbs of Perth will have. What people overseas will have is the benefit that it will now be tax free.

So if I am a reliable investor looking for a break and I know that the people of Pyongyang have a better tax advantage than the people of Sydney or that the people of Houston, Texas have a better tax advantage than the people of Sydney, the smartest thing for me to do is to move, to leave Australia and go somewhere else and invest in this country. I just cannot work out why you want to support that. I cannot work out how you could possibly think that this could go through to the keeper without someone finding out about it. Where was the glorious speech by one of our learned friends on the other side of the chamber as to why it is a great deal for the Australian voter to pay a tax they would not have to pay in an Australian company if they lived overseas? The only exemption is if you could say: ‘If the company’s more than 50 per cent real property, they’re outside the law.’ There is a fair bit of investment you can do that you can box up so that 49 per cent of your company is mining shares or 49 per cent of your company is land and 51 per cent is something else.

The vast majority of our investments, however, show that there are inactions and goodwill. If you live overseas but not in Australia, investment will be tax free. I think that it will be an interesting debate, and I challenge Mr Rudd in his new role as the glorious Leader of the Opposition to explain to the Australian people why he believes that one of his first decisions is going to be this—this is the fork in the road he has decided to follow.

Senator Sherry—You’re in government, in case you hadn’t noticed.

Senator Joyce—I know it is hard and I know you are trying to deal with the issue yourself—he has probably rolled you in some caucus meeting—but there is probably something hanging out the end of it there. There is probably some promise. Maybe somebody is going to look after you favourably. But this works in a troika. You had the cross-media ownership laws, you had the mergers and acquisitions laws and now, to really help you out, we are going to make it tax free. What more can we do? What are we going to do is let you buy out our media companies through the media ownership bill, which unfortunately was supported by Senator Fielding, and then we are going to allow you to get as big as you possibly want with
the mergers and acquisitions laws—we do not want to have much oversight over that. Is there anything else we can do for? Yes, we have thought of it: we will make it tax free. What a package deal! You should box the trifecta, Senator Sterle. You are complicit in it now.

Senator Sherry—It’s your government’s legislation.

Senator JOYCE—You have now decided to put your hands on it. I understand it perfectly, and I think you should understand it a bit better; otherwise, you are not being completely honest with us. It is not a good day for the Australian investor. It is not necessary; it is not required. The fact that it completely reflects what happens overseas is not right; in so many other countries this is not the case. It seems to state that we are somehow lacking in foreign investment, but we are not. So this is going to be an interesting time.

However, there is not a hell of lot we can do about it now. It is one of those peculiar things everybody gets to see, where the Labor Party decides that they are going to discriminate against Australian investors. This will be an interesting vote. It will go to a division. I do not know which side of the Labor Party would actually want this. Maybe you could tell me: is it the right, the centre left or the far left? Which part of the Labor Party is big on the idea of turbocharging the takeover of Australian companies to be broken up so that jobs can be moved overseas? Is that the TWU, Senator Sterle, or is there another group that wants this? I am fascinated. Maybe someone can suggest to me which side of the Labor Party wants to move jobs overseas.

With this $100 billion, if they were not investing in Home Depot and they turned their attention to Australia—we know they are out there: KKR has money to burn and that is just one of many—what would be your plan of attack after you put this through? What will be your plan of attack when they start breaking up Australian companies and losing Australian jobs? Aren’t you going to feel just a bit duplicitious when you go back to the working people, as you fondly call them, and say, ‘We’re going to fight for our laws if there are any of you left employed in Australia’?

Senator Sherry—How did you vote on Work Choices? How is that debate going to work?

Senator JOYCE—I know you are upset and I know you are coming out because the truth hurts.

Senator Sterle—You did the grubby deal with your side.

Senator JOYCE—I know it is galling to you, but you should have been stronger in your caucus. You should have spoken up. You have really got yourself in a bind. What you have done is basically said that with a wink and a nod we can get this past Australian workers and the Australian people without them knowing. Well, they are going to find out today, and they are going to call you to account.

What we have here today is the turbo-charging of foreign equity firms for the buyout of Australian firms to be broken up, and there does not seem to be much we are going to do about it. What we have here today is something that basically discriminates against the Australian investor for the overseas investor. What we have here today is a clear statement that if you want to get a tax break then the best place to be is not here. What we have here today is something that is being quietly moved through with bipartisan support—except for some—because it fits another agenda, which has nothing to do with capital gains tax. That agenda is one that you might be serving at the fork in the
road slovenly diner. It is called currying favour. It is first on the menu. That is what is on the menu at the fork in the road diner today: currying favour with a certain group of people.

You are not going to get away with it. You are going to have to deal with it. You are going to have to think about it. The problem that I think we all have is the matter of how we actually get the Australian people to hear about this. It is a problem that Senator Murray has. There has not been a recognisable argument put up as to why this is a good thing. I have not heard one. One certainly has not been presented by the Labor Party.

I challenge the Labor Party. Today, in the reign of their new glorious leader, they have a chance to be relevant. Once more we give them a chance to be relevant. We give them a chance to be courageous. We give them a chance to stand up for the Australian worker and to stand up for the Australian investor. Today is their chance, if ever they have one, to look after the Australian investor, the Australian worker, the Australian company and the Australian ownership of Australia. Or they can roll over and be dispatched for what they are: irrelevant shadows. But all we will hear is more of this rhetorical nonsense about a fork in the road, new chapters and a bridge too far—a bridge to a farce; that is what it is. But what we get is the fork in the road diner, where the No. 1 item on the menu is currying favour.

Unfortunately, the people who will get the Christmas present are investors in Houston, investors in Paris, investors in Berlin and investors in Japan and Tokyo—not the people of Ipswich, not the people of Longreach and not the people of Parramatta. What you are doing today is rolling over. And then you are going to come in here with the theatrics and bang on about something else and think that the world is going to change and actually focus on you and take you as relevant. But it is not. It is going to take you as completely and utterly irrelevant. I challenge the Labor Party to make itself relevant today and not support schedule 4.

Senator MINCHIN (South Australia—Minister for Finance and Administration) (10.40 am)—I thank all those who have participated in what has, as always, been a lively and interesting debate on the Tax Laws Amendment (2006 Measures No. 4) Bill 2006. The bill has, I think, been adequately described by previous speakers. It contains some four schedules, all of which but for schedule 4 seem to have at least substantial support in this chamber. Schedule 4, as Senator Joyce in his contribution has just now made clear, is somewhat more controversial. Can I say on behalf of the government that we welcome the fact that the Labor Party is at least not going to oppose schedule 4. I welcome the fact that they have considered this properly and on its merits. The Labor Party, as the alternative government of this country, recognises the importance of this measure and of bringing Australia’s tax system properly into line with international tax arrangements. It is refreshing that at least on this issue the opposition does recognise the importance of having such consistent international tax arrangements.

Schedule 4 does do that. It is part of our ongoing efforts as a government to bring our tax system more into line with international norms and to ensure that the tax system does remain internationally competitive. The nation as a whole must remain internationally competitive. Our tax system must remain internationally competitive. The competition internationally for investment dollars is intense and immense and we must never ignore the critical importance of ensuring Australia’s policy framework is internationally competitive.
The reforms, as has been said, better target and strengthen the application of our capital gains tax regime to foreign residents. That is achieved firstly by narrowing the range of assets on which foreign residents are subject to Australian CGT, which will be restricted to Australian real property and the business assets of Australian branches of a foreign resident. As has been noted, it also strengthens the integrity of that narrower base. CGT will apply to non-portfolio interests in Australia and foreign interposed entities where more than half the value of the interposed entity’s assets is attributable to Australian real property.

It is of course one of the great virtues of the Liberal and National parties that, unlike the Labor Party, our members are free to exercise their will in relation to measures of this kind. I profoundly disagree with Senator Joyce on this issue. He and I share many views in common, and I enjoy siding with Senator Joyce on some of the great and important issues facing this country. But on this issue we do not agree, and the government party room does not agree. The government party room supports this measure for the reasons set out in the explanatory memoranda, in various government statements and in public statements as to why we should follow the international norms with respect to the way in which foreign entities are taxed on capital gains. That is what this bill seeks to do and, as I said, I am pleased that the Labor Party understands that.

I do not want to go into a particular critique of Senator Joyce’s difficulties with this bill. I do respect where he is coming from, but I do need to say that, overall, the history of this country is one that demonstrates the overwhelming virtue and importance of foreign investment. There is no way this country would have the development, extraordinary living standards and economic prosperity that we have without foreign investment.

As I said, the competition for investment dollars is extraordinarily intense. As many of the developing countries in the world improve their legal and regulatory frameworks, they will become increasingly attractive to investment. This country is one that, in its 200-year history, has never had a situation where its savings meet its investment requirements. There are a lot of reasons for that but we have always been—and, in my view, will always continue to be—reliant on foreign savings to provide the investment dollars that this country needs. To ensure that we continue to attract that foreign investment, which provides overwhelming benefits to the Australian economy, we do need an internationally competitive tax regime.

I do profoundly disagree with Senator Joyce in his assertions that foreign investment somehow costs jobs. Foreign investment creates jobs. Foreign investment in my own city of Adelaide creates thousands upon thousands of jobs in the defence and automotive industries. Without foreign investment we would not have anything like the industrial base or the employment prospects that we have in this country. So that is something with which I profoundly disagree and on all the evidence that I have ever seen those firms that are engaged internationally or are partly or wholly owned by foreign entities operating in Australia are among the most efficient. They are the companies that have most significant investments in R&D, they are the most innovative and they offer in many respects the best employment opportunities and conditions for their employees, so we do profoundly believe as a government that on balance foreign investment is good for this country and we want to continue to attract it. With those few remarks, I commend the bill to the Senate.

Question agreed to.

Bill read a second time.
In Committee

Bill—by leave—taken as a whole.

Senator MINCHIN (South Australia—Minister for Finance and Administration) (10.47 am)—I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill. The memorandum was circulated in the chamber on 18 October 2006.

Senator MURRAY (Western Australia) (10.47 am)—I move Democrat amendment

(1) Schedule 1, item 1, page 4 (after line 26), at the end of section 118-75, add:

(3) This section applies to separations in same-sex relationships.

(4) For the purposes of this section, the question whether partners in a same-sex relationship have separated is to be determined in the same way as it is for partners in a de facto marriage.

In moving this amendment, I want to draw on some remarks I made in my minority report to the Senate Standing Committee on Economics, and these are they:

Schedule One extends the operation of the marriage breakdown roll-over provisions to an additional three situations:

• a financial agreement binding under the Family Law Act;
• an arbitral award made under the Family Law Act; or
• a written agreement that is binding because of a state, territory or foreign law relating to de facto marriage breakdowns.

As the Bills Digest notes—that is, the Bills Digest of 15 August 2006, No. 16, page 4—Parliament may note that the measure will make no changes to availability of the roll-over relief: only heterosexual couples, married or in de facto relationships, will benefit from the expansion of the relief. It will continue to be unavailable to same-sex couples.

This represents the continuation of on-going tax discrimination against homosexuals, and is thus a violation of equity.

That is what I said—not what the Bills Digest said.

It is one thing to take time to phase in changes to laws that are explicitly discriminatory, but which are costly and/or complicated to unravel. It is quite another thing to introduce new or extended discrimination, which this bill does. I can think of only one of three reasons for this to have occurred:

• it was an oversight;
• there are (as yet) unexplained (and justifiable) reasons why this is necessary; or
• the Government is homophobic.

I hope the first reason is the one. As for the second possible reason, I cannot see any possible justification which would merit extending discrimination through this legislative action—certainly not the Minister’s …

The minister I refer to is the Hon. Mal Brough, then Minister for Revenue and Assistant Treasurer, in answering question on notice No. 243 on taxation and capital gains tax from Mr Michael Danby on 9 December 2004, Hansard page 193.

As for the third possibility—if the first two possible reasons fall away, then this third reason remains.

I recognise that recent legislated changes to the Australian federal definition of marriage may mean that same-sex couples may find it difficult to seek to be on the same statutory basis with respect to CGT events as married couples. However, Schedule One also covers de facto relationship breakdowns, so same-sex couples are entitled to seek to be on the same basis with respect to CGT events as de facto heterosexual couples.

This is what my amendment intends to do.

My question on notice on this matter was addressed by Treasury as follows:

My question is a very simple one: to address the issue of providing the same marriage breakdown rollover provisional law changes proposed in this bill to de facto same-sex couples, would that re-
quire a change in law? Would that actually require an amendment?

Answer: Yes to both questions.

This continuation of official discriminatory behaviour is frustrating because this is a new rule, and rather than extending discrimination, this legislation should be used as an ‘engine of change’. As I understand Coalition Government policy, including as enunciated by the Prime Minister, the Coalition do not support continued discrimination against gay and lesbian Australians with respect to property matters.

My minority report then quotes from a transcript of a press conference at the Commonwealth Parliamentary Offices in Sydney on 22 December 2005:

Prime Minister Howard has said that he is

Strongly in favour …of removing any property and other discrimination that exists against people who have same-sex relationships.

The report continues:

One of the few witnesses to the Inquiry, The Institute of Chartered Accountants, had no taxation objections to this discrimination being overturned.

... ... ...

The Human Rights and Equal Opportunities Commission is conducting a National Inquiry into Discrimination against People in Same-Sex Relationships. They note that same-sex couples do not attract the tax concessions available in relation to property transfers following family breakdowns that are available to heterosexual families.

Let me recap. I do not consider the Minister for Finance and Administration to be homophobic. I consider him to be an excellent finance minister, and I say so on the record, even though at times he and I clash on policy matters. I would be surprised if the Treasurer or the Prime Minister were homophobic. The Prime Minister has specifically said that he wants to do away with this sort of discrimination in real property laws.

I fully understand those members of parliament who have real concerns about marriage. I have listened to their arguments and I understand them, but I know that, if a free vote were taken in this parliament on the issue of real property matters with respect to same-sex couples, it would pass. Labor Party members support ending that discrimination, Liberal Party members support ending it and I think that The Nationals support ending it, so what are we doing extending it? I understand that the costly arrangements with superannuation may take time to unravel. The minister and I have had a discussion on that and I understand it—I do not like it, but I understand it.

When I was a young teenager I confronted discrimination, which resulted in many fist fights. That discrimination was against black people. I abhor racism because it has no regard for somebody’s ability or for issues of equality, rights or decency. It is contrary to every value to which we should ascribe. In the end, when racism in southern Africa eventually went the way it should have and was taken out of statutes, people were so relieved at no longer having to live under a rule of law which was perverted by that doctrine. I think that most parliamentarians in both houses, even if they might be homophobic in their personal relationships, are absolutely not supportive of homophobia with respect to statutes. I am not suggesting that most parliamentarians are homophobic, because I absolutely think that they are not.

I am deeply disturbed and unimpressed when any extension of discrimination occurs. That is what this bill does. I know the minister, because he has no authority to do otherwise, will stand up and say that he cannot accept my amendment, but I ask him to go away before we get much of the way through next year’s legislative agenda and make some progress on this issue. Even if they are minor steps, let us at least advance this issue. This continuing discrimination genuinely does upset me. I do not see why Australians
who are in intimate relationships that happen to be of a same-sex nature should be discriminated against in real property issues in the way they continue to be in this country. There are many other discriminatory areas, I understand that, but in this bill we are dealing with real property issues. I repeat: I accept and recognise that the law affects the way in which married relationships shall be dealt with; I am addressing only de facto relationships.

Senator SHERRY (Tasmania) (10.56 am) — I indicate on behalf of the Labor opposition that we will be supporting the amendment moved by the Australian Democrats removing the discrimination against same-sex couples in the area of property rights that this government continues to maintain. There are a number of reasons for supporting the amendment. Firstly, it is Labor policy to remove such discriminatory provisions. In that respect, we are in accord with the approach of the Australian Democrats. Senator Murray is right to draw to the attention of the chamber the specific promise and commitment given on this area by no less than the Prime Minister about 18 months ago. Why are we dealing with a piece of legislation today that specifically cuts across the commitment and the promise given by the Prime Minister? I think it is yet another example of a very arrogant government that is, in this case, trying to walk down both sides of the street at once. On the one hand, it accepts that discrimination against same-sex couples in property rights should be removed, as was promised by the Prime Minister some 18 months ago. On the other hand, we get a piece of legislation that does not reflect his or his government’s commitment.

I know Senator Murray is well aware that a promise and commitment given by the previous Assistant Treasurer, Senator Coonan, to remove discrimination in superannuation has not yet eventuated. Senator Murray would also be aware that it gets worse because Senator Coonan gave a specific promise in writing to the previous shadow minister responsible for this area, Senator John Cherry—not to be confused with Senator Nick Sherry—on the removal of discrimination in superannuation. I know the government has this ‘under consideration’. I think that is the term and approach that Senator Minchin has used in Senate estimates when Labor has raised this issue.

Earlier in my contribution I touched on secrecy. The government keeps costings secret in defiance of its own Charter of Budget Honesty. Regarding the superannuation matter that is still supposedly under consideration by the government, I sought the costings and was refused them by Senator Minchin and the government. I then placed a freedom of information request for information on discrimination against same-sex couples regarding superannuation and that was refused. That is another example of cover-up and refusal to provide information that is a matter of fact—in this case the costings of the superannuation measure.

Labor will be supporting this amendment. There is no good reason for this discrimination to continue. We are very pleased and proud to support the removal of discrimination in property rights. After all, this is the property of the individual—or in this case the same-sex couple. What right does a parliament or a government have to discriminate against a person’s own property by continuing to apply discriminatory tax provisions in this way? It has no right.

Senator Joyce interjecting—

Senator SHERRY — It will be interesting to see whether Senator Joyce is going to cross the floor on this matter, because it will come to a vote. We have heard a lot about schedule 4, which we will get to in due course, but we will be interested to see
whether Senator Joyce has the strength of character and consistency to cross the floor and vote against the government on this issue.

Senator MINCHIN (South Australia—Minister for Finance and Administration) (11.01 am)—The government is not able to accept this amendment for reasons that have been set down on many previous occasions. The Income Tax Assessment Act does not treat same-sex relationships in the same way as marriages or de facto relationships. Whether that general treatment changes in the future is a matter still to be determined. It is a wrong characterisation to say that we are extending discrimination by this amendment. These amendments to the capital gains tax arrangements are consistent with the current treatment of capital gains tax issues and tax issues generally in the Income Tax Assessment Act. As and when there is a change overall, that will apply to taxation arrangements overall. The government is not going to change those arrangements in a piecemeal fashion.

I think it is well known that the Human Rights and Equal Opportunity Commission is conducting an inquiry right now into the entitlements of same-sex couples, including entitlements in tax legislation. Once that HREOC report is received by the government we will consider its recommendations. Prior to that we will not be seeking in some ad hoc fashion to alter the current treatment. It is a fact that there is a very long tradition in Western society of treating marriage as a special relationship, and indeed discriminating in favour of marriage. That is a very long tradition and one that virtually every Western country has had as part of its history. Now that is breaking down and there is a move to treat de facto relationships in the same way as marriage, which much of our law does. Of course that begs the question: why not same-sex couples? I understand that and I respect Senator Murray’s motivations. With great respect, I do not think it is right to characterise the long tradition of discriminating in favour of marriage in law in Western society as somehow the same as the appalling racial discrimination practised in parts of Africa. With great respect to Senator Murray, I do not think that is fair or proper. I am sure that is not what he really meant. I respect where he is coming from but I do not think it is right to characterise the discrimination in favour of marriage, which has been a feature of Western Christian society for a very long time, in that way.

It is well known that the government is very alive to the movement of public opinion on this matter. With great respect also to Senator Sherry, I do not think it is a matter of being arrogant. We are sensitive to the fact that there remain millions of Australians who believe that the country should continue to discriminate in favour of marriage as a bedrock institution in our Christian Western society. There are many others in the ranks of the coalition who think that same-sex couples should be treated in the same way as married or de facto couples. We understand that but we are not as a government going to deal with it in any ad hoc, random fashion. We will deal with it by way of due process. We will receive the HREOC report, we will consider its recommendations and we will make comprehensive decisions accordingly. We are not in a position to support this amendment.

Senator MURRAY (Western Australia) (11.05 am)—For the record I wish to make it clear that my amendment seeks to say that, with respect to taxation on real property matters, same-sex de facto couples shall be dealt with in the same way as de facto heterosexual couples. It does not address the issue of marriage.
Senator SHERRY (Tasmania) (11.06 am)—Likewise I was going to draw to the attention of the minister, despite his somewhat misleading response to Senator Murray’s and my comments, that we are not dealing with matters relating to the Marriage Act. We are dealing with property rights and property owned by individuals. In this case the reference to the Prime Minister being arrogant, I certainly do regard it as arrogant—I could use a stronger word—when the Prime Minister announces principles of government policy in this area and then 18 months later we get legislation that does not reflect his announcement. Senator Murray read out the terms of the Prime Minister’s announcement. I could be a touch stronger about this government’s arrogance in this regard. That is where my comments went to. This has nothing to do with the Marriage Act.

Question put:

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

The committee divided. [11.11 am]

(The Chairman—Senator JJ Hogg)

Ayes……………… 31
Noes……………… 36
Majority……….. 5

AYES

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

Wortley, D.

NOES

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

PAIRS

Campbell, G. Barnett, G.
Conroy, S.M. Mason, B.J.
McEwen, A. Campbell, I.G.
Polley, H. Coonan, H.L.

* denotes teller

Question negatived.

Senator MINCHIN (South Australia—Minister for Finance and Administration) (11.15 am)—by leave—I move:

(1) Schedule 4, item 2, page 17 (line 30) to page 18 (line 7), omit subclause (3), substitute:

(3) The first element of the * cost base and * reduced cost base of a * CGT asset on 10 May 2005 is the * market value of the asset on that day if, on that day:

(a) the CGT asset was a * membership interest you held in another entity; and

(b) you were a foreign resident, or the trustee of a trust that was not a * resident trust for CGT purposes; and

(c) the CGT asset was a * post-CGT asset; and
As Senator Sherry mentioned, these are amendments to the capital gains tax and foreign resident measure. The amendments provide for a cost base of market value for certain assets that would not have been subject to Australia’s CGT regime prior to this measure being introduced. This will ensure that all such assets held by foreign residents on the date of announcement of the measure, 10 May 2005, and which subsequently become subject to Australia’s CGT regime receive a cost base of market value as at that date—10 May 2005. I am advised the amendment has no financial impact, so I commend the amendments to the committee.

Senator SHERRY (Tasmania) (11.16 am)—For the reasons I outlined in my second reading contribution, Labor will be supporting the government amendments.

Question agreed to.

Senator MURRAY (Western Australia) (11.16 am)—I note for the record that, although I lost that previous amendment, I am aware that many of those who voted against it actually support the ending of discrimination against same-sex couples, and I look forward to the government making rapid progress in that area—I am ever hopeful, Minister; I am a hopeful person. The Democrats oppose schedule 4 in the following terms:

(1) Schedule 4, page 14 (line 2) to page 45 (line 12), TO BE OPPOSED.

As I did for the earlier amendment I want to refer to my minority report, or part of it. In that minority report I said:

Much fuss has been made about the supposed fact that this—

change in this bill—

brings Australia into line with international and OECD standards and guidelines. The EM for the Bill ... contends that the changes will:

further enhance Australia’s status as an attractive place for business and investment by addressing the deterrent effect for foreign investors of Australia’s current broad based CGT tax base.

I did not say in my minority report but I should add: will it or what! People are certainly going to jump on the bandwagon. Back to my minority report, which states:

I have seen no empirical evidence produced that a deterrent effect exists for foreign investment in Australia. To the contrary, my impression has been that foreign investment has been at a high level. The Investment and Financial Services Association Ltd (IFSA) obviously disagree with me. IFSA commented:

Historically, there are number of reasons why the flow of funds from non-resident investors into Australia has been relatively low. In this regard, any significant enhancement to the international tax regime, such as the proposed changes to capital gains tax and non-residents, are a step in the right direction.

‘Relatively low’ implies some credible form of benchmarking, and I would like to see that before I accept this proposition. I am not aware that Australia has had a problem attracting foreign investment – indeed many Australians have expressed concern at a high level of foreign investment and ownership of Australian assets.

Interestingly, there is evidence to support the capital gains tax is an unimportant or even irrelevant consideration for investors when choosing their investment or business location. As an authority I quote H Wunder, 2001, ‘The effect of international tax policy on
business location decisions’, 24 Tax Notes International 1331, which sets out the results of a survey which confirmed this. The survey has been recently cited with approval in A Eason, 2004, Tax Incentives for Foreign Direct Investment, Kluwer Law International, The Hague, page 57. My minority report further states:

In their ‘Comment’, the Bills Digest says:

Foreign investors holding shares in Australian companies will gain significant benefits from this measure—and the Digest refers to a 30 June 2006 Legal Update from Corrs Chambers Westgarth Lawyers saying this will provide a good stimulus for mergers and acquisitions ...

Yet reforms to Corporations Law and Tax laws (particularly the ‘consolidations’ measures), all supported by the Democrats, have in 2005/6 produced the highest level of merger and acquisition market activity in Australia’s history, of which a very high percentage is foreign. Current reports indicate that 2006/7 will prove even stronger.

I go back to the obvious question that arises: why then the need for a further tax concession that may give foreigners tax advantages that Australian residents and citizens do not share? My minority report says:

In the same ‘Comment’ section the Digest also quotes from law firm Minter Ellison’s legal update of 20 July 2006 which envisages far more activity by [foreign] non-residents. Reforming tax law for foreigners resident in Australia is a different matter, but the case or justification for this tax concession for foreign non-residents is not made, based on the material before us in this Inquiry.

Yet it is true that a significant degree of foreign investment in Australia continues to be desirable, lowering or removing foreigners’ potential CGT liability may also mean that we are giving foreigners an advantage over Australian citizens. This is another equity consideration, that the Government has seemingly failed to address adequately.

Why do I use the word may? Is it possible for the Government to show that foreigners will not be advantaged over Australians as a result of these changes? Or that some will and some won’t? CGT regimes differ across countries. Raising this matter at the Inquiry Hearing resulted in an allegation by Mr Ali Noroozi, Tax Counsel at the Institute of Chartered Accountants in Australia — that it reflected an attitude of “economic xenophobia”.

I took the opportunity to remind Mr Noroozi that what is at issue is a matter of equity and basic principle—namely that Australian law must not have the effect that Australians are treated less favourably than foreigners under our tax laws, or that non-Australians are given an unjustifyable competitive advantage over Australian citizens and residents.

At the Hearing I did not find the assurances of Treasury persuasive—they assert that Australians will not be treated less favourably than foreigners under our tax laws, and that non-Australians will not be given an unjustifyable competitive advantage over Australians. Treasury had no evidence, modelling or cameos that could justify their assertions.

At the very least the Treasury could have provided illustrative sets of cameos showing how these provisions affected citizens and residents from our five largest countries sourcing foreign investment in Australia.

A number of journalists who specialise in these matters of finance and taxation have examined this issue. One of them, a very credible and highly regarded journalist for the BRW, is Adele Ferguson, who, in the BRW, 9 November to 13 December 2006, said:

If the recent bout of takeover activity by overseas companies and private equity funds is putting more Australian brands and assets into overseas hands, a bill removing capital gains tax (CGT) from most forms of foreign investment in Austra-
lia will make Australian companies even bigger sitting ducks.

There are those who applauded any tax reform that makes Australia more attractive for direct overseas investment, but the problem with this line of thought is that it is too focused on the short term. It fails to take into account the long-term tax implications for Australia, as well as the implications of creating an uneven playing field for overseas investors at the expense of Australian investors who still have to pay CGT.

To be specific: overseas investors will no longer have to pay CGT on Australian shares or businesses that have less than 50 per cent of their assets in property.

If takeover activity continues at this rapid pace, Australia will end up owning only banks, toll roads, an airline and a few mines. Besides being a dull place to invest, there will be little tax revenue coming in.

Overseas private equity firms are already playing round with Australia’s corporate tax revenue. For starters, they leverage a business to at least 70 per cent, which means they have higher interest costs and lower profits. It also means they pay a much lower corporate tax rate than Australian listed companies, which have far more modest gearing.

The new bill will further reduce the amount of tax that overseas private equity firms pay in Australia because it eliminates CGT on most forms of overseas investment. When any investor looks at an investment proposition, costings such as tax are always factored in. This puts Australian investors at a distinct tax disadvantage.

I have quoted Adele Ferguson at length and you are welcome to look at the rest of the article, which I thought was on the button. She has highlighted the two fundamental concerns that arise from this. Firstly, there is the issue of equity: Australian investors are at a disadvantage in tax terms to foreign investors. Secondly, there is the issue of revenue and, as you would recall, I have described the Treasury estimates as an educated thumb-suck but a thumb-suck nevertheless. She indicates a sense that I find in many of those opposed to this provision that the revenue losses will be long term and much more significant than the explanatory memorandum outlines.

Before closing off on my motivation, I want to draw your attention to another area where I have concerns, and that is the massive investment bubble/boom being induced through private equity funds not only in Australia but worldwide. I was most interested recently in an ASIC media release of Monday, 4 December 2006, No. 06-418, headed ‘Former Gribbles CEO charged’. I rather like the fact that this man has been charged because I believe that he used to be a tax barrister who used to give the ATO a going-over for their ‘dreadful’ behaviour. It is rather nice to see a little bit of payback by the authorities with respect to his own dealings. This man—and I should not presume his guilt because he is entitled to be seen as innocent until he is found guilty—is subject to 35 charges following an investigation by the Australian Securities and Investments Commission.

However, that is not my main interest. My main interest in drawing this to your attention is that one of the charges is that he dishonestly failed to inform Gribbles bankers of his interest in the Gribbles shares when asked, with an intention to gain an advantage for himself by keeping secret the true nature of his interest. On page 2 of the press release it says:

As part of its application, ASIC sought that ECMI’s Gribbles shareholding be vested in ASIC in the event that the ultimate owners of the shares were not disclosed to the market.

Now why have I brought that to your attention? A fundamental principle of the equity market of the ASX is that the beneficial owners shall be identified. As you know, Corporations Law requires the top 20 investors to be identified, and here is a man who disguised where the shares were held and by
whom and who is therefore having those shareholdings vested in ASIC as an immediate penalty for doing so.

I turn to the question of private equity funds. I asked a question, No 257 on 19 October 2006, of the Treasurer. Item 2 of my question said:

(a) As media is formally determined a ‘sensitive market’, and as major media can be bought by foreign private equity funds under the new media laws, will investors in such funds, in particular beneficial owners, appear on a register and be readily identifiable.

(b) Can the Minister outline what powers under the Foreign Acquisitions and Takeovers Act 1975 allow the Treasurer to identify the beneficial owners of private equity funds.

(c) If it is not possible to identify investors or beneficial owners in private equity funds, can the Minister assure the Senate that none of our media could end up controlled by funds that are influenced or backed by criminal money, money sourced from anti-democratic groups, from theocratic or fundamentalist groups, or from proscribed organisations: (i) if the Minister is unable to give that assurance, then what does the Minister intend to do about this matter, and (ii) if the Minister can give that assurance, can details be provided of the means or measures available to identify beneficial owners or investors.

The answer to that question was:

(2) (a) As with all different types of foreign entities that invest in Australia, this will depend on the regulatory framework in the entity’s home jurisdiction.

(b) Section 36 of the Foreign Acquisitions and Takeovers Act 1975 allows the Treasurer to serve a notice on any person requiring that person to furnish information or documents relevant to the exercise of the Treasurer’s powers under the Act.

(c) See response to (2)(b).

Now, why am I drawing this to your attention? This provision will give tax advantages to the private equity fund boom and will accelerate their activities. On the one hand, we have Corporations Law stressing that we need to know who the beneficial owners behind private equity funds are and, on the other hand, we have the Treasurer unable to spell out in public who the beneficial owners of private equity funds are. He might do so in private; he might not. We have no protections.

I believe that most funds tied up in private equity funds are perfectly legitimate and proper. They are tied back to superannuation funds and so on. So I do not infer that all or most private equity fund sources have an improper background, but I do state clearly and on the record that the beneficial ownership of private equity funds is not going to be known to the Australian people, yet these owners are capable of taking over our very largest corporations and giving them away to foreign investors and at the same time getting a foreign tax benefit which would not be available to Australian investors if they had such an investment. So these are issues that need to be considered when we are discussing these matters. The Democrats oppose schedule 4 in the following terms:

(1) Schedule 4, page 14 (line 2) to page 45 (line 12), TO BE OPPOSED.

Senator SHERRY (Tasmania) (11.31 am)—I want to make a few comments about the contribution of Senator Joyce from the National Party. Firstly, as I outlined in my contribution to the second reading debate, Labor will on balance be supporting schedule 4, despite our concerns over the failure to provide the costings that were requested—indeed, costings that were part of questions placed on notice before the committee hearing. But, on balance, we believe schedule 4 should be supported. We will obviously be opposing the proposal moved by Senator Murray to delete schedule 4—that is what the amendment does. I point out that that is a blunt approach and it would remove what I
think are the uncontentious areas of schedule 4 which actually improve the collection of tax revenue.

*Senator Murray interjecting—*

*Senator SHERRY—*Yes; and I understand, Senator Murray, the constraints in terms of drafting a particular amendment. But it is a blunt approach to omit schedule 4, because it contains matters that are not contentious and that actually improve the collection of tax revenue, as opposed to contentious issues that are for consideration in this debate.

Let me come to Senator Joyce’s remarks. I remind the chamber and those listening to this debate that Senator Joyce is a member of the National Party. He is a member of the Liberal-National government, and it is their legislation that we are considering. Senator Joyce launched into a fierce critique—an incorrect critique, in my view—of the Labor Party’s position on this legislation. But he did not criticise the Prime Minister, Mr Howard, and he did not criticise the Treasurer, Mr Costello, or indeed the finance minister, Senator Minchin.

*Senator Joyce—*You’re supporting it.

*Senator SHERRY—*It is their legislation, Senator Joyce. It is your own government’s legislation. This is not Labor government legislation. We are in opposition, if you have not noticed—I certainly notice it! But you are in government. It is your own party room that supported this legislation and it is your own Liberal government that is supporting this legislation.

In his comments, Senator Joyce referred to forks in the road and challenged the new Labor leader, Mr Rudd, to reverse Labor’s position and policy on this matter. The sad fact for Senator Joyce and the National Party is that they have been buried under that road. The poor old National Party—they come in here and grandstand occasionally, but the fact is that they are nothing more than doormats for the Liberal Party. They are nothing more than doormats. Senator Joyce might have the occasional verbal outburst, attempting to differentiate himself and the National Party from the Liberal government, but the reality for poor old Senator Joyce and his party is that they are members of a government that long ago buried the National Party in this coalition and is gradually burying the National Party electorally throughout Australia.

*Senator Joyce interjecting—*

The TEMPORARY CHAIRMAN (Senator Moore)—Senator Joyce, could you please refrain from yelling across the chamber.

*Senator SHERRY—*The sad fact for Senator Joyce is that the National Party are slowly being absorbed by the Liberal Party; long ago, the National Party was squashed and became the doormats of the Liberal Party in this federal parliament. It is a sad fact of life, Senator Joyce; face up to it.

The TEMPORARY CHAIRMAN—Through the chair, Senator Sherry.

*Senator SHERRY—*That is the sad fact of life for him. I looked at the report on the bill by the Senate Standing Committee on Economics because I thought it would be interesting to see an outline of Senator Joyce’s views on schedule 4 of this bill. I thought, ‘Senator Joyce is so concerned about schedule 4’—in a very muddled economic critique, but I will get to that shortly—‘that I should read, hopefully with greater consideration, the arguments that he would have set forth.’ So I went to the report. Surprise, surprise: unlike Senator Murray, who at least did provide us with a minority report, there is a blank page. I looked for Senator Joyce’s minority report but, despite all Senator Joyce’s grandstanding, there is a blank page. There is nothing there. So Sena-
Senator Joyce dashed in today, expressing concern in a very muddled economic, populist critique. If Senator Joyce was so concerned, why couldn’t he outline, in a considered way, his position via a minority report from the committee considering this legislation?

Senator Joyce also said in his comments that the bill was going through ‘on a wink and a nod’. For Senator Joyce’s information—he obviously does not know, because he does not pay attention—this particular measure was announced not in this year’s budget but in last year’s budget. This particular proposal has been around for almost two years, Senator Joyce, and you have only just come in here now, grandstanding, with your concerns on this particular measure. It has been around for almost two years. Senator Joyce appeals to the fourth estate: ‘I want some publicity on this issue.’ But the measure has been around for almost two years. Yet here we have him dashing in at the last minute, grandstanding and attempting to drum up some publicity when the measure has been around for almost two years. He suddenly discovered it and suddenly wants some publicity on the matter.

Let us go to his economic critique. The issue we are dealing with today is a matter of capital gains tax application. It is not about private equity funds. It is not about foreign investment. It is about the application of capital gains. We had a very rambling economic critique from Senator Joyce about the horrors of foreign investment, the horrors of private equity funds coming in gobbling up the country and buying everything in sight, and the horrors that workers face as a consequence of this activity, but schedule 4 is not about the set of rambling economic issues that Senator Joyce went on about.

Senator Joyce was so concerned about the impact on workers, which is not the issue under consideration. We had another illustration of grandstanding when he expressed public concern about the government’s so-called Work Choices legislation. But how did he vote when it came to the crunch in this chamber on that fundamental issue of fairness and protection to Australian workers? He did not vote with the Labor Party. He did not cross the floor on that fundamental issue to which he referred and on which he expressed such grave concern in his very rambling contribution.

In terms of foreign investment, I agree with Senator Minchin that the country needs foreign investment. That is the reality. With a minor correction to Senator Minchin, we have needed foreign investment I think for all but one year of the last 200 years of our history. There is a fundamental reason for that: we have to import capital because we do not save enough and we need overseas capital. We particularly need foreign investment because at the present time our household savings rate is negative and has been in negative territory for a couple of years—another failure of this government—but that is an issue for another time.

One of the reasons, Senator Joyce, that we are attracting foreign capital aside from the fact we need it is that our interest rates are higher than most other advanced economic countries. The interest rates are higher because we need to attract the capital in competition against other advanced economies, so we have higher interest rates in part as a consequence of our own low savings rate and the need to draw that capital in. Again, I think that goes back to some failures on economic policy by this government. One of reasons, frankly—aside from other factors—why the government could not meet the promise that they made at the last election that interest rates would not go up under a Liberal-National party government was the need to attract foreign capital. Therefore, to
It was a pretty rambling old critique from Senator Joyce about a whole range of issues, frankly, that are not of contention with respect to schedule 4. He is doing his best to ramp up interest by the fourth estate—fine; that is all part of politics—but I think, for the record from the Labor Party’s point of view, we should confine ourselves to the issue at hand. There is a legitimate debate about the issue at hand—about capital gains tax treatment. As I said, this matter was announced in the budget last year. It has been around for almost two years. It is hardly a matter of sneaking it through. I would accuse this government of trying to sneak things through on occasions, but this is not one of them. It has been around for almost two years.

There has been a committee hearing on the bill, albeit we were not satisfied with the level of detailed financial information that was provided at that hearing, and I have criticised the government for that and its behaviour. But, at the end of the day, Labor considers that schedule 4 on balance is worthy of support when considering the passage of this legislation. Labor will be supporting the bill and we will be opposing the amendment moved by Senator Murray.

I should say, unlike Senator Joyce, I do not question Senator Murray’s motivation. I respect his contribution. I respect the fact that he goes to these committees, goes to Senate economics hearings and asks a whole range of worthwhile and considered questions, and participates actively in a highly knowledgeable way in matters of economic and tax law in this country. I congratulate him for that. That is unlike Senator Joyce: he dashes in; dashes out; does not write a minority report; gives a whole swathe of economic critique which is not central to this issue; grandstands; and tries to differentiate the National Party from the Liberal Party.

A fact of life, Senator Joyce, is that your party was buried long ago. Until you face up to that, you are buried by the Liberal Party. You are just a minor distraction in the context of this government. You are a minor attraction to deliver votes to the Liberal Party. You are the doormats of the Liberal Party and the sooner you realise that the better, rather than dashing in here trying to claim some credit, some knowledge, of this particular issue. Stop misleading the people of Australia. Get on with it. Just own up: the National Party is useless, worthless. Give up. Just merge with the Liberal Party and get it over and done with.

Senator Joyce (Queensland) (11.43 am)—It is good to see the Labor Party venting their spleen to try and cover up the fact that today they are the doormats of the Liberal Party because they are voting with them. They are doing it to try and curry favour with a certain group of mates through a whole heap of palaver and ridicule of the National Party, one member of which is actually going to try and protect Australian investors and Australian workers from being broken up by the overinvestment, the overindulgence, of overseas equity funds. They have to rely on us today because they cannot rely on you. All you could deliver was a whole heap of palaver.

Senator Sherry came out with the statement: ‘on balance’. On balance of what, Senator Sherry? Because there are no relevant figures. If you had actually had a look and seen the numbers delivered for the costing of this, you would realise they are a heap of rubbish. But you do not care about that. Let us go through the economics committee report. I was actually in the economics committee this morning, Senator Sherry. I do not remember seeing you there.
The TEMPORARY CHAIRMAN (Senator Lightfoot)—Senator Joyce, you may be kind enough to address your remarks through the chair.

Senator JOYCE—Sorry, Chair. I was at the Senate economics committee this morning and Senator Sherry was not there. He is grasping at straws to try and cover up the fact that today the Labor Party are the doormats of this piece of legislation and they do not have the courage or the conviction to be relevant. They have a chance today to be relevant. There are few times that come up where they have a chance to be relevant. Today they have one, and they are terrified of it—absolutely terrified of getting a win. They said it had nothing to do with overseas equity funds. A summary of the new law says that it ‘narrows the range of assets which may be subject to Australian capital gains tax to Australian real property held directly by foreign residents’. That means that for everything else, they do not pay capital gains tax. It has a hell of a lot to do with foreign ownership and overseas equity funds.

As I was saying before, there is a $100 billion bid at the moment for Home Depot in the United States. I will show you what that would buy in Australia today. If that $100 billion were in Australia it would buy Boral, Coles, Qantas and Westpac. I think the Australian workers might want to know about that. I think they might be interested in the fact that an overseas equity fund could come in, break up all those companies and cut costs. How are they going to do that? By moving jobs overseas and selling for a profit. Alternatively, with a change of legislation, they could buy a couple of banks. That could be on the shopping list. There is an abundance of money around and the Labor Party is completely hiding from reality.

I know they find it an affront, because they have put themselves in their own wedge. Today they had the chance to be relevant. Today there was a chance for Senator Sherry and Mr Rudd to go to the front door and say, ‘Today we stood up to stop discrimination against Australians.’ They just gave, in the previous amendment, a relevant argument on why you should avoid discrimination, but they are about to vote now for discrimination against Australia as a nation. The only people who will pay tax on a lot of these assets after this is finished will be Australian citizens—not overseas citizens, Australian citizens. So if you want to invest in Coles and you do not want to pay tax, the smartest thing for you to do is to move to New Zealand, because as a foreign investor you will not have to pay. Little old Mr and Mrs Smith in Cabramatta or Ipswich will have to pay, but you will not if you are from overseas. What sort of genius devised that idea?

To try to cover this up with a whole range of venting of the spleen and a whole raft of rhetoric about the National Party and all that just says absolutely clearly that you know you are in the wrong—you know this is a bit of a sticky situation. When you are in a sticky situation, instead of saying: ‘Yes, we are discriminating against Australians when we pass this; we acknowledge that today we are going to be the doormats of this policy. We’re quite happy to roll over and let you tickle our tummy because it makes us feel good. To cover that up, what we are going to do is launch an attack on the National Party and start saying how they are the doormats because they stood up.’ They stood up when you rolled over. It defies logic.

I cannot work it out. Every time the Labor Party gets a chance to be relevant, they just run for cover. They are terrified of relevance. They are terrified of being strong. They are terrified of identifying an issue and standing behind it. They live in this void of rhetoric.
and waffle of ‘bridges too far’, ‘forks in the road’ and ‘ladders of opportunity’. They cannot work out why the Australian people have not grabbed onto them—it is because they think they are nothing. They are a mystery wrapped up in an enigma inside a riddle. That is the policy framework of the Labor Party.

Today the Labor Party have a chance to be relevant. Today they have a chance to make a clear statement that Australians should not be discriminated against. Today they have a chance to protect against the overt, as they say, ‘barbarians at the gate’—that is on the front page of the _Fin Review_—and what is happening with these overseas equity funds. They have a chance to make a statement that will definitely protect Australian jobs. And it is their own words. With the possible sale of Qantas, they came out and said, ‘All these jobs are going to be moved overseas; we must stop it.’ And one of the major investors is an overseas equity fund. So they had to stop this overseas equity fund. Today, what absolute hypocrites they are. Today they are turbocharging the problem. You have to be held to account.

My appeal to the fourth estate is not for me—goodness gracious me: I am quite happy, looking forward to a holiday—it is to get coverage on this issue. And you know that. It was an issue brought up by Senator Murray. We need coverage of this issue. It has been completely devoid of proper explanation in the media. I think that is unhelpful. I think a lot of Australians would like to have a comment on this, would like to be brought into the loop. Today the Labor Party could have brought the Australian people into the loop. Today the Labor Party could have taken the Australian people into their confidence and brought them into the loop on this subject. But they are not. They are hiding it from the Australian people. But for what reason? That is the question: for what reason?

The question that we always have to ask is: what is in it for them today? There is the real riddle, mystery and enigma. It stands against logic. It stands against everything else they say.

I have no problems if you want to give foreigners capital gains tax exemption. But there is one absolute caveat on it: you must give it to Australians as well. You cannot have one rule for one and another rule for the other. You must look after Australians first. You acknowledge—and you should acknowledge—and I know that in your heart of hearts you understand absolutely the ramifications of an overheating of the market with these overseas equity funds, who are not interested in investing in building up assets; they are investing in breaking assets up. They are investing in apportioning and breaking up the assets.

If we were to have that $100 billion investment in Australia today, just think of the ramifications for our share market and of the items that could be removed from our own share market. This is something that we have to address, and this is why I am waving a flag on this issue and saying: have a good think about it before you go down this path.

It could have been done today. We could have made a difference today. The last thing that is going to happen before this Christmas break is that the Labor Party are going to say that, at the fork in the road, they chose to follow, not to think. The fork in the road is no more than a roadside diner at which the first item on the menu is curried favour. That is what this is about.

I do not know how the Labor Party are going to explain this. I put this challenge out: I look forward to Mr Rudd or Senator Sherry going out and explaining to someone in the local bowling club what the relevance is of discriminating against Australians. Why would that make them believe that the Labor
Party are a reasonable alternative government? People are just going to see you as hypocrites. They are going to see you as pathetic and as not having the spine to stand up. People are going to see you as not even being able to get the proper facts.

When Senator Sherry said ‘on balance’ that suggested that he had the facts from Treasury, but he does not. Senator Sherry is flying this spaceship of his blind. You do not have the facts. No-one has the facts. The Treasury cannot provide the facts. In fact, to our own questions they cannot provide the facts, so you certainly do not have them.

I will just help you out with some simple maths. I will take the top two companies, Coles and Boral. If Coles is worth $16 billion, they will get about a 20 per cent mark-up, so I suggest that to make it worthwhile there would be about $3.2 billion on the break-up. If it is worth $3.2 billion, times 30 per cent—that is what we compromised on—$960 million would be compromised in that transaction. And the Labor Party are willing to swallow the $50 million or $65 million argument.

Let us take the next company. Boral is worth about $4 billion or $5 billion. Let us say it is worth $5 billion and you get a 20 per cent mark-up—say, $2 billion. That would mean $300 million is going to be compromised on that one. I do not understand how the Labor Party get around the numbers. I do not think you have even looked at them. I do not think you have considered them. I do not think that you have sat down with a pen and, on the back of an envelope, worked out what the hell you are talking about.

This is a flow of money that is just going to wander off—possibly to the US treasury. What do we do then? What do we do when, just in those two transactions alone, we have $1¼ billion? Are we going to go over and knock on the door and ask for help or maybe get a loan from them? Is that what the Labor Party is intending to do? Is that part of the brilliant economic plan that Mr Rudd is going to announce to us from the fork in the road?

Is this the sort of vestibule of genius that we now have laid out before us in this brave new plan? There is a chance for the Labor Party to make a statement and to be relevant. You know this is cutting through and you know, deep down in the pit of your stomach, that this stinks. But the Labor Party are about to vote for it. So your numbers are wrong, your facts are wrong, your analogy is wrong, your rhetoric is useless and your vision is stupid. And we are about to see, in front of all of Australia, the sort of delivery that we can expect from new Labor.

Senator SHERRY (Tasmania) (11.56 am)—Yes, I was fierce in my critique of Senator Joyce but he was fierce in his critique of the Labor Party’s position, and he has just returned fire. I make the fundamental point—it does not seem to have got through to Senator Joyce yet—that this is Liberal-National Party legislation we are dealing with. It is Senator Joyce’s own mates who drew up the legislation. It is your own mate the Prime Minister, Mr Howard; your own mate Senator Minchin, the Minister for Finance and Administration; and your own mate, the Treasurer, Mr Costello, who have presented us—

The TEMPORARY CHAIRMAN (Senator Lightfoot)—Senator Sherry, it is a bit confusing when you refer to them as my mates. They may be, but I think you really mean to refer to them as being Senator Joyce’s mates. It is a little bit confusing.

Senator SHERRY—Thank you, yes. They are Senator Joyce’s mates. They are his own working colleagues, as part of this Liberal-National Party so-called coalition. I do not even know whether Senator Joyce got up
in the party room, Senator Minchin might like to tell us whether Senator Joyce got up and railed against the Treasurer, the Prime Minister and Senator Minchin about this particular piece of legislation. I suspect he did not. And I suspect he did not rail against it in the National Party meeting room.

The sad fact of life for Senator Joyce is, as he well knows, that the National Party is just the doormat of the Liberal Party, the dominant party in the coalition. That is a sad fact of life for him. He has to convince his own colleagues but he cannot even do that. He cannot even convince his own colleagues, if he took the argument up with them. I would be interested to know whether he did that.

Briefly, on the activity of private equity funds, particularly overseas private equity funds, it is true that there has been significant and growing activity in terms of foreign investment from overseas private equity funds. There is significant and growing activity in this area—as there is worldwide. And there are some legitimate issues about the activities of private equity funds, particularly around transparency, who is effectively making decisions, share ownership and compliance. I think there are a whole range of issues and our own regulator has identified some concerns about those types of issues.

There are some legitimate economic issues in a capitalist economy about whether too much money is paid in terms of purchasing assets. I think I read that Mr Morgan, the head of Westpac bank, expressed concerns about some of this activity. They are all legitimate issues for debate, but they are not the issues that we are dealing with in this bill. We are not dealing with improving compliance or transparency in respect of foreign equity funds.

I point out that, fundamentally—as we all, I think, acknowledge—there is an increase in activity in this area in terms of foreign equity. It is occurring without this bill having been passed, Senator Joyce. At the end of the day, with the passage of this particular piece of legislation at schedule 4, will it decrease or, as you argue, increase the activity of foreign equity investment in Australia? I do not think it will. That activity is already occurring, anyway, without the bill and without the capital gains provision. For the reasons I have mentioned, Labor will support schedule 4.

Senator MINCHIN (South Australia—Minister for Finance and Administration) (12.00 pm)—Normally I am the first to leap in and join in any attack on the Labor Party, but on this occasion, I must say, I must distance myself considerably from the attack which Senator Joyce has launched upon the Labor Party. I dissociate myself from that attack. I welcome the Labor Party’s intelligent, reasoned and sensible support for these measures, which, as Senator Sherry rightly pointed out to were announced by the government more than 18 months ago. So the opposition has had due time to consider these amendments properly and sensibly and has reached the right conclusion that, on this occasion, it should support these amendments. I applaud the Labor Party for reaching that position and, in so doing, strongly disagree with Senator Joyce’s attack upon the Labor Party for so doing.

I should also point out that, in contradic- tion to what Senator Sherry may think or assert, Senator Joyce, to his credit, has made it clear to the government that he cannot support this schedule. He has not just come in latterly to do so. He has made it clear in private conversations with relevant ministers that, for reasons he has explained, he is not in a position to support this schedule. While that is disappointing—we would like to think that we can have unanimous support on the coalition side for all coalition bills, and we will always endeavour to achieve that—it is
a fact that in the proud tradition of our parties we understand that, on occasion, and this is one, there will be the odd member of the coalition who finds it is not possible to support the government on a particular measure. So I must be fair to Senator Joyce in that regard.

I agree with Senator Sherry that the attacks on this schedule by both Senator Murray and Senator Joyce seem to bear witness to a preoccupation with private equity activity, which is rather odd, with great respect, because this bill does not deal with that per se. The bill is entirely neutral with respect to the nature of the foreign investment involved; it does not bias the regime one way or another. It does seem that this schedule is a vehicle for those currently concerned about private equity activity to launch an attack on that private equity activity.

As Senator Sherry has pointed out, there has been some increase in private equity activity. I would draw the attention of the Senate to what the RBA has recently said about this matter of private equity, given that it seems to be the subject of this debate, albeit that it really has almost nothing to do with this schedule. But, as they note, LBOs—leveraged buyouts by private equity firms—account for about 15 per cent of corporate merger and acquisition activity, compared with five per cent in recent years. So, yes, it has increased from a very low base but is still relatively small—15 per cent. They note that most of the increase is attributable to an increase in the average deal size rather than the number of deals that are occurring.

As the RBA also notes—we should keep this in perspective—private equity LBOs account for less than one per cent of the value of the corporate sector as a whole. So, while Senator Sherry said there are commentators who say that this is a matter we should keep an eye on, I think we have to keep this whole issue of private equity investment in some perspective, as the RBA quite properly has noted.

We should also keep a proper perspective on this matter in relation to the fact that at the end of the day Australia is master or mistress of his or her own destiny—whichever way you like to look at a nation. We have in this country a foreign investment review regime which preserves our ultimate authority and sovereignty in this matter. The Foreign Investment Review Board mechanisms ultimately allow the government to act in the national interest with respect to any foreign investment that the government of the day believes to be contrary to the national interest, and the Treasurer, quite properly and with the full support of the cabinet, exercised that authority not very long ago with respect to the proposed Shell takeover of Woodside. That is demonstrable evidence that, at the end of the day, there is that ultimate sanction and preservation of the national interest. There are also, in respect of a range of companies operating in Australia, specific shareholder restrictions, as is the case in our national airline, Qantas, which, as everybody knows, has a 49 per cent cap, one that the government has no intention of removing. So perspective is important to keep in mind in relation to this matter.

I do not think there is anything else I would like to add. I just want to say that I think it is important to remember that what we are doing is aligning our tax regime with virtually all of our principal trading partners and OECD partners. I point out that the argument about discrimination is somewhat misplaced, given that what we are seeking to do is to ensure that foreign investors here are treated in the same way as Australian companies investing overseas. We should not ignore the tremendous, wonderful fact that there are many Australian companies active overseas—something we encourage.
There are something like a thousand Australian companies active and having invested in the United Kingdom and, through the UK, in Europe. There are hundreds of Australian companies active in the United States. What Westfield is doing in the United States, and what Macquarie is doing, is magnificent and something that all Australians should be proud of. The Australian companies active in those foreign markets benefit from CGT regimes like the one we are proposing to implement in Australia through this schedule. So in fact it will end a discrimination by ensuring that foreign investors are treated in the same way. I think that is the prism through which this must be seen. We want Australian companies investing overseas. We want them to be able to invest overseas. We want them when they invest overseas to be treated properly. They are treated by the United States and the United Kingdom in the same way that we now propose through these amendments to treat foreign investors investing in Australia.

Senator Sherry is quite right to say, and I have also pointed this out, that it is a constant responsibility of Australian governments and alternative governments to ensure that this country’s policy framework is established in a way which continues to attract foreign investment. Foreign investment is much more important to this country than I think most people realise. It does bring higher rates of economic growth, higher rates of employment, higher rates of innovation and R&D, higher employment conditions, and technological transfer, which is becoming even more important as every day goes by.

I know this is not an easy issue for some, and I respect the positions that Senator Joyce and Senator Murray bring to this debate. But I ask them to keep the private equity issue in perspective. If they wish to bring proposals to the government as to the way in which private equity as an issue should be dealt with, our doors are open. But I do not think consideration of this proposal should be warped or biased or seen through the prism of any concerns that may be held about private equity per se.

Senator MURRAY (Western Australia) (12.09 pm)—In closing the debate on my motion to oppose schedule 4, I will make some short remarks. I value, as a member of the Senate, the opportunity to debate at some length a bill which forecasts or anticipates a revenue loss to Australia of a third of a billion dollars over four years. It is proper that we take some time to do that.

Apart from the entertainment value of the robust exchange, through the chair, between Senator Sherry and Senator Joyce, there are serious issues that needed to be ventilated. To summarise them briefly, the allegation from me, Senator Joyce and Senator Fielding is that foreigners are going to be advantaged with respect to capital gains tax in comparison to Australians. The government and Labor disagree, and we have had the opportunity to put that point of view forward.

The second issue, of course, is that there is a revenue consequence to this. I agree that private equity was a tangential issue which was raised during the debate. But there are two aspects which give it merit. The first is that it is an example of those who invest in Australia, and they will get a tax benefit arising from this bill. So in that respect it was relevant. But the other point is that this is about the only opportunity we have had so far to raise the issue of private equity funds. I think the minister is alert to the matters summarised by the shadow minister—that is, that there are issues surrounding this area of transparency, of proper disclosure of the way in which gearing occurs and so on and so forth.
The area I am most concerned with, I say to the minister through the chair, and that I think government should examine, is the area of identifying beneficial ownership to ensure that, with respect to very large acquisitions, particularly those in sensitive markets—and you understand the relevance of that—we know who lies behind these funds. I have no concern at all with superannuation funds or any body of that nature. But I want to be assured that there is no-one lying behind major acquisitions of major Australian assets who we as a community might want to know about. I am not at all against foreign investment in Australia, and neither is my party, but I sure as hell want to know who those foreigners are if it is a big acquisition. I will wrap it up on that basis. I thank the participants in the debate on my motion to oppose the schedule.

Question put:
That schedule 4 stand as printed.

The committee divided. [12.17 pm]
(The Chairman—Senator JJ Hogg)

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Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

**Third Reading**

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (12.21 pm)—I move:

*That this bill be now read a third time.*

Question agreed to.

Bill read a third time.

**WHEAT MARKETING AMENDMENT BILL 2006**

**Second Reading**

Debate resumed.

Senator O’BRIEN (Tasmania) (12.22 pm)—The Wheat Marketing Amendment Bill 2006 has hardly been seen by the opposition, although we have seen it and were recently given a copy of the explanatory memorandum. We were expecting that the debate on this bill would not commence before 12.30 pm. For that reason, the opposition has some significant comments that it wishes to make. The opposition will be supporting the thrust of this legislation. It is important that the ability to trade without the impediment of the veto power of the AWB
be enshrined in law and the opposition will be supporting that principle.

I can also say that we are giving serious consideration to using this amendment bill as a vehicle to propose another amendment to the legislation that is in fact very similar to an amendment we moved to the Wheat Marketing Amendment Bill 2003 on 26 June 2003, I think. What we wanted to occur then was a full and proper inquiry into the exercise of powers under the legislation of what has become AWB International and also AWB Ltd in its control of the wheat pool, its veto power and the exercise of other functions under the single desk in order to satisfy growers that the system under which we were operating was the best available to create proper financial returns for growers, without paying undue and excessively large commissions or other fees to AWB Ltd for their management of the wheat market in Australia.

That is a subject which has exercised the minds of many growers and indeed many senators in this place in recent times. It is a subject which I have had conversations with many senators about and I have heard others having that conversation. It has been discussed in the media and it has been discussed across the kitchen table on many farms, I am sure. It is frankly appalling that the minister did not begin his speech introducing the Wheat Marketing Amendment Bill 2006 with an abject apology from the Howard government to every Australian wheat farmer.

The mere fact that we are debating these issues today can be seen as an admission by the government that it failed to get the structure of AWB right in the first place and that, ever since then, it has failed to adequately monitor the performance of AWB. Every wheat grower deserves an apology for the failure of a succession of Nationals ministers and leaders to do the jobs they were being paid to do. It was a former Nationals leader, Mr John Anderson, as the minister responsible for agriculture, who did much of the spade work in devising a flawed structure for AWB at the time it was privatised. It was the current Nationals leader, Mr Mark Vaile, as Minister for Agriculture, Fisheries and Forestry, who took much of the legislation for the flawed structure through the parliament. It was the deputy Nationals leader, Mr Warren Truss, who was asleep at the wheel while the Wheat Export Authority failed again and again to properly do its job as a watchdog and allowed AWB to run amok. While Australia produces just less than five per cent of the world’s wheat, it accounts for approximately 15 per cent of the total world wheat trade. That is an important factor considering how important this market is.

Lest it be said that, in my criticism of the ministers, I am biased, I want to lay some of the blame for this mess at the feet of the Liberal Party as well. The current Minister for Industry, Tourism and Resources, Mr Ian Macfarlane, must also take his share of the blame. As President of the Grains Council of Australia at the time, Mr Macfarlane was heavily involved in the development of the Howard government’s flawed structure for AWB. A number of the flaws and weaknesses in the Howard government’s wheat marketing arrangements were exposed during the Cole inquiry into the wheat for weapons scandal. Commissioner Cole shone a spotlight on AWB and exposed serious problems with its corporate culture and the performance of a number of its employees. One consequence of the oil for food scandal has been a renewed focus on the fitness of AWB to manage Australia’s single desk marketing arrangements for wheat and even on the need for the continuing existence of the single desk itself.

These are important matters of vital interest to every wheat grower in this country.
Through AWB, Australia exports around $5 billion worth of bulk wheat a year to around 50 countries. As I said, although we produce just less than five per cent of the world’s wheat, it accounts for approximately 15 per cent of the total world wheat trade. In addition to bulk wheat, Australia exports a relatively small quantity of bagged and containerised wheat through AWB and other traders. Not only does this trade secure the incomes of wheat growers and their families; it sustains the economies of many country towns and rural communities.

It is worth spending a little time looking at the history of wheat marketing in this country. The Australian Wheat Board was established in 1939 with legislated monopoly power over both domestic and export grain sales. Labor has been a strong supporter of the single desk ever since it was established. In July 1999 the Howard government privatised the former Australian Wheat Board. AWB became a grower owned company under the Corporations Law and retained effective control of the single desk. AWB Ltd has two classes of shareholdings. Class A shares are restricted to wheat growers while class B shares are traded on the Stock Exchange, or at least they were until trade was suspended recently. The proportion of shares held by growers has been steadily decreasing, as has the value of the shares they own.

A particular point of contention for growers is the service fee and bonuses that are paid by AWB International to AWB Ltd. The service fee is currently set at a minimum of $65 million per annum. After considerable pressure from growers AWB has announced that, because of the drought, the service fee for the current pool will be reduced to $39.5 million on a one-off basis. This service fee is part of a services agreement between the two arms of AWB. A key problem of the services agreement is the fact that its contents have been kept secret from growers and just about everybody else. This secrecy has become a hallmark of the arrogant way AWB has conducted its business.

AWB’s structure contains an inherent conflict of interest. Companies law requires AWB Ltd to maximise returns to shareholders whilst its constitution requires that it acts to maximise the return to growers. In granting a legislation monopoly to a Corporations Law company, the government has a clear duty to ensure that those monopoly powers are not abused. Central to the failure by the government to properly oversee AWB’s management of the single desk has been the failure of the Wheat Export Authority to do its job.

The Wheat Export Authority was established in 1998-99 to control the export of wheat from Australia and to monitor AWB’s performance in relation to the export of wheat and examine and report on the benefits to growers that resulted from that performance. It has considerable power, including the power to direct AWB to give it any information, documents or copies of documents under the control of AWB or a related corporate body. It must report annually to growers and the agriculture minister on AWB’s performance and it must also publish an annual report. Any individual or company other than AWB seeking to export wheat from Australia must get prior approval from the Wheat Export Authority. This applies to all wheat, whether bagged, containerised or in bulk. In the case of bulk wheat, the Wheat Marketing Act requires the Wheat Export Authority to seek the approval of AWB before it can authorise a shipment by someone other than AWB. These two right of veto proposals by AWB’s competitors to ship wheat out in bulk are the core of AWB’s single desk power.

The performance of the Wheat Export Authority in monitoring AWB has been the sub-
ject of criticism from Labor and from grower organisations for a number of years. The Wheat Export Authority completely missed the involvement of AWB in the wheat for weapons scandal, even though the potential impact on grower incomes was considerable. The incompetence of the organisation as it is currently staffed and structured was highlighted recently when it was revealed that it went through 2005 using the provisions of an out-of-date service agreement as the basis for monitoring AWB. It is important that the operation of the Wheat Export Authority be thoroughly reviewed as part of any process leading to improved arrangements for wheat marketing.

AWB has been given a legislated monopoly but we should be mindful of the fact that AWB is not the only company with experience and expertise in the marketing of Australian grain. The other key players in the industry are the largely grower owned grain handlers who control most of the storage, loading and handling infrastructure. They have large purchasing and distribution networks. These companies include Consolidated Bulk Handlers, a Western Australian based grower owned cooperative; ABB Grain, a mainly South Australian based largely grower owned company; and GrainCorp, a largely grower owned company that operates on the east coast. CBH and the other grain marketers have considerable interest in the outcome of this process. These largely farmer owned grain handling and marketing organisations have a legitimate interest in the fate of the single desk and it is important that they are given the opportunity to make their views known.

Others groups with a considerable interest have been the associations representing grain growers. Labor has held extensive consultations with these groups and has noted that there is considerable debate about the appropriate form for future grain marketing arrangements. For example, the Grains Council of Australia, which represents growers in all states and most state peak farmer organisations, strongly supports the single desk. In Western Australia growers are divided. PGA represents mainly the larger enterprises and the Western Australian Farmers Federation represents many of the smaller growers. PGA opposes the single desk and the Western Australian Farmers Federation supports it. The non-grower-owned grain traders are represented by the Australian Grain Exporters Association and are generally in favour of opening up the market. Because there is such a variety of strongly held views on the nature of future arrangements for the marketing of wheat, it is important that the consultation mechanism the government puts in place ensures that all these views are heard.

In 2003 Labor proposed an amendment to the Wheat Marketing Bill 2002 which would have had the effect of establishing a formal independent inquiry into all aspects of wheat marketing. The government opposed that amendment and the inquiry was never held. If the government had listened to good sense back in 2003 it may well be that timely action could have been taken to prevent at least some of the problems that have been exposed with AWB’s management of the single desk.

There have been a number of independent reviews of the current arrangements and they have generally recommended changes to the single desk arrangements. For example, the Productivity Commission issued a report in 2002 entitled Single-desk marketing arrangements: assessing the economic arguments. Its key findings were as follows. Most of the potential benefits of the single desk arrangements can be achieved without the compulsion of a single desk. In export markets where premiums might be obtained—for example, due to quotas imposed by importing nations—targeted export licences can be used to control exports and monopoly mar-
Marketing of all exports is not required. Economies of scale and scope in marketing can be captured without monopoly selling, while premiums could still be ‘earned’ for high quality and customised service. Activities which deliver industry wide benefits, such as research and development and quality control, can be delivered and funded by more targeted mechanisms. It found that, whereas the potential benefits of single desk selling are likely to be small—or could be achieved in a more competitive marketing framework—the costs of single desk arrangements have the potential to be large. Single desk arrangements inevitably discourage product and marketing innovations; costs may be especially large in markets where product variety and value adding are essential for success; and, importantly, statutory marketing authorities can be reconstituted to operate on a commercial basis in a competitive environment, continuing to offer services to producers and providing a vehicle for continued grower ownership of marketing functions—voluntary producer organisations can continue to give producers a voice.

In December 2002, Malcolm Irving chaired a national competition policy review of the Wheat Marketing Act 1989. This review made a number of specific technical recommendations aimed at improving the operation of the Wheat Export Authority, and freeing up trade in containerised and bagged wheat and in bulk for specialised varieties such as durum wheat. Importantly, while there is much uncertainty as to whether the single desk arrangements produce a net benefit for growers, in conclusion the review stated:

On balance the Committee came to the view that the introduction of more competition into export wheat marketing in the future would ... deliver—greater—net benefits to growers and to the wider community than continuation of the current arrangements ... The review specifically recommended:

- if no compelling case can be made by the time of the 2004 review that there is a net public benefit, then the ‘single desk’ should be discontinued ...

The government, might I say, accepted the technical recommendations of this review but reaffirmed its long-term commitment to the existence of the single desk.

The wheat marketing review of 2004 made a number of recommendations related to the corporate structure of AWB Limited and its subsidiary AWB International, calling for less overlap between the boards of the two entities. It also recommended changes in the way the Wheat Export Authority operates. In accordance with its terms of reference, the review made no recommendation as to the future of the single desk.

Proponents of the single desk, including AWB itself, the National Farmers Federation, the Grains Council and most state farming organisations, except PGA in Western Australia, tend to argue the case for the single desk along the following lines: the single desk allows AWB to establish an integrated marketing system which captures benefits for growers right along the supply chain; AWB’s constitution requires it to maximise returns for growers; having just one Australian player in the international marketplace ensures price confidentiality and Australian growers are not played off against each other; the single desk gives growers the market power to achieve supply chain efficiencies and reduce costs; through the single desk, AWB provides clear market signals and rewards growers precisely for the quality of wheat they produce; the single desk manages price and currency risk; the single desk underpins the market as a buyer of last resort.
These views were backed by a study by Econtech of the premium attributed to the single desk. This study was commissioned by AWB to quantify the benefits to growers of the single desk arrangements. The study found that on the benchmark of Australian premium white grade of wheat, the single desk captures a premium of between $15 and $30 a tonne. The total annual value to Australian growers of this premium on Australian premium white is $80 million. On all grades the average premium attributed to the single desk is $13 a tonne and the total annual value of the premium on all grades is $200 million.

It is clear that there will have to be some changes to Australia’s wheat marketing arrangements. The Cole inquiry has established serious flaws in the way AWB conducts itself, but there are such a wide variety of views about the best way forward for wheat marketing and the single desk that a formal and independent inquiry is needed to ensure we get the structure right. A number of organisations have proposed detailed models or sets of principles for future wheat marketing. These all need to be properly evaluated. The past record of the government and the National Party in particular cannot lead to any confidence that they will get the wheat marketing arrangements right this time. Frankly, a properly constituted formal inquiry is required.

Senator BARTLETT (Queensland) (12.41 pm)—I indicate to the chamber the Democrats’ support for the Wheat Marketing Amendment Bill 2006. I would also like to put on record and signal to the government the Democrats’ willingness to support further changes to the current single desk arrangements. As Senator O’Brien has just outlined, a range of different views and ideas have been put forward, most significantly from different parts of the wheat growing industry, and they will need to be considered. Also, it would be best for them to be considered a little bit further removed from the current upheaval flowing on from the Cole commission of inquiry and further action flowing out of it. The level of damage that has been done to the industry and export opportunities is obviously enormous. Precisely how enormous that is and how it presents itself will still need to be seen. In that sense, taking a bit of time to look at all the alternatives is very wise.

The simple fact is that the Democrats are prepared to support the change. We believe that change has to be made in consultation with wheat growers. Of course, there are a variety of views about that, but we believe that the future of the wheat export industry is too important to just be sorted out in the backrooms, with coalition members reaching an arrangement that has as much to do with maintaining some sort of harmony within the coalition as it does with what is in the best interests of wheat growers. There is no need for the government to have to try and do distorted deals with one or two National Party MPs to get an outcome when, clearly, others in this chamber—certainly the Democrats and, I suspect, others—are willing to work to support change. We should do that openly and with the involvement of all political parties and all people at community level rather than just have party-political deal making.

We are at this point, with this change before us today, because of the monumental failure of governance and the dereliction of duty of a number of senior members of the government. It is a clear example of hubris and arrogance, not just because many warnings were ignored by senior government ministers but also—and in some ways I find this even worse—because of their total failure to take any responsibility.

It is one thing, for all sorts of reasons, to make mistakes along the way, not notice
what is going on, fail to take account of warnings and not have proper structures in place to ensure accountability; it is another thing, when all of that finally comes to light, to take absolutely no responsibility at all for the debacle and for the damage that has happened. I think this issue has focused too much on examining how much political damage might be done and how many political hits might be landed on the government or on individual ministers. There has been a continual focus on the soap opera aspect of politics. That might be exciting for those of us who live in the bubble of Parliament House, but the real issue is the damage that has been done to Australian wheat growers, to the Australian wheat market, to the reputation of Australia in general, and, I might add, to corporate culture and the notion of responsibility and accountability in corporate dealings.

Frankly, people had clear, direct responsibility under law—such as the federal government had and ministers had—for ensuring that we abided by the UN oil for food program and that we did not breach those sanctions. The people who had that responsibility and failed just went, 'Oh well, it wasn't my fault and I'm not going to make any changes at all as a consequence of all that has come out.' What sort of message does that send to our corporate community? We are passing more and more laws through this place and putting higher and higher accountability standards upon them—and that is something in the main that the Democrats strongly support; indeed we have put forward some of those measures. But you cannot impose more and more accountability requirements on the corporate sector, and the not-for-profit sector for that matter, and have zero accountability at government level. The disconnect has become enormous. The hypocrisy is too much. Unless we seek to address that then it is not surprising that we will have ongoing problems in other sectors—whether it is the non-government sector, the corporate-for-profit sector or other areas of endeavour—where people will think: 'Oh well, nobody takes responsibility at the leadership level in the government. We'll see what we can get away with as well. We'll just try to bluster our way through if we get caught and hope for the best.'

It is a seriously damaging attitude and a clear hallmark of a government with immense arrogance. The government now believe that the natural state of being is for them to be in government. They completely confuse self-interest with national interest. This sort of debacle is the consequence. But it is not the political damage or otherwise that I am concerned about. I am concerned about the damage to hard-working Australians, to Australia's reputation and to those important standards of proper accountability. Contrast that with what has actually happened within AWB. They have had a complete shake-up and a change of management. That organisation has had a major upheaval—as it should have, of course. Along with a change of management there needs to be a change of culture, and that is why the signals that the government and the ministers send about this are equally as important. Clearly there is a lot of overlap between the cultural problems within AWB in the way it did business and the cultural problems within senior levels of government. In addition to that, we need more transparency into the future about the nature of export contracts. I am not suggesting that every contract should be made public or anything like that, but I think an extra level of oversight of all the variations that occur and the way that the trade operates into the future would be desirable.

There are many views amongst growers about what the best way forward is from here. A number of them are still suggesting
that the existing single desk arrangement should remain, that this legislation should just be a temporary measure and that it should all revert back to the way it was afterwards. That is not a view I share and it is not a view the Democrats share. We believe there should be change. We are completely open as to the nature of that change and how quickly it should be put in place. Indeed, at this stage, we believe that it is best to remain open about it. I am highly sceptical that a single desk type arrangement actually delivered the best prices for growers in general. I think the introduction of a degree of competition in various ways will deliver better results for many growers. That is a view that I will continue to put in the ongoing debate. I am not here to try to impose my view as to what the next step forward should be, other than to say that it should not be a step backwards to the past. I accept that the existing single desk arrangement delivered more certainty for a lot of growers and often that is worth the trade-off. Having greater certainty about income flow is more valuable, in some circumstances, than the uncertainty of possibly higher or lower prices or sales not coming through once the crop is harvested. That certainty is now lost as well because of the damage that has been done by the previous AWB management and by the coalition government’s negligence.

We have reached a stage where it is time for change, but there is still a lot more consultation required to determine what that change is. I would urge the government to include all political parties in that consultation rather than have a backroom arm wrestle amongst the various competing factions and groups within the Liberal and National parties. Also, with regard to this specific legislation and the specific measure before us, I would urge the government to hand over the veto power to the agriculture minister. That step is not only welcome; it was specifically suggested by the Democrats. Of course there are specific difficulties in Western Australia at the moment. I believe this legislation will provide a mechanism to address that — although it obviously depends on what the minister does. In the current environment, I think the principle contained within the legislation is a sound one, and that is why the Democrats suggested it earlier. We are pleased that the government has acted on that.

I hope they also listen further to some of the other suggestions that the Democrats and others put forward as to where we go from here. In addition to ensuring best return for wheat growers, it is also important to ensure that that market operates in a way which is sufficiently transparent and accountable. There are obviously some reputations that need to be rebuilt here, not just AWB’s but Australia’s as a nation in export circles. I fully accept that some of that damage will be deliberately exaggerated by competitors seeking to harm our trading opportunities and boost their own. I fully accept that there is a lot of hypocrisy and there are double standards in the area of global trade, not just in wheat but in plenty of other areas as well.

But that should not be an excuse for inappropriate conduct and illegal conduct in particular. The Democrats have had before this chamber for a number of years now — perhaps six or seven years — the Corporate Code of Conduct Bill, which sought, and still seeks, to put in place mechanisms of corporate behaviour in the international arena. That is a measure which I believe is still merited and this sort of example is the reason why it is merited. We do need to lift standards more widely internationally. I am certainly not suggesting that Australian companies are worse than others. Indeed, I am sure in many cases we are better than others, but we do need to ensure proper standards of corporate behaviour wherever the company
might be operating. The suggestion that what is appropriate corporate activity within Australia somehow does not apply once you leave our shores is not only an unacceptable one but also an unwise one in the long term in many cases. I think that this episode provides a reminder of why that general principle is important, and it is one that the Democrats will continue to push.

There is obviously a lot more that could be said about the government’s failure in this regard, and the responsibility they should take and must take for the situation that has now been reached and the damage that has been done. I do not want to expand on it any further. I think that I have made enough of a point with regard to that. Also, for the sake of wheat growers in particular, I think it is important that we focus attention on where we go from here and what is best for that important domestic and export industry.

Whilst it is appropriate that we do continue to point to the failings of government, that should not be the focus of this whole debate. Ordinary wheat growers have already suffered enough damage—collateral damage, if you like—from political infighting and political negligence. We all need to try to make sure that they remain the main focus of debate around this issue. It is still important to point to the failings of government, not for partisan political purposes but as a reminder that we do need to take responsibility when we make mistakes. It is certainly a principle that I have tried to follow in the approach that I have taken in political life—a willingness to accept mistakes and take responsibility for that. It is not just because it is a nice sounding principle and a good thing to teach your kids; it actually leads to better governance, and better governance is in the interests of the entire Australian community. It means that fewer innocent people end up getting hurt and getting caught out as collateral damage in these sorts of debacles.

Senator SIEWERT (Western Australia) (12.56 pm)—I am aware that there is a long list of speakers here and that we probably need to be fairly quick and to the point so I will try to meet those goals. The Greens will be supporting this amendment. We support the lifting of AWB’s right of veto temporarily. We believe that it is important as a short-term measure to allow Australian wheat growers the chance to sell this year’s crop without having to wear the risk of the fallout of the AWB fiasco. We believe that it is much better to proceed down this path of temporarily lifting the veto to enable a discussion about the longer-term future and not force a quick decision on the long-term future when, quite clearly, there are very serious issues that need to be discussed and reviewed before reaching a decision on the long-term future and the way we market wheat in Australia. This will give all stakeholders the time to give proper consideration to the best way to market Australian wheat into the 21st century so that we get the best deal and protect the interests of all wheat growers in Australia—not just the large wheat growers but also the small ones—and so that we have a system that is transparent and accountable, the good name of Australia in the wheat market is restored, the good reputation of our agriculture is protected and we never again see corrupt and shoddy deals being done and having been done in our name.

In October the four Australian Greens sent a letter to the Prime Minister requesting that he temporarily lift the right of veto from the AWB. We had recognised the looming crisis for the wheat growers of Australia, particularly the Western Australian wheat growers. It was quite obvious that the findings of the Cole inquiry were not going to be positive and that the AWB was exposed to risks that
would therefore lead to our farmers being exposed to risks—particularly Western Australian farmers. We are pleased that this amendment is putting in place a temporary veto and that essentially the government is assuming the responsibility for that decision making. We asked for a temporary lifting of the veto to allow the immediate concerns to be dealt with so that everybody could have time to review the Cole findings with a cool head and a view to the best outcome for all.

The long-term changes are quite clearly needed—absolutely. It was obvious that there would be massive fallout following the report of the Cole inquiry and that time is needed to review these findings with a cool head. Farmers in WA were, and remain, concerned. They look like the only mob likely to be exporting wheat during this season because of the impact of the drought and they largely do the bulk of the exports anyway. Farmers are worried about the risks and liabilities of having to deal with the AWB during the current crisis and, as many people know, most of the wheat from Western Australia is in storage in bins, rather than being delivered to AWB.

The important thing here is the uncertainty for our farmers. Even those farmers who support the single desk are concerned. They have this massive inner conflict between wanting to support the single desk and being deeply concerned about the risks and uncertainties that they face should they deliver their wheat to AWB.

Most people are probably aware of some of the potential liabilities that AWB currently faces, such as the direct costs of the Cole inquiry, bills from the ATO, actions by shareholders, owing money to the Australian Securities and Investments Commission and actions from overseas. The list goes on and on, with AWB’s liabilities potentially amounting to between $1 billion and $2 billion. I believe that farmers have a right to certainty—and, of course, they have cause for concern. If and when these chickens do come home to roost, Australian growers who have handed over their wheat to AWB may find themselves at the bottom of a long list of creditors. They may only receive a percentage of the crop’s value. I do not need to tell you what a cause for concern this would be for farmers in normal circumstances; but, with the current drought, their margins are even tighter and, quite frankly, they need every dollar they can get from their exports.

As I said, WA growers are particularly exposed to this risk, because at this stage they are likely to be the main people exporting their wheat and are therefore the farmers who are most likely to face the biggest fallout from the AWB fiasco, paying for its incompetence and fraud in the oil for food scandal.

Of course, lifting the right of veto only addresses part of the problem that we are facing. The government still needs to answer a number of very difficult questions. Firstly, who is going to step in to bail out AWB and make sure that the growers do not end up paying for this anyway in the long run; who is going to pick up that tab? Secondly, what kind of process of inquiry will the government put in place to make sure that ongoing decision making is open and transparent and that growers and the broader community have a chance to have their say, are heard and have input into the long-term decision making on the future of the way we export wheat from Australia?

We need to properly assess the findings of the Cole commission of inquiry. In particular, we need to look at what role ministerial responsibility, the failure to oversee the current system, played. The Cole findings clearly said there was a failure of culture, but culture does not occur in a vacuum. Signals
from the government, from DFAT and from the Wheat Export Authority, which I will get to in a minute, were critical. There seems to have been a series of very convenient instances of overlooking warning signals, as well as organisations—for example, AWB—not performing the functions that they are supposed to carry out.

When the Australian Wheat Board was privatised and became AWB, a system was supposedly put in place to oversee that privatisation. The agency with that responsibility was the Wheat Export Authority, which clearly did not properly carry out its functions. It not only did not carry out its functions adequately; it also had a very narrow interpretation of its functions. This narrow interpretation of its functions resulted in its failure to pick up the failings of AWB. However, it does not stop there. The WEA is supposed to report to the minister—so what did the minister and the departments do with the reports? Do they just file the WEA reports? Didn’t they check that the WEA was carrying out its functions? If they did, they might have identified the improper way in which AWB was handling its business. Quite clearly, changes are needed for the long term.

We need to decide how to market Australian wheat on the world stage in the 21st century. We need to protect the interests of our growers, both big and small. We need to protect our international reputation—first, of course, we need to restore it and make sure that we do the right thing in responding to the Cole inquiry into the Wheatgate kickback scandal. We need to have a debate in which all Australian wheat growers and the broader community have a chance to be involved and put forward their opinions on the future of the single desk and the best way to manage their interests. We need to make sure that the single desk process is open, transparent and working in the best interests of growers, not the stakeholders in a privatised monopoly. That was a built-in conflict of interest. We need to make sure that growers are involved in the decision making on how their wheat is marketed.

I am concerned that some people’s single-minded belief in the single desk has resulted in their overlooking the shortcomings of the current approach to the single desk. We need breathing space and we need to carefully review what led to the malfunction and the breakdown of the current single desk process so that we have a system that does deliver in the interests of all growers, not responding to the interests of shareholders in private companies, and that is open and transparent. We need time to discuss this, which is why I am glad that the government has responded to calls from the community and from the Australian Greens to temporarily lift the veto power to enable a much more proper process to be put in place, rather than making a rushed decision which I think would inevitably have led to a poor outcome for the Australian wheat market.

Senator BOSWELL (Queensland—Leader of The Nationals in the Senate) (1.05 pm)—The Wheat Marketing Amendment Bill 2006 has been brought in as a necessary measure for the Australian wheat industry. As Senator Siewert said, one of the reasons for this temporary measure is to end the impasse that currently exists with the Western Australian wheat farmers who are not delivering their wheat to the pool but are storing it on their properties—thousands of tonnes of wheat that are not going to either CBH or AWB. The government want to ensure that the single desk selling arrangements retain the confidence of growers in the short term and that growers are not disadvantaged in the long term. I urge Australian wheat growers to take advantage of the next three months of consultation to ensure that a united position is presented to the federal government on the
future marketing arrangements for bulk export wheat.

There is a push for deregulation of wheat exports and there are all sorts of variations on the single desk. But the Nationals have held the line on this important issue for regional Australia and we have bought some time for wheat growers. I say to growers today: you have 17 Nationals representatives here in the federal parliament; we are your voice here, but your voice, the voice of growers, needs to be loud, clear and distinct when you give us the message to carry for you on the way you want your wheat marketed overseas. Your future is strongly linked to the future of the single desk, and make no mistake: the future of the single desk is at stake right at this moment.

The minister, under this bill, will be handed the veto for a period of six months up until 30 June 2007 before it comes back to AWB, and this gives growers time to confirm: firstly, if they want to retain the single desk, which I believe they will; and, secondly, what format the single desk should take and who should ultimately exercise the veto. I have met with representatives of the wheat industry already and understand that they are preparing to undertake a comprehensive consultation process over the next three months to confirm that wheat farmers want the single desk retained and to present all the options available to growers. I understand that Minister Peter McGauran will be writing to wheat growers soon on this matter to kick-start the consultation process amongst the farmers.

This consultation must form a basis for presenting a unified case to government at the end of the three-month consultation. The export veto power for bulk wheat has been placed with the minister as an interim measure to ensure grower confidence in the current arrangements in the short term. Putting the veto in trust with the minister will potentially reduce the chance of pool-contributing growers being left with a disproportionate share of the cost. That is one reason the bill is being put forward. An export licence will continue to be granted on terms where it will have to assist in maximising the bottom line for wheat growers. In this way, the minister’s veto will help to ensure that those who contribute to the pool are not penalised for the benefit of growers outside the pool.

When the three months are up, it is essential that growers have made a clear decision on what constitutes a single desk and who is the appropriate entity to control it. I have made my position on the single desk patently clear. The Nationals have always defended the single desk as a fundamental defence for Australian wheat growers against the protectionist policies and subsidies of our overseas competitors, totalling more than $17 billion per year or 39 per cent of farmers’ income in the EU and 32 per cent of farmers’ income in the US. While ever growers remain united and can clearly demonstrate a requirement for the single desk, the National Party will continue to support them. Most of the world prefer to buy through a single desk, so we must continue to sell through a single desk to suit our markets.

To me the single desk is defined by five clear principles: a single desk entity is grower owned; it is the operator of the national pool; it is the holder of the export veto; it is the buyer of last resort; and it provides security of payments for growers. As far as I am aware—and I am pretty certain of this—a farmer has never not been paid by the AWB; never at any stage has the AWB reneged on a payment. This is not the case in many other markets where people trade. These principles must be changed only with the support of a clear majority of growers. Most growers, the Nationals and many of our Liberal colleagues support the current definition for the
single desk. Logically, the next step in the government decision-making process is determining what alternatives are being put forward that uphold the principles and definition of the single desk, and whether growers agree with any of the new proposals.

Australian wheat growers must take advantage of these next six months and ensure that they present a united position to the federal government on future marketing arrangements for bulk export wheat. I sound this warning: let there be no uncertainty at the moment; the single desk is under threat. The only way the single desk can be maintained is by a strong voice of growers who want it. That voice has got to be loud, definite and united. If a united voice is not coming through into the parliaments of Australia then the single desk is definitely under threat. So it is time for the voice of the 22,000 wheat growers to be heard and it has got to be heard loudly and clearly. There cannot be meetings where 200 growers get up and come up with 200 different variations of what a single desk is because the single desk has got to be defined out there amongst the growers. That message has got to come through into the parliament and then we, the various parties, will know what the farmers want.

There is a period of six months before the government make a decision: three months for negotiations and three months for the government to come up with a proposition. So, 22,000 wheat growers, it is over to you. If you want it, fight for it. Go out there and fight hard for it because if you fight hard you may be able to maintain it the way it is.

Senator Hurley (South Australia) (1.13 pm)—Senator Boswell realises that the single desk is under threat. He says it is under threat now and puts the responsibility back on the growers to do something about it, which is absolutely extraordinary. It is not up to the National Party, apparently. It is not up to the Liberal Party, whose Prime Minister John Howard promised in the last election that the single desk would be maintained. No, it is now back to the growers to do something about it, which is an absolute disgrace given that we have known for some time that the single desk was under threat.

In his second reading speech the Minister for Justice and Customs (Senator Ellison) said:

To rush the consideration of these long-term arrangements—

that is, the single desk—

would put at risk the future interests of Australian wheat growers. The government’s dominant concern in the consideration of both long-term and temporary arrangements is the interests of Australian wheat growers.

What happened to looking at the long-term interests of Australian wheat growers over the past four or five years? It had become clear that the single desk was under threat from competitors who were pushing, people like CBH and ABB. The government has known for years that the single desk was under threat.

What did either the government or AWB do about it? The AWB stood where it was, said, ‘We must have the single desk,’ and refused to look at any alternative methods of dealing with all these possible competitors and the push from America and others about the single desk. It stood there and absolutely refused to look at any other ways to deal with it. Now, as a result of the inherent problems within the arrangement, we are looking at a rushed, inadequate method of dealing with this. And now we go out, now we consult and now it is the growers’ responsibility to deal with it and come up with a single model of single desk. It is not the government, it is not the AWB—it is the poor grow-
ers whose responsibility it is to come up with a sophisticated marketing model.

This is an absolute failure of this government, whose Prime Minister promised the continuation of the single desk and now acknowledges that the cracks are far too obvious and that, on the government’s watch, the AWB collapsed due to its own inherent structural problems. This is the problem for growers, who are looking at a decrease in the price for their wheat in this drought. Many of them also have shares in AWB, which has been the worst performer in Standard and Poor’s ASX200 index and has seen a 60 per cent drop in its share over the last year. So AWB loses on both fronts. These poor growers out there who now have to get together—

Debate interrupted.

MATTERS OF PUBLIC INTEREST

The ACTING DEPUTY PRESIDENT (Senator Moore)—Order! It now being slightly past 1.15 pm, I call on matters of public interest.

Senator Murray—I rise on a point of order: I thought that matters of public interest had been pushed out to half past one.

The ACTING DEPUTY PRESIDENT—No, we have maintained 1.15 as the commencement for matters of public interest, and question time will be at 2.30.

Biofuels

Senator NASH (New South Wales) (1.17 pm)—I rise today to talk about the issue of biofuels in this nation. I think it is an issue that we need to keep focusing on. It is vitally important that we get biofuels and the future of biofuels right in this nation. I will talk today particularly in terms of ethanol.

What we have seen in the past is a complete lack of determination and interest from the major oil companies in committing to using ethanol in this nation. We have seen an entire range of benefits presented for this particular fuel in this nation. We have health benefits, environmental benefits, benefits for rural and regional areas, jobs and opportunities that can be created and price benefits from ethanol, and we are seeing this out there in the community. We are seeing ethanol blended fuel at 3c and 4c a litre less for consumers right out there across the nation. The only thing is that it is not across the nation: it is in very few service stations, so consumers cannot access it. And why is it not there and available? It is not available because the major oil companies are not coming to the party and doing what they should.

People would be very aware that, at the end of last year, the Prime Minister and the Deputy Prime Minister came to an agreement with the major oil companies to set some voluntary annual targets so that the government could reach 350 million litres of biofuel production by 2010. This year the target is 89 million litres at the bottom and 124 million litres at the top. To all intents and purposes, at this stage, we have seen the major oil companies use about 15 million litres of ethanol. It is falling far short of the target. It is completely reprehensible that the oil companies have not done more to meet this target.

I acknowledge that there are some oil majors that have taken steps to address this issue, but I draw to the attention of senators that the agreement at the end of the last year was that these targets would be met. The bulk of the ethanol that is being used out there in the marketplace at the moment is from the independents. United Petroleum has done a terrific job in getting ethanol out there to the marketplace. As I understand it, they were not even part of the agreement with the Prime Minister and the Deputy Prime Minister at the end of last year.

The point of having those discussions and the point of having the targets in place was to
ensure that the major oil companies, for the good of this nation, would come to the party and start increasing their use of ethanol—and they are not doing it. As far as I am concerned, if they are not going to meet these voluntary targets, those targets should be mandated. What is the point of having a voluntary agreement if those involved in the agreement are not going to stand up for either side and are not going to meet those targets? It is a complete waste of time to have it in place if they are not going to meet their targets. It is not good enough to say, ‘We’ll meet it in 2008, or we’ll meet it in 2009.’ It is just not good enough. Those targets were put in place to be met this year and they should have been met. They should have been met because it is in the interests of people right across this nation. It is in the interests of all Australians.

The environmental benefits are enormous. There are health benefits in terms of emissions. In particular, as a senator from country New South Wales, the jobs and opportunities that can be created out in the country areas from the development of this industry are tremendous. We talk about creating industries and we talk about creating development out there in the regions. This is one way of doing it: developing that ethanol industry so we can get those jobs and opportunities out there in the regions. Do you know the only thing stopping it at the moment? It is the major oil companies who will not commit to doing it. For years and years they have not put in the effort to take up ethanol and get it out there into the community.

We as the government have recognised the benefits that ethanol puts forward. There is absolutely no doubt about that. When you look at the focus at the moment on climate change and renewable energy, you have to ask: why are we not ensuring that there is more ethanol-blend fuel out there in the marketplace? The way to ensure it is through getting the major oil companies to meet their commitment. At the end of last year they committed to meeting those targets. The percentage of total fuel that that ethanol means to them is negligible. It is a tiny amount compared to the billions of litres of fuel that are consumed in this nation. So why aren’t they doing it? I do not know the answer. They have had years and years. It is not about just these 12 months. Our policy was in place for the 2001 election. They have had years and years to improve their uptake of ethanol and they have not done it.

The government, quite rightly, some time ago announced funding for capital grants to help develop the ethanol industry. That was a terrific initiative, a very good measure. What we are seeing now is that some of those companies that were the recipients of that funding have had to hand it back because they cannot get any certainty because the major oil companies will not enter into contracts and so they cannot get on with their development. To me, that is appalling. It all hinges on the major oil companies’ increased use of ethanol. Why aren’t they doing it? As I travel around the state I have people ask me, ‘Why can’t we get access to ethanol-blended fuel? Why is it not there?’ Years ago there was a scare campaign. It was to scare people away from ethanol. There were signs that said, ‘No ethanol at this service station’. We are finally getting past that. We are finally getting to the point where people out there in the community want to embrace ethanol. They want to use it. They want it in their fuel mix.

So we have this situation where the government wants to see greater use of biofuels. We are doing a lot to make sure that that happens. We had the commitment from the major oil companies at the end of last year that they would work with the government to meet the targets. At the other end of the scale we have the consumers who want to use it.
What is in the middle? The major oil companies who will not increase their uptake. Quite frankly, I think 15 million litres is pathetic. It is appalling. Compare that to the situation overseas in Brazil and the US where they are using around 15 billion litres each. Here the major oil companies come up with 15 million litres. Why is that? Is it perhaps that overseas it is regulated—that there is a requirement to do it? What I would like to see is a requirement placed on the major oil companies if they are not going to meet this voluntary target.

What was the point of entering into an agreement at the end of last year? What was the point of getting that commitment if we are now going to say, ‘It’s okay not to meet the commitment. That’s fine. We’ll do it next year. We’ll do it the year after that. That won’t be a problem.’ We need that commitment now. It will continue to get pushed back. We have all these wonderful people around this nation who have terrific ideas for setting up ethanol developments. It is tremendous in terms of regional development. But they cannot get going because there is no certainty. They cannot do it because the major oil companies are not doing enough.

So again I say: the commitment was there last year. The major oil companies and the government agreed on these voluntary targets. I say: what is the point of a voluntary target if it is not going to be met? There was a commitment and it should be met. If those voluntary targets are not going to be reached then there should be a requirement. All it would be doing, if we put a mandate on those targets, is turning the expectation that we had into a requirement.

I cannot be more firm in my belief that this country needs a strong and sustainable biofuels industry. It is for the benefit of people right across this nation. I call on those major oil companies to meet their commitment, and I call on the government to mandate those targets if they do not.

Mining Industry

Senator IAN MACDONALD (Queensland) (1.27 pm)—Australia has been doing very well in recent years due to good governance from the current federal government and fuelled by huge demand from India and China. That demand is nowhere more evident than in the mining, minerals processing and heavy industries. Where I come from in the north of Queensland, there has been enormous economic growth as a result of mining and mineral processing. I have my office in Townsville and live in the little country town of Ayr a bit south of Townsville. Townsville has certainly done very well in recent years on the back of activity from Queensland Nickel, QNI. They now import their raw material from overseas, bring it into Townsville, process it with a hugely-upgraded and expanded metals processing plant just north of Townsville at Yabulu, and then ship the product out.

As well as that, Townsville is fortunate because it has the copper refinery, currently owned by Xstrata, the big international mining company that has huge mining activity in Mount Isa and elsewhere in North Queensland. And of course, since the advent of the Howard government, there is now the Sun Metals—as it is now called or originally Korea Zinc—processing plant in Townsville. It is probably appropriate to mention Korea Zinc, or Sun Metals, today in view of the fact that His Excellency, the President of the Republic of Korea, is in town on an official state visit. Companies such as Sun Metals and Hyundai have built a very close economic link between Australia and Korea and, from my point of view, between the Townsville region and Korea.

On the back of that expansion, a lot of things have happened. There is a lot of fly in,
fly out from major coastal cities into the inland. That is not something I agree with; there are problems with it. But it does have advantages to the mining companies such as, amongst other things, better industrial relations. Townsville is one of the places along the Queensland coast that has benefited from fly in, fly out and so has Mount Isa. Huge economic growth, particularly in the housing and construction market, followed the fly in, fly out emanating from Townsville and Cairns.

Townsville is also lucky in that it is the home of Australia’s largest military base. All of our fabulous soldiers, fine young Australians—both male and female—are deployed from Townsville to many overseas posts. Quite properly, they get well paid when they are working overseas. But, from an economic point of view, when they come back to Townsville after their deployment has finished they have substantial ready cash, which they spend—usually wisely—on vehicles, housing and in other ways. So Townsville has progressed very well in recent years.

It raises the question, though—and some are considering this question—of just how long this economic boom will continue. There is some concern that a fall-off in China or India in the immediate future may cause some cutback, which would have an impact on the local economy of North Queensland. I was mentioning this concern to Nicole Johnson from Leighton Holdings and she indicated that Leighton Holdings had done some research on this. She kindly sent me some of the material that Leighton Holdings publish. I will quote from some of the figures that Leighton produced in relation to mining and heavy industry in Australia.

Recent figures for 2005/06 exports, mining infrastructure expenditure, and profits of resource-related stocks have achieved record levels and are still growing. New capital expenditure in 2005/06 is now expected to reach $16 billion, a 60% increase from the previous year and 2006/07 capital expenditure should approach $18 billion. Forward looking indicators, such as resources demand—and this is the interesting point—and new projects in the pipeline suggests the industry will continue expanding in the short term whilst sustaining similar levels of activity across the medium term.

It is also interesting that exploration investment has also picked up and is expected to be six per cent higher, at $2.3 billion, than the average spent over the previous 25 years. ABARE predict that, in order to continue sectoral growth over the longer term, average annual levels of exploration will need to remain equivalent to these levels.

While the mining industry is propelling the economy along, it is also adding to inflationary effects. The ABS recorded an annual increase of 13.5 per cent in the cost of materials used, for example, in open-cut mining, with even greater effects reportedly being felt in isolated areas and trades, particularly in Western Australia.

The outlook for commodity prices is for continued strength but greater volatility. With respect to coal, thermal spot prices have fallen. However, metallurgical coal prices remain strong. Nickel, gold and zinc prices are all enjoying record highs and, despite the volatility from day to day, they are hovering well above previous long-term averages. Iron ore of course is doing very well.

Thermal coal is particularly important to North Queensland and Northern Australia. Demand is primarily driven by power consumption, which is at an all-time high in Australia and across Asia. Despite China producing 2.1 billion tonnes of thermal coal in 2005, they imported approximately 26 million tonnes of better-quality thermal coal in the year to March 2006—an increase of 144 per cent. That represents about 10 per cent of Australia’s export market. India has
similar statistics. It is the world’s third largest producer. However, it imported an additional 20 million tonnes of thermal coal in 2005 and it is still experiencing power shortages.

I might say in passing that these figures, showing a huge increase in the use of coal in China and India, again confirm that, without having China and India in any Kyoto type agreement, the world is simply wasting its time. The increase in imports overwhelmingly demonstrates the population growth and the industrialisation occurring in both China and India and, as electricity is an essential service, underlying demand for thermal coal has reached new heights. Prices have risen recently, again, as the volatility of oil and gas prices makes coal a more economic fuel source. But, in the longer term, demand will largely depend on how well India and China reform their coalmining and power industries, and there is considerable room for improvement in production efficiencies.

While coal is currently relatively abundant and economic compared to other fuels, it is a finite resource and it is damaging to the environment. Alternative fuels, such as gas and nuclear, and renewable energies have significant benefits and are already contributing to the world’s power generation. I want to indicate that Norway, Austria and Canada generate over 70 per cent of their electricity through hydro power, something that we in Australia have not been able to do in recent times, because for some reason the Greens seem to be opposed to hydro power; to me it seems to be one of the cleaner forms of energy. France, of course, produces 80 per cent of its energy from nuclear reactors. So, when people like the Greens hold Europe up as a shining example of reductions in greenhouse gas emissions, they never seem to acknowledge that 80 per cent of France’s energy comes from nuclear reactors.

Nickel, which, as I mentioned, is very important to my home town of Townsville, is a key input to stainless steel and is another mineral profiting from record rises in world consumption and prices, spurred on by China. Stocks are extremely low and world production is forecast to rise by six per cent to 1.42 million tonnes to try to meet growth in world consumption of eight per cent in 2006 and a further six per cent in 2007. Australia’s exports are forecast to rise by 14 per cent next financial year, with BHP Billiton’s Ravensthorpe mine expected to commence production in late 2006. I should also mention the Gladstone Pacific Nickel project, which the federal government recently designated as a project of national interest, the first stage being worth around $1.5 billion.

Gold is very important to Australia. A lot of mining exploration is done in North Queensland. Charters Towers, which helped with the Queensland economy way back when Queensland first became a self-governing state, has had a resurgence of interest in gold in recent years. Gold is the traditional hedge investment in the face of worldwide inflationary pressures and political instability. There is so much more exploration going on now. Places like Charters Towers, which were thought to have been mined out of gold, are now attracting a lot of new miners. There is a lot of new production in that area, going down into Collinsville and the Mount Coolon area and into Ravenswood, just west of the town where I live. In Australia the gold price has already increased by 40 per cent since mid-2005, and this makes feasible a number of smaller projects for the development of short-term exploration and the construction of mines, which is very good for the Australian economy.

We are all interested in Australia’s economy, because the wealthier we are as a nation, the better we are able to look after those
in our society not as well off as the rest of us and the better we are able to participate in world forums to try to help in so many ways, including with greenhouse gas emissions, to make the world a better place. There are those who thought there may have been some slowdown in mineral processing, particularly in northern Australia; that does not seem to be the case from the forecasts that I have mentioned. We are fortunate—Australia is indeed the Lucky Country—to have natural mineral resources that bring such wealth and prosperity to all Australians and have helped Australia achieve some very significant social policy advances since the Howard government was elected in 1996.

I look forward to a continuation of sound, sustainable mineral exploration and production, carefully managed, as it is by us and by all of the states—they have the principal carriage of production in these mines. It does seem to suggest that Australia is on line for a continued period of growth in the years ahead of us.

World AIDS Day

Senator KIRK (South Australia) (1.42 pm)—I rise this afternoon to have the Senate take note of the fact that 1 December was recognised internationally as World AIDS Day. World AIDS Day is preceded by AIDS Awareness Week, which always begins on 24 November. I spoke in this place recently about the issue of HIV-AIDS in Africa, and today I want to focus specifically on South Africa. But before I do, I want to briefly say something about the situation here in Australia.

I am not entirely sure why, but for some people here in Australia the issue of AIDS has dropped off the radar. It rarely makes newspaper headlines. However, contrary to what some people seem to think, the Australian AIDS epidemic is not easing. According to the United Nations Agency UNAIDS, the number of annual HIV diagnoses in Australia is increasing, and is set to revert to the alarming levels of the early 1990s. Rates dropped in the late 1990s, but they are back up. According to the report:

Newly-acquired HIV infections, largely attributable to unprotected sex mostly between men, are increasing, which plausibly reflects a revival of sexual risk behaviour.

This is something that the government must investigate and address.

The latest data on HIV-AIDS in Australia is presented in an annual surveillance report on HIV prepared by the National Centre in HIV Epidemiology and Clinical Research at the University of NSW. The most recent figures show that in Australia, as of 31 December 2005, there had been 22,361 diagnoses of HIV infection, 9,872 diagnoses of AIDS and 6,668 deaths following AIDS.

An estimated 15,310 people were living with HIV/AIDS in Australia at the end of 2005, including 1,100 women. The number of new HIV diagnoses in Australia increased by 41 per cent between 2000 and 2005. HIV continued to be transmitted primarily through sexual contact between men.

The rate of HIV diagnosis per capita differed very little between the Indigenous and non-Indigenous populations, but much higher proportions of cases were attributed to heterosexual contact and injecting drug use in the Indigenous population.

In 2002-05, people from countries in sub-Saharan Africa were associated with the highest population rate of HIV diagnosis in Australia. In the past five years, 57 per cent of cases of HIV infection attributed to heterosexual contact were in people from countries with a high prevalence of HIV—countries with an estimated HIV prevalence of above one per cent—or their sexual partners.
An estimated 70 per cent of all people living with HIV infection in Australia in 2005 were treated with antiretroviral therapy. Following a long-term decline, the annual number of new HIV diagnoses in Australia has gradually increased over the past five years from 656 cases in 2000 to around 930 cases in 2005. An increasing number of these new diagnoses were people who had acquired HIV infection within the previous year.

As I mentioned earlier, today I want to focus attention on the issue of AIDS in South Africa. This country is suffering an AIDS pandemic. South Africa has more HIV-positive people than any other country. However, despite generous allocations by the South African Treasury and substantial assistance from foreign donors, only a quarter of those needing antiretrovirals receive them. I will talk about why this is so in a minute.

Before I do that, here are some facts about HIV-AIDS in South Africa. According to UNAIDS, there are currently around 5.5 million South Africans living with HIV. A 2005 antenatal survey suggested that 30 per cent of pregnant women were living with HIV. One thousand people become infected with HIV every day in South Africa. The majority of people in South Africa living with HIV are women; there are 3.1 million of them. Last year there were 320,000 deaths in South Africa due to AIDS. Turning this around to think about it a different way, that means 880 people die from AIDS related illnesses every day. There are 1.2 million AIDS orphans in South Africa and 19 per cent of people aged between 15 and 49 are living with HIV.

The World AIDS Conference 2006 was held in August in Toronto. At the conference, Stephen Lewis, who is the United Nations special envoy for Africa, was critical of the South African government. He described the government as negligent for failing to properly roll out treatment programs. He also criticised the views of some government ministers. One government figure he referred to was the health minister, Manto Tshabalala-Msimang, who also spoke at the Toronto conference. The minister told conference delegates that, instead of antiretrovirals, she wanted to give citizens who are suffering AIDS traditional treatments like garlic, lemons and beetroot. The minister had previously described antiretrovirals as poisons.

The views of South African President Thabo Mbeki have also been widely reported in the press, including his questioning that HIV leads to AIDS. He has also been quoted as saying that the AIDS epidemic has been manufactured by Western pharmaceutical companies to sell their antiretroviral drugs. I am pleased to say that, despite these views, the official South African government position appears to support the scientific orthodoxy that HIV does cause AIDS. Also, South African government policy appears to support the provision of antiretrovirals. In 2004 the government budgeted $1.7 billion for antiretroviral therapy over five years.

In the remaining time available, I would like to speak a bit more broadly about this topic. I spoke in this place a short while ago about the enormous problem of HIV-AIDS in Africa. I would now like to spend some time recapping a couple of very sad facts about the global AIDS crisis. Last year, over three million people died from AIDS related illnesses and close to five million people contracted HIV. There are now over 40 million people living with HIV, and half of them are women. Sixty-five per cent of those who contracted HIV last year live in sub-Saharan Africa. In Africa there are now 12 million AIDS orphans. Fifty per cent of those who contracted HIV last year are young people aged between 15 and 24. It has now been 25 years since AIDS was first diagnosed. One in three new infections outside Africa affects injecting drug users and 25 million people have now died from AIDS illnesses.
I am aware that I have been quoting an awful lot of figures in my remarks today. It would take some time to reflect on the figures that I have cited and to understand and appreciate the impact of those figures and how many people are being affected by this tragic disease. I call on the Australian government to do more to help fight the worldwide AIDS epidemic. Australian aid to Africa for HIV and AIDS was cut from $111 million in 1994-95 to just $69 million in 1998-99—almost a fifty per cent decrease—and it has stayed at or below that level in the years 2001 to 2005. As I have said before, that is not good enough. A wealthy and prosperous country like ours ought to be increasing the money it is putting into Australian aid for Africa. There is an urgent need to do so. I call on the government to give very urgent consideration to this matter in a week when we have observed World AIDS Day.

National Space Policy

Senator STOTT DESPOJA (South Australia) (1.52 pm)—Today I want to talk about space policy. As honourable members may be aware, I have brought this up over the years in this place. It is an issue that we tend not to discuss in federal parliament. Madam Acting Deputy President, as you know, I represent the state of South Australia, as do Senators Hurley and Kirk, my colleagues from South Australia. They would know that we have a proud history as one of the key hubs of space related activity in this country, so of course part of my motivation in drawing attention to the issue of space policy is a hope that any new activity in this area may provide further opportunities for the expertise and capability within my home state.

More broadly, however, I have come here with the firm belief that the exploration of space presents a number of exciting opportunities that could fundamentally transform our long-term future in a way that arguably few activities can. I am unashamedly excited when I think of the possibilities that a more proactive space policy could bring. I raise this issue in the knowledge that there is a bit of a giggle factor associated with space policy. Any politicians who go out on a limb to call for more action in this field are often accused of being ‘space cadets’ themselves—not being really focused on the real issues. I reject that notion. I think space policy is a real issue, something that we should be discussing in the halls of power. I will highlight some of the reasons later on in my remarks.

For the moment I do acknowledge the unfortunate truth that it is actually quite easy for policymakers to ignore space policy. That is partly because existing efforts around the world to understand, explore and exploit space suffer a bit of an image problem. One reason is that progress has been painstaking. It is telling that humans have never been so far away from the Earth than they were when Neil Armstrong or Buzz Aldrin touched down on the moon more than 30 years ago. We have come to expect smooth and regular progress in science and technology, so it does seem counterintuitive that in many ways the pinnacle of manned space flight was so long ago.

Although some amazing feats have been achieved since, and I particularly note the efforts by NASA and the European Space Agency to explore Mars and Titan and the incredible data that those missions have sent back, nothing seems to have captured the imagination of the public quite so much as the Apollo landing all those years ago. We have come to expect smooth and regular progress in science and technology, so it does seem counterintuitive that in many ways the pinnacle of manned space flight was so long ago.
investment required and the safety of the people taking part in it.

While science and technology are likely to make great advances in this area, I suspect that space exploration will always be a fundamentally risky activity to undertake. When faced with this level of risk, the public are right to question what they actually get out of it. So I want to outline my views on why I feel that a new focus on space policy is so important now and will be in the future. I will begin by outlining some pretty indisputable facts.

Firstly, space exploration is not some flight of fancy; it is happening now. Yes, some significant technical challenges stand in the way of a permanent human presence in space but, given the history of human innovation, is there anyone here who really does not give us at least an even chance of overcoming some of these obstacles?

Secondly, our efforts to conquer space provide many tangible benefits right now. Imagine what global communications would be like today if Sputnik had not been launched in 1957, an event that pioneered the widespread use of satellites. Without that effort we would not have Google Earth or global positioning, and our ability to monitor the weather would be much more limited. Indeed, a number of everyday products have their origins in space related research and development, including smoke detectors, barcodes and cordless tools, to name just a few. Many thousands of people all over the world are employed by government space programs and the companies that supply them. These are highly technical jobs that lead to significant knowledge spin-offs throughout the economy. I also believe that there is great value in exploration and discovery, both because it transcends our everyday life and because the knowledge and resources that may await some determined steps on our part are virtually unfathomable.

What can we, as legislators and politicians, do in this vast and complex area? I think there is an opportunity for us to do a great deal. In some ways it is hard for us in this place to take long-term strategic views on a number of issues when we are faced with so many immediate priorities; for example, so many pieces of legislation that have an impact on everyone’s day-to-day life. I do not for an instant suggest that the importance of our day-to-day work here should in any way be diminished, but I do not necessarily see these two debates as mutually exclusive. I think we can have a long-term strategic perspective on some of these bigger issues—and, to quote Douglas Adams, space is big.

We in this place are blessed with the opportunity to change things for the better, and on the issue of space policy I actually think we can do a lot better than we are currently doing. One particular issue that is calling for attention is the need to work with other nations on devising an effective international approach to regulating space activity. At the moment there are a small number of treaties managed by the United Nations Office for Outer Space Affairs—yes, that really is an office. The most important of these is the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies. The treaty contains in its pages a number of worthy goals, including:

- the exploration and use of outer space shall be carried out for the benefit and in the interests of all countries and shall be the province of all mankind;

I am sure they mean ‘humankind’—

- outer space is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means;
• States shall be responsible for national space activities whether carried out by governmental or non-governmental activities;
• States shall be liable for damage caused by their space objects; and
• States shall avoid harmful contamination of space and celestial bodies.

As you could imagine, the problem is that under existing mechanisms these tenets are quite difficult to enforce. As one example, I draw the Senate’s attention to the levels of so-called ‘space junk’ in the Earth’s orbit. These levels are increasing rapidly, posing a threat to government and commercial assets in orbit both right now and into the future. We need an effective regulatory mechanism that governs the management and disposal of space based assets in the interests of all users.

Other regulatory issues for space policy include the use of military systems and the gamut of potential commercial activity, including satellite airspace, space tourism, and, in the future, the pressing issue of access to resources. There is an American company called SpaceDev. They are looking at the feasibility of building an unmanned probe to claim ownership of a potentially resource rich asteroid orbiting between the earth and Mars. That is technically in defiance of the UN Outer Space Treaty, but the company’s founder was quoted in 1998 as saying: There’s really no entity to which such a claim of ownership can be made. Therefore I believe it just needs to be made to the public in general.

I found another interesting quote by this man. He said:
If the U.N. doesn’t like it, they can send a tank up to my asteroid, which of course they can’t …

No kidding—he actually said that! This is a serious, publicly listed company that supplies the United States government. Yet the approach of its founder and then CEO exemplifies the Wild West attitude that may arise if our ability to conduct activity in space outstrips the regulatory environment. While it is tempting for sovereign nations and companies to revel in what seems to be a regulatory free-for-all, an appropriate, unambiguous and effective regulatory system is essential to provide the certainty necessary to maximise the level of public and private investment in the long term.

Another issue that could confound space policy in its current form is the possibility that future missions may be beyond the resources of any one nation acting on its own. It must be said that space exploration already benefits from significant international cooperation, but more could be done to leverage the resources of those nations, including Australia, that do not have a space program of their own. Space, after all, should not become the inheritance of the United States, China or the European Union. I guess our current approach is a bit of a no-man’s-land with a group of national space programs, often duplicating each other’s efforts with the limited resources available, and a regulation-free zone that may currently suit the small cadre of nations and companies that have a presence in space but in the future may only result in increased uncertainty and investment risk for all.

Ultimately, I think the challenge for space policy makers is to devise a framework that facilitates a truly international approach to space activity and its regulation—a framework that acknowledges the efforts of nations and companies who invest in space activity but also allows all nations the opportunity to be equal partners in this exercise. Obviously, there are going to be some countries that are more able or more willing to invest, whether it is in a public or private fashion, in space activity, but that does not mean the rest of the world should miss out on the exciting discoveries or access to space.
So, Madam Acting Deputy President, I put you on notice and make it very clear that this is one of the issues that I will be working on between now and the end of my term. I think it would be really exciting for members to be involved in the development of a space policy proposal. Certainly, I will be doing that and hopefully putting it on the political agenda in the new year. As with some issues that come before this place, I hope this is one that can transcend political boundaries and, again, will be approached by government, honourable members and the public with an open mind. As I acknowledged in the beginning of my remarks, I do recognise that there is a bit of a giggle factor when talking about space policy. But I also think it is an extraordinary and exciting area, as well as a complex area, when we are taking into account the idea of frameworking not just some kind of regulatory mechanism—

and I understand we have the space activities law, just in case anyone was going to remind me of that. I am more than aware of that; I was involved in the debate on that legislation—that is a little more sophisticated in the sense that it takes into account the needs of other nations and ensures that we work together as a global community to get the best out of space in a way that does not involve negative exploitation.

Mutitjulu

Senator CROSSIN (Northern Territory) (2.04 pm)—Mutitjulu is a small Aboriginal community located adjacent to Uluru within the Uluru-Kata Tjuta National Park. About 400 kilometres south-west of Alice Springs, it has a population of approximately 330 people. Until 3 February 2006 the governance of the Mutitjulu community was the responsibility of the Mutitjulu Community Inc., a body incorporated under the Northern Territory Associations Act 2003. On 3 February 2006 the Mutitjulu Community Aboriginal Corporation came into being by incorporating under the Aboriginal Councils and Associations Act 1976. This then meant that the governance of Mutitjulu was regulated by the Commonwealth and subject to the various powers and authorities of the Commonwealth government under that act. In particular, when Mutitjulu’s governance was brought under the ACA Act it became subject to the regulatory authority of the Registrar of Aboriginal Corporations. Upon the incorporation of the MCAC the members of the Mutitjulu Community Inc. automatically became members of the MCAC and subsequently the MCI was deregistered.

What I want to do today is revisit and examine the circumstances of the transfer of Mutitjulu’s governance to the Commonwealth framework. On 30 September 2005 Mr Wayne Gibbons, head of the OIPC, met with 12 members of the Mutitjulu Community Inc. Also present at the meeting were Mr Bernie Yates, a senior bureaucrat within OIPC, and Mr Gregory Andrews, then manager of the Mutitjulu Working Together project and later Assistant Secretary of the Communities Engagement Branch of the OIPC. The minutes of these meetings clearly demonstrate that Mr Gibbons threatened to stop funding to the Mutitjulu community. Mr Gibbons claimed that the Australian government was responsible for around 75 per cent of the council’s funding and he provided a small pie graph to support his claim. Mr Gibbons stated that the Australian government wanted to see results from this investment. He then outlined the changes that were expected from MCI if it were to continue to receive funding from the Australian government. These included incorporating under the ACA Act, the Commonwealth legislation, and hence under ORAC, the Office of the Registrar of Aboriginal Corporations; allocating half of the seats on the council to women; extending the terms of council
members from one year to two years; and replacing half of the members each year.

Mr Gibbons stated that the changes were urgent and that if MCI did these things it would be easier to convince ministers to invest money in the community. He said that he had just been given $3 million to invest in the NPY lands for petrol-sniffing diversion and claimed that if MCI’s governance was not changed he would not be able to provide any of this funding through MCI.

I just want to make it clear to the chamber that I have sought leave from the government to table all of the documents I might refer to in my speech today: minutes of meetings, registers, corporations’ constitutions and various other matters that I will refer to.

On 13 November 2005, MCI held a special meeting chaired by Sammy Wilson, with Alison Hunt interpreting. The meeting was held to discuss constitutional and incorporation changes. An annual general meeting was also held at that time to elect a new council. As the minutes of that meeting show, during discussion of the possible advantage of incorporating under the federal ACA Act, at the special general meeting Mr Gregory Andrews—still at that time on the Working Together project—stated that being under the NT act was a bit like using a Mazda 121 on bush roads when you needed a four-wheel drive. As the minutes further demonstrate, Mr Andrews went on to explain that the OIPC was strongly encouraging organisations incorporated under the state or territory legislation to change to the ORAC legislation.

As the minutes of the special general meeting further show, Mr Andrews’s comments sparked a discussion at that meeting of the visit of Mr Wayne Gibbons on 30 September 2005. The minutes show that according to one councillor Mr Gibbons had been dictatorial in insisting that the community change or risk losing funding. The minutes of the SGM also note that during the discussion Mr Andrews stated that although the community did not have to change it was more likely to be supported by OIPC if it did. The new constitution met the stipulations as requested and the SGM also passed a resolution stating that MCI’s intention to cease to exist under the Northern Territory legislation was, in fact, the way they wanted to go and that they wanted to move to the ACA Act.

Let us go to several months later—16 May 2006. The Hon. Mal Brough, Minister for Families, Community Services and Indigenous Affairs, appeared on the Australian Broadcasting Corporation’s—the ABC’s—Lateline program claiming that paedophile rings exist in Aboriginal communities in Central Australia. I have attached the transcript of the program to the documents that I have tabled. On 2 June 2006, Mr Greg Andrews, Assistant Secretary of the Communities Engagement Branch of the OIPC, gave an interview with Lateline’s Suzanne Smith. It was agreed that Mr Andrews would remain anonymous, with his voice digitised for the airing of the program and his faced filmed in shadow.

On 21 June 2006 Lateline broadcast the program ‘Sexual abuse reported in Indigenous community’. The program included Greg Andrews’s anonymous interview. The program described him as a ‘former youth worker’ in the Mutitjulu community. The program made serious allegations about Mutitjulu, including that children were being forced to trade sex for petrol. Following the program the Mutitjulu Aboriginal community made a formal complaint to the ABC, which I intend to table at the end of this speech.

On 13 July 2006, the National Indigenous Times revealed that the anonymous witness...
on the Lateline program was Mr Gregory Andrews, a senior employee of the OIPC. On 19 July 2006, the registrar appointed Brian McMaster of the West Australian office of the accounting firm KordaMentha to conduct the affairs of MCAC under section 71 of the ACA Act. On 31 July 2006, Gregory Andrews published a statement confirming his identity and outlining his reasons for seeking to remain anonymous in the Lateline report.

On 1 August 2006, Lateline aired a report entitled ‘Mutitjulu source comes forward’. An article was published in the Sydney Morning Herald on 2 November 2006 titled ‘Public servant a no-show at hearing’, regarding the evidence of Mr Gibbons to the Senate estimates hearing on or about 2 November 2006. Mr Gibbons is quoted as saying that he knew that Mr Andrews would be participating in the Lateline interview and knew the nature of that interview. He is also quoted as saying that after he had been so informed by Mr Andrews, he informed the office of Minister Brough that Mr Andrews was intending to do the interview with Lateline. Mr Gibbons is further quoted as saying that on the day of the interview he informed the minister that the interview had occurred.

Let us now go back to 30 June 2006. Mr Wayne Gibbons wrote to Laura Beacroft, the registrar of ORAC, urging her to give consideration to immediately appointing an administrator to the MCAC. On 3 July 2006 FaCSIA suspended funding to MCAC. I have here an email from Tim Youngberry to Laura Beacroft of 30 June 2006 indicating that funding would stop on that day, 3 July 2006.

On 5 July 2006 the members of MCAC met with the manager of the ICC in Alice Springs. As is recorded in the letter dated 11 July from MCAC to the minister, the members were informed verbally that there was a hold on Commonwealth funding to MCAC, the Mutitjulu Community Aboriginal Corporation. This was the first that that corporation had heard of the suspension of its funding. Following this meeting, FaCSIA told MCAC that it could have until 10 July 2006 to respond to the concerns raised by FaCSIA. This fact and various other matters are recorded in an email dated 7 July from Laura Beacroft to various representatives of agencies funding MCAC.

On 11 July 2006 at 3.45 pm, a delegate of the Registrar of Aboriginal Corporations sent to MCAC by fax a document purporting to be a notice under section 71(2) of the ACA Act. The letter required MCAC to show cause by 5 o’clock on 12 July 2006—24 hours later—why the registrar should not appoint an administrator to MCAC pursuant to section 71 of the act. So the community had a little more than 25 hours to respond. The notice states that the reason for its issue was:

… FaCSIA has lost confidence in the Governing Committee and the Corporation.

The governing committee of the Mutitjulu Community Aboriginal Corporation attempted to preserve its position by lodging a preliminary response to the registrar’s notice within the stipulated time. As that response points out at the bottom of its first page, the only communication that MCAC had received in respect of the matters raised in the registrar’s notice was the oral communication from the ICC manager.

The letter of notice of the registrar dated 11 July 2006 states:

… without continued funding from FaCSIA, the Corporation cannot continue functioning at a level which would enable it to continue providing the services referred to above.

However, correspondence obtained in the Federal Court proceedings suggests that the registrar had information or was of the opinion that MCAC had funds in reserve, such funds being separate and independent of the
funding provided by FaCSIA. That correspondence includes an email, dated 7 July 2006, from Laura Beacroft to various persons and an undated in-confidence briefing paper prepared by ORAC and addressed to the minister. That briefing paper says at paragraph 7 that, ‘Financial statements produced by the corporation as at 30 June 2006 indicate total net assets of $6.95 million, an annual income of $3.3 million and expenses of $2.2 million, leaving a surplus for the year of $1.1 million.’

Documents discovered by the Commonwealth in the Federal Court proceedings show that in the period leading up to the service of the show-cause notice, various officers in FaCSIA corresponded with ORAC regarding Mutitjulu. In that correspondence, FaCSIA raises with ORAC various and wide-ranging allegations about the community and about MCAC, including those that had been canvassed in the *Lateline* program. None of this correspondence or the allegations contained therein was put to the MCAC governing committee. It follows that MCAC was not given an opportunity to respond to all—or, perhaps, even the majority of—the grounds which founded its dismissal.

At the 30 September 2005 meeting, Mr Gibbons used bullying and threatening tactics to convince MCI that, in order to continue to receive funding from the Australian government, it would have to incorporate under the ACA Act. This transfer made the governing institution of the Mutitjulu community susceptible to the appointment of an administrator. The documents suggest to me that the removal of Mutitjulu’s Indigenous governance was the ultimate intention of Mr Gibbons’s threats.

In May this year, Minister Brough launched a media smear campaign aimed at sullying the reputation of the Mutitjulu community when he appeared on the ABC’s *Lateline* program making claims that paedophile rings were operating in Aboriginal communities. This campaign reached full force with the airing, on 21 June 2006, of the *Lateline* report entitled ‘Sexual abuse reported in Indigenous community’. That program also made allegations of illegal conduct, paedophilia and corruption by members of the Mutitjulu community.

Of greatest importance for this complaint is that the media smear campaign, in particular the allegations aired in the *Lateline* report, were later relied upon by employees of FaCSIA and the OIPC to convince the Registrar of Aboriginal Corporations of the need to appoint an administrator to MCAC. This was done despite the fact that it was later revealed that the allegations made in that program had no substance, and high-level investigations by a Northern Territory police task force have led to no arrests, even to this very day.

On 30 June 2006 Wayne Gibbons wrote to Laura Beacroft urging her to give consideration to immediately appointing an administrator to MCAC. I ask: on what basis? In that letter Mr Gibbons referred to ‘the serious public interest issues associated with the alleged corrupt and illegal behaviour of some community members—including some members of MCAC’s staff and board—that had been the subject of recent widespread media coverage’. Based on the documents and events recorded above, there is a high degree of probability that over the period 2005-06 there has, I believe, been a sustained campaign by FaCSIA against the Mutitjulu community and, in particular, against its Indigenous governors. Indeed, it is apparent that this campaign was aimed at bringing an end to the community’s self-governance. The reasonableness of this view of events is supported, at least in part, by a statement contained in an ORAC briefing paper produced for the minister, Mal Brough.
The author of the paper feared that ‘there would be allegations that various agencies orchestrated the appointment and the Registrar of Aboriginal Corporations’ independence would come under question’. Who were the main proponents of this orchestrated campaign? Perhaps they were some of the major players already mentioned and associated with the preceding events that led to the appointment of the registrar.

I note that the Ombudsman Act does not allow you to investigate government ministers. Nevertheless, Mr Brough’s involvement is highly relevant to the events leading up to the appointment of the registrar. The chronology I have outlined today shows, I believe, that this campaign has been comprised of a series of discrete but interlinked events orchestrated, co-ordinated and executed by the government. I seek leave to table the documents I have referred to. (Time expired)

Leave granted.

**Tasmanian Forests**

**Drugs Policy**

**Victorian State Election**

**Senator BOB BROWN** (Tasmania—Leader of the Australian Greens) (2.20 pm)—The first matter I want to draw to the attention of the Senate is the nationally banned substance ammonium nitrate, which this parliament, at the behest of the Howard government, banned because it was used in the Bali bombings and is favoured by terrorists. However, ammonium nitrate is not on the shelf throughout the country. According to the reports this week and in today’s *Mercury*, ammonium nitrate is being used by Forestry Tasmania to blow up some of the largest living entities on the face of the planet—that is, the giant trees in the World Heritage value Upper Florentine Valley in Tasmania. There are currently some forest offenders in the valley, and the Wilderness Society is working to try to protect these ancient forests from imminent destruction over the summer by the authority of the Prime Minister and the Tasmanian Labor Premier, Paul Lennon. What a terrible irony it is that the government which banned the use of ammonium nitrate because it could fall into the wrong hands has effectively authorised its use in order to destroy this nation’s living heritage and World Heritage value forests.

We may of course expect that the terror of the destruction of these great trees—which will be burnt later in the summer, adding to the impact of greenhouse gases on the climate—extends to the whole of the living ecosystem in the Upper Florentine Valley and in the Styx Valley, where, not too long ago, at least one of these giant trees was blasted, presumably with ammonium nitrate, while a young Australian, with a greater regard for this nation’s heritage, was up a tree trying to defend it as part of his nation’s future and heritage.

The second matter I want to refer to is a letter from the President of the Senate to me, regarding my request that he require the Minister for the Environment and Heritage to retract a statement that I had promoted policies of making drugs more freely available to children in Australia. I requested that not only because it is patently untruthful but also because it causes me great offence, as it would any other senator. I seek leave to table the President’s letter.

Leave granted.

**Senator BOB BROWN**—In his letter the President says, quite fatuously, that the remarks are equivalent to senators claiming that the government’s policy is to drive down the wages of the lower paid or the government claiming that the opposition’s policy is to make trade unions all-powerful. So the President says that a specific untruthful claim that a senator would want to be involved in a form of child abuse is no differ-
ent to a generalised claim about whether unions are too powerful or not. This is a mistake by the President that, in my view, affronts the standing orders of this place, which seek to prevent such offensive claims being made. How different is that intent to the actions of the Howard government? The Howard government has repeatedly over the years devalued the currency of public and parliamentary debate in this nation.

The very government that claims to have virtue in public life has done more than any other government—certainly in living memory and, I think, in this nation’s history—to tear away at the fabric of what it is to be honest, to be fair minded and to be fair dealing in politics and in public life. This is the government of the Prime Minister who turned his back on innocent children who were locked up behind razor wire in the desert of Australia until the professionals said, ‘Those children may be permanently scarred for life.’ This is the Prime Minister who, without reference to this parliament, sent Australian defence forces to Iraq, where every day now there is a casualty list greater than any in the preceding years of the Saddam Hussein government. Dozens of men, women and children are being tortured and killed in a war which the putative new secretary in the United States says the United States and therefore the Howard government are losing. This is the government of a Prime Minister who, in 1995, referring to a previous Prime Minister, said:

... it was a straight-out lie, lie, lie by the Prime minister ... so used is he to getting away with telling lies, so protected is he with the paraphernalia of government, so drunk with power has he grown after 12 years in office, so believing has he become in his own infallibility and so authoritarian has he become, that is how he behaves.

That was John Howard in June 1995. Well might he read his own words in November 2006.

I object to the President’s ruling because it is wrong. I have broad shoulders and I can put up with any accusation, false or otherwise, made in this place or anywhere else. But I stand in defence of a long and honourable history in this Senate and in this parliament of defending standing orders because they bring probity, decency and honesty into the way in which we behave in this place. That has been eroded by the President’s ruling this week.

Finally, I want to refer to the ongoing count for the upper house seat of Western Victoria in the Victorian elections. Those watching the count will see that the winner of that seat will ultimately come down to either Marcus Ward for the Greens or, more probably, the candidate for the Democratic Labor Party—the nemesis of Labor since the split in the fifties. You will know, Mr Acting Deputy President Marshall, that Senator Stephen Fielding, from Family First, is here because Labor accorded him preferences over the Greens in the last federal election. Here we have a situation where the Labor Party is now shown to be preferring its own nemesis, the DLP, to the Greens. Those preferences to the Democratic Labor Party are likely to have the DLP elected in Western Victoria over Marcus Ward from the Greens.

Government senators interjecting—

Senator BOB BROWN—The government members opposite are applauding this extraordinary decision by the backroom people in the Labor Party. This decision will leave many Labor voters in Victoria absolutely furious with the perfidy of it. Let me give one DLP policy as an example; it is a policy on government waste. A DLP advertisement says:

Abolition of all federal departments ... whose essential functions are duplicated at the state level.
Now there is a wacky and cranky policy if ever I saw one, but it is one that has been potentially boosted into the Victorian parliament by the backroom people of the Labor Party in Victoria. When will they ever learn? When will they ever get over this process of not according with their members’ wishes? Obviously, the solution is to have above the line voting so that electors may determine their own preferences when it comes to political parties, rather than have it done by the backroom boys of the Labor Party. The Liberals and Nationals, of course, love Labor making such absurd and duplicitous decisions in their preference dealings.

QUESTIONS WITHOUT NOTICE

Mr David Hicks

Senator KIRK (2.30 pm)—My question is to Senator Ellison, the Minister representing the Attorney-General. Is the minister aware that this weekend marks five years in custody without trial or conviction for Australian man Mr David Hicks? Can the minister explain why the Prime Minister has been so callous as to let an Australian rot in a foreign jail without trial for half of the life of his government? Now that coalition backbenchers have joined the calls of every state and territory Attorney-General, the UK Attorney-General, the UK Lord Chancellor, a former High Court judge and many other eminent Australians, will the government ask the United States to release Mr Hicks into Australian custody so that he can be dealt with under our laws?

Senator ELLISON—This is a matter which, of course, the Prime Minister and the Attorney-General have been working on assiduously for some time. They have been making strong representations to the United States and telling the United States that Australia believes that this man should be brought to trial as soon as possible. I understand that the Attorney-General in a recent visit to the United States conveyed that sentiment personally to the Attorney-General of the United States. I also understand that the Attorney-General met with Terry Hicks, the father of David Hicks, recently in Adelaide and discussed the situation with him. The family raised a number of issues with the Attorney-General. He sought advice on the conditions of Mr Hicks’s detention from US authorities as a result of that and that is being pursued.

Throughout all of this, going back to when I visited Washington some years ago, we have made it very clear to the United States that this man should be brought to trial. He was charged and as a result of an appeal, Hamdan v Rumsfeld, those proceedings were stayed. The consequential decision in Hamdan v Rumsfeld necessitated a change in the regulations to the military commission that is dealing with Mr Hicks. We understand that Mr Hicks will be charged under these new arrangements and we have indicated in the strongest possible terms that all of the safeguards and concessions that we obtained previously will be applied and we received those assurances.

Senator Sherry—He’s been in jail longer than the war has lasted in Iraq.

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

Senator ELLISON—The counterterrorism laws that we have in Australia today were not in place at the time of the alleged activities of Mr Hicks. We have made it very clear that, if he were to be returned to Australia, he could not be tried accordingly. We have treated this matter seriously. I reject totally that the Prime Minister has been callous in his approach. I reiterate that the Attorney-General met with David Hicks’s father recently. On, I think, some 17 occasions, Australian officials have visited Mr Hicks. In
relation to his welfare, there have been two formal investigations carried out by United States authorities and, of course, we will continue to address any request for assistance from his counsel. Major Mori was here in Australia recently, we understand in relation to the conduct of Mr Hicks’s defence, and we stand ready to assist should a mutual assistance request be made to us in relation to any evidence that is sought.

Senator KIRK—Mr President, I ask a supplementary question. Why is the government so weak and lacking in compassion in standing up for the rights of Australians? Why can’t David Hicks be returned to Australia immediately and, if he is assessed to be posing a risk to the community, control orders could be used to monitor his movements? Isn’t this a fairer process than keeping him locked forever without trial in Guantanamo Bay?

Senator ELLISON—Senator Kirk’s supplementary question implies that the government is content to leave David Hicks over there in custody without trial forever. That is totally untrue. We are making it very clear that Australia believes that this man should be brought to trial and we are saying to the United States that that should be done as soon as possible. He has been there for a lengthy period of time. There have been court proceedings which have necessitated a delay in the proceedings of the charges. He was previously charged on three serious counts in relation to his alleged activities and we believe that the military commission is an appropriate way to deal with him, but he should be brought to trial as soon as possible.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the public gallery of a former very distinguished senator for Tasmania, Senator the Hon. Jocelyn Newman. Welcome back to the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Climate Change

Senator ADAMS (2.35 pm)—My question is to the Minister for the Environment and Heritage, Senator Ian Campbell. Will the minister advise the Senate of any impediments to the Howard government’s efforts to reduce global greenhouse gas emissions through the expansion of the use of natural gas?

Senator IAN CAMPBELL—I thank Senator Adams for asking such an incredibly important question. We know that the world in the postindustrial era has pumped about a trillion tonnes of carbon dioxide into the atmosphere. We know that has happened over the last 150 years. We know that, on a business as usual basis with no change to how we produce and use energy, we will double that in about 50 years. We know that, on a business as usual basis with no change to how we produce and use energy, we will double that in about 50 years. We know that the consequence, based on a consensus of the best scientists around the world focusing on that, is that there will be global warming. This has been in the order of 0.6 to 0.7 of a degree in the last 100 years. We know that there would be double the rate of warming at the poles. We know that that has the potential to increase sea levels, particularly if there is a melting of the Greenland icecap. That could be catastrophic for ecosystems and for places like the Barrier Reef and the coastal regions of Western Australia, in Senator Adams’s home state. We know that could be catastrophic for the global economy and for mankind.

We know that, as a globe, we need to take this seriously. We need an effective international agreement on greenhouse gas reductions. We also need to take action domestically in Australia. One of the great contributions that Australia can make to the reduction of greenhouse gas emissions around the
world is to export our liquefied natural gas, much of which comes from the state of Western Australia off the Kimberley coast and, in the future, off the Pilbara coast. We know that that industry can deliver greenhouse gas reductions of 25 million tonnes a year because, when you replace coal-fired or oil-burning power stations with beautifully clean Western Australian gas, you get a 40, 50, 60 or even 70 per cent reduction in greenhouse gas emissions. It is a transformational way of reducing greenhouse gas emissions and it also produces 80,000 jobs in Australia and a $10 billion export industry.

There is a risk to this industry. The risk is from the Australian Labor Party in the guise of Dr Carmen Lawrence, a senior member of the Rudd Labor team, and their comrades in the Greens, who yesterday lodged an emergency heritage listing application for the Burrup Peninsula which, if it is successful, will stop the Pluto project, the biggest gas export project in Australia. I wrote to Mr Rudd, the new leader of the Labor Party, yesterday to bring this to his attention and to ask him to call in Dr Lawrence if he is serious about development in Australia, as he said he was in the Financial Review this morning. He said:

I think it’s the last big frontier of micro-economic reform.

He went on to say:

You talk to the business community. They pull their hair out about the way in which commonwealth and states fail to properly work together when it comes to their regulatory environment for getting business and development projects going. This is the biggest project in Australia. The Premier of Western Australia and I have agreed on a process and now a member of his team wants to put a spanner in the spokes. If Mr Rudd wants to be leader, and if he is serious about Commonwealth and state cooperation on projects, the first thing he should do is call Dr Lawrence in and tell her to withdraw this frivolous and stupid application to close down the biggest project in Australia.

Climate Change

Senator POLLEY (2.39 pm)—My question is to Senator Ian Campbell, the Minister for the Environment and Heritage. Is the minister aware of the new report titled Common belief: Australia’s faith communities on climate change which calls on the government to seriously address climate change? Doesn’t this latest call for action from 16 faith communities come on top of the call by business leaders, including the President of BP Australia, the Managing Director of Origin Energy, the head of Swiss Re and the CEOs of IAG, Visy and Westpac, for the establishment of a carbon price signal? How can the government be so out of step with scientists, business leaders, church groups and the broader community on climate change? Why does the minister continue to ignore scientific experts, business leaders and now church groups, which are all calling for action on climate change now?

Senator IAN CAMPBELL—That is in fact a very good question and I welcome a question from the Labor Party on an environmental issue of such substance. I welcome the support of the churches for action on climate change. They make a very important point: we do require effective action here in Australia. That is one of the reasons the Australian government is investing in renewable energy. We have seen the biggest upsurge in renewable energy in Australian history under this government. There were fewer than a dozen wind turbines in Australia when Labor, Senator Polley’s party, was last in power. Through our policies, 700 wind turbines will be built in Australia. We have rolled out 12,000 solar rooftops under our photovoltaic rebate scheme. We have an-
nounced three solar cities: one in Adelaide, one in Townsville and one in Blacktown.

We know—and this is what the Labor Party should focus on—that we need to bring a whole range of technologies to this task. One of the projects we need to pursue is the capture and burying of carbon, putting it back from whence it came. We know that, if the world is to address climate change, it will need to rapidly expand the role that nuclear power plays. Labor and the Greens have said, ‘No, we can’t have nuclear. We don’t care enough about climate change to bring nuclear in.’ We know that the Greens and Carmen Lawrence of the Labor Party want to stop the export of natural gas.

It is incredibly important that those business leaders and the churches focus on practical solutions to reduce greenhouse gases going into the atmosphere. It will require billions of dollars worth of investment, such as the $6 million we have granted to Origin Energy—one of the signatories to the statement—to develop sliver cell technology. This is a technology that, in partnership with Origin Energy, we are investing in to massively reduce the amount of silicon that is required to build a solar cell. We are investing in the biggest solar power station in the world, to be constructed in Mildura, and we are investing $60 million in the biggest carbon capture and storage project anywhere on the planet.

None of that will make any difference to Australia or to the world unless we have a robust, comprehensive agreement on climate change to act internationally. At the moment the Kyoto protocol seeks to reduce greenhouse gas emissions but, because it excludes most of the economies in the world, greenhouse gas emissions will actually rise under Kyoto by about 40 per cent. That is because it excludes China and India—the rapidly industrialising economies. I think those who have signed the common belief document, including Origin Energy and some churches, are quite serious about climate change.

If we are to address climate change we need to engage China and India. The Prime Minister has shown leadership by not only getting behind the formation of the biggest international collaboration on technology efforts through the Asia-Pacific climate change partnership but also by raising it within APEC. This is a constructive way forward to engage the countries of our region in serious action on climate change, rather than the slogans and the rhetoric that the Labor Party have been able to get away with over recent years. It is time for the Australian Labor Party to get serious about climate change policy and I urge it to do so. (Time expired)

Senator POLLEY—Mr President, I ask a supplementary question. I note that the minister’s response was quite patronising. Perhaps he can make a better effort at answering the supplementary question. Is the minister aware of comments by nuclear task force member Mr Warwick McKibbin that the carbon trading scheme is essential to manage risk and compensate business for losses as they develop technologies to lower greenhouse gas emissions? Is the minister aware of Mr McKibbin’s comment that ‘there is no precedent for innovating first and creating a market second’? Is Mr McKibbin wrong as well? Why is it that all the experts refuse to accept that the minister knows best?

Senator IAN CAMPBELL—That is a brilliant question. The problem is that whoever handed the senator the question did not know that in virtually every article in which I have ever been quoted on climate change I have promoted the views of Warwick McKibbin. I actually think Warwick McKibbin’s views on a carbon price are right. What Warwick McKibbin does is slam the Labor
Party’s approach. He slams their trading scheme, as did the Premier of Western Australia and the Premier of Queensland. They produced their policy a few weeks ago and by lunchtime WA had pulled out of the trading scheme and by dinnertime Peter Beattie had pulled out of it. Your policy is dead in the water. Warwick McKibbin reckons your policy is a dud. He reckons your emissions trading scheme is the wrong way to go. I happen to support his views on climate change and emissions trading. I support him very strongly. I think he has got a sensible way forward. What hypocrisy it is for you to quote McKibbin. (Time expired)

Immigration: Identity Fraud

Senator BRANDIS (2.46 pm)—My question is to the Minister for Immigration and Multicultural Affairs, Senator Vanstone. Will the minister advise the Senate whether she or her department has ever been accused of being involved in identity fraud? If so, can the minister inform the Senate of the accusations and their accuracy?

Senator VANSTONE—I thank Senator Brandis for the question—a quite appropriate question, given his understanding of these issues. The answer in short is yes, quite specifically, by the shadow minister for immigration, Mr Tony Burke, and by immigration agent Marion Le. I will give you a couple of quotes. Mr Burke said in a doorstop on 14 September last year:

The story that the Kola name is not their true identity is a fabrication she—

that is, moi—

came up with last night.

The second quote reads:

The department of immigration knows exactly who this couple are. They know it is Mr and Mrs Kola and the concept of coming up with a second identity was only a last-ditch effort after a failed attempt at deportation.

The next quote reads:

I don’t believe for a minute the minister’s excuses that they had discovered they weren’t really Mr and Mrs Kola. They had trouble deporting them so they decided to revert to what they knew were false names.

Ms Le said, ‘To my mind, that smacks of fraudulently dealing with another government department.’ As Senator Brandis knows, these are serious accusations to make. This is not an accusation of a mistake; it is an accusation of a wilful intent to misrepresent the truth. In other words, it is alleged here that the intention is to deal fraudulently with another department. They are terrible accusations. Even for the shadow minister, who used to work for former Senator Richardson—‘whatever it takes’—I thought it was ‘a bridge too far’. That is what I thought at the time. I thought it was ‘a bridge too far’. We will see whether he has walked too far over the bridge and whether it will take the pressure. These were terrible accusations to make. The trouble is they were not correct. Both the shadow minister and the immigration agent now most likely know that they have made false accusations.

To the best of my knowledge, neither of those people has apologised, either privately or publicly.

The case concerned a couple—Mr and Mrs A. They came in as Mr and Mrs A. They quickly said, ‘No, that’s not us; we’re Mr and Mrs B.’ After visa applications and reviews had resulted in a refusal of their visas, in good faith the department applied for documents in the names of Mr and Mrs B, because that is who they said they were and that is what they provided evidence to the effect of. In other words, the department, which are often accused of not believing people, believed these people, took their evidence and sought documents, but they later became convinced that the couple were not Mr and Mrs B, that they were in fact Mr and Mrs A. In other words, the documents they
originally came to Australia on were their real documents and their real identities. So we applied for travel documents in that name; hence the accusation that the department have sought documents in two names, that they are fabricating it and they know it.

**Senator Chris Evans**—I think I speak on behalf of everyone when I say that we are completely lost.

**Senator VANSTONE**—It is no surprise to me that you are lost, Senator Evans. It is no surprise to me that you cannot follow A and B.

**Senator Chris Evans interjecting**—

**The PRESIDENT**—Order! Senator Evans. Minister, ignore the interjections.

**Senator VANSTONE**—As one of my colleagues says, he has taken the wrong ‘fork in the road’.

**Senator Chris Evans interjecting**—

**The PRESIDENT**—Senator Evans, come to order! I ask the minister to ignore the interjections and return to the question.

**Senator VANSTONE**—Thank you, Mr President; it would be my pleasure. This couple subsequently produced a child and the question was: what do we register the child as—the son of Mr and Mrs A or Mr and Mrs B? Guess what? The facts now show very clearly that the department, in seeking travel documents from the department of foreign affairs, was seeking documents under the correct name. *(Time expired)*

**Senator BRANDIS**—Mr President, I ask a supplementary question. Is the minister able to provide the Senate with further information concerning the allegations of identity fraud?

**Senator VANSTONE**—I thank Senator Brandis for the supplementary question. The further information is simply this: the child is now registered in the name in which the department sought the travel documents. The details of this case, which relate to Mr and Mrs Kola, are not in themselves that important. What is important is that the shadow minister asserted something in the chamber and outside that was not true. He can take the honest route, or the high road, and apologise publicly. The alternative is to stay on his current path—the low road: the road of slander, innuendo and ‘whatever it takes’. This is a test for Mr Rudd, given his promise of a new leadership style, to demand a public apology from the shadow minister. Bear in mind, this was not about asserting a mistake; it was about asserting a deliberate, intentional fraud; it was asserting dishonesty. He demanded honesty then and he should be honest now. *(Time expired)*

**Bald Hills Wind Farm**

**Senator CARR** *(2.53 pm)*—My question without notice is to Senator Ian Campbell, Minister for the Environment and Heritage. Can the minister confirm that the proponents of the Bald Hills wind farm have once again had to threaten court action to force the minister to do his job? Doesn’t this follow the minister’s abuse of his powers in April this year when he blocked the original proposal on the spurious claim that it would lead to the extinction of the orange-bellied parrot? Wasn’t the minister’s political favour to the member for McMillan exposed when he was forced to settle out of court, pay the costs of Windpower and agree to reconsider the project? Why is the minister continuing to abuse his powers by once again holding up the approval of the project and again exposing taxpayers to financial risk?

**Senator IAN CAMPBELL**—Firstly, the assertions made by Senator Carr are incorrect. The proposal put forward by the developers of the Bald Hills wind farm came to the department a few weeks ago, and the process is that the department makes an assessment. The proponents, who are obvi-
ously quite litigious by nature, made no attempt—

Senator Carr—It took two years.

Senator IAN CAMPBELL—to contact the department to find out where it is up to. I made an inquiry and found out that the department was still considering the application and had yet to deliver advice, so it is impossible to make a decision on the application before I receive that advice. That would be rather stupid, but I guess you expect stupid suggestions from Labor and Senator Carr on environment approvals.

What is important to note, however, is that there are two points which again demonstrate the Labor Party’s hypocrisy on this issue. Firstly, regarding the advice on the impacts to threatened species— in fact, in this case it is about a critically endangered species and the threat to extinction of that critically endangered species—the Victorian minister received the identical advice and used such advice to close down not only one wind farm but two wind farms in Victoria. Furthermore, the former member for McMillan, a member of the Australian Labor Party, proposed a private member’s bill to close down the Bald Hills wind farm. I do not know whether the Australian Labor Party has yet withdrawn the private member’s bill to close down the Bald Hills wind farm, but at the moment, until they make an announcement on the previous member for McMillan’s private member’s bill, their policy is to stop the Bald Hills wind farm.

The other thing that should be noted is that the Labor Party ignored the impact on critically endangered species, for whatever reason—I do not know why. However, to the great credit of the developers of the Bald Hills wind farm, they have in fact respected the consultants’ report that looks at those impacts and, as I understand it, the proposal they put forward is to radically change the proposal and shift the wind turbines some miles from the habitat of these critically endangered species—not only the orange-bellied parrot that so—

Opposition senator interjecting—

Senator IAN CAMPBELL—Some couple of miles, I am told.

Senator Carr—A couple now?

The PRESIDENT—Order! Senator Carr!

Senator IAN CAMPBELL—The white-bellied sea eagles and orange-bellied parrots actually have their habitat right near the coast. They are migratory birds. You can move the turbines some miles from the coast. They have actually agreed with me and say that the wind turbines did impose an unacceptable risk to not only orange-bellied parrots but white-bellied sea eagles—the very same birds that the Victorian Labor government used to stop two other wind projects substantially larger than the Bald Hills project. So the hypocrisy of Labor on this knows no bounds. We look forward to receiving in my office the application from my department. I have promised the proponents that, when it comes in, I will make a timely decision. I will stand by that promise.

Senator CARR—Mr President, I ask a supplementary question. Can the minister confirm that Windpower’s new submission outlines how the minister acted illegally in blocking their original proposal? Doesn’t the proposal also clearly confirm that the minister misled the public over his claims that the project would kill one parrot every year instead of one bird every thousand years? Doesn’t this confirm what we all know: the minister abused his power and then misled the public to try to cover his tracks? Isn’t this why it is widely expected that he will be demoted over Christmas?

Senator IAN CAMPBELL—Clearly the proponents have given the Labor Party a
copy of their proposal. I have not seen it yet—the department has it—but I am told that they are shifting the turbines some miles away from where the threat occurs. It would be inconsistent—

Senator Carr—It’s on the website. Try the website.

The PRESIDENT—Order! Senator Carr, you are warned!

Senator IAN CAMPBELL—It would be inconsistent to say there was no threat to the birds and then to shift the turbines. I think that the proper course is to wait for me to get the advice from the department and make an informed decision. I will do it in a timely manner. I have said I will do that. There is no use in employing any more lawyers in this. If the proponents had wanted to call the department or me, they would know that, but they obviously prefer to communicate through the media, lawyers and the Australian Labor Party. The media and lawyers are probably sensible people through which to communicate, but to communicate through Senator Carr in the Senate is a very inappropriate and, I would say, unreliable communications mode.

Australian Bomb Data Centre

Senator FERGUSON (2.59 pm)—My question is to the Minister for Justice and Customs, Senator Ellison. I understand that earlier today the minister addressed the 15th annual Australian Bomb Data Centre conference. Will the minister inform senators of the important work being done by the Australian Bomb Data Centre and the work being done in our region by Australian bomb data experts?

Senator ELLISON—I think it is important that the Senate and the wider community know about the great work being done by the Australian Bomb Data Centre. The men and women of the Australian Federal Police who work there in conjunction with those from Defence and other authorities across the states and territories do a very important job in protecting Australia’s security. What is more, they work with other countries in the region to establish relevant centres in countries like Malaysia and the Philippines. I do not think many Australians would realise that the Bomb Data Centre experts have worked in places such as Sri Lanka, Indonesia, South Thailand, the Philippines and Malaysia in relation to bombings which have been carried out by terrorists in those countries. Of course the most prominent bombings have been in Indonesia, where Australian lives were taken.

Today I want to recognise the great work that is being done, but I also want to note the international cooperation that we get. We have delegates here attending from around the world who have brought with them technology and expertise to exchange with our Australian experts. I saw firsthand the sort of technology being used to implement preventative measures—the sorts of preventative measures used at our Australian embassy in Jakarta which many attribute to helping limit the number who lost their lives during the bombing there.

The Australian Bomb Data Centre is a 24-hour service. It is available for response and advice from Australian authorities, and it has expertise which relates to explosive devices. What was also shown to me today was how explosive devices can be used to host such things as chemical weapons, biological weapons and radioactive weapons. The technology being devised in relation to that is very important when you look at decontaminating a bomb which could have chemical components in it.

We have involved ourselves in an international bomb data centre working group, which has some 50 member countries, as I understand it. The United States has set up
an international website dealing with the exchange of technology. It was impressed upon me that we need not only the expertise of the men and women involved in the centre but also access to the latest technology being used around the world. We need the sharing of intelligence to demonstrate the sorts of methods being employed by terrorists and organised criminals. We have to remember that in Australia we have seen the use of remote control devices to commit murder. In fact, in my home state of Western Australia two men were murdered by the use of an improvised device which was exploded by remote control. I think the work that is being done crosses the whole spectrum of law enforcement, whether it is fighting organised crime or terrorism.

This work being done by the Bomb Data Centre goes largely unnoticed. I think it is important that the Senate and the wider community be made aware of their work. These people carry out very dangerous work, especially in the deactivating of explosive devices. Their work is, unfortunately, essential and very necessary, and will be so for some time. I think we should all realise the great work being done in this area for the protection of Australia’s interest.

Mr David Hicks

Senator STOTT DESPOJA (3.04 pm)—My question is addressed to the Minister representing the Attorney-General and follows on from his comments supporting the military commission’s process in relation to David Hicks. Does the government have the same faith in the Guantanamo Bay detention facility? Has the minister seen pictures of David Hicks’s cell in Guantanamo Bay? Is the minister aware that David Hicks has been held in solitary confinement for 23 hours a day for the past eight months? Is the minister also aware that the cell in which Mr David Hicks lives never has the lights turned off and that he is only allowed to leave the room for an hour per day to visit a reading room, which has no access to books or legal documents? Minister, are these conditions acceptable to the Australian government, considering Mr David Hicks is being held without charge?

Senator ELLISON—I can advise the Senate that, on the advice I have, the last consular visit to David Hicks was on 27 September this year and the previous visit was on 8 June. I raise that because the consul general advised that Mr Hicks looked well, but he chose not to speak to the consul. No evidence of abuse or maltreatment has been found during any of the visits by Australian officials. Those visits have occurred on 17 occasions during the time that Mr Hicks has been incarcerated. I mentioned earlier that the Attorney-General has taken up some issues which were raised with him by Terry Hicks, the father of David Hicks, and that they are being pursued. The advice I have is that Mr Hicks is not held in solitary confinement. He is being held in the general block area in a single-occupancy cell. Cells in the general block area have windows providing natural light. He continues to have access to exercise and outdoor facilities in group areas. He has regular laundry services, books and a study area. We are advised that he has the opportunity of two hours recreation each day and can access exercise equipment, although he does not take up that opportunity on occasions. His cell is climate controlled and has a bunk, a sink and a toilet. He has access to hot showers and common toiletries are provided to him.

As I understand it, he has other amenities which are similar to those in Australia in maximum security detention. In this regard, I refer to those who are in custody awaiting trial for terrorism offences in Australia. I understand that people who are awaiting trial for serious terrorism offences in Australia are
held in maximum security situations. They are segregated from other prisoners and they are allowed to exercise between 90 minutes and three hours per day. The conditions under which they are incarcerated are similar to those of Mr Hicks.

As we have demonstrated previously, should any issues be raised with the government in relation to Mr Hicks’s welfare, we will take them up, and that has been demonstrated recently by the meeting that the Attorney-General had with Mr Hicks’s father in Adelaide.

Senator STOTT DESPOJA—Mr President, I ask a supplementary question. I thank the minister for his answer and I understand from his answer that the conditions in Guantanamo Bay are acceptable to the Australian government. I also ask the minister to inquire about the last consular visit—that is the last time before the June visit—the last time David Hicks spoke honestly to consular officials. Is it the case that he was shortly afterwards placed into solitary confinement as a consequence of him speaking honestly about the conditions in which he found himself? Given the minister’s faith in the Guantanamo Bay facilities and the military commission’s process, why is it the case that Australia is not having any of its citizens face the military commission’s process?

Senator ELLISON—Senator Stott Despoja has asked about a visit prior to June. The advice I have is in relation to the last on 27 September—the previous one was on 8 June. The comment I made was in relation to the last visit. In relation to the other aspect of what David Hicks said as a result of the visit, I do not have any information as to any punitive action taken against him as a result of that. I will check that and if there is anything that I can usefully add, I shall do so. In relation to David Hicks, I have said that the conditions applicable to him are similar to those for someone who is waiting for trial on terrorism offences in maximum security in Australia. My questions have been confined to David Hicks.

Senator Stott Despoja—He got punished. That is why he does not speak to consular officials any more.

Senator ELLISON—It is Senator Stott Despoja who widens it to the broader context of Guantanamo Bay. I can only answer questions in relation to David Hicks, and that is what I have done. (Time expired)

Broadband

Senator McGAURAN (3.10 pm)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Coonan. Will the minister inform the Senate how the government is supporting investment in high-speed broadband? Is the minister aware of any alternative policies?

Senator COONAN—I thank Senator McGauran for the question and for his ongoing interest in telecommunications services—in particular, fast broadband. I can inform the Senate that tomorrow I will have the pleasure of hosting the third Australia-Korea-New Zealand Broadband Summit in Adelaide to be attended by the ministers for communications from all three participating countries. The summit will be an opportunity for all three governments and their technology experts to share their experience in facilitating access to cutting-edge technology for the benefit of all consumers.

We all know that real broadband is vital to Australia’s future because it underpins future economic and productivity gains, enables us to access both health and education services wherever we live, and transforms our entertainment choices. Demand for broadband services in Australia has risen at an astonish-
ing pace. Ninety per cent of internet users can now access multimegabit broadband in Australia. We have seen today the release of an objective report from CEDA on broadband—that is the Committee for Economic Development of Australia—which interestingly concluded that there is no broadband crisis in Australia, agreed to the government’s view that there is no one-size-fits-all solution and acknowledged that the federal government’s broadband policy is the right approach for Australia. The report also widely praised the Australian government’s $878 million Broadband Connect program. The report stated.

The good thing about this policy, Broadband Connect, is that it targets new connections which have the biggest bang for the efficiency buck ... And finally, it encourages local technological solutions for local conditions.

This is a very important part: local technological solutions for local conditions. It is one thing, I have to say, that the Labor Party does not seem to understand. Here in this country we will probably always need a mix of broadband technologies, a variety of broadband providers, and a diversity of broadband services to meet the needs of scattered populations and vast distances and of course difficult terrain.

Senator Lundy—How far behind did you leave this country? Where are your standards?

Senator COONAN—I hear Senator Lundy in the background there. Several years ago she recommended that taxpayers spend $5 billion on a national roll-out of dial-up internet. If we had followed her lead, not only would this have done the taxpayers’ dough but consumers would have to put up with slow dial-up internet probably for the foreseeable future. Labor’s current idea, I have to say, is no better. Labor has tied itself to one technology and one provider. It ignores the market and the needs of people who are too geographically isolated to use a fixed line solution. We should certainly have a national plan—and that is what we have—but not one based on a single network. As anyone with a passing interest in communications knows, technology changes so quickly that we need broadband infrastructure that is scalable to meet the demands for ever-increasing bandwidth. By now I think Labor should know better. Once again, while Labor fumbles the basics, this government gets on with the job.

**DISTINGUISHED VISITORS**

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the President’s gallery of a member of the Grand National Assembly of Turkey, Mr Saban Disli MP, accompanied by His Excellency the Turkish ambassador. On behalf of all senators, I welcome you to the Senate and particularly to Australia.

Honourable senators—Hear, hear!

**QUESTIONS WITHOUT NOTICE**

**Defence Submarine Capability**

Senator STERLE (3.14 pm)—My question is to Senator Ian Campbell, the Minister representing the Minister for Defence. Can the minister confirm reports that a submarine rescue vessel operated by defence’s submarine rescue contractor, Cal Dive, sank yesterday while taking part in a submarine escape exercise off the coast of Perth? Is it true that civilian personnel on board the rescue vessel had to themselves be rescued by defence after the vessel sank to the sea floor? Can the minister advise the Senate of the fate of the submarine rescue vessel—does it remain on the sea floor? If so, does that mean that defence’s submarine fleet will have to be withdrawn from service until such time as the submarine rescue vessel is recovered from the sea floor and repaired? How long is that likely to take?
Senator IAN CAMPBELL—It is an important question. I was briefed on this yesterday. It did occur off the Western Australian coast. I checked with the minister just before coming into question time to inquire as to the welfare of the crew, who had been stuck some hundreds of metres down, on the ocean floor. I was assured yesterday that the crew would be safe for a couple of days, but the good news that the minister was able to give me when I talked to him was that the crew have been recovered and that they are safe and well. In terms of information about the recovery of the equipment itself, I will take that on notice and provide further details to the senator.

Senator STERLE—Mr President, I ask a supplementary question. Can the minister confirm that the government privatised defence’s submarine rescue capability in 2003? Weren’t concerns raised at the time about the contractor’s inexperience in this highly specialised form of rescue and the fact that they didn’t know how to operate the rescue vessel? Can the minister guarantee the safety of Australian submariners, even though the contractor who is supposed to provide rescue services cannot operate the rescue vessel properly?

Senator IAN CAMPBELL—I think that all senators would want to congratulate those involved in that rescue. The rescue demonstrates that we were successful in retrieving these two people from the bottom of the ocean, off Rottnest Island, I think. We know that the Labor Party have two policies on privatisation. When they were in power, they privatised Australian Airlines, the Commonwealth Serum Laboratories and the Commonwealth Bank. They sold all of those assets and used them to fund current expenditure: they sold the silver to pay the butler. The great thing that we on this side did when we privatised things is that we used the proceeds to pay off the debt that was racked up by Labor. And now, having paid off all of Labor’s debt, we are now using the proceeds of privatisations to build up a Future Fund to make Australia economically secure for many years to come—a Future Fund that Rudd Labor would raid for short-term, politically expedient purposes. That is the difference. (Time expired)

Ramsar Wetlands

Senator SIEWERT (3.17 pm)—My question is to Senator Ian Campbell, the Minister for the Environment and Heritage. Is the minister aware of the findings in the Australia state of the environment 2006 report, released today, about the dramatic impact on wetlands—that the ecological characteristics of 22 Ramsar wetlands have changed? Is the minister aware of the latest report on the Coorong which shows its ecological characteristics have changed? The minister has received a letter from Gwydir landholders asking him to delist those wetlands. Is the minister going to put the Gwydir wetlands and the Coorong wetlands on the Montreux Record?

Senator IAN CAMPBELL—I am very aware of the Australia state of the environment 2006 report, which I released at 10 o’clock today. It is a report prepared by Professor Bob Beeton from the University of Queensland and a committee of eminent scientists as well as other specialists. It tells some very good news about progress with environmental repair in Australia. Because it really is an independent report, it is a ‘warts and all’ report, to use the vernacular, so it also reports some bad news.

I do not take issue with any of the items that Senator Siewert has pulled out of the report. There is no doubt that because of the massive changes to the Murray-Darling system—the fact that it is a system that has been highly altered by mankind—wetlands in that water course, particularly the Coorong wet-
lands, have been substantially affected and need repair. That is the reason that the Commonwealth government is investing hundreds of millions of dollars in projects to repair that system. The great news about the Living Murray project is that, for the first time in Australian history, you now have all of the jurisdictions—the Queensland, New South Wales, Victorian and South Australian governments—involved, with a focus on delivering environmental flows to the Murray.

Contrary to the propaganda put out by the Australian Labor Party in particular, the great news is that in cooperation with two of the state Labor governments there will be 35 gigalitres of water delivered to environmental projects at Chowilla and Hattah, iconic sites. Of course, repair of the Coorong—sorry; that would be good for a tennis court repairer! I mean the Coorong. Repair of other iconic sites along the Murray will rely not only on the combination of state Labor governments working with the Commonwealth government to bring hundreds of millions of dollars of investment but also, practically speaking, on some substantial rain falling into the catchment.

The problem the Labor Party and the Greens have with their policy, which is to deliver 1,500 gigalitres of water into the Murray, is that it is yet another example of a slogan that Labor and the Greens continue to refer to as a substitute for a detailed environmental policy. The problem they have, and the problem I invite them to address, is: firstly, exactly where are they going to find the 1,500 gigalitres of water—where are they going to get it from; and, secondly, how are they going to pay for it? We are putting in hundreds and hundreds of billions of dollars worth of water to find 500 gigalitres, working with the states in a cooperative way, and the best we have been able to do this year is make a good start with 35 gigalitres. The trouble with the Greens and Labor’s policy on the Murray and repair of wetlands along the Murray is that not even 1,500 gigalitres have flowed into the entire Murray-Darling Basin this year. If the water does not exist, it is pretty hard to deliver it to the environment and, of course, impossible to deliver it to the environment without denying it to all of the agricultural and horticultural interests along the Murray-Darling Basin. So you need to have a policy that balances those. The policy of Labor and the Greens entirely ignores that balance.

In relation to the Gwydir wetlands, the Commonwealth has invested in excess of $13 million in the repair of those wetlands. We want to see that money spent, we want to see some water go into those Gwydir wetlands and we need to have the cooperation of the New South Wales government as well as that of some of the landholders around the Gwydir wetlands to make sure the water actually gets there. We have put our money on the table. We need to see the water delivered. We would like to see both those very important wetlands looked after under the auspices of the commitments that we have to the Ramsar convention. (Time expired)

**Senator SIEWERT**—Mr President, I ask a supplementary question. I note that the minister did not answer my question in terms of whether he intends to list it on the Montreux list. Bearing in mind the adverse findings in the *Australia state of the environment 2006* report on wetlands and water, does the government still intend to go ahead and drain the wetlands of the Murray system over the next 12 months?

**Senator IAN CAMPBELL**—This is the trouble when you write a supplementary question before you have listened to the answer. I just informed the Senate that the Commonwealth is investing in excess of $700 million in the Murray-Darling Basin to
ensure the health of those wetlands. We are spending money to pump water into those wetlands to restore the river red gums to make sure the habitat for threatened species that use those red gums have a chance of survival in this, one of the worst droughts in Australian history.

I also said that we are spending money on the Gwydir wetlands and we want to ensure that the water actually goes there. That is the commitment of the Australian government. We believe that you can satisfactorily and sensibly balance the agricultural interests, the interests of the people who earn their money off the land and provide the food to put onto our tables and earn export incomes, and also deliver historic levels of investment to environmental repair, including along the Murray river. The report that was released today shows that environmental expenditure under this government has quadrupled over what Labor and the Greens would have supported 10 years ago. That is a substantial achievement we should be proud of and not denigrated for. (Time expired)

Immigration

Senator HURLEY (3.24 pm)—My question is to the Minister for Immigration and Multicultural Affairs. Can the minister confirm that the Ombudsman highlighted in a report yesterday the case of a person who was wrongly detained between March 2001 and September 2005 because the minister’s department failed to approach the Afghan government to confirm his identity until June 2005? Doesn’t the Ombudsman note that on the basis of medical evidence Mr X has suffered a ‘major depressive illness solely due to his lengthy detention’ and is now receiving psychiatric treatment? Didn’t the Ombudsman go on to recommend that Mr X be granted a permanent resident visa? Can the minister explain why her department took over four years to simply ask the Afghan government to confirm his identity? Can the Minister also advise whether Mr X, identified in report 101, will be granted a permanent visa?

Senator VANSTONE—Senator, for a moment I thought you might be talking about an Ombudsman’s report in relation to someone in detention this morning, but the dates in fact do not concur with that; you are talking about another case. It is in a batch of cases of Ombudsman’s reports that were tabled yesterday. I will take the opportunity to match the number you have given me with the details of that case and come back to you with an answer on that.

Senator HURLEY—Mr President, I ask a supplementary question. I am surprised that the minister is not aware of this particular case. When the minister is coming back, could she also confirm that the cause of Mr X’s mental illness can be clearly attributed to his detention in the department, whether the department will consider what ongoing role they should have in providing him with medical assistance, whether the government are now responsible for his ongoing medical treatment because they bungled the processing of this individual’s claims and whether the assistance recommended by the Ombudsman will actually be provided?

Senator VANSTONE—I can add something that might be of relevance to the senator in relation to this. In relation to the Ombudsman’s suggestion that the department has a responsibility in terms of people who are no longer in detention, the department does accept that we have some responsibility. We do not simply put people outside the gate and leave it at that. We are in the process of arranging and, in some cases, have arranged with various non-government bodies and some state health arrangements for people to be put in touch with the appropriate assistance.
Often people who come to us in detention—that is not the case, I think, with the person you are talking about—already have a mental health problem. They have not been able to identify where they ought to go for health, probably because of their mental health issues, and we take that seriously; we are doing that. We are also screening people for mental health problems on the way into detention because, while there is a debate about the degree to which detention or, more particularly, the doubt about one’s visa status, can cause trouble, there is no doubt that some people come—(Time expired)

Forestry

Senator HEFFERNAN (3.27 pm)—My question is to the Minister for Fisheries, Forestry and Conservation, Senator Abetz. What threats does the mismanagement of Australia’s vast forest resource pose to life, property, biodiversity, the atmosphere and water supplies this summer?

Senator ABETZ—I thank Senator Heffernan for his topical question, given the bushfires burning right around our nation at the moment. There is no doubt that mismanagement of our forests by state Labor governments, usually at the behest of the green movement, has vastly increased the threat which these bushfires pose each and every summer. Right now, literally dozens of fires are burning in New South Wales and Victoria, fires which highlight the mismanagement of our forest resource. Take, for example, the fire currently burning near Coonabarabran in New South Wales, burning in an area known as the Pilliga Nature Reserve. It is a fire which poses a real threat to life and property and which is emitting literally millions of tonnes of carbon dioxide into the atmosphere; a fire which, sadly, also appears to be decimating one of Australia’s most important koala communities, although I understand the latest news is that damage may be less than originally feared.

It is instructive that after decades of sustainable harvesting, following pressure from green groups, particularly the Wilderness Society, the Pilliga was recently locked up by the New South Wales Labor government—locked up, forgotten and now burnt along with its fauna. Sadly, this ‘lock up and forget’ mentality is not just confined to New South Wales. In the Victorian Alps, an area which Labor also recently locked up to conserve, there is now a more serious fire threat than the 2002-03 fire which burnt three million hectares and emitted 130 million tonnes of carbon dioxide into the atmosphere. These fires may even merge into a single megafire, which could not only threaten life and property but also again burn out the Thomson catchment, further compromising Victoria’s water supplies, which still suffer reduced inflows due to the 1939 bushfire regrowth.

Yesterday in this place we had a rather bizarre contribution—not unusual—from Senator Bob Brown, suggesting that stopping arsonists is the catch-all for reducing bushfires. While reducing arson is certainly important, it ignores the fact that the real answer to reducing bushfires and bushfire intensity is reduced fuel loads. I say to Senator Brown and the Greens: if you are serious about reducing the bushfire threat, stop advocating more forest lock-ups. Start advocating instead for sustainable timber harvesting, which reduces fuel loads, creates access tracks and firebreaks and, incidentally, takes far more carbon dioxide out of the atmosphere than the carbon dioxide neutral national parks advocated by Senator Brown.

Senator Brown’s advocacy of more money for research into arsonists is ironic, given that the green movement itself poses a significant bushfire hazard. In fact, it has been the extreme green policies that have made
the evil activities of arsonists so much easier and so much more devastating.

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

QUESTIONS WITHOUT NOTICE:
ADDITIONAL ANSWERS

Aged Care

Senator SANTORO (Queensland—Minister for Ageing) (3.31 pm)—I wish to add to an answer that I provided to Senator Marshall yesterday in relation to Viewhills Manor home. Yesterday Senator Marshall made some assertions about Viewhills Manor home, claiming it had escaped penalty after failing some accreditation standards. In fact, that home had its accreditation period cut by two years as a result of the finding and it has been placed on a timetable for improvements. It will face another full audit within 12 months to make sure that it is on track.

The report on the agency website also states that the home undertook immediate actions following the review audit to lessen the impact of noncompliance on the residents and has developed an action plan to address the issues. On 17 November 2006 the department issued the home with a notice of noncompliance. This is the first step towards the imposition of sanctions which may be imposed if the deadline is not met. The Australian government has in place a comprehensive regulatory framework to ensure any instances of poor care are quickly dealt with. This includes the Commissioner for Complaints, the accreditation agency and the Department of Health and Ageing. The agency and the department will continue to closely monitor Viewhills Manor. The care and safety of all residents of aged-care homes remains the highest priority.

Indigenous Land Leases

Senator KEMP (Victoria—Minister for the Arts and Sport) (3.33 pm)—In question time yesterday I was asked a question by Senator Bartlett regarding 99-year leases on Indigenous land. I have raised this issue with Minister Brough and I now seek leave to incorporate a full response to Senator Bartlett’s question.

Leave granted.

The document read as follows—

Senator Bartlett asked Senator Kemp (representing the Minister for Families, Community Services and Indigenous Affairs) as the Minister would know, the Government recently changed the NT Land Rights Act to allow 99 year leases on Aboriginal land, and gave the reason that this change was to enable 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 years leases on their own land. Is it the case that the Minister will only Aboriginal people to lease their land to Government controlled entities.

Supplementary Question—Senator Bartlett—I thank the Minister for his answer such as it was. Given the Governments policy is quite clear as the Minister has confirmed to allow leases and saying that enabling leases will encourage economic development—what is the criteria that the Government has used to block the Thamarrurr council’s proposal to lease their land? Can in his response the Minister indicate why some leases to Government controlled entities are ok on the Minister’s terms but other leases on the terms put forward by Aboriginal people are not ok and will not lead to economic development?

The 99 year lease scheme contained in the Northern Territory Land Rights Act was based on a proposal by the Northern Territory Government. It aims to facilitate a normal commercial environment that allows for home ownership and business development.
The traditional owners of the Tiwi Islands and Groote Eylandt have decided to negotiate the terms of a 99 year lease.

The Government welcomes the interest of the Diminin people in the leasing of the township of Wadeye and has met with the traditional owners and the Northern Land Council to discuss the possibility of a lease.

However, real gains will depend upon using the right model for a lease and the current proposal put by the Thamarrurr Regional Council does not meet normal standards for commercial security.

The proposed 20 years term is outside section 19A of the NT Land Rights Act which sets the term at 99 years so as to enable a long term basis for getting development into Wadeye and other communities.

Further the proposed lease does not provide for a fair return to traditional owners for use of their land as a township – which is guaranteed by legislation in the case of a section 19A lease.

We are also convinced that an independent entity would be the most transparent, appropriate and economically viable option to hold a head lease and for this reason stand by the model – set out in section 19A—of an NT or Commonwealth entity.

By comparison the original proposal did not have the lessor and lessee at arms length from one another (ie. they were effectively the same).

We are ready and available to sit down with communities and talk about how a section 19A lease can help them.

But it would be wrong for the Government to agree to a lease without ensuring that the proposed arrangement will deliver into the future.

In the meantime discussions are continuing with the traditional owners and their representative the Northern Land Council, and interest is already being expressed by them in negotiating a 99 year lease.

Participation in the scheme will be entirely voluntary. It is up to traditional owners to participate.

It needs to be noted that the Thamarrurr Regional Council that put forward the proposal does not represent the traditional owners of Wadeye in these matters – that is the function of the Northern Land Council.

QUESTIONS WITHOUT NOTICE:

TAKE NOTE OF ANSWERS

Environment

Senator LUNDY (Australian Capital Territory) (3.33 pm)—I move:

That the Senate take note of the answers given by the Minister for the Environment and Heritage (Senator Ian Campbell) to questions without notice asked today.

It has been 10 very long years that we have put up with the Howard government frustrating and obfuscating and pretending climate change is not happening, but lately we have been watching them squirm and struggle and try to work out a way that they can accept the fact that climate change is happening and not lose face. The bottom line for this government is that the tide has come in on them on climate change, both figuratively and literally. The government are scrambling to try and find a rational policy to deal with climate change. They have got a long way to go. It is very interesting to note that legislation being debated in this place this week does not go anywhere near it. Despite the specific opportunities presented to the Howard government, none of them have been taken.

It was on only 20 August this year that the Minister for Industry, Tourism and Resources of the Howard government infamously told the Sunday program that he was a ‘sceptic’ about the connection between emissions and climate change. And then on 27 September, in a disgraceful statement, the Prime Minister said he was not interested in what might happen in 50 years time. What an abrogation of responsibility. What a disgraceful way to let down not only Australia but the global movement to stem climate change. It is a serious threat to Australia’s environment and our ecology. Action is needed on the ground and in legislation, and it is not happening under this government. As I mentioned, we
do have a bill before us at the moment, but there is no measure that the government is prepared to support in that legislation that will actually take tangible steps towards turning the problem around.

Today we heard Senator Polley’s question about the 16 faith organisations that have now joined the call for immediate, specific and useful action to stem climate change. They have joined with the community, with business groups, with schools, with children and with the Labor Party and other political parties to call for change.

Perhaps the most obvious and glaring example of the Howard government’s weakness is an incompetent Minister for the Environment and Heritage. Senator Carr today asked a question of Senator Ian Campbell about the Bald Hills wind farm once again having to threaten court action to force the minister to do his job. Let us see what has been going on today. The minister feigned ignorance about the latest submission from the proponents of the Bald Hills wind farm. Either he is completely and utterly incompetent or he is just pretending he did not know, because on the department’s website, dated 20 September 2006, is that submission that the minister claims he knows nothing about. Does that not prove that he is completely incompetent? I seek leave to table the submission for the interest of senators.

Leave not granted.

Senator LUNDY—Isn’t that a disgrace! It is there on the website. We are debating this issue. The act requires this submission to be on the website. The geniuses across the floor here today have decided not to agree to a public document being tabled which informs this debate. That sums up the incompetence that we are dealing with. This government has nowhere to go in the environmental debate. They cannot stand it when facts expose an incompetent minister in question time with just a few days to go of the federal parliament in 2006. It is no wonder it is widely expected that he is going to get the punt. What sort of dope of a minister, who did not even know that this document was on his site—

Senator McGauran—I rise on a point of order. That is unparliamentary language and a reflection on the minister.

The DEPUTY PRESIDENT—Please withdraw, Senator Lundy.

Senator LUNDY—I withdraw. But this proposal that I am discussing—which has been denied leave to be tabled by government senators—clearly confirms that the minister misled the public over his claims that the project would kill one parrot every year instead of one bird every 1,000 years. This document shows it. No wonder they do not want it tabled here. It also confirms that the minister abused his power, misled the public and tried to cover his tracks. We all know, and it is firmly on the public record, that the Bald Hills wind farm was blocked in April as a political favour by the minister to the member for McMillan. We know that because he was ordered to pay costs and to reconsider the proposal. How incompetent is he? The proposal has been on the website and today in question time he did not even know it was there or what it contained. Well, well, well. He has been completely and thoroughly exposed as being incompetent to an extraordinary level. That just about sums up the Howard government’s performance on climate change, on environmental management and on the issue of the Bald Hills wind farm. (Time expired)

Senator RONALDSON (Victoria) (3.39 pm)—I can only assume that the ALP Senate Christmas party has started and they had a whip round to see if someone was prepared to talk about anything for five minutes. That is probably the most bizarre five-minute
speech that I have ever heard in my life. We had this feigned indignation about the treatment of David Hicks. Do we hear a word about it? Was the taking note of answers about David Hicks?

Senator Stott Despoja—It will be.

Senator RONALDSON—That would be a very pleasant change. Say no more: when the retiring senator is making more sense than one of Kevie’s kids, who came in here and talked about climate change—

The DEPUTY PRESIDENT—You need to refer to people in the other place by their correct title, Senator Ronaldson—if you are.

Senator RONALDSON—Sorry, Mr Deputy President: the new Leader of the Opposition, who replaced poor Mr Beazley. You claimed to be serious. You came into this place during question time and wrung your hands with indignation about someone’s treatment, yet when you had the opportunity to speak on the issue during the taking note of answers—which even in my short time here I have seen is reserved for the discussion of important matters raised during question time—there was not one word. Instead, there was some extraordinary general spray about climate change. I have worked with Senator Lundy. We put together a report in relation to women in sport. She was clearly set up. I respect Senator Lundy, and we did a great job with that report. But she has been set up. How can you go out now into the public and talk about your concern for David Hicks when you did not have the intestinal fortitude or the intellectual rigour to raise the matter today during the taking note of answers?

I heard the interjections from across the chamber while the minister was giving his answers to the question on David Hicks. There was a wringing of the hands and interjections about how appalling this is. And at the first opportunity to debate it—your first opportunity to do what the minister did: talk about it—you slipped away. You think that this David Hicks matter is so incredibly serious that you took up half of question time with it, but you were not prepared to come in here and discuss it today.

I am still totally gobsmacked by Senator Lundy’s extraordinary climate change contribution. We got that for the leading item in the taking note of answers. Let us look at the issue of Bald Hills. If the Australian Labor Party is proud of the fact that they are making political mileage out of the protection of an endangered bird, then congratulations; if that is what turns them on, then congratulations. I find it quite extraordinary that you can be so duplicitous as to come in here and attack the minister for the environment—who is about 85 times more effective than you lot have been over the last 25 years. Why aren’t you attacking Rob Hulls in Victoria, who refused a permit for wind energy installation in Ballan—which is in my old seat of Ballarat—because of unacceptable risk to the wedge-tailed eagle? The wedge-tailed eagle is not on the threatened species list—albeit that there is no more magnificent animal than a wedge-tailed eagle. You have not had a go at Rob Hulls for the decision in relation to Ballan, but you have come in here day after day talking about the move by the minister for the environment in relation to the orange-bellied parrot. That was a disgraceful performance today. You should be ashamed of yourselves. Every time that you talk about David Hicks in public, I am going to remind you of what you did not do today. I am afraid that crocodile tears are no substitute for quality debate. You had the chance and you failed. (Time expired)

Senator POLLEY (Tasmania) (3.44 pm)—I rise to take note of answers given by Senator Ian Campbell to questions relating to the environment and climate change—or, should I say, his attempt, in his patronising
response, to answer questions. This government has repeatedly demonstrated its ignorance when it comes to the environment and climate change. It has spent the last 10 years in office in complete denial that climate change is a serious problem and, for the last 10 years, it has failed to protect Australia’s environmental and economic future.

This is not just the opinion of members of the opposition; this is a known fact. The Howard government has not been concerned about climate change, because this government, which cares only for the here and now, knows nothing of the concept of planning for the future. This is obviously a view held by many, many Australians. We now see that Australia’s religious communities are uniting to demand action on this serious issue. Sixteen faith communities—including Anglicans, Christians, Muslims, Buddhists, Jews and Aboriginal Australians—have joined together to release a report, titled Common belief: Australia’s faith communities on climate change, which demands that this government act on climate change—and act now.

In its statement, the Australian Federation of Islamic Councils said, ‘The Howard government has a poor record on climate change.’ They were obviously being kind. We all know of this government’s refusal to sign the Kyoto protocol and how it has actively discouraged Australians from taking up more sustainable energy resources. Recently we saw the government move to end a rebate that was available for Australians who wanted to install solar energy systems in their homes. A campaign against that move was led by Mel and Kochie from Channel 7’s Sunrise program and resulted in more than 170,000 Australians signing a petition for the rebate program to be kept in place. Coincidentally, we then saw Mr Costello announce that that program would be kept. If this example is any indication, along with a continuing interest in Mel and Kochie’s Cool the Globe campaign, it would seem that a great majority of Australians are now aware of the very real issue of climate change and the fact that that action is needed.

The Howard government would have liked us all to believe that climate change is a myth—that this is just a scare tactic being bandied about by scientists and environmentalists. That is most certainly not the case. You only have to take a drive in the countryside around Canberra to see how dry this wonderful country of ours is. This is a problem that is not going to go away, and the only solution that the Prime Minister is offering is nuclear energy—another one of his ideological agendas left over from 20 years ago.

In the interfaith report on climate change, the Uniting Church of Australia was vehement in its opposition to nuclear energy, stating:

We believe that the continued research, development and implementation of renewable energy is an absolute priority for governments and industry in order to minimise greenhouse gas production. As a matter of urgency we must reduce our dependence on fossil fuels.

This report by Australia’s interfaith leaders, which represents more than 12½ million Australians, is the greatest demonstration yet of just how out of touch the Howard government is when it comes to the issue of climate change and the effect it is having on Australia’s environment.

I would have thought that some of my Tasmanian colleagues within the government—who I know identify themselves as members of the communities included in the report—would be urging Mr Howard and the Minister for the Environment and Heritage to take action. But it would appear that they are just as out of touch as their rest of their col-
leagues are with the Australian people on this issue. It is very disappointing.

Also of note in the report is the point made by the Federation of Islamic Councils that the rapid onset of climate change will only be slowed down by shifting the focus away from consumerism and ‘the concept of profit above everything else’. This attitude of profit above everything else resounds right through the Howard government. You only have to look at its so-called Work Choices laws or the Independent Contractors Bill that we debated in this place last week. Unfortunately for this government and for Australia, the government has failed to realise that climate change and the environment will have a far greater effect on our economy than they could ever have predicted. The report indicates just how much weight the Australian people put on this issue, whether the government likes it or not. Our religious leaders have confirmed what Labor has known for some time, and we will continue to put forward Labor’s plan to combat climate change.

**Senator McGauran** (Victoria) (3.49 pm)—For those who are listening to these proceedings on broadcast, I should explain that this is a period—known as ‘take note of answers’—of some half an hour when the government, the opposition and the minor parties get a chance to debate answers given during the Senate’s one-hour question time. It is an important period, particularly for oppositions. It gives them an extra chance to drive home their theme, that they set up during question time. But I would have to say that I have been taking note of answers for many a year now, and this would have to be the most contemptible take note of answers from the opposition that I have ever known.

They come in here and feign compassion for Mr Hicks, who has been stuck for some five years in Guantanamo Bay. They raised at least four questions on the matter, and yet they have not raised the matter here in taking note of answers. And it really gets worse. I endorse everything that my colleague Senator Ronaldson said: the Labor Christmas party must be on, because it just got worse. Not only have they chosen not to raise the theme of their question time, which is a serious matter—particularly for the family—and a cause that they have apparently taken up. Not only have they decided not to raise it in taking note of answers, but they never intended to. We heard the mishmash address by Senator Lundy, but I can tell you that Senator Polley just made it worse. She had prepared her speech. This was a set-up. They never intended to raise the issue of Mr Hicks in Guantanamo Bay.

What was all that about? You had your speech prepared early this morning, Senator Polley. You were never going to raise the matter of Mr Hicks. It just got more contemptible. I say to Senator Ronaldson, if he is listening: it just got worse than what you believed it to be. Mr Deputy President, I have got to tell you that the government are of late most concerned about the Hicks issue—to the point where they have raised it with the President of the United States and have said that this man’s trial ought to be brought on. Yes, he has been in Guantanamo Bay for too long without trial. We have raised that with the President of the United States.

We show a political genuineness. We understand the elevation of this issue in the community; you do not. We have been genuine from day one. What I say about Mr Hicks is that he was caught with a gun in his hand, he did return to Afghanistan post September 11 and, apparently, he did train with the Taliban and al-Qaeda. There is enough circumstantial evidence for the Americans to believe that he should be charged, but they ought to charge him and get on with the trial
quickly. That has been our genuineness. That is what we have raised with the Americans—and you cannot come into this chamber and sustain the argument. If I were Mr Hicks, I would be very worried about the Labor Party’s support and ability to sustain their interest. Instead of the Hicks issue, they came in here and raised the issue of the Bald Hills wind farm and the orange-bellied parrot—which time does not permit me to get on to. That is what you have raised in this motion to take note of answers. You have made a mockery of it. You have disgraced yourself.

You have elected a new leader this week who purports to bring in change and a fresh approach to the Labor Party. Where are the issues on the economy that you want to bring in? What do you think you lost the last election on? It was your credibility with regard to economics. You do not discuss that; you discuss the yellow-bellied parrot. Where is the IR issue that you are going to make the centrepiece for the next election? You do not bring in that issue; you discuss the yellow-bellied parrot. This has been one of the most disgraceful motions to take note of answers. All I can say is: thank goodness for Senator Stott Despoja. I am going to stay and listen to her address on Mr Hicks. We should all have an equal concern with regard to the delay in that trial. There are reasons given as to why that trial has been delayed as long as it has, but if you have a serious concern about it raise it in this chamber and use this period as an opportunity to do so. Senator Stott Despoja, I invite you to address the matter of Mr Hicks in Guantamano Bay. (Time expired)

Senator McEWEN (South Australia) (3.54 pm)—I too am going to take note of answers given by Senator Ian Campbell, the Minister for the Environment and Heritage. I note that Senator McGauran is off on some bizarre analysis of the Labor Party’s responses in taking note today, when in fact the biggest issue of today is probably the release of the Australia state of the environment report 2006, which Senator Ian Campbell willingly referred to in his answers.

In the state of the environment report we find that greenhouse gas emissions in this country have risen by 22 per cent. When we asked the minister for the environment questions about the appalling state of the environment in this country at the moment, he made some comment about South Australia’s Coorong. I do not think he has ever been there. I do not think he has any idea what the Coorong is or how important it is to the whole Murray-Darling Basin system. He also made a comment about some pathetic commitment of 35 gigalitres to go into the Murray for the purposes of rehabilitating the Coorong wetlands—the Coorong wetlands which are about to be delisted because they are so degraded due to the inaction of this federal government. The Coorong wetlands need 1,500 gigalitres of water, and this government can find 35 gigalitres. It is an absolutely appalling response to a very serious issue.

Senator Ronaldson, in his bizarre spray, also made mention of Senate Christmas parties. I did not go to the Labor Senate Christmas party for too long last night, because I had the misfortune of having to be in this chamber listening to Senator Ian Campbell attempt to debate a very important piece of legislation—the Environment and Heritage Legislation Amendment Bill (No. 1) 2006. It was a woeful performance from the minister in charge of the single biggest issue in Australia at the moment, and that is climate change. It was an absolutely woeful performance. It was puerile and we had sulky behaviour from him. We spent four hours debating one amendment last night, and Senator Ian Campbell’s contribution was to pick up the pronunciation of ‘Kyoto’ by
senators opposite. So we had to endure elo-
cution lessons from the Minister for the En-
vironment and Heritage, instead of address-
ing the real issues of the day, including cli-
mate change. His bill does not even mention
climate change. The bill that we spent four
hours debating one amendment on last night,
because of his complete lack of action with
regard to the environment, does not even
mention climate change.

We heard from Senator Julian McGauran
just then about the yellow-bellied parrot. Is
that another endangered species, Senator
McGauran? There is no yellow-bellied par-
rot. I think there has been comment made
about yellow-bellied ministers but not yel-
low-bellied parrots. It was in fact the orange-
bellied parrot. So we have helped you out
there, Senator McGauran.

We did note today in question time that
the proponents of the Bald Hills wind farm
are threatening legal action against the fed-
eral government because this minister has
taken so long to respond to their legitimate
request for a decision so that they can get on
with either building or not building the $220
million wind farm that the people of Victoria
need so that they can have clean green en-
ergy. Isn’t that what we are all about? What
does your minister do? Sit down and do
nothing. He does not even know what sub-
missions are on the department’s own web-
site.

Senator McGauran—Mr Deputy Presi-
dent, I rise on a point of order. I am quite
taken by Senator McEwen now launching
into an off-the-cuff speech which would now
give her an opportunity of some two minutes
to turn her attention to Mr David Hicks. I
invite her to do so.

The DEPUTY PRESIDENT—There is
no point of order, Senator McGauran.

Senator McEwen—With regard to the
submission from the Bald Hills wind farm
proponents, I would like to give the govern-
ment another opportunity to make good the
ridiculous mistake they made last time when
they neglected to agree to table the document
that is on their own website. I seek leave to
table the documents that were referred to
earlier by Senator Lundy.

Leave not granted.

Senator McEwen—They are great,
aren’t they? They would not have a clue
what was going on with the environment.
They do not even know what is on their own
website. What a spectacular result from the
minister that is. After all, this is the minister
who cannot tell a cow from a horse. We re-
member that wonderful contribution we got
from him about cattle grazing in the Victo-
rian alpine region. He cannot tell one four-
legged critter from another, but he is pretty
good at flying around the world trying to
protect the whales. I do not think he has pro-
tected one, but he manages to wear his lovely
blue bracelet every day. When he is pointing
and wagging his finger across the chamber at
us.—(Time expired)

Question agreed to.

Mr David Hicks

Senator STOTT DESPOJA (South Aus-
tralia) (4.00 pm)—I move:

That the Senate take note of the answer given
by the Minister for Justice and Customs (Senator
Ellison) to a question without notice asked by
Senator Stott Despoja today relating to Mr David
Hicks.

My question was in relation to the predica-
ment of David Hicks—the travesty that is
David Hicks’s situation. I do not think there
has been feigned indignation in this chamber.
I say that of my Labor colleagues and I also
say it, believe it or not, of my coalition col-
leagues. I think there are increasing numbers
of members of parliament, as indeed there
are increasing numbers of people in the
community, who are outraged and ashamed
and angry about the treatment of any detainees in Guantanamo Bay. But in Australia, and obviously in South Australia—he is a constituent of mine and others in this place—Mr David Hicks’s situation is seen as an abrogation of international humanitarian law. It is unacceptable. I think that, increasingly, members in this place recognise that fact.

It is now time for our government to insist on this man’s immediate repatriation. Indeed, I have heard members of the government calling for his immediate trial. I do not believe any longer—if I did at all—that David Hicks will receive a fair trial. I know that this is a man who has been detained for five years. The fifth anniversary of his capture is this weekend. He was captured by the Northern Alliance on 9 December. He has been detained for that long. He has spent most of the time in Guantanamo Bay, or ‘Gitmo’.

David Hicks has been detained in conditions that are completely unacceptable. I asked the government about some of these conditions today—were they acceptable to the government? Is it acceptable that he spent eight months in solitary confinement, 23 hours a day? Is it acceptable that he can have an hour to wander out to a reading room that has no books, no access to legal documents? I heard the minister talk about recreational facilities; David Hicks is a man who cannot get a pair of sandals so that he can run around the place. The conditions are extraordinary.

I do not think that anyone in this place believes the analogy between a maximum security prison in Australia and Guantanamo Bay. How many Australians are in maximum security, let alone solitary confinement, for that period of time without charge? This man is being held without charge. The charges against him were dropped. Why? Yes, because of the Hamdan case; yes, because the military commissions process was shown to be flawed. It was shown to be illegal. The United States courts made that clear.

So what has happened? Since September there has been a new act in the United States—the Military Commissions Act 2006. Is the government happy with that? Indeed it is. Australia has been a cheerleader for this process. It shames me that our government has abrogated its commitment to international humanitarian law. I know that members of the government are uncomfortable now; I have read about it in the papers and I have spoken to them. But the Military Commissions Act that was passed this year still does not see David Hicks charged. He is still detained without charge.

Some of the deficiencies in the process are real. Do honourable senators in this place, regardless of which side we are on, honestly accept that it is appropriate, for example, to admit evidence that has been obtained by coercion? Do we honestly accept that in this day and age? Do we throw the Geneva conventions out the window because we just happen to have to go along with George W Bush, the President of the United States? Yes, torture, theoretically, is acceptable. I know the word ‘torture’ is not in there anymore but ‘coercion’ is. It is allowed to admit evidence obtained through coercion. It is also allowed to have a conviction on evidence that David Hicks will never be allowed to see. There is also the removal of the right to a speedy trial; the removal of the right to habeas corpus, the right of a detainee to challenge his or her unjust treatment; and the removal of the right to cross-examine witnesses who have given evidence against them. These are basic principles, the rule of law—things that we all in this place believe in and defend.

It is time to bring David Hicks home. These are not crocodile tears. We are just outraged. I look at Senator Kirk, who asked a
Wednesday, 6 December 2006  

SENATE  

question on this today on behalf of the ALP. I know the work she has done on this. I have worked with her to try to ensure that our citizen is not tortured, not maltreated, gets a speedy trial and gets his justice. He has been there for five years and is now facing God knows how long without trial, without charge. It is unacceptable. Mr Deputy President, I put it to you that it is increasingly unacceptable to most people in this place, regardless of their politics. (Time expired)

Question agreed to.

PETITIONS

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

Health
To the Honourable President and members of the Senate in Parliament assembled:
The petition of the undersigned shows:
The community and visitors to the Gascoyne Region are extremely concerned that the Federal Government has withdrawn its financial support it promised to the fly in health service to the town of Denham, Shark Bay Western Australia.

Your petitioners ask/request that the Senate:
In light of the $10.8 billion budget surplus this service is to be reinstated immediately and the $45,000 that was promised allocated for the health benefits of the many residents and visitors to the Shark Bay area.

by Senator Sterle (from 495 citizens).

Health
To the Honourable President and members of the Senate.

We, the undersigned residents of Denham, Western Australia, are extremely disturbed by the actions of the Federal Member for Kalgoorlie, Mr Barry Haase, who has reneged on his promise to provide Commonwealth funding for the continuation of a much-needed fly-in-fly-out medical service between Geraldton and Denham.

Medical services to Denham are provided by doctors who are based in Carnarvon, 300 kilometres from our town. However, Health Department resources at Carnarvon are stretched, thus in the event of a medical emergency at Denham there is no guarantee of medical services reaching us in a timely manner.

We ask the Federal Government, with its budget surplus of ten billion dollars, to acknowledge the fundamental right of every Australian to have access to appropriate and timely medical services.

Your petitioners request the Honourable President and Senators to deliver the necessary $45,000 per annum to ensure we and the tens-of-thousands of tourists who visit our World Heritage Area each year, are not disadvantaged in the provision of appropriate health services.

by Senator Sterle (from 256 citizens).

Pregnancy Counselling Services
To the Honourable the President and Members of the Senate in Parliament assembled.
The Petition of the undersigned draws to the attention of the Senate the lack of regulation of pregnancy counselling in Australia.
Pregnancy counselling services which do not charge for the information they provide are not subject to the Trade Practices Act, which means they are not prohibited from engaging in misleading or deceptive advertising.

Some services have been known to give the impression in their advertising material that they are non-directive and provide information on all three pregnancy options (keeping the child, termination, and adoption), when in fact they are anti-choice. They have also been known to provide misleading information about the risks associated with terminating a pregnancy.

Your petitioners believe:

(a) Misleading information provided by some anti-choice pregnancy counselling services has caused distress for many women;

(b) Women have the right to know what sort of pregnancy counselling service they are contacting (ie anti-choice or non-directive) when they seek information about whether or not to continue a pregnancy;
(c) Federal Government should urgently move to regulate pregnancy counselling in Australia to ensure the counselling provided is objective, non-directive, and includes information on all three pregnancy options.

Your petitioners request the Senate urge the Government to regulate pregnancy counselling in Australia (including banning misleading and deceptive advertising).

by Senator Stott Despoja (from 10 citizens).

Petitions received.

NOTICES
Presentation

Senator Allison to move on the next day of sitting:

That the Senate—

(a) welcomes:

(i) the Japanese resolution in the United Nations (UN) General Assembly First Committee, entitled ‘Renewed determination towards the total elimination of nuclear weapons’ (L32), which Australia co-sponsored and was adopted on 26 October 2006 by 168 votes in favour, 4 votes against and 8 abstentions, and

(ii) the joint Australia-Mexico-New Zealand resolution on the Comprehensive Nuclear-Test-Ban Treaty (L48) which was passed by the First Committee on 26 October 2006 by 175 votes in favour, 2 votes against and 4 abstentions;

(b) notes that:

(i) UN Secretary-General Kofi Annan, at Princeton University on 28 November 2006, emphasised the urgency of eliminating nuclear weapons,

(ii) the Seventh Summit of Peace Nobel’s in Rome calls for the elimination of nuclear weapons as a matter of the utmost urgency, and

(iii) the United States of America and the Russian Federation have made significant cuts to their nuclear arsenal as agreed in the 2002 Moscow Treaty;

(c) supports ongoing government efforts, including through the next NPT Review conference cycle commencing with the first session of the Preparatory Committee in April 2007, to:

(i) encourage further steps leading to nuclear disarmament, to which all states parties to the Nuclear Non-Proliferation Treaty are committed under Article VI of the Treaty, including deeper reductions in all types of nuclear weapons,

(ii) stress the necessity of a diminishing role for nuclear weapons in security policies to minimise the risk that these weapons will ever be used and to facilitate the process of their total elimination,

(iii) call on the nuclear-weapon states to further reduce the operational status of nuclear systems in ways that promote international stability and security, and

(iv) emphasise the need for all states to take further steps and effective measures towards the total elimination of nuclear weapons, with a view to achieving a peaceful and safe world free of nuclear weapons; and

(d) urges all states which have not already done so to sign and ratify the Comprehensive Nuclear-Test-Ban Treaty as soon as possible and to support an early start to negotiation on a fissile material cut-off treaty.

Senator Vanstone to move on the next day of sitting:


Senator Allison to move on the next day of sitting:

That the Senate—

(a) notes:
(i) the resolution of the Ministerial Council of Police and Emergency Management on 17 November 2006 to request that the Treasurer (Mr Costello) 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 United States of America and Canada, that no more than 25 per cent of cigarettes tested in accordance with the Australian Standard will exhibit a full length burn,

(ii) that at least six Australians every year lose their lives because of fires caused by cigarettes,

(iii) that a report provided to the Department of Health and Ageing in 2004 estimated that at least 7 per cent of bushfires are caused by discarded cigarettes,

(iv) that Commonwealth Scientific and Industrial Research Organisation expert, Mr Stephen Moreton, in evidence given to the Employment, Workplace Relations and Education Committee on 1 November 2006, confirmed that fire conditions would be as bad or worse over the next 6 months than in 1983,

(v) that research by Professor Pitman and colleagues from Macquarie University has estimated that the bushfire risk would increase by 25 per cent by 2050 due to climate change and could rise as high as 40 to 100 per cent in some areas, and

(vi) that low fire risk cigarettes, which have a lower propensity to burn when left unattended, are a practical and effective way to reduce fires from cigarettes; and

(b) calls on the Government to work with the New South Wales Government to fast track the regulatory impact statement required under the Council of Australian Governments ‘Principles and Guidelines for National Standard Setting and Regulatory Action by Ministerial Councils and Standard-Setting Bodies’, so that the mandatory standard for low fire risk cigarettes can be introduced as a matter of urgency.

Senator Milne to move on the next day of sitting:

That the Senate—

(a) notes:

(i) the opening address by the Minister for Fisheries, Forestry and Conservation (Senator Abetz) to the 15th Australian Weeds Conference in September 2006 in which he acknowledged that:

• weeds are one of the most important natural resource management issues Australia faces today;

• weeds are one of the biggest threats to biodiversity in this country, and

• for the sake of Australia’s economic wellbeing, our future health and our biodiversity – we must be up to the challenge,

(ii) that weeds seriously deplete biodiversity and cost the Australian economy approximately $4 billion per year,

(iii) that funding for the Weeds Cooperative Research Centre for Australian Weed Management runs out in 2008,

(iv) the application for funding for the years 2007 to 2014 by its replacement, the Invasive Plants Cooperative Research Centre, was rejected,

(v) that, according to the Australian Bureau of Statistics, farmers spent over 4 million days working on weeds in the 2004-05 period, and

(vi) the negative impact that de-funding the Weeds Cooperative Research Centre (CRC) will have on farmers, park managers, natural resource management managers and the meat, livestock and cropping industries; and

(b) calls on the Government to fund a national body in 2007, so as to create a seamless transition from the existing Weeds CRC,
which can deliver nationally-coordinated
and collaborative weed research.

Senator Ellison to move on the next day
of sitting:

(1) That the time allotted for consideration of
the Environment and Heritage Legislation
Amendment Bill (No. 1) 2006 be as fol-
lows:

All remaining stages—commencing
immediately until 11 pm, on Thursday,
7 December 2006.

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

Senator Ellison to move on the next day
of sitting:

That—

(1) The days of meeting of the Senate for
2007 be as follows:

Autumn sittings:
Tuesday, 6 February to Thursday, 8
February
Monday, 26 February to Thursday, 1
March
Tuesday, 20 March to Thursday, 22
March
Monday, 26 March to Thursday, 29
March

Budget sittings:
Tuesday, 8 May to Thursday, 10 May

Winter sittings:
Tuesday, 12 June to Thursday, 14 June
Monday, 18 June to Thursday, 21 June

Spring sittings:
Tuesday, 7 August to Thursday, 9 Au-

gust
Monday, 13 August to Thursday, 16
August

Spring sittings (2):
Monday, 10 September to Thursday, 13
September
Monday, 17 September to Thursday, 20
September

Spring sittings (3):
Monday, 15 October to Thursday, 18
October
Monday, 22 October to Thursday, 25
October
Monday, 5 November to Thursday, 8
November
Monday, 26 November to Thursday, 29
November
Monday, 3 December to Thursday, 6
December.

(2) Estimates hearings by legislative and gen-
eral purpose standing committees for 2007
be scheduled as follows:

2006-07 additional estimates:
Monday, 12 February and Tuesday, 13
February and, if required, Friday, 16
February (Group A)
Wednesday, 14 February and Thursday,
15 February and, if required, Friday, 16
February (Group B).

2007-08 Budget estimates:
Monday, 21 May to Thursday, 24 May
(Group A)
Monday, 28 May to Thursday, 31 May
(Group B)
Monday, 12 November and Tuesday,
13 November (supplementary hear-
ings—Group A)
Wednesday, 14 November and Thurs-
day, 15 November (supplementary
hearing—Group B).

(3) Committees consider the proposed expen-
diture in accordance with the allocation of
departments to committees agreed to by
the Senate.

(4) Committees meet in the following groups:

Group A:
Environment, Communications, Informa-
tion Technology and the Arts
Finance and Public Administration
Legal and Constitutional Affairs
Rural and Regional Affairs and Trans-
port

Group B:
Committee report to the Senate on the following dates:

(a) Wednesday, 21 March 2007 in respect of the 2006-07 additional estimates; and
(b) Tuesday, 19 June 2007 in respect of the 2007-08 Budget estimates.

Senator Nettle to move on the next day of sitting:

That the Senate—

(a) notes that 9 December 2006 will mark 5 years since Mr David Hicks was detained; and
(b) calls on the Government to ensure that Mr Hicks receives a fair trial.

Senator Watson (Tasmania) (4.05 pm)—On behalf of the Standing Committee on Regulations and Ordinances, I give notice that, 15 sitting days after today, I shall move that:


I seek leave to incorporate in Hansard a short summary of the matters raised by the committee.

Leave granted.

The document as follows—


This instrument specifies the criteria that must be met by an income stream in order to be an asset-test exempt income stream for the purposes of the Act.

These two instruments were both made on 22 December 2005, and registered on 13 October 2006. The Explanatory Statements provide no explanation for the delay in registering these instruments nor an assurance that no person, other than the Commonwealth, has been disadvantaged by this delay. The Committee has received a response and is seeking further advice from the Minister on these matters.

Senator Milne to move on the next day of sitting:

That there be laid on the table by the Minister for Fisheries, Forestry and Conservation, no later than 4 pm on 7 February 2007, all correspondence, including e-mails and file notes of telephone conversations between the Federal Government and the Government of Tasmania concerning the implementation of the 2004 election commitment by the Prime Minister (Mr Howard) to protect 18 700 hectares of old-growth forest in the Styx and Florentine valleys.

Senator Nettle to move on the next day of sitting:

That the Senate—

(a) notes recent statements by the United States Secretary of Defense, Mr Robert Gates, regarding the failure of Coalition forces in Iraq; and
(b) calls on the Government to acknowledge that Coalition forces are losing the war in Iraq and immediately withdraw Australian troops.

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

That the Senate wishes all Australians this season’s greetings and a happy New Year.

Senators Nettle and Bob Brown to move on the next day of sitting:
That the following bill be introduced: A Bill for an Act to remove recognition of the US Military Commissions intended to try Australian citizen David Hicks, from the Proceeds of Crime Act 2002, Removal of Recognition of US Military Commissions (David Hicks) Bill 2006.

Senators Stott Despoja, Troeth, Nettle and Carol Brown to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to prohibit misleading or deceptive advertising or notification of pregnancy counselling services, and for related purposes. Pregnancy Counselling (Truth in Advertising) Bill 2006.

LEAVE OF ABSENCE

Senator PARRY (Tasmania) (4.09 pm)—by leave—I move:

That leave of absence be granted to the following senators:

(a) Senator Adams on 4 and 5 December 2006, for family matters; and

(b) Senator Barnett from 4 to 6 December 2006, on account of parliamentary business overseas.

Question agreed to.

NOTICES

Postponement

The following item of business was postponed:


COMMITTEES

Community Affairs Committee

Extension of Time

Senator PARRY (Tasmania) (4.10 pm)—At the request of the Chair of the Community Affairs Committee, Senator Humphries, I move:

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.

CLIMATE CHANGE

Senator MILNE (Tasmania) (4.10 pm)—I move:

That the Senate—

(a) notes that:

(i) the tenth conference of the Parties to the United Nations Framework Convention on Climate Change 2004 declared that reflection on the ethical dimensions of climate change was urgent because, unless the ethical dimensions are considered, the international community may choose responses that are ethically unsupportable or unjust, and

(ii) Australia’s faith communities have declared climate change to be a moral and ethical issue; and

(b) calls on the Government to:

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

(ii) act accordingly.

Question agreed to.

MR DAVID HICKS

Senator NETTLE (New South Wales) (4.11 pm)—I move:

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 take immediate action to ensure that Mr Hicks receives either a fair trial or is returned to Australia.

Question put.
The Senate divided.  [4.15 pm]
(The President—Senator the Hon. Paul Calvert)

Ayes............  31
Noes.............  33
Majority.........  2

AYES

Allison, L.F.  Bartlett, A.J.J.
Brown, B.J.  Brown, C.L.
Evans, C.V.  Faulkner, J.P.
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.
Polley, H.  Ray, R.F.
Sherry, N.J.  Siewert, R.
Sterle, G.  Stott Despoja, N.
Webber, R.  * Wong, P.
Wortley, D.

NOES

Abetz, E.  Adams, J.
Bernardi, C.  Boswell, R.L.D.
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.  Ferravanti-Wells, C.
Fifield, M.P.  Heffernan, W.
Humphries, G.  Kemp, C.R.
Lightfoot, P.R.  Macdonald, I.
Macdonald, J.A.L.  McGauran, J.J.J.
Minchin, N.H.  Nash, F.
Parry, S.  * Patterson, K.C.
Payne, M.A.  Ronaldson, M.
Santoro, S.  Scullion, N.G.
Troeth, J.M.  Trood, R.B.
Watson, J.O.W.

PAIRS

Bishop, T.M.  Johnston, D.
Campbell, G.  Barnett, G.
Carr, K.J.  Vanstone, A.E.
Conroy, S.M.  Mason, B.J.
Crossin, P.M.  Brandis, G.H.

* denotes teller

Question negatived.

EUTHANASIA

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.18 pm)—I move:

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.

Question put.

The Senate divided.  [4.23 pm]
(The President—Senator the Hon. Paul Calvert)

Ayes............  6
Noes.............  49
Majority.........  43

AYES

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

NOES

Adams, J.  Bernardi, C.
Bishop, T.M.  Boswell, R.L.D.
Brown, C.L.  Calvert, P.H.
Carr, K.J.  Chapman, H.G.P.
Colbeck, R.  Coonan, H.L.
Crossin, P.M.  Ellison, C.M.
Ferris, J.M.  Ferravanti-Wells, C.
Fielding, S.  Forshaw, M.G.
Hogg, J.J.  Humphries, G.
Hurley, A.  Joyce, B.
Kemp, C.R.  Kirk, L.
Ludwig, J.W.  Lundy, K.A.
Macdonald, I.  Marshall, G.
McEwen, A.  McGauran, J.J.J.
McLucas, J.E.  Minchin, N.H.
Moore, C.  Nash, F.
Parry, S.  * Patterson, K.C.
Payne, M.A.  Polley, H.
Ray, R.F.  Ronaldson, M.
Scullion, N.G.  Sherry, N.J.
Sterle, G.  Troeth, J.M.
Trood, R.B.  Watson, J.O.W.

CHAMBER
BEIJING OLYMPICS

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.26 pm)—I move:

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

Question put.

The Senate divided. [4.28 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes………….. 7
Noes………….. 45
Majority………. 38

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

NOES
Adams, J.  Bernardi, C.
Bishop, T.M.  Brown, C.L.
Calvert, P.H.  Carr, K.J.
Chapman, H.G.P.  Colbeck, R.
Coonan, H.L.  Crossin, P.M.
Ellison, C.M.  Ferguson, A.B.
Ferris, J.M.  Fielding, S.
Fierravanti-Wells, C.
Hogg, J.J.  Humphries, G.
Joyce, B.  Kemp, C.R.
Kirk, L.  Ludwig, J.W.
Lundy, K.A.  Marshall, G.
McEwen, A.  McGauran, J.J.
McLucas, J.E.  Minchin, N.H.
Moore, C.  Nash, F.
Parry, S.  Patterson, K.C.
Payne, M.A.  Polley, H.
Ray, R.F.  Ronaldson, M.
Scullion, N.G.  Sherry, N.J.
Sterle, G.  Troeth, J.M.
Trood, R.B.  Watson, I.O.W.

Webber, R.  *  Wortley, D.  *
Webber, R.  *  Wortley, D.  *

* denotes teller

Question negatived.

MATTERS OF URGENCY

Iraq

The ACTING DEPUTY PRESIDENT (Senator Watson)—I inform the Senate that the President has received the following letter, dated 6 December 2006, from Senator Allison:

Dear Mr President,

Pursuant to standing order 75, I give notice that today I propose to move—‘That, in the opinion of the Senate, the following is a matter of urgency:

The need for the Australian Government to develop its own plan to withdraw all Australian troops not involved in personal security roles from Iraq as soon as practicable, given that:

(a) The March 2003 invasion of Iraq and Mr Bush’s 2005 ‘Victory in Iraq’ strategy paper has demonstrably failed and, as Secretary-General of the United Nations, Kofi Annan, former United States Secretary of State, Colin Powell, and former Iraqi Prime Minister, Ayad Allawi, have all said, Iraq has descended into civil war;

(b) The Bush Administration-appointed Iraq Study Group report, due 6 December 2006, is tipped to recommend that the United States begins a phased withdrawal of combat brigades in Iraq, starting in 2007 and ending in 2008;

(c) The United Kingdom announced its intentions to hand over security in Basra in 2007;

(d) A poll by the University of Maryland found 71 per cent of Iraqis now want the United States out of Iraq; and

(e) Former US Defense Secretary, Donald Rumsfeld, suggested that the United States should consider an accelerated draw down of bases.’

Yours sincerely

CHAMBER
Is the proposal supported?

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

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

Senator ALLISON (Victoria—Leader of the Australian Democrats) (4.33 pm)—I move:

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

The need for the Australian Government to develop its own plan to withdraw all Australian troops not involved in personal security roles from Iraq as soon as practicable, given that:

(a) The March 2003 invasion of Iraq and Mr Bush’s 2005 ‘Victory in Iraq’ strategy paper has demonstrably failed and, as Secretary-General of the United Nations, Kofi Annan, former United States Secretary of State, Colin Powell, and former Iraqi Prime Minister, Ayad Allawi, have all said, Iraq has descended into civil war;

(b) The Bush Administration-appointed Iraq Study Group report, due on 6 December 2006, is tipped to recommend that America begins a phased withdrawal of combat brigades in Iraq, starting in 2007 and ending in 2008;

(c) The United Kingdom announced its intentions to hand over security in Basra in 2007;

(d) A poll by the University of Maryland found 71 per cent of Iraqis now want the United States out of Iraq; and

(e) Former United States Defense Secretary, Donald Rumsfeld, suggested that the United States should consider an accelerated draw down of bases.

Three years and nine months ago, Australia joined the United States in invading another country based on a lie. Last month, finally, a US committee on intelligence said that there was little or no evidence to support claims by US intelligence of weapons of mass destruction or links between Iraq and al-Qaeda—something that weapons inspectors and intelligence analysts had been telling anyone who would listen well before the invasion. The strike was all over within weeks. Iraq not only had no weapons of mass destruction but had very little by way of military defence in the face of the firepower from the world’s most heavily armed country.

When you keep changing the rationale for pre-emptive strikes—one day weapons of mass destruction, the next day liberation of the people from an evil dictator—the problem is you never know when the job is done. Now the talk is about the need to protect the fledgling democracy we imposed on Iraq to stop Iraq tearing itself apart. Of course there are many ways of liberating a country. Usually the residents of that country rise up and liberate themselves. That is how America did it. Citizens also do it through non-violent, mass civil disobedience. That is how India did it. You can get the world to boycott a regime until they are so ostracised they capitulate. That is how South Africa did it. Or you can just wait them out and sooner or later the king’s legions simply leave. That is how Canada did it.

Against the advice of the United Nations Security Council and the Australian parliament, and despite the biggest mass demonstrations ever seen in our streets, our Prime Minister decided we would join in the invasion of Iraq—and it turns out that he made that decision well before he told us.
The Democrats strongly opposed this invasion of Iraq. However, we did recognise that once the bombing had stopped we had an obligation to help rebuild the massively damaged infrastructure. Three years and nine months on, the postwar death toll is higher than that caused by the invasion—all up an estimated 600,000 people. Heroic assumptions about bringing democracy have all but failed. Basic services are still a pipedream. The reputation of the United States has been sullied by Abu Ghraib and massacred civilians. Oil supply arrangements and lucrative rebuilding contracts have benefited the occupier. It is little wonder that our presence is doing more harm than good, regardless of how necessary our work might be, or might be seen to be. Fourteen hundred Australian soldiers are still there as an occupying force. According to the University of Maryland, more than two-thirds of Iraqis want us all out. Richard Woolcott, former secretary of the Department of Foreign Affairs and Trade, says that the world and Australia have been less safe since the invasion and occupation of Iraq and terrorism has increased in Iraq and beyond, including in Indonesia. Although it was a minor terrorist target before the invasion, he says Australia is now a much higher profile target than it was. Dr Scott Burchill says:

The war was lost 2 years ago, and the insurgents have been celebrating their victory ever since by attacking coalition troops and tormenting the civilian population. It cannot be won now by extending or intensifying the occupation. Many insurgents presumably want US, UK and Australian troops to stay on where they can be further humiliated. As US General Casey admitted last year, the presence of coalition troops fuels the insurgency. A withdrawal, on the other hand, removes its raison d’etre.

The invasion of Iraq has been very costly in humanitarian, economic and environmental terms too. The cost to Australia of the Iraq war will be $1.6 billion by the end of the year. Two thousand nine hundred and six American soldiers are dead. Luckily, Australia has had no deaths in action but hundreds around the world have died in retaliatory terrorism incidents. The cost to Iraq and innocent Iraqi civilians is incalculable. An estimated 655,000 civilians have died since the invasion. Amnesty suggests women are no better off now in terms of safety than under Saddam Hussein, with increased murders and sexual abuse, including by US forces. Former US Secretary of State, Colin Powell, and former Iraqi Prime Minister, Iyad Allawi, say that Iraq has descended into civil war. Kofi Annan says the situation in Iraq is worse than civil war, that the ordinary life for Iraqis is far more dangerous than it was under Saddam.

The majority of Iraqis see us as part of an occupying force that is delivering nothing but instability and violence and not liberation. Sixty-one per cent of all Iraqis support insurgent attacks on US troops. It should be a lesson to us that you cannot bring peace by force, that you cannot always impose the Western notion of democracy—with its many flaws—and that you cannot impose cultural change from without, particularly from a Western nation that is so clearly at odds with the norms and the religious bases of its warring factions. The international chorus has been joined by a growing number of Australians from across the political spectrum and within defence, but this government has nothing to say.

We will not be with President Bush and Tony Blair, who are meeting in Washington tomorrow to talk about a phased withdrawal, starting early next year. In a classified memo leaked over the weekend, former US defence secretary Donald Rumsfeld laid out a series of policy options that included a modest withdrawal of US troops. The UK defence
secretary announced on 27 November that the number of British troops in Iraq will be ‘significantly’ reduced by a ‘matter of thousands’ by the end of 2007. The Iraq Study Group report, due today, is tipped to recommend that America begin a phased withdrawal of combat brigades in Iraq, starting next year, saying this should pressure the Iraqi government to clamp down on sectarian violence.

The Prime Minister may be incapable of admitting his terrible mistake. Indeed, he said a week or so ago that he still holds the view that the decision to invade Vietnam was right. The least he can now do is show some clear leadership rather than wait for instructions from Mr Bush. We should not be stuck here waiting for the US to tell us what to do next, waiting for the next piece of hollow rhetoric from President Bush about victory and staying until the job is done. He is apparently not going to cut and run. Apparently Mr Howard said a couple of weeks ago that he would pass on ‘some ideas and information about how to reduce the violence in Iraq’ but what this is is anyone’s guess. Is he ready with a plan? It does not seem so. I hope Mr Bush gives the Prime Minister a heads-up before he announces the US withdrawal; otherwise we will still be there when everyone else has gone.

More violence never stopped violence. Only talking, diplomacy, agreement and sorting out the issues have delivered long-lasting peace. The Democrats say that the way to peace and stability in Iraq, as elsewhere, is to withdraw Australian troops other than personnel essential in protecting diplomatic staff, encourage engagement of the warring factions and the Iraqi people in ceasefire talks, and divert the billions that are currently spent on keeping troops in Iraq to rebuild essential services and schools and hospitals.

Senator LIGHTFOOT (Western Australia) (4.41 pm)—I do not think that in almost the decade that I have been here I have heard a more anti-American or un-Australian speech from anyone in this place. I want to disassociate myself from that speech by Senator Allison—that limp-wristed, hollow-chested, unwashed, left-wing rubbish that she has just spoken about. I find that speech absolutely and totally appalling. Let me go through some of these items that Senator Allison has brought before us as a matter of importance today.

She spoke of the need for the Australian government to develop its own plan to withdraw all Australian troops not involved in personal security roles as soon as practicable. I guess she changed ‘practicable’ from ‘possible’ at some stage. Of course there is always a plan to withdraw the troops—when the job is done. Senator Allison did not mention Saddam Hussein once, one of the most heinous killers this world has ever seen. She railed against America and Australia and those allied troops and those young men and women that went to Iraq to defend the rest of the free world. She talked about the Western democracy with all its flaws; has she talked about Saddam Hussein and the people that he has killed, the people he has been responsible for? Has she talked about the democracy that we are trying to establish in that part of the world? Has she talked to other people that come to this country from Iraq? Today in this country we have the Minister for Foreign Relations, the Hon. Falah Bakir, who is in this house at the moment, from the Kurdistan Regional Government—not in the chamber, but in the house. If she wished to talk to him, he would tell her something about Iraq. He would tell her about his own relatives that have been slaughtered in Iraq. He would tell her about the thousands of people that have been slaughtered there.
I have been to Iraq on several occasions and I must say that I have learned to have a great affinity and in fact a great affection for Iraqi people, knowing as I do that which they have suffered. I do find this one of the more disturbing speeches that I have heard from the left-wing rhetoric of Senator Allison. It was a disgraceful speech, one I am appalled by, and I am ashamed that it should have been spoken in this house. Senator Allison spoke of and condemned America and Australia, but she did not condemn Saddam Hussein. Hasn’t Senator Allison heard of that killer? Hasn’t she got something bad to say about the 20 or 30 years he spent in power and the hundreds of thousands of people he was responsible for killing? She never mentioned once his invasion of Kuwait and the tens of thousands of people that were maimed and lost their lives in that particular takeover of Kuwait by Saddam Hussein. She never mentioned once the appalling war between Iran and Iraq where thousands upon thousands of young men and women lost their lives in a conflict that ended in both parties drawing apart with no ground gained and nothing lost, an abortive situation there.

What does Senator Allison believe we should do to defend democracy, to defend our colleagues who have always come to our aid—the Americans? Does she honestly believe that after the appalling thing that happened on September 11 we should have done nothing? Does Senator Allison believe that the damage being done to Iraq is coming from people inside Iraq? She must know, if she reads anything at all about the truth of the Iraqi war, that the allies, of which Australia is a significant part, are attempting to rebuild the country. We are not in Iraq to fight and kill people. We are there to defend democracy, to re-establish the democracy that has been missing from Iraq for generations. We are there to assist in the rebuilding of Iraq and in the re-education of the Iraqi people, who suffered for so long under Saddam Hussein—but I heard no condemnation of that by Senator Allison.

I have been to Iraq and I have seen its magnificent renaissance, not around Fallujah or Tikrit or the green zone or the so-called Sunni triangle but in the state in the northern part of Iraq known as Kurdistan. Great things are happening there. There are more children at school in Kurdistan now than there have ever been before in Kurdistan’s history. For the first time in generations, in perhaps 100 years or more, Kurds are safe and secure within the boundaries that have been set by international recognition. There are new hotels being built in Kurdistan, particularly in Irbil and Sulaimaniyah. There are also new universities being built in those towns, Sulaimaniyah and Irbil, as well as in other places. There are more female university students than male students in the three universities in Kurdistan. There is a whole new world opening up. That new world opened up because Australia and America came to the aid of a people who were suffering the most appalling actions, hundreds and thousands of them losing their lives each month.

I have been to Iraq several times and I intend to go there again early next year, making it my fourth trip. I have been to Baghdad too. There are things that need to be done, but there are things that are impossible to do because of the insurgency. But these insurgents—these killers, these people who kill in the name of God—do not come from inside the Iraqi borders. They come from Pakistan, Iran, Saudi Arabia and, to a lesser degree, Yemen, Syria and Turkey—all of the countries that abut Iraq. They do not come from inside Iraq. They are people who are trained to kill. They are people whose brains have gone. They are people who, if there is a God, will never get into heaven under any circumstances. These people who kill in the name
of God are condemned to hell forever. They certainly will not get any rewards.

But Senator Allison did not say any of those things. She did not condemn Saddam Hussein, who—I might use the expression ‘God willing’—will shortly be despatched from this earth. She said that the Iraq Study Group appointed by the Bush administration is ‘tipped to recommend’. What does she mean by ‘tipped’? Does she have inside information? I do not think she has. I do not think any decent person who had inside information on Iraq would talk to Senator Allison. That she would use something as emotional and ambiguous in this urgency motion quite surprises me, even coming from Senator Allison.

She went on to say that the UK had announced its intention to hand over security in Basra next year. But Basra and Umm Qasr, in the south of the country, are not under threat like areas around the capital, Baghdad, or the birthplace of Saddam Hussein, Tikrit, or Fallujah, with its radical mullahs. Basra is a place where security could easily be handed over. And, once the job is done, all of the foreign troops—American, Australian and others—will be withdrawn. They will stay there until then, by invitation of course. South Korea has 3½ thousand people in the northern part of Iraq who are there at the invitation of the democratically elected Kurdistan Regional Government. There are lots of things to do in Iraq. Once the job is done, our plan is to withdraw. That has been said many, many times. To say, at the beginning of this motion, that there is no exit plan is completely and totally misleading.

Senator Allison also said that a poll by the University of Maryland in the United States found that 71 per cent of Iraqis want the US out of Iraq. What does Senator Allison mean by that? What was the standard of this alleged poll? Who did it question? Where was it done? Did it poll expatriate Iraqis? Did it poll Iraqis who are sympathetic to some other cause? Did it poll people who alleged they were Iraqi? How can Senator Allison have any credibility with a motion of this type and on this scale?

Lastly, Senator Allison said former US Secretary of Defense Donald Rumsfeld suggested that the US should consider ‘an accelerated draw-down of US bases’. Having been in the Army, I do not know what she means by that. The language, the interpretation and the words, to me, are strange—very strange. I understand what she wants to do: she wants to discredit Australia and the United States by bringing forward this motion here today. The motion has no credibility. It is appalling. I feel very sorry for the people of Iraq and I assure them that the sentiments that Senator Allison expressed here today have nothing whatsoever to do with the vast majority of people in Australia.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (4.51 pm)—I think we all agree with Senator Lightfoot that we are sorry for the people of Iraq but, unfortunately, he does not address any of the key issues about resolving the situation. Labor does not support this urgency motion. As it stands, the motion does not reflect the entirety of Labor’s policy position, but it is an important debate and I am happy to join it.

There are elements in the motion that reflect Labor’s position, and I am going to concentrate on some of those. Let me say from the outset: Labor has always been opposed to this war. We voted against Australian participation. We spoke out against the government’s refusal to abide by the United Nations charter and its defiance of the United Nations Security Council resolution, and we strongly opposed the Howard government’s haste to involve our military forces in the
war. Our position on the war has never changed. Our position is on the public record.

Labor’s position, and that of the millions of Australians who opposed this war, has been vindicated by the horrific events that have occurred every day since the invasion. The motion before us today is important because it asks the question: what is John Howard’s strategy for the future of Iraq? This question is vital as Iraq descends into a quagmire. It is a civil war. Iraqis are dying at a rate of 100 a day; the Pentagon has estimated that over 50,000 have died as a result of the war. According to the Lancet, perhaps 600,000 Iraqis are dead from the war and its effects.

Iraq has a population of some 26 million people. We know that over 1.6 million Iraqis have been internally displaced and an additional 1.8 million have fled their homeland. The security of the civilian population has clearly diminished—and it is not enough to say that Saddam Hussein was a butcher; we have to deal with the reality now. Overnight, the new US defence secretary, Robert Gates, testified that he believed the war was being lost. His statement before congress was not a surprise; but it is welcome for its acknowledgement of the reality of the situation facing the Iraqi people and the coalition.

Of the 18 provinces in Iraq, the handover of security responsibilities has only occurred in two provinces despite a police force of some 130,000 trained police, other police units of 176,000 and an army of 130,000. The multinational force in Iraq of some 140,000 troops and the trained Iraqi security forces have failed to curb an insurgency by Sunni Muslims, and it has failed to curb the violence by Shiite Muslim militias linked to religious parties in the majority Shiite dominated government.

The United States is moving to reassess its Iraq strategy. Secretary Gates’s testimony came a day before the bipartisan Iraq Study Group, headed by former Secretary of State James A Baker, releases its recommendations. Mr Baker briefed President Bush on the findings on Tuesday, and we can anticipate what the Iraq Study Group will recommend. Secretary Gates, of course, was a panel member of the Iraq Study Group but quit after President Bush nominated him to become the new defence secretary.

We know that two days before resigning as defence secretary, Donald Rumsfeld informed President Bush that the US strategy was not working and adjustments needed to be made. This is the man that helped plan and engineer the war. He referred to possible troop withdrawals and an accelerated drawdown in the number of security bases in Iraq: from 55 bases to 10 to 15 bases by April 2007 and to five bases by July 2007.

Unlike the United States, John Howard is refusing to face up to the reality of our Iraq engagement. Many Australians now acknowledge that this government is guilty of changing its story on Iraq to suit its political interests, not the Australian national interest. Many Australians now reject the government’s glib use of slogans such as ‘cut and run’ or ‘stay till the job is done’, which are still used to justify our participation in the quagmire in Iraq.

The core issue in the urgency motion is correct. It refers to the strategic plans that the government has for Iraq’s future. It is about what has been discussed with other allied governments and it is about working out the priority of our efforts, our objectives and the manner of achieving them. It is about the clarity of the message, not the ambiguity of concealment.

As Kevin Rudd said some weeks ago, the question is how this government proposes to
stabilise Iraq’s security and how this government will bring about political arrangements in Iraq that give the Iraqi people hope for the future. It is about John Howard’s plan for overcoming the problems that were generated from the effects of the war and the abject failure of postwar planning.

Many Australians now accept that this government was guilty of taking Australians to war for the wrong reasons. There were no weapons of mass destruction. The prewar intelligence was flawed. There was no reconstruction plan for the postwar period. Many Australians now criticise John Howard’s decision to commit our troops to the war because it has made Australia a bigger target for terrorists. The evidence is clear that even more jihadists are being trained in Iraq—trained to unleash terror on any part of the world in the years to come. The Iraq war has generated a more militant Islamism, which may never have eventuated in different circumstances. But the Prime Minister refuses to admit that this is the outcome of the Iraq war and to accept any responsibility for this.

So where is the government’s strategy for Iraq’s future? It has definitely not been made clear by John Howard. The Prime Minister recently admitted that ‘democracy has a reasonable chance if that is the wish of the Iraqi people’. That is a long way and a huge back-down from the euphoric speeches on how the democratisation of Iraq in the postwar period would lead to the eventual democratisation of the Middle East. Remember those heady days? No-one talks that talk anymore.

On 19 October this year, Mr Howard indicated that Iraq may turn out to be a split state. This was probably the first public utterance from our Prime Minister that acknowledged the reasons for the civil war and the chaos that has engulfed Iraq. He recently stressed on ABC radio that ‘a signpost for determining Australia’s troop withdrawal will be the handover of security responsibility to the Iraqi forces’. What does that mean? Does this mean after the Iraqi security forces have taken responsibility for eight, 10, 12 or 18 provinces? Why doesn’t he inform the nation? It is time that he laid out for the Australian people what is to happen and when, and what the conditions of play are.

As the urgency motion indicates, during the next week the US administration may be forced to review and initiate a new Iraq strategy. This will come about because of the convergence of the Iraq Study Group report with the Pentagon’s ongoing internal revision of the operational and tactical use of US forces in Iraq. This convergence comes after the UK government confirmed that the security of Basra will be handed over to the Iraqis next year.

Where is our government in all this? Where is the Australian plan? Have discussions occurred with our allies? I do not know. Iraq has certainly entered a new phase. So how has the Howard government responded? On Monday and Tuesday this week Labor senators, including me, asked Senator Minchin these very questions. On Monday he responded by saying that Australia is:...

On Tuesday, Senator Minchin reverted to the familiar ‘staying the course’ assertion, with a number of ‘cut and runs’ thrown in for good measure and the declaration that the ultimate withdrawal of Australian troops ‘will not be based on some arbitrary calendar’.

Well, we know what it will not be, but what will it be? What is the plan? Or is it in fact the case that we are just waiting for the Americans to tell us? The aim, Senator
Minchin added, is to bring ‘peace, order and good government to the people of Iraq’. Very laudable, but there was no mention that the Iraqi nation should be either unified or split before the withdrawal of our forces. There was no clarification of what the security of the people means in military terms, let alone political terms, and there was no indication of how good governance could be achieved for the Iraqi people. Indeed, the lack of specifics shows that the Howard government is playing the waiting game: waiting to see what others do, waiting to see how the political and military landscape will change before deciding on a course of action, waiting to assess the political fallout domestically. So much for the national interest.

It is time for the Howard government to face up to the reality in Iraq. It is time for the government to make some tough decisions. What is John Howard’s and the Liberal government’s plan for our troops in Iraq? It seems to me that there isn’t one.

**Senator NETTLE** (New South Wales) (5.00 pm)—The Australian Greens have opposed the war in Iraq from the outset and all the way through. I think we are the last party standing in terms of having that consistent position right the way through. We have seen wavering views expressed by the opposition and by the Democrats, but the Greens are pleased that more and more people are joining us in our view that the war in Iraq is a disaster and has always been a disaster. Indeed, just last month we saw millions of Americans vote that way. What we saw in the United States in their congressional elections was millions of Americans saying: ‘Wrong way, George Bush. The war in Iraq is a disaster.’

Americans know it and Australians know it, but the Australian government refuses to accept the inevitable. It refuses to take off the ideological blinkers and see the reality on

the ground in Iraq—the quagmire that we are stuck in. It refuses to acknowledge the hundreds of thousands of Iraqis who have lost their lives because of this folly. That is the position of the Australian government. It refuses to accept the mistakes it has made and the responsibility that it bears for those mistakes.

In the United States, as a result of those millions of Americans voting to say that George Bush has done the wrong thing in Iraq, we have seen some change in leadership. We have seen a new US defence secretary. Donald Rumsfeld, who created the disaster, has been kicked out, and now we have a new US Secretary of Defense, Robert Gates, whose job I am sure none of us envies, coming in and trying to fix the disaster that has been created by the Bush administration and by Donald Rumsfeld. I do not know very much about this guy, but as he is a former head of the CIA we probably do not share the same ideological views.

We may not share the same ideological views, but I can say one thing for the new US defence secretary: at least he is honest. Overnight, we heard the new US Secretary of Defense being asked a number of questions by the congress. He was asked whether or not, given the information we know now, it was the right thing for America to have invaded Iraq. He did not say, ‘Yes, I’m a lackey of the Bush administration and I’ll say yes.’ He did not say that. He refused to say that they had made the right decision by going into Iraq. What he said was: ‘History will judge them.’

And history will judge this decision. History will judge the Bush administration, and history will judge John Howard’s government. History will judge whether or not these over 100,000 Iraqis should have died. History will ask: did the right thing occur? And I predict that history will find that the position
that my party, the Australian Greens, has taken from the outset has been the correct position to take on this issue. It is a moral position; it is a just position—that is, that hundreds of thousands of Iraqis should not have to die.

**Senator Ferguson**—Don’t exaggerate.

**Senator Nettle**—We have seen a number of estimates for how many Iraqis have died. They range from 150,000—the figure put out by the Iraqi government that this government supports—up to 650,000. Wherever you choose to put it, the Greens say that it is, at the very least, 150,000 too many Iraqi lives. That is why the Australian Greens have been consistent in our position in opposing this war in Iraq.

What we need now is some honesty from the Australian government. I asked the Chief of the Defence Force at estimates whether or not we were losing the war in Iraq, and he did not give the same honest answer that I think we saw overnight from the US defence secretary. What we are seeing in the United States is an acknowledgement of the policy failure and an acknowledgement that we are losing the war in Iraq. I will be moving a motion tomorrow on behalf of the Australian Greens which calls on the government to acknowledge the inevitable, take off those ideological blinkers and see what the rest of the world has seen: Iraq is a disaster. *(Time expired)*

**Senator Ferguson** (South Australia) (5.06 pm)—I can say this much: at least the Leader of the Opposition in the Senate made a measured statement, stating his party’s position, which I do not agree with, but at least the contribution that he made was rational. I will make some comments about it later. But I was appalled at Senator Allison’s contribution. It was full of mistruths. I have heard the Democrats described as ‘the fairies at the bottom of the garden’. I guess the best thing to say is that you would have to be a fairy at the bottom of the garden to believe some of the things that Senator Allison said.

Also, the only thing that I can draw from both Senator Allison’s contribution and Senator Nettle’s contribution is that they wish that Saddam Hussein was still in power in Iraq. I can draw no other conclusion. Because Saddam Hussein only murdered 300,000 or 400,000 people—cold-blooded murder! I am not surprised that Senator Nettle is leaving the chamber because there is one thing they cannot deny—that had these events not taken place there is nothing surer than that Saddam Hussein would still be in power and he would still be killing people at the rate that he was killing them before. So your 600,000 could be anything up to one million. Nobody believes that figure of 600,000.

As a matter of fact, at estimates the Chief of the Defence Force was asked, ‘Is there any official count of people who are killed in the Iraq war?’ I think Senator Nettle may have been there when that question was asked. The Chief of the Defence Force said, ‘No, there is no official count, but the most believable estimate is around 50,000.’ And you say over 600,000, because you only believe what you want to believe, Senator Nettle.

We had Senator Allison saying that they could have got rid of the Saddam Hussein regime by civil disobedience. Has she got any concept of what civil disobedience is and how people who used civil disobedience were treated in Saddam Hussein’s Iraq? They were murdered. They were tortured. They were put through all forms of torture. And Senator Allison came here and said they should have overthrown the Saddam Hussein government by civil disobedience! I have never heard anything so ridiculous in my life.
She then talked about other methods and how other countries had managed to obtain their independence. I think she referred to the American Civil War. Before the American Civil War took place you did not have a dictator who was killing people at a rate of knots, which is what happened in the time of Saddam Hussein. I cannot believe some of the things that Senator Allison was saying in trying to justify her case.

She talked about the humiliation of Australian troops. It is an insult to say that our troops have been humiliated. Our troops have never been humiliated in Iraq. They have fought with distinction in Iraq. I am sure Senator Nettle would not go and see them, but in fact those who are there and those who have returned have all fought with distinction. They have never been humiliated. They have represented their country very proudly. It is an insult to talk about the humiliation of Australian troops.

Senator Allison talked about retaliatory terrorism. Retaliating to what? Was 9-11 retaliatory terrorism? It happened two years before the Iraq war even occurred. Was the Bali bombing retaliatory terrorism? It happened before the Iraq war even started. So we have this ridiculous statement from Senator Allison about retaliatory terrorism against the Western world when the most significant of these events started before the Iraq war even started. What a ridiculous argument from Senator Allison!

She talked about a whole range of other things. She mentioned Richard Woolcott and a whole range of other people, most of whom are leading left-wing commentators. Senator Allison dragged out those commentators that suit her argument—like most people do—but most of them are unbelievable.

I congratulate Senator Evans on his measured response. I am pleased to see that the Labor Party are not supporting this urgency motion. He said that the position of the Labor Party has been vindicated by the events that have taken place since the termination of the initial part of the Iraq war. If the Labor Party believe that their position has been vindicated, it is also fair to assume that they would have been happy to see Saddam Hussein stay in place, because there is no way that he could have been driven from office and taken out without these events taking place.

I accept Senator Evans’s arguments that from the start the Labor Party have never supported the Iraq war. They did not like the reasons for going. I accept the arguments that he put.

Senator Faulkner interjecting—

Senator FERGUSON—I do not know whether you heard him, Senator Faulkner. He gave very reasoned arguments but if you believe that the Labor Party position has been vindicated it stands to reason that you would have been happy to see Saddam Hussein remain in power. I would not have.

Senator Faulkner—Regime change was never the reason for the war.

Senator FERGUSON—I did not say anything about the reasons, but if you say that you believe that you have been vindicated then you must believe that Saddam Hussein should have stayed there.

I saw Mr Rudd on television some three or four weeks ago. I saw him asked four times a simple question about the ramifications of an immediate withdrawal, and four times Mr Rudd refused to answer the question of what would be the ramifications of an immediate withdrawal. So there is no point in coming into this chamber and criticising what the government have done if there are no other plans by the alternative government as to what their position would be.
The other thing that has been overlooked is the progress that has been made in Iraq in that time. The insurgents, and the killing of Arabs by other Arabs—those insurgents who come from outside Iraq as suicide bombers—receive all of the publicity. Think about all of the progress that has been made. I could name tens of projects that could only have taken place because the coalition of the willing is there protecting those who are building these projects for the people of Iraq.

There have been new water projects, where 4.2 million people can now receive potable water which they did not have before. There have been 36,000 new teachers trained. That would not have happened without the regime change and without the coalition of the willing being there. There have been 154 health facilities built. We never hear the Democrats or the Greens talk about the good things that are happening in Iraq at present. (Time expired)

Senator FAULKNER (New South Wales) (5.14 pm)—We have just heard a speaker representing the government tell us about all the progress that has been made in Iraq in recent times, all the good things that are happening there. Let us have a look at the record. Let us try to see whether we can establish what is occurring in Iraq. These are some things that have happened in this calendar year. On 3 August, the outgoing British Ambassador to Iraq, William Patey, had a memo which was leaked. It was his final memo to the UK government. Ambassador Patey said:

The prospect of a low intensity civil war and a de facto division of Iraq is probably more likely at this stage than a successful and substantial transition to a stable democracy.

On 3 August, two senior generals warned the US Senate Committee on Armed Services about the risk of civil war. General John P Abizaid, commander of US military operations in the Middle East, said:

The sectarian violence is probably as bad as I’ve seen it … If not stopped, it is possible that Iraq could move toward civil war.

The Chairman of the US Joint Chiefs of Staff, General Peter Pace, said:

We do have the possibility of that devolving to a civil war.

Is this the progress that Senator Ferguson is telling us about? Are these the good things that the government speakers wax lyrical about? Large numbers of tortured corpses, often headless and with hands bound, are being found on an almost daily basis in Baghdad, despite the launch of a joint US-Iraqi security operation in Baghdad, Operation Together Forward, on 7 August involving 12,000 US and Iraqi soldiers.

A secret intelligence report dated 16 August says that the US has lost control of Anbar province and there is almost nothing the US can do to regain control. The report that was leaked to the Washington Post finds that the Iraqi government institutions are inoperative and that the major political force in the province is al-Qaeda. Is this progress? Are these good things that the government tells us about? A Pentagon report to congress dated 1 September found:

Concern about civil war within the Iraqi civilian population and among some defense analysts has increased in recent months. Conditions that could lead to civil war exist in Iraq.

A United Nations report to the Security Council dated 1 September 2006 said that Iraq was now the most violent conflict in the world and that, on average, 100 civilians a day were being killed as a result of the conflict. There were 3,149 civilians killed in June and 3,438 civilians killed in July. Since February 2006 the United Nations believes that 200,000 people have been displaced. The United Nations warns that, if these
trends continue, ‘The social and political fabric of the country could be endangered.’ Is this the progress that government speakers tell us about? Are these the good things the government speaks of?

According to a 1 September 2006 Pentagon report to the United States congress, Iraqi casualties increased by 50 per cent over the previous three months and insurgent attacks increased by 15 per cent. On 8 September this year the US Senate Intelligence Committee released a report which found that the US government knew before the war that there were no links between Saddam Hussein and al-Qaeda. On 21 September the United Nations released a report on the use of torture in Iraq saying that the use of torture today was worse than during Saddam Hussein’s regime. Is this the progress and good things that the government speakers speak of?

On 24 September the New York Times and Washington Post published reports of a leaked US National Intelligence Estimate, prepared by 16 intelligence agencies, which showed that the war in Iraq had increased the global terror threat. On 27 September the US released a declassified version of the key findings of the National Intelligence Estimate which said that Iraq had become a cause celebre for jihadists and that al-Qaeda was using the conflict to train recruits for other theatres. This is the progress and the good news that the government speaks of.

On 29 September former UK foreign secretary Jack Straw described the situation in Iraq as ‘dire’ and said that the US had made ‘mistakes’ in Iraq because it had not followed the advice of Colin Powell. On 11 October 2006 the British medical journal the Lancer published research conducted by the John Hopkins School of Medical Research showing that up to 654,965 Iraqi civilians had died as a result of the war in Iraq and that 601,000 of these had died as a result of violence.

On 13 October, the United Kingdom Army Chief of Staff, General Sir Richard Dannatt, told the Daily Mail that Britain should get out of Iraq soon and that the presence of foreign troops in Iraq was exacerbating the situation. Is this the good news and progress that government speakers have the hide to come in here and talk about?

On 15 October, it was reported that General Cosgrove had said that he had apologised to the Australian Federal Police Commissioner, Mick Keelty, for publicly disagreeing with his comments on involvement in Iraq increasing the terror threat. General Cosgrove said that it was ‘pretty obvious’ that the jihadist movement had been energised by the war in Iraq. Shia politicians have put forward laws proposing the break-up of Iraq into autonomous provinces. The UN Secretary General has said, following a tour of the Middle East, that most leaders in the region believe that Iraq is a disaster and that Iraq is having a negative impact on their own security. George Bush declared that Iran was part of the ‘axis of evil’, but the invasion and its aftermath have driven Iraq closer to Iran and to religious extremism.

And just today we hear from Robert Gates, the man President George Bush has chosen to replace Donald Rumsfeld as US defence secretary after the recent US election made it inevitable that changes would have to be made to the administration’s policy in Iraq. At his Senate confirmation hearing, Mr Gates was asked by Senator Levin, ‘Mr Gates, do you believe that we are currently winning in Iraq?’ Robert Gates replied, ‘No, sir.’ He was asked by Senator McCain, ‘We are not winning the war in Iraq; is that correct?’ He replied, ‘That is my view, yes, sir.’ This is not progress. This is not good news. And these are all the reasons it is time for the
Australian government to face up to the reality and the responsibility and work out an exit strategy.

Senator PAYNE (New South Wales) (5.24 pm)—I have heard some parts of the debate this afternoon. There is an interesting contrast amongst the speakers, in some way—a significant number of conflicting views. I guess, to a degree, that makes this place go round. But, when you are discussing an issue like the motion before us, I think it is probably more constructive to make the place go round, as it were, with less shrill and less political invective and perhaps with a more considered approach to some of the issues that are on the table before us.

I did listen to the remarks of Senator Evans, as indeed did Senator Ferguson, who remarked on that himself. I was interested in the approach and tone that Senator Evans took. I listened to the conclusion of Senator Faulkner’s remarks this afternoon. I do not think I would ever be described—hopefully at least not by those making a constructive description of me—as delusional, so I am not delusional about this issue either. I, for one, am not going to stand up in this chamber and pretend that all is good in Iraq in 2006, because that is clearly not the case. There is evidence clearly to the contrary, and it has been delivered to the chamber in a range of ways this afternoon.

But one of the bigger questions that I think faces us in addition to those horrors which are on the record is: what choice do we have? What choices are we left with if we contemplate leaving Iraq to those who would now perpetrate the acts that have been described, albeit laced with invective, by some of the other speakers this afternoon? What is the choice if our government remains fully committed to the security and the stability of Iraq? Our only choice is to stay and do the job we undertook to do some years ago now.

What is the choice if there is still a job to be done in Iraq? And clearly there is. The choice is not to leave. To leave now would be to abandon the Iraqi people completely to the sorts of things that Senator Faulkner was placing on the record this afternoon. That is not a choice that I am prepared to contemplate.

The Prime Minister said towards the end of last month that the path ahead in Iraq lies in accelerating as much as possible the training of the Iraqi military forces and letting them assume as much as possible of the day-to-day security responsibility. And that is exactly what we are doing. That is exactly the commitment we have made in so many places, enabling the Iraqi security forces to do the job that obviously needs to be done but that cannot be done overnight. We are trying to create a strong security force out of a debilitated military and in many cases horrifically debilitated country and community, and that does not happen simply or easily.

If you talk about a timetable for withdrawal, what are you going to do? Are you going to say, ‘By next Easter that is it—we are out of here and that is the end of the story’? It does not work like that. It works on progress—the sorts of things that Senator Faulkner was referring to so disparagingly. It strikes me as ironic that you can be that disparaging about the ability of children to attend a school as a mark of progress. It strikes me as ironic that you can talk about freedoms advanced for women in those terms and in that context, even if you do not cite them expressly, because they are part of the marks of progress to which we refer. An independent press, the capacity to pay teachers to do the job of teaching children—I will not belittle those as marks of progress as others here have this afternoon in the context of this debate.
It is true to say, and I will agree, that horrors perpetrated on the community by insurgents and terrorists are not great marks of progress. They are not. But in the overwhelming number of provinces in Iraq there is significant progress. There are children enrolled in high schools and there are schools rebuilding so they can at least physically attend them after decades of horrors were wrought on them. Are we supposed to say, ‘That is it—we are going’? I do not think that is appropriate.

Look at the role that the Australian defence forces are playing—let us look at just one: the overwatch role in Dhi Qar province, where, at the end of October, we formally took over the operational overwatch role in southern Iraq from the Italian forces. That followed the transition of security responsibility in that province to the Iraqi security forces in the previous month.

That is the second province to transfer to Iraqi control after Al Muthanna province made the transition in July. Australia’s undertaking is to continue to support the Iraqi government and its security forces until such time as they can provide for the country’s security. That is an appropriate undertaking in this course in which we are engaged.

The Overwatch Battle Group (West) comprises about 490 Australian Army personnel. It is based at the Imam Ali Air Base in Tallil and it conducts the operational overwatch task for both Al Muthanna and Dhi Qar provinces. Those troops are required to provide support to the Iraqi security forces in a crisis if they are requested to do so by the Iraqi government, running their own business in that case, and the Multinational Force Iraq. That involvement is, of course, also subject to Australian government approval. The ADF will continue training Iraqi army personnel at the basic training centre in Tallil.

What frustrates me most is that, if you come to the debate sensibly and intelligently, I do not understand how you can say now, in December 2006, that because there are still significant problems—as there always have been with the building and creation of nations in the history of the world—it is appropriate for us to consider withdrawing. I do not understand how you can say that it is appropriate for us to disparage progress because it is undermined by some defeats.

**Question put:**
That the motion (Senator Allison’s) be agreed to.

The Senate divided. [5.36 pm]
(The President—Senator the Hon. Paul Calvert)

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**AYES**

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

**NOES**

Abetz, E. Adams, J.
Bernardi, C. Bishop, T.M.
Boswell, R.L.D. Brandis, G.H.
Brown, C.L. Calvert, P.H.
Carr, K.J. Chapman, H.G.P.
Colbeck, R. Coonan, H.L.
Crossin, P.M. Eggleston, A.
Ferris, J.M. * Fifield, M.P.
Forshaw, M.G. Heffernan, W.
Hogg, J.J. Humphries, G.
Hurley, A. Hutchins, S.P.
Joyce, B. Kemp, C.R.
Kirk, L. Lightfoot, P.R.
Ludwig, J.W. Lundy, K.A.
Macdonald, J.A.L. Marshall, G.
McEwen, A. McGauran, J.J.J.
McLucas, J.E. Minchin, N.H.
Moore, C. Nash, F.
O’Brien, K.W.K. Parry, S.
Senator ROBERT RAY (Victoria) (5.39 pm)—I present the 13th report of 2006 of the Senate Standing Committee for the Scrutiny of Bills. I also lay on the table Scrutiny of Bills Alert Digest No. 15 of 2006, dated 6 December 2006.

Ordered that the report be printed.

Senator ROBERT RAY—I move:

That the Senate take note of the report.

In tabling the committee’s Alert Digest No. 15 of 2006 and 13th report of 2006, I wish to draw the attention of the Senate to the amendments made to the Defence Legislation Amendment Bill 2006 and proposed amendments to Anti-Money Laundering and Counter-Terrorism Financing Bill 2006. These amendments raise no issues within the terms of reference of the committee. However, in both cases, the amendments address concerns raised by the committee in earlier Alert Digests and reports and the committee wishes to acknowledge the positive response taken by each minister in response to these concerns.

In commenting on the Defence Legislation Amendment Bill 2006, the committee noted that the provision for the constitution of a military jury, and the manner in which questions are to be determined, differed substantially from the constitution and operation of civilian juries in criminal matters. The bill provided that the classes of offences to be heard by a military judge and jury could potentially include offences of treason, murder and manslaughter, and that a military jury was to be composed of six members and was to determine questions of guilt on the agreement of a two-thirds majority. The committee expressed concern that this represented an infringement of individual rights and sought advice of the minister as to the extent to which the rights of the individual had been balanced against the particular needs of the military justice system in drafting these provisions.

The minister responded that he had noted the comments of the committee and had instigated a specific amendment to address the concerns raised. The committee notes that on 29 November 2006 the House of Representatives amended this bill to provide that there will be a 12-member jury in a trial for a class 1 offence and a six-member jury in a trial for a class 2 or class 3 offence. These amendments further provide that a decision of a military jury is to be unanimous or by a five-sixths majority in certain circumstances. On behalf of the committee, I would like to thank the minister for this positive response to the concerns of the committee.

In commenting on the Anti-Money Laundering and Counter-Terrorism Financing Bill 2006, the committee expressed concern about certain strict and absolute liability offences. In relation to the offences of strict liability, the committee was concerned that the explanatory memorandum to the bill did not set out a clear justification for the imposition of offences. The committee noted that A guide to framing Commonwealth offences, civil penalties and enforcement powers advises that:

Strict or absolute liability should only be used in an offence where there are well thought out grounds for this.
The minister responded with a detailed and clear explanation for the inclusion of strict liability in each case and undertook to make a correction to the explanatory memorandum to include this explanation. The committee notes that the minister has since circulated a correction to the explanatory memorandum. The committee also notes that the minister has circulated a correction to the explanatory memorandum on the comments of the committee on the abrogation of the privilege against self-incrimination in certain provisions. The committee expressed concern that, whilst the explanatory memorandum explained the effect of those provisions, it did not justify their inclusion.

Finally, the committee expressed concern at the inclusion of certain absolute liability offences and sought advice from the minister as to the justification for their inclusion. The minister responded that the provisions were intended to address a knowledge of law issue. The committee was not persuaded that this was sufficient justification for the inclusion of absolute liability offences and sought further advice from the minister. The minister responded that, after considering the comments of the committee, he accepted that the application of absolute liability in these particular provisions appeared inconsistent with applying strict liability to other provisions in the bill with the knowledge of law issues. The minister has undertaken to amend these provisions, replacing the application of absolute liability to the relevant elements with strict liability. Again, on behalf of the committee, I would like to thank the minister for his constructive responses to the concerns of the committee.

Question agreed to.

Senators’ Interests Committee Report

Senator McEWEN (South Australia) (5.45 pm)—On behalf of Senator Webber, on behalf of the Standing Committee of Senators’ Interests and in accordance with the Senate resolution of 17 March 1994 on the declaration of senators’ interests, I present the Register of Senators’ Interests, incorporating statements of registrable interests and notifications of alterations of interests of senators lodged between 20 June and 4 December 2006.

Public Works Committee Report

Senator TROETH (Victoria) (5.45 pm)—On behalf of the Parliamentary Standing Committee on Public Works, I present the committee’s 19th report of 2006, Extension and accommodation upgrade to the existing chancery of the Australian Embassy in Beijing, China. I move:

That the Senate take note of the report.

I seek leave to incorporate my tabling statement in Hansard.

Leave granted.

The statement read as follows—

This report addresses the extension and refurbishment of the Chancery at the Australian Embassy, Beijing at an estimated cost of $A21.61 million.

China is increasingly occupying a more important position in Australia’s international relations. It is a relationship that is fast expanding, and is based on the complementary nature of our economies. The Australian Government also recognises the potential gains from our cooperation with China in many forums, and the role that China plays in the North Asian region.

Our presence in China must reflect the importance we place on that relationship, and that includes the Australian Embassy, Beijing.

The current Chancery building was constructed by the Australian Government in 1992. Since then pressures on office accommodation arising from increasing numbers of staff have produced a situation whereby it is now a priority for major works to be undertaken to address the needs of
attached agencies as well as staff of the Department of Foreign Affairs and Trade.

To illustrate this point; when the Chancery was first occupied in 1992 staffing included 30 Australia-based officers and less than a dozen locally-engaged staff. Currently there are 47 Australia-based staff and 200 local employees.

Although the Department has sought to keep pace with the growth in staffing, including the construction of a temporary annex, the conversion of unused staff apartments to office space and an auditorium in the main chancery building to office space, overcrowding of accommodation has remained an issue.

The proposed extension will rectify the current circumstances. It is intended that the temporary annex and two staff apartments that have previously been converted to office accommodation will be demolished, and replaced with a new three level extension to the existing Chancery of 2,400 square metres. In addition to the construction works, new mechanical electrical and plumbing services will be provided to the new extension and existing services upgraded.

The Department has also informed the Committee that some ancillary works including security and improved energy conservation measures would be implemented that would also offer considerable improvements in the conditions that previously existed. These works will be undertaken within the approved estimate.

The Committee sought assurances that the proposed works would meet future staffing requirements.

Clearly the issue of future staffing growth is problematic for the Department. In an overseas environment, it is seldom possible to lease secure premises that offer facilities comparable to those available in Australia. However, the departmental position was that the new extension and the refurbishments to be undertaken of the existing Chancery building will, based on current information, offer a solution to the problems experienced in the past. Although acknowledging that it had little control over the numbers of staff posted to the Embassy in Beijing the Department explained that an additional 100 square metres of floor space had been allowed for that could be used for additional offices.

In terms of the timing of the proposal the Committee expressed some reservations over the delivery of the new works – particularly since final occupancy would not occur until October 2010. The Department informed the Committee that this timetable was due to a number of external factors including protracted negotiations over the possibility of the Embassy being located to another and larger site which was rejected on the grounds of costs to the Australian government in redeveloping a new site, and a moratorium imposed on major building works other than those associated with the Beijing Olympics, by the Chinese authorities.

Overall the Committee was satisfied that the proposed works represent value for money. Taking into account the extent of the work proposed, the improvement in working conditions that will result, and delivering an improvement in available office space for staff of the Embassy, both locally-engaged and Australia-based, the proposal represents money well-spent.

On behalf of the Committee, I recommend that the extension and refurbishment of the Chancery at the Australian Embassy Beijing proceed at an estimated cost of $21.61 million.

I wish to thank my Committee colleagues and all those who assisted with the public hearing.

I commend the Report to the Senate.

Question agreed to.

Treaties Committee

Report

Senator TROOD (Queensland) (5.46 pm)—On behalf of the Joint Standing Committee on Treaties, I present report No. 81, Treaties tabled on 8 August 2006 (2). I move:

That the Senate take note of the report.

I seek the opportunity to make a few remarks on the report. Report 81 contained the findings, binding treaty action and additional recommendations of the committee’s review of two treaty actions tabled in parliament on 8 August 2006 relating to China.

Together, the agreements have the same effect as the provisions contained in Australia’s other nuclear material safeguards agreements. They provide assurances that Australian uranium and its derivatives will be used exclusively for peaceful purposes and not diverted to nuclear weapons or other military purposes. These agreements form part of Australia’s obligations under the International Atomic Energy Agency’s safeguards system, which, of course, is aimed at the non-proliferation of nuclear weapons. The agreements allow Australia’s uranium industry to expand its export market while helping China to meet its future energy requirements. The agreements also strengthen the Australia-China relationship and foster continued dialogue with China on nuclear related issues.

The committee received evidence that China is expecting to quadruple its nuclear energy consumption by 2020 and is seeking to secure a long-term source of uranium to satisfy its expanding nuclear energy program. In addition, the Australian uranium industry was interested in exporting uranium to China but was denied access to this export market due to long-standing Australian government policy. This led Australian mining companies, together with Chinese government officials, to approach the Australian government in 2004 to request that the Australian government consider negotiating a bilateral safeguards agreement with China. The treaties reviewed in report 81 were the result of these negotiations.

The short-term impact of the Nuclear Material Transfer Agreement is expected to be an increase in the volume of uranium exported from Australia by existing uranium producing companies, agents and agencies. In the medium to long term, the committee found that the impact of the agreements was likely to be an increase in uranium production leading to an expansion of Australia’s uranium industry. However, the committee found that whether Australia’s uranium industry can expand its production is based on commercial decisions by mining companies, and approvals by relevant state, territory, and federal governments.

The committee’s review of these treaty actions focused on whether the treaties are in Australia’s national interest. Accordingly, the committee has concentrated on the main issues arising from the treaties: the impact of the sale of uranium to China, and safeguarding the use of Australian uranium. Where appropriate, the committee has also provided information on issues arising from the indirect impact of the treaty actions, namely environmental and social issues.

The committee received evidence about a number of public concerns relating to the lack of transparency and inadequate governance structures within China as a declared nuclear weapon state. In addition, the weaknesses of the IAEA’s verification and safeguards system were also highlighted.

The committee also received evidence about the negative environmental impact of nuclear energy. Alternative renewable forms of energy production instead of nuclear energy were suggested, as was the use of thorium reactors.
The committee found the treaties reviewed to be in Australia’s national interest. Other recommendations made in report 81 include: the ratification of the treaties; increasing Australia’s monetary contribution to the International Atomic Energy Agency and the Australian Safeguards and Non-Proliferation Office to improve the safeguards system; lobbying the International Atomic Energy Agency for mandatory safeguarding of conversion facilities in the five declared nuclear weapons states; and continuing dialogue with the Chinese government about governance and transparency issues.

I commend the report to the Senate.

Senator BARTLETT (Queensland) (5.51 pm)—As a member of the treaties committee I would also like to speak to this report. I have a dissenting report contained in this which I will address in a moment. The treaties committee, as senators would know, is made up of people from both the Senate and the House of Representatives. There are 16 members all told. Apart from me, no other member of the committee dissented from the key recommendations. The key recommendations are that the treaties between the Australian and Chinese governments on the transfer of nuclear material and for cooperation in the peaceful uses of nuclear energy go ahead. My opposition would not come as a great surprise. For nearly 30 years the Democrats as a party have strongly opposed all aspects of the nuclear fuel cycle. So exporting uranium and expanding the uranium industry—which would be a likely consequence of these treaties being adopted, as Senator Trood said—is something that we as a party do not support.

I also indicate that this is not just a party line type of view that I have put forward. There are genuine concerns that we have specifically about the sale of uranium to China. Some of them are actually acknowledged—I do not think they are adequately addressed, but at least they are acknowledged—by the majority report. One of the recommendations was that Australia call for an urgent review of the IAEA’s funding requirements, increase our voluntary contributions and encourage other governments to do likewise. Another recommendation was that Australia lobby the International Atomic Energy Agency and the five declared nuclear weapons states to make the safeguarding of all conversion facilities mandatory. Another recommendation was that we increase the funding allocated to the Australian Safeguards and Non-Proliferation Office’s safeguards support and international outreach programs to ensure that effective safeguards are being applied in regard to the treaties.

All of those suggestions are positive recommendations that have been put forward. I think they also contain within them an inherent recognition that things are not as secure as we like to believe—that the safeguards that are in place are not as strong and not as fully enforced or enforceable as we would like to think. I must say that I was somewhat surprised during the hearings and in looking at some of the evidence provided to the inquiry that it was not as strong as I expected it to be. So whilst I would have an in-principle concern with expanding the uranium industry and expanding nuclear power generation and the potential consequences of all that, I did expect that the nuclear safeguards in place would be stronger than they seem to be from the evidence provided to the committee—and, I would suggest, from some of the commentary contained in the majority report. That to me is a serious concern in regard to not only the specifics of what might happen in China but also the broader problem of non-proliferation in general.

I acknowledge that Senator Trood has been a consistent advocate of expanding ura-
nium production in Australia. He has a different view from the Democrats in regard to that. From memory, I think he has, nonetheless, also spoken about issues to do with the non-proliferation treaty and the progress or otherwise of that. I do think that, whatever we might think about the export of uranium to China, we need to take this opportunity to consider once again just where the world is at with nuclear non-proliferation treaties and the general proliferation of weaponry as a whole.

I am perplexed, I must say. It seems to me that, compared to even 10 years ago, the whole notion of disarmament and pushing for greater disarmament seems to have gone off the boil quite significantly. There seems to be far less global attention being paid to an issue that I think is just as important now as it was then—in fact I think it is more important now than it was then—that is, really moving towards non-proliferation.

It seems like the task of containing the number of nuclear weapons states, with the goal of eventually reducing them and ending up with zero nuclear weapons states, has been almost put to one side and is now seen as unachievable. I do not think we should put this to one side. I recognise that there are problems in how things have developed, not least with countries such as India, Pakistan and Israel, as well as states like Iran and North Korea and what they appear to be trying to do at the moment. There are clearly problems with the approach that the planet has tried to take to nuclear non-proliferation. We need to revisit that and take a look at it. I am not convinced that expanding China’s supply of uranium is going to be a positive contribution in that regard, but either way I think that all of us from all sides need to redouble our efforts on proliferation and look at what we can do on that.

I would also like to emphasise that, as I think senators across the board broadly acknowledge, there are problems with human rights in China. I am not one of those who suggest that we should prohibit all trade with China until they fix up their human rights record or anything absolutist like that. I do not think that would be helpful for anybody. But I do think that, when we are looking at expanding trade in an important and very sensitive commodity like uranium, we cannot just ignore what are without question very serious human rights questions and human rights issues with China. The committee does mention in one of its recommendations that Australia will continue its dialogue with the Chinese government about governance and transparency issues. I realise that does not necessarily go to the whole area of human rights. As evidence to the inquiry did indicate, there are issues with accountability and transparency in China. It is beyond dispute that it is a seriously undemocratic nation, and that always presents extra problems in regard to transparency, accountability and reliability.

I do not think we can sweep those concerns to one side just because there is a good trade opportunity here. There is no doubt that there are many great trade opportunities with China, a lot of money to be made and lots of export dollars. I do not dispute that, and I do not even dismiss it as irrelevant—of course, we need to ensure that we have a prosperous economy. But we cannot use that as a reason to push issues of transparency and accountability, let alone human rights, to one side. I have a concern that we are doing that.

I am somewhat surprised and disappointed that there was not wider opposition on the committee to the adoption of these treaties. It shows that strong momentum is building for expansion of uranium mining and exploitation in Australia. As that debate continues to develop in Australia, we find it is very hard
to uncouple that proposal from debates about where nuclear waste goes and about nuclear power generation within Australia. It is hard to just have a bit of the debate and not the whole debate.

Certainly, I have a wider concern that, in what seems to be a growing momentum and push for using uranium and expanding the uranium industry and the nuclear cycle, there will be an attempt to create a sense of inevitability that this should also be considered and expanded in Australia. I do not want to go beyond the scope of this report, which is just about exporting uranium to China, but I would signal that sometimes it is hard to just stop a debate at a certain point. The sense of inevitability that, I think, permeated a lot of the inquiry and permeates this report is one we need to guard against. It is not inevitable; it is not essential that we go down the nuclear path or expand nuclear power generation as part of addressing climate change. I believe the facts stack up quite clearly to show that we can deal with climate change without going down that path. It can be part of it; I do not dispute that, but it does not need to be. That is the position that the Democrats take, and we obviously take it, doubly so, when it comes to any sort of nuclear power generation in Australia.

Senator MILNE (Tasmania) (6.01 pm)—I rise today to note the report of the Joint Standing Committee on Treaties entitled Agreement between the government of Australia and the government of the People's Republic of China on the transfer of nuclear material and Agreement between the government of Australia and the government of the People's Republic of China for cooperation in the peaceful uses of nuclear energy. The report deals with the committee’s decision to clear the way for Australian uranium to be sold to China. Today I have heard the government spokesperson on this matter, Senator Trood, saying that the committee determined it was ‘in the best interests of Australia’. I would like to dispute the notion of ‘in the best interests of Australia’. It is clearly in the economic interests of certain uranium mining companies, it is clearly in the interests of China, but there is nothing that has been said that substantiates the notion that it is in the best interests of Australia, except if we have reached the point where economic rationalism is such that the only thing that constitutes ‘in the best interests of Australia’ is an economic return.

This report actually verifies all of the concerns that many people who have worked on nuclear non-proliferation issues for a long time have expressed. The report reached conclusions stating, ‘There needs to be increased funding for the IAEA so that it can do its job.’ That is an acknowledgement of what we have said: the IAEA is not resourced to oversee the inspection of where nuclear facilities will be and where nuclear materials will go to around the world.

Recommendation No. 3 says, ‘The Australian government should lobby the IAEA and the five declared nuclear weapon states to make the safeguarding of all conversion facilities mandatory.’ That is good; I agree with that. But the fact is that, currently, that inspection is not mandatory and it will not be mandatory. As if the Chinese government would take one iota of notice, even if the Australian government decided to raise the matter with the Chinese.

The committee recommends that we should get to a point where we should have a dialogue with the Chinese government about governance and transparency. That is good. Up until now, when has the Howard government raised human rights concerns, transparency and governance with the Chinese government? China does not adhere to most of the agreements it signs. You have only to
look at its World Trade Organisation obligations to see that it does not do so.

I find it appalling that the committee, having noted that the IAEA is underfunded and that the inspection of uranium conversion facilities is not mandatory, having noted that Australian uranium, when it arrives in China, will be converted into facilities that are not under the safeguards regime and, having noted that governance and transparency issues are certainly of importance but, more importantly, pointing out that China is not transparent about what it does, it then goes ahead and says, 'But we approve this uranium deal with China.' Noting all the inadequacies that people have raised about the safeguards regime, that is what has occurred.

What is appalling is that the Australian Safeguards and Non-Proliferation Office has not informed the committee as fully as it might have or in as timely a manner as it might have about the Chinese government’s record of nuclear proliferation. We now know that the US government has imposed sanctions on four Chinese firms for supplying Iran with missile related and dual-use nuclear components. We also know that the United States-China Economic and Security Review is seeking broader sanctions against Chinese firms and claims that China has contributed to North Korea’s nuclear weapons program.

Here we have a United States committee actually looking at China’s appalling record of nuclear proliferation, pointing out that China has stolen design information on the United States’ most advanced thermonuclear weapons; that China was responsible for repeated thefts of the most sophisticated US nuclear weapons technology, and that this practice is likely to continue; that China has proliferated such military technology to a number of other countries, including regimes hostile to the US; and, that China’s actions posed a direct threat to the US, its friends and allies. Here we have the US coming to that conclusion and Australia saying, ‘Never mind, we still want the profits from our uranium sales, and we are prepared to overlook all of China’s bad behaviour when it comes to nuclear proliferation.’

In the UN Security Council, fingers are being wagged at Iran. Iran has asked that it be able to have nuclear energy and we have said, ‘No, you can’t have nuclear energy, because you can’t be trusted not to make it into a nuclear weapons program.’ Yet China put it on the record last year that it does not have enough uranium for both its nuclear energy and its weapons program. So, whether Australian uranium which ends up in a conversion facility in China, not inspected by the IAEA, goes directly to the weapons program or to the domestic program—allowing domestic uranium to be displaced to the weapons program—Australia will be fuelling the nuclear fuel cycle and it will be fuelling China’s weapons program. It will be doing so with the full knowledge that China’s governance is in a state of significant lack of transparency, that there are human rights abuses, as we have heard, and that China has a record of abusing the non-proliferation treaty.

I find this situation appalling. When I was overseas last month I picked up a copy of a newspaper from the British press which pointed out that four other Middle Eastern countries now want nuclear power, including Saudi Arabia. I ask you: who is going to believe that Saudi Arabia wants nuclear energy for electricity purposes? It has said quite clearly, ‘If Iran goes down the nuclear path, we want to go down that path too, because we are not going to have a nuclear weapons state, Iran, on our back door.’ So there is now a huge push for proliferation. The Australian government is going to be backing that by clearing the way for this uranium deal with
China. It is not in our best interests; it is certainly not in our security interests. We have no credibility when it comes to talking globally about nuclear non-proliferation, because we are prepared to overlook all of the failings which are documented in this report in order to secure increased sales for BHP Billiton and the other companies interested in exporting uranium. That is what it comes down to. That is a morally bereft position for Australia to take.

Now we find that legislation is about to come into the house—the Non-Proliferation Legislation Amendment Bill. What is that about? Nobody has been told about that. When we asked for it to be referred to a committee, we were told today that the committee will report on 31 January. All of Australia is on holiday over January. Who is going to know anything about the Non-Proliferation Legislation Amendment Bill? The government has an obligation to tell us exactly what it is planning with that amendment bill.

I return to taking note of this report, saying that I am absolutely appalled that both the Liberal and Labor parties in Australia are prepared to see China access Australian uranium, with the record that China has of giving this technology to all kinds of states around the world, which jeopardises global security. So much for the promises about keeping Australia safe from terrorism. There is a huge risk here. We have seen the Khan network, we have seen North Korea explode a nuclear bomb and now we have Australia fuelling all of this, with a report in the US saying that China has helped proliferate to North Korea and to Iran.

I think it needs to be clearly on the record that both the Liberal and Labor parties in Australia see Australia’s interests defined as economic interests and that they are prepared to overlook our security interests. If they were serious about supporting non-proliferation and a safeguards agreement, they most certainly would not have approved these treaties until there was a bucket of money given to the IAEA and a bucket of money given to support a safeguards regime that might actually have some capacity to track uranium. As it currently stands, the equivalence regime simply means that all China has to do is demonstrate an equal volume of uranium going somewhere else and it is deemed to be Australian uranium not used in a nuclear weapons program.

It is not good enough. The loopholes are such that you can drive a truck through them. I think this will come back to bite the Australian government, just as Pig Iron Bob’s iron-ore came back in the Second World War.

Question agreed to.

DOCUMENTS

Register of Senate Senior Executive Officers’ Interests

The DEPUTY PRESIDENT—I present the Register of Senate Senior Executive Officers’ Interests, incorporating statements of registrable interests and notifications of alterations of interests of senior executive officers lodged between 20 June and 4 December 2006.

Commonwealth Ombudsman: Monitoring of Controlled Operations Report

The DEPUTY PRESIDENT—I present the report of the Commonwealth Ombudsman for 2005-06 on activities in monitoring controlled operations conducted by the Australian Crime Commission and the Australian Federal Police.

COMMITTEES

Legal and Constitutional Affairs Committee

Membership

The DEPUTY PRESIDENT—The President has received a letter from a party
leader seeking to vary the membership of a committee.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (6.12 pm)—by leave—I move:

That Senator Johnston replace Senator Scullion on the Legal and Constitutional Affairs Committee for the committee’s inquiry into the provisions of the Native Title Amendment Bill 2006, and Senator Scullion be appointed as a participating member of the committee.

Question agreed to.

ROYAL COMMISSIONS AMENDMENT (RECORDS) BILL 2006

First Reading

Bill received from the House of Representatives.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (6.13 pm)—I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (6.13 pm)—I table a revised explanatory memorandum relating to the bill and move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

ROYAL COMMISSIONS AMENDMENT (RECORDS) BILL 2006

This bill amends the Royal Commissions Act 1902 to enable the making of regulations which will facilitate the use of records of royal commissions for law enforcement purposes. It is a technical bill, which is relevant to the just-completed Inquiry into Certain Australian Companies in relation to the UN Oil-for-Food Programme, also known as the Cole Inquiry, but will also be relevant to other inquiries under the Royal Commissions Act.

The HIH Royal Commission (Transfer of Records) Act 2003 was enacted in 2003 to give the Australian Securities and Investments Commission custody of documents which had been obtained by the HIH Royal Commission. This bill provides a framework for the making of regulations to similar effect, which will be able to be used for any royal commission, past or future, to provide for custody of documents, access to documents, and use of documents, by appropriate persons or bodies, as may be prescribed by the regulations.

The regulations to be enabled by the bill would remove any doubt that records of a relevant inquiry can be passed to other bodies and used for investigative and prosecutorial purposes, notwithstanding that they were initially obtained for the purposes of an inquiry under the Royal Commissions Act, and without having to go through consultative processes before records are passed on. The regulations would also ensure that original records do not have to be returned to the parties which originally provided them to the inquiry, for so long as they are needed for investigative and other purposes.

The bill is urgent because it will provide the capacity to make regulations concerning the provision of relevant records of the Cole Inquiry to appropriate authorities. Commissioner Cole recommended that a Task Force be established, comprising the Australian Federal Police, Victoria Police and ASIC, to consider possible prosecutions in consultation with the Commonwealth and Victorian Directors of Public Prosecutions. The regulations that will be able to be made when the bill has been passed will assist in expediting consideration of whether proceedings should be commenced, in relation to the possible breaches of the law identified by the Cole Inquiry. Urgent passage of this bill is necessary, to ensure that this work can commence as soon as possible.

The operative item in the bill introduces a new section 9 into the Act, which will allow for regulations to be made in relation to specific royal
commission records. Such regulations would be able to:

- provide for the custody of some or all of a royal commission’s records;
- specify purposes for which a custodian may use, or must not use, records;
- provide for circumstances in which a custodian must, or may, give records to another person;
- provide for circumstances in which a custodian must, or may, allow access to records to other persons; and
- specify purposes for which persons given access by a custodian may use, or must not use, those records.

The bill makes clear that, subject to the regulations, a custodian or a public office holder or public authority given access to records by a custodian, pursuant to regulations, would be able to use the records for the purposes of the performance of their functions and the exercise of their powers, or for any other purpose for which they could use the records if they had acquired the records in the performance of their functions or the exercise of their powers.

As mentioned previously, the bill puts beyond doubt that, if regulations are made providing that a person or body is to have custody of a royal commission’s records, the custodian, or a public office holder or authority given access to records by a custodian, pursuant to regulations, would be able to use the records for the purposes of the performance of their functions and the exercise of their powers, or for any other purpose for which they could use the records if they had acquired the records in the performance of their functions or the exercise of their powers.

The amendments will have no financial impact.

Ordered that the resumption of the debate be made an order of the day for a later hour.

**COPYRIGHT AMENDMENT BILL 2006**

Returned from the House of Representatives agreeing to the amendments made by the Senate to the bill.

**BUSINESS**

**Rearrangement**

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (6.14 pm)—I move:

That intervening business be postponed until after consideration of government business notice of motion 4 (proposing the Non-Proliferation Legislation Amendment Bill 2006).

Question agreed to.

**NON-PROLIFERATION LEGISLATION AMENDMENT BILL 2006**

**First Reading**

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (6.15 pm)—I move:

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.

Question agreed to.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (6.15 pm)—I present the bill and move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (6.16 pm)—I table an explanatory memorandum relating to the bill and move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

NON-PROLIFERATION LEGISLATION AMENDMENT BILL 2006

The Non-Proliferation Legislation Amendment Bill 2006 strengthens Australia’s efforts to prevent the proliferation of nuclear and chemical weapons, and to support international measures ensuring the physical security of nuclear material and facilities.

The bill will amend the Nuclear Non-Proliferation (Safeguards) Act 1987 (Safeguards Act), the Comprehensive Nuclear Test-Ban Treaty Act 1998 (CTBT Act) and the Chemical Weapons (Prohibition) Act 1994 (CWP Act), which all currently implement a range of Australian policies and treaty commitments promoting the non-proliferation of nuclear and chemical weapons.

The measures contained in this bill will demonstrate Australia’s ongoing commitment to the physical security of nuclear facilities, material and related information, and the application of nuclear safeguards to such items, which is essential to counter the heightened risk of nuclear proliferation and terrorism. In addition, the measures will enable Australia to implement its international obligations with respect to new physical protection measures for nuclear material and nuclear facilities called for by the 2005 Amendment to the Convention on the Physical Protection of Nuclear Material (CPPNM). The bill also provides for changes to the machinery of government, which will improve the application of the non-proliferation measures in each of the Acts affected.

The bill creates several new offences, including an offence under the Safeguards Act for conduct against a nuclear facility which causes, or is likely to cause, death or serious injury to any person, or substantial damage to property or to the environment by exposure to radiation or release of radioactive substances. This offence will enhance Australia’s counter-proliferation and counter-terrorism efforts by ensuring that adequate protection is afforded to nuclear material and facilities. In addition, reflecting on Australia’s obligations arising from the amended CPPNM, a new offence of trafficking in nuclear materials has been introduced.

The bill amends the Safeguards Act, the CTBT Act and the CWP Act to extend the geographical jurisdiction for offences related to proliferation of nuclear and chemical weapons by an Australian citizen or resident anywhere. Specifically, this includes measures to prevent unauthorised communication of information that is proliferation sensitive, or that is critical to the physical security of nuclear material.

In strengthening measures designed to reduce the risk of proliferation, this bill updates penalty provisions contained in the Safeguards Act to make them, for the most serious offences, consistent with penalties under comparable Commonwealth non-proliferation legislation.

To strengthen the non- and counter-proliferation aims of the CTBT and the CWP Act, the bill extends territorial jurisdiction for certain offences to include Australian residents anywhere. This has the effect of aligning extra-territorial provisions across Australia’s non-proliferation legislation.

The bill also introduces a requirement for a special permit to be obtained where a nuclear or related facility is to be decommissioned. This requirement seeks to ensure that non-proliferation
safeguards measures can be effectively applied in the course of decommissioning the facility. The new provision will underscore Australia’s ability to apply the principle that planned nuclear activities are fully transparent to the International Atomic Energy Agency in accordance with Australia’s obligations under the Additional Protocol.

To ensure that Australia’s non- and counter-proliferation measures are robust, the bill allows that the majority of the provisions, introduced as a result of the amendment to the CPPNM, can come into effect ahead of entry-into-force of the amended Convention—which could be several years off, since two-thirds of the 112 signatories have to ratify the amendment to trigger its entry-into-force.

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

**COMMITTEES**  
**Membership**

The DEPUTY PRESIDENT—The President has received letters from a party leader seeking variations to the membership of committees.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (6.17 pm)—by leave—I move:

That senators be discharged from and appointed to committees as follows:

**Electoral Matters—Joint Standing Committee—**

Discharged—Senator Hogg  
Appointed—Senator Sterle

**Migration—Joint Standing Committee—**

Discharged—Senator Kirk  
Appointed—Senator Polley.

Question agreed to.

**WHEAT MARKETING AMENDMENT BILL 2006**  
**Second Reading**

Debate resumed.

Senator HURLEY (South Australia) (6.18 pm)—Before the break in my speech, I was talking about the government’s failure to provide adequate safeguards for wheat growers on the price of their grain and for the many of them who have shareholdings in AWB. The government did this by being complicit, with the AWB, in failing to provide any alternatives or deal with the imminent threat of the end of the single desk. The government was found out earlier than it wanted to be, because of the cracks appearing in the structure of AWB and its single desk marketing arm. Those cracks were obvious to anyone, yet the senior management of AWB—as, it appears, was their wont—refused to look at a plan B. They refused to look at any alternative or at any response to the competitors that were knocking at their door. Competitors like CBH and ABB are large grain marketing outfits that are perfectly capable of dealing with bulk wheat shipments in the international market, but the AWB refused to address this issue.

What we got from the government was repeated inquiries into the single desk. We had economists at 60 paces, and we got no result whatsoever. It was put off and off, until finally the government has been forced to face what has happened with the Cole inquiry and the collapse of the single desk. This is despite Prime Minister John Howard having promised at the last election to maintain the single desk. The government has failed on repeated occasions. What do we see now from this creaky coalition? We see some inadequate compromise for six months—another putting-off. The Leader of the Nationals, Senator Boswell, has now put the onus on the growers to come back with a
solution. We have had years and years of inquiry after inquiry—everyone has known that there is this pressure—and now Senator Boswell says to the wheat growers around Australia: ‘It’s up to you. You have to come back with a single unified solution that is workable.’

These wheat farmers are having to cope with the drought and the fact that they will probably get less from AWB for their wheat crop this year and the fact that the value of their shareholding in AWB has plummeted. But they are also having to get together and determine a sophisticated, international marketing structure for their wheat into the future. Is this not a monumental failure by the government and by the party that is meant to represent the cockies out there, the National Party? It is a monumental failure not to have dealt with this issue previously and not to have had some plan for what might happen if the single desk collapsed.

This is in the face of international pressure, from the United States and elsewhere, on the single desk. There are not only the internal pressures and problems that we knew existed that led to the cracks in the edifice; there is also the international pressure to get rid of it. But the government did not deal with the issue; they refused to deal with it. They cosied up with their mates in AWB and refused to look at the issue. They stuck their heads in the sand, and in doing so they have let down the wheat growers of Australia as they have not adequately provided for them, particularly for their long-term future.

I think the government should hang its head in shame over this. Agriculture has been the mainstay of our country since its inception, and the government has let down one of the chief elements of our agricultural industry. It has let it down in many ways, but the marketing arm is the particular way by which it has done so. I hope wheat growers do indeed, as Senator Boswell exhorted, contact their members of parliament to tell them what a failure the government has been in this instance, that they expect much better of government members and that they expect to have a model that they can be properly consulted by the government on and can vote on and that the government will not turn its failure against the wheat growers of Australia.

Senator MURRAY (Western Australia) (6.23 pm)—In speaking to the Wheat Marketing Amendment Bill 2006, I point out that when the Cole report came down I was immediately certain that the legal framework under which AWB had been operating would need to change completely. The single-desk concept does not exist if the veto is taken away from AWB. The veto gives AWB the effective monopoly, the effective sole right, to export wheat. In the year 2000 a majority of the High Court found in the NEAT Domestic Trading Pty Ltd case that:

The legislation confers upon AWB(I) a practical monopoly on the bulk export of wheat save to the extent to which the authority, which is to issue guidelines, and AWB(I), which is not bound by the guidelines but whose conduct is subject to review and report, are prepared to relax the monopoly.

Of course they have not been prepared to relax the monopoly. Nobody can export wheat from Australia without the written consent of the Australian Wheat Export Authority, which is a statutory board. However, that consent must not be given by the Australian Wheat Export Authority without the approval of AWB(I), as per section 57 of the act. I have not checked the latest statistics, but up to 10 months ago the AWEA had never given consent for anyone other than AWB(I) to export wheat although there had been 45 applications to do so, according to Leon Bradley, who is the Chairman of PGA Western Graingrowers. So the veto and AWB
were inextricably bound together and that has resulted in an effective monopoly and an effective single desk.

The problem for me, as a Western Australian senator, has been that WA wheat farmers’ current crop has been under threat. This year’s wheat crop is around four million tonnes. Ninety-five per cent of the wheat produced in WA is exported. Because of the drought, WA will end up supplying almost all the export wheat from Australia this season. Western Australian growers in very large numbers—apparently about 90 per cent of them—have not been providing their crop to AWB on the principal ground of disaffection with AWB because of corruption and reputational loss, the dangers of farmers losing their crop income if AWB is put into administration or is sued or prosecuted and AWB being perceived to have a diminishing ability to trade as it is regarded as a distressed seller. So my immediate concern as a Western Australian senator was that we had to move WA’s crop.

I discussed these matters with Liberal Western Australian senators, who I know have been deeply concerned with this matter, and the Australian Greens WA senator, Senator Siewert. Following publication of the Cole report, I was convinced that politically the coalition would find it difficult to come to a rapid policy decision. There is a clear policy disagreement between large numbers of Liberal members of the coalition and large numbers of National members of the coalition. If that were the political reality, what circuit breaker could I provide?

What was needed was a short-term temporary solution for Western Australian farmers who were disenchanted with AWB and were not prepared to provide them with their crop. Three weeks ago, I thought we would need legislative change in this chamber in these last sitting weeks of the year. I discussed that fact as I saw it with ministers, and I thought that from a cash flow and revenue perspective WA wheat farmers needed an urgent resolution. The solution that I came up with and proposed to the government was that they should overturn AWB’s veto power in the short term and that they could do that in one of two ways. They could give the veto power to the Australian Wheat Export Authority—which I did not favour because I believe it has been proven to be weak and inefficient—or they could give the veto power override to a senior member of the cabinet—I was suggesting the Treasurer—and that would result in a quick political decision-making process which I thought was better in these specific circumstances.

I discussed those options with WA Liberal senators and the WA Greens senator. Once that had been done and I had advised the government and various ministers of my views, and once we had discussed it in our party room, the Democrats came to the view that this was a desirable solution to support as a whole. On 30 November, with Senator Siewert, I moved a motion. That motion read:

That the Senate—
(a) notes that:
(i) the Government will need time to consider possible legislative changes to the wheat export regime, following the report of the Cole Commission of Inquiry, but
(ii) from a cash flow and revenue perspective, Western Australian wheat growers need urgent resolution in 2006 to present export impediments; and
(b) asks the Government to consider introducing legislation into the Senate in the sitting week commencing 4 December 2006 to provide that for a period of 15 months or two seasons the final approval power for wheat export licences be transferred to the Treasurer.
The essence of my recommendation, which is a circuit-breaker, has been accepted by the government. They are providing a temporary cessation of the single desk for a period of six months. They will consult with the growers in the industry to establish how to move the next phase onwards in terms of policy, and I am hopeful that as a result of this move and this initiative the WA export crop will be able to be moved.

As the chamber knows, there is a campaign on to save AWB and to save the single desk, and there is another campaign to end the single desk—not necessarily to destroy the AWB but just to leave them as one of the export licensed bodies. Wheat farmers and their organisations are split on the issue. I take into account the various vested interests on all sides. I am particularly careful where there is a clear conflict of interest in any grower who is also a shareholder or director in AWB, which does bother me when I get those emails. Frankly, if a vote comes before the Senate next year which tries to keep the single desk, I will argue against it, but I do not have at this time a determination as to what should replace it. I am of the view that farmers are entitled, like anyone else in the community, to have choice as to who exports their crop, so I will look with great interest at what proposal is hammered out between the National Party and the Liberal Party following consultation.

In my view—and I am strongly influenced by the Cole commission of inquiry—the single desk in the hands of AWB is simply history. AWB has deceived the United Nations, it has deceived the Australian government and it has detrimentally affected the interests of the people of Australia by its conduct. There have been very serious findings by the Cole commission, and I expect there to be very serious consequences. It is too early to see the exact consequences that will ensue, but AWB’s companies, officers, advisers, management and directors are all facing the possibility of domestic legal action, both civil and criminal, and may even face international legal action, judging by media reports of those circumstances. The ATO may make claims for hundreds of millions of dollars for substantial recovery of tax concessions wrongly claimed. There may be claims for hundreds of millions of dollars compensation as a result of class actions. We cannot foresee anything else but that there will be legal action against individuals and those entities in some form. There is therefore contingent risk to the assets and viability of AWB and entities, and any wheat exporter forced to deliver their crop to AWB may be subjecting their own revenue to contingent risk. So I am not surprised that independent arrangements have been made to warehouse the wheat crop.

In these circumstances, an Australian government that continued to legally oblige wheat exporters to sell their crop through AWB, after they had been advised that the findings of the Cole commission had been made known, would, I think, expose themselves—in other words, expose taxpayers—to claims of compensation by wheat growers who did not want to give their crop over to AWB for export or who suffered detriment as a result of that circumstance. I think the government have recognised that danger and they have very wisely taken the veto away from the existing holders of that veto and given it to the cabinet.

Of course, we in the chamber should all recognise that under no circumstances will the minister who has direct responsibility through this legislation be able to take unilateral action. He will obviously, as is typical with these things, consult with his senior colleagues in the cabinet, and that is right and proper. It is in my view completely unacceptable for AWB to retain a veto power over any other body seeking a licence to ex-
port wheat. The conflict of interest is massive. The veto has to be removed, and the government are to be congratulated on removing it.

I recognise that the Democrats did support the single-desk concept. They traditionally supported it for the export of Australian wheat because it was generally thought that it was the best way to obtain the best price for wheat against big market competitors where subsidies to farmers make their wheat more competitively priced. That approach is not consistent with general Democrats policy, which is a support for more open and more competitive markets, as with most agricultural goods.

Speaking for myself, I am no longer of the view that the single desk is sustainable, but I stress that I recognise that I need to be flexible about what replaces it, and that is in view of the industry interests that are involved and in view of the transitional arrangements that need to be arrived at. But I will not support the return to the single desk in the form that it has been previously.

Whether any others simultaneously had the idea for the circuit-breaker that has come through, I do not know. I am prepared to claim credit for this initiative, because I think it is a good one. I am hopeful that, time having been bought with this particular change to the legislation, a long-term and beneficial result for wheat exporters will occur in the future.

Senator ADAMS (Western Australia) (6.37 pm)—I rise this evening to speak on the Wheat Marketing Legislation Amendment Bill 2006. First, I would like to say that I am a Western Australian wheat grower and our family and partnership do not hold any shares in AWB. I think it is important for me to say that.

I concur with the remarks of Senator Murray. A lot of what I have to say he has already said. Western Australian farmers are in a dilemma. On the front page of the West Australian today it says, ‘West Australian farmers in limbo’.

I come now to the bill and what it will do. The Wheat Marketing Act 1989—the act—establishes the Wheat Export Authority and defines the arrangements for controlling export wheat from Australia. This Wheat Marketing Legislation Amendment Bill 2006 is required to enact temporary arrangements in the enabling legislation. The purpose of this bill is to amend the act through the transfer, on a temporary basis, of the right to veto bulk wheat export applications from AWB International Ltd—AWBI—to the Minister for Agriculture, Fisheries and Forestry. This transfer will be effective until 30 June 2007.

These changes do not amend the function or role of the Wheat Export Authority other than in the fact that it needs to seek the agreement of the minister for each application it receives. AWBI can still engage in export activities but no longer holds the right of veto. The reasons for these temporary changes are that the current system grants a monopoly to AWBI in the bulk export of wheat from Australia. Growers are compelled by law to consign their wheat to AWB if it is to be sold internationally. In the present circumstances of drought caused low productivity, in my opinion this system is undermining growers’ profitability.

In Western Australia, some 95 per cent of the wheat produced is exported. This is also true of the vast majority of wheat produced in South Australia. This means that wheat growers in these two states are almost totally dependent upon the export market for their annual income. The dependence upon exports is not shared to anywhere near the same extent by wheat growers in other states, as most of that wheat is produced for the domestic market. Therefore, wheat growers
in Western Australia and South Australia are left with no choice but to pay the fees extracted by AWB Ltd as the service agent for its fully owned subsidiary company, AWB International.

Whilst the Cole inquiry has brought significant media attention to the export wheat monopoly, I believe the system has been failing growers for many years. There is an inherent conflict of interest for AWBI between satisfying shareholders and maximising grower returns. This conflict, combined with excessive supply chain costs and marketing costs, particularly in low-production years, and an underinvestment in the industry, has led to a situation where wheat growers are at the bottom of the food chain in terms of receiving the true market value for their crops.

In addition, the Cole inquiry has revealed the significant contingent liabilities over-hanging AWBI. With harvests well under way, Western Australian wheat growers are expected to deliver around five million tonnes of wheat from the current crop. That figure was released by ABARE this week. Because of the drought, this figure is well down on last year’s figure of 15 million tonnes. This year, Western Australia will supply almost all of the export wheat from Australia due to the drought in the eastern states. This, of course, also means that Western Australian wheat growers will be shouldering most of the cost burden if they are forced to deliver their wheat to AWBI.

Currently, Western Australian growers are consigning over 80 per cent of their wheat to grain marketers other than AWB or are warehousing their wheat. Normally around 80 per cent of wheat would go directly to AWBI, so it is plain to see that Western Australian wheat growers have voted with their wheat about what they believe to be the best option for their financial futures.

Leon Bradley of the Western Australian Pastoralists and Graziers Association was quoted in the *Australian* on 21 November 2006 as saying:

Normally farmers can’t wait to get their crop off and give it to the AWB, because they need the money to pay off their overdrafts, which reach a seasonal peak at this time of year.

He went on:

This year, even though they are under financial pressures, more than 70 per cent of farmers are refusing to deal with AWB, and we can understand it …

Growers must have a path to export their wheat other than through AWB before the end of the 2006-07 harvest, and this legislation provides it. I believe it is imperative that the legislation is enacted as a matter of urgency to allow greater competition in the marketing of export wheat.

If the restrictions that force growers to consign their export wheat to AWB pools are lifted, growers will be freed from the contingency risks impacting on AWB. It will also have the following advantages: there will be greater liquidity in the wheat industry, cash prices will be increased by opening the system to competition, competition will increase investment in agriculture and there will be better risk management opportunities as well as cost savings in the supply chain.

By amending the Wheat Marketing Act 1989 to remove the power of veto from AWBI and transferring it to the minister it is to be hoped other industry accredited wheat exporters will be able to seek licences to bid for growers’ wheat. This competition will allow greater freedom of choice for wheat growers to maximise the return on their crops. The proposed amendments do not prevent AWBI from continuing to provide exactly the same services to growers as they currently do.
In conclusion, I am somewhat concerned about the AWB service fee of $39.7 million and who will be responsible for it. I do not want to see Western Australian wheat growers being left to service this debt.

Senator Joyce (Queensland) (6.44 pm)—The reason we have a single desk is twofold: firstly, the advantages to our growers domestically and, secondly, the advantages to the marketing of the product overseas. We have heard a lot of argument and contention about the advantages or disadvantages domestically but the facts stand that, on the 2006 census from Rural Press, about 73 per cent want a single desk. In fact, 69 per cent of them want it to be run by the AWB.

We have a campaign in Western Australia that is based on the fear that if you present your grain you will not get payment and that inordinate liabilities are hanging over the head of AWB. I think this fear campaign has been strategically placed to come out during the Cole inquiry with the result that it breaks the single desk. No doubt anybody can cherry-pick a market in such a way as to get a certain section of the market, a certain period of time in the middle of a drought when the wheat crop is low, supply their own mills in another country and say that they have created a situation that no longer spells the relevance of the single desk. But over a period of time that will prove to be completely and utterly wrong. Furthermore, the results of the advantages of the single desk are that the marketing of this product throughout the world has been built on the work of a company called AWB. Since 1939 the AWBI has built up the marketing of this product. Anybody can go into an established market of another person and say, ‘If I can basically steal some of your market, I can get the same price or better than what you have, because you’ll be left with all the contingent liabilities and I’ll get the benefit of the revenue.’ That is what is happening here.

AWB, in the marketing of the product, has to take a long-term position in the market; it is the diligent and safe thing to do. In taking a long-term position in the market, you take out the troughs but you can also take out some of the peaks. Nonetheless, today we see that CBH, which has been put up as the shining light of where this is all going, offered a price that is basically approximate to what the AWB offers in any case. Even with all that, the AWB is still basically on the mark, and the AWB is always conservative in its price. In fact, it has gone below it only once; that was in 1990.

What we give up if we lose the single desk is no better enunciated than by our major competitors. People such as Pascal Lamy from the EU, Senator Norm Coleman from Minnesota or Tom Harkin, Democrat senator in charge of the agriculture committee of the congress, want to get rid of our single desk. They want to get rid of it for one specific reason: it is a strategic market advantage that they feel compromises the price they can get—not the price we can get but the price they can get. On destruction of the single desk there is only one person who will lose and that is the Australian wheat grower. To have a single desk you must have integrity of the pool. The integrity of the pool relies on the power of veto. You cannot ask a certain company to be the buyer of last resort yet not give them the integrity of the pool. If we get the destruction of this, we will have a case where we can have certain deals for certain mates and other deals for other people. What I do agree with is that we must have greater transparency in the single desk. We must have a move back to grower owned directors. But to get rid of it, to throw the baby out with the bathwater—to prove a point for a very peculiar, specific period of time based on the fear of an inquiry into the actions of certain people in the executive of a company, who are now sacked—is blatantly ridiculous.
If you do that, you are creating a great mischief in the lives of people.

However, we could see the numbers. I do not know where the Greens were on this issue; I suspect that they want to get rid of the single desk. I know that the Democrats have been clearly on the record that they want to get rid of it. The private member’s bill was being put forward by a number of members of the Liberal Party, so the obvious reality was that we were about to have a total deregulation and I think that would have been an extremely unfortunate outcome.

But we have a period of time. It is a fact that, if no other legislation is passed through this parliament, on expiry of the six-month period of time the single desk will revert to the status quo and then it is back with AWBI. As a final statement, I say that it is up the growers who write to me from Western Australia—from Bob Ifler to all the local growers in New South Wales. I also am a wheat grower. I do not have shares in AWB, but I am a small wheat grower nonetheless. I did not have a crop because we had a drought, and the insinuation that it was somehow hidden or warehoused is slanderous. The fact is that we got eight tonnes from 350 acres of seed wheat for next year—that was it—and then we stopped the headers because there was no point in going on. The position is that growers must be absolutely open and vociferous in their campaign to protect the single desk. Ambivalence or saying nothing will be taken as a vote to get rid of the single desk.

Debate interrupted.

DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator Chapman)—Order! It being 6.50 pm, the Senate will move to the consideration of government documents.
ongoing basis, not just every five years, and to do so from a position of much more complete and comprehensive knowledge. Having said that, I certainly do not want to suggest that there is not a lot of data that is available and that is very useful. This report pulls it together.

In shorthand, a couple of key areas need to be emphasised. Firstly, whilst it looks at the state of the environment rather than looking solely at the threats to the environment, there is no doubt that climate change presents the biggest overarching threat to our natural and our marine environments and, indeed, to our urban and social environments. A failure to address that serious threat will clearly show up in major declines in the state of the environment into the future. There is a clear amount of data detailed in the report that says we are doing far less well than we should in living sustainably in the urban environment. There is a lot of untapped potential, if you can forgive the pun, particularly in recycling of water and also of waste products. There is still enormous scope for improvement in efficiencies in energy consumption, in transportation and in water usage, and we need to be doing a lot better than we are.

Outside of the urban environment, I am pleased to see the report notes the significant role that Indigenous Australians play in environmental stewardship. There is a big overlap between areas that are amongst the most ecologically important and healthy parts of certainly the terrestrial environment and those areas that are Indigenous land. That is in part an indication of the skills of Indigenous Australians in maintaining stewardship of the natural environment but it also shows the opportunities that are there. The responsibility is on governments to do a lot more to support the capacity of Indigenous communities in regard to environmental stewardship. There are win-win opportunities here, not only in providing more opportunities that have synergies with Indigenous cultures and maintaining cultural diversity alongside biodiversity, but also in maintaining that broader health of the natural environment along with it.

Those are a few key points that I think we need to draw attention to. We can do a lot better in our urban environment. We can do a lot better in supporting Indigenous Australians in their stewardship, particularly in a lot of the more remote areas of Australia. There is a lot more to the report than that, but five minutes is not really sufficient to deal with it. Perhaps another speaker will reserve their remarks and we can have another go at it later.

Senator MILNE (Tasmania) (6.55 pm)—I rise tonight to take note of the Australia state of the environment report 2006. I want to build on a couple of things that have been said. The first is that it is an absolute disgrace that the government has not got in place a data monitoring and collection system such that you can actually ask people to comment on the state of the environment. I put it on the record that the government says it has spent $10.3 billion between 2001 and 2005 on the environment, and yet we have a situation where we absolutely do not know what the state of the environment is. Australia is not equipped with the national capacity to monitor and assess the condition of the environment on an ongoing basis—what an indictment of the government and the environment minister.

So what we have is a glossy, coffee table production of out-of-date science. On climate change, the report gives climate change progressions in figure 21—it is a 2001 document. What use is that to us in 2006? Climate change has accelerated at a great rate since then. It is appalling. And, what’s more, it is clear that the whole section and all
the work on climate change was written as an apology for the Howard government’s position that they did not believe in climate change, that the Prime Minister was a sceptic of climate change and that he did not believe in extreme predictions of climate change. In fact, the report was clearly written at a time when the excuse of the Howard government was that the science was undecided about whether we were having climate variability or climate change.

But of course in the last two months things have rapidly altered. Out came the Stern report. Out came the world’s scientists. The Howard government was completely isolated, and has had to admit that climate change is real. But it was too late for this document, and so we get embarrassing statements—for example, about the drought. The report poses the questions: how much is current variability due to climate change? How much is it natural variability? It goes on to talk about our need to increase our climate literacy. Well, we absolutely do, and the reason that Australians are not as climate literate as they might be is that for a decade the Howard government has not put in place appropriate policies.

An example of the report’s out-of-date science, apart from the climate predictions, is the statement that, ‘A possible impact on climate change is a change in how often coral-bleaching events occur relating to the Great Barrier Reef.’ But the latest science says that it is already too late for the world’s coral reefs. Why are Australian scientists not reporting on that in this particular report? Why are they not saying what the world’s scientists are saying, which is that coral reefs are beyond the threshold of dangerous climate change and from here on in it is decline? They are saying that we have to take the pressure off the reefs by getting rid of pollution and other pressures on the reefs and trying to make them as resilient as possible.

But the fact is that acidification of the oceans as a result of the amount of carbon dioxide absorbed has already weakened the corals. The coral bleaching is real. Ocean temperatures are hot. The reefs do not recover if the bleaching events occur more frequently than five years apart. It is already too late. I am disgusted with this report. What it does is play to the notion that we are not sure whether the drought is just climate variability or whether it is climate change.

That whole notional view gives a lie to what is going on with climate science and it gives false hope to people in rural Australia, particularly in marginal areas, that suddenly the drought is going to break, everything is going to be all right again and we are going to go back to how it was. That is completely wrong and frankly I am sick and tired of anecdotal half-measures being equivalent to statements by the world’s leading scientists who write the IPCC reports. Uncle Bill up the road’s view of what the climate is doing is an equivalent response to that of the world’s leading scientists, and that is not good enough.

I want to talk about Minister Campbell’s wedges. He talks about Princeton University and says, ‘We have to have nuclear and we have to have carbon capture and storage because they are the seven wedges required.’ That is wrong. Princeton University gives 15 wedges on its diagram, seven of which need to be employed to achieve deep cuts in greenhouse gas emissions. It is a complete misrepresentation of the science to suggest that they argue either nuclear or carbon capture or both are essential. They do not. And before anybody reports on Senator Campbell’s statement of his seven wedges, they should look at the academic research. It is the minister’s attitude that underpins what is wrong with this report. It does not give us a view of the environment and it cannot name
one single area where the environment has improved. *(Time expired)*

Senator SIEWERT (Western Australia) (7.00 pm)—I also rise to take note of the *Australia state of the environment report 2006*. Like my colleague Senator Milne, I am dismayed at this report. Although it is quite obviously a greenwashing of the government’s handling of the environment, it does actually contain some issues and facts that the government cannot run away from. For example, in the water section it talks about how the increasing demand for water is placing significant pressure on Australia’s inland water system. Unfortunately, this section dealing with inland waters did not address the issue of climate change, despite the fact that just yesterday the Senate Standing Committee on Rural and Regional Affairs reported on its water inquiry and stated that climate change was playing a significant role in water security management.

The report also highlights the fact that water consumption has increased by 10 per cent—so much for our efforts to reduce our water consumption. It also highlights the fact that our riparian vegetation is suffering significantly and is continuing to decline. It states that 80 per cent of the remaining red gums on the Murray River flood plain in South Australia are stressed to some degree and that 30 per cent of them are severely stressed, and this severe decline has occurred in the previous 12 months. So just in the last 12 months, we have had even further decline in our riparian vegetation.

The report also talks about our wetlands and the stress that they are under. It says:

> The impact on wetlands has been dramatic. As many as 231 nationally important wetlands are under pressure across Australia. Of the 64 Ramsar wetlands, latest assessments indicate that 22 have changed in ecological character or have the potential to change …

The report also highlights the fact that there has been an increase from four to 14 in the percentage of our fisheries which are at severe risk. This highlights the flawed approach this government takes in its fisheries management and the fact that it will not put any species in our commercial fisheries on the threatened species list because if it did that, of course, it would have to actually do something about protecting them adequately. The facts clearly demonstrate the government’s approach is flawed.

The report also highlights the fact that clearing has occurred at the rate of 1.5 million hectares this year and the government claimed, ‘Oh, that’s okay, because it has decreased.’ It is still 1.5 million hectares and we know that clearing vegetation is the biggest cause of biodiversity loss in this country. So much for the work that the government is doing on reducing clearing and protecting our biodiversity.

What I particularly wanted to highlight is in the water section. Despite the fact that this is a greenwashing, the report also highlights some significant issues around the government’s processes and programs to try to protect our natural environment. I will read some quotable comments. The report states:

> These programmes have addressed local and regional needs, but Australia needs a systemic approach that develops sustainable systems of land management that address fundamental environmental problems.

> As important as these programmes are, they provide little ground for complacency—the magnitude of human impact often exceeds the scale of restoration programmes.

It goes on:

> It is likely that the Murray River will require at least three times this volume of water if there are to be significant improvements in the entire river environment, rather than just improvements to the
parts that are targeted to receive environmental flows …

Moreover, analysis shows that so-called ‘best management practices’ might not achieve sustainability or the desired catchment management targets. This is partly a product of the small scale and fragmented nature of various investments in inland water, riparian and catchment management. Past investments in these programmes addressed local needs, but did not often address the larger, strategic needs for improved practices and sustainable solutions.

It then goes on:

… it should be noted that the success of many excellent, small-scale habitat and species restoration programmes is easily compromised by unsustainable large-scale land and water use patterns. So much for NHT and the government’s much heralded environment restoration programs. They are clearly being undermined by poor governance, bad policy, overallocation of our water resources, mismanagement and failure to deal with land clearing and wetlands decline. The picture is an indictment of the approach that has been taken: ‘Let’s throw some money at small-scale projects but not deal with the underlying causes.’ It is quite clear—for example, in the Macquarie Marshes and the Gwydir wetlands—that the government has been unable and unwilling to deal with the causes that have led to the problem, overallocation and failure to deal with other broadscale issues in the catchment. I seek leave to continue my remarks later. *(Time expired)*

Leave granted; debate adjourned.


*Senator BARTLETT (Queensland) (7.08 pm)—I move:*

That the Senate take note of the document.

This is an agreement between Australia and the Republic of Indonesia on security cooperation that was adopted just a few weeks ago in Lombok. It is already known colloquially as the Lombok agreement. As a treaty, it will of course immediately stand referred to the Joint Standing Committee on Treaties of which I am a member. I do not seek to pre-empt that inquiry, but I do want to make a couple of points because I think that—as I have said publicly a number of times, including in this chamber—our relationship with Indonesia is a very important one and a very vexed one.

The history of human rights abuses in Indonesia and the history of the campaign for self-determination of the East Timorese has led to some degree of antagonism towards Indonesia in Australia. This has sometimes led to an instinctive knee-jerk anti-Indonesian response anytime there is any activity in Indonesia that causes concern. I know that can have the impact of obscuring some of the very significant advances that have been made in Indonesia in moving astonishingly rapidly towards democracy. To shift from an era of military dictatorship to what is a functional parliamentary democracy in a huge country that covers such an enormous area and has such a large number and diverse range of people is a challenge that I do not think many Australians fully appreciate.

I often feel torn between being very critical of continuing human rights problems in parts of Indonesia and wanting to acknowledge and encourage the very significant advances that Indonesia has made in the face of some very difficult challenges. In the couple of times that I have been there, the people I have met with, including members of parliament and government ministers, have been quite open about those challenges. The challenge of poverty is a very key area. Security is important and, as it states, this is the first security treaty with a regional country to comprehensively cover traditional and non-
traditional threats. At first glance, I do not think it does comprehensively cover them because one of the big security threats—I do not know if you would call it traditional or non-traditional—is widespread poverty and inequality. There are certainly still a lot of problems there.

As has been widely noted, the treaty contains a recognition of the territorial integrity of Indonesia and respects that. That is an understandable thing to have in a treaty but it cannot be used as an excuse to turn a blind eye to what are very serious human rights abuses. One of the issues that really does present a dilemma with treaties like this is that it includes quite specifically, and probably centrally, continuing engagement and capacity building with the Indonesian military through exchanges, exercises and education. Frankly, whilst there have been some significant advances in civil society and in democracy in Indonesia in recent years, the key obstacle that remains is parts of the Indonesian military. That might be a bit undiplomatic to state, but it is a simple fact. We need to walk an incredibly fine tightrope between greater engagement—which I am all in favour of—and facilitating a greater strengthening of some of the elements of Indonesia that are a barrier to further progress.

That dilemma is something that I think the treaties committee should explore very closely. I would encourage those people in the Australian community who have views about this issue to engage with that process of the treaties committee because we do need to look at it closely. We do not want to just engage in knee-jerk anti-Indonesian rhetoric. We want to engage with Indonesia and I believe that we should, but we have to do it with our eyes open and in a mature way. I hope the committee inquiry process can enable that to happen.

Question agreed to.

Australian Electoral Commission Report on Queensland Redistribution

Senator BARTLETT (Queensland) (7.13 pm)—I move:
That the Senate take note of the document.
I seek leave to continue my remarks later.
Leave granted; debate adjourned.

Australian Electoral Commission Report on New South Wales Redistribution

Senator BARTLETT (Queensland) (7.13 pm)—I move:
That the Senate take note of the document.
I seek leave to continue my remarks later.
Leave granted; debate adjourned.

Australian Public Service Report

Senator WATSON (Tasmania) (7.14 pm)—I move:
That the Senate take note of the document.
I seek leave to continue my remarks later.
Leave granted; debate adjourned.

Government Response to Commonwealth Ombudsman’s Report

Senator BARTLETT (Queensland) (7.14 pm)—I move:
That the Senate take note of the document.
I seek leave to continue my remarks later.
Leave granted; debate adjourned.

Commonwealth Ombudsman’s Report

Senator BARTLETT (Queensland) (7.15 pm)—I move:
That the Senate take note of the document.
This is the latest of the reports by the Commonwealth Ombudsman, who is now also the Immigration Ombudsman for people in long-term detention in Australia. It covers another 23 cases. I really think it is important for people to continue to inform themselves, both the general community and members of
parliament, of the details of what we have inflicted on people.

In five minutes I obviously cannot go through all of the cases, but some of them are very difficult migration related cases where it has been difficult and has taken a long period of time to determine identity and status. I continue to repeat my concern that, unless there are extremely good reasons, people should not be locked up for prolonged periods simply because they present migration or removal difficulties.

The other point that needs to be made with all of these cases is that, whilst there have been changes made to the Migration Act in the last year or so—changes that included this reporting process that I am now commenting on—people should not kid themselves that these sorts of things cannot happen again. Yes, we have a few more safeguards in place to set off some alarm bells about the potential of it happening, but, as some of these cases show—and as some of the previous cases that I have spoken on that have been tabled in the Senate show—the power still exists under the Migration Act for people to be detained indefinitely and basically on the decision of the federal immigration minister. I think that is completely unacceptable.

The other issue that comes into question is the fact that, in some of the cases identified here, we are dealing with people who were lawfully in Australia on long-term or permanent visas. There was also a person who was married to an Australian citizen when they were picked up and another person who was an Australian citizen—people with mental health problems. I guess there are some parallels there with the Cornelia Rau incident, which sparked a lot of these reforms. But the Ombudsman’s report and the previous document—the minister’s response—note some of the changes and improvements that have been made regarding mental health care. It needs to be taken as a stark reminder that the Cornelia Rau incident and the Vivien Alvarez incident were not one-offs; there are now over 100 people in long-term detention. In my view, for very few of them was it justified to be in long-term detention; for a significant proportion of them, it was clearly a mistake for them to be in detention, certainly for any prolonged period.

I also note that some of these reports, as with some of the previous ones, do not just go to the problem of why people ended up being in detention for years—even though, as I remind the Senate, none of them were charged or even accused of any crime—but also into the harm that was done to many of them whilst in detention. If they did not have a mental health problem that might have led to them being there, as occurred in some cases, a lot of them certainly developed mental illness once they were in the detention environment.

The harm done by that was compounded in some cases by the decision of the minister to award people only temporary protection visas. Whilst any visa and getting out of detention should be welcomed, the temporary nature of temporary protection visas means that the uncertainty—the doubt about what might happen, the fact that the minister still has that total power over people, the fear they could be sent back, the fear that they could be put back into detention—continues. And all of that prevents recovery, whether in terms of health or rebuilding their life. So many of these reports reinforce why it is so important to scrap the temporary protection visa. That is something that certainly the Democrats will continue to push for as much as possible in the lead-up to the next election. I seek leave to continue my remarks.

Leave granted; debate adjourned.
ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Chapman)—Order! It being 7.20 pm, I propose the question:

That the Senate do now adjourn.

International Accounting Standards

Senator WATSON (Tasmania) (7.20 pm)—Recently I was involved in a conference in the Canberra Convention Centre when in-depth consideration was given to international accounting standards and the GAAP/GFS harmonisation project, which aims to develop principles whereby accountants, statisticians and economists can reliably analyse standardised financial statements of government entities. During my preparation for the paper, I discovered a new accounting standard, AASB 120, which I noted with some interest because it requires that government grants be apportioned to the future years benefiting from that grant. I believe that is a very sensible standard.

I would therefore like to draw the Senate’s attention to some related matters. Reported profit for public entities seldom equates to taxable income—for example, adjustments are always required for such matters as long service leave and holiday pay accrued but not paid. The significant differences between taxable income and reported profit have again been highlighted as a result of Australia’s adoption of this new accounting standard, AASB 120, which requires that government grants be apportioned to the future years benefiting from that grant. I believe that is a very sensible standard.

However, for income tax purposes, where a grant is received by a corporate entity the whole of the grant must be brought to account in the year in which the grant is received. Perhaps it is time for a harmonisation of tax and corporate law reporting. This would be a useful and practical project. Earlier this year the federal government provided some very generous grants to encourage the private sector to upgrade plant to ensure that Australia had an internationally competitive timber conversion industry. Unfortunately, the current state of the tax laws requires that such a grant be assessable in the year of receipt. On the other hand, the dilemma for those likely to accept the grant is that, on the expense side, the deduction is limited to the depreciation or the reduction in value of the effective life of that particular plant. Therefore, tax-wise, the benefit of the grant is severely diminished because of the tax cash flow implications.

The purpose of my contribution tonight is to seek to encourage the government to follow the lead of the international accounting standards in relation to grants by actually changing the Income Tax Act by an amendment which would apportion the tax benefit of the grant—that is, the income—to the future years to which the benefit would apply. By adopting such a recommendation, there would be a better matching of revenue with costs incurred through an effective life apportionment with the income tax expense. As a result of that, I believe that the value of the grant would therefore not be diminished through the application, as we have it, of the current taxation laws.

In conclusion, my recommendation is that the grants could be much more attractive to industry, and there could be a greater incentive to invest in modern equipment and to take up the very generous grants offered to industry by the government. But to effect this recommendation what would be required would be an amendment to the income tax act.

Climate Change

Public Transport

ACT Biosphere Reserve

Senator LUNGY (Australian Capital Territory) (7.24 pm)—I take this opportunity to
INFORM THE SENATE OF SOME OF THE INITIATIVES IN THE AUSTRALIAN CAPITAL TERRITORY TO COMBAT CLIMATE CHANGE. I THINK THE HOWARD GOVERNMENT SHOULD TAKE NOTE OF THIS IN THE CONTEXT OF THE DEBATES GOING ON IN THIS PLACE AT THE MOMENT. I WOULD LIKE TO START BY OUTLINING THE SCIENTIFIC EVIDENCE OF CLIMATE CHANGE AND HOW IRRUFATABLE IT IS.

In Australia we have seen emissions rise by a disastrous 25.1 per cent between 1990 and 2004. The CSIRO predicts that climate change means more hot days, fewer frosts, more floods, increased bushfire risk, longer droughts and poorer crop quality for our farmers. It is pretty obvious that action needs to be taken now if we are to secure a sustainable environmental future for future generations to enjoy. To put the ACT initiatives into context, I will comment on federal policy with respect to climate change. It is easy to observe that the Howard government have shown extreme neglect on climate change. They have known about the threat for a long time but have chosen to ignore it and failed to act.

In contrast, Labor’s concerns were once again validated by the Stern report. It contained a particularly harsh warning of a clear and present danger—not just to our environment but also to our economy—if we do not act. What Stern says is that early action will be far cheaper—perhaps five, 10 or 25 times cheaper. The Stern report also says that we cannot afford to wait any longer. It is very clear that the only way we will tackle climate change in Australia is with a change of government. So 10 interminably long years of no planning and no eye for the needs of tomorrow are coming home to roost for a government which has cynical, short-term thinking.

In contrast, as I said, Labor does have a plan. It is serious about tackling climate change, and I would like to outline some specific initiatives. We will of course ratify the Kyoto protocol—I think everyone knows that; we have been calling on the government to do that for a long time—and adopt emission reduction targets. This would mean that we can meet our international obligations and be in a better position to fight climate change. We will work towards a long-term national target that has been laid out. This is a challenging goal, but one that a Labor government would be committed to achieving.

We also believe that, to achieve significant reductions in emissions, we need to have a national emissions trading system. This will reward companies who are restraining their use of carbon and will give companies a real incentive to be responsible for their environmental impact. We are also committed to delivering a genuine and substantial increase in the percentage of Australia’s energy generated from renewable sources. This will require working very closely with industry, scientists and NGOs to come up with a target that provides a genuine boost for the renewable energy industry. Without this focus, there is no hope for achieving change.

We also understand the need for a climate change trigger. The former environment minister, Robert Hill, understood the need for a climate change trigger. Back in 1999 Senator Hill released a consultation paper on the possible application of such a trigger under the EPBC Act. At the time he stated:

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.

Obviously he failed to win that argument in cabinet. Instead of best practice, we have had years of inaction. Now we have seen the current minister’s rejection of such an approach and rejection of a trigger in the current debate on the EPBC Act.
Tonight I want to focus on my own constituency. The ACT government and manyCanberrans recognise that climate change is a serious threat. As such, the ACT has not only acknowledged the threat but also acted on it. In 2005 the ACT joined with New South Wales to implement the Greenhouse Gas Abatement Scheme. This scheme requires retailers of electricity to supply an increasing percentage of their product each year from cleaner generation sources. In its first year of operation the scheme achieved emission savings of 316,360 tonnes in the ACT alone. That is the equivalent of taking 73,570-plus vehicles off the roads for an entire year. I think that is quite an achievement.

We ought to be considering other initiatives to facilitate corporate investment in renewable energy production in the ACT and continuing to work closely with the ANU to find practical application for photovoltaic and other solar cell initiatives. The ACT Labor government has also taken a lead on green energy. The ACT government is a foundation member of GreenPower, the only accredited green energy product in Australia. The ACT government itself has shown a genuine commitment to tackling climate change, with 23 per cent of the government’s own electricity supplies derived from renewable sources.

Residents in the ACT have also been keen to take up green energy options in their own homes. ActewAGL, a local energy provider, has established a comprehensive green energy program, called GreenChoice. GreenChoice enables ACT residents to buy electricity that comes from sources that do not harm the environment, such as minihydro, wind power and biomass. Over 6,000 households in Canberra have already made the GreenChoice this year. It is estimated that this will help prevent more than 18,000 tonnes of greenhouse gas emissions from pouring into the atmosphere. That is roughly equivalent to taking over 9,000 cars off the road for a year.

Speaking of taking cars off the road, I would like to highlight Canberra’s cycleways and the fact that they have received funding of about $8 million from the ACT government. The usage of scooters and motorbikes has risen. The use of bicycles and motorbikes raises the issue of safety. I, along with my ACT colleagues, urge diligence and greater attention to rider and driver safety education to ensure that the commuter’s intent, which is to use less fuel in getting to and from work on a daily basis, does not result in a massive rise in safety risks. We have had quite a disturbing surge in motorbike accidents in recent times, and I think that is indicative of the popularity of that mode of transport but also indicative, unfortunately, of the increased risk to people’s health and safety and, indeed, life.

The other matter I would like to talk about is public transport. Obviously, it is not just good enough to make it difficult to use cars and then hope people will use public transport. I certainly urge the approach where public transport provides the pull and has the appeal for commuters to want to use those services. I think much more can be done to create that incentive and to have a strong public transport system so that people are inclined to use it.

Further, the ACT is the only jurisdiction that has in place mandatory disclosure of house energy ratings at the point of sale. This plays an important role in informing prospective buyers. Obviously, there is a water shortage in the local region. We do have water restrictions, again, in place already for this summer. We expect them to escalate if we continue to get no rain in our catchment area. I acknowledge that a local school, Rosary Primary, in conjunction with ActewAGL, have led the way in the community
by conducting research on how to keep our sports ovals and sports fields alive, whilst observing strict water restrictions. I am certainly in favour of anything that can be done because the remediation post drought for these ovals is far more expensive and there is a social disbenefit of not being able to use those facilities through a drought.

In conclusion, I outline the nomination of the ACT to be recognised as a UNESCO biosphere reserve. The nomination is an exciting prospect and clearly demonstrates the ACT’s commitment to global environmental standards and sustainable development. If the nomination is accepted, Canberra could become the first national capital to be an internationally recognised biosphere reserve. Biosphere reserves are declarations of a commitment to sustainable development and are one of the few international environmental mechanisms that can be applied in urban areas. If the nomination is successful, there are many benefits for the ACT. These include fostering sustainable scientific endeavours, ecotourism, marketing of local products and raising public awareness about the environment—all with the aim of promoting sustainability.

A biosphere reserve would facilitate sustainable economic and human development, while protecting and restoring our landscapes, ecosystems, species and genetic resources. I have no doubt that this nomination will be supported, given that just about everyone in Canberra is very conscious of the unique environment we have here. It is very clean, it is very different and we are extremely proud of it. This initiative would help encapsulate it and help us to market it to the rest of the world.

Ramsar Wetlands

Senator SIEWERT (Western Australia) (7.35 pm)—The broad aim of the convention on wetlands, or, as it is better known, the Ramsar Convention on Wetlands of International Importance, is to halt the worldwide loss of wetlands and to conserve those that remain through wise use and management. The implementation of the convention on wetlands is guided by its mission statement, which is:

The conservation and wise use of wetlands, by national action and international cooperation as a means to achieving sustainable development throughout the world.

That means ensuring that activities which might affect wetlands will not lead to the loss of biodiversity or diminish the many ecological, hydrological, cultural or social values of wetlands.

Currently, Australia has 64 wetlands on the list. Unfortunately, as today’s Australia state of the environment report 2006, stated 22 of those have had changes to their ecological character. Our mission, as a signatory to the international convention, is that contracting parties make a commitment to, amongst other things, protecting the ecological character of their listed sites. The Environment Protection and Biodiversity Conservation Act 1999 establishes a framework for managing our Ramsar wetlands, which is in accordance with the Ramsar convention, through the Australian Ramsar management principles. These principles have been set out in regulations and cover matters relevant to the preparation of management plans, environment assessment of actions that may affect the site and community consultation. A management plan for a Ramsar wetland cannot be accredited unless it is in accordance with these principles. Among other things, these principles include:

9. Does the plan describe actions that will be taken to deal with the impacts that endanger the wetland’s ecological character?

This should include mechanisms that respond to risks associated with:
physical loss, modification or encroachment on the wetland
loss of biodiversity
pollution and nutrient input
changes to water regimes
utilisation of resources
introduction of invasive species

10. If the wetland requires restoration or rehabilitation, what actions have been identified to undertake this work?

Quite clearly, as a signatory to the Ramsar convention, and under EPBC, the federal government has a responsibility to ensure the ecological character of these wetlands. This is apparent not only with the contracting party but also through a court case commonly known as the Greentree case, where the federal government took action over clearing an area of land within a Ramsar site. The presiding judge in this case found that a contracting party has obligations to promote the conservation of wetlands in its territory in line with items included on the list, thereby reaffirming that the federal government has responsibility as the contracting party for ensuring that Ramsar wetlands maintain their ecological character.

Five of the 64 Ramsar sites are icon sites under the Living Murray initiative. Unfortunately, many of these wetlands are actually losing their ecological character. As I have pointed out, one of the key responsibilities of all governments, particularly the federal government, is to maintain that ecological character.

The Gwydir wetlands were the first nominated wetlands that contained private land. It was very significant that these wetlands were nominated with the support of the landowners in the area. In fact, an MOU was signed between the government and the landowners on this nomination, and I will go into that in a minute. It is my sad duty to remind the Senate—I know this was in the media—that in October this year two farming families who are landowners in the Gwydir wetlands wrote to both the New South Wales government and the federal government asking that their properties be delisted from the Ramsar list because the land was dying; it was losing its ecological character. They pointed out that the government was failing to deliver the ‘adequate, ecologically appropriate environmental flows to the wetlands’ as specified in the memorandum of understanding they signed with the minister’s predecessors in 1999. They believed that decision makers had contributed to the loss of ecological character witnessed at their Ramsar wetland, directly contrary to the expectations of the Environment Protection and Biodiversity Conservation Act and the convention on wetlands.

These families requested a formal delisting of their portions of the Gwydir Ramsar wetlands site. When volunteering to have their land included in the Ramsar listing in 1999, they understood that their responsibility was to continue careful, sustainable grazing practices on these flood plains—grazing practices that had seen these areas maintained as wetlands, maintaining the values that allowed them to be internationally recognised. They understood that there would be delivery of water to retain the ecological character of these Ramsar wetlands. They also believe that the Gwydir Valley has been allowed to ignore Australia’s responsibility with respect to this Ramsar site, and that all those that have presided over this slow and lingering death of the wetland should be ashamed. They were deeply concerned that high-security water had not been supplied as it is in some cases to irrigation interests.

The Worldwide Fund for Nature are an environmental NGO. With all due respect, they are at the more conservative end of environmental NGOs. They also wrote to the minister about the issues around the Gwydir
wetlands. They pointed out that, at the time the MOU was signed, the Gwydir was ‘a leading example of practical conservation at a local level that has created a precedent for communities around Australia and the world’. They went on to say:

Sadly, water sharing regimes, supported at an administrative and legislative level by state government, but also with the tacit support of the commonwealth through natural resource management funding commitments, have failed to provide the water necessary to maintain these important assets.

They also went on to highlight the amount of water that is required for the ecological character of the Gwydir wetlands to be maintained and pointed out that what is required for the ecological character of the private Gwydir wetlands Ramsar site in New South Wales is:

... at least 170,000 ML/year of general security allocation to manage the breeding of colonially nesting waterbirds and threatened waterbirds ... and wetland ecosystem health.

They went on to point out that only 13,600 megalitres of the environmental contingency allowance has been provided to the Gwydir wetlands. This is only a fraction of the water that is needed to maintain the health of the Gwydir wetlands. They said that they cannot tell if that 13,600 megalitres arrived at the wetland. I have heard that as soon as water is released up there you can hear the hum of pumps to take that portion of water. As a consequence, that wetland is dying. There are similar stories for other wetlands.

A recently released report by the Department of the Environment and Heritage on the ecological character of the Coorong has unfortunately found that it is also suffering a significant decline in its ecological character. Quite clearly, the federal government and the state governments have responsibility for these wetlands. I am deeply concerned not only that they are not taking this responsibility seriously but that they are considering draining these wetlands or not allowing them any water allocations this season. This is a travesty for the management of the wetlands in this country.

The Australia state of the environment report 2006 found not only that 22 of our Ramsar wetlands had their ecological character changed but also that 231 of our nationally significant wetlands were under stress. This is an unacceptable situation. The government must use leadership to ensure that our wetlands are protected and it must put away forever this concept that it is acceptable to drain them. (Time expired)

Australian Capital Territory

Senator HUMPHRIES (Australian Capital Territory) (7.45 pm)—Like Senator Lundy, I want to talk about issues affecting the Australian Capital Territory which I feel will be very pertinent to the federal election that will be held in the next 12 months. Although the election campaign will no doubt include industrial relations, interest rates, economic management and so on, I think it is worth flagging at this point that there will be a very clear additional issue within the context of the ACT—that is, federal Labor’s plan to slash investment in the national capital, particularly in relation to the Australian Public Service.

Although a dynamic and resilient private sector has developed in Canberra over the last decade, it would be wrong to suggest that the ACT economy is no longer dependent on the Australian Public Service employment base. To put this in perspective, there are around 180,000 people employed in the ACT, and over 52,000 of them—29 per cent of the workforce—are employed in the Australian Public Service. Thirty-five per cent of all Australian Public Service employees work in Canberra.
How do we know that Labor intends to reduce public servant numbers if elected at next year’s election? The answer is in some pretty explicit comments that have been made by Mr Lindsay Tanner, Labor’s shadow finance minister—and, rumour has it, possibly Labor’s next shadow Treasurer. Mr Tanner is a member of Labor’s expenditure review committee—in other words, its razor gang.

**Senator Sherry**—Expenditure review.

**Senator HUMPHRIES**—Yes, expenditure review. That body is tasked with finding savings for the purpose of funding Labor’s commitments at next year’s election. Perhaps Senator Sherry is also a member of that august body.

**Senator Sherry**—I am indeed!

**Senator HUMPHRIES**—My comments, then, are directed partly to you as well. Mr Tanner set the tone for his approach when he made these comments a little while ago:

> When was the last razor gang? When was the last serious attempt to rein in government spending?

The public service now is effectively larger when you take into account the huge expenditure on consultancies and the massive expansion of the upper level, the fat cats. It’s effectively bigger now than it was when John Howard took office. Under him the Liberal Party has become the party of big Government.

The message here stands out like a watermelon in a strawberry patch: Commonwealth public servants—Canberra’s public servants—are again in Labor’s firing line. I say ‘again’ because, in the lead-up to the 2004 federal election, Labor conceded it would abolish 13 government programs, axe seven government agencies, cut 3,000 Defence civilian jobs, merge Canberra’s national cultural institutions and slash the budget of the National Capital Authority by 40 per cent—and that is just what they were prepared to fess up to before the federal election. Heaven knows what would have happened had they actually been elected.

That approach on the part of Labor is intellectually coherent—even if somewhat short-sighted. Mr Tanner is not the first politician on either side of politics to stake out similar ground, but what he is saying about the size of the Public Service rings hollow. That is made clear by simply sitting here for a few days and listening to what is said by Labor members both here and in the other place. I looked at yesterday’s *Hansard* to give myself a picture of what Labor members are saying. That perusal of one day of *Hansard*, from both here and the other place, was very interesting indeed. Let me run through what happened. At 12.50 pm, Senator Stephens called for more extensive public consultation procedures regarding the siting and establishment of nuclear waste facilities. At 2.44 pm, Senator Marshall criticised the lack of any division 1 registered nurses to evaluate resident care in Australian nursing homes. At 3.03 pm, Senator Crossin called for a wider roll-out of non-sniffable fuel. At 3.44 pm, Julia Gillard said the government had squandered the opportunity to invest in schools and hospitals. At 10.07 pm, Senator Hurley said that the government was not spending enough on the Adult Migrant English Program. She also called for the establishment of an Office of Citizenship and an Office of Integration and Multicultural Affairs in the Department of the Prime Minister and Cabinet. She also wanted programs which promote respect for democratic values and inclusiveness in schools. At 10.36 pm, Justine Elliott called for a federally funded dental scheme. At 10.46 pm, Steve Georganas said we had not committed sufficient funds towards nursing home accommodation—a view we have heard very often in this place from Senator Jan McLucas.
What do all these views have in common? What do they all add up to? They add up to a tremendous commitment for a future Labor government to spend. Across the board, day in and day out in this place, Labor says the government is not spending enough on health, education, the environment, the arts, infrastructure, sport, aged care, family payments—the list goes on. Name an area and you can be certain that Labor is saying that we are not spending enough money in it. Implicitly, Labor is saying that, in each of those areas, we should be spending more and, therefore, they would spend more. How can Senator McLucas, for example, tell us that we are not putting enough investment into residential aged-care places—as she does regularly in this place—without implicitly promising that Labor would do that?

Here we come to the nub of the argument. If Labor believe that these things need to be done, how do they expect to do them without creating more public servants? Look at every one of those items I have just mentioned: every one of them implicitly or explicitly involves the creation of large numbers of public servants. A new national dental scheme—how many public servants would that entail? A new Office of Integration and Multicultural Affairs in the Department of the Prime Minister and Cabinet, more investment in schools and more regulation of nursing homes—all of those add up to more public servants. So we have Mr Tanner saying there are too many public servants under this government, yet apparently every other Labor member seems to be saying we need to create some more public servants in order to provide and pay for better and more extensive programs. It just does not add up. It is simply a case of different members of the Labor Party machine in this country giving different messages to different parts of the electorate depending on the particular sector with which they want to curry favour or the particular image that they want to create of, on the one hand, fiscal rectitude and, on the other, being concerned about the so-called ‘lack’ of services in different parts of the country.

The fact is the record will show—and we can see very clearly this record at work in state Labor governments—that Labor will come to office and spend beyond the community’s capacity to sustain that spending and that at some point or other, either immediately or later, it will come back and cut public services in order to be able to pay for the promises it has foolishly and unsustainably made. We are seeing that today in the ACT. We are seeing that in a whole range of areas of government. We are seeing state government borrowings rise. We can confidently expect all of those things to happen federally if federal Labor is returned in next year’s election.

I am concerned about the impact that will have on the ACT community. I am concerned that Labor continues to push out this deceitful message that it is concerned about protecting public servants—that is, if you speak to the likes of Senator Lundy, Mr McMullan and Ms Annette Ellis. But if you talk to the likes of Mr Tanner, he will tell you that there are far too many public servants and that their number has to be cut. Of course, we have seen the sorts of promises that they have made and will have to make again in order to pathetically attempt to balance the books in this respect. The fact is Canberra has a great deal to fear from a change of government. The party of Bob Menzies—who did so much to develop this city; he built it up as a great city of which all Australians can be proud—will take every opportunity to draw attention to Labor’s double-edged sword and its forked tongue on this question. We will push these issues well and truly to the forefront of the election cam-
paign that will start in the next few months. (Time expired)

Senate adjourned at 7.55 pm

DOCUMENTS

Tabling

The following government documents were tabled:


National Capital Authority—Report for 2005-06.


Sydney Airport Demand Management Act 1997—Quarterly report on the maximum movement limit for Sydney Airport for the period 1 July to 30 September 2006.

Treaties—


Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]


Australian Capital Territory (Planning and Land Management) Act—National Capital Plan—Amendments—

56—The Griffin Legacy – Principles and Policies [F2006L03950]*.

59—City Hill Precinct [F2006L03952]*.

60—Constitution Avenue [F2006L03955]*.

61—West Basin [F2006L03970]*.

Civil Aviation Act—Civil Aviation Regulations—Instrument No. CASA 433/06—Amendment of instrument CASA 19/06 – Instructions – RNAV (RNP-AR) approaches and departures [F2006L03697]*.

Environment Protection and Biodiversity Conservation Act—

Amendment of list of threatened species, dated 9 November 2006 [F2006L03937]*.

National Recovery Plans for—

Buff Banded Rail (Cocos (Keeling) Islands) Gallirallus philippensis andrewsi [F2006L03945]*.

Lister’s Gecko Lepidodactylus listeri and the Christmas Island Blind Snake Typhlops exocoeti [F2006L03939]*.

Medical Indemnity Act—Medical Indemnity (IBNR Claims) Protocol 2006 [F2006L03940]*.

Migration Act—Migration Regulations—Instrument IMMI 06/078—Occupations, Locations, Salaries and Relevant Assessing Authorities for the Employer Nomination Scheme [F2006L03925]*.

Trade Practices Act—Pricing principles for the Local Carriage Service, Wholesale Line Rental Service and Public Switched
Telephone Originating and Terminating Access Services [F2006L03892]*.

* Explanatory statement tabled with legislative instrument.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Fuel Excise**

(Question No. 1811)

**Senator Allison** asked the Minister representing the Treasurer, upon notice, on 25 May 2006:

1. For each financial year from 2000-01 to 2005-06, what was the revenue forgone by the decision in 2001 to reduce and then freeze indexation of fuel excise for: (a) diesel; and (b) petrol.

2. If these revenues vary markedly from the 2001 Budget Papers, can an explanation be provided.

**Senator Minchin**—The Treasurer has provided the following answer to the honourable senator’s question:

Revised estimates of the revenue impact of the 2001 fuel excise changes have not been published.

**Natural Resource Management Budget**

(Question No. 2303)

**Senator Milne** asked the Minister for the Environment and Heritage, upon notice, on 4 August 2006:

1. (a) How much of the 2005-06 Natural Resource Management (NRM) budget was allocated to projects; and (b) what were those projects.

2. How much of the 2005-06 NRM budget was spent on administration.

3. What was the budget for the 2005-06 Marine Species Recovery Protection (MSRP) Fund.

4. (a) How much of the 2005-06 MSRP Fund was allocated to projects; and (b) what were those projects.

5. How much of the 2005-06 MSRP Fund was spent on administration.

6. Why has no budget for the MSRP Fund been put forward for the 2006-07 financial year.

7. What are the criteria for the success of Environment Protection and Biodiversity Conservation Act 1999 listed species recovery plans.

8. Are there any Act-listed species recovery plans that are not costed; if not, why not.

9. Why are insufficient funds set aside to implement Act-listed species recovery plans.

10. How many of the 56 NRM regions have fully costed NRM plans in place.

11. Why does it take so long for the funding round to be announced each year for Act-listed species.

12. Why does it take so long to process the applications and approve funding.

**Senator Ian Campbell**—The answer to the honourable senator’s question is as follows:

1. (a) Expenditure from the Natural Heritage Trust was: $289,108,000, (b) Information on projects can be found at www.nht.gov.au.

2. 6.6%.

3. $640,000 exclusive of GST.

4. (a) $626,238.28 exclusive of GST, (b) The following projects received Marine Species Recovery funding:
<table>
<thead>
<tr>
<th>Project</th>
<th>Proponent</th>
<th>Funding (ex GST)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Raising Indigenous community awareness and on ground recovery activities on marine turtles and dugong Project 1</td>
<td>WWF</td>
<td>$29,930.00</td>
</tr>
<tr>
<td>Raising Indigenous community awareness and on ground recovery activities on marine turtles and dugong Project 2</td>
<td>CRC Torres Strait</td>
<td>$52,920.00</td>
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<td>Green Turtle Dreaming Website</td>
<td>Green Turtle Foundation</td>
<td>$3,000.00</td>
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<tr>
<td>Improved methods of rehabilitation of sick and injured sea turtles</td>
<td>James Cook University</td>
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<td>Investigations into the possible causes of stranding of marine turtles</td>
<td>James Cook University</td>
<td>$10,909.09</td>
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<tr>
<td>Satellite Tracking Marine Turtles in Australia’s Pelagic Zone</td>
<td>Uni of the Sunshine Coast - USC</td>
<td>$57,000.00</td>
</tr>
<tr>
<td>Developing population monitoring protocols for Australian Sea Lions</td>
<td>SARDI Aquatic Sciences</td>
<td>$40,000.00</td>
</tr>
<tr>
<td>Foraging ecology of ASL and their r’ship with commercial fishing and Marine Protected Areas</td>
<td>WA Dept of Fisheries</td>
<td>$57,290.00</td>
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<tr>
<td>Foraging ecology and diet analysis of Australian sea lions</td>
<td>SARDI Aquatic Sciences</td>
<td>$74,330.00</td>
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<tr>
<td>Queensland Grey Nurse Shark Education Project</td>
<td>Aust. Marine Cons. Society</td>
<td>$12,090.91</td>
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<tr>
<td>Developing a whale shark (Rhincodon typus) genetic population monitoring protocol</td>
<td>Charles Darwin University</td>
<td>$50,000.00</td>
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<td>Development of standardised identification guides for the great white shark (Carcharodon carcharias), whale shark (Rhincodon typus) and basking shark (Cetorhinus maximus)</td>
<td>Uni Of Tasmania</td>
<td>$29,420.00</td>
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<td>Trends in world shark catch</td>
<td>TRAFFIC</td>
<td>$4,800.00</td>
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<td>Protected Marine Species Identification Guide</td>
<td>John Campbell</td>
<td>$6,557.09</td>
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<td>Launch of the Pacific Year of the sea turtle</td>
<td>SPREP</td>
<td>$11,000.00</td>
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<td>Development of a global migratory shark agreement</td>
<td>CMS</td>
<td>$75,000.00</td>
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<tr>
<td>Development of a MoU for the Pacific Turtle</td>
<td>CMS</td>
<td>$35,000.00</td>
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<tr>
<td>Indian Ocean South East Asian Marine Turtle MOU</td>
<td>CMS</td>
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</tr>
</tbody>
</table>

(5) $13,761.72 exclusive of GST.

(6) Funding has been allocated to Marine Species Recovery in 2006/2007.

(7) This differs with each recovery plan.

(8) No.

(9) N/a.

(10) 5.

(11) There is no annual funding round.

(12) N/a.