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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

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

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

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

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

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

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

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<tr>
<td>Shadow Minister for Education, Training, Science and Research</td>
<td>Jennifer Louise Macklin MP</td>
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<tr>
<td>Leader of the Opposition in the Senate, Shadow Minister for Indigenous Affairs and Shadow Minister for Family and Community Services</td>
<td>Senator Christopher Vaughan Evans</td>
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<td>Deputy Leader of the Opposition in the Senate and Shadow Minister for Communications and Information Technology</td>
<td>Senator Stephen Michael Conroy</td>
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<td>Shadow Minister for Primary Industries, Resources, Forestry and Tourism</td>
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<td>Shadow Minister for Superannuation and Intergenerational Finance and Shadow Minister for Banking and Financial Services</td>
<td>Senator the Hon. Nicholas John Sherry</td>
</tr>
<tr>
<td>Shadow Minister for Child Care, Shadow Minister for Youth and Shadow Minister for Women</td>
<td>Tanya Joan Plibersek MP</td>
</tr>
<tr>
<td>Shadow Minister for Employment and Workforce Participation and Shadow Minister for Corporate Governance and Responsibility</td>
<td>Senator Penelope Ying Yen Wong</td>
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*(The above are shadow cabinet ministers)*
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Shadow Minister for Consumer Affairs and
Shadow Minister for Population Health and
Health Regulation
Laurie Donald Thomas Ferguson MP

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

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

Shadow Minister for Transport
Senator Kerry Williams Kelso O’Brien

Shadow Minister for Sport and Recreation
Senator Kate Alexandra Lundy

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

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

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

Shadow Minister for Immigration
Anthony Stephen Burke MP

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

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

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

Shadow Minister for Citizenship and Multicultural
Affairs
Senator Annette Hurley

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

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

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

Shadow Parliamentary Secretary for Education
Kirsten Fiona Livermore MP

Shadow Parliamentary Secretary for Environment
and Heritage
Jennie George MP

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

Shadow Parliamentary Secretary for Immigration
Ann Kathleen Corcoran MP

Shadow Parliamentary Secretary for Treasury
Catherine Fiona King MP

Shadow Parliamentary Secretary for Science and
Water
Senator Ursula Mary Stephens

Shadow Parliamentary Secretary for Northern
Australia and Indigenous Affairs
The Hon. Warren Edward Snowdon MP
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THURSDAY, 7 DECEMBER

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

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

Environment
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 that the dams proposed to be built by the Queensland State Government at Traveston crossing on the Mary River and Wyaralong in the Logan River catchment, will have a significant impact on matters of national environmental significance and as a result will trigger the Commonwealth Environment Protection and Biodiversity Conservation (EPBC) Act 1999.

The petitioners note that according to section 87 of the EPBC Act 1999 the Environment Minister decides which assessment approach to assess the relevant impacts of the action. Because of the significant impact the proposed dams will have on matters of national and environmental significance, we call on the Federal Environment Minister to undertake an assessment by inquiry (section 87(1)(e) of the EPBC Act 1999).

by Senator Bartlett (from 516 citizens).

Nuclear Energy
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 that Australians do not need or want an expanded nuclear industry, including nuclear power in Australia.

The petitioners say there is ample evidence that:

(a) engagement in the nuclear cycle leads to growth in nuclear weapons and potentially dirty bombs;
(b) uranium mining and enrichment and nuclear waste reprocessing are energy intensive processes that contribute significantly to greenhouse gas emissions;
(c) uranium is a finite, non-renewable, energy source;
(d) the nuclear cycle creates enormous amounts of long lived radioactive and toxic chemical waste for which there is still no long-term storage solution;
(e) nuclear power is unviable without huge public subsidies;
(f) nuclear power reactors take 10-20 yrs to build and cannot address climate change in the short-term; and
(g) nuclear power generation is not accident free.

The petitioners therefore request that the Federal Government abandon its plans to expand uranium mining, enrich uranium, and build nuclear power plants in Australia, and instead introduce a carbon levy, encouraging investment in renewable energy and energy efficiency.

by Senator Bartlett (from 23 citizens).

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

The Petition of the undersigned shows:
what can but be seen as having been the highly improper practice adopted by both the Brisbane Office of and the Principal Registry of the High Court of Australia in Canberra in respect of the filing of an Election petition which sought to challenge, on constitutional grounds, the legality of the return of all Senators for Queensland from the 2004 Federal General Election and which your principal petitioner presented for filing 'well within time' after the return of the writ to the State authorities in which all senators so returned were named.

As matters presently stand, it is now clear that that Election Petition, like his writ of summons B 112 of 1996 - which the High Court of Australia likewise previously failed utterly to adjudicate in a legally correct manner when initially filed in November 1996, it having been that abject failure to address and resolve in a proper manner the socially vital matters raised therein which not only ultimately precipitated his bringing his Election Petition in the manner and form he did, but also in turn led to the quite absurd majority judg-
ment that was handed down only very recently by that Court on the constitutionality of the Commonwealth’s Industrial Relations legislation - will NEVER now be heard and determined by the High Court of Australia, sitting as the Commonwealth Court of Disputed Returns, ‘on the merits and in the normal manner’ as it clearly should be, in accordance with the law as long known traditionally in this Commonwealth of Australia generally and in this State of Queensland in particular, given the nature of the matters which formed the basis for it and the general social importance of them.

Your Petitioners request that the Senate should:

Bring these matters on for debate, with a view to determining the facts of these matters and then settling upon a course of action which will result in a proper determination, legally, being made by the authorities competent to do so of the vital matters raised by that Election Petition and also his writ of summons B112 of 1996.

They also advise that the originals of

- that writ of summons, as initially filed in 1996, and its most recent renewal, presented to the Brisbane Office of the Registry on the 22nd November 2006 for filing, and also

- the Election Petition, together with and all relevant documentation necessary to commence that process in a legally correct manner,

remain in the hands of the Principal Registry of the High Court of Australia, the latter having been forwarded to Canberra by the Brisbane Office of that Registry for filing immediately on presentation by the principal petitioner to the Brisbane Office over the period November - December 2004.

by Senator Bartlett (from three citizens).

**Medibank Private: Sale**

Petition to the Honourable President and Members of the Senate assembled to oppose the sale of Medibank Private:

This petition of certain citizens of Australia registers its protest to the sale of Medibank Private and calls on the Senate to oppose the sale of Medibank Private.

by Senator Forshaw (from 36 citizens).

**Workplace Relations**

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

The petition of certain citizens of Australia draws the attention of the Senate to the fact that Australian employees are worse off as a result of the Howard Government’s changes to the industrial relations system.

The petitioners call upon the Howard Government to adopt a plan to produce a fair industrial relations system based on fairness and the fundamental principles of minimum standards, wages and conditions; safety nets; an independent umpire; the right to associate; and the right to collectively bargain.

The petitioners therefore ask the Senate to ensure that the Howard Government delivers:

1. Proper rights for Australian workers who are unfairly dismissed.
2. A strong safety net of minimum awards and conditions.
3. An independent umpire to ensure fair wages and conditions, and to settle disputes.
4. The right for employees to bargain collectively for decent wages and conditions.
5. The right for workers to reject individual contracts which cut pay and conditions, and undermine collective bargaining and union representation.
6. The right to join a union and be represented by a union.

by Senator Forshaw (from 45 citizens).

**Dental Care**

Petition to the Honourable President and Members of the Senate assembled in Parliament:

This petition of certain citizens of Australia draws to the attention of the Senate, the long dental waiting lists and under funding of our public dental system.

Your Petitioners therefore ask the Senate to:

- Re-introduce the Commonwealth Dental Scheme and restore funding to public dental health.
• Reduce waiting times for public dental health services, and
• Train more public dentists.

by Senator Forshaw (from 286 citizens).

Military Detention: Australian Citizens

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

The petition of the undersigned citizens of Australia draws the attention of the Senate to:

• commitments made by the Attorney-General, Hon Philip Ruddock MP, in August 2006 that he would seek the return of Australian citizen David Hicks from US detention in Guantanamo Bay if the United States of America did not lay substantive new charges against him by November 2006;

• recent statements by the Minister for Justice and Customs, Senator the Hon Chris Ellison, that it is not satisfactory that David Hicks has been held in detention for so long without facing trial;

• the recent observation of the Law Council of Australia that the new US military commissions are still grossly unfair, will not provide a fair trial for David Hicks, and will likely be challenged in another drawn-out appeal to the US Supreme Court; and

• the Fremantle Declaration signed by State and Territory Attorneys-General on 10 November 2006, which calls on all Australian Governments to uphold fundamental legal principles including the right to a fair trial, the prohibition of detention without trial, and the prohibition of torture.

Your petitioners therefore request that the Senate take action:

• immediately and decisively to end the indefinite detention of this Australian citizen;

• to ensure that he be charged and tried without further delay by a competent and independent tribunal with all of the protections of the rule of law that Australian citizens would expect, compliant with the Geneva Conventions; and

• to insist that failing this, David Hicks be returned to Australia and his indefinite detention without trial be brought to an end.

by Senator Kirk (from 2,186 citizens).

Petitions received.

NOTICES

Presentation

Senators Siewert and Milne to move on the next day of sitting:

(1) That the Senate notes:

(a) the recommendation of the Australian Business Roundtable on Climate Change to ‘build national resilience to the impacts of climate change’;

(b) the announcement of support for the Roundtable’s recommendation by the National Farmers Federation (NFF) on 6 December 2006, stating that the ‘NFF believes that climate change may be the greatest threat confronting Australian farmers and their productive capacity’; and

(c) the call by representatives of 16 faiths on 5 December 2006 for the Australian Government to take urgent action on climate change.

(2) That the following matters be referred to the Rural and Regional Affairs and Transport Committee for inquiry and report by 30 June 2007:

(a) the need for a national strategy to help Australian agricultural industries to mitigate and adapt to climate change;

(b) consideration of the risks and opportunities presented by reduced rainfall, increased temperatures, higher evaporation and increased climactic variability for Australian agriculture; and

(c) assessment of the state of existing knowledge, the relevance of current strategies, and the adequacy of existing research and development programs to
the need to address impacts of climate change on the security of Australian food production and the viability of rural communities.

Senator Nettle to move on the next day of sitting:
That the following bill be introduced: A Bill for an Act relating to trans fat foods sold in Australia, and for related purposes. Food Safety (Trans Fats) Bill 2006.

Senator Nettle to move on the next day of sitting:
That the Senate—
(a) notes that Australian citizen, Mr David Hicks has been detained for 1 888 days; and
(b) calls on the Government to return Mr Hicks to Australia.

COMMITTEES

Selection of Bills Committee

Report

Senator FERRIS (South Australia) (9.33 am)—I present the 15th report of 2006 of the Selection of Bills Committee.

Ordered that the report be adopted.

Senator FERRIS—I seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE

REPORT NO. 15 OF 2006

(1) The committee met in private session on Wednesday, 6 December 2006 at 4.34 pm.

(2) The committee resolved to recommend—
That—
(a) the provisions of the Safety, Rehabilitation and Compensation and Other Legislation Amendment Bill 2006 be referred immediately to the Employment, Workplace Relations and Education Committee for inquiry and report by 20 February 2007 (see appendices 1 and 2 for statements of reasons for referral); (b) the Crimes Legislation Amendment (National Investigative Powers and Witness Protection) Bill 2006 be referred immediately to the Legal and Constitutional Affairs Committee for inquiry and report by 7 February 2007 (see appendices 3 and 4 for statements of reasons for referral); (c) the Cluster Munitions (Prohibition) Bill 2006 be referred immediately to the Foreign Affairs, Defence and Trade Committee for inquiry and report by 29 March 2007 (see appendix 5 for a statement of reasons for referral); and (d) the Non-Proliferation Legislation Amendment Bill 2006 be referred immediately to the Foreign Affairs, Defence and Trade Committee for inquiry and report by 8 February 2007 (see appendices 6 and 7 for statements of reasons for referral); and (e) the Bankruptcy Legislation Amendment (Superannuation Contributions) Bill 2006 be referred immediately to the Legal and Constitutional Affairs Committee for inquiry and report by 8 February 2007 (see appendix 8 for a statement of reasons for referral).

(3) The committee resolved to recommend—
That the following bills not be referred to committees:
• Avoiding Dangerous Climate Change (Kyoto Protocol Ratification) Bill 2006
• Customs Tariff Amendment (Incorporation of Proposals) Bill 2006
• Energy Efficiency Opportunities Amendment Bill 2006
• Royal Commissions Amendment (Records) Bill 2006
• Statute Law Revision Bill (No. 2) 2006
• Wheat Marketing Amendment Bill 2006.

The committee recommends accordingly.

(4) The committee deferred consideration of the following bills to its next meeting:
• Airports Amendment Bill 2006
The committee agreed to reconvene to consider bills deferred from this meeting and bills to be introduced on 7 December 2006, with a view to reporting again to the Senate later today.

(Jeannie Ferris)
Chair
7 December 2006

Appendix 1
Proposal to refer a bill to a committee
Name of bill(s):
Safety, Rehabilitation and Compensation and Other Legislation Amendment Bill 2006

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

Possible submissions or evidence from:
ACTU, individuals

Committee to which bill is referred:
Employment, Workplace Relations, and Education Committee

Possible hearing date: 2007
Possible reporting date(s): TBA/2007

Appendix 2
Proposal to refer a bill to a committee
Name of bill(s):
Safety, Rehabilitation and Compensation and Other Legislation Amendment Bill 2006

Reasons for referral/principal issues for consideration
Adverse impact on workers; diminishing compensable grounds for workers.

Possible submissions or evidence from:
ACTU, individuals

Committee to which bill is referred:
Employment, Workplace Relations, and Education Committee

Possible hearing date: 2007
Possible reporting date(s): TBA/2007

Appendix 3
Proposal to refer a bill to a committee
Name of bill(s):

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

Possible submissions or evidence from:
Legal and Constitutional Affairs Committee

Possible hearing date: 5 February 2007
Possible reporting date(s): 5 February 2007

Appendix 4
Proposal to refer a bill to a committee
Name of bill(s):

Reasons for referral/principal issues for consideration
Has not been through Scrutiny of Bills Committee
Bill amends law relating to the investigation of criminal activity

Possible submissions or evidence from:
AFP, Law Council, civil libertarians, state governments
Committee to which bill is referred: Legal and Constitutional Affairs Committee
Possible hearing date: January and February 2007
Possible reporting date(s): 7 February 2007

Appendix 5
Proposal to refer a bill to a committee
Name of bill(s): Cluster Munitions (Prohibition) Bill 2006
Reasons for referral/principal issues for consideration
To examine the provisions of the bill.
Possible submissions or evidence from: Medical Association for the Prevention of War; Amnesty
International Red Cross
Landmine Action
The United Nations Mine Action Coordination Centre
Human Rights Watch
Australian Defence Force
UNICEF
The Australian Network to Ban Landmines
Committee to which bill is referred: Foreign Affairs, Defence and Trade Committee
Possible hearing date:
Possible reporting date(s): 29 March 2007

Appendix 6
Proposal to refer a bill to a committee
Name of bill(s): Non-Proliferation Legislation Amendment Bill 2006
Reasons for referral/principal issues for consideration
Examination of the bill as necessary
Possible submissions or evidence from: Committee to which bill is referred: Foreign Affairs, Defence and Trade Committee
Possible hearing date:
Possible reporting date(s): 31 January 2007

Appendix 8
Proposal to refer a bill to a committee
Name of bill(s): Bankruptcy Legislation Amendment (Superannuation Contributions) Bill 2006
Reasons for referral/principal issues for consideration
Inquiry into provisions of the bill and its likely impact
Possible submissions or evidence from: Stakeholders from insolvency and superannuation sectors.
Committee to which bill is referred: Legal and Constitutional Affairs Committee
Thursday, 7 December 2006

SENATE

Possiblhe hearing date:
Possible reporting date(s): 8 February 2007

BUSINESS

Rearrangement

Senator FERRIS (South Australia) (9.33 am)—by leave—On behalf of the chairs of the relevant committees, I move:

That the presentation of the report of the Rural and Regional Affairs and Transport Committee on Australia’s future oil supply, and the report of the Economics Committee on petrol prices in Australia, be postponed to a later hour of the day.

Question agreed to.

Rearrangement

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.34 am)—by leave—I move:

That—

(a) end of year statements may be made today by party leaders and the President of the Senate from 7.30 pm, without any question before the chair; and

(b) a senator shall not speak for more than 2 minutes.

Senator LUDWIG (Queensland) (9.35 am)—by leave—I am concerned that this will eat into the time available for the environment debate. If it is only going to be for a short while—

Senator Ellison—Fifteen minutes.

Senator LUDWIG—If the indication is that it is likely to be only 15 minutes we are not opposed to the motion.

Question agreed to.

LEAVE OF ABSENCE

Senator WEBBER (Western Australia) (9.35 am)—by leave—I move:

That leave of absence be granted to Senator George Campbell for 6 December and 7 December 2006, for medical reasons.

Question agreed to.

NOTICES

Postponement

The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Carr for today, proposing the reference of a matter to the Community Affairs Committee, postponed till 28 February 2007.

Business of the Senate notice of motion no. 2 standing in the name of Senator Siewert for today, proposing the disallowance of the 2006/07 SBT Australian National Catch Allocation Determination, postponed till 6 February 2007.

MR DAVID HICKS

Senator STOTT DESPOJA (South Australia) (9.36 am)—I move:

That the Senate—

(a) notes that:

(i) 9 December 2006 marks the 5th anniversary of the capture of Mr David Hicks in Afghanistan by the Northern Alliance, and

(ii) Mr Hicks is yet to be charged under the new United States Military Commission Act 2006; and

(b) calls on the Australian Government to lobby for Mr Hicks’ immediate fair trial or repatriation.

Question put.

The Senate divided. [9.41 am]

(The President—Senator the Hon. Paul Calvert)

Ayes......... 31
Noes.......... 32
Majority....... 1

AYES

Allison, L.F. Bartlett, A.J.J.
Bishop, T.M. Brown, B.J.
Brown, C.L. Carr, K.J.
Crossin, P.M. Faulkner, J.P.
Fielding, S. Forshaw, M.G.
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.                       Stephens, U.
Sterle, G.                        Stott Despoja, N.
Webber, R. *                      Wong, P.
Wortley, D.

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

PAIRS
Campbell, G.                      Scullion, N.G.
Conroy, S.M.                      Mason, B.J.
Evans, C.V.                       Joyce, B.
Hogg, J.J.                        McGauran, J.J.J.
Harley, A.                        Coonan, H.L.
Hutchins, S.P.                    Vanstone, A.E.

* denotes teller

Question negatived.

CIGARETTES AND BUSHFIRE RISK

Senator ALLISON (Victoria—Leader of the Australian Democrats) (9.49 am)—I move:

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 \textit{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.

Question put.
The Senate divided. [9.46 am]

(The President—Senator the Hon. Paul
Calvert)

Ayes........... 30
Noes........... 34
Majority....... 4

AYES
Allison, L.F. Bartlett, A.J.J.
Bishop, T.M. Brown, B.J.
Brown, C.L. Carr, K.J.
Crossin, P.M. Faulkner, J.P.
Forshaw, M.G. Kirk, L.
Ludwig, J.W. McEwen, A.
Marshall, G. Milne, C.
Moore, C. Murray, A.J.M.
Nettle, K. O’Brien, K.W.K.
Polley, H. Ray, R.F.
Sherry, N.J. Siewert, R.
Stephens, U. Sterle, G.
Stott Despoja, N. Webber, R. *
Wong, P. Wortley, D.

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

PAIRS
Campbell, G. Scullion, N.G.
Conroy, S.M. Mason, B.J.
Evans, C.V. Joyce, B.
Hogg, J.I. McGauran, J.J.J.
Hurley, A. Coonan, H.L.
Hutchins, S.P. Vanstone, A.E.

Question negatived.

WEED ERADICATION

Senator MILNE (Tasmania) (9.48 am)—I move:

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.

Question put.

The Senate divided. [9.50 am]
(The President—Senator the Hon. Paul Calvert)

<table>
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<th>Ayes</th>
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<td>Noes</td>
<td>33</td>
</tr>
<tr>
<td>Majority</td>
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**AYES**
- Allison, L.F.
- Bishop, T.M.
- Brown, C.L.
- Crossin, P.M.
- Fielding, S.
- Kirk, L.
- Lundy, K.A.
- McEwen, A.
- Milne, C.
- Murray, A.J.M.
- O’Brien, K.W.K.
- Ray, R.F.
- Siewert, R.
- Sterle, G.
- Webber, R. *
- Wortley, D.

**NOES**
- Abetz, E.
- Barnett, G.
- Boswell, R.L.D.
- Calvert, P.H.
- Chapman, H.G.P.
- Eggleston, A.
- Ferguson, A.B.
- Fierravanti-Wells, C.
- Heffernan, W.
- Johnston, D.
- Lightfoot, P.R.
- Macdonald, J.A.L.
- Nash, F.
- Patterson, K.C.
- Ronaldson, M.
- Troeth, J.M.
- Watson, J.O.W.

**PAIRS**
- Campbell, G.
- Conroy, S.M.

<table>
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<th>Ayes</th>
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<tr>
<td>Noes</td>
<td>33</td>
</tr>
<tr>
<td>Majority</td>
<td>2</td>
</tr>
</tbody>
</table>

**AYES**
- Evans, C.V.
- Hogg, J.J.
- Hurley, A.
- Hutchins, S.P.
- W spot, A.E.

**NOES**
- Abetz, E.
- Barnett, G.
- Boswell, R.L.D.
- Calvert, P.H.
- Chapman, H.G.P.

---

Senator NETTLE (New South Wales)

(9.52 am)—I move:

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.

Question put.

The Senate divided. [9.54 am]
(The President—Senator the Hon. Paul Calvert)

<table>
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<th>Ayes</th>
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<tr>
<td>Noes</td>
<td>33</td>
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<tr>
<td>Majority</td>
<td>2</td>
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</tbody>
</table>

**AYES**
- Allison, L.F.
- Bishop, T.M.
- Brown, C.L.
- Crossin, P.M.
- Fielding, S.
- Kirk, L.
- Lundy, K.A.
- McEwen, A.
- Milne, C.
- Murray, A.J.M.
- O’Brien, K.W.K.
- Ray, R.F.
- Siewert, R.
- Sterle, G.
- Webber, R. *
- Wortley, D.

**NOES**
- Abetz, E.
- Barnett, G.
- Boswell, R.L.D.
- Calvert, P.H.
- Chapman, H.G.P.

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* denotes teller

Question negatived.
Thursday, 7 December 2006  SENATE  11

NUCLEAR NONPROLIFERATION

Senator ALLISON (Victoria—Leader of the Australian Democrats) (9.56 am)—Before I move the motion, I seek leave to table statements by Kofi Annan and Nobel Prize winners which I have previously handed to the whips.

Leave granted.

Senator ALLISON—I table the statements and I move:

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.

Question agreed to.

OLD GROWTH FORESTS

Senator MILNE (Tasmania) (9.57 am)—

I move:

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.

Question put.

The Senate divided. [9.58 am]

(The President—Senator the Hon. Paul Calvert)

Ayes………….. 30
Noes………….. 34
Majority……….. 4

AYES

Allison, L.F.  
Bishop, T.M.  
Brown, C.L.  
Crossin, P.M.  
Forsaw, M.G.  
Ludwig, J.W.  
Marshall, G.  
McLucas, J.E.  
Moore, C.  
Nettle, K.  
Polley, H.  
Sherry, N.J.  
Stephens, U.  
Stott Despoja, N.  
Wong, P.  

Ferguson, A.B.  
Fifield, M.P.  
Humphries, G.  
Kemp, C.R.  
Macdonald, I.  
Minchin, N.H.  
Parry, S.  
Payne, M.A.  
Santoro, S.  
Tred, R.B.  

Eggleston, A.  
Ellison, C.M.  
Ferrus, J.M.  
Fierravanti-Wells, C.  
Heffernan, W.  
Johnston, D.  
Lightfoot, P.R.  
Macdonald, J.A.L.  
Nash, F.  
Patterson, K.C.  
Ronaldson, M.  
Trottm, J.M.  
Watson, J.O.W.  

* denotes teller

WETLANDS AND FLOODPLAINS

Senator NETTLE (New South Wales) (10.01 am)—I move:

That the Senate—

(a) notes that:

(i) important wetlands and floodplain areas in the Murray-Darling Basin face the threat of irretrievable ecological damage as a result of river diversions and unauthorised interception banks (in areas including, but not limited to, the Condamine, Ballonne and the southern Macquarie Marshes),

(ii) unregulated and unmetered off-stream water storage, such as Cubbie Station, places an unsustainable burden on our shared water resources and undermines efforts to manage limited resources in an equitable and sustainable fashion, and

(iii) while the drought has exacerbated this situation, even a cyclical improvement in drought conditions will not improve these threatened ecosystems while these diversions remain in place; and

(b) calls on the Federal Government to:
(i) work with the New South Wales and Queensland Governments to legislate and regulate to ensure uninterrupted environmental flows, and
(ii) look at options of buying out unsustainable operations such as Cubbie Station.

Question put.

The Senate divided. [10.03 am]

(The President—Senator the Hon. Paul Calvert)

Ayes............. 8
Noes............. 51
Majority......... 43

AYES

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

NOES

Adams, J. Barnett, G.
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. Crossin, P.M.
Eggleston, A. Ellison, C.M.
Faulkner, J.P. Ferguson, A.B.
Ferris, J.M. Fielding, S.
Fierravanti-Wells, C. Fifield, M.P.
Heffernan, W. Humphries, G.
Johnston, D. Kemp, C.R.
Kirk, L. Ludwig, J.W.
Lundy, K.A. Macdonald, J.A.L.
Marshall, G. McEwen, A.
McLucas, J.E. Minchin, N.H.
Moore, C. Nash, F.
O’Brien, K.W.K. Parry, S. *
Patterson, K.C. Payne, M.A.
Polley, H. Ray, R.F.
Ronaldson, M. Santoro, S.
Sherry, N.J. Stephens, U.
Sterle, G. Troeth, J.M.
Trood, R.B. Watson, J.O.W.
Webber, R. Wong, P.
Wortley, D.

* denotes teller

Question negatived.

IRAQ

Senator NETTLE (New South Wales) (10.06 am)—I move:

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 ALLISON (Victoria—Leader of the Australian Democrats) (10.06 am)—by leave—I move an amendment to the motion, which has been circulated:

Omit paragraph (b), substitute:

(b) calls on the Government to acknowledge the Coalition forces are losing the war in Iraq and to plan a withdrawal of Australian troops from Iraq as soon as practicable.

Senator NETTLE (New South Wales) (10.07 am)—by leave—I wish to make a short statement. The Australian Greens are not in a position to support changing an immediate withdrawal to a planned withdrawal. A planned withdrawal is the position of the Howard government—perhaps not even the position of the Bush government now—and could mean 20 years time. This is an immediate issue that needs resolution, so I am not in a position to accept the amendment. However, I would be prepared to change the wording of the motion so that it read ‘a planned, immediate withdrawal’, because of course all withdrawals are planned. But I am not happy to accept the amendment as proposed by Senator Allison.

Question put:

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

The Senate divided. [10.09 am]
(The President—Senator the Hon. Paul Calvert)

Ayes………………. 24
Noes………………. 35
Majority……….. 11

AYES

Allison, L.F.  Bartlett, A.J.J.
Bishop, T.M.  Brown, C.L.
Carr, K.J.  Crossin, P.M.
Faulkner, J.P.  Kirk, L.
Ludwig, J.W.  Lundy, K.A.
Marshall, G.  McEwen, A.
McLucas, J.E.  Moore, C.
O’Brien, K.W.K.  Polley, H.
Ray, R.F.  Sherry, N.J.
Stephens, U.  Sterle, G.
Stott Despoja, N.  Webber, R. *
Wong, P.  Wortley, D.

NOES

Adams, J.  Barnett, G.
Bernardi, C.  Boswell, R.L.D.
Brandis, G.H.  Brown, C.L.
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.  Forsyth, M.G.
Johnston, D.  Kemp, C.R.
Kirk, L.  Lightfoot, P.R.
Ludwig, J.W.  Lundy, K.A.
Macdonald, J.A.L.  Marshall, G.
McEwen, A.  McLucas, J.E.
Minchin, N.H.  Moore, C.
Nash, F.  O’Brien, K.W.K.
Parry, S.  * Patterson, K.C.
Payne, M.A.  Ralph, J.M.
Santoro, S.  Siewert, R.
Troeth, J.M.  Trood, R.B.
Watson, J.O.W.

PAIRS

Campbell, G.  Scullion, N.G.
Evans, C.V.  Joyce, B.
Hogg, J.J.  McGauran, J.J.
Hurley, A.  Coonan, H.L.
Hutchins, S.P.  Vanstone, A.E.
Conroy, S.M.  Mason, B.J.

* denotes teller

That the motion (Senator Nettle’s) be agreed to.

The Senate divided. [10.13 am]

(The President—Senator the Hon. Paul Calvert)

Ayes……………. 7
Noes……………. 52
Majority……… 45

AYES

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

NOES

Adams, J.  Barnett, G.
Bernardi, C.  Bishop, T.M.
Boswell, R.L.D.  Brandis, G.H.
Brown, C.L.  Calvert, P.H.
Chapman, H.G.P.  Colbeck, R.
Crossin, P.M.  Eggleston, A.
Ellison, C.M.  Faulkner, J.P.
Ferguson, A.B.  Ferris, J.M.
Fielding, S.  Fierravanti-Wells, C.
Fifield, M.P.  Forsyth, M.G.
Heffernan, W.  Humphries, G.
Johnston, D.  Kemp, C.R.
Kirk, L.  Lightfoot, P.R.
Ludwig, J.W.  Lundy, K.A.
Macdonald, J.A.L.  Marshall, G.
McEwen, A.  McLucas, J.E.
Minchin, N.H.  Moore, C.
Nash, F.  O’Brien, K.W.K.
Parry, S.  * Patterson, K.C.
Payne, M.A.  Polley, H.
Ray, R.F.  Ronaldson, M.
Santoro, S.  Sherry, N.J.
Stephens, U.  Sterle, G.
Troeth, J.M.  Trood, R.B.
Watson, J.O.W.  Webber, R.
Wong, P.  Wortley, D.

* denotes teller

Question negatived.

FESTIVE SEASON

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.16 am)—It gives me great pleasure to move:

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

Question agreed to.

Senator BOB BROWN—I might just note that that is the only motion I have ever had unanimity for!

PREGNANCY COUNSELLING (TRUTH IN ADVERTISING) BILL 2006

First Reading

Senator STOTT DESPOJA (South Australia) (10.17 am)—I, and also on behalf of Senator Troeth, Senator Nettle and Senator Carol Brown, move:

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.

Question agreed to.

Senator STOTT DESPOJA (South Australia) (10.17 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 STOTT DESPOJA (South Australia) (10.17 am)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

PREGNANCY COUNSELLING (TRUTH IN ADVERTISING) BILL 2006

The Pregnancy Counselling (Truth in Advertising) Bill 2006 seeks to prohibit misleading and deceptive advertising and notification of pregnancy counselling services; promote transparency and full choice in the notification and advertising of pregnancy counselling services; improve public health; and minimise the difficulties associated with obtaining advice to deal with unplanned pregnancy.

I am proud to introduce this legislation to the Senate co-sponsored by Senators Judith Troeth, Carol Brown and Kerry Nettle and thank them for their support.

It is an historic day for the Australian Parliament, with this bill representing the second time this year that cross-party women have joined together to introduce legislation to improve women’s reproductive health.

This bill closely mirrors the Private Member’s Bill I introduced in June last year to regulate pregnancy counselling, and ban misleading and deceptive advertising by pregnancy counselling services.

That bill, the Transparent Advertising and Notification of Pregnancy Counselling Services Bill 2005 was examined by a Senate committee earlier this year, and received cross-Party support throughout the inquiry process and when it reported back in August.

I would like to thank, in particular, Senators Moore, Webber, Adams and Nettle for their support of this issue—and my bill—during the Senate inquiry, and also Senators Allison and Carol Brown for their support of the issue and for signing on to our cross-party report in favour of the bill.

This bill is necessary because, although the Trade Practices Act outlaws “conduct that is liable to mislead the public as to the nature, the characteristics, the suitability for their purpose or the quantity of any services”, most pregnancy counselling services are not subject to the Trade Practices Act because they usually do not charge for the information and other services they provide and are thus not considered to be engaging in trade or commerce.

Essentially, this bill makes pregnancy counselling services subject to the same laws regarding misleading advertising as organisations which are engaged in trade or commerce.

I have been campaigning for greater transparency in the advertising and notification of pregnancy counselling services for years now, since concerns about the way one pregnancy counselling
service. Pregnancy Counselling Australia, was listed in the White Pages was first brought to my attention.

Those who contacted my office at the time were concerned that the way Pregnancy Counselling Australia was listed in the White Pages gave the impression it was an impartial or “non-directive” pregnancy counselling service, yet in fact it is run by a pro-life organisation, and does not refer for terminations.

I raised this issue in the Senate in August 2004, and subsequently wrote to Sensis - the company which publishes and distributes the White Pages - urging it to remove Pregnancy Counselling Australia from the emergency and community help pages of the White Pages, and replace it with a non-directive pregnancy counselling service. I also urged Sensis to engage in corrective advertising to advise the public of the true nature of the service Pregnancy Counselling Australia provides.

Sensis responded to my letter by writing that, following concerns raised in 2003, it had, in conjunction with Pregnancy Counselling Australia, already altered two previous listings: “Abortion Trauma” and “Crisis Pregnancy Counselling”, to read “Pregnancy Counselling Australia (Pregnancy termination alternatives and post-termination counselling)”.

Sensis went on to explain that Pregnancy Counselling Australia complies with its rules for listing in the 24 hour Service and Community Help sections of the White Pages, which include that the “content of the listing must not misrepresent the nature of the service provided”. In other words, Sensis believes the listing is as clear as it needs to be, and does not need to be altered - let alone be removed. However, the fact that Pregnancy Counselling Australia does not provide referrals for terminations - and is, in fact, fiercely anti-abortion, is not mentioned in the listing.

Sensis’ response, and my increasing awareness of a number of other pregnancy counselling services which like Pregnancy Counselling Australia, do not refer for terminations yet do not mention this in their advertising and notification material, encouraged me to continue to push for greater transparency in this area, to ensure women are able to make informed choices about who they contact for information when they are deciding whether they can continue with a pregnancy, are seeking support in continuing their pregnancy, or have decided to have an abortion.

Specifically, our Bill does the following:

Firstly, it prohibits pregnancy counselling services (whether the services provide the information in person or over the phone) from publishing, distributing, displaying or broadcasting, by internet, television, telephone, radio or like service, or by post, any material that is misleading or deceptive as to the nature of the services it provides, or any material that is likely to mislead or deceive as to the nature of the services it provides.

Secondly, the bill ensures services must be upfront about whether or not they refer for terminations.

It requires services which do not provide referrals for terminations of pregnancy to include in any advertising or notification material a statement that “This service does not provide referrals for terminations of pregnancy” or a like statement.

It also requires services which do provide referrals for terminations of pregnancy to include in any advertising or notification material a statement that “This service does provide referrals for all pregnancy options”.

Breaching either of these conditions would result in a penalty of up to 2,000 penalty units for an individual, and up to 10,000 penalty units for a body corporate.

This bill is not about shutting down, or cutting off funding to, anti-abortion services -- to the contrary I recognise the right of all sorts of services to exist. It is simply about ensuring that services are transparent and accountable for the information they provide and the options they offer women.

In this bill, ‘non-directive pregnancy counselling service’ refers to a service that offers counselling, information services, referrals and support on all three pregnancy options (raising the child, adoption, and termination) and will provide referrals to terminations of pregnancy services where requested.

I would have liked this clause to be able to read that the directories must list a non-directive pregnancy counselling service in these pages (as I
would have in the original bill), but unfortunately, due to a lack of Federal Government funding, there are currently no national 24 hour pro-choice pregnancy counselling services.

On the other hand, the Government allocates over $300,000 each year to the Australian Federation of Pregnancy Support Services (AFPSS) for pregnancy counselling services (the AFPSS is a self-described pro-life organisation, according to its constitution, and affiliated organisations do not refer for terminations).

The next clause of the bill would ensure that where a participating State receives financial assistance from the Commonwealth for making payments to pregnancy counselling services and the service is found to have engaged in misleading or deceptive conduct, or has not met the notification requirement of the bill, financial assistance is not payable until the service has ceased to engage in the misleading or deceptive conduct or has met the notification requirements.

This bill also makes Commonwealth-funded pregnancy counselling services ineligible to receive a grant of financial assistance unless it first discloses whether it is a pregnancy counselling service which does not provide referrals for terminations of pregnancy, or a non-directive pregnancy counselling service which provides referrals for all pregnancy options.

Additional reporting requirements contained in the bill include that the Minister must report annually on the amount of each payment to each State and each service provider, the name of each service provider receiving the payment, and whether each service provider is a pregnancy counselling service which does not provide referrals for terminations of pregnancy, or a non-directive pregnancy counselling service which provides referrals for all pregnancy options.

I commend the bill to the Senate.

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

Leave granted; debate adjourned.

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**BUSINESS**

**Rearrangement**

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (10.18 am)—I move:

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 August
- 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 general 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 hearings—Group A)
- Wednesday, 14 November and Thursday, 15 November (supplementary hearing—Group B).

(3) Committees consider the proposed expenditure 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, Information Technology and the Arts
- Finance and Public Administration
- Legal and Constitutional Affairs
- Rural and Regional Affairs and Transport

**Group B:**
- Community Affairs
- Economics
- Employment, Workplace Relations and Education
- Foreign Affairs, Defence and Trade.

(5) Committees 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 LUDWIG (Queensland—Manager of Opposition Business in the Senate) (10.18 am)—I seek leave to make a short statement in relation to this.

Leave granted.

Senator LUDWIG—I will only take a minute on this. What we have here again is this government using its numbers in the Senate to crunch through its estimates process. What we still do not have from the government is an indication of the spillover days and those matters. If you look at the program that is being put forward in two estimates hearings by legislative and general purpose, we have maintained both Fridays in the first additional estimates for a spillover day to ensure that the proper processes of the Senate can continue. When you look at the budget estimates, it runs again from the Monday to the Thursday. It appears that the government has maintained its position of ensuring that there will not be a spillover day during that period.

Of course, if you look at the numbers of four committees sitting for two weeks, eight days have been removed from the program. Again, that would have allowed for proper scrutiny in the Senate. Then in the second part of that we also have Wednesdays, for the November period, to Thursdays. Again what we find is that this government is not keen on scrutiny. It is not keen on ensuring that the estimates processes proceed as usual.

The government of course comes back with the tired line that they have increased the available estimates days, but the truth is that they have not. They have ensured that through this process this Senate would have reduced scrutiny available for the estimates
in total. I will not take up too much of the Senate’s time on that; I simply wanted to make that point.

Question agreed to.

REMOVAL OF RECOGNITION OF US MILITARY COMMISSIONS (DAVID HICKS) BILL 2006

First Reading

Senator NETTLE (New South Wales) (10.21 am)—I, and also on behalf of Senator Brown, move:

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.

Question agreed to.

Senator NETTLE (New South Wales) (10.22 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 NETTLE (New South Wales) (10.22 am)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

Removal of Recognition of US Military Commissions (David Hicks) Bill 2006

This week Australian citizen David Hicks will face the beginning of his sixth year in detention.

This weekend The Greens will join thousands of Australians who will gather in protest around the country to call for David Hicks to be returned to Australia.

There is a growing anger that the Australian government continues to support the detention of David Hicks and the military commissions which the United States have established to legitimise his detention.

Faced with this anger the best the Australian government can do is call for David Hicks to face trial before a military commission sooner rather than later.

The military commissions have not been established to provide for a fair trial. They are designed to provide a legal cover for the appalling treatment and continued detention of people such as David Hicks in Guantanamo Bay.

The recent release of the film The Road to Guantanamo showed in graphic detail the torture and terrible treatment experienced by people detained at Guantanamo Bay, treatment that the White House and Australian Government do not want the world to know about.

Ruhal Ahmed who is one of the central characters portrayed in the film was intending to come to Australia to discuss his experiences, but was blocked by the Australian Security Intelligence Organisation.

The Inspector General for Intelligence is currently investigating this decision. But it was clearly politically motivated.

Ruhal Ahmed has travelled to numerous countries around the world including throughout Europe but is only prevented from promoting the film in Australia and the United States.

Like Ruhal Ahmed, the Australian government does not want David Hicks to tell his story.

That is why in 2004 the Government supported by Labor amended the Proceeds of Crime Act 2002 to ensure that David Hicks would not be able to receive funds from telling the story of his incarceration at Guantanamo Bay.

They did this by recognising the legitimacy of the US Military Commissions intended to try David Hicks and other Guantanamo Bay prisoners.

It was an appalling act of cooperation by the major parties to silence David Hicks. But even worse, in doing so they gave a stamp of approval to the military commissions in Australian law.
The relevant provision of the *Proceeds of Crime Act 2002*, section 337A(3) states that:

**offence against a law of a foreign country** includes an offence triable by a military commission of the United States of America established under a Military Order of 13 November 2001 made by the President of the United States of America and entitled “Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism”.

In supporting the inclusion of this section in the *Proceeds of Crime Act in 2004* the government and Labor gave the tick of approval to President George Bush’s military commissions.

The military commissions have subsequently been ruled unconstitutional and therefore illegal by the US Supreme Court, backing up what David Hicks’ family and lawyers and The Greens have said from the beginning.

However one of the last acts by the Republican controlled US Congress just prior to the recent US elections was to re-establish the military commissions.

The new military commissions are perhaps worse than the old as they sanction torture by allowing evidence obtained by coercion to be used in evidence.

They also:

- exclude the defendant from the proceedings in certain circumstances,
- prevent the defence from learning how evidence against the defendant was obtained whenever the government labels the evidence classified;
- admit hearsay evidence while imposing the burden on the defence to prove that the evidence is not reliable;
- do not provide the defence with right to appeal faulty rulings before the end of the whole trial,
- limit the defendant’s access to evidence that could show innocence,
- limit the sources of law to which courts may look,
- seek to exclude the Geneva Conventions as a source of rights,
- aim to make the Geneva Conventions non-enforceable in U.S. courts,
- seek to create retroactive criminal responsibility for acts that were not crimes at the time they were committed, and
- withhold full and effective rights of appeal

These military commissions are kangaroo courts not intended to conduct a fair trial but rather legitimate the detention for over five year’s prisoners such as David Hicks.

It is a travesty that these commissions are recognised by Australian law and that the government and Labor combined in 2004 to hinder Hicks telling his story.

This bill, the Removal of Recognition of US Military Commissions (David Hicks) Bill 2006 will remove this recognition of the US Military Commissions from the *Proceeds of Crime Act 2002*, making clear that both the commissions ruled unconstitutional by the US Supreme Court and the new military commissions established by Congress are not supported in Australian law.

Passage of The Green’s bill through the Australian Parliament would also be a strong statement against the ongoing detention of David Hicks.

This bill is only the latest action by The Greens in support of a fair go for David Hicks.

Senator Bob Brown was the first Australian MP to raise David Hicks situation in Parliament, back in June 2002 and has been barred from visiting Guantanamo Bay.

In 2003 Greens Senator Bob Brown and I approached President Bush and asked him to release David Hicks. The Greens did this in 2003 because the Australian Government had failed to stand up for this Australian citizen.

We did not imagine that three years later David Hicks would still be in detention in Guantanamo Bay and the Australian Government would still be failing to stand up for the rights of this Australian citizen.

The Greens want David Hicks brought home to Australia and we will do whatever we can to achieve this.
This weekend we join thousands of Australians at rallies around the country who are calling for David Hicks to be brought home for Christmas.

We will move a motion in the Senate every day calling on the government to bring David Hicks home until he is returned to his family in Australia.

This bill is a necessary step in ensuring that the illegal military commissions set up by the Bush Administration to legitimise the detention of David Hicks are not recognised in Australian law.

The passage of this bill through the Australian Parliament will send a strong message to the Bush Administration that David Hicks must receive a fair trial and not be hauled before a hastily created unfair kangaroo court that is set up to convict him.

The process of the military commissions created by the Bush Administration have been considered to be an unacceptable way to try American citizens, British citizens and citizens from a host of other countries.

The Australian parliament must not accept a process that is unacceptable to the rest of the world and well below the standards of fairness that American and British Governments expect for their citizens.

The Greens call on the government to ensure that David Hicks is returned home and receives a fair trial.

I commend the bill to the Senate.

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

Leave granted; debate adjourned.

MIGRATION AMENDMENT (REVIEW PROVISIONS) BILL 2006

First Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.22 am)—At the request of the Minister for Immigration and Multicultural Affairs, I move:

That the following bill be introduced: A Bill for an Act to amend the Migration Act 1958, and for related purposes.

Question agreed to.
The cumulative effect of the court decisions is creating serious operational difficulties for the tribunals, including delays in finalising decisions. The proposed amendments seek to resolve these difficulties.

Specifically, they provide that where an applicant is at a hearing before one of the tribunals, the tribunal member will have a discretion to either (1) tell the applicant about any adverse information before it at the hearing, and invite him or her to respond, or (2) write to the applicant about the adverse information, and invite him or her to respond.

Whether they opt for the written or the oral method of providing procedural fairness, the proposed amendments will require the tribunals to do their best to ensure that the applicant understands why the adverse information being put to them is relevant to the review. They must ensure that the applicant understands the consequences of the tribunal relying on that information to affirm the decision that is under review.

If the tribunal chooses to tell the applicant at hearing about any adverse information, the member must also tell the applicant that he or she may ask for more time to respond to that information. If the applicant then asks for more time, and the tribunal considers that this request is reasonable, the tribunal must adjourn the review.

As has long been the case, interpreters will be available to applicants who need them for review proceedings so people who have difficulty with English will in no way be disadvantaged.

The tribunal’s choice as to whether they provide procedural fairness to an applicant orally or in writing will depend on what is appropriate in a particular case and with the tribunal bearing in mind the guiding principle, which is stated in the act, that it endeavour to provide a review that is fair, just, economical, informal and quick.

The bill will also provide that the tribunals are not obliged to provide an applicant with information already given by the applicant to the department, as part of the process leading to the decision under review.

The current requirement to give an applicant particulars of adverse information is subject to an exception in relation to information that has been given by the applicant for the purposes of ‘the application’.

However, the courts have strictly interpreted this exception to apply only to information provided to the tribunals, and not to information provided by the applicant to the department during the process leading to the decision under review.

The bill will insert a new exception for information given by the applicant to the department during the process leading to the decision that is under review. This exception will not extend to information that the applicant orally gave to the department, such as information provided during an interview with a departmental officer for a visa application. Such information is typically not recorded verbatim, and the tribunals will still be required to give the particulars of that information to the applicant for comment.

Since the full Federal Court and the High Court decisions I referred to earlier, the tribunal has operated under a very technical application of the law. The tribunals advise that this is seriously hampering their efficient operation and is causing unnecessary delays in finalising cases.

For example, take information such as passport details and details of a person’s movements—information that is frequently before the tribunals. If the tribunal was to rely on such information to affirm a decision, it must put particulars of it to the applicant in writing for comment before making the decision, even if the tribunal had orally put that to the applicant at the hearing, and the applicant had an opportunity to comment on it at the hearing and so had, in substance and effect, been given procedural fairness.

The bill will also insert new provisions into the act, expressly requiring the tribunals, when applying the requirements and procedures set out in relevant divisions of the act (which are an exhaustive statement of the requirements of the natural justice rule), to act in a way that is fair and just.

These amendments will uphold the fundamental right of all review applicants to receive procedural fairness during review proceedings, while at the same time giving the tribunals flexibility in how they meet their procedural fairness obligations.
These amendments will allow the tribunals to conduct reviews more efficiently, with less unnecessary process and paperwork. This will help the Refugee Review Tribunal to comply with its statutory 90-day time limit for finalising decisions. It will also lead, in many cases, to the faster completion of many cases, which will benefit review applicants who no doubt experience stress and uncertainty in waiting to hear of a decision.

I commend the bill to the chamber.

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
Publications Committee
Report
Senator Barnett (Tasmania) (10.24 am)—I present the 18th report of the Publications Committee.

Ordered that the report be adopted.

BUDGET
Consideration by Legislation Committees
Additional Information
Senator PARRY (Tasmania) (10.24 am)—I present additional information received by committees relating to estimates, as listed on item 7 on today’s order of business.

COMMITTEES
Employment, Workplace Relations and Education Committee
Additional Information
Senator PARRY (Tasmania) (10.24 am)—On behalf of the Chair of the Employment, Workplace Relations and Education Committee, Senator Troeth, I present additional information received by the committee as listed at item 7 on today’s order of business.

Foreign Affairs, Defence and Trade Committee
Report
Senator PARRY (Tasmania) (10.25 am)—I present the report of the Foreign Affairs, Defence and Trade Committee, Review of Australia-New Zealand trade and investment relations, together with the Hansard record of proceedings and documents presented to the committee and seek leave to move a motion in relation to the report.

Leave granted.

Senator PARRY—I move:
That the Senate take note of the report.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Treaties Committee
Report
Senator PARRY (Tasmania) (10.25 am)—On behalf of the Joint Standing Committee on Treaties, I present report No. 82, Agreement between Australia and Cambodia concerning the transfer of sentenced persons. I move:

That the Senate take note of the report.

I seek leave to have the tabling statement incorporated in Hansard.

Leave granted.

The statement read as follows—
Report 82 contains the recommendation by the committee that binding treaty action be taken in relation to the agreement between the Government of Australia and the Government of the Kingdom of Cambodia concerning Transfer of Sentenced Persons signed in Canberra on 11 October 2006.

The committee has taken the slightly unusual step of tabling this short report to allow the other domestic requirements for the agreement’s entry into force to be completed as quickly as possible. The committee intends to table a full report at a later date.
There are five Australians currently in prison in Cambodia, including one who is 18 years old. The committee thought it was important to ensure that any Australians who would access the provisions of the Agreement once it has entered into force would have the opportunity to do so as soon as possible.

The committee encourages the government to implement the agreement in Australia’s domestic law as quickly as possible. The committee also hopes that the Cambodian government will move quickly on its domestic requirement for the entry into force of the agreement.

The committee also thanks representatives from the Attorney-General’s Department and the Department of Foreign Affairs and Trade for being available for a public hearing at short notice. The hearing was held on Tuesday evening and we are now tabling the report on Thursday morning.

I commend the report to the Senate.

**ELECTORAL AND REFERENDUM LEGISLATION AMENDMENT BILL 2006**

**LAW AND JUSTICE LEGISLATION AMENDMENT (MARKING OF PLASTIC EXPLOSIVES) BILL 2006**

First Reading

Bills received from the House of Representatives.

**Senator ELLISON** (Western Australia—Minister for Justice and Customs) (10.26 am)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I shall move a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

**Second Reading**

**Senator ELLISON** (Western Australia—Minister for Justice and Customs) (10.26 am)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

**ELECTORAL AND REFERENDUM LEGISLATION AMENDMENT BILL 2006**

The bill gives effect to the government’s response to a number of the recommendations by the Joint Standing Committee on Electoral Matters in its report on the 2004 federal election. Amendments to the Commonwealth Electoral Act 1918 and the Referendum (Machinery Provisions) Act 1984 contained in this bill relate to electronic voting trials, postal voting, pre-poll voting arrangements and defamation of candidates in response to the committee’s recommendations, and electoral enrolment by Australians who are overseas.

This bill is the second tranche of the government’s legislative response to the committee’s report and follows reform measures that were passed by the parliament on 21 June 2006 in the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006.

The bill establishes the framework for two trials for electronic voting at the next federal election, with the detail to be prescribed by regulation. There will be a trial for blind or vision impaired people allowing them to vote independently through the use of electronically assisted voting machines. A printed ballot will be produced for inclusion in the count.

The trial will be conducted at 30 pre-poll voting centres located across Australia and any sight-impaired person will be able to cast their secret vote at any of these locations before, or on, polling day. The Australian Electoral Commission will advertise the locations where the electronically assisted voting trial will take place.
The trial will give thousands of blind and vision impaired electors the opportunity to cast a secret vote for the first time at a federal election. The second trial will allow Australian Defence Force personnel serving outside Australia to cast a vote electronically. These people face considerable difficulties when casting their vote as the nature of their work means they are often serving in countries with unreliable postal services or disrupted communications infrastructure.

At the 2004 federal election, the Australian Electoral Commission estimated that about one third of ADF personnel deployed overseas were not able to vote or have their vote returned in time for inclusion in the count. Based on current deployment figures, this would equate to about 1,500 ADF personnel who potentially would not be able to vote.

This trial will overcome the many difficulties associated with voting options for ADF personnel overseas and will allow them to vote in safety. In order to protect the security of the vote cast, the trial will be rolled out on the Defence Department’s secure network. The trial will be developed by the AEC in close consultation with the Department of Defence.

However, as important as these trials are, the government does not consider that either of these trials is a precursor to electronic voting generally. As the integrity and security of the vote are paramount, the bill provides for the minister to decide in writing if either trial is not to proceed. A decision not to proceed with a trial would take into account consideration of risks to the security and integrity of the vote, including any software or hardware issues.

As the reason for not proceeding with the trial would be based on an assessment of the integrity of the vote, including a software or hardware failure, the government considers that it would not be appropriate for such a decision to be subject to disallowance by the parliament. While a decision not to proceed with a trial would be a legislative instrument, the bill provides that section 42 of the Legislative Instruments Act 2003 does not apply to such a decision.

The bill also contains measures to improve the arrangements for postal voting. The bill provides for eligible overseas electors, and Australian Federal Police and ADF personnel serving overseas to register as general postal voters. This will mean that they will be sent ballot papers automatically for each election and referendum without first having to lodge a postal vote application. This should provide more time for these electors to be able to return their postal vote for inclusion in the count.

ADF personnel overseas will be able to lodge a postal vote and to vote as part of the remote electronic voting trial where they have access to the trial. However, and most importantly, only one vote per elector will be counted. This will ensure that their vote will be included in the count in case the trial does not proceed or if there is a delay in the receipt of their vote.

For reasons of operational security, the bill does not allow the release of any information that would disclose information about ADF and AFP personnel serving overseas. In relation to postal vote applications, the bill provides a deadline for the receipt of postal vote applications after which postal voting material will not be required to be sent to the applicant. Postal vote applications must be received by the AEC by 6.00 pm on the Thursday before polling day in order for postal voting material to be sent to applicants.

For postal vote applications received after this deadline, the AEC will be required to make reasonable efforts to contact applicants to advise them of the need to vote by other means. That contact will usually be by telephone.

This will ensure electors who lodge their postal vote application too late will have the best possible chance of casting their vote by alternative means.

Further, the bill introduces revised delivery arrangements for postal voting material to be sent to electors. For postal vote applications received by the AEC up to and including 6.00 pm on the Friday eight days before polling day, the AEC is required to send the postal voting material to the applicant by post or other appropriate means, unless an alternative delivery option is specified by the applicant.
The AEC will have the authority to assess whether the alternate delivery option requested by the applicant is reasonable and practicable, and if so, must use that delivery method.

As the postal voting material sent to electors includes a postal voting envelope with the declaration certificate and the ballot papers, delivery of this material at any time using electronic means, such as by facsimile or email, will not be permitted.

For applications received after 6.00 pm on the Friday eight days before polling day and by 6.00 pm on the Thursday before polling day, the AEC is required to send the material by the most reasonable and practicable means. In assessing this, the AEC will take account of postal delivery schedules. In a number of cases, it may be that delivery by courier is the most practicable and reasonable means.

The delivery options for postal vote applications will enhance the prospect for applicants to receive postal voting material in time to complete and return for inclusion in the count, particularly for rural and remote communities with weekly mail deliveries.

The Commonwealth Electoral Act provides that an elector who casts a postal vote shall return the completed postal vote to the appropriate divisional returning officer. Where it is unlikely that the completed postal vote would reach the appropriate divisional returning officer within 13 days after polling day, the Commonwealth Electoral Act currently allows for the envelope to be returned to other AEC officers. These other officers are any divisional returning officer, an assistant returning officer outside Australia, a pre-poll voting officer or a polling place presiding officer.

The bill provides for an expanded range of AEC personnel who will be able to receive completed postal votes. The additional personnel will include:

- mobile polling team leaders;
- electoral visitors at special hospitals and prisons;
- AEC office holders, senior executive staff, and AEC employees engaged on an ongoing basis under the Public Service Act 1999, located at the AEC’s capital city offices.

Procedures for dealing with completed postal votes received by the expanded range of people will be the same as those that apply for the AEC officers who can currently accept postal votes.

This will provide greater flexibility and options for the return of postal votes in time for inclusion in the count.

In addition to these legislative measures, the AEC will conduct an extensive advertising campaign to alert voters to the issues relating to postal voting.

The bill also provides for the AEC to be able to set up pre-poll voting offices in emergency situations, without the need for prior gazettal before the offices could operate. The AEC will be required to publicise information about the new pre-poll voting office (such as location, time and days of operation), notify relevant candidates and political parties, and gazette the details of the pre-poll voting office as soon as possible.

This will allow the AEC to respond quickly to unexpected and unanticipated changes to voter service requirements.

Electoral legislation passed in June 2006 introduced proof of identity requirements for enrolment, re-enrolment, changes to enrolment details and for provisional voting.

There are three levels for the proof of identity scheme:

- the applicant is to provide his or her driver’s licence number (first tier);
- if an applicant does not have a driver’s licence, the applicant needs to show a prescribed identity document (such as a passport or birth certificate) to a prescribed class of elector (second tier);
- if an applicant does not have any of the identity documents, then he or she needs to have the application countersigned by two electors who have known the applicant for at least one month and who can confirm the applicant’s name (third tier).

As it may be difficult for overseas applicants to meet these requirements, the government considers that they should have the option to provide their Australian passport number as an alternative to the first tier requirement of the driver’s licence.
The AEC will verify the passport details with the Passport Office.

The bill provides for regulations to allow for this alternative for Australians enrolling from overseas.

Finally, the bill repeals the provision of the Commonwealth Electoral Act that relates to defamation of candidates. Defamation cases will, instead, be dealt with in accordance with existing defamation laws in the relevant state or territory jurisdiction.

I commend the bill.

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LAW AND JUSTICE LEGISLATION AMENDMENT (MARKING OF PLASTIC EXPLOSIVES) BILL 2006

This bill implements the obligations under the United Nations’ Convention on the Marking of Plastic Explosives for the Purpose of Detection, concluded at Montreal on 1 March 1991.

In October 2004, the government announced in its national security policy its intention to accede to the convention.

This convention is the last of the 13 United Nations counter-terrorism conventions to which Australia is not yet a party.

In September 2005, Australia was one of the first countries to sign the new Convention for the Suppression of Acts of Nuclear Terrorism.

Accession to this convention is a further demonstration of Australia’s ongoing commitment to overcoming international terrorism, and further improve Australia’s counter-terrorism measures.

To date, the convention has 128 parties including Australia’s international partners, the United States of America, the United Kingdom, Canada and New Zealand.

The convention and the bill will impose important obligations on Australia in regulating and monitoring the manufacture, possession, traffic, import and export of plastic explosives.

The convention was drafted and is administered by International Civil Aviation Organization following the December 1998 bombing of the Pan Am flight 103 over Lockerbie, Scotland, which claimed the lives of over 270 people. The actual bomb which caused the disaster was located in a portable radio/cassette player and contained plastic explosives set with a detonator. The bomb had passed undetected through Customs.

The broad purpose of the convention is to provide for a scheme to detect plastic explosives. The convention does this by obliging state parties to restrict the manufacture, and place controls over the use by each state party, of plastic explosives which have not been ‘marked’ with a specific chemical agent prescribed in the technical annex to the convention. The marker is a chemical vapour which can be detected using specialised equipment.

The requirement to mark all plastic explosives manufactured or held by legitimate sources combined with a regime which more closely manages stocks of plastic explosives in the country, will minimise the risk of plastic explosives being diverted from legitimate sources and used for criminal activity.

The bill adopts the obligations of the convention by inserting a new subdivision B into division 72 of the Criminal Code, and creating offences of trafficking in, manufacturing, possessing, importing and exporting unmarked plastic explosives.

The bill has a six month delayed commencement period which will provide Australian manufacturers with a total of 12 months in which to comply with the provisions of the bill.

The bill also amends the Customs Act 1901 to ensure that Customs officers have appropriate powers of search and seizure where necessary to facilitate the application of the legislation at Australia’s borders.

The bill provides for exemptions from the requirement to mark a plastic explosive to permit the use of existing stocks, use for defence and police purposes and research uses.

Other exemptions will allow the Australian Defence Force and/or the Australian Federal Police to use unmarked plastic explosives for a seven day period, before requiring a specific authorisation for their use, in the event that unmarked plastic explosives are discovered or obtained in the course of overseas operations. The ADF or AFP will then be allowed to destroy that unmarked plastic explosive if required.
The bill also provides that unmarked plastic explosives which are forfeited as a result of court proceedings, or surrendered to authorities will become the property of the Commonwealth.

The bill has been the subject of consultation with industry as well as the states and territories and the Joint Standing Committee on Treaties.

On 14 August 2006 the Joint Standing Committee on Treaties tabled its report into the convention. The committee supported the convention and recommended that binding treaty action be taken to accede to the convention.

The committee also noted that that accession to the convention will confirm Australia’s commitment to combating the global threat of terrorism, particularly in the Asia-Pacific region.

I thank the committee for their work in considering convention and this bill as part of their review of the convention.

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

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

PROHIBITION OF HUMAN CLONING FOR REPRODUCTION AND THE REGULATION OF HUMAN EMBRYO RESEARCH AMENDMENT BILL 2006

Returned from the House of Representatives

Message received from the House of Representatives returning the bill without amendment.

COMMITTEES

Foreign Affairs, Defence and Trade Committee

Report

Senator JOHNSTON (Western Australia) (10.28 am)—I present the report of the Foreign Affairs, Defence and Trade Committee, Blue water ships: consolidating past achievements, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

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

Leave granted.

Senator JOHNSTON—I move:

That the Senate take note of the report.

This is a very comprehensive report looking into Australia’s capability and capacity to construct bluewater ships for the Royal Australian Navy. Before speaking to the report, may I firstly say a special thank you to the committee secretariat, led by Dr Kathleen Dermody, and also to Ms Lisa Fenn and Dr Richard Grant, who, during the past 12 months, have put an enormous amount of time—into what is a very complex and difficult subject—into preparing what I think is probably the most comprehensive evaluation of Australia’s heavy industrial capability and its capacity to construct large ships that has ever been done.

This comprehensive report looks at the background to naval shipbuilding in Australia, Australia’s capacity to produce large vessels for the Navy, the productivity of Australian naval shipbuilding and repair industry, and the role of state governments and the Commonwealth in assisting that industry. Since the end of the Cold War, the shipbuilding industry right across the world has had to confront many significant challenges, with dwindling demand for naval ships but with increased pressure for more highly sophisticated and expensive systems. Advances in technology are accelerating these changes.

As a nation with an established naval shipbuilding industry, Australia confronts similar problems in sustaining its naval shipbuilding industry. It has been required to address issues created by the fall in demand for ships, the escalating cost of construction and
the need to keep pace with advances in technology, as well as the need to develop and retain skilled workers. In a region where there is significant expansion of naval capacity and capability, Australia is looking for an up-to-date naval shipping capability at an affordable price.

The report considers whether Australia’s naval shipbuilding and repair industry can cost-effectively provide the required improved capability at low rates of production. A number of themes dominated the evidence. Over recent decades Australia’s record of the construction of naval vessels has improved quite dramatically. The Anzac class frigate, of which we produced 10, with two for New Zealand, the minehunters and the Collins class submarine, of which we constructed six, are testament to the ability of Australia’s naval shipbuilding industry to produce world-class naval vessels. For example, despite the well-publicised problems with the Collins class submarine, it is now acclaimed and acknowledged as world-class and provides Australia with a technologically, strategically and, may I say, superior asset and deterrent. The recent successes of the Anzacs, the minehunters and the Collins class submarines have established a very solid platform of naval shipbuilding capability comprising, firstly, the prime contractors capable and willing to invest in complex builds and repair projects.

It also includes an extensive and widespread supply network of local industries that have the skills, knowledge, experience and motivation to support the prime contractors. Some are at the cutting edge of world-class developments and are contributing to innovation and driving advances in technology, such as the development of the anechoic tiles for the Collins class submarine, which are substantially unique in reducing noise. All the work is being done by a local Australian firm called CEA, with its high-powered active phased array missile system.

In some cases a defence contract was the stepping stone that set the company on its successful path in opening up export opportunities for further development. A number of naval shipyards located around the Australian coastline have established significant infrastructure. Over many years governments and private enterprise have invested in infrastructure for the naval shipbuilding industry. More recently, there have been substantial investments in infrastructure at Osborne in South Australia and at the Australian Marine Complex at Henderson in my home state of Western Australia. The development of centres of excellence with a common user facility, surrounded by a heavy engineering precinct, point the way forward for the industry.

Australia also has a highly skilled, highly specialised workforce, as required by naval shipbuilding. This base has taken some significant time to develop and is now, more than ever, ready to embark on current and planned projects. Rather than an impediment, forecast labour shortages should be an incentive for innovation and industry investment in training and skills development to ensure that Australia retains and builds on its current knowledge and skills base to support our burgeoning industry.

Built up over time, Australia now has a highly capable naval industrial base that should be preserved and not eroded by short-sightedness or lack of planning. Without doubt, the Australian industry faces challenges, particularly given that overseas countries are unlikely to remove the various forms of assistance, subsidisation and protection that they give to their local naval shipbuilding industries. Put simply, Australia is competing on an unlevel playing field. Even so, the committee found that substantial benefits accrue to an in-country build of fu-
ture naval ships. Not only does Australia’s naval industrial base have the capacity and potential to contribute to the maintenance of a self-sufficient, self-reliant naval shipbuilding industry but it also contributes in many other ways to Australia’s industrial manufacturing base, the broader economy and Australia’s national defence interest.

To mention just a few of the benefits that accrue from constructing large naval vessels in Australia, I point to the strategic self-reliance for the repair and maintenance of the Navy fleet and commercial shipping. Other benefits include: increased gross domestic product from the capital investment that flows from such projects; enhancement of the labour market; expanded Indigenous research and development, design, production and management capabilities; the acquisition and development of valuable new skills, manufacturing techniques and processes; extensive technology transfers across a broad spectrum of activities; a strengthening belief in Australia’s own capabilities and confidence in its own ability to exploit opportunities as they present themselves; and, finally, an enhanced potential for export.

When taking account of the broad range of factors that are to be considered when acquiring a naval vessel, the committee believes that it is in Australia’s national interest to maintain a viable naval shipbuilding and repair industry here in Australia. This requires a commitment by the government to have Australia’s naval vessels constructed in Australia and for the government and Defence to adopt measures that would ensure that the industry remains efficient, innovative and competitive. The committee, however, was concerned about the lack of data that Defence makes available on its major acquisition projects; thus, it believes that accurate costings on all aspects of a ship’s construction and its through-life support must be done which are measurable, transparent and based on detailed analysis on the best benchmarks available.

The committee suggested that, because of Defence’s dominance in the marketplace, it should recognise and use its influence to assist industry to gain greater efficiencies and perform better. Based on substantial evidence, the committee was of the view that Defence would achieve greater efficiencies through a more coherent and strategic approach to planning. With this in mind, the committee supported the call for a strategic plan that would, in particular, address the peaks and troughs in demand for Australian vessels. The committee rejected the notion that measures cannot be taken to more effectively moderate the fluctuations in demand without adversely affecting Defence capability. Clearly, long-term strategic planning is required to address this problem. The committee also recommended that Defence provide more detail in the Defence Capability Plan and include information that provides a much clearer indication of its future acquisition program and timetable. The committee accepts that the document can only be as good as the quality of the strategic planning it represents, which reinforces the importance of Defence placing the highest priority on strategic planning.

I thank the Prime Minister, the Minister for Defence and the DMO—in particular, Dr Gumley—for supporting the committee in its investigations. We undertook a substantial investigation into commercial shipbuilding in South Korea and naval shipbuilding across the United States, which was greatly edifying in terms of looking at the capacity and capability of our near neighbours. I thank the members of the committee—in particular, Senator Mark Bishop, Senator Hutchins, Senator Trood and Senator Payne—who participated in a very time-consuming and deep investigation into Australia’s capacity to con-
struct and commission large bluewater naval ships.

Senator MARK BISHOP (Western Australia) (10.38 am)—I rise to make a few remarks about the report that has just been tabled by the Chair of the Senate Standing Committee on Foreign Affairs, Defence and Trade, Senator Johnston. Since this inquiry’s inception, it has been hoped that it would better inform the parliament on a potentially significant part of Australia’s manufacturing industry. The stimulus for the inquiry was the government’s decision to build three air warfare destroyers in Australia. These are to be followed by two amphibious ships which, at this stage, are of unknown construction, design and location. These are very large ships, the likes of which have not been built in Australia for decades, so naturally there are questions about industry capacity and cost relativities. The purpose of the inquiry, however, was not to delve into the strategic decisions to build these types of vessels. Those were government decisions, and they were a given; hence the committee’s strict concentration on its limited terms of reference, which were essentially economic in nature.

I have appended to the report my own views on the subject. Whilst my views are certainly not inconsistent with the broader report, there are some matters of emphasis that are worth considering. I will therefore make the following points for the record. We on this side believe that, just as we have a vibrant small shipbuilding industry, we should also be able to develop more at the heavy or larger end. We have the skills, the workforce and a very capable heavy engineering sector. We also need to boost our manufacturing sector and, in that respect, the defence industry is potentially a key. The nature of shipbuilding has changed. We no longer have big yards, but flexible fabricators of many tasks—some offshore, some small ship fabricators, some involved in ship repair and fabrication, and some that manufacture mining equipment and the like. The old model of large yards doing all work on site is dead all around the world, and few can hope to compete with China, India and South Korea at the large end of the commercial shipbuilding market.

It is also clear that, if we are to have a capacity, it must be limited to one central assembly yard—and modular sections from a competitive supply market. We note that this trend is already emerging, and South Australia, in a de facto sense, appears to be the location chosen by government for this central assembly point—although there are very useful developments in terms of a joint user facility in Western Australia.

One of the most difficult issues in naval shipbuilding is that it is surrounded by a range of assertions and shibboleths, including: that self-sufficiency is needed, that naval ships are somehow different from commercial ships, that defence security justifies all sorts of expense, that all governments protect their naval industry and that there are large ongoing economic spin-offs. These considerations, in my view, are only relevant to a degree. In making a decision to have a local build, several matters need to be considered. Steel fabrication is only 20 per cent of the value of naval ships these days. The biggest portion, by value, is weaponry systems, systems integration and fit-out.

Competitive costs are fundamental, but what is the exact premium if we are going to have a local build? What is the state of the economy? Can it sustain large ad hoc investments? What is the state of the international shipbuilding market? What is the status of our alliances with respect to intellectual property and security? What is the state of our heavy engineering industry? Is it capable? Is it stretched? Is there spare capacity? What is the status of the labour market?
Do we have the manpower and do we have the right skills mix, particularly at a technical and engineering level? Putting nationalism aside, these are rational questions that need sensible, calculated and verifiable answers.

The biggest single problem with Defence procurement is that Defence is a monopsony—that is, a single or sole purchaser. The history of Defence procurement is one of industry capture, inefficiency, poor specification, overspending and serious time delays. On top of that, purchases are often ad hoc and of a limited time span. Our past naval shipbuilding is just another example of that, and the responsibility for that poor state of affairs really needs to be sheeted home to government.

In my view, there are three critical factors for a viable industry on a long-term basis: firstly, continuity of Defence demand; secondly, long product runs, which give you economies of scale; and, thirdly, long-term planning. I believe the government has failed all of these critical needs. The decision on new ships should have been made five or even seven years ago. The mix of ships should have been more numerous for economies of scale purchases. Plans should already be on the drawing board for the next generation of ships.

It does seem clear that, with the frigates project at least, a sound level of cost effectiveness might have been achieved, but only because we produced 10 units—that is, we got the savings on the production run through economies of scale because of the volume of production. That again is the experience all around the world with commercial shipping. It applies equally to naval shipping. What we have here is a decision for just three AWDs and two LHDs.

Through sheer experience we know these projects, in isolation, cannot be viable. We would certainly like to see the economic analysis and the benchmarking which has been done, if any has been done. We do not decry the decision to build in Australia. But it is simply tragic that a serious effort has not been made to ensure the re-establishment of a long-term industry as part of that plan. To be blunt, responsibility stops there with the government.

The risk is that these enormous investment decisions, totalling billions of dollars, have been made solely on the ground of local political advantage. If the government is concerned about the excessive premium for local building, that is the direct result of its short-term decision making and limited vision in this area. This inquiry, despite its limitations, has shown that given certain conditions a competitive naval shipbuilding industry might be viable in Australia, and that is assuming that the economic modelling has been done. If it has not, it should be. Taxpayers deserve better than to have billions of dollars thrown at projects of dubious value and excessive cost.

We believe that model should be designed now and applied rigorously to both these projects and future projects. Further, we believe that that model should be totally transparent and subject to full audit and public scrutiny. If we do not knuckle down on this issue now and do that type of analysis, we will continue to be plagued by the same problem for another generation. In that context, the opposition was pleased to sign up to the report and make it unanimous.

My final comments go to the considerable assistance provided by the committee secretary, Dr Dermody, and the two research officers, Dr Richard Grant and Ms Lisa Fenn. They had extensive work to do in preparation, research, analysis and organisation. Their input has been valuable. It should be noted on the public record that they have provided fine support to the chair of the
committee and to members of the committee who were, by and large, actively involved in nearly all deliberations. Finally, I wish to also support the comments of the chair and acknowledge the support of the Minister for Defence, the Prime Minister and the head of the DMO, Dr Gumley, who were sufficiently prepared to recommend funding for the committee to visit the United States and South Korea to examine local shipyards on the ground.

**Legal and Constitutional Affairs Committee**

**Report**

Senator PAYNE (New South Wales) (10.48 am)—I present the report of the Legal and Constitutional Affairs Committee, *Unfinished business: Indigenous stolen wages*, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

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

Leave granted.

Senator PAYNE—I move:

That the Senate take note of the report.

I am very pleased to present the report of the Senate Standing Committee on Legal and Constitutional Affairs entitled *Unfinished business: Indigenous stolen wages*. This report is the result of an inquiry lasting almost 6 months, during which the committee held hearings in Brisbane, Sydney, Perth and Canberra and received 129 submissions.

The committee was asked to examine a wide range of issues in relation to Indigenous workers whose paid labour was controlled by governments. These included: financial arrangements in relation to Indigenous wages, access by workers to their savings, evidence of fraud or negligence in relation to Indigenous monies and commitments by governments to quantify monies missing or misappropriated under official management.

In the late 19th and early 20th centuries, the governments of mainland states and the Northern Territory introduced legislation to regulate the lives of many Indigenous people. This legislation is commonly referred to as ‘protection acts’ because its stated intention was to ‘protect’ Indigenous people. In the name of protection, Indigenous people were subject to extensive government control, including control over their employment, their wages and their property.

The committee has received compelling evidence that governments systematically withheld and mismanaged Indigenous wages and entitlements over decades. In addition, there is evidence of Indigenous people being underpaid or not paid at all for their work. The committee received evidence that the impact of government control of Indigenous employment and wages was not just financial. It included the mistreatment and abuse of Indigenous workers. A number of Indigenous people recounted personal experiences of abuse and inappropriate treatment, often when they were still children. The committee recognises that these are difficult experiences to share, and wishes to thank all of those people who told their story during the course of the inquiry. I particularly want to acknowledge Ms Yvonne Butler, who has travelled from Townsville to Canberra for the tabling of this report, and is present in the gallery this morning.

These personal stories gave the committee some insight into the betrayal, anger, hurt and frustration that Indigenous workers have felt for generations. The committee also received evidence about the reparations and repayment schemes that the Queensland and New South Wales governments have put in place in an effort to resolve the stolen wages issue in those states. However, the evidence...
before the committee demonstrates a deep dissatisfaction within the Indigenous community with the Queensland government reparations offer. Although only recently instigated, the committee’s view is that the New South Wales repayment scheme seems to be better designed and is also a more widely accepted model.

In other states and territories, the stolen wages issue does not have such broad exposure, even within the Indigenous communities. However, the committee notes that in most states and territories efforts are being made to further research and raise awareness about this issue. These efforts are hampered by difficulties in accessing government records of the relevant periods and by the fact that many records are lost, missing or destroyed. It is not clear in some cases.

Indigenous Australians have been seriously disadvantaged by the control of their employment and wages. Many of those affected by previous government control of their employment and wages are now elderly and in poor health. It is imperative that governments take immediate action to address these injustices. In fact, we go so far as to say it would be an abrogation of moral responsibility to delay any further, particularly with the knowledge that the age and infirmity of the Indigenous people concerned limit their capacity to pursue their own claims.

It is time to resolve this issue. Therefore, we urge governments to heed the key recommendations of the committee. As I have said, both the Queensland and New South Wales governments have already established schemes. However, the committee believes it is clear that the Queensland government should revise the terms of its reparations offer so that claimants are fully compensated for moneys withheld from them.

There is a need for further archival research and consultation with Indigenous people in the Northern Territory, South Australia, Tasmania and Victoria to establish if similar practices operated in relation to Indigenous wages in these jurisdictions. If they did, the committee recommends that the relevant governments establish compensation schemes.

I want to thank all of my colleagues who participated so helpfully and actively in this committee inquiry, particularly Senator Bartlett, who moved the original motion for the reference, and my deputy chair, Senator Crossin. I also want to thank our secretariat members, particularly Ann Palmer, who spent so much time working on this report, and our committee secretary, Jackie Morris, who came to the committee in the second half of the year. I am not sure that she was entirely aware of what she was letting herself in for. It has been a very constructive process. This is a very important report, and I hope that its recommendations are heeded.

Senator CROSSIN (Northern Territory) (10.54 am)—I rise to second, to endorse, all the comments made by the Chair of the Standing Committee on Legal and Constitutional Affairs, Senator Marise Payne, in presenting the report on what has come to be known as the stolen wages inquiry. This matter was first highlighted by Senator Bartlett, and all credit goes to the work that he and his staff have done to highlight this. The reference first came to the Legal and Constitutional Affairs References Committee. When the Senate committee structure changed, it became part of the work of the legislation committee, and Senator Payne then took over the chairing of this.

I say at the outset that I cannot help but get a feeling that we are just scratching the surface in presenting this report. Sometimes the work we do in Senate committees is quite
conclusive. It is very simple, as all the facts and figures are there before you, and as a Senate committee we have the ability to rearrange the arguments, put them a bit more succinctly and provide more direction. But I certainly felt on this committee that we had really only just started to get a handle on this situation.

I was extremely surprised and disappointed by the role that governments have played in the history of this country, particularly by the way in which Indigenous people have been treated. The penny had dropped for me when I started to put together this nation’s history in relation to stolen children. What I think is now going to be the second chapter of that history will involve the wages or due payments that either all or some of those people did not get in that saga. Of course, people who were not in fact stolen but were simply working on cattle stations have missed out on due payments. So I do actually think that this is a chapter of another saga in the history of this country’s treatment of Indigenous people.

When this inquiry was with the references committee, we considered a choice: either we could spend 18 months to two years looking at this, making a really in-depth, extensive intrinsic analysis of this situation, or we could get around the country as quickly as we could within a six-month period and table this report before Christmas. When I chaired the committee, it decided to have a very fast, quick look at this and get submissions from people. I understand that some people did not even know that this inquiry had started, and I think some people who wanted to put in a submission did not get a chance to do that. The aim of this was to just get a handle on how extensive this situation is.

As I remarked a few minutes ago, I was incredibly surprised by what we were facing. We know that since Federation, as Senator Payne said, the states were responsible for the protection or control of Indigenous people and that the Commonwealth government was responsible for that with the Northern Territory. What we found in the course of our inquiry is that we do not know if Indigenous people who worked on cattle stations, who worked in homes as governesses or who worked in other establishments in the capital cities were actually paid the right rate of pay. We certainly know, from the extensive research work that has been conducted, that Indigenous people were due to be paid some form of endowment in the form of what these days we would call a Centrelink benefit and that that never got into their hands. That was either held in trust by the government of the day or was passed on to cattle station staff, who then gave only a portion of that to Indigenous people. They might have given a portion of that back to the state and territory governments.

I want to say a couple of things about the work in this area. Some people around this country have spent an enormous amount of their time researching this, and no doubt they have been frustrated in their efforts to get this issue on a national stage or platform. I am talking about the fantastic work of Dr Ros Kidd and the book that she has now produced, the work of Dr Thalia Anthony and of the Stephen Grays of the world. Quite a lot of academics have spent many years researching this, and I think that, while we need to pay tribute to the work that they have done, we need to in fact take their work a step further.

There have been calls for us to have a royal commission. I am not convinced we need one. As Senator Payne said, we know that these people are due this money. It is really a matter of tracking back through the archives and trying to find out who these people are, where they were, what their entitlements are and giving them the money. A
royal commission can take one or two years to conduct and time is not on our side. Indigenous people who are probably owed this money are elderly. The argument about whether their entitlement should pass to their children is an issue. I believe it should. Because it is an entitlement that is due to the family trust it should be passed on to them. But time is not with us here. We need to start moving this saga very quickly to the next stage so that people who are due compensation receive recognition and get paid before time passes them by. I do not think there are many Indigenous people who even believe they might be part of a group that had wages stolen from them or had moneys withheld from them.

Since I became alerted to this dilemma through the inquiry I have been making inquiries around the Northern Territory. I met a couple of the old men who worked out at Vestys meatworks station at Kalkarindi. They said to me, ‘We got £5 a month.’ Ted Eagan, the administrator, who was the protector of Indigenous people back in 1953, said to me, ‘My job was to go and make sure the cattle stations gave these people £5 a month, and they did.’ Of course, Indigenous people say to me: ‘We had no idea what to do with this money. There was no store. We didn’t even know what money was.’ That is not the point. Were they due more than £5? Were they due an entitlement from the Commonwealth government that the Vestys meatworks cattle owners may well have kept or left in a trust with the Commonwealth government? We do not know that. We suspect that is the case but we do not know.

In some of the work that has been done, Dr Ros Kidd estimated that in 1919 there were 2,500 licensed Aboriginal workers in the Territory and 1,500 dependants. Dr Thalia Anthony provided information on the number of Northern Territory people registered under the welfare ordinance and found there would be about 15,700 people registered in the Territory. There are many Indigenous people who are not even aware of this. There are many Indigenous people for whom we will now have trouble finding and matching records.

Access to records is a problem for these people. As with the stolen generation people, there was a need for somebody to make a decision that these people would be entitled to archival records at no cost and to free, open and unhindered access to records at no detriment. We are not yet at that stage in this country when trying to ascertain people’s payments and monetary entitlements. There are still very tight restrictions in Queensland and in Western Australia in particular. You might request access to the records and somebody in government says yes or no. That has to change if people are to get any fair payment under this scheme.

In conclusion, we are at the first chapter of the next stage in the history of what has happened to Indigenous people in this country. We have to take this forward. If we do not have a national forum I urge HREOC to gather together Indigenous people and to talk about this and make them aware that this is an issue. I thank Senator Bartlett and particularly the committee staff—Ann, Jackie and all the other research assistants who helped us. It is not easy when you get an exercise of this magnitude and you pull it all together in six months. Tribute is due to them. (Time expired)

Senator BARTLETT (Queensland) (11.04 am)—I have only seven minutes in which to speak and it is not enough time to do justice to this very important and most fundamental of issues. However, I will do what I can. I will continue to draw attention to the issues contained in the report entitled Unfinished business: Indigenous stolen wages presented by the Senate Standing
Committee on Legal and Constitutional Affairs. I acknowledge the presence in the gallery of Yvonne Butler and Russell Butler Sr. They have come down from Townsville. It is the commitment and determination of such people, combined with determined research by a number of committed historians, that has enabled some of the facts to come to light and such action as has happened to date in Queensland to occur. I also acknowledge Charmaine Smith, who also put in a submission to the inquiry on behalf of her community in South Australia.

One of my aims in establishing this inquiry was not just to have another vehicle to draw attention to the failure of the Queensland government to respond adequately to this issue—although I will certainly continue to voice my views on that, as I have done in my additional comments in the report and elsewhere—but to draw attention to the fact that I suspected this issue went beyond Queensland and New South Wales and that it was an issue that needed national attention. As was said I think by Senator Crossin, this inquiry just scratched the surface, but it scratched enough to establish a prima facie case that similar issues have occurred in almost all other states, as well as the Northern Territory. We need to learn from the mistakes that have been made in Queensland and we need to act much more quickly to bring justice and full truth to light.

There is a continual push in this country for more attention to be paid to history. I have consistently supported the Prime Minister in his call for a greater focus on Australian history. There is a lot about our history that we do not know about or we just will not acknowledge. Some of the issues that became apparent during this inquiry and from the information that is now on the record through the submissions and the public hearings go to that history. When people talk about looking more at history it is often presented as part of the so-called history wars, where spin doctors will spin their preferred version of history. The reason I support more attention being paid to history is that the history of what we have done to Indigenous Australians is not something that can be spun. It is there on the records, it is there in the archives, and it is there in the memories and the hearts of Indigenous Australians. So many of us do not know about it. If we put it on the record, as has been done slowly over the years, we cannot spin it; it is there. It is not pleasant, but it is a reality that we have to acknowledge.

Some of the work that has been done, particularly the work by Dr Ros Kidd—not just her recent book *Trustees on Trial* but also her book from a number of years ago *The Way We Civilise*—predominantly focused on Queensland. We simply have to confront that reality and that history. History is not all pleasant but it is a key part of the reality of modern Australia. It has also been a key platform for part of the prosperity of modern Australia. The exploitation of Indigenous people around Australia goes far beyond just the misappropriation of their earnings and their funds. It is the foundation for the poverty and lack of opportunity that many Indigenous Australians face today. The concept of consequential poverty is a very real one. It is no great surprise that if you take away people’s earnings they stay in poverty.

There is a direct link between the practices that this inquiry went into and the reality of life for Indigenous Australians, even today in places like Palm Island, Woorabinda and Cherbourg—just to focus on places in my own state of Queensland. It is wider than just wages and earnings but it is part of that story. We heard some very powerful evidence from the people from Cherbourg, for example. The situation there was not just about misappropriating wages; it enabled governments to get away with not spending
money that should have been spent on the welfare of those people. That situation led directly to not just poverty but also sickness, death and of course great sadness. This is not just history; this is here and now. That was quite clear from the evidence given to the inquiry, and it is what I am continually told by Aboriginal and Torres Strait Islander people around Queensland and more widely.

I would like to reinforce Senator Payne’s comments as well: it would be an abrogation of moral responsibility for state governments and the federal government not to act. The federal government of course had administrative responsibility for the Northern Territory during the periods that we are talking about. I agree that we actually do not need a royal commission if state governments and the federal government were to act—that is what is needed. We do not want something that will take many more years and cost a lot more money. We simply want people to be able to get access to the records now. With a relatively small amount of funding, with leadership from the federal government to encourage the states to kick in as well—as the first three recommendations of this report suggest—the facts could be brought to light much more quickly and much more promptly. As an example, and also by way of tribute, I note the evidence from one of the people from Cherbourg, Pastor Collins, who gave evidence to the inquiry just at the end of October in Brisbane. He passed away between then and now. He told us at that inquiry—it is no secret that he was over 70 years old at the time—that people are ageing and the need for action is now. I pay tribute to him and the legacy of his life. I think his evidence to that hearing just a few weeks ago showed his commitment to and passion for justice for his people.

The simple fact is that the time to act is now. We need to do more than scratch the surface. We have to dive in to get to the facts, and that requires resourcing. If state governments and the federal government enabled that to happen and provided the opportunity for the archival work to be done—so we do not just have to rely on the next Ros Kidd in each state to do that work—then we could advance it much more quickly. I believe that, combined with the oral history research, is important. As Senator Payne said, it would be an abrogation of moral responsibility not to act and to let this drag on. By way of example, the response from the federal department currently responsible for Indigenous affairs to some of these questions about what happened in the past and what is in this report was: ‘It’s not our responsibility.’ Whose responsibility is it? That is the key issue here and now. It is time for governments to take responsibility for past actions, to act on the recommendations and to work together with Indigenous Australians, not just to allow full access to the truth so the full reality of our history is exposed but to work together with Indigenous Australians to address the consequential and intergenerational poverty that is a direct result of decades of calculated, systemic practices that occurred over large parts of our nation. I very much hope this report will play a part in making that happen and that we act on these recommendations as promptly as possible. I am certainly committed to continuing to follow this up to make that happen.

Senator BRANDIS (Queensland) (11.12 am)—The Senate committee’s report addresses a scandalous injustice. It appears that for several decades, until as late, in some cases, as the early 1970s, wages payable to Aboriginal workers were withheld from them by the government departments administering Aboriginal affairs and paid into various trust funds. Those monies have never been paid to those entitled to them or to their lawful successors. The situation varies from state to state. One of the serious problems
encountered by the inquiry was that of missing records, so that it is very difficult to establish just who is entitled and the quantum of their entitlements. But the members of the committee were left in no doubt that the failure by successive state governments, and perhaps territory governments, to honour the lawful entitlements of Aboriginal people was widespread, indeed customary.

Let me illustrate the question by reference to my own state of Queensland, where the position has been clarified by the pioneering work of Dr Rosalind Kidd, who exposed the issue in her important book *Trustees on Trial: Recovering the Stolen Wages*, which was published earlier this year. Dr Kidd appeared at the Brisbane hearings of the committee on 25 October, as did, among others, Mr Patrick Hay of the Queensland Bar, who provided the committee with a detailed submission written by himself and Ms Jean Dalton SC which traced the legislative history of the matter in Queensland since the Aboriginals Protection Act of 1897. There is no time this morning to examine the legal complexities of this matter. Suffice it to say that Dr Kidd, Ms Dalton SC and Mr Hay presented a cogent argument that there has been a breach of trust and/or a breach of fiduciary duty by the state of Queensland to potentially thousands of Aboriginal families over many decades.

According to Dr Kidd, in 1996 Ms Debra Mullins SC, now Justice Mullins of the Supreme Court, and Mr John McGill, now Judge McGill, gave legal advice to the Queensland government in similar terms. On the basis of the work of those whom I have mentioned, there seems to be at least a prima facie case of serial withholding from Aboriginal people of moneys held on their behalf by the state of Queensland, for which the state has to this day failed to account to them.

This has been described by some speakers as a moral issue. Yet it seems to me that the claims of the Aboriginal people concerned and their descendants do not rest on the uncertain and contestable ground of moral right; they rest on the much firmer footing of legal right. To me, this is not a question of Aboriginal welfare or of Aboriginal people asking for a fair go. It is a question of property rights. At its simplest, these people are saying to the government: ‘You held our money in trust funds. You have never paid it to us, the beneficiaries. Hand it over.’

The Queensland government has met this response with an insultingly low offer capped at $5,000 per claimant. As the Assistant Director-General of the Department of Communities, Mr Michael Hogan, was honest enough to concede, this was not regarded by the government as compensation but as reparations. How unjust is that! The Queensland government has withheld money to which thousands of people appear to be lawfully entitled and, aware that people in their position are unlikely to be able to litigate their claims, has refused to make restitution to them, renounced any obligation to compensate them and sought to buy them off with a token payment—a gesture which bears no economic relationship to the quantum of the entitlement. A great injustice has been exposed in this report. It is high time that the governments responsible met fully their obligations to these people.

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—Senator Siewert, you are seeking the call, but I should tell you that you have just under three minutes. You might seek leave to continue your remarks.

Senator SIEWERT (Western Australia) (11.16 am)—I understand that the government is granting me an extra two minutes. I seek leave to extend my time to five minutes. Leave granted.

CHAMBER
Senator SIEWERT—Thank you. This is an extremely important issue and I thank the Senate for granting me leave to make a statement. Firstly, I would like to acknowledge that we are on Ngunnawal people’s lands. They are the traditional owners of the land on which we stand. I also want to acknowledge all of the Aboriginal people who worked hard to build this country but did not receive the benefits of that wealth creation. I particularly want to acknowledge the witnesses who came forward to give their evidence to the committee. I understand that it caused them, in some cases, deep distress. I extend my thanks and deep respect to those witnesses.

In speaking today on the tabling of this report, I want to focus particularly on the issues relating to my home state of Western Australia. I am doing so because the preliminary evidence that has been brought to light during the inquiry indicates that the issue and the scale of injustice is every bit as serious in the west as it was in Queensland and New South Wales. In particular, the small amount of historical research done so far in the west indicates that there was a systematic alienation of pension and maternity allowances in the state and that this was huge.

More importantly, I would like to focus on WA because of the lack of any acknowledgment or any effort to make amends on the part of the state government. Whilst in Queensland there has been substantial progress in uncovering the evidence and there have been efforts made by the state governments, however flawed and inadequate this is—and we have heard reference to that this morning—at least it is a step in the right direction. In WA it is not simply a case of inaction as much as it is a failure of the state government to actually allow people access to their records, which therefore restricted them and did not enable them to give evidence at the inquiry. There has been deliberate delay of release of evidence from the archives, which meant, as I said, that people have not been able to get evidence to present to the inquiry. From other documentary evidence we know that these files exist. We know that some of the records are still around.

In focusing efforts on alienation of wages, unpaid and underpaid labour, systematic diversion of pensions and other social security payments, and the mismanagement and abuse of trust funds in WA, I would like to acknowledge the efforts that have been made in the west to try to uncover this so far—particularly the work done by the WA Aboriginal Legal Service, which is gathering evidence, trying to get access to files and surveying a number of Aboriginal people to gain evidence.

From preliminary evidence so far in WA, it appears that, unlike Queensland, the state government of the time did not necessarily take the wages, although there are some questions around trust funds. However, it is clear from the evidence that the state knew full well about the abuses that were taking place. It knew about widespread wage discrimination, and that it was complicit in keeping wages down and forcing Aboriginal people to work. It knew that it was complicit in ensuring that Aboriginal people did not receive most of the pension and child endowment moneys paid by the Commonwealth. It knew that the moneys paid to pastoral stations and missions were not being used to improve the living conditions of Aboriginal people. But it was unwilling to act.

The core injustice here, of course, is that this was Aboriginal money that they were denied access to. There has been no acknowledgment or recognition of how incredibly hard Aboriginal people worked to build this country. They cleared the land,
they ran the cattle stations and they served people who grew wealthy from the resources of the land, but they never got to see the benefits of their hard labour or share in the wealth that they created. They were systematically and deliberately condemned to intergenerational poverty. The words of Professor Ann McGrath point to this very clearly. In the hearing she said to us:

I think that Aboriginal people have worked very hard and they have been taught that working hard does not get you anywhere financially. They usually have not been able to buy their own houses because they have so often had to live on government owned reserves. They have not even owned their own furniture. I think it would be very good to understand this economic history of Aborigines better because the average working-class person like my grandfather, for example, was able to buy a house on a government subsidised scheme. Consequently his family get to inherit real estate which often goes up in value, and Aborigines have been denied both that and savings opportunities by schemes all around Australia.

Evidence that has been uncovered by ALS clearly indicates that the Commonwealth also knew what was going on in many circumstances. It is also clear that there are some records held by the Commonwealth that people have not yet had access to. I believe that needs to be made a priority.

We support the report from the committee. However, we did add two additional recommendations—that is, that the social justice commissioner monitor the implementation of the recommendations in the report; and that, if they are not implemented within 12 months, the Commonwealth should call a royal commission. I agree that we need to move forward. We need to get on with dealing with this sorry part of our history. I seek leave to continue my remarks. (Time expired)

Leave granted; debate adjourned.

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**BUSINESS REARRANGEMENT**

**Senator ELLISON** (Western Australia—Manager of Government Business in the Senate) (11.22 am)—I move:

(1) That the time allotted for consideration of the following bills be as follows:

<table>
<thead>
<tr>
<th>Bill</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wheat Marketing Amendment Bill 2006</td>
<td>1 hour</td>
</tr>
<tr>
<td>Royal Commissions Amendment (Records) Bill 2006</td>
<td>1 hour</td>
</tr>
<tr>
<td>Anti-Money Laundering and Counter-Terrorism Financing Bill 2006</td>
<td>2 hours</td>
</tr>
<tr>
<td>and a related bill Customs Legislation Amendment (New Zealand Rules of Origin) Bill 2006</td>
<td>1 hour</td>
</tr>
<tr>
<td>Crimes Amendment (Bail and Sentencing) Bill 2006—consideration of message in committee</td>
<td>30 mins Committee stage: till 6.30 pm, and from 7.30 pm to 10.15 pm today All remaining stages till 10.30 pm today</td>
</tr>
</tbody>
</table>

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

Question agreed to.

(Quorum formed)

**Senator LUDWIG** (Queensland) (11.27 am)—I seek leave to speak to the motion for the cut-off exemption. I indicate that I will speak only for a very short time, approximately 10 minutes. I also advise that, as a consequence, I will not use my 10 minutes or so for the wheat bill. I withdraw myself from that list of speakers. I regard this motion as a more important issue in chamber management and I am sure there are many from the Labor Party who can deal adequately with the wheat marketing bill debate.
Leave granted.

Senator Ian Campbell—Did you want the motion resubmitted for consideration?

Senator LUDWIG—I just want to speak on it. We would normally seek a division on it, but we will not in this instance, given that it is clear we are opposed to the motion. I am sure the Greens and Democrats, and everyone from the opposition, are opposed to the motion.

Senator Ian Campbell—So you are not seeking a recommittal?

Senator LUDWIG—No, given that it is more appropriate that the time be used for speaking. Through this motion the government seeks to foreshorten debate through the day on a range of bills. What the time allotment does is ensure that bills that would otherwise take considerable time to deal with are going to be dealt with very shortly with a guillotine motion, and then we will move through each bill. That means that people will not be able to speak on bills that they might wish to speak on and then deal with them in the committee stage in an adequate way.

The government has mismanaged the program again. It seems to be more in sorrow than anything else that I am back here again complaining about the government’s mismanagement and its inability to deal with the legislative program in a realistic way to ensure that people can deal with their legislation and allow senators to move amendments and deal adequately with the committee stage of bills. This government has form in this. Since this government has got control of the Senate from 1 July 2005, it is not the first time they have moved a guillotine motion. They have also moved gags. They have moved the guillotine motion between five and six times—I think this might be the sixth time. I am not going to be hypocritical about the Labor Party. In government it moved similar motions, but it stands in stark contrast to what this government is doing.

This government is ensuring that proper scrutiny in this Senate is not able to take place on a range of legislation at both the second reading and the committee stages, not only in using the guillotine, as they have, but also in the way they now address the committee processes where otherwise time would be able to be utilised in examining a bill in a Senate committee. This government has now collapsed the Senate committees into one committee. They have then taken a process driven by their own need to ensure that Senate committees are foreshortened and we only have a reference for a short time to deal with the committee stage of a bill. There is then inadequate time for proper consideration of the Senate committee before bringing the bill forward to the Senate. In compacting the program, they have ensured that adequate time would not be provided for the committee stage of a bill to deal with the range of amendments.

The government has not only taken that process; there are also a number of other abuses. Not only do we now have short inquiries and short references of committees, but in question time we are now averaging about four or five questions, whereas before 1 July we averaged six or seven questions. They have also ensured that estimates are reduced by up to eight days. Today we have seen the government put out its estimates program for next year—with the same outcome. When you start to pile one Senate abuse upon another you get to a position whereby you have managed to ensure that the proper scrutiny by this Senate of bills and legislation and of references by senators is simply curtailed. You are then turning this place into nothing more than a sausage factory where you grind legislation through.
In the last two weeks the opposition has ensured that there would be ample time. We have given up time on Tuesday nights and Thursday nights, and we sat last Friday. This week we again sat late on Tuesday night, and we will clearly sit late tonight, to ensure that the legislative program is being dealt with. But you are still not managing the program in a fair and effective way to ensure proper scrutiny of bills. That is an abuse of the Senate and you continue commit it again and again.

The Prime Minister’s, words—and I have used his words a couple of times—confirm that Mr John Howard cannot be trusted. When the Queensland Senate result was confirmed—in other words, he got control of the Senate—he said:

I want to assure the Australian people that the government will use its majority in the new Senate very carefully, very wisely and not provocatively.

We intend to do the things we’ve promised the Australian people we would do, but we don’t intend to allow this unexpected but welcome majority in the Senate to go to our heads.

Five days out from 1 July he said:

I am not going to allow this unexpected majority to go to my head. I want to make that clear. I am not going to do that because that would be disrespectful to the public and it will be disrespectful to the robust nature of the Senate even with the coalition majority.

That was reported in the Sydney Morning Herald on 25 June 2005.

But after taking control of the Senate, the government is doing the range of things I have talked about, procedurally and administratively curtailing the operation of Senate and using the guillotine again to ensure that its legislative program is pushed through the Senate with very little scrutiny. They leave the tougher bills until the end of the program so that those tougher bills, that would otherwise have longer debates, have that debate curtained. There will be only a short debate on those.

I have complained about the processes of the government a number of times and it is not going to persuade those on the other side. They are going to dutifully fall in line with the government, pass this motion and ensure that it will have its desired effect of reducing proper scrutiny by the Senate. The government will say that it finds time being wasted on committee debates. That is a matter for the government to manage by ensuring that its legislation is good legislation. This government has not been implementing good law.

In my portfolio area they have brought bills forward, amended them and then amended them again on the floor, soaking up considerable time which would otherwise be utilised for debates. We now find that we have to spend longer in the committee stage to deal with those issues.

But the time is simply not available, because this government is ensuring that important bills such as the anti-money laundering bill will have very little time available and, similarly, the wheat marketing bill. Unfortunately, the longer I speak will also mean less time for those bills, so I will not go on for my full 20 minutes, as I indicated, because it will foreshorten the debate that people can have on important legislation. It is important that this point be made, though, because this government is abusing its majority and it needs to be reined in. This government needs to stick to the promise Mr John Howard made to the Australian public and this Senate that it would use its majority carefully and respectfully and ensure that the full processes of the Senate would be followed. It is saying one thing in the media and in public, but the processes in here do not reflect that and it should be shamed for it.
Senator NETTLE (New South Wales) (11.38 am)—by leave—I wish to make a short statement. The Australian Greens oppose this motion because it restricts the opportunity for debate, as we have seen so frequently by this government. In particular, I want to address the issue of the Anti-Money Laundering and Counter-Terrorism Financing Bill 2006 that is being dealt with in this motion. There are only two hours allowed for debate: one hour for the three opposition parties in here to state their positions and then one hour to deal with 18 amendments. This is a nearly 300-page bill, which gives the power to banks to give all the financial details of every customer they consider to be a risk, including every Arab customer, to government authorities to investigate whether they have been financing terrorism.

This bill overrides antidiscrimination law. It says to banks: ‘It’s okay. You can provide all the info on anyone you think sounds different, anyone who is transferring any money to Iran’, which could be perfectly legitimate for their business. As we have seen, a number of businesses have had all their funding frozen as a result of banks responding to this legislation. This piece of legislation impacts on the privacy of all Australians. It overrides antidiscrimination law, and the government is proposing that we deal with amendments for an hour—one hour to discuss whether all Australians should have their privacy invaded as banks choose to give information about them and their financial transactions to government authorities to investigate whether they are engaged in terrorism; to turn off their bank accounts and stop them accessing their accounts until the government can do these investigations.

We have seen a number of businesses which just happen to have the same name as an obscure former terrorist group in Peru shut down because of this already. We saw it just last week: an Iranian restaurateur’s finances were cut off because her bank had referred her and stopped her accessing her finances. She was just buying dates from Iran. This is the impact that this legislation is going to have on people’s lives. The bill has 300 pages. The financing of terrorism is a serious issue that needs to be dealt with, and we can get it right.

The Australian Greens—and I am sure other parties—are in a position to support legislation that is sensibly regulated to ensure that there is no financing of terrorism. But there are significant amendments that need to be made to this legislation in order for that to occur, and the government is allowing an hour for that. That is what this motion does, and that is why the Australian Greens are opposing it.

I indicate also that this motion allows less than three hours of debate on one of the most significant changes to environment legislation in the Commonwealth. The effect of this legislation is to restrict debate on substantial issues whether they be about the financing of terrorism, the privacy and the rights of customers in banks and financial institutions across this country or the most significant changes and attacks on environment legislation at Commonwealth level ever. That is why the Australian Greens oppose this motion. We are members of parliament who have been elected into the Senate to have debate and discussion on these issues, and to seek to find the best way forward. This motion stops us from doing that, and the Australian Greens oppose it.

Question agreed to.

WHEAT MARKETING AMENDMENT BILL 2006

Second Reading

Debate resumed from 6 December, on motion by Senator Ellison:

That this bill be now read a second time.
Senator EGGLESTON (Western Australia) (11.42 am)—I am very pleased by the action the government has taken to transfer the veto on the international marketing of wheat from AWBI to the Minister for Agriculture, Fisheries and Forestry for a period of six months. By so doing, the government has provided a solution to the immediate problem for West Australian wheat farmers, who face financial disadvantage under the current arrangements, whereby the Australian Wheat Board effectively has the power of veto over international sales. As has been said by other speakers, WA largely produces wheat for export. Were the WA farmers to sell their wheat through AWB this year, their financial returns—given the severe drought they face—would be less than would be the case were they able to sell it through the CBH or Co-operative Bulk Handling.

The transfer of the veto to the minister will be for a period of only six months, which will allow the government an appropriate period of time to fully consider the long-term future of AWB’s management of the national wheat pool. As I understand it, the review of the management of the international wheat marketing system will be done in full cooperation with the wheat growers of this country, which will ensure that the final decision arrived at is a consensus of both the government and the growers of Australia.

There has been concern expressed over the last few years about the way Australian wheat is marketed internationally. Earlier this year I attended the annual general meeting of the Pastoralists and Graziers Association of Western Australia, where the sentiment was very strongly against the maintenance of the single desk marketing operation under the auspices of AWB.

Members of the PGA strongly believed that the single desk was denying the wheat growers of Western Australia the opportunity to sell their wheat at maximum return around the world through other agencies such as CBH. However, subsequently it has become apparent to me that there is a division of opinion amongst wheat growers in Western Australia and that those in the West Australian Farmers Federation, or WAFF, are not necessarily in agreement with the PGA on the subject of the abolition of the single desk as a marketing tool.

Furthermore, in November I received correspondence from the wheat exporters of Australia, a group which represents farmers involved in the wheat export trade, which made some criticisms of both the AWB and AWBI which I do feel warrant further evaluation. This wheat exporters group wrote to express concern about the relationship between AWB Ltd and AWBI in terms of the profit which is derived from providing services to AWBI, as well as concern about the fact that AWBI is exempt under the present regulatory regime from: (1) having to obtain export licences from the Wheat Export Authority, (2) the requirements of the Trade Practices Act and therefore ACCC oversight of its terms in dealings with its client base, and (3) the Financial Services Reform Act. They were also concerned about the fact that, under section 57 of the Wheat Marketing Act, AWBI has a complete veto over the government regulator, which is the Wheat Export Authority, in granting bulk export licences to any other entity, including individual wheat growers seeking to sell their own wheat, and that they must be consulted on container load shipments, thus meaning that advance commercial knowledge is given to them so as to effectively gazump any prospective sale or frighten the potential customer off through the suggestion of future supply problems.

While I do not pretend in any way to be an expert on the wheat industry or the marketing of wheat, it seems clear from the views
which have been put to me over this year that there are some problems in this industry. Accordingly I believe the decision of the government to review this industry over a six-month period is a very wise one and will enable a full assessment to be made of the needs of the growers marketing wheat internationally so that, if appropriate, the wheat marketing system can be reformed.

One solution which is fairly consistently put forward by Western Australian growers is that, while the single desk has been a good marketing mechanism and should be retained, at the same time there is a case to be made for some flexibility in its operation to enable growers such as those in Western Australia to sell their wheat in individual spot markets at times. Because of the serious financial consequences which would face Western Australian growers if this legislation were not passed without delay, I urge all my colleagues to support it—bearing in mind that the whole system of wheat marketing is to be reviewed over the next six months by the government. I commend this legislation to the Senate.

Senator NASH (New South Wales) (11.48 am)—As a wheat grower from the central west in New South Wales, I am only too aware of how important this issue is to wheat growers right around the state and right around the country. I am a very strong supporter of the single desk. I accept that there are diverse views on this issue, but it is certainly my belief that the majority of wheat growers are very supportive of retaining the single desk. While the majority of growers are supportive of retaining that, I will certainly continue to support retaining the single desk. This is about growers and what growers want.

The reasons that the single desk was set up certainly still exist today. As my leader, Senator Boswell, said yesterday, the single desk is defined by five clear principles. I think it is important that we just take a moment to look at those again. A single desk entity is: grower owned, the operator of the national pool, the holder of the export veto, the buyer of last resort, and it provides security of payment for growers. As my leader also said yesterday, these principles must only be changed with the clear support of a majority of growers.

The Wheat Marketing Amendment Bill 2006 gives the veto power to the minister for six months. It is a very sensible temporary solution to allow us to deal with the issues in Western Australia of drought and the growers’ cash flow requirements over there. I would also point out though that it does not compromise the position of growers who have already delivered to the pool. It is certainly The Nationals who have made sure that growers are able to have their say on the future of the single desk and the future of their industry. There is no doubt that there is a push out there towards complete deregulation. There is also a push out there towards changes to the current system.

I think it is very sensible that The Nationals have now secured a three-month period of consultation where growers can have their say. This is an opportunity for growers to have their say, to say loud and clear what they want for the future of their industry. I urge growers: if you do not want deregulation, if you want to make sure that you keep the single desk, then you have to rise up and tell us. Your future is in your hands—it is you, the growers, out there who now need to come together and tell this government what it is that you want for the future of your industry. The Nationals will absolutely, without doubt, continue to fight for growers. But the growers’ voice, your voice, has to be heard loud and clear. We can fight for you. We can continue to fight for you, and we will do that, but we need to make sure that your
Voice is heard so that the future of the industry is the future that you want.

Senator CHAPMAN (South Australia) (11.51 am)—The Wheat Marketing Amendment Bill 2006 establishes new arrangements for controlling the export of wheat from Australia. Therefore, as a wheat grower, I declare a personal interest in the legislation.

This bill was flagged by Prime Minister Howard following the tabling last week of the report of the Cole inquiry into AWB Ltd and AWB International’s corruption of the United Nations oil for food program. It puts into place the Prime Minister’s promise that, in formulating its response, the government’s dominant concern would be the interests of Australian wheat growers and that the federal government would consult widely with growers and the industry before finalising any changes to wheat export marketing arrangements.

Australia has a long history of regulating wheat marketing. The Australian Wheat Board operated from 1915 to 1921 and from 1939 to 1947 under wartime emergency provisions to acquire and market the Australian wheat crop under a pooling arrangement to ensure price stability for growers and appropriate management of this vital foodstuff during wartime. However, it was in 1948 that legislation established the Australian Wheat Board to have a similar marketing role for the first time in peacetime.

My late father, who died in 1999 in his 94th year, was instrumental in this postwar establishment of the Australian Wheat Board. As President of the then Australian Wheatgrowers Federation, which more recently has become the Grains Council of Australia, he led the negotiations with the Chifley government in the immediate postwar period for AWB’s establishment and the operation of the single desk for wheat marketing. This was consequent on his role as one of the leaders in establishing, in the early 1930s, an organisation to represent wheat growers in South Australia, devastated by the collapse in wheat prices during the Great Depression, who were further ripped off by market manipulation by grain merchants. He saw the benefit of the single desk and fought hard and successfully for its permanent establishment after World War II.

The release of the Cole report would have been a sad day for him if he were still alive. A principled and ethical man, he would have been devastated by the antics of AWB Ltd and AWB International revealed in that report—organisations he helped create, albeit operating now as listed commercial entities rather than as a statutory authority. The release of the Cole report has clear implications for the operation of the single desk system for Australian wheat exports and this has caused significant concern to growers, both immediately and in the longer term.

The bill transfers from AWB International to the Minister for Agriculture, Fisheries and Forestry, until 30 June 2007, the right to veto applications for bulk wheat export from exporters other than AWB International. It is a temporary measure to address current concerns in the industry about the wheat marketing arrangements, particularly in Western Australia, where there are fewer domestic marketing options than in the eastern states. It is also an inevitable consequence of AWB’s unacceptable behaviour.

South Australian growers have discussed with me their concerns about the impact of changes to the single desk system on the wheat pool and prices. Their concerns are compounded by the current drought resulting in lower yields this season, rendering it essential that the government’s decisions ensure that maximum and sustained financial stability is available to growers.
Currently, Australia exports wheat to more than 40 countries and, although we grow only about three per cent of the world’s wheat, our total wheat exports represent around 15 per cent of the world wheat trade annually. The Australian government has worked hard to maintain the single desk arrangement as part of all trade agreements, such as those in the World Trade Organisation and the Australia-United States Free Trade Agreement, on the grounds that it offers a transparent and commercial operation. The veto powers conferred by this bill do not represent a change to the Australian government’s single desk policy. For the six months to 30 June 2007, during which the minister will hold the veto, AWB International will remain exempt from requiring export consent from the Wheat Export Authority and will continue to be the buyer of last resort.

In a corrupted international wheat market, where most other exporting countries substantially subsidise their growers and where, in a number of instances, there is a single purchasing authority, I believe the single desk continues to provide benefits to Australian wheat growers. This view is reinforced by the fact that growers and marketers from other countries have lobbied hard over many years for the dismantling of the single desk. Clearly they see it as an advantage to Australian growers. Hence, if a majority of growers seek its retention during the next three months of consultation, I will support them. However, careful consideration will need to be given to the way in which the single desk and the veto are to be administered in the longer term. It is no longer tenable for them automatically to be the bailiwick of AWB Ltd.

This legislation will provide the Australian government with the opportunity to address the current and urgent concerns of wheat growers while allowing the government to develop future long-term wheat marketing arrangements, taking into account all of these issues. I commend to the Senate the speedy passage of the bill.

Senator McGauran (Victoria) (11.56 am)—The Wheat Marketing Amendment Bill 2006 will bring the most significant change to the wheat industry and its selling arrangements since the deregulation of the domestic market back in 1989—legislation which I also spoke to at that time. 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 to the Minister for Agriculture, Fisheries and Forestry. The transfer will be effective until 30 June 2007. This is achieved through including a new part in the act.

These changes do not amend the functions or objectives of the Wheat Export Authority or AWB International’s authority to engage in export activities. The WEA will continue to control the export of bulk wheat, but now requires the agreement of the minister for each application. The changes mean that the WEA will not be required during the period to 30 June 2007 to have written approval from AWB International before making a decision on bulk export applications. In cases where the minister does not agree with the WEA, he is able to direct it to approve or reject the export applications. As the minister’s second reading speech says:

The movement of the veto does not represent a change to the Australian Government’s single desk policy.

As he said:

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.

I come to this debate as a single desk purist, a long-time supporter and defender on all
grounds—economic, social and political. So, to a purist, the taking away of the veto from AWB International—or the Wheat Board, as we traditionalists would call it—is very hard to accept indeed. In March 2004, when I last addressed the matter of wheat, I said:

… the bottom line is that only within the industry can the single desk be undermined. That is a timely reminder to farmers not to flirt in any way with changes at the edges of the single desk. Do not chip away at this Rock of Gibraltar, for any change no matter how slight or how seductive will bring down the single desk.

**Senator Ian Campbell**—What an erudite quote. Who said that?

**Senator McGAURAN**—I did, Minister. It was pre the Cole commission of inquiry. I cannot take your interjections, Minister, as I am under such pressure regarding time.

**Senator Ian Campbell**—You just did!

**Senator McGAURAN**—Anymore, that is. That was pre Cole, but I must say—and the minister should know this—that it is getting harder to remain a pure supporter of the single desk, with the devastating effects of the Cole inquiry on the integrity of the AWB. And there is more to play out on that.

As I say, it is due to the Cole commission of inquiry that these changes have been brought in. Things can simply not stay the change. From the time the Volcker inquiry was handed down, the government has acted speedily and vigorously to expose the truth of the corruption that occurred between the AWB and the then Iraqi regime. We are determined to implement the findings and recommendations of the Cole commission of inquiry. What is being acted out today is a consequence of that culture and that behaviour, and the government has no choice but to make that decision and does not flinch from doing so. I regret that I only have the time allocated to me, but it is for those reasons that I fully support the bill before the Senate.

**Senator WEBBER** (Western Australia) (12.02 pm)—I would like to thank other members of the chamber for facilitating my participation in the debate on the Wheat Marketing Amendment Bill 2006. As outlined when this debate started yesterday, those of us in this place, from all parties, understand the need to pass this legislation and the need to give some certainty to the wheat growers of Australia. Of course, coming from Western Australia there are some particular issues associated with it. The issues are a bit more complex than perhaps they are in other states, so I rise to make a brief contribution.

Yesterday when Senator Boswell was making his contribution he was heralding the great job that those in the National Party had done in, as he alleges, looking after the needs of wheat growers. I have to say to Senator Boswell that the wheat growers in Western Australia do not vote for the National Party, so I do not know that he can claim a mandate on behalf of all of them. A percentage of them are known to support my side of politics, and of course there are the others who support my fellow Western Australia representatives—people such as Senator Johnston and Senator Adams. But these days there are not too many of them who vote for the National Party, so I do not know that he can claim a mandate on behalf of all of them. A percentage of them are known to support my side of politics, and of course there are the others who support my fellow Western Australia representatives—people such as Senator Johnston and Senator Adams. But these days there are not too many of them who vote for the National Party, so perhaps Senator Boswell should choose his words a bit more carefully. It is not his mandate and his mandate alone to represent their views in this place.

In Western Australia the wheat industry is a bit more complex than perhaps it is on the east coast. The wheat farmers in Western Australia do not have the same choices that those on the east coast do about where they choose to sell their wheat. Transport and other costs do not make for the ability to decide whether you will export or sell within...
the internal Australian market. It is not quite as economically smooth for the west coast. The wheat tends to be consumed within Western Australia or it is exported. Therefore, there have been issues concerning wheat farmers who choose to use CBH, and their desire to export their own wheat and the role of AWB in using their veto to exclude them.

There does need to be certainty, but I think there also needs to be some flexibility regarding how wheat farmers in Western Australia market their wheat and who they can sell it to. As I say, if we in Western Australia decide to farm in Western Australia we do not have the luxury of deciding whether we will sell in New South Wales or in Queensland. That is economically prohibitive. In my view, we do need to open up the market a bit more and allow some of the most efficient wheat farmers in the world the flexibility that they deserve and, in doing that, we need to give them certainty.

Labor will facilitate the passage of this legislation, but we also need an open and accountable process into how we will progress this. It cannot just be the fiefdom of one political party. We actually need to get everybody on board. We need to have an open and transparent process, where we consult with all of the players—including the major players in my home state—and come up with certainty and a system in place to guarantee the survival of what is a very efficient industry in my home state. I would say it is more efficient in my home state than in many other places.

We need an open and accountable process and we need to consult with all of the players—not just the players that want to toe the line of any one political party—to ensure that we give wheat growers the certainty and the structures that they need so that they are not disadvantaged, whereby they perhaps have to protect some more inefficient growers. Whilst I am happy to facilitate the passage of this legislation, we do need an open and accountable process. We do need to know where we are going from here. We need to implement the stopgap measures, and we need to consult with everyone in the industry, not just the fiefdom of the National Party.

Senator IAN MACDONALD (Queensland) (12.06 pm)—On this issue, I am guided by and appreciative of the assistance I get from my Liberal Party colleagues—in particular, Mr Ian Macfarlane, from my home state of Queensland, who, as everyone knows, is very involved in the grains industry and is a wheat grower himself. I also appreciate the assistance of my Liberal colleagues Senator Judith Adams, Senator Grant Chapman and Senator Alan Ferguson, all of whom are wheat growers and have a very close and important interest in this. I also pay tribute to my colleagues Senator Johnston and Senator Adams for putting forward a private member’s bill which has encouraged our government to address this matter urgently, because obviously something had to be done in the very near future.

Time is against us all—which, I agree, is something of a shame—so I will confine my remarks very directly to the Wheat Marketing Amendment Bill 2006. People have spoken in this chamber about everything being done in the interests of wheat growers. I like to think that bills and things done in this chamber and by the government are done in the national interest of Australia. In this issue, that will mean, I think, the interests of wheat growers, but, at times, it is broader. I will not be taking part in the committee stage of this bill but I would like to raise publicly a matter I raised with the minister. In section 63 of the bill, the minister, for the purposes of deciding the things that he does, is required to have regard to the public interest. In understanding how things around this
place work, I have a concern—perhaps as a lawyer—that ‘the public interest’ is a very broad term and it is nowhere defined. I certainly hope that, because the whole process of this bill is a narrow six months, it will not involve litigious action by the various interested parties on what exactly the public interest means.

Another issue I want to touch on briefly, which I have raised with many of my colleagues, is my concern that this bill is only for a very limited period of time and that, once this bill concludes—once the sunset clause is reached—if nothing further is done, the initiative will return to AWB. I think everyone agrees that should not happen.

Senator O’Brien—So support my amendment!

Senator IAN MACDONALD—Thank you, Senator O’Brien. I had not been aware of your amendment—and I will not be supporting it. I have had an assurance from those who are in control of this that something will be done after the three-month period of consultation. I want to place on record my acceptance of that assurance and indicate that I will ensure that the assurance is committed—and I have no doubt that it will be. People on our side do not give assurances without intending to have them met. But it is something that must be addressed, because we cannot allow this to automatically revert to the AWB at the conclusion of the sunset clause. I commend the bill to the Senate.

Senator FERRIS (South Australia) (12.10 pm)—A government grant, by legislation, of a monopoly power confers on the recipient a great privilege. It carries with it a commensurate obligation. The obligation is to conduct itself in accordance with high ethical standards.’ This was on of the most important statements in the recently released Cole report into the AWB’s actions in Iraq. Australian wheat growers, along with the rest of us, were devastated by the revelation of lies and deceit. Australian wheat growers deserve the best international market access without interference from the Australian government or the AWB. I have always believed passionately in this issue and, on behalf of Australia’s wheat growers, I have fought passionately for it during my 10 years in this parliament. During hearings in Perth in 2003 into the Wheat Marketing Amendment Bill 2003, I asked a number of questions about the WEA, the AWB and the impact of the AWB’s corporate dealings on growers. I was not satisfied with the responses that I was given at that time by various AWB executives—and I have felt that way even more strongly as the years have gone by.

I have always believed that the WEA is a toothless tiger, fundamentally flawed in its concept of keeping watch on the wheat board. Just last month we saw the AWB use its veto power to stop the CBH group from exporting wheat to its own flour mills in Vietnam, Malaysia and Indonesia. This is despite the fact that the CBH group was willing, in principle, to pay to farmers a higher premium than was on offer from the AWB. The Wheat Marketing Amendment Bill 2006 seeks to amend the Wheat Marketing Act to temporarily transfer the right to veto bulk wheat exports from AWB and AWBI to the Minister for Agriculture, Fisheries and Foresty. While the WEA will continue to control the bulk export of wheat, agreement with the minister must be reached for each application.

Questions over the actions of the AWB in the international market have intensified following the release of the report of the Cole inquiry into Iraqi kickbacks. While members opposite have used the release of the Cole report to attack the government, it is important to remember that it was the AWB and its
executives whose actions were found to require further investigation and possible prosecution. Commissioner Cole found that, had the AWB cooperated with the inquiry by promptly providing the documents it had already assembled, there would have been a considerable saving for Australian taxpayers, not to mention Australian wheat growers. Australian wheat growers and the AWB have not benefited from this inquiry in the sense of costs. AWB presented a facade of cooperation with this inquiry but, in truth, it did not cooperate at all. It should be ashamed of itself.

The Cole inquiry has been a landmark inquiry in terms of the government’s openness to forensic examination of its internal processes. That examination has extended far beyond government departments—to ministers and their offices and to intelligence agencies. Three senior ministers—the Prime Minister, the Deputy Prime Minister and the Minister for Foreign Affairs—were examined, gave evidence, provided sworn statements and were exonerated.

In recent days the South Australian government has announced moves to remove the barley single desk in South Australia and there has been pressure in this parliament to remove the single desk for wheat. That argument is yet to be had. I look forward to watching very closely as the consultative committee moves around the country and to seeing the report that comes back.

There is no doubt that, rightly or wrongly, wheat growers are split on the question of retaining a single desk—a buyer of last resort for wheat—and a debate over the future of the single desk is something that we will undertake at another time. However, at this time, as an imperfect answer to a difficult problem—and particularly bearing in mind my Western Australian colleagues—I commend the Wheat Marketing Amendment Bill 2006 to the Senate.

Senator FERGUSON (South Australia) (12.15 pm)—I too rise to support the Wheat Marketing Amendment Bill 2006, which is before us today. I have been a wheat grower for most of my working life and in recent times a holder of AWB shares, but I can inform the Senate that, as I no longer own a farm and I have divested myself of my AWB shares, I do not feel as though I have any conflict of interest in representing the interests of wheat growers in supporting this bill.

Australia’s wheat growers have been going through very difficult times, partly brought about because of the drought over most of Australia—in some places that drought has continued now for three or four years—and partly because of the recent activities of the Australian Wheat Board and the necessity of having a full-scale inquiry, which we know now as the Cole commission of inquiry. While that inquiry was being undertaken, there was nothing that could be done to make any definitive moves about the sale of export wheat from Australia to other countries around the world. During the long time that the Cole commission took to report, the government always said—and government members on this side heartily concurred—that nothing could happen until that report was handed down and that an adequate and appropriate response would then be made by the government to the recommendations in the report.

In the meantime, growers in Western Australia, one of the few areas of Australia where reasonable wheat harvest has been gained by growers, have been left in an untenable position; many people did not have faith in the Wheat Board, so they have sought to warehouse their wheat while a decision is made as to what can be done in relation to exporting.
This decision of the government is the only decision that could have been made at this time. It is important for a variety of reasons. One is that we must take the concern out of the minds of the wheat growers as to whether they will get paid for their wheat, how much they will get paid for their wheat and who will be selling it for them. The provisions of this bill allow the veto to be taken away from AWB and put in the hands of the minister and the cabinet. In those hands, judgements can be made as to who should be selling the wheat from this season’s crop.

We also need to take into account the feelings of wheat growers around Australia. I have no statistics to back this up, but I have a view, and the consensus and anecdotal evidence would suggest, that there is still a majority of wheat growers in Australia who would prefer to have their wheat exported through a single marketing authority, whoever that authority might be. Some say it should still be the Wheat Board. That is yet to be determined.

In bringing this bill before the chamber, we have given ourselves some breathing space, some time to consult extensively with industry and with growers around Australia so that we can do what is in the best interests of the growers of Australia. I unashamedly represent those growers and not anybody else, because it is the growers who have to take the risk and it is the growers who, up until now, have had only one opportunity to sell their wheat through the Wheat Board. Some insist that that is the way they would like things to remain, but I know there are many others moving for change, especially amongst the younger generation of wheat growers, those aged 35 and under. They have taken to modern technology and modern communications. A price is offered each day: they can tap into the internet and find out the value of wheat. They have a knowledge and understanding of wheat futures. A whole range of issues that young people and young wheat farmers in Australia now take into account were simply not available to their grandfathers in the 1930s, when the marketing of wheat in Australia became such a shambles through agents varying prices and through the pressure put on growers, particularly smaller growers, at the time of harvest.

I wholeheartedly support this bill, because it gives us time to ask the growers whether they still want to maintain a single desk or whether they would like to move to some other form of marketing. It will give us time to consult the industry itself, apart from the growers, as to what it thinks is the best form of marketing for our grain and for the export of wheat in Australia. The bill in its present form is one that I hope receives the support of everybody in this chamber.

Senator JOHNSTON (Western Australia) (12.20 pm)—In the past month, I have received more than 100 emails and telephone calls from wheat growers in Western Australia seeking to explain their views and concerns with respect to export wheat marketing in Australia, particularly with respect to the 2006-07 crop. I have taken considerable time to speak to many personally and to write to them to explain my concern as to the wisdom and propriety of permitting AWB to continue to operate the statutory export wheat marketing monopoly as established by the Wheat Marketing Act 1989, as principally amended in 1998.

I pause to say that AWB has displayed contemptuous corporate culture with wheat growers, with shareholders—both A and B class—and with the general public. Alarmingly, the arrogance and contempt continues to this day, notwithstanding the commissioner’s finding. It seems to me that this company, amazingly and incredibly, harbours a victim mentality to its current status. The real victims in this sorry saga are the coura-
geous and trusting wheat growers, mainly from Western Australia and South Australia, who have relied upon this company to provide stability and reliability in the production and sale of wheat by our country.

I have heard many speakers in this chamber talk about the fear campaign relating to AWB. Let us have a look at this company, which I maintain has not learnt any lessons from the Cole commission. It has conceded, begrudgingly over a long period, that the legal fees associated with the running and defending of its position in the commission amounted to $35 million. I am yet to see proper accounting for that.

Shareholders and growers should be fully informed, as should the market. As you know, Madam Acting Deputy President, a task force will be established as to the prosecution of 11 AWB personalities. I am yet to see a proper accounting of and provisioning for the legal fees associated with that matter—for defence of the likely charges to flow from the task force inquiry. So we have a huge contingent liability rivalling the $35 million on the horizon for this company.

I turn to the taxation situation of this company. This company apparently claimed $A290 million as a tax deduction, which it paid to Alia. Those of us familiar with the laws relating to taxation assessments know that upon reassessment this company will be required to put on the table the cash differential of what it paid and what it should have paid whilst we await the outcome of its objection to the assessment. My estimation of that is somewhere between $100 million and $150 million in cash on the table.

Moving on, I draw the chamber’s attention to the Statoil case in the United States, which was prosecuted under foreign corrupt payments legislation. Statoil had paid $5 million in a bribe to the Iranians to secure an oil and gas contract in Iran. It pleaded guilty to the prosecution case and was fined $21 million. Extrapolating that figure means that, were AWB to be charged and convicted, the fine is likely to be somewhere around a billion dollars. I also mention that there is a class action looming. Those involved are being egged on and encouraged by Senator Harkin and Congressman Peterson from Minnesota. A class action against AWB would involve considerable expense, given the nature of the legal fees to defend it and any outcome.

Even worse than any of those things is this, AWB is currently the largest grain trader on the Chicago board of trade. Were it to lose the right to trade there and were this entity to retain the single desk operating rights, growers would be left without a hedging possibility on the largest grain-trading market in the world. In other words, this single desk monopoly holder would be failing growers if it were to be banished from participating in what would be a risk management exercise in the nature of hedging. Lastly, the Iraqi government wants the $290 million that was apparently paid to Saddam Hussein.

The account I have just given has been said by senators in this place to be fear mongering and part of a fear campaign. Let me say that it is so frightening that AWB Ltd gave an indemnity to AWBI over legal fees and tax. If it is a fear campaign, why would the company that runs AWBI grant an indemnity—an indemnity that has never been fully explained or fully set out? Is it in writing? If so, what are the terms?

The issue of the demerger we saw last week was not adequately explained, which says to me that this whole thing was simply a charade to try to look good and to be seen to be doing something. Even worse than that, and this is in answer to the allegation of a fear campaign, AWB has set up trusts which it brazenly acknowledges are to protect individual pool years from creditors. That is the
cat out of the bag. If they have got to set up trusts to quarantine and insulate each annual pool—and they have acknowledged to the Stock Exchange that they have done this—the question is: why? The answer is that the liabilities on the horizon for this company are huge and dangerous. This company has betrayed the trust and faith of wheat growers.

Chapter 5 of the Corporations Law deals with insolvency. The authorities will stroll through these trusts as if they are having a Sunday walk in the park. This is a sham, and it will be seen to be a sham. So, when we see a demerger of AWBI from AWB, what is the end result? No advance explanation for growers and absolutely no assistance to them as to where they stand. In Western Australia growers have voted very accurately according to what their understanding is, and they have not given their wheat to this corrupt company for good reason. This bill solves that problem.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (12.27 pm)—It would be fair to say that the matters around the Wheat Marketing Amendment Bill 2006 have been very well canvassed, so I do not want to go through the reasons the bill should be supported. However, I will briefly deal with one issue that has been raised—that is, the definition of public interest. It is not possible to specify in advance what the relevant matters may be for determining what is in the public interest. That will depend on all the circumstances involved in each industry application that the minister will assess. Some of the issues that the minister may potentially take into account include the interests of growers participating in the national pool as well as the interests of growers in the industry as a whole. We as a government believe that broader considerations need to be taken into account than simply what may be in AWBI’s commercial interests.

In relation to the amendment proposed by Senator O’Brien, I quickly indicate that our view is that the type of review proposed would be time consuming and unnecessary. The government has already committed to extensive consultation with industry, and the minister will be writing to all growers seeking their views. 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 O’BRIEN (Tasmania) (12.29 pm)—The opposition will be moving amendments to this legislation. As I have indicated, we moved a similar amendment to the Wheat Marketing Amendment Bill 2002 in June 2003. The legislation as it stands seeks to remove the veto from AWB and put it in the hands of the minister. A number of questions arise in relation to the exercise of that power. For example, a wire story today reads:

Mr McGauran is likely to use his control of the veto to approve an application by WA grain handler CBH to ship two million tonnes of wheat at prices superior to those being offered by AWB.

We would like to know what deals have been done in relation to the exercise of the veto.

Senator Ferguson—No deals.

Senator O’BRIEN—Senator Ferguson says, ‘No deals,’ but it would be interesting if Minister McGauran, or indeed Senator Abetz—if we had the time—were able to assure the public just how this process would work. This is, unfortunately, another instance where it will be difficult to examine how the veto power is used. It is a blunt power as it stands. AWB has the veto and it has used it every time, with one exception—which it claims was a mistake that had slipped through. There was not much to investigate;
it was simply a stonewall position by AWB. But now we see a media comment suggesting that a decision has already been made to allow CBH to do a bulk shipment of two million tonnes. We would like to know more about that.

Secondly, yesterday AWB put out a media release, which I think affected the stock exchange dealings with AWB shares, saying that AWB were unable to provide certainty because of the lack of clarity in the government’s proposed changes, including how the bulk veto would be applied in future. I have some sympathy for them—not about many things—in relation to understanding how the veto would work, because it is delightfully vague on how the minister is going to use this power. We ought to have had a more extensive statement by the minister in his second reading contribution as to just how he would exercise this power.

As Senator Johnston said, the reference to the public interest in the legislation does not give us any certainty as to the criteria that the minister will take into account, what he is limited to considering and the matters which are inappropriate for him to consider. All of these things have been done in a rather haphazard, rushed and slapdash manner. The opposition is concerned that this is hasty legislation and we are not being given an opportunity to properly consider it. Because of the rolling guillotine our amendment will not be given proper consideration. In his second reading contribution Senator Ian Macdonald said that he had not seen our amendment but he was going to vote against it.

Senator Abetz—It was a pretty good hunch though.

Senator O’Brien—That mindset from government senators should not amaze anyone, but it indicates what a closed mind this government has about improving legislation. I heard what Senator Abetz said about Labor’s amendment. What Labor would have occur, as set out in our amendment, is a proper, authoritative consideration of all the issues around the single desk by people appointed who have the powers and protections of an inquiry conducted by the Productivity Commission in accordance with the Productivity Commission Act 1998. They would have the ability to probe all of the material held by AWB and AWB International. They would have the ability to make determinations and recommendations and those determinations and recommendations would be made public.

If you can believe the utterances of this government and leaked sources coming from the government, what we are going to have is some inquiry appointed where the government will hand-select some people on the basis of criteria we have no understanding about. There will be a secret report to the government and the government will say, ‘We’ve made a determination; we’re going to put this new system in place’—if, indeed, they change the system. In the opposition’s view, this will be a political fix, just like the current set of arrangements.

Looking at the current set of arrangements, back in 2002 and 2003 the opposition was saying to the government: ‘The Wheat Export Authority is a paper tiger; it is useless. Grain growers are paying money to prop up this organisation.’

Senator Ferris—It is toothless.

Senator O’Brien—It is toothless or, if it does have teeth, it refuses to use them. Growers have spent millions of dollars to keep the organisation going. Why don’t we just get rid of it? In 2003, when we moved amendments which would have had that effect, we were simply blocked by the government and, may I say, the Democrats. Former Senator Cherry was on all fours with the government’s position and was not pre-
pared to support the thoroughgoing inquiry that we propose now, the sort of inquiry which would have given us some indication of what the problems were with the system, how the system was working and, to an extent at least, what the single desk was worth to growers. With all the money that has been paid to the Wheat Export Authority over the years, they have never been able to quantify the value of the single desk to growers. We did learn that they are paying $65 million a year for the privilege of having a single desk and AWB collecting that money, plus other bonus fees that they collected through mechanisms that not even the growers understood in terms of how AWB managed to reap more money out of the pool, allegedly for achieving an outcome over what might have been seen to be the norm. All of this was vague and was never put to the growers. The minister may have seen something, but that information never made it into the hands of the growers.

It has been an appalling system. It was an appalling system when it was put in place. From 2000, then Minister Truss was aware that there were problems with the powers of the Wheat Export Authority. Nothing was done about them until they were drawn to the attention of the minister through the opposition’s pursuit of the Wheat Export Authority. Through Senate estimates, through Senate committees and then finally through the Senate committee inquiry into this bill, we got some changes to the powers. But, of course, now we know that the Wheat Export Authority was so moribund and the WEA personnel were so incapable of doing whatever job was intended by the government—if indeed it was intended that they were supposed to be effective in relation to their stewardship of the single desk—that AWB went on doing whatever it liked for as long as it liked, and we got into the mess that we are in now.

The opposition understand the numbers in this place. We understand that the government will not support our amendments. We believe what we have proposed is the right thing to do. We believe that it is time for a proper, thorough inquiry, that it be conducted with the powers of an inquiry being conducted by the Productivity Commission, that it have the ability to go into all of the dealings within AWB and any other organisation relevant to the inquiry to get an understanding of the impact of proposals that it might make to government and to get an understanding of some of the problems, and that it make a report and make it public. Then there should be a debate with growers and relevant organisations about what it should be replaced with.

Coming up with another cobbled together political fix on this matter will result in another problem in years to come. We will continue to see arguments between the National Party and some members of the government about whether there should be a single desk and how it should operate, because no-one will have the basis of knowledge acquired through a structured and properly equipped inquiry. There have been some inquiries in the past but there have been differences in the outcomes. We need to get the work done now and that is why the opposition are proposing this.

We do not oppose this bill, but we think there are problems with the legislation. We understand that there are problems around the country with wheat growers, particularly in Western Australia. We understand the concern about having to go through the pool and the fact that it might cost growers money unnecessarily. We understand that there are problems with AWB’s cost structures and that there is the possibility that a substantial bill might be presented to a limited number of growers who have put their wheat into the pool. AWB’s press release says: ‘Over 2½
There are massive problems with the current pool. There are massive problems if the veto is not exercised to prevent bulk shipments by other sellers. There is the possibility of a veto of the pool by some Western Australian growers putting their grain into storage. That might have an impact. This is a terrible problem to face and the opposition are clearly not standing in the way. With these amendments, we propose a series of measures which will allow an independent and proper assessment of the matters upon which future decisions need to be made. We do not want yet another political fix from the government, because it will leave us in the situation of having to again debate the adequacy of the information on which the government has made its decision when it finally does—probably in the middle of next year.

There will be another quick fix and there will be another insistence that it be done quickly. We probably will not be given the opportunity to examine it. If we were, we would probably not have the necessary resources to do the job as well as we could if an inquiry had taken place. The government are not going to change their mind. If they were really considering the interests of growers, this proposal by the opposition is exactly the sort of position that they would adopt. If they do not adopt the amendments, let me suggest that they find some other way to do this. Let me suggest that a transparent inquiry, not a political fix, is somehow empowered to get the information needed to do the job that we suggest needs to be done. That is the right thing to do. If the government cannot bring themselves to support the opposition’s amendments because they are opposition amendments, let the government find a way to do it anyway because that is the right thing to do. I seek leave to move the amendments standing in my name.

Leave granted.

**Senator O’BRIEN**—I move:

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

   **1A Paragraph 5(1)(b)**

   Omit “and examine and report on the benefits to growers that result from that performance”.

2. Schedule 1, page 3 (after line 9), after item 1, insert:

   **1B After subsection 57(7)**

   Insert:

   (7A) Before 1 April 2007, the Minister must cause an independent review to be conducted of the following matters:

   (a) the operation of subsection (1A) in relation to nominated company B;

   (b) the conduct of nominated company B in relation to:

      (i) consultations for the purposes of subsection (3A); and

      (ii) the granting or withholding of approvals for the purposes of subsection (3B); and

      (iii) returns to growers;

   (c) the economic impact of export wheat control arrangements on Australia’s domestic wheat market;

   (d) the benefit of maintaining export wheat control arrangements;

   (e) recommended changes to export wheat control arrangements;

   (f) recommended changes to monitoring and reporting arrangements.

   (7B) The review conducted in accordance with subsection (7A) is to have the same powers, procedures and protections of an inquiry conducted by the Productivity Commission in accordance with the *Productivity Commission Act 1998*.

   (7C) A review under subsection (7A) is to be conducted by a panel nominated by the Minister by a written instrument.
(7D) An instrument prepared under subsection (7C) is a legislative instrument for the purposes of the Legislative Instruments Act 2003.

(7E) The Minister must cause a copy of the report of the review prepared in accordance with subsection (7A) to be tabled in each House of the Parliament within 25 sitting days of that House after the day on which the Minister receives the report.

Question negatived.

Bill reported without amendment; report adopted.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

ROYAL COMMISSIONS AMENDMENT (RECORDS) BILL 2006

Second Reading

Debate resumed from 6 December, on motion by Senator Ian Campbell:

That this bill be now read a second time.

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—Order! Senators, there is too much conversation across the chamber. Senator Ludwig is on his feet and seeking to speak.

Senator LUDWIG (Queensland) (12.44 pm)—Thank you, Mr Acting Deputy President—that is very observant of you!

The ACTING DEPUTY PRESIDENT—You are very hard to miss, Senator Ludwig!

Senator LUDWIG—I rise to speak on the Royal Commissions Amendment (Records) Bill 2006. The bill deals with amendments to the Royal Commissions Act 1902 concerning access to and custody of royal commission records. Whilst the genesis of this bill was the tabling last week of the report of the Cole Inquiry into Certain Australian Companies in Relation to the UN Oil-for-Food Program, the bill itself is not in any way limited to this single commission. It will, in fact, have a lasting impact on all royal commissions for the future and it applies in its terms to all past royal commissions.

Among the inquiry’s extensive recommendations, Commissioner Cole proposed the establishment of a joint task force to consider possible prosecutions arising from the inquiry. The government argued that the Royal Commissions Amendment (Records) Bill 2006 will provide a framework for the orderly and speedy referral of records from the Cole inquiry to relevant law enforcement bodies. As far as Labor is concerned, however, this bill simply represents a hasty attempt by the government to address one of the recommendations of the Cole inquiry into the oil for food scandal.

Evidently stung by criticisms of its neglect and inaction on AWB in the past, it is clear that the government is now—finally—eager to at least look like it is doing something. Unfortunately, it is far too little, too late, from this government in this regard. Having turned a blind eye to 35 separate warnings over a number of years to AWB’s $290 million in kickbacks to Saddam Hussein’s regime, this small step cannot redeem the government. After so much neglect, the government cannot push through a poorly drafted and ill-considered law on the pretence that it is needed in order to do something urgent to handle AWB matters.

Labor, of course, stands by ready to assist with any changes that are needed to allow our law enforcement agencies to investigate possible crimes committed by AWB and staff. Labor, and our new leader in particular, have after all been at the forefront of pursuing the oil for food scandal. If it had not been for Labor’s dogged persistence, I very much
doubt that the community would have understood the extent of AWB’s deceit, or the government’s neglect, apathy and perhaps more. But, whilst we stand ready to assist on the AWB specific matters, we are not going to be railroaded into making an ill-considered law of lasting consequence under the cover of that supposed pressing need.

In this respect, I note my appreciation that my colleagues were able to make constructive suggestions as to the coverage of the original bill when briefed on it late last week. The shadow Attorney-General had the benefit of being able to get information and assistance from her colleagues to ensure that they could put them to government so that government would at least have those matters before them. Labor, through the shadow Attorney-General, urged the government to adopt a different approach: to focus the bill just on this particular inquiry, as was done in the HIH matter.

The second option we urged for consideration was to give a limit to ‘custodian’ in the bill and the purposes for which records could be handed to a custodian. I am pleased to say that the government was prepared to take up the latter suggestion from Labor. As a result, the bill that is now before us is in truth a much more sensible and targeted bill than the original one that was envisaged. Despite this progress, Labor opposes in principle the government’s tendency to engage in rushed law-making. The government’s concessions to Labor’s prudent suggestions on amendments simply demonstrate the traps and risks of hastily making laws that will have a broad and lasting impact.

In the remaining time that I have available I will turn to the detail of the bill. The bill will introduce a regulation-making power to the Royal Commissions Act 1902 to enable regulations to be made to give custody or access to records of royal commissions to other persons and agencies and to be used for other purposes. The bill was originally extraordinarily open-ended; through regulation, it would allow all records held by any royal commission, past or future, to be passed on to any custodian for any purpose.

Fortunately, I can say that, after Labor raised its objections to the breadth of the bill, the government at least came to its senses—perhaps not completely, though—and introduced some rational amendments which specifically identified law enforcement agencies and limited the purposes to law enforcement as well. This is a far more sensible approach and protects against what you might call any silly or extreme outcome that could have been contemplated under the bill.

The bill amends the Royal Commissions Act 1902 to enable regulations to be made which deal with the handling of records and documents of a royal commission. What the bill will allow is that the regulations must identify which person or organisation is to be the custodian of the records and also the use of, and access to, those records. They are valuable records and do require protection.

The bill introduced last week allowed for regulations to be made in relation to specific royal commission records. Those regulations may provide for the custody in which some or all of a royal commission’s records, including copies of those records, are to be kept; specify purposes for which a custodian of royal commission records may use, or must not use, some or all of those; provide for the circumstances in which the custodian of royal commission records must or may give some or all of those records to another; provide for the circumstances in which the custodian of royal commission records must or may allow access to some or all of those records to others; and specify the purposes for which persons or bodies to whom a custodian of royal commission records gives
access to those records may use, or must not use, some or all of those records.

The government’s amendments make it clear, in some detail, that regulations made under these provisions are limited to law enforcement agencies for the purposes of administering and enforcing the law. The bill will also allow but in fact not require such regulations to impose conditions to be complied with by the custodian of the records or persons and bodies to whom the records are given or who are allowed access to the records.

The bill makes it clear that the protection against self-incrimination under section 6DD of the Royal Commission Act is maintained and that legal professional privilege is not affected by any regulations that might be made under these amendments—although this is the subject of a separate recommendation by Commissioner Cole in his commission of inquiry report.

The bill also specifies that regulations will apply in respect of the records of any royal commission, including royal commissions which have reported before the commencement of the amendments. We have been advised that this provision is required as the oil for food commission is now technically also a past commission, having completed its work and reported to government. We have been assured by the government, and I would like this to be at least clear on the record, that there is no intention for this regulation-making power to be used for any commission further back in history. It would be helpful if, during the committee stage—if time permits a committee stage—or in the summing-up of this bill, the government made that plain.

The primary feature of the bill, therefore, is to provide a framework to allow royal commission records to be used for law enforcement purposes without needing additional legislation and without any prior need to notify and consult with persons who might be adversely affected by the release and use of the records.

Regulations made under this bill will apparently assist the task force recommended by the Cole commission to investigate and consider possible prosecutions against the persons named who may have breached Australian laws. Labor supports this bill because it puts the handling of these documents beyond doubt and ensures that any task force can deal with these AWB matters expeditiously.

Having described what the bill and the latest amendments do, I also want to make it abundantly clear to the Senate what this bill does not do. This bill will not uncover the whole truth about the government’s involvement in the wheat for weapons scandal. It will not reveal the extent of the government’s cover-up. Nor will the bill uncover what Minister Downer or Minister Vaile really knew about AWB’s kickbacks to the Iraqi regime. And the bill does not rectify the government’s shameful lack of commitment to a full, open and transparent inquiry into what really happened in the Iraq kickbacks scandal.

This bill may assist those now confronting the mammoth task of investigating whether any crimes have been committed or in preparing for prosecution, but it will do nothing to hold the government to account for this whole sorry episode of scandal upon scandal. Despite the bill’s obvious limits, and following the government’s acceptance of Labor’s request to limit this bill to law enforcement matters, as I have said, Labor are prepared to offer our support for the urgent passage of this bill.

Senator MURRAY (Western Australia) (12.55 pm)—Before I begin my own remarks
on the bill, I seek leave to incorporate Senator Stott Despoja’s speech.

Leave granted.

Senator STOTT DESPOJA (South Australia) (12.55 pm)—The incorporated speech read as follows—

The Royal Commissions Amendment (Records) Bill 2006 amends the Royal Commissions Amendment Act 1902, to enable regulations to facilitate provision of custody and use of, and access to, records of royal commissions (including and beyond those involved in the Cole inquiry.)

The regulations are also designed to specify the purposes for which the records are not to be used and any conditions placed on the use of the records by any persons or bodies to whom the records are given or allowed access. This bill also aims to insert a regulation—giving power to enable regulations to be made to give custody or access to records to persons or bodies for investigative and prosecutorial purposes.

Upon introducing the bill, The Hon Malcolm Turnbull, Parliamentary Secretary to the Prime Minister argued that:

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 ... 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.

Concerns over the bill’s content were raised immediately by a number of parties and groups as well as the Australian Democrats. Shadow Attorney-General, Nicola Roxon, rightly questioned the Coalition over the broadness of the bill, arguing that this bill, if passed would allow:

The government to order that documents from Royal Commissions 20 years ago should all be given to Fox FM or the Chaser for the purposes of entertainment!

The Australian Democrats were deeply concerned over the potential implications that this bill, in its original form, would have on future Royal Commissions.

We were concerned over the broad discretionary powers that were outlined in the bill, in particular, in relation to the purposes of the proposed regulations.

Had the Government failed to introduce the appropriate amendments, to ensure the regulations were specific, the Democrats, like the Opposition, would have introduced the appropriate measures to prevent any potential misinterpretation or misuse of the legislation.

However, while we support the intention of these amendments, we maintain that this bill should be restricted to deal solely with the recent Cole inquiry.

The Democrats are concerned over the broad nature of Schedule 1, item 2 paragraph 9(11)(a) in the original bill whereby it stated:

If regulations made for the purposes of paragraph 2(a) provide that a person or body is to have custody of Royal Commission records:

(a) the custodian:

   (i) May use the records under subsection 6; and

   (ii) May give the records to another person or body under regulations made for the purposes of paragraph 2(c); and

   (iii) May allow another person or body access to the records under regulations made for the purposes of paragraph 2(d)

Considering this section could theoretically allow for the custodian to obtain custody of Royal Commission Records for any purpose, the Australian Democrats welcome the Governments amendment to this section, to include a clause outlining the purposes for which the custodian can access records. The amended section now reads:

If regulations made for the purposes of paragraph 2(a) provide that a person or body is to have custody of Royal Commission records:

(a) the custodian may, for law enforcement purposes:
(i) use the records under subsection 6;
and
(ii) give the records to another person or body under regulations made for the purposes of paragraph 2(c); and
(iii) allow another person or body access to the records under regulations made for the purposes of paragraph 2(d)

The inclusion of ‘law enforcement purposes’ in this section, along with a definition of what constitutes law enforcement ensures that documents obtained through a Royal Commission are only used for the prescribed purposes specified in subsection 9(1)

The Government’s Supplementary Explanatory Memorandum outlines the rationale for the introduction of further amendments to the proposed legislation stating:

These amendments amend the bill to restrict the operative provisions of regulations which might be made as a result of the bill.

The principle change effected by the amendments relates to the provisions which allows removal of any requirement to provide procedural fairness to persons who could be adversely affected if documents obtained by a royal commission, for its purposes, were made available to other persons or agencies and used for other purposes.

As a secondary change, the amendments will restrict the persons or bodies to whom custody of the records may be given, addressing concerns that the potential range of custodians might be too broad.

The Democrats also welcome the amendment to subsection 9(3), to limit the range of potential custodians of Royal Commission records. This section, as introduced, originally provided an open ended category of any other person or body that may be prescribed.

The amendments are also aimed at limiting the circumstances in which procedural fairness is removed for law enforcement purposes. The supplementary Explanatory Memorandum highlights the law enforcement purposes as:

- the custodian uses the records for the purposes of the purposes of the performance of the custodian’s functions and the exercise of the custodian’s powers;
- the custodian gives, or gives access to, the records to another person or body under regulations providing the circumstances in which that may occur; or
- a public office holder or public authority to whom the custodian gives, or gives access to, the records for the purposes of the performance of their functions and the exercise of their powers.

In conclusion, the Democrats originally held concerns over the broad nature of the potential range of purposes to which the records may be put.

However, while we welcome the amendments, we believe that they could go further to ensure the bill deals specifically with the Cole inquiry.

As with the HIH Royal Commission in 2003, which facilitated the transfer of information to the Australia Securities and Investments Commission (ASIC), we believe that a similar provision in this bill would be far more effective than the current model.

Considering most criminal prosecutions that arise from a Royal Commission generally occur immediately following an inquiry, the need for a general purpose piece of legislation to deal with the recent Cole inquiry seems unnecessary.

As mentioned, the Democrats support the introduction of amendments to narrow the scope of the bill, we believe that the content of the bill should specifically deal with the recent Cole Inquiry.

I stress that while we support the intent of this bill, the Democrats are moving amendments to ensure that this bill only relates to the recent Cole inquiry.

The amendments the Democrats propose, will amend The Royal Commissions Amendment (Records) Bill 2006 to provide a clause that specifically states that this bill is only to be used in relation to the criminal prosecution of factors arising from the Cole inquiry. While the bill in its current form has been tightened, the Democrats believe it should simply deal specifically with the issue at hand - the inquiry into Certain Australian Com-
companies in relation to the UN-Oil-for-food Programme (The Cole Inquiry.)

Senator MURRAY (Western Australia) (12.55 pm)—The Royal Commissions Amendment (Records) Bill 2006 amends the Royal Commissions Act 1902 to enable regulations to facilitate the provision of custody and the use of, and access to, records of royal commissions, including those of the inquiry into certain Australian companies in relation to the United Nations oil for food program.

The main reason for this bill is to remove any argument that there might be a requirement to provide procedural fairness to persons who could be adversely affected if documents obtained by the Cole inquiry or a full royal commission were to be made available to law enforcement agencies and used for other purposes. The government asserts that providing procedural fairness in respect of the use of such documents could be very time consuming and says it is unnecessary and unmeritorious in a law enforcement context. The government therefore wants to legislate, through this bill, to clarify that royal commission records can be used for defined purposes without having to provide procedural fairness. Note the word ‘clarify’, which is meant to convey that this is already the case but needs clearer expression.

The bill allows for regulations to be made in relation to specific royal commission records in certain circumstances. This will do away with the necessity for new bills to be introduced relating to specific royal commissions.

The bill makes it clear that the protection against self-incrimination in section 6DD of the Royal Commissions Act is maintained and that legal professional privilege is not affected by any regulations that might be made under these amendments.

I am speaking to the bill for two reasons. Firstly, I sit on the Senate Scrutiny of Bills Committee, which always expresses concern about any bill that attempts to make law that negatively applies retrospectivity. Secondly, I want to take the opportunity to discuss the failure of some of the accountability mechanisms as uncovered by the Cole inquiry.

First to retrospectivity: although the government have now limited to law enforcement agencies the agencies to which the documents collected by a royal commission can be provided, they have not addressed the Scrutiny of Bills Committee’s concern regarding the retrospective application of the law. It has been made retrospective so that it can apply to the recently completed Cole commission of inquiry, but that commission can be considered to be live and still afoot because of the legal consequences flowing from it. However, because of the broad way item 3 in schedule 1 has been drafted, it actually ensures that all the amendments proposed in this bill will have retrospective effect, with no limit on the matters that may be affected by it. So the amendments open up the opportunity for it to be applied to completed royal commissions.

I say for the record that the remarks from the shadow minister, Senator Ludwig, were unusual in that he is normally very particular about these matters. No assurance from the government—no assurance—can overturn this law, and any legal authority that wishes to enforce this law can access records from completed royal commissions. No assurance from the government can stop that happening, and the shadow minister, on behalf of Labor, is very unwise to think that an assurance from the government can overturn the fact of the legislation before us.

For example, there is the chance that documents that were collected as part of the Royal Commission into Aboriginal Deaths in
Custody in 1991 or as part of the Royal Commission into the Loss of the HMAS Voyager in 1964 could be resurrected by a law enforcement agency and used against someone to bring about a prosecution. Those matters are deemed to be closed, and rightly so. The people or the agencies that supplied certain documents collected for those enquiries did not envisage those documents being subsequently available to law enforcement agencies—especially not without the right of appeal or even the right to know that they might be used by law enforcement for prosecution purposes later, under retrospective laws. The law applicable at the time of those royal commissions did not enable that to happen, and this amendment should not be able to be used to apply to them retrospectively.

The Australian Democrats are opposed to laws with negative retrospective application that infringe on rights and procedural fairness. Sometimes bills are proposed which beneficially or positively provide for retrospectivity, and we usually support those. This bill offends a long tradition of principle established by all parties in this parliament that we should not support laws which adversely affect individuals and organisations by making unlawful what was previously lawful—and by saying that, by the way, I will draw the attention of the Senate to the fact that the Royal Commissions Act has been amended since a number of royal commissions were held, and which are now affected by this law. Retrospective legislation offends against principles of natural justice, as does the fact that this legislation grants the custodian of the records an unfettered discretion with respect to the use of the records regarding the persons or bodies to whom they might be given. They can do this without obtaining the consent of, giving notice to, giving an opportunity to make submissions to, or taking into account submissions made by the owner of the records or any other person.

Item 2 of schedule 1 ensures that a person cannot appeal against a decision ‘of the custodian’ if in fact they find out that their documents are being provided to a law enforcement agency. Retrospectivity can and does trespass upon the basic tenet of our legal system that those subject to the law are entitled to be treated according to what the law says and means at the relevant time, subject to the interpretation of the courts. Retrospective legislation that brings uncertainty is to be avoided. As a general principle, the Democrats do not support the use of retrospective legislation that makes previously lawful activity unlawful or that acts to the detriment of individuals or organisations. I regard this not as a Democrats principle but as a cross-party principle and one of the most important principles in our 100-year-old parliament.

I understand why this bill has come about and the difficulties which Mr Cole experienced in obtaining documents from AWB during his inquiry—and I thought that some of the tactics adopted by their legal advisers, whilst legitimate, were most unsatisfactory. However, it is not appropriate that the frustration caused by an organisation that was being obstructive should manifest itself in a bill with open-ended retrospective application and the elimination of procedural fairness for a section of the community. In my view, this bill should have been quarantined to the Cole commission of inquiry and future royal commissions and, if it had been quarantined in that way, we would of course support it without amendment.

The second point I wish to discuss is accountability. There was no evidence given to the Cole inquiry that any of the relevant ministers were aware of, or had been informed about, the actions of the AWB. There was no
written evidence that ministers knew what was occurring in the AWB. Rather than that being something the government should be commended on, it is something which uncovers systemic problems at all levels of government. There was obviously knowledge but it was not being passed on and was not being acted on. Thirty-five times the whistle was blown and 35 times no-one heard it. That is a failure, a great failure, by any measure.

There is no escaping the reality that an unhealthy trend has emerged in our federal government. This is best described as an ‘acute accountability vacuum’ at the ministerial level whereby executive government is shielded by the human armoury of partisan ministerial minders or advisers, or bureaucrats who just do not or will not do their job. Ministerial staffers are an important cog in the demanding work of the executive. Some carry out this vital task with skill, honesty and commitment. Of concern though is their capacity to intervene in departmental processes, to mediate between the political and administrative levels, to drive and skew advice, and to insist upon what the minister wants to know rather than the integrity of the policy process. While all this might serve executive government well, it does so at the expense of the public interest.

The Howard government is not unique in this regard; it has merely built upon trends already evident from its predecessors and already apparent in state government machinery. However, it is the case that this government has carried the trend to a new level. The barriers put up to avoid parliamentary scrutiny include refusing to allow ministerial advisers to be questioned by parliamentary committees. Then it went even further and refused to let bureaucrats be questioned by parliamentary committees. The minister in the estimates committees refused to allow public servants to answer questions which could be construed, on an extremely broad reading, as being within the purview of the Cole commission of inquiry.

It is only through transparent frameworks of accountability that the public can have confidence in their elected representatives and their staffers and advisers. Together with the need for an enforceable ministerial code of conduct, the Democrats have also called for measures to clearly define the role of ministerial staff and, to the great credit of the Labor opposition, they have, too.

It is clear that the Members of Parliament (Staff) Act is no longer adequate as a guideline for good governance. The 2003 Senate Finance and Public Administration References Committee report, *Staff employed under the Members of Parliament (Staff) Act 1984* revealed significant flaws in the management framework for ministerial staff. The report recommended that the government needed to act swiftly to develop and implement a new management framework. Three years down the track and still there has been no substantive response to the recommendations.

I have also long campaigned against ‘jobs for the boys and girls’. The AWB scandal showed that the government has been too close and too trusting of a commercial, self-interested body. The ministers and their advisers did not ask the difficult questions, because their mates—and often they were their mates—were on the AWB, and when their mates told them something they believed them. Maybe that is natural, but it is not good government. Not that there is evidence that anyone in government from the political or the bureaucratic side asked any difficult questions. But that was their duty. It was their duty to do so under our commitments to the United Nations and under international law, and we should have been asking the obvious questions. As Professor Stephen
Bartos, the Director of the National Institute for Governance at the University of Canberra, has said:

The key players were all part of the one small agri-political club—they all know each other and are very much inter-related (sometimes literally). Grains Council people go on AWB board, Grains Council people go on WEA, the gun-totin’ Trevor Flugge steps down from AWB but is hired by government to undertake a mission to Iraq ...

So you have an old boys network where, as Professor Bartos pointed out, the hard questions were not asked because that ‘would have been improper, altogether ungentlemanly in this very gentlemanly club’.

The Cole inquiry exposes an atmosphere where accountability and transparency have been diluted. There were no proper systems and procedures to ensure that, whoever was in the job, proper regulation of their actions and reporting systems would occur, and that they would ensure accountability. Unfortunately, because of the limited terms of reference, Commissioner Cole could not make the obvious recommendations that flow from that with respect to how government processes should have been and how they should be in the future.

This government minimises ministerial responsibility. A matter of concern raised by the Cole inquiry was the role of the Department of Foreign Affairs and Trade. At estimates hearings and during my other committee work, I have dealt with spokespeople from DFAT and, in all of my dealings with them and in the dealings I have observed with them, they have not presented themselves as being stupid, inexperienced, incompetent or corrupt—far from it—which means instead that the processes are poor, the reporting mechanisms are weak and, most of all, bureaucrats have become obesissant to a political culture that deliberately wants to not know.

Questions have to be asked: are the proper accountability and reporting mechanisms in place; are there systems to ensure that the relevant and appropriate information is getting to the people who need to make decisions about it? This is not a political matter; solely, it is about Australia’s interest and Australia’s reputation, which have been harmed because both the political and the bureaucratic side did not do their job.

If we have a culture where bureaucrats no longer provide full and frank advice and are fearful for their jobs, similar to that which we have recently seen exposed in DIMA, then we have a problem. The systems and procedures in place at DFAT need to be thoroughly investigated. I am not looking to blame particular public servants. As was pointed out in the Senate Finance and Public Administration References Committee report: accountability is about ‘being required to give account’ whereas responsibility is about ‘attracting credit or blame’. Public servants are required to give an account of their action or their inactions and, if the Westminster system is working properly in Australia, the relevant ministers are required to attract credit or blame.

The lack of written evidence on some of the matters which were personally known to some members of Austrade or DFAT, but were not officially passed on, points to a serious systems breakdown. It is also obvious that the sheer volume of information being provided to ministers, some of it very mundane, is difficult for them to manage because it often does not distinguish effectively between the routine and the imperative. These circumstances can be addressed by departments and ministers. They do not require a separate task force; they simply require a willingness to embrace the concept of good reporting, proper accountability and transparency, and of course enforcing the law.
This government has not shown itself under the Cole commission circumstances as having been willing to do this. This government, rather than addressing problems which can be fixed relatively quickly without great expenditure of taxpayers’ money, is setting up a task force which will take a great deal of time to establish and even longer to bring about prosecutions. But that is a matter of the legal consequences that flow from the commission. I am talking about the government getting on with the business of improving its ability to govern through the way in which its agencies report and keep account to the Australian people and the parliament.

The report of the Senate Finance and Public Administration References Committee recommended that all departments provide written guidance to staff regarding relations with ministers’ offices and that all senior staff receive adequate training in this area. It further recommended that the level and intensity of training for ministerial staff be increased and given a higher priority by ministers. It also highlighted the need for ministers’ staff to receive training with emphasis on political ethics, the relationship with the Public Service and record-keeping responsibilities.

If all of these recommendations had been implemented by the relevant ministers’ offices, it would have provided a much clearer picture to the Cole inquiry of exactly who knew what and when. Why do I emphasise ministerial staff? Because ministers themselves do not have the time, capacity or opportunity to filter and examine everything that comes through to them. They have to use their staff and advisers to do the relationship job and, in this relationship job under the Cole circumstances, they did not do what they should have been doing. It is a question of having appropriate systems in place so that corrupt, unethical or improper behaviour can be identified and stopped before impacting on the nation in the way that this scandal has.

The recommendations of the Finance and Public Administration References Committee were what I called at the time ‘a work in progress’. The Australian Democrats also proposed the establishment of an office of ethics commissioner, and that suggestion has not been taken up—nor has my Charter of Political Honesty Bill. In the light of the Cole inquiry, the Australian government should lead from the front with meaningful legislative and administrative change, the adoption of the recommendations of the finance and public administration report from 2003, the introduction of an office of ethics commissioner and should shift from a culture of finger pointing, blame shifting and avoiding responsibility to one where we, as parliamentarians, can be certain that departments like Trade or Foreign Affairs are on the job.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.12 pm)—I thank senators for their contributions. This bill will enable regulations to facilitate provision of custody, use of and access to records of royal commissions, including but not only those of the inquiry into certain Australian companies in relation to the UN oil for food program, which is known as the Cole inquiry. Commissioner Cole made findings that certain breaches of the law might have occurred and recommended referral of specified matters to the appropriate authority for consideration as to whether procedures should be commenced for breaches of the laws. He also recommended the establishment of a joint task force, comprising the Australian Federal Police, Victoria Police and the Australian Securities and Investments Commission to consider possible prosecutions in consultation with the Commonwealth and Victorian directors of public prosecutions.
The regulations to be made under the amendments introduced by this bill will remove any uncertainty about the extent to which documents obtained by the Cole inquiry can be used for investigation and prosecutorial purposes. In particular, the bill removes any argument that there might be a requirement to provide procedural fairness to persons who could be adversely affected if documents obtained by the Cole inquiry or any other royal commission for its purpose were made available to other persons or agencies and used for law enforcement purposes. Providing procedural fairness in respect of the use of documents could be very time consuming and would be an impediment to early investigation by law enforcement agencies. It is sensible to legislate to allow royal commission records to be used for law enforcement purposes without having to provide procedural fairness and without any doubt as to the rightness of this approach.

The government is now taking the opportunity to provide a framework which can be used for future royal commissions without needing additional legislation. The bill makes it clear that the protection in section 6DD of the RCA against self-incrimination is maintained. Legal professional privilege is not affected, notwithstanding any regulations that might be made under these amendments.

During the debate I think Senator Ludwig sought an assurance that the government has no intention of using the bill in respect of records of completed royal commissions—other than the Cole inquiry, that is. It is correct that there is no specific present intention to regulate in respect of other past inquiries. However, if in the future there was a case for transferring records for law enforcement purposes, the government would consider that if and when it arose. The bill is not strictly retrospective, as it is not drafted so that regulations could change the legal status of a transfer of records which had already been transferred. It is only to facilitate future transfers of records. This follows the precedent of the HIH Royal Commission (Transfer of Records) Act 2003.

Senator Ludwig said that the amendments in the House limit regulations to law enforcement agencies and law enforcement purposes. I point out to the Senate, as indicated by the Parliamentary Secretary to the Prime Minister during the debate on the amendments, that the regulations will still be able to prescribe purpose and circumstances for access to records which are not limited to law enforcement purposes and circumstances. However, provision of records for purposes other than law enforcement will continue to be subject to any procedural fairness obligations that presently exist. Those two issues were raised by Senator Ludwig. There is limited time before question time, so I will not take it any further, other than to commend the bill to the Senate.

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

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

Senator MURRAY (Western Australia)
(1.17 pm)—by leave—I move amendments (1) and (2) on sheet 5162:

(1) Schedule 1, item 2, page 5 (lines 7 to 11), omit the definition of Royal Commission record, substitute:

Royal Commission record means a record that:

(a) was produced by, given to or obtained by the Commission known as A Commission of Inquiry into certain Australian Companies in relation to the UN Oil-for-Food Programme; and
(b) is no longer required for the purposes of the Commission mentioned in paragraph (a); and includes a copy of such a record.

(2) Schedule 1, item 2, page 9 (after line 4), at the end of section 9, add:

(14) For the avoidance of doubt, every reference to a Royal Commission in this section is a reference to the Commission known as A Commission of Inquiry into certain Australian Companies in relation to the UN Oil-for-Food Programme.

These amendments have been somewhat hastily thrown together for the Royal Commissions Amendment (Records) Bill 2006, a bill which has been hastily introduced. They are designed to quarantine this bill, which amends the Royal Commissions Act 1902, to the Cole commission. Without any sense of disrespect, I do not accept the assurance from the minister with respect to past royal commissions, because independent law enforcement agencies, as far as I can establish, would indeed be able to use this amending bill to open up the records of past royal commissions. I cannot see how a ministerial assurance would prevent the application of the law. And, if the minister in charge of this particular area of the law were to attempt to interfere with a law enforcement agency on that basis, I can see circumstances where the law enforcement agency could approach the courts to have any such decision overturned. That needs to be clarified, so what we have attempted to do is to ensure that the matter is quarantined.

I think the opposition is being unwise in this case. As I said earlier, in my second reading debate remarks, Senator Ludwig has, as the shadow minister, a reputation of being very particular and careful on legislative matters. I think we would have been better off quarantining this bill to the Cole commission and making it prospective rather than retrospective. That is the purpose of the amendments.

Senator LUDWIG (Queensland) (1.19 pm)—I think you are right, Senator Murray: it would have been preferable to quarantine it to the Cole commission and then make it in futuro. We will support your amendments. One of the early matters we considered was limiting the ambit of the bill to the Cole commission; it was one of the options that we looked at. I think we did in fact urge the government to take that path. In the end, the government were not persuaded to adopt that path. They have the fortunate position of having the numbers in this place. If they did not have the numbers in this place then we may have perhaps been able to effect a more particular outcome.

In the end, we took note of the particular numbers in this place and were—perhaps content is not the word—at least provided with some assurance that the government would take a particular course in respect of the bill by adopting a process of limiting both the purposes and custodians of the bill to law enforcement agencies. Although not an ideal outcome, in the circumstances I think it at least narrows the stretch of the application of the bill.

Theoretically, though, we believe that what you have proposed would have been a better approach. It is an approach that originally we also urged as being one manner of addressing the issue. But, ultimately, we were faced with a very short time frame to come to a decision. We are satisfied with the government’s position but, in the spirit of still having a try, we are happy to support your amendments.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.22 pm)—Of course the government does not support these amendments. The bill intentionally applies to not only the Cole inquiry’s
The government considers that it is sensible to provide, as this bill does, a framework in which a transfer of relevant records can occur more quickly by virtue of regulations, rather than needing a bill each time it is required. The government amended this bill in the other place to limit the persons to whom the records may be given and the purposes for which they might be used and accessed—essentially for law enforcement purposes. It may be that, at some future time, transfer may be required urgently at a time when parliament is in recess, and this bill enables that. Regulations to facilitate early access to relevant records by law enforcement bodies would still be subject to parliamentary scrutiny and the usual disallowance provisions. I can only reiterate the assurance that I gave previously, but the government remains opposed to the Democrat amendments.

Question negatived.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (1.24 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM FINANCING BILL 2006

SECOND READING

Debate resumed from 29 November, on motion by Senator Colbeck:

That these bills be now read a second time.

Senator LUDWIG (Queensland) (1.24 pm)—I rise to speak in the second reading debate on the Anti-Money Laundering and Counter-Terrorism Financing Bill 2006 and the Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Bill 2006. The object of these bills is outlined in clause 3 and basically aims to bring Australia in line with international compliance regarding measures to combat money laundering by criminals and the financing of terrorism. This bundle of regulatory action is known more generally as anti-money-laundering and counter-terrorist financing or, in short, AMLCTF.

The bills derive their impetus from the OECD’s financial action task force recommendations which consist of, in two parts, 40 recommendations on anti-money-laundering—these were first released in 1990 and have since been revised a number of times, the latest having occurred in 2003—and nine special recommendations on counter-terrorist financing. The bulk—that is, eight out of nine—of these were released immediately after the September 11 attacks in October 2001. The ninth was released in October 2004.

Clause 3 also lists a number of other international obligations and resolutions which I will not go into in detail. After much delay, the government is legislating to ensure Australia’s compliance with the FATF regime. However, it is still in two tranches. The first
tranche is these bills currently before the parliament. They cover financial, gambling and bullion-dealing industries, in addition to lawyers and accountants, but only to the extent that they are in competition with the finance industry. The second tranche, which covers other activities of lawyers and accountants, as well as the jewellery and real estate industries, is yet to be released. The government has not yet announced a target date for completion of the second tranche.

The history of these bills is one of delays, failed consultations and subsequent international embarrassment. The Howard government is negligent in leaving Australia inadequately protected from criminals and terrorists who use our financial system to launder money. Only now, five years after 9-11, has it implemented the special recommendations, eight out of nine which were released in the aftermath of those horrendous attacks.

Let us make no bones about the importance of this legislation. It is needed to fight organised crime and terrorism. In September 2002, Senator Ellison, in a press release, made pointed reference to the fact:

... criminals and terrorists ... will continue to take advantage of jurisdictions where the law enforcement and regulatory powers are the weakest. That statement was made, as I said, in 2002, and the recommendations were released in 2003. It is now five years since the September 11 attacks, five years since the special recommendations were first released, three years since the revised general recommendations were released and three years since the new laws were promised. Yet we are only now seeing them in their final form—and only the first tranche of that, not finally completed.

It has been a botched consultation process. Just as Senator Ellison’s handling of the Customs cargo management re-engineering project was a lesson in how not to manage an IT project, his handling of the AML/CTF legislation has been a lesson in how not to manage the implementation of a complex new legislative regime such as this. The first serious problem was the botched consultation process undertaken through the 2004 and 2005 years. Industry was not fully consulted, or not consulted properly, about the proposed laws and the government has essentially attempted to jam everything through in a one-size-fits-all approach.

The minister attempted to persevere with this approach but, in mid-2005, faced the humiliating result of being rolled by cabinet after a concerted campaign by industry and told to go back to the drawing board and start again. By then we had, in 2005, a FATF report. It was an international humiliation. There were two reports which slammed our response on money laundering and terrorist financing.

Firstly, you had the release in May of that year of a report by the US State Department in which Australia had the dubious honour of being named as a ‘major money laundering country’ and a ‘country of primary concern’. This government’s status as a soft touch on money-laundering and terrorist financing was confirmed later in that year following an investigation and the release of a country report by the financial action task force, which found that Australia was fully compliant with only 12 of the 40 recommendations—and, even more alarmingly, was not fully compliant with a single one of the nine special recommendations relating to terrorist financing. Two years after Senator Ellison had promised the laws, Australia was given a big fat zero.

In the meantime, between the announcement of the laws and the current bill, the government has been forced to rush through a number of bandaid solutions to keep up the appearance of compliance with the recom-
chambers. This has been, let me say, an excruciatingly painful process, when there was no need for it. It has been compounded by the government’s own errors as well.

The first of the band-aids contained in the Anti-Terrorism Act (No. 2) 2005 was passed last year in what can best be described as a slow panic in response to the FATF report. It implemented a number of the FATF recommendations but, before these even commenced, the government was forced to amend a number of these in a later act, the Financial Transaction Reports Amendment Act 2006. It was forced to introduce these amendments because, to quote directly from the explanatory memorandum:

If the amendment to restrict the application of Division 3A of Part 11 of the FTR Act to ADIs is not made, then certain legitimate non-bank money remitters assert that they could be put out of business.

That is the government in its own words admitting that its legislation was so poorly drafted that it would have put people out of business. It is quite extraordinary, and that is no surprise. The government, in answers to questions on notice from the Senate Legal and Constitutional Affairs inquiry into the Anti-Terrorism Bill (No.2) 2005, had admitted that it did not consult with industry on the final version of that act. So it was forced to continue piling band aid upon band aid onto its legislation.

The farce of the government’s poor drafting continued even after the legislation was tabled before parliament. We saw one explanatory memorandum released then withdrawn. We then saw another explanatory memorandum released. Finally, we have seen yet another round of amendments to the EM. All in all, there are over 500 changes to the original EM. Even at the 11th hour, the government are still fiddling with their legislation. I suspect they have not really stopped; they have just paused. My guess is they will be back next year, fiddling with it again. They do not even seem to be able to get the explanatory memorandum right. In addition, this is only the first tranche of the legislation. There are serious holes left in the regime which we are told will be fixed by further reforms.

Labor has called upon the government to release the timetable in which it expects to complete the further reforms. Until they are completed, and Australia is compliant with all of the recommendations in all areas, you have what is essentially a maginot line—that is, a set of scary and imposing set of defences which can easily be outflanked and circumvented by a determined enemy. That is what these crooks who launder money can be. While these are long overdue steps in the right direction, it cannot be emphasised enough that they are only part of what is required. Until Australia completes the second tranche, we will be left defenceless.

I will now turn to the Senate Standing Committee on Legal and Constitutional Affairs and the report into the bill that was completed. There were a range of areas covered and a range of recommendations which the committee made. I do not intend to examine all of those in detail, but some are worth highlighting. I will highlight those that appear to be the most salient and important points. Two areas which the Senate committee report touched on in detail were the issues of consultation and the implementation times for the legislation. That really underscores this whole exercise by the government. On consultation and implementation times, this government stuffs up all the time, in many bills that come before the Senate, particularly the bills in this area. This is another example of that.

For consultation, we saw industry repeating concerns similar to those which it had raised earlier—specifically, I am thinking of
the Anti-Terrorism Act. In that case, industry’s concerns were later shown by the amendments to the Financial Transaction Reports Act to be quite valid. They were not properly consulted on the final text. In a similar vein, we saw lacklustre consultation during the early stages of the draft, which resulted in the unusual situation of a minister being rolled in cabinet and told to go back to the drawing board and start again. So consultation problems are not a new concern with this bill, and industry has every right to be wary of any perceived lack thereof. I note from the Senate report, however, that AUSTRAC and the department have taken some steps to allay these concerns. I continue to encourage that.

The implementation period was also of concern. While industry, as noted in the report, was generally happy with the implementation times, an important exception was the use of a staggered approach, particularly as the rules have not yet been finalised for most situations. The report indicates that small businesses and others not currently significantly regulated by the Financial Transaction Reports Act feel especially impacted by this. Certainty is what business needs in this area. I encourage the government to ensure that it can deliver certainty by ensuring that it meets those deadlines and finalises the rules so that business can have certainty and associations and industries can provide advice to their members.

In response, the department has indicated that it will have the rules available by 31 March next year. We can only wait and watch. The Labor Party will continue to monitor this, particularly given the minister’s track record of not giving industry sufficient time to implement required changes, such as was the case in the botched implementation of the Customs cargo management re-engineering project.

Finally, the last area of concern addressed in the report that I will mention—although there were others addressed in the report itself—is the range of sanctions which apply to the offences in the act. Simply put, a number of stakeholders believed these penalties were far too onerous for most of the offences, which were, they said, offences for crimes of omission rather than commission, and that lesser penalties, or other statutory powers for AUSTRAC, were more appropriate.

In its recommendations, the committee and the government backbenchers picked up a lot of the concerns which had been aired by stakeholders during the inquiry. Recommendations 1 to 3 took up the concerns of industry relating to the drafting of rules and other parts of the legislation, as I mentioned earlier, and recommended more consultation in future when AUSTRAC is making or amending rules. What I do not want to see is a Senate committee faced with an Attorney-General’s Department and the minister again saying, ‘We haven’t consulted in respect of this bill’. My recollection is that we have had it more than just once—more than was needed—in respect of this bill and other bills. If the minister can take one lesson from this it is that consultation can avoid a lot of harm and heartache.

Labor supports the other recommendations which call for the government to amend sections of the bill relating to low-risk, low-value solutions; periodic audits of AUSTRAC by the Privacy Commissioner; and to subject portions of the bill to state, territory and Commonwealth discrimination laws, amongst others. Labor supports these recommendations, and we urge the government to adopt them. These are changes which are supported by Labor and supported by the government’s own backbench. In addition, I will foreshadow at this point that I will be moving a range of amendments on
behalf of Labor. We will be moving amendments to implement recommendations 4, 5 and 13 as well as additional recommendations that were not in the committee report.

But let me make this point clear: the Labor Party supports this bill. We will be moving amendments to improve it, but we fundamentally support it, as we support all reasonable legislation designed to protect Australia and fight terrorism and crime. Our concerns about this bill arise primarily from the fact that such an important piece of legislation has simply taken so long to reach parliament. Our concerns are about a minister who refused to consult and work with industry to achieve a decent outcome. It is imperative with this style of legislation, where it impacts upon business and requires business to put in systems and processes, that you consult with business about how best to effect it while still maintaining a hard line about what you need to fight terrorism and crime.

Senator Ellison has been a repeat offender at botching consultation with industry, as his efforts to implement the new Customs cargo system showed us at about this time last year. It is important legislation. It is high time it was brought before parliament. It is a black mark against the Howard government that it has taken so long to bring it forward. Along with the amendments that I will move in the committee stage, I commend the bill to the Senate.

Senator Murray (Western Australia) (1.40 pm)—The Anti-Money Laundering and Counter-Terrorism Financing Bill 2006 and related bill implement changes to Australia’s anti-money-laundering and counter-terrorism financing regulatory regime regarding identification, management and litigation of money laundering and terrorism financing. The bills introduce reporting obligations for the financial sector in relation to customer due diligence, reporting of certain matters, development and maintenance of money-laundering and counter-terrorism programs and record keeping. The changes are to be phased in over two years and incorporate a risk based approach to compliance. They also expand the regulatory role of AUSTRAC to provide advisory, monitoring and enforcement functions across a range of industry sectors. The bills provide for review of the operation of the provisions, regulations and money-laundering and counter-terrorism rules at the end of seven years.

These bills are the first tranche of the anti-money-laundering legislation to implement reforms which are proposed to cover the financial sector, gambling sector, bullion dealers, lawyers and accountants to the extent that they provide financial services. It imposes obligations on businesses, including customer due diligence, reporting, record keeping and developing and maintaining an anti-money-laundering program.

These bills have been a long time in coming because of slow, ongoing consultation with industry and stakeholders. Of specific concern to the Australian Democrats with respect to the exposure draft of the Anti-Money Laundering and Counter-Terrorism Financing Bill 2006 was the lack of appropriate balancing of matters of privacy, matters of security, issues relating to commercial needs and the competitive needs of the business community in international trade. However, as I have said in the past, a less than perfect anti-money-laundering regime is essential and much better than continuing with the present minimalist regime.

Australia must become truly serious about combating corruption and ensuring that criminals cannot live in luxury off the proceeds of their crimes. Recently, we have seen the fallout from corruption and bribery with the AWB scandal, and the Australian people
will pay the price for that scandal, not just the wheat farmers of Australia. I will use the right language for a money-laundering bill. With AWB, ministers have washed their hands of any ministerial responsibility. Bribery, corruption, crime and money laundering are irrevocably intertwined, and any steps the government takes to counter that axis of evil will be for the better. This government has not shown itself too keen on implementing effective and wide-reaching domestic legislation against bribery, something which was negatively commented on by the OECD recently, and this failure will no doubt be reflected in whether or not successful prosecutions can be secured against AWB officials under the bribery of foreign officials legislation. It is arguable that stronger antibribery legislation would have allowed much stronger legal action against AWB officials caught in the scandal.

It has to be said that the main reason this government has finally set its mind to money-laundering legislation is international pressure to counter terrorism. It should be remembered that most money laundering has its origins in proceeds of tax evasion, crime and other ill-gotten gains and has been going on for decades. This reminds me of an article I read in the Age a couple of weeks ago about the actions of the Victorian police in attempting to trace the money trail of some of the more high-profile drug traffickers in Melbourne. Detective Superintendent Richard Grant is tracing the proceeds of the convicted drug dealer Tony Mokbel and is reported as saying:

It is no longer enough to just lock up some of these people. Many are prepared to risk long stints in jail if they know that on their release they can live million-dollar lifestyles.

This reminds me of those sleazy well-known Western Australian white collar business crooks of the eighties. There are a number now happily enjoying their criminal gains and some of them, unfortunately, are happily strolling down our beaches.

Detective Superintendent Grant also pointed out that organised crime groups use professionals to assist in concealing assets. Although he did not fully articulate it, professionals in that context means lawyers, accountants and brokers. Every successful crook has a professional or two in his pocket, going all the way back to Al Capone. As their past large-scale failure to put in tax returns shows, many lawyers are unfortunately not exactly model citizens. This legislation attempts to curtail the way that dirty money can be washed through a legitimate transaction. The ways in which such laundering can happen are manifold, from property transactions to gambling. Because of the variety of ways in which a corrupt individual can launder money, it is necessary for the legislation to be far-reaching. However, there should still be checks and balances to ensure that the legitimate right of people to privacy is not impacted too severely, that people are able to appeal decisions and that the parliament has some role in monitoring the effectiveness of the legislation in achieving its goals.

The Australian Democrats welcome this bill. There remain some concerns of industry which have not been addressed since the exposure draft and which were brought up in the truncated committee hearings into the bill. The Attorney-General’s Department and AUSTRAC have apparently worked hard with industry and stakeholders to address concerns and to change a prescriptive regime into a risk based scheme. These efforts have broadly met with approval.

There remain difficulties with the bill. Those difficulties were identified in the report of the Senate Standing Committee on Legal and Constitutional Affairs on the bill and should be addressed by the government through amendments. Certainly, both Senator
Ludwig and I have amendments to address the recommendations of the committee. I draw the attention of the Senate in particular to recommendation 5, which recommends that the Office of the Privacy Commissioner conduct periodic audits of the compliance of AUSTRAC with privacy obligations in its administration of the bill. This oversight is essential.

However, the Democrats would go further and suggest that the recommendations of Minter Ellison and Privacy Victoria be considered as a further oversight mechanism. Minter Ellison suggested that AUSTRAC:

... should be subject to the scrutiny of and accountable to a Parliamentary Committee. We also believe that it should be required to consult with other regulators of the financial services industry (such as ASIC and the Australian Prudential Regulation Authority), in addition to the industry itself, when making Rules or modifications to ensure that the impact of its proposals are fully considered and understood and to limit any regulatory overlap.

The suggestion has great merit, as it was obvious between the exposure draft and this bill that many of the difficulties which were not foreseen by the drafters were pointed out by industry and have made this a better and more workable piece of legislation.

Privacy Victoria said:

... greater transparency and public accountability should be guaranteed. The Bill should specify the matters that will be examined, establish an independent review committee, compel public consultation, and provide for timely tabling of the review report.

In this regard, I support my committee colleagues from the Labor Party who, in their additional comments to the report, suggested that the Australian Commission for Law Enforcement Integrity, once it is established, would be an appropriate body to perform this oversight role. This suggestion has merit because it means that a separate and separately financed independent entity does not have to be created to perform the oversight role. On the other hand, a parliamentary committee could fulfil the task as well. Just as there is an ASIC oversight committee—namely, the Joint Committee on Corporations and Financial Services—it would be appropriate to have a similar parliamentary committee overseeing the work of AUSTRAC in relation to this. This legislation allows AUSTRAC a high level of discretion. Oversight is therefore extremely important, whatever form it takes.

It was also clear from the committee hearings that the transitioning period was of concern to a range of businesses. There is no doubt that aspects of the bill put a great deal of pressure on business to check their clients and what they are doing and report suspicious matters. However, business needs to have systems in place before that can be successfully achieved so that customers are not unnecessarily alienated, persons of certain races or ethnic groups are not unnecessarily subjected to increased scrutiny and business is not burdened with the role of detective.

In order to achieve that, the government needs to provide assistance to business and to educate the public about the impact of this legislation on some quite everyday transactions—in particular, on the requirements of customer identification. I have had some sympathy for the government, because it is very obvious that when you are trying to deal with money laundering issues you have to extend the reach so far that ordinary everyday transactions are going to be affected and people who are entirely innocent are going to be annoyed.

Large companies may be able to set in place the appropriate risk based systems required to detect and report on suspicious transactions, but smaller businesses such as suburban accountants or sole practitioners...
may find it more difficult. In that regard, the government needs to provide tangible assistance to small business, small business associations or professional associations with a small business basis to ensure that they are in a position to implement the changes that this bill requires, rather than telling them what it requires and, if they do not deliver, bringing action against them for not doing so.

Money laundering is an international problem and the remedy therefore must be an internationally coordinated approach. The United Kingdom and the United States have had legislation in place for several years to try to combat it. As many in the Senate know, I have been through an almost decade-long process of actively supporting and campaigning for standard international accounting standards so that there is a common system of reporting accounts all over the world. The same is true of this system: it is only effective if the standards which apply and the enforcement mechanisms that are used are similar internationally.

I have previously spoken about the Financial Action Task Force in relation to the Financial Transaction Reports Amendment Bill 2006, but those comments are relevant to this legislation as well. The FATF is an intergovernmental body designed to establish international standards and develop and promote policies to combat money laundering and terrorist financing. They conducted an evaluation of Australia’s anti-money-laundering and counter-terrorism financing legislation and wrongly estimated that the value of money laundering offences in Australia was between $2 billion and $3 billion a year. Well over a decade ago, the National Crime Commission estimated the value of drug dealing alone at over $2 billion. I have heard estimates of up to $11 billion as the annual value of laundered money in Australia, which would be about one per cent of our trillion dollar GDP. I think that higher figure is likely to be nearer the mark.

Money laundering was a matter high on the agenda of the previous Labor government, but its importance was lost on the Liberal-National government until after the September 11 attacks. It is now of greater concern, thank goodness. It is recognised that terrorism cannot operate at a high level of activity without a significant injection of funds. Of course, the Democrats strongly support antiterrorism bills like this which seek to restrict or stop the financing of terrorists. This new interest in anti-money-laundering will have useful effects mainly on criminal and drug activity, and the way in which the people involved in those activities move moneys around the world, and on tax evasion.

An evaluation of Australia’s anti-money-laundering and counter-terrorism financing laws by the financial action task force on money laundering in 2005 found that our system was falling behind the task force standards. These bills, along with the recently passed Financial Transaction Reports Amendment Bill 2006 are part of the government’s long-in-coming response to international pressure to crack down on the potential for money laundering, particularly with respect to the financing of terrorism.

These bills, like several before them, impact on an issue of central and increasing concern in our society—that of privacy. Privacy is a matter which has rightly concerned this government in its nearly 11 years in office, and it is a matter which concerns our society. Privacy concerns were issues strongly highlighted by the Senate Standing Committee on Legal and Constitutional Affairs in its report on the exposure draft of the Anti-Money Laundering and Counter-Terrorism Financing Bill 2005, and several
submissions to the committee on these bills continued to voice concerns.

The Office of the Privacy Commissioner made submissions to the committee in relation to these concerns. The committee, recognising the importance of this matter to many people in an increasingly watched society, made a recommendation that the Office of Privacy Commissioner conduct privacy audits of AUSTRAC on a regular basis. The Australian Democrats will be moving amendments to reflect that recommendation.

As I pointed out in my speech, in relation to the Financial Transaction Reports Act a great deal of information is required to be collected by banks and all other institutions and professions covered by this legislation. It means that, to fulfil customer identification in compliance with the anti-money-laundering bills, a substantial amount of personal information will be collected. That being the case, the privacy protection measures in these bills should be of paramount importance.

We have already seen that some workers at the tax office think nothing of accessing the tax and financial information of well-known people without authorisation or reason, and this danger should be guarded against when this new regime is set in place. While there is a genuine need for anti-money-laundering and counter-terrorism financing laws, there is also serious need for an increased campaign of public awareness about what goes on in these respects. The government needs to provide the funding for such an education campaign and assistance to those bodies and businesses that will be charged with the collection of much of the information and the duty to report on suspicious transactions.

In all the various legislative responses that have been implemented in the post-September 11 world, it is important not to forget who these laws are meant to protect: the people of the strong democracy of Australia. Recognising the need for some things to change and that we do need a tighter regulatory environment is, of course, entirely acceptable and proper, but it must be done with a recognition and understanding of the consequences and results and how perfectly innocent people going about their business can be caught up in new bureaucratic systems.

I encourage the government in its efforts to implement a sound legislative framework which minimises money laundering, exposes the financing of terrorist and criminal activities and reduces the evasion of tax. However, it is also of fundamental importance that, in enacting such laws, the competing interests of the privacy of personal information be balanced against the need to outlaw and prohibit activities and actions which run contrary to a safe, civil and enduring society. The Australian Democrats support this bill overall, but we will be moving amendments to reflect the recommendations of the Senate Standing Committee on Legal and Constitutional Affairs to ensure the impact of the legislation is carefully monitored for its effects and consequences.

Senator Nettle (New South Wales) (1.56 pm)—Earlier this year, former Justice Ron Merkel was quoted in the Age as saying:

The move to granting ever-expanding coercive power to the executive arms of state and federal governments, to be exercised behind closed doors and without public scrutiny, carries with it grave risks to the democratic values we are trying to defend. ... One must have serious concern as to whether the political hierarchy is deserving of the kind of trust and integrity that the public are entitled to expect of them in administering that power.

The Howard government, the state governments and the federal Labor Party have cooperated to overturn fundamental human
rights in the name of fighting terrorism. The Anti-Money Laundering and Counter-Terrorism Financing Bill 2006 and the Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Bill 2006 represent another step down that path. They radically change the level and the sort of information that financial institutions must collect on their customers and the manner in which such information will be used by national security agencies and the police. Another way of describing what this legislation does is that it requires banks to spy on their customers for the government.

The Greens accept that some information collected by financial institutions should be made available to government agencies when it relates to criminal behaviour, including terrorism and money laundering. We have always been prepared to support sensible changes to the law to address the threat of terrorism. For example, we supported the government’s legislation which contributed to the strengthening of security at our airports. However, we do not support changes to the law that diminish or that remove the human rights of all Australian citizens, including the right to privacy and freedom from discrimination.

Joo-Cheong Tham from the law faculty of the University of Melbourne described the bill in this way:

While the bill aims to prevent terrorism, its measures are disproportionate and not subject to adequate safeguards. Its excessive character stems from overly broad ‘financing of terrorism’ offences. These offences criminalise conduct that has no link with violence or attempts to commit violence.

The breadth of these terrorism offences comes, in part, from the broad definition of terrorism which was put into Australian law by this government following the September 11 attacks in 2001. The Greens warned at that time that these changes to the law would begin a process of unravelling civil rights in this country, and that is exactly what we are seeing happen here.

Australia deported American peace activist Scott Parkin on the basis of a secret national security assessment by ASIO. Refugees have been detained on Nauru for five years because of secret security assessments by ASIO. In Australia we now have laws allowing for detention without charge or trial, including the detention of those not suspected of any crime but who merely may have information which ASIO wants. Australian law now permits indefinite house arrest based on speculation that somebody may be a terrorism risk. The Attorney-General has banned the Kurdistan Workers Party on the advice of ASIO.

Debate interrupted.

MINISTERIAL ARRANGEMENTS

Senator MINCHIN (South Australia—Leader of the Government in the Senate) (2.00 pm)—by leave—I inform the Senate that Senator Coonan, Minister for Communications, Information Technology and the Arts will be absent from question time today. Senator Coonan is in Adelaide delivering the keynote address at the South Korea, Australia and New Zealand Broadband Summit. During Senator Coonan’s absence, Senator Kemp will take questions relating to the Communications, Information Technology and the Arts portfolio and questions on behalf of the Minister for Revenue and Assistant Treasurer. He will do so very capably, I am sure. Senator Vanstone will take questions on behalf of the Minister assisting the Prime Minister for Women’s Issues. I will answer questions on the Foreign Affairs and Trade portfolio.
QUESTIONs WITHOUT NOTICE

Biological Agent: Indonesian Embassy

Senator LUDWIG (2.00 pm)—My question is to Senator Ellison, the Minister for Justice and Customs. I refer the minister to the incident where the Prime Minister and the Minister for Foreign Affairs used the term ‘biological agent’ to describe the white powder that was sent to the Indonesian Embassy on 1 June 2005. Does the minister recall Mr Downer telling parliament that afternoon that the powder had ‘tested positive as a biological agent’? Didn’t the Attorney-General go so far as to say the next day that the powder was ‘a biological agent and it comes from a particular family including anthrax’? Did the Australian Federal Police advise Mr Downer that the powder had tested positive as a biological agent? Was it the Australian Federal Police that advised Mr Ruddock that the powder was from the same family as anthrax?

Senator ELLISON—There is an article in the Sydney Morning Herald and the Age today which is totally wrong in relation to this matter. The article suggests that the Prime Minister and the foreign minister added the term ‘biological agent’ to the description of a substance which Senator Ludwig refers to which was received at the Indonesian Embassy in Canberra on 1 June 2005. Does the minister recall Mr Downer telling parliament that afternoon that the powder had ‘tested positive as a biological agent’? Didn’t the Attorney-General go so far as to say the next day that the powder was ‘a biological agent and it comes from a particular family including anthrax’? Did the Australian Federal Police advise Mr Downer that the powder had tested positive as a biological agent? Was it the Australian Federal Police that advised Mr Ruddock that the powder was from the same family as anthrax?

In question time that day, 2 June, the Prime Minister advised that analysis of the substance indicated that in all probability it was not toxic. The Chief Police Officer of the ACT and the Chief Minister of the ACT also made this clear in a press conference on 2 June, the same day. The Australian Federal Police statement advised that ‘testing has shown that the substance is not anthrax; however, it must be stressed that these findings are interim and analysis is continuing’. Prior to the publication of this erroneous article, Mr Moore was advised that there were other documents that did indicate the material was biological but he chose not to pursue them or include any reference to them in his article. His conclusion that the government exaggerated the threat is outrageous and factually incorrect.
Senator LUDWIG—Mr President, I ask a supplementary question. If you allege that, then why did Mr Howard, Mr Downer and Mr Ruddock whip up so much hysteria about the incident as it was reported in the papers at the time? If they knew the facts about it, why didn’t they clarify that at the time? Why didn’t they come in and make a statement to parliament? Why didn’t they ensure that the record was clear? Because it seems that they did not.

Senator ELLISON—Senator Ludwig has not listened to the answer I have just gone through very carefully. I say again: the initial PSCC advice was that analysis of the powder tested positive as a biological agent. That was conveyed to the public by the Minister for Foreign Affairs and the Prime Minister. Subsequently, when further advice was obtained, that was conveyed to the community as well. If they had not done so, I would suggest that you would have Senator Ludwig and others criticising them for not doing their duty and keeping the Australian public informed of what was a very serious incident.

Victorian Bushfires

Senator RONALDSON (2.05 pm)—My question is to Senator Kemp representing the Minister for Human Services. Will the minister inform the Senate what action the Australian government is taking to assist people affected by the Victorian bushfires?

Senator KEMP—I thank the senator for his question and his ongoing concern for and interest in the welfare of people in regional and rural Australia. The communities of the alpine region in north-eastern Victoria are bracing for one of the worst bushfire weekends ever. With temperatures tipped to reach the high 30s again this weekend, emergency services across the state are hoping to contain fires threatening communities large and small. The Australian government is monitoring the bushfire situation closely and will provide whatever support is needed, should it be required.

Yesterday the Attorney-General approved a request from the Victorian government to provide Army fuel tankers in the firefighting effort. These Army fuel tankers will supply diesel for water tankers and engineering plants in the Mansfield-Whitfield region. Emergency Management Australia has also activated the Commonwealth disaster plan, which provides a framework for the provision of Australian federal government assistance to state and territory governments when their resources are exhausted by the scale of the event.

Australian government agencies are also assisting those affected by these bushfires. Centrelink is working with the Victorian Department of Sustainability and Environment to assist them in providing call centre services to people affected by the Victorian bushfires. In fact, the Geelong call centre is geared up to provide a 24/7 call service if required. Centrelink area offices in Victoria have put in place emergency procedures to enable them to respond to the bushfires—again, should it be required. This includes staff, particularly social workers, being on call to attend state evacuation centres to speak to people affected by the fires. I am advised Centrelink is ready to act if the Australian government makes a disaster declaration, in order to assist citizens to claim the Australian government disaster recovery payment.

I am sure I speak for all senators and the Australian government in expressing the hope that emergency services can contain these bushfires in the north-east of Victoria soon and that no lives will be lost. The reality is that communities and residents will need to activate their fire plans and prepare for a tough weekend ahead. This is already one of the worst bushfire seasons on record.
and our thoughts are with all those fighting these fires and particularly those affected. The Australian government stands ready to respond and assist any state or territory in need of additional resources or support.

**Biological Agent: Indonesian Embassy**

**Senator ROBERT RAY (2.08 pm)**—My question is to Senator Ellison, the Minister for Justice and Customs. It follows up on the question from Senator Ludwig. Did the Prime Minister say at the time that the sending of a powder to the Indonesian embassy was ‘an act of murderous criminality’? And whilst the sending of white powder, I acknowledge, is a serious hoax, surely that part of the statement should have been retracted by you or the Prime Minister. Is it not a fact that if we misrepresent the situation or do not correct the record, it will be a case of crying wolf once too often and next time valid claims will not be believed?

**Senator ELLISON**—I am glad Senator Ray does at least acknowledge it is very serious, because it is. That is why we brought in legislation dealing with hoaxes. In this particular case, not only did it result in the shutting down of the Indonesian embassy but in a great deal of personal concern to the staff who were the intended subjects of that article.

This is a criminal matter. And it is a very serious matter because, whilst that was going on, very important law enforcement resources were being diverted which could have been used elsewhere, and it is lucky that nothing occurred elsewhere which would have necessitated the use of those resources. That is the problem that this sort of activity presents. It is not only the fear and the apprehension it causes to those concerned; it is the diversion of law enforcement resources. It also caused the shutting down of an embassy, and the seriousness with which it was regarded by the Indonesians was reflected in the subsequent investigations that ensued and did result, as I recall, in Indonesian police travelling to Australia to participate in subsequent investigations. That is the extent of the seriousness of it, and I think that anyone who tries to downplay it is totally missing the point.

**Senator ROBERT RAY**—Mr President, I ask a supplementary question. Given the seriousness of this particular event, can the minister inform us whether anyone has been detained, questioned or charged with an offence in relation to this—by your own admission—extremely serious matter?

**Senator ELLISON**—I understand that the investigation has been completed and that no charges have been laid at this time. If there is any further information I can give to the Senate, I will.

**Economy**

**Senator FIFIELD (2.11 pm)**—My question is to the Minister for Finance and Administration, Senator Minchin. Will the minister inform the Senate of the economic challenges faced by the government in 2006 and the steps taken to further strengthen the Australian economy during the year? What have been the results of these measures?

**Senator MINCHIN**—I thank Senator Fifield for that question. It is an interesting fact that the Howard government’s 10th year has been probably one of the busiest we have had in terms of important economic reform to secure the future of this country. 2006 was the year we repaid the last of Labor’s $96 billion in debt, which of course allows us to save $8 billion a year in interest payments and spend that money on things like health, education and defence instead of paying it in interest.

In March, the Work Choices reforms took effect, freeing the labour market from union domination. The Australian economy has now seen 197,300 new jobs created since
Work Choices came into effect, and today’s statistics show that the unemployment rate remains at its 30-year low of 4.6 per cent.

In this year, 2006, the government delivered personal income tax cuts worth $36.7 billion over four years, cutting the top two tax rates and raising tax thresholds to ensure that 80 per cent of taxpayers face a maximum marginal rate of no more than 30c in the dollar. This year’s budget also unveiled the largest ever reforms to the taxation of superannuation, completely abolishing the end benefit tax on pensions and lump sums from standard accumulation schemes, and we welcome the opposition’s support for those reforms.

This year, we created the Future Fund and deposited the first $18 billion into that fund. By next year, the fund will have around $50 billion in assets and by 2020, as the population is ageing, the fund will enable taxpayers to save some $7 billion every year in pension payments to former public employees. And, of course, this year was the year we completed, finally, the sale of Telstra, having commenced that process 10 years ago.

This ongoing process of economic reform has continued to pay big dividends. The economy has now commenced its 16th year of continuous growth—the longest expansion in Australia’s history. Real GDP per capita is now $7,200 higher than it was 10 years ago. Household nominal net wealth is three times the level of 1996 and has risen from being 4½ times annual disposable income to 6½ times bigger today. NATSEM has established that the distribution of income has become more equitable in this period.

This focused, disciplined and reformist approach to economic management is important because we do face economic challenges. We have seen record high oil prices this year. We have seen Cyclone Larry, which contributed to inflation in the June quarter. We are now experiencing a disastrous drought which of course, as we all know, is deterring substantially from GDP growth. We have seen volatility in commodity prices in global share markets and of course we have to deal with the consequences of increasing interest rates around the world. We have seen the friction created by dramatic movement in terms of trade. We now face the possibility of an end to that commodity boom. These are risks which pose great challenges for economic management.

In order to maintain our strong economy and the prosperity that we have achieved over this decade we do need a continuation of the stable, disciplined and experienced economic management of the last 10 years. With the new challenges we face next year, the Howard government will maintain that same focus, that same determination, to take hard decisions in the national interest in order to sustain economic prosperity and national security for the future.

**Immigration Detention Centres**

**Senator KIRK** (2.15 pm)—My question is to Senator Vanstone, Minister for Immigration and Multicultural Affairs. Can the minister confirm that the Ombudsman’s report on Mr G. a mentally ill Australian resident, cites the manager of the detention centre expressing concern at an early stage about the lawfulness of his detention? Is the minister concerned that one official responded to the effect that he also had concerns but that ‘fortunately, Mr G. is not educated enough to consider suing us for unjustified detention’? Hasn’t the Ombudsman now recommended that Mr G. is entitled to legal redress for his appalling treatment? What action has the minister taken to ensure that this occurs? How much compensation is Mr G. likely to receive and when?
Senator VANSTONE—I thank Senator Kirk for the question. Senator Kirk obviously can read the Ombudsman’s report into Mr G. She is correct, I think, in what she cites. There certainly were some most unsatisfactory responses and communications. It was not just the communications that were unsatisfactory but the sentiment behind them was unsatisfactory. There is absolutely no doubt about that. The Ombudsman, rightly, says that Mr G may well be entitled to compensation. The Department of Immigration and Multicultural Affairs has been in contact over the last couple of months, I am advised, with Mr G’s representatives—I think he might have the equivalent of a public advocate acting on his behalf at this point—with respect to compensation.

I made the point yesterday, through you, Mr President, to the senator, that the exercise in Immigration at the moment is one that has not been seen, to my knowledge, by any Australian government that has so openly said: ‘Some serious problems have been recognised. Not only will we try to fix these serious problems, but we will lift up the rug and go back to see whether anyone else, technically or otherwise, was detained unlawfully for a short or long period of time and we will deal with it.’ And that is what we have been doing. In the time that I have been in parliament or in the time that I have been interested in politics, I have not seen such an open dealing with an issue. Yesterday something called the ‘dollar a day’ legislation came to mind. I know some of you will not be familiar with it, but people who were in cabinet at the time will be familiar with it. There was a time when the previous Labor government improperly detained a bunch of Cambodian refugees—sorry, asylum seekers; they may not have been refugees—and the response from Labor, in government, to discovering that it had improperly detained some people was to pass legislation legitimising the detention. That is what you did. When you got caught out, you passed some laws that said it was okay. But there is a lot more to say on this, Senator Kirk. I have had just about enough.

Senator Chris Evans—Mr President, I rise on a point of order. It goes to the question of relevance. The minister has been asked a very serious question about someone who has been illegally detained, and the department treated the complaints in such a terrible manner that the person is now able to sue the Commonwealth. I would ask the minister to treat the question seriously.

The PRESIDENT—Minister, I would ask you to ignore the interjections and return to the question.

Senator VANSTONE—Thank you, Mr President. I will ignore the interjections, but it is of interest that in a question in relation to compensation, people on this side of the chamber and the government have said: ‘Things may have been done incorrectly—let’s get a whole lot of cases, send them off, and find whether we have done the wrong thing. Let’s pursue the correctness of it and, where we’ve gone wrong, we’ll fix it.’

Senator Chris Evans interjecting—

The PRESIDENT—Order, Senator Evans!

Senator VANSTONE—Interestingly, sitting opposite are a party which, when they were last in power and found they had improperly detained asylum seekers, said, ‘I think we’ll pass a law that legitimises the detention.’ Just in case you have a supplementary question, it gets better.

Senator Chris Evans interjecting—

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

Senator VANSTONE—Interesting then sought to pass legislation called the ‘dollar a day’ legislation. Do you know what they did?
They said, ‘If you’re improperly detained, we will limit your legal right to compensation to $1 a day.’

_Opposition senators interjecting—_

The **PRESIDENT**—Order! There are too many interjections and shouting across the chamber is disorderly. Minister, you have 25 seconds to complete your answer.

_Senator VANSTONE_—This is a question from a party, which, when they last unlawfully detained people, passed legislation to say it was okay. They then passed legislation to limit compensation to $1 a day, and this is the party which first introduced mandatory detention and which first locked up children.

(Time expired)

_Senator Chris Evans_—Your arrogance is beyond belief. You locked up kids.

The **PRESIDENT**—Order! Senator Evans, I have been asking you to come to order. I warn you!

_Senator KIRK_—Mr President, I ask a supplementary question. Minister, who was the most senior official in the Department of Immigration and Multicultural Affairs to become aware of the appalling treatment of Mr G and what action did they take? What disciplinary action has been taken against the officers involved? When did the minister or her office first become aware of this case and what action did they take?

_Senator VANSTONE_—In relation to the question about the most senior officer, I do not have that name. In relation to the question about what disciplinary action was taken, I see that Senator Kirk has selectively read the Ombudsman’s reports that were released yesterday, because the Ombudsman does not recommend disciplinary action. What the Ombudsman says is that there was a systemic failure and it is inappropriate to blame a particular individual—I think that is a fair paraphrasing of it. I accept the Ombudsman’s views in that respect. I made a comment yesterday about Labor and Australia being at a fork in the road; in fact, what Labor have is a fork in their tongue.

_Senator Chris Evans interjecting—_

The **PRESIDENT**—Senator Evans, I have warned you. Come to order!

**Workplace Relations**

_Senator FIERAVANTI-WELLS_ (2.23 pm)—My question is to the Minister representing the Minister for Employment and Workplace Relations. Is the minister aware of the existence of any extreme and ideologically driven industrial relations laws in Australia? If so, what is the government’s response to this legislation?

_Senator ABETZ_—I thank Senator Fieravanti-Wells for her excellent question. I am aware of legislation which is certainly Australia’s—if not the world’s—most extreme and ideologically driven industrial relations legislation. It has in fact been described as the harshest of its kind in the world. And no, I am not referring to the Howard government’s extremely good, job-creating Work Choices laws—laws which led to the creation of a net total of another 57,400 new full-time jobs last month, keeping unemployment at a record 30-year low. Rather, I am talking about the New South Wales Occupational Health and Safety Act, which was introduced in the wake of the Gretley mine disaster, in which four coalminers tragically died.

Under this extreme legislation, employers are presumed guilty even if the events are beyond their control. They are obliged to ensure a safe workplace, even though ILO conventions only require an employer to ensure a safe workplace to the extent that is reasonably practicable. Employee disobedience, negligence or folly is no defence. Trials are before the New South Wales Industrial Relations Commission with no appeal to the courts unless a death is involved. Unions can
bring prosecutions and have their legal costs covered by defendants, and parties bringing a case get to keep half the fine. In other words, unions can and do make money out of OHS prosecutions.

Yesterday the New South Wales Industrial Relations Commission dismissed an appeal by two companies convicted over the Gretley mining tragedy. Surprisingly, while the mining company and some of its senior staff were prosecuted, the CFMEU owned company which actually employed three of the killed miners was not prosecuted—nor was the New South Wales Department of Mineral Resources, which supplied the wrong maps that were the major factor in the tragedy.

But Gretley is not an isolated case. Take the New South Wales Police Force, which was prosecuted under these laws when a drunk driver crossed two lanes of traffic to run down a policeman. Or how about the plumber who was prosecuted because of a faulty valve he installed but did not manufacture? Earlier this year the New South Wales Labor government itself finally decided that enough was enough and it sought to deal with these laws. But under pressure from New South Wales unions—in particular, the CFMEU, who cynically exploited people’s natural sympathies for those Gretley miners who tragically lost their lives—the New South Wales government backed down.

The saddest thing about this whole saga is that these draconian laws do not make workplaces safer. The New South Wales accident rate is above the Australian average. Significantly, since these extreme laws were passed in 2000, New South Wales has had the lowest job growth rate of any state in the country. So I simply say to Mr Rudd that this is a matter which is beyond cliches, this is a matter which demands action—and he can show his leadership mettle today by demanding that New South Wales cooperate on a federal basis and get rid of these anti-job extreme industrial relations laws.

**Trade Practices Act**

**Senator FIELDING** (2.28 pm)—My question is to the Minister representing the Treasurer. Minister, when will the government be honouring its commitment to strengthen section 46 of the Trade Practices Act to protect small business from anticompetitive conduct?

**Senator MINCHIN**—My recollection is that the government did give a commitment that, once the package of reforms to a variety of other matters concerning the Trade Practices Act were realised, which has now occurred, we could move on the question of section 46. I cannot tell you off the top of my head the Treasurer’s timetable for that reform. I will get some information during question time and, hopefully, report to you at three o’clock as to what, if any, information is available on the time line. But we did give that clear undertaking. As you know, it was conditional upon the passage of other measures, which have now been agreed by the parliament, and, therefore, I expect that we will be able to move fairly quickly. I will get as much information as I can by three o’clock.

**Senator FIELDING**—Mr President, I ask a supplementary question. Will the government’s amendments to section 46 include protections for small business against misuse of market power, including: recognition that companies have substantial power in a market even where they do not substantially control that market, antidumping provisions and protection against predatory pricing?

**Senator MINCHIN**—The changes to section 46 were recommended by the Senate inquiry in 2003, and on 23 June 2004 the government tabled its response to that inquiry, endorsing changes to section 46 along the lines of those supported by government
senators in their minority report at that stage. The changes to section 46 that the government accepted and said that it would move on include: providing guidance to courts in predatory-pricing cases; ensuring courts can consider both below-cost pricing and recruitment as factors in determining whether a corporation has misused its market power; ensuring the anticompetitive leveraging of market power from one market to another is prohibited by section 46; and ensuring that market power derived from contracts, arrangements or understandings can be taken into account in the assessment of a corporation's market power. As I am advised, that remains the government's clear position.

Illegal Fishing

Senator PAYNE (2.31 pm)—My question is directed to Senator Ian Campbell, the Minister representing the Minister for Defence. Will the minister advise the Senate of how the government is protecting Australia's waters from illegal fishermen? Is the minister aware of any alternative approaches?

Senator IAN CAMPBELL—I thank Senator Payne for a question that is incredibly important not only to protecting Australia's fisheries, which are of course very valuable, but also to protecting our unique environment. In support of our Customs aircraft and our Customs vessels, as well as our fisheries management authorities, the Royal Australian Navy is providing significant resources for border protection efforts. These efforts are coordinated through a single border protection command, which I understand is working very effectively—the Minister for Justice and Customs nods.

In addition to being able to arrest foreign fishermen breaching the existing provisions of the fisheries management law, if changes to the environment protection act pass the Senate tonight, we will be able in the future to arrest and charge fishermen caught breaching our environment law. We note that the Australian Labor Party and the Greens intend to oppose that measure.

Earlier this year the government announced a further $388.9 million in the budget committed to further enhance border protection to prevent illegal foreign fishing and unlawful arrivals and also to support the protection of our oil and gas platforms. What have the taxpayers got for this money?

This year, apprehensions have increased by 100 per cent and sightings have gone down by 30 per cent. One of the perverse outcomes of this successful investment, however, is that illegal foreign fishermen are now stooping to increasingly desperate tactics to avoid capture and engaging in dangerous tactics which are putting our personnel at risk. Some of these fishermen have prepared for run-ins with our patrol vessels. They are coming prepared with weapons such as sharpened poles, hand-thrown missiles, spears and even samurai swords.

The Minister for Defence has now approved new rules of engagement which, in addition to what our Navy can do already, include the use of capsicum spray, tear gas and distraction explosives and, under certain circumstances, our patrol boats will be able to shoot to disable a vessel which is ignoring orders. We know that the Labor Party disapprove of these measures and will vote these measures down tonight in the Senate. We know that the Greens have raised the white flag in relation to illegal foreign fishermen. This morning in the media, Senator Siewert from the Greens said of these new rules:

I think its an aggressive, over-the-top reaction and it makes me wonder why the government is doing this now.

Senator Siewert is supporting these poachers over the environment and she is being waved on and encouraged by the Australian Labor Party.
The Australian government says that protecting our environment and our fish stocks and having strong border protection laws to protect both of those are very important for Australia, and the powers to arrest and detain these fishermen who come and put our environment at risk are equally important. This should be a bipartisan action. I call on Mr Rudd to change Labor’s policy; otherwise, it might be a new leader, but it is the same old Labor.

Immigration Detention Centres

Senator CHRIS EVANS (2.35 pm)—My question is directed to Senator Vanstone, the Minister for Immigration and Multicultural Affairs. I again refer her to the Ombudsman’s report of yesterday where it reveals that officers of her department knew as far back as September 2002 that Australian citizens, including Australian children with mental health issues, had been detained. Doesn’t this mean that the department knew that Australian citizens had been held in detention long before the media discovered the Rau and Alvarez scandals in 2005? Does the minister stand by her previous claims that this information was not passed up the line and that neither she, nor her predecessor, Mr Ruddock, nor senior departmental officials were ever told about what was going on? Are we to seriously believe that neither the minister nor senior departmental officials got told that Australian citizens, including children, were locked up in detention, despite emails circulating in the department to that effect? Will anyone in the government take responsibility for these appalling cases?

Senator VANSTONE—I thank the senator for his question. The senator gives me the opportunity, in directly answering his question, to also answer a question that Senator Kirk put, because it is the same question.

Senator Faulkner—No—come off it!

Senator VANSTONE—Senator Faulkner interjects ‘no’, but in fact it is the same question. So, if he is instructing me not to answer your question and you want me to take his instruction, that is fine—

Senator Faulkner—The President shouldn’t allow you to answer another question—you should answer the question that has been asked!

Senator VANSTONE—Mr President, with respect, I have been trying to answer the question but—

Senator Faulkner interjecting—

The PRESIDENT—Order, Senator Faulkner!

Senator VANSTONE—The question put by Senator Evans related to when people first knew, and I think that is the point that Senator Kirk was asking about. It is the one point that I did not address, so I now seek to do the two together. My understanding, to the best of my knowledge and belief, is that this case came to light publicly for one simple reason: that is, an Australian government minister said, ‘There might be more. You better go back and look.’ That is the only reason, to the best of my knowledge, belief and understanding, that Mr G came to light. It is because in good government instead of legislating away your errors you go and look for them, you own up to them and you fix them.

Senator CHRIST EVANS—Mr President, I ask a supplementary question. I am amazed that the minister takes credit for this scandal, given that it was only as a result of media reports that it was ever uncovered. Does the minister seriously believe that saying that the department have changed and that they were paying monetary compensation to victims is a sufficient response to the terrible injustices revealed and the chronic problems that obviously existed? Rather than arrogantly dismissing the scandals, will the minister and Mr Ruddock finally accept their ministerial
responsibility for what occurred on their watch?

Senator VANSTONE—I thank the senator for his supplementary question. The senator asks me if it is satisfactory to say compensation has been paid. If proper compensation has been paid, yes; if you try to use this parliament to in fact pay a dollar a day because of a mistake that you have made on a technicality, no. So compensation is not always an appropriate and adequate response. My own view is if you limit it to a dollar a day you are not being fair. But if you say a mistake has been made and if appropriate compensation is paid, sometimes that is the best that can be done: someone can be compensated for what has happened. The government’s job is to fix errors, not to legislate them away and hide them, Senator Evans, which is what happened when you were last in a party that was in government.

Environment: Tasmania

Senator MILNE (2.39 pm)—My question is to the Minister representing the Prime Minister, Senator Minchin, and it relates to the Prime Minister’s 2004 election promise to protect 18,700 hectares of old-growth forest in the Styx and Florentine valleys in Tasmania. In the light of the logging operations proceeding there at the moment and the admission by his colleague Senator Abetz, the minister for forests, that not all of the upper Florentine valley was protected as pledged during the 2004 election campaign, will Senator Minchin now admit that he misled the Senate when on 30 March 2006 he said:

It is absolutely outrageous to suggest that the Prime Minister has not honoured his promise. He is honouring his promises to the people of Tasmania in full. This was a major commitment to the people of Tasmania ...

Senator MINCHIN—It is always outrageous to accuse our Prime Minister of breaking his promises. The reason he has been elected so many times is he keeps his promises. That is why he is one of the most successful Prime Ministers in Australian history.

But there are reports I am aware of about this assertion that we have broken a promise to protect 18,700 hectares of old-growth forest in the Styx and Florentine valleys. The Tasmanian Community Forest Agreement increases old-growth protection in Tasmania to over one million hectares, including iconic areas such as the giant trees within the Styx and Florentine valleys. The new reserves have increased the total reserved forest in the Styx to 53 per cent of the valley. Ninety per cent of the upper Florentine valley is either in reserves or unavailable for harvest. In total, an additional 139,500 hectares of forest estate has been protected in reserves, exceeding the election commitment of 125,700 hectares by a total of 13,800 hectares. In addition, up to 45,000 hectares of old-growth forest on private land is expected to be reserved through the new Forest Conservation Fund.

The coupe in question is outside the new reserved areas and will be harvested using non-clearfell methods. Following harvest the coupe will be regenerated to native forest. Three trees in the coupe that were considered too dangerous for workers to safely remove by conventional means were felled using explosives as a preharvesting precaution.

The overall outcome of the new reserved areas is a sensible mix designed to deliver the best protection possible for high-conservation-value forests and for iconic areas such as the tall trees in the Styx. Once again false and baseless accusations of broken promises have been exposed for the fallacies and the lies that they are.

Senator Bob Brown—Mr President, I rise on a point of order.
The PRESIDENT—What is the point of order, Senator?

Senator Bob Brown—The minister used the word ‘lies’. I ask you to assess that and see whether it is parliamentary, particularly in view of the point that Senator Abetz made—

The PRESIDENT—There is no point of order. As far as I am aware, the minister just talked about lies in general. He did not accuse anybody of lying.

Senator MILNE—Mr President, I ask a supplementary question. My supplementary question in relation to this matter is firstly to note that Senator Minchin has obviously repudiated his colleague Senator Abetz, who did say that not all the upper Florentine valley was protected, as pledged during the 2004 election. I think it is regrettable that the senator does not apologise for misleading the Senate, which he clearly did. I ask the minister to explain why these huge old-growth trees in the forests in the upper Florentine that the Prime Minister said would be protected are now being blown up using ammonium nitrate. It is a nationally banned substance. It was used in the Bali bombings and is favoured by terrorists. I want to know why these trees are being blown up and why this substance is being used under licence and authorised by the Prime Minister.

Senator MINCHIN—The trouble with the Greens is that they never listen to your answers. They ask these questions and they switch off; they do not listen to the answers. In addition to the answer I gave, let me say that we do care about the workers. We put their lives first. As I said, three trees in that coupe which were considered too dangerous for the workers to safely remove by conventional means were felled by using explosives as a preharvesting precaution, because we do care about the workers.

Weed Eradication

Senator STEPHENS (2.44 pm)—My question is to Senator Abetz, Minister for Fisheries, Forestry and Conservation. Can the minister confirm that weeds cost the agriculture industry $4 billion annually and that weed control action cost the industry $1.1 billion last year? Is it also true that any farmer will tell you that weeds are one of their top two problems and that weed infestation will be even worse after the drought? In that context, is the minister aware that the cooperative research centre committee has refused to even interview the proponents of a new Invasive Plants CRC because of a government directive to not fund environmental research under this program? Why has the government taken such an anti-farmer stance by wiping its hands of investment in research aimed at tackling this massive problem for Australia’s farm sector?

Senator ABETZ—I thank Senator Stephens for her question. It is nice to see the Greens today, and now the Labor Party, finally recognising the problem of weeds to Australian agriculture and to our biodiversity.

Senator Carr interjecting—

Senator ABETZ—If I were Senator Carr I would not be interjecting too much, because I understand that his leader is going to be undertaking a bit of weeding very shortly.

Senator Carr interjecting—

The PRESIDENT—Order! Senator Carr!

Senator ABETZ—Weeds are a very real threat to our economy and to our biodiversity. It is the view of the cooperative research centre and other scientists that the cost to this country—

Senator Carr interjecting—

The PRESIDENT—Senator Carr, you are warned! I have warned you a dozen times
today. If you interject once more I will report you to the Senate.  

Senator ABETZ—As I was saying, the cost of weeds to our community is estimated by the experts to be about $4 billion per annum. It is a major problem. The cooperative research centre have done excellent work but, as with all cooperative research centres, they have to resubmit and go through a very rigorous evaluation process. Unfortunately, on this occasion they were not recommended for funding into the future. Having said that, the director of the weeds CRC, Dr Rachel McFadyen, was in my office this morning. We were discussing the way forward because, unlike those opposite who try to use weeds to make a cheap political point, some of us on this side have a genuine interest—and that is what I was exploring with the good doctor earlier this morning. A lot of good work has been done. We do not want to lose that research and that body of knowledge. So I am working, as best I am able, with those involved in the cooperative research centre to see what other avenues might be available.

Having said that, our Defeating the Weed Menace program of some $44.4 million remains in place. We are continuing to fight the menace of weeds not only for our farmers, because of the economic cost, but also because of the real environmental costs to our biodiversity. When the rains finally come again, as I am sure they will, the problem of weeds could well be substantially more serious than it is now because of the flooding that will undoubtedly occur and all the seeding that has taken place. We as a government recognise, and have recognised for a long time, the problem of weeds. That is why my colleague started the Defeating the Weed Menace program. We have committed $44.4 million to it.

Senator Bob Brown interjecting—

Senator ABETZ—Senator Brown continues with his incessant, inane interjections. I do not know why he continues to prove that he knows nothing about the topic. We as a government are committed to the Defeating the Weed Menace program. Possibly Senator Brown is interested in another form of weed, but we will not go there today.

Senator Bob Brown—Mr President, I rise on a point of order. You know that standing order 193(3) does not allow for innuendo to be used in this place. I ask that that be withdrawn.

The PRESIDENT—I did not hear due to the noise in the chamber, but I will have a look at the Hansard. If there was any innuendo or improper language, I will ask Senator Abetz to withdraw it.

Senator ABETZ—What I said was that he may be interested in another form of weed. If that is so offensive to the honourable gentleman, I am more than happy to withdraw it.

The PRESIDENT—Senator, just withdraw it.

Senator ABETZ—I do so. We are in the Christmas spirit now so I am willing to do that for Senator Brown and wish him good cheer for the new year as well. In short, we as a government are concerned about the weeds menace and we are dealing with it.

Senator STEPHENS—Mr President, I ask a supplementary question. I thank the minister for his response. I am very pleased to hear that he met with the director of the CRC this morning. The minister referred to the Defeating the Weed Menace program. Since the failed application for the Invasive Plants CRC represented a request of $4 million a year from the Commonwealth and had already raised quite significant funds from other sources, will the minister undertake to further discuss the matter with the proponents of the application to see if funds can be
found from other sources in his portfolio or from other portfolios?

Senator ABETZ—As the honourable senator knows, I am sure, the funding of CRCs in fact falls within the province and portfolio responsibilities of my colleague the Minister for Education, Science and Training. I have made representations to her and, as I said, I met with Dr McFadyen this morning. In fact, just two evenings ago I had dinner with the National Weeds Advisory Group and discussed, amongst other things, these very issues. So we are on top of it; we have been for a long time. Something that we do not do is play cynical politics with these sorts of issues; we just get on with the job. I think one of the reasons why the Howard government has been returned is that people accept that we work on these issues with a genuine interest for the Australian people.

Arts and Sport Policy

Senator BERNARDI (2.52 pm)—My question is to the Minister for the Arts and Sport, Senator Kemp.

Senator Ronaldson—The absolutely outstanding minister.

Senator BERNARDI—Yes, the outstanding Minister for the Arts and Sport, Senator Kemp. Will the minister please update the Senate on the coalition government’s commitment to strengthening the arts and sport in Australia?

Senator KEMP—I thank the senator for his very kind comments about my role as Minister for the Arts and Sport. The last five years has been a period of major reform and initiative in both areas of the arts and sport. I think the government can be very proud of the impact of its policies in both these areas. It explains one of the many reasons why the government continues to achieve widespread public support. We have achieved record levels of funding in the arts and sport, and this has provided a foundation for excellence while growing the numbers of Australians who are taking part in the arts and sport activities.

Let me say a few words about the arts before I return to the area of major concern to the good senator: sport. In the arts area, we are putting in infinitely more money than was ever promised under Mr Keating’s Creative Nation, which was much praised at the time and which turned out to be a wimp, as so many Labor policies do. The increased expenditure that we have put into effect has benefited all sectors of the arts, including our national cultural institutions, the film industry, our major performing arts companies, Indigenous artists and all those who have been supported by the Australia Council. The Nugent inquiry delivered an additional $45 million to the major performing arts companies. The Myer inquiry delivered an additional $39 million to the visual arts. The Strong inquiry led to an additional $35 million for Australia’s pit and symphony orchestras. In fact, only this week one of the major proposals of the Strong inquiry will be delivered when the ABC board agrees to divest the symphony orchestras to ensure their future sustainability and vibrancy.

In relation to sport, of course we have been able to not only maintain and increase our support to elite sport but also increase our support to community sport. I think Australia can be very proud of the record of its elite sportsmen and sportswomen and what they have achieved. Really, the last decade or so has been a remarkable period.

The government has also been very concerned about what has been happening in community sport, particularly school sport. Many senators have indicated their strong support for the initiative in this area: the active after school hours program, which has enjoyed widespread support. It is a program which I hope will be continued and will con-
continue to receive strong support from this government.

I checked with the Parliamentary Library today and I was advised that 912 questions have been put to me over the last 10 years. Of course, as you know, Mr President, they have all been very carefully answered in great detail. I have had many great bowlers bowling questions down from the other side: the late Peter Cook, whom we remember with great affection; Senator Sherry bowled for many years without much success; and, in recent times, Senator Lundy has shown considerable form. The only point I make to Labor senators is: 10 years, not out. But, of course, the captain can declare the innings closed at any time!

Honourable senators interjecting—

The PRESIDENT—Order! I cannot say your time has expired!

Aged Care: Rosanna Views Residential Aged Care Facility

Senator McLUCAS (2.57 pm)—My question is to the Minister for Ageing, Senator Santoro. Can the minister confirm that the family of a resident at Rosanna Views nursing home in Melbourne lodged complaints about the care of their father in 2005? Didn’t their father die shortly after the family took him from the facility to a hospital in 2005, suffering from dehydration and a dramatic deterioration in his condition? Can the minister confirm that the family attended a mediation session with the provider and agreed on a resolution for the complaints, only to have the provider renege on that agreement? Didn’t a resolution committee then uphold the family’s complaints and highlight significant failures by the provider in the treatment of their father? Can the minister explain how the Rosanna Views nursing home was granted the full three-year accreditation while these serious complaints were being investigated and resolved?

Senator SANTORO—I can confirm that a person has made a complaint about the care received by her late father at Rosanna Views Residential Aged Care Facility. Given that the issues raised in the complaint relate to the private affairs of a person, I believe that it would be inappropriate to comment further on this particular case, except to say that the complaint has been considered by a complaints resolution committee of the Aged Care Complaints Resolution Scheme and a determination report setting out its funding has been provided to the complainant and the home for their consideration.

The care and safety of residents of aged care homes remain our highest priority. In this regard, I have announced the introduction of more robust arrangements for dealing with complaints. I think it is appropriate to remind the Senate that the new arrangements will replace the current aged care complaints resolution system with an Office of Aged Care Quality and Compliance within the Department of Health and Ageing. It will have the power to investigate all complaints and information; have structured intake and prioritising of all contacts by high-level, specifically train staff; have powers to determine whether a breach of the approved provider’s responsibility has occurred and, where a breach is identified, take appropriate action to remedy the breach; have the capacity to issue notices of required action to providers who have breached their responsibilities, to take compliance action where the provider fails to remedy the issue and, also, to provide feedback to the complainant on the outcome.

I can also again remind the Senate that the Australian government will establish a new aged care commissioner who will provide an independent review mechanism. The commissioner will have wide-ranging scope to hear complaints about action taken by the Office of Aged Care Quality and Compliance in dealing with complaints about care—
Senator McLucas—Mr President, I rise on a point of order. It goes to the question of relevance. I can read that information on the website. I know about the changes that are being proposed. Can the minister answer the question that I asked, which substantially is: how could Rosanna Views nursing home be granted three years accreditation while these events were being investigated and resolved?

The PRESIDENT—I cannot tell the minister how to answer the question, but I remind the minister of the question. I call Senator Santoro and remind him that he has two minutes and 12 seconds to complete his answer.

Senator SANTORO—Thank you, Mr President. I appreciate that additional time so that I can continue that answer, which I believe is in fact very relevant. As I have sought to inform the Senate from time to time, when I have been asked questions such as the one that I have been asked today by Senator McLucas, there are 3,000 aged care facilities within this country and, at any time, any 300 or 400—and I do not mind saying this to the Senate—will be not in compliance with one of the 44 outcomes. What happens in that particular case is that the agents of the department go in and ask the provider to show cause as to why action should not be taken against them.

What then happens is that a report is provided to the agents of the department and, if the action proposed is to the satisfaction of the agents of the department, the matter is considered to be under close scrutiny but closed for the purposes of whatever further action. What is happening in this case day after day is that the opposition senators pick an obscure event which—

Senator Wong—Obscure!

Senator Sherry—Obscure! These are human beings!

Senator SANTORO—I am not saying that this is an obscure event. What I am saying—and I answered Senator McLucas’s question very specifically—is that, because of privacy considerations, which should be respected by every senator in this place, I cannot go beyond that answer. I have very specific advice and I cannot go beyond that answer.

Senator Chris Evans—What about the process?

Senator SANTORO—I am now addressing the process. If Senator Evans had bothered to listen, he would have realised that I am talking precisely about the process. What we have here, day after day, is opposition senators coming in and slandering the aged care industry of the states. They slander individual homes within which individual aged citizens—(Time expired)

Senator McLucas—Mr President, I ask a supplementary question. Can the minister explain to the family why this facility did not receive any penalty for its failure to properly care for their father? Why has the provider been allowed to play the complaints system to their benefit and delay responding to the family’s concerns? Why were they granted a full three-year accreditation when they were clearly failing to deal with this complaint appropriately?

Senator SANTORO—I again repeat for the benefit of Senator McLucas and other senators that the complainants have been provided with a report of the findings. I cannot go beyond that. I do not know how clearly I have to say to Senator McLucas that I just simply cannot go beyond that. What I would urge Senator McLucas and Labor senators to do is desist from criticising, day after day, individual homes within the aged care sector. What happens in this case is that every time they make unfounded complaints against aged care facilities, as they have
done this week, it is the residents, the relatives and the workers within those aged care facilities who are defamed and an alarm is set. Senator McLucas is hopefully the outgoing shadow minister, because I do not believe that she is fit to be that, given the campaign of smear and denigration of the industry. (Time expired)

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

QUESTIONS WITHOUT NOTICE:
ADDITIONAL ANSWERS

Trade Practices Act

Senator MINCHIN (South Australia—Minister for Finance and Administration) (3.04 pm)—Mr President, I would like to add to an answer to a question from Senator Fielding in question time today. In October this year the parliament passed the Trade Practices Legislation Amendment Bill (No. 1) 2006—also known as the Dawson bill—with support from Senator Fielding, for which we are grateful. As the government stated at that time, the passage of the Dawson bill allowed the government to move forward with the next stage of its trade practices reforms dealing with the misuse of market power. The government made a commitment to consult with stakeholders on draft legislation in this area. That draft legislation is now in an advanced stage and consultation on it will commence very shortly. Following this consultation process, the government expects to introduce the legislation in early 2007.

ANSWERS TO QUESTIONS ON NOTICE

Question Nos 2523 to 2543

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.05 pm)—Mr President, I draw your attention to the failure of ministers to answer questions on notice Nos 2523 to 2543. I refer first to Senator Minchin, the Minister representing the Prime Minister. The question was in reference to meetings between the minister and representatives of the Exclusive Brethren and asks:

Has the Minister met with representatives of the Exclusive Brethren in the past 5 years: if so, in each case: (a) when was the meeting; (b) where was the meeting held; (c) who attended the meeting; and (d) what matters were discussed.

The question went to all ministers and ministers representing ministers in the Senate. I ask for an explanation, 65 days on, as to why those questions have not been answered by the Minister representing the Prime Minister and by the other ministers who were asked.

Senator MINCHIN (South Australia—Minister for Finance and Administration) (3.06 pm)—I do not have any additional information that I can give Senator Brown here and now, but I will seek further information for him and pass it on when I receive it.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.06 pm)—I move:

That the Senate take note of the minister’s response.

It is unsatisfactory to not have an explanation in the Senate as to why there has been no answer to the series of questions which were asked on 4 October.

The PRESIDENT—Senator Brown, you have asked a question of the minister, he has given you an answer—that he does not have an answer—

Senator BOB BROWN—And I have moved to take note of that answer.

The PRESIDENT—and he has given you an undertaking to find out and get back to you. Now, he cannot do any more than that. Are you continuing to take note of the answer?
Senator BOB BROWN—I am. I draw your attention to standing order 74, which provides for that. The matter is an important one. It has become all the more important that these questions be answered since, following the release of the book The Hollow Men: A Study in the Politics of Deception by Mr Nicky Hager in New Zealand, a suppression order was issued by the then Leader of the Opposition in New Zealand to prevent that information—similar to the information being sought in the questions here—being put on the public record in that country. It is now history, only a week old, that the court order was to be lifted and the New Zealand leader of the National Party, the Leader of the Opposition there, resigned before that lifting occurred. What was found out, however, about the very serious intervention by the Exclusive Brethren in the democratic process in New Zealand was that every member of the conservative party in that country had been approached by the Exclusive Brethren and, in all cases except three, money was taken from the National Party members of the New Zealand parliament who were aspiring to government. That is, the colleagues of this Australian government across the Tasman were approached—

Senator Ferguson—They are not our colleagues. What a load of rubbish!

Senator Johnston—What a load of rubbish! They are another country.

Senator BOB BROWN—The government members here are now disowning their National colleagues across the ocean, the conservatives in New Zealand. They can do that, but I am prosecuting a case of parallelism between the Exclusive Brethren’s approach to politics in that country and what we have a right to believe may be the case here when we have ministers failing to answer questions which asked them very simply: have you met with the Exclusive Brethren; if so, who; if so, when; and, if so, what matters were discussed? Every minister in this place knows the rules. When a question like that is put on notice, there are 30 days in which to answer. Every minister knows that my office has approached the government to ask why this question has not been answered. I can only assume that there is some form of collectivism going on over there—a defensive collectivism which involves not answering these questions.

The fact is that this Senate has the right to get that answer. We are going away now for a break until February—

Senator Lightfoot interjecting—

Senator BOB BROWN—The government members opposite who are interjecting may wish that I was not pursuing this case. They are highly embarrassed and they are seeking cover because of their connections with the Exclusive Brethren. There is no doubt the Exclusive Brethren in this country are the stalking horse for conservative parties when it comes to election campaigning. What we do know is that in this country, in New Zealand, in the United States and elsewhere, this secretive sect—which refuses to allow its members to vote, which despises the democratic system—nevertheless has busied itself with pouring hundreds of thousands of dollars into supporting the Hon. Prime Minister John Howard, his government and his counterparts elsewhere in the world.

We Greens say everybody has the right to take part in the democratic process. But let it be on the record. Let it not be covert. Let it not be hidden. Let it not be in back rooms, as happened in New Zealand. Let there not be secret meetings. Let it not be a case where material used to attack the Greens in Tasmania turns up in New Zealand with a slight word change and gloating by the Exclusive Brethren that this is an effective way to ‘fix’
the opponents of the National Party in New Zealand. Of course, what happened in New Zealand was that they were not only spotted; they were discovered. They were discovered because some members of the NZ National Party were so disgusted with what was going on there that they decided they wanted it on the public record. And it now is on the public record.

I ask: what is the relationship between the Prime Minister of this country and the Exclusive Brethren? He has admitted to meeting them, but he will not answer the questions about where, whom and when, and what deals were done. I think the Prime Minister owes it to this country and its democratic system to be honest in this matter. I think every minister in this place owes it to the country to be honest.

Senator Milne interjecting—

Senator BOB BROWN—The Prime Minister, as Senator Milne says, talks about fundamental values. But it is a breach of fundamental values when there are covert groups like the secretive, antidemocracy Exclusive Brethren meeting with the Prime Minister and he will not say why. What is the Hon. John Howard’s explanation for not wanting to say whom he met and why, or what matters were discussed with the Exclusive Brethren—whether or not it was the Elect Vessel himself, Bruce Hales, the multimillionaire who lives in the Prime Minister’s electorate and whom he has met; or was it Mr Hales’s brother or some other member of the Exclusive Brethren? Why can’t the Prime Minister say what was discussed? We know what was discussed in New Zealand: it was election campaigning to get at opponents and pour thousands of dollars into a pro-conservative campaign—while hiding that fact from the voters; being dishonest with the voters.

The questions about the last election in this country, about the extensive and hugely expensive advertising by the Exclusive Brethren on behalf of or in the interests of the Prime Minister and the government, have not been answered. It is one thing for the secretive Exclusive Brethren to cover up on that, but it is another thing for the Prime Minister and the ministers of this government to cover up on that. Why has not one minister of the government in this parliament been prepared to answer these very simple questions and has preferred to breach standing orders which say that those questions shall be answered within 30 days? What is the embarrassment that is being covered up here? What secretive dealings are being kept hidden on this side of the Tasman while we await emails to be leaked or some honest person to come out and say, ‘Here is the record.’ All we want is the record of the relationships between this sect and the government. Amongst other things it has given the Exclusive Brethren specific provisions under the Industrial Relations Act to ensure that workplaces controlled by the Exclusive Brethren are no-go zones for unions looking after the rights of workers—30 of them! That is what I call quid pro quo. What I do not know is what the ‘quo’ is—

Senator Johnston—Or the quids.

Senator BOB BROWN—The member opposite talks about quids. If he has got information about quids, let him put it on the record. That might clear the air a little bit. There is a stench over this relationship between the Exclusive Brethren and senior members of this government—

Senator Johnston—Rubbish!

Senator BOB BROWN—and that will only be cleared when there is honesty in this place and the record books are opened and the questions are answered. I tell the government opposite: if you think that this is the
end of this matter, if you think that all leads have gone to a dead end, think again.

 Senator Johnston—What about your electoral funding?

 Senator Bob Brown—To the member opposite, you ask me questions—I am asking the questions here today, and they are ducking for cover. They cannot wait to get out of this place. But I want them to know that this matter is far from finished—for this reason: you cannot have a fair and honest democracy; you cannot be open and honest with the people of Australia if you hide either in the Prime Minister’s office or in any other minister’s office records of meeting with a non-voting sect which opposes military training, which has a derogatory attitude to women and which bans children from going to university, for goodness sake, and expect that nobody will be concerned about it. These are matters that the government says it stands for: democracy and a fair go for everybody.

 The Prime Minister has railed against groups that discriminate against women, but not this group. Never has he mentioned the discrimination, for example, in the workplace where no woman in the Exclusive Brethren sect can hold a position senior to any male in that workplace. What sort of attitude is that in 2006 in this country? What other group would escape Prime Ministerial odium if they banned thousands of children from going to university, at least as far as universities are concerned? This Prime Minister is silent on the matter. Quid pro quo? That is for him to answer.

 Senator Milne—What about the schools?

 Senator Bob Brown—Senator Milne reminds me that there are thousands of dollars of taxpayers’ money going into a schooling system that offers no tertiary education at the end of it, at least as far as universities are concerned. Tens of thousands, if not millions, of dollars are going to the Exclusive Brethren schooling system, paid for by taxpayers who cannot get answers out of the government to simple questions through this parliamentary system.

 This relationship is unhealthy. There is much more to it than meets the eye. We are on the last day here and I have waited for these answers. I am not going to delay the Senate anymore, but let me put this to the government very clearly: it is obliged under the standing orders of this parliament to answer these questions. It should answer them before we close this evening. If not, every member of the Australian public has the right to believe that this government is covering up.

 Question agreed to.

 QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

 Answers to Questions

 Senator Ludwig (Queensland) (3.20 pm)—I move:

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

 Let me be plain about this. The minister for justice was asked about statements from the government regarding the anthrax scare at the Indonesian Embassy last year. Last year’s hoax was a very serious affair but it was not assisted by the Prime Minister’s eagerness to rush out and declare it was an act of murderous criminality without the preliminary testing suggesting it was a biological agent. This government’s eagerness to act as an agent of fear is all the more deplorable for its failure to correct the record once it learnt that its statements were wrong.

 It is typical of this government. The principle here is very simple: when you become aware that a past statement is wrong, it is critical that the government correct the record immediately. Hasn’t this government
learnt anything in 10 years? When you look at children overboard, it could have learnt a lesson but did not.

This is all the more important when you are dealing with matters of national security and potential terrorist threats. The government should be wary of becoming the boy who cried wolf. Its failure to correct the record in relation to past warnings and claims about something that turns out to be a hoax undermines the credibility of future warnings on similar matters, thus putting Australian lives in danger. That is the premise. This government should learn from that. It is completely unacceptable.

Senator Vanstone, the minister for immigration, is a key figure in the Howard government’s culture of denial. In the AWB scandal, we see them channel funds to one of the world’s greatest criminal terrorists to the tune of $290 million and then beat their chests about how pure they are because they grudgingly held a limited inquiry into this disgraceful conduct. But the culture of denial is rampant through this government and is demonstrated by the following statement. Senator Vanstone, in parliament on 10 May 2005, said:

The short answer is that I think the department do an excellent job. We are talking about 0.2 per cent of the cases.

And the PM, picking up on that I assume, on 26 May 2005, said:

And I’m told that of these 88,000, 201 individual cases fell into the category where a person was released after it was determined they were not here unlawfully and that was 0.2 per cent of the number of people who were located.

So it is this ability to say: ‘It’s a small margin.’ But if there is any doubt about where the source of the problem culture lies, Mr Palmer, when he conducted his inquiry nailed the Prime Minister and Senator Vanstone with this quote direct from the Palmer report, where he said:

It was suggested to the Inquiry that, of the thousands of removals and cases DIMIA deals with each year, the case of Cornelia Rau represents less than 0.001 per cent. The Inquiry considers that this statement, more than most, demonstrates the culture and mindset that have brought about the failures in policy implementation and practices.

There is something seriously wrong with the moral fibre of the Howard government when it relies on that, and it has been clearly outed by the Ombudsman. From answers from the minister given to the Senate today, it is clear that the culture of fear, cover-up and denial are still alive and well in the Howard government. When you look at the Ombudsman’s recent report, the Ombudsman, Professor John McMillan, said he was shocked by the report which highlighted serious administrative deficiencies in the immigration department. He added that the problem could be solved by proper leadership. That is what he said.

The minister is the person who should take the lead and demonstrate leadership. That is where the blame lies: in the inability of this minister to take her ministerial responsibility and accountability properly and deal with it effectively and ensure that we do not use an AWD defence of ‘We held an inquiry. We’ve opened the door.’ You have not corrected the problem; you have left the minister where she is. But I see that that could be corrected this Christmas. Mr Robb might get it yet. (Time expired)

Senator LIGHTFOOT (Western Australia) (3.25 pm)—I rise, on the last take note of answers this year, to talk about the question on the biological agent early in question time today. It seems to me that the criticism, if you analyse it, is not because there was no real fear about the white powder that was discovered at the Indonesian embassy, a
country with which we are very closely associated; it was with respect to describing it as ‘a biological agent’. It was certainly biological; the difference in some people’s minds was that this disingenuously caused some fear when the term ‘agent’ was applied to the biology of it. I never knew that the powder at the time was being analysed—and it took several days to analyse it before it was discovered that it was actually flour—but fear is just as genuine when you initially believe something is dangerous and it is subsequently found to be not dangerous.

The Sydney Morning Herald described it as ‘Australia’s biggest terror scare’. That helps sell newspapers, but it is irresponsible for any media outlet, let alone one as significant as the Sydney Morning Herald, to use that phrase. It certainly was not geological, as we now know. Was it pathological? No—not now. Was it mythological? I think it probably was closest to that category. It certainly was not astrological.

But there are some powders that all look the same. It is very difficult, even when feeling them, to test the difference between different forms of white powder to which you could attach a name. Some of those white powders are quite common: flour; talcum powder; calcium carbonate, often referred to as chalk in its solid form; manganese glutamate; niacin, which is referred to commonly as vitamin B; artificial sweeteners; cement—you can get a white form of cement and, although it is dense, it feels like many of those other white powders I have just mentioned; the dust from gyprock after a ceiling has been fixed on new or repaired homes; laundry detergent; and gypsum.

These powders are all innocuous white powders. They are powders I am familiar with and have read about. I have maybe even touched most of them; I have touched some of them. I think the white powder scare at the Indonesian embassy caused us to set up a white powder room here in the basement of this parliament. Some are dangerous powders like anthrax. I recall in America some postal workers died; others became seriously ill because anthrax had been sent through the post. Some nitramines or explosives are white powders. Cocaine is something that, again, I am not familiar with, having never touched or ingested it in any way whatsoever. Diclofenac sodium, used as an anti-inflammatory, is a white powder. Ketoprofen is also an anti-inflammatory. There is boron citrate and lithium carbonate. Cyanide is highly toxic but is used in prolific amounts in the goldmining industry.

The real point I want to make today is not that the Prime Minister and others acted irresponsibly by calling it a ‘biological agent’ instead of a ‘biological’ what I am not sure—as they were accused by those opposite today—but that they would have been irresponsible had they not alerted the correct authorities which had due process, which had been laid down by this government in these matters and if that had not been followed and nothing had been said about it. If it had been a toxic or dangerous white powder then the Prime Minister and others could have been accused of irresponsibility—but not for carrying out their responsibilities in a most proficient and proper fashion, taking all those precautions necessary to ensure that no damage was done to our society.

Senator KIRK (South Australia) (3.30 pm)—I rise this afternoon to take note of answers given to questions asked of Senator Vanstone, Minister for Immigration and Multicultural Affairs. Just a few days after we learnt of the compensation payout of $4.5 million to Vivian Alvarez Solon, we find again that we have the minister conceding that compensation is going to have to be paid out to victims of the incompetence of the immigration department. This of course fol-
allows the report of the Commonwealth Ombudsman, Professor John McMillan, as delivered by him yesterday. The report by the Ombudsman found serious deficiencies in the department. He found that it was these deficiencies that led to the wrongful detention of 10 Australian citizens, four permanent residents and four temporary visa holders between 2000 and 2005. Needless to say, all 10 of the people that I have just referred to have a legal entitlement to be in this country.

The most disturbing example is one that has been referred to this afternoon here in the Senate. Of course they are all disturbing, but this one really stands out; it is the case of Mr G. Mr G is a person who came here lawfully in 1975, I understand, from East Timor as a refugee. Unfortunately later in life he developed chronic schizophrenia. At the time that he was taken into immigration detention he had been living on the streets of Fremantle. He was detained by the immigration department for a period of 43 days in the year 2002 even though he had a valid visa.

Professor McMillan said in his report, the one that I was referring to earlier, that Mr G’s schizophrenia was plainly evident to anyone when he was detained. However, immigration department officials apparently did not make the inquiries that you would have thought would follow in such a circumstance. In fact it even went further than that. It is quite concerning, and I referred to this in the question that I asked, that some immigration officers were aware that there could be some, shall we say, problems with this case and they expressed some doubt that Mr G was being unlawfully detained one week after he was detained. He was detained for 43 days, but a week after he was detained immigration officials—some at least—became aware that there could be a problem here. In fact, one immigration officer was reported as having said, and I quote:

"I also remain concerned that we have a person in detention who is a permanent resident ... and that we are on very shaking (sic) grounds to continue to hold him here."

This immigration officer went on to say, and this I find so appalling it is beyond words:

"Fortunately, Mr G is not educated enough to consider suing us for unjustified detention however, I think we need to be very careful in regard to how long we continue to detain him.

This is an outrageous, appalling situation. We cannot begin to imagine the sort of trauma that Mr G must have experienced. But it was not only Mr G; the report found that eight of those who were wrongfully detained were children. I have spoken on many occasions in this place about children in detention. One of the children who was detained was held in detention for 214 days. When is this government going to acknowledge what it is doing here is just inhumane, unjust and an absolute disgrace? The Prime Minister’s response to this was, and I quote:

"No administration is perfect; there are mistakes made.

That response is just an utter disgrace and he should be ashamed."

Senator Johnston (Western Australia) (3.35 pm)—The opportunism displayed in this chamber by the opposition is breathtaking. None of these matters would have come to light, none of these cases or indeed the questions asked of the minister for immigration this afternoon in question time would have been possible, had it not been for the action by the Minister for Immigration and Multicultural Affairs to undertake the hard work of confronting a problem within the department. The bouquets go to her. She is the one who has done the right thing.

Extensive departmental restructuring has taken place under the direction of this minister. There have been extensive departmental management changes under this minister.
Improved protocols and detailed procedures have been instituted by this minister. She called for the Palmer inquiry and the Comrie report. These are the things that have been undertaken by this minister. May I say that it would be very difficult to find a more dedicated and successful minister. There has been absolutely no prevarication with respect to the problems surrounding Vivian Solon and Cornelia Rau. The government has been upset by and has taken full responsibility for these matters. That stands in stark contrast to what the Labor Party would do in similar circumstances, and I will come to that a little later. It is in absolutely stark contrast.

When Vivian Solon’s position was known, the minister responded and sought a whole-of-government response. She was provided with a support package almost immediately following the Comrie report. A Centrelink assistance officer was taken to the Philippines and put at her disposal. She had free medical and health care, including private services if required, for as long as she required. She had carer support for up to 24 hours a day for as long as required. She had health-related aid and transport to health services as long as required. There was a compassionate, responsive action by the government to do the right thing for this lady, who obviously had her rights transgressed. Other assistance included a $25,000 interim lump sum resettlement package, and free accommodation and transport. These were the things that the government undertook to do as soon as this matter became known.

This minister has been proactive. She called for the reviews that have elicited these 23 cases. But let us just look at a contrast. The minister for immigration, Senator Vanstone, has, at every turn, sought to do the right thing. But let us go back to the 10 Cambodian refugees or asylum seekers who were illegally detained. What did Labor do to address that problem, that scandal? Did they pay compensation promptly? Did they evaluate the rights that had been abused and transgressed of those 10 individuals? No. They legislated to restrict the compensation payable to $1 a day. That is what inmates at state prisons get—a dollar a day.

This was the great human rights touting, public spirited Labor Party at its best! And here they are today, lecturing us in a way that is utterly hypocritical—with the greatest of respect to my learned colleagues across the chamber. Taking people’s rights away and then legislating so you cannot be brought to account is the worst form of ‘good governance’ one could imagine. It does not happen in Cuba, it does not happen in China, but it happens in Australia when the Labor Party have their hands on the chequebook.

That is one of the most classic abuses of parliamentary majority one could imagine. The rights of 10 people were abused, in stark contrast to what has happened to Vivian Solon. The Labor Party sought to obliterate the rights of those people and to abuse their own parliamentary majority and legislate themselves security by squashing and quashing any opportunity for compensation. There is the hypocrisy of what went on under Labor in similar, comparable circumstances. They put aside the human rights of those 10 people and have the audacity to talk about the culture of denial.

There is nothing in these 23 cases that does anything other than indicate that this minister, at every turn of the corner, has done the right thing. (Time expired)

Senator STEPHENS (New South Wales) (3.40 pm)—I rise to take note of the answer given by Senator Abetz to the question I asked of him this afternoon. First of all, can I say how disappointed I was by the minister’s response. Those people who know anything about agriculture and the agricultural industry would know that the issues of invasive

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species and weeds are taken very seriously by industry all over Australia, and I think the trivial response that we received from Senator Abetz today did him no service at all. It certainly indicated that he really does not understand the issues that are within his portfolio. And to denigrate and trivialise the question to the extent that he did really seemed to me to be an admission of his lack of understanding of how important the issue is.

To remind the minister, and to remind colleagues here, I reinforce that there was a very substantial undertaking in this area by the Environment, Communications, Information Technology and the Arts References Committee in 2004, reported in Turning back the tide—the invasive species challenge: report on the regulation, control and management of invasive species and the Environment Protection and Biodiversity Conservation Amendment (Invasive Species) Bill 2002. The report was a very comprehensive piece of work undertaken in good grace and good spirit by the committee, and it found that invasive species are generally argued to be the second biggest threat to Australia’s biodiversity after land clearing and other forms of habitat destruction. So invasive species are not only of major concern to the agricultural industry; they are also a major concern to our environment and to our environmental movement, and, as I say, a threat to our biodiversity.

In the submissions to the inquiry, some very important evidence came to light. Dr Barry Traill, the President of the Invasive Species Council, said:

...with land clearing hopefully now sorted out as a destructive problem, with controls in Queensland and New South Wales, invasive species are probably now the No. 1 threat to nature in Australia.

And we know that Minister Abetz himself said, only a few days ago, that invasive species and weeds in Australia are probably the No. 1 threat, even above climate change. So it was a bit disingenuous of him to come into the chamber today and trivialise the issue in the way that he did.

I tried to explain to both the minister and to my colleagues in the chamber just how expensive an economic impact invasive species make. Weeds cost about $4 billion every year in lower farm incomes and higher food costs. Commonwealth, state and local governments spend at least $116 million every year on the costs of monitoring, control and management of and research on weeds. The figure of $4 billion is actually a very conservative one because it does not take into account the financial impacts on biodiversity, landscape, tourism, water and on labour costs of volunteers. And as a result of the introduction of pest species to Australia, ecosystems have become much more homogeneous and biodiversity has been dramatically affected.

The question that I asked of the minister today was about funding for the proposed Invasive Species CRC. It was an important question because the government has dramatically changed CRC funding guidelines, requiring them to focus much more on industry and the chance of inventing or developing or selling widgets. It has just about wiped out all of the environmental CRCs, and all the existing CRCs that deal with sheep, cattle, pigs or cotton will not be funded under the new guidelines.

The judging CRC committee that rejected the proposal for an invasive plants CRC and a tropical savanna CRC took the view that tens of thousands of grain and livestock producers do not legitimately commercialise the research findings of the agricultural based CRCs. The committee obviously did not understand and does not understand either the science involved or the time scale that is in-
Senator MILNE (Tasmania) (3.45 pm)—

I move:

That the Senate take note of the answer given by the Minister for Finance and Administration (Senator Minchin) to a question without notice asked by Senator Milne today relating to the Styx and Florentine valleys, Tasmania.

It is very clear that Senator Minchin did mislead the Senate earlier this year when he suggested that it was outrageous to say that the Prime Minister had not honoured his promise to protect forests in the Upper Florentine Valley and the Styx. Senator Abetz, the Minister for Fisheries, Forestry and Conservation, has said that not all the Upper Florentine Valley was protected as pledged during the 2004 election campaign. Senator Minchin’s own colleague has revealed that he misled the Senate. I think it is tragic that he was not able or big enough to stand up and say that he had misled the Senate or, alternatively, repudiate Senator Abetz and uphold the Prime Minister’s pledge to protect those forests, as was promised.

Of course, nobody can forget Prime Minister Howard in the Albert Hall in Launceston making a big deal out of protecting 18,700 hectares in the Florentine and Styx valleys, and he has not done so. Not only has he not done so but, currently, these ancient trees are being blown up using explosives. Again, the Prime Minister has talked endlessly about terrorism and national security, and now we find these ancient trees are being blown up using ammonium nitrate, which has been banned nationally because it was used in the Bali bombings and is favoured by terrorists. Some industries, however, have been exempted. Clearly, the Prime Minister has agreed to the exemption for the Tasmanian forest industry to use this explosive to blow up ancient trees because they are so huge that they pose a danger to people falling them. What are we doing dynamiting, blowing up old forests in this way? Do you seriously think any old tree that is blown up using ammonium nitrate will be used as sawn timber? Not on your life. It will just be wasted, ruined, whereas it could serve as a very important ecosystem function. And, while Senator Abetz has made a fool of Senator Minchin in this house and has revealed that the Prime Minister did not keep his election pledge, Senator Abetz is going around misleading people on the impact of old-growth forests and the storage of carbon.

New science coming out just in the last couple of weeks has demonstrated that in fact old-growth forests not only store but continue to remove far more carbon from the atmosphere than previously thought, making their preservation, strict protection, with no industrial management, a high priority in carbon trading, tackling global warming and forest conservation. What Senator Abetz is trying to argue is that these old forests, as he calls them, are neutral and that plantations take up carbon at a faster rate because they are young trees and therefore they are better for the environment. He is absolutely wrong on all counts. Yet he calls himself the minister for forests. He should get up to date with the science. He should realise that the soil carbon in these old forests stores huge amounts of carbon and continues to uptake carbon. If he wants to address deforestation and if Australia wants to reduce its greenhouse gas emissions, then the first thing they should do is protect our forests.

The second thing they should do is admit that the Prime Minister has not fulfilled the election promise that he made in 2004. He
has not protected 18,700 hectares in the Florentine and the Styx valleys, and he must do so if he is to be taken seriously. The next time he comes to Tasmania he had better have an explanation as to why Senator Minchin misled the Senate by going out there and saying, ‘It’s absolutely outrageous to suggest the Prime Minister has not honoured his promise.’ He has not honoured his promise. Senator Abetz has admitted he has not honoured his promise; Senator Minchin has misled the Senate in this regard. As if it is not bad enough for biodiversity, with respect to carbon it is a disaster to see these old ancient forests being blown up in this way, using a substance which is a banned substance nationally. I would like to know what measures the Prime Minister has in place to prevent this substance being stolen from forest contractors and Forestry Tasmania and used by terrorists, since it is the weapon of choice of terrorists.

Question agreed to.

COMMITTEES
Legal and Constitutional References Committee
Report: Government Response

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural Affairs) (3.50 pm)—I present the government’s response to the report of the former Legal and Constitutional References Committee on its inquiry into Australian expatriates, and I seek leave to incorporate the document in Hansard.

Leave granted.

*The document read as follows—*

**Senate Legal and Constitutional References Committee**

*They Still Call Australia Home: Inquiry into Australian Expatriates*

**Recommendation 1**

The Committee recommends that the Australian Government establish a web portal devoted to the provision of information and services for expatriate Australians. A suggested name for the portal is www.expats.gov.au. The Committee recommends that the Department of Foreign Affairs and Trade should be the lead agency in the development and administration of the expatriates web portal.

**Responsible agency: DFAT**

**Response: Not supported**

The Government does not support the recommendation. The Department of Foreign Affairs and Trade (DFAT) website (www.dfat.gov.au), particularly the smartraveller consular information website (www.smartraveller.gov.au), currently provides a wide range of information targeted at Australians travelling, living and working overseas. In addition, the government directory websites (www.agd.com.au) and (www.australia.gov.au) provide links to all federal agencies. The latter has a specific index for Australians overseas. An additional portal to be hosted by DFAT would be duplication and of marginal benefit over existing arrangements. DFAT would however welcome suggestions by expatriate groups as to what additional links or information could usefully be included in its existing websites to assist expatriates.

**Recommendation 2**

The Committee recommends the establishment of a policy unit within the Department of Foreign Affairs and Trade, to facilitate the coordination of policies relating to Australian expatriates. Responsibilities of the policy unit should include:

- formulation of a coordinated policy regarding expatriates
- consultation with groups from the expatriate community, industry, academia and other stakeholders in the formulation of policy; and
- monitoring research developments and opportunities in relation to expatriates

**Responsible agency: DFAT**

**Response: Not supported**

DFAT can and does provide an on-ground point of contact for all Australians overseas through its
network of diplomatic posts. DFAT promotes the interests of Australian expatriates and of Australia generally in a range of fields including trade, investment and commerce. Australian missions work closely and actively with Australian expatriate communities, organisations and social groups to maintain positive and productive links to promote Australian goods and services as well as information and cultural activities. DFAT’s core responsibility is to protect the interests of Australians internationally including by delivering a professional and wide-ranging consular service in support of Australians who may find themselves in distress overseas or requiring assistance. DFAT will continue to accord high priority to advancing and protecting the interests of Australian expatriates internationally, noting that these interests vary widely according to a range of geographic and demographic considerations.

**Recommendation 3**
The Committee recommends that the Australian Bureau of Statistics, the Department of Immigration and Multicultural and Indigenous Affairs and the Department of Foreign Affairs and Trade should continue to improve the statistical information collected in relation to Australian expatriates, particularly through the use of incoming and outgoing passenger cards.

**Responsible agencies:** ABS, DIMA and DFAT

**Response:** Accepted

The Government accepts this recommendation, noting that the Australian Bureau of Statistics (ABS), DFAT and the Department of Immigration and Multicultural Affairs (DIMA) will continue to work closely together to improve the collection of statistical information.

The ABS is currently working with the DIMA to improve the statistical information collected through incoming and outgoing passenger cards and other DIMA data sources. These investigations should lead to improved information relating to Australian expatriates. For example, it would be possible to conduct analyses of Australian residents returning to Australia who have been overseas for a period of 12 months or more.

The ABS will continue its involvement in work being coordinated by the Organisation for Economic Cooperation and Development (OECD), which may lead to improved information on Australians living in OECD countries.

**Recommendation 4**
The Committee recommends that the consular role for foreign missions be revised to contain a specific requirement that posts engage with the local expatriate community, in any and all ways possible appropriate to that location.

**Responsible agency:** DFAT

**Response:** Accepted

The Government accepts this recommendation noting that this is an existing requirement. Australian missions provide a broad range of services across, inter alia, consular, immigration, trade, cultural and business activities, as part of which there is a continuous process of engagement with local expatriate communities. In numerous posts a warden system is in place to ensure close and speedy contact with the expatriate community. An expansion of consular services, with an additional 15 officers to be posted to Australian missions over the next two years, as well as the appointment of 16 local support staff, will further improve the service delivered to Australians abroad.

**Recommendation 5**
The Committee recommends that the websites of Australia’s foreign missions should include online registration facility to enable local expatriates to register their professional profiles. The profile database will facilitate stronger engagement between missions and expatriates, and will provide a resource for missions in their work of promoting Australia’s interests overseas. It would also be used to notify expatriates of news and upcoming events.

**Responsible agency:** DFAT

**Response:** Not supported

DFAT has a responsibility for protecting the interests of Australians abroad and its foreign missions encourage all Australians residing overseas or travelling in high-risk areas to register with the local mission. Many missions have highly active links with their local expatriate community including news letters, social clubs, business groups and, in some instances, warden systems. The missions maintain contacts with local chapters of the Australian Chamber of Commerce, business
councils, friendship associations, alumni and other expatriate organisations and their members. Each mission also maintains a website (in addition to the central DFAT website) which can provide information on local events and developments. The Government does not however support the recommendation for a register of professional profiles. Privacy considerations, potential for liability relating to claims by third parties and the need to ensure entries are maintained and up-to-date argue against the practicability of such a register.

**Recommendation 6**

The Committee recommends that the Australian Citizenship Act 1948 be amended to ensure that children of people who previously lost their citizenship under section 17 of the Citizenship Act are eligible to apply for Australian citizenship by descent.

**Responsible agency:** DIMA  
**Response:** Accepted in Principle

The Australian Citizenship Bill 2005, which is currently before the Parliament, contains provision for the acquisition of citizenship for those over the age of 18 years, who were born overseas after an Australian citizen parent lost their citizenship under the now repealed section 17, subject to the applicant being of good character. As these people did not at the time of their birth have an Australian citizen parent, they will have access to citizenship by conferral rather than descent. However, they will not be required to make the Pledge of Commitment and will become Australian citizens on approval of their application.

People under the age of 18 who were born overseas after an Australian citizen parent lost their citizenship under section 17 have been able to access Australian citizenship by conferral since October 2003.

**Recommendation 7**

The Committee recommends that the Australian Citizenship Act 1948 be amended to ensure that children of people who renounced their citizenship under section 18 of the Citizenship Act are eligible to apply for Australian citizenship by descent.

**Responsible agency:** DIMA  
**Response:** Not supported

This matter was considered by the Legal and Constitutional Legislation Committee’s (the Committee) inquiry into the provisions of the Australian Citizenship Bill 2005 (the bill) and the Australian Citizenship (Transitional and Consequential) Bill 2005. In its report of 27 February 2006 the Committee commented “the Committee considers that this matter has been fully considered by the Government over a number of years and that renunciation is properly regarded as a more significant and conscious relinquishing of the bonds of allegiance to Australia. As such, the Committee accepts the proposed provisions” (which do not make provision for these people).

**Recommendation 8**

The Committee recommends that the Department of Immigration and Multicultural and Indigenous Affairs conduct a review of section 18 of the Australian Citizenship Act 1948.

**Responsible agency:** DIMA  
**Response:** Not supported

Section 18 of the Australian Citizenship Act 1948 was reviewed by the Australian Citizenship Council in 1999-2000. The Council commented “On average, about 112 people each year renounce Australian citizenship. The majority of people who renounce do so in order to retain another citizenship. The Council considers the existing provision appropriate and recommends that the provisions for the renunciation of Australian citizenship in section 18 of the Australian Citizenship Act 1948 be retained”. The Government accepted the Council’s recommendation.

The Government also notes that while the majority of Australian Citizens renounce their citizenship in order to retain another, there are some Australian citizens that renounce in order to avoid significant hardship or detriment (for example, in order to obtain a security clearance to secure employment in the country of their other residence).

**Recommendation 9**

The Committee recommends that the Department of Immigration and Multicultural and Indigenous Affairs establish an advisory committee to review the Australian Citizenship Act 1948 on an ongo-
The Government has recently completed a review of the Australian Citizenship Act 1948 to ensure that it appropriately reflects notions of citizenship in the 21st century. The results of the review are the Australian Citizenship Bill 2005 and the Australian Citizenship (Transitional and Consequentials) Bill 2005 (the bills). The bills were introduced into the Parliament on 9 November 2005 and referred to the Senate Legal and Constitutional Legislation Committee (the Committee) for inquiry. The Committee advertised the inquiry in The Australian newspaper and also wrote to a number of interested individuals and organisations inviting submissions. Information about the inquiry was provided to the Consular Policy Branch of DFAT for distribution to Australia’s overseas missions. The Committee received 67 submissions and held a number of public hearings.

Recommendation 10
The Committee recommends that the Department of Immigration and Multicultural and Indigenous Affairs continually review its website with a view to providing more detailed, accurate and specific advice and information in relation to citizenship issues for Australian expatriates. The web portal for expatriates (proposed at Recommendation 1) should also contain information on citizenship issues, including links to relevant parts of the website of the Department of Immigration and Multicultural and Indigenous Affairs.

Responsible agency: DIMA
Response: Accepted

The Government accepts this recommendation. DIMA and DFAT will work on the continuous improvement of citizenship advice and services available at Australia’s overseas missions. The appointment of 15 additional consular staff to missions overseas in the next two years will improve the level of service delivered to Australians in a number of countries.

DIMA conducts training for all of its officers posted to overseas missions; as well as DFAT officers who undertake work on behalf of DIMA. Relevant staff will be given information and training on the changes to citizenship legislation passed by the Parliament.

Recommendation 12
The Committee recommends that the Department of Immigration and Multicultural and Indigenous Affairs provide an internationally accessible phone number for the Citizen Information Phone Line.

Responsible agency: DIMA
Response: Accepted in Principle

DIMA’s strategy for responding to citizenship enquiries from clients overseas is to consolidate enquiries by geographic region. This ensures that information on local arrangements is provided. DIMA has expanded its global contact centre coverage to provide clients with access to information across multiple service channels such as phone, e-mail and fax. The implementation of enhanced overseas telephone handling arrangements in the United Kingdom (which will also be...
expanded to include Europe) and the Americas provide access for Australian expatriates to citizenship information through both telephone (where they can speak directly to an operator) and e-mail.

In addition, DIMA provides comprehensive information on citizenship through the dedicated website, www.citizenship.gov.au.

Clients in Australia can access citizenship information and services through the Citizenship Information Line, 131 880, from 0830 to 1630 (Mon-Fri).

Recommendation 13

The Committee recommends that the Commonwealth Electoral Act 1918 should be amended as follows to assist expatriate Australians to maintain their electoral enrolment:

- Australian citizens moving or living overseas should be entitled to register as an ‘Eligible Overseas Elector’ if they left Australia in the previous three years, or have returned to Australia (for any length of time) in the past three years; and they intend to resume residence in Australia within six years of their departure; and

- Australian citizens who have been living overseas for over six years should be entitled to renew their enrolment as an Eligible Overseas Elector if they have returned to Australia (for any length of time) within the last three years.

Responsible agency: AEC

Response: Not supported

The Commonwealth Electoral Act 1918 was amended in July 2004 to extend the period of time in which an elector may apply to become an eligible overseas elector after leaving Australia from two years to three years. This followed consideration of overseas voting issues by the Joint Standing Committee on Electoral Matters in its report on the 2001 federal election. The Government considers that the provisions for enrolment and voting by Australians living overseas are appropriate and does not see the need to relax the requirements for these electors.

The Government also considers that Australians living overseas need to demonstrate a continued interest in returning to live in Australia to retain the entitlement to participate in its political affairs.

Recommendation 14

The Committee recommends that voting for overseas Australians should continue to be non-compulsory.

Responsible agency: AEC

Response: Accepted

The Government sees no need to change its current policy of exempting eligible overseas electors from the compulsory voting requirements of the Commonwealth Electoral Act 1918.

Recommendation 15

The Committee recommends that the web portal devoted to the provision of information and services for expatriate Australians (proposed at Recommendation 1) should include a page of links to expatriate network websites, to facilitate engagement and information exchange in the expatriate community. The web portal should include a page where expatriate networks can apply to have their websites linked.

Responsible agency: DFAT

Response: Not supported

See response to Recommendation 1.

Recommendation 16

The Committee recommends that Australian non-profit organisations such as universities and arts organisations should pursue philanthropic contributions from expatriate Australians, and should combine their efforts to achieve benefits of scale.

Responsible agencies: DCITA and DEST

Response: Accepted

The Australian Government supports the encouragement of non-profit organisations such as universities and arts organisations pursuing philanthropic contributions from expatriate Australians.

For arts organisations, philanthropic income is an important supplement to government funding and other income and they are under increasing pressure to build and maintain relationships with their supporters to encourage greater giving. A number of arts organisations receive significant support...
from expatriate Australians with whom they have a strong association.

The Register of Cultural Organisations administered by the Department of Communications, Information Technology and the Arts assists arts organisations to attract support by granting them Deductible Gift Recipient (DGR) status so that they can secure tax deductible donations in their own right in pursuit of their own cultural objectives. Similar arrangements apply to Australia’s public art galleries, museums and libraries. For many arts organisations, there would be limited scope for combining efforts across the not-for-profit sector to achieve benefits of scale, since success in securing philanthropic contributions is dependent on the individual organisation actively engaging supporters in its programs and activities.

The Australia Business Arts Foundation (AbaF), established by the Australian Government to promote private sector support for the arts, could play a role in helping the arts sector maximise opportunities for obtaining support from expatriate Australians. AbaF connects business, the arts, donors and foundations through three programs – Partnering, Volunteering and Giving. Through the Giving Program, AbaF works with donors and grantmakers, artists and cultural organisations to increase donations to Australia’s cultural life.

The Government agrees that the Lowy report presents a compelling case for pursuing philanthropic support from expatriates, and that nonprofit organisations such as universities and arts organisations should be encouraged to do so.

The Australian Government is supportive of Australian university philanthropy. Most universities have offices which seek to attract philanthropic income which may include approaches to expatriates. Universities also actively engage expatriates through the development of strong communication strategies and alumni networks, for example some universities run events for expatriate alumni around the world, advertising widely through a variety of media and interested alumni are able to register online.

In support of these activities the Australian Vice- Chancellors’ Committee has developed a ‘Code of Practice for Australian University Philanthropy’.

Philanthropy to Australian higher education institutions is an area of ongoing interest to the Business Industry Higher Education Collaboration Council. In 2005, the Council examined philanthropy in the Australian higher education sector including tax system incentives and disincentives to investment in higher education by the private sector; and issues that present barriers or disincentives to donations and endowments to higher education, particularly from private sector individuals and companies. Although the work to date has not focused specifically on expatriate alumni, one of the findings was that the sector should look at improving communication with possible benefactors including alumni.

**Reports: Government Responses**

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural Affairs) (3.51 pm)—I present the government’s response to the President’s report of 22 June 2006 on government responses outstanding to parliamentary committee reports, and seek leave to incorporate the document in *Hansard*.

Leave granted.

*The document read as follows—*

**GOVERNMENT RESPONSES TO PARLIAMENTARY COMMITTEE REPORTS**

A CERTAIN MARITIME INCIDENT (Select)

A Certain Maritime Incident

The government response will be tabled in due course.

ADMINISTRATION OF INDIGENOUS AFFAIRS (Select)

After ATSIC – Life in the mainstream?

The government response is being considered and will be tabled in due course.

ASIO, ASIS AND DSD (Joint, Statutory)

Private review of agency security arrangements

The response was tabled in both the Senate and the House of Representatives on 7 September 2006.
Review of the listing of six terrorist organisations
The government response is being considered and will be tabled in due course.

Review of the listing of four terrorist organisations
The government response is being considered and will be tabled in due course.

AUSTRALIAN CRIME COMMISSION (Joint, Statutory)
Inquiry into the trafficking of women for sexual servitude
The government response was tabled in the Senate on 9 November 2006 and the House of Representatives on 30 November 2006.

Examination of the annual report for 2003-2004 of the Australian Crime Commission
The response was tabled in both the Senate and the House of Representatives on 17 August 2006.

Supplementary report to the inquiry into the trafficking of women for sexual servitude
The government response is being considered and will be tabled in due course.

Review of the Australian Crime Commission Act 2002
The government response is being considered and will be tabled in due course.

COMMUNITY AFFAIRS LEGISLATION
Tobacco advertising prohibition
The government response is being considered and will be tabled in due course.

and the Family and Community Services Legislation Amendment (Welfare to Work) Bill 2005
The report was responded to during the debate of the bill. No further response is required.

The report was responded to during the debate of the bill. No further response is required.

COMMUNITY AFFAIRS REFERENCES
Quality and equity in aged care
The government response is being considered and will be tabled in due course.

Workplace exposure to toxic dust
The government response is being considered and will be tabled in due course.

Beyond petrol sniffing: renewing hope for Indigenous communities
The government response is being considered and will be tabled in due course.

CORPORATIONS AND SECURITIES (Joint Statutory)
Report on aspects of the regulation of proprietary companies
The government is currently consulting on a substantial number of initiatives to simplify corporate regulation. It is expected that some of these initiatives will impact on the regulation of proprietary companies. A response to the report will therefore be provided in due course.

CORPORATIONS AND FINANCIAL SERVICES (Joint Statutory)
Report on the regulations and ASIC policy statements made under the Financial Services Reform Act 2001
The government is currently reviewing and consulting on a substantial number of initiatives to refine the regulation of financial services which take into account the recommendations made in this report. A response which takes into account the refinements will therefore be provided in due course.

Review of the Managed Investments Act 1998
The government is currently reviewing and consulting on a substantial number of initiatives to refine the regulation of financial services. It is expected that certain of these initiatives will have some bearing on the regulation of managed in-
vestments. A response to the report will therefore be provided in due course.

Inquiry into Regulation 7.1.29 in Corporations Amendment Regulations 2003 (No. 3), Statutory Rules 2003 No. 85
The government is currently reviewing and consulting on a substantial number of initiatives to refine the regulation of financial services which take into account the recommendations made in this report. A response which takes into account the refinements will therefore be provided in due course.

Money matters in the bush: Inquiry into the level of banking and financial services in rural, regional and remote areas of Australia
The government response is being considered and will be tabled in due course.

Report on the ATM fee structure
The response is being considered in conjunction with that for ‘Money Matters in the Bush’ (see above).

Corporations Amendment Regulations 2003 (Batch 6); Draft Regulations: Corporations Amendment Regulations 2003/04 (Batch 7); and Draft Regulations: Corporations amendment Regulations 2004 (Batch 8)
The government is currently reviewing and consulting on a substantial number of initiatives to refine the regulation of financial services which take into account the recommendations made in this report. A response which takes into account the refinements will therefore be provided in due course.

Corporations Amendment Regulations 7.1.29A, 7.1.35A and 7.1.40(h)
The government continues to respond to this report through changes to the Corporations Regulations and ongoing proposals to make further refinements to the regulation of financial services based on public comment. A final response to this report will be tabled following implementation of these changes.

Property investment – Safe as houses?
The government response is being considered and will be tabled in due course.

Timeshare: The price of leisure
The government response is being considered and will be tabled in due course.

Statutory oversight of the Australian Securities and Investments Commission
The government response is being considered and will be tabled in due course.

Corporate responsibility: Managing risk and creating value
A response is expected following the report of the Corporations and Markets Advisory Committee (CAMAC) on Corporate Social Responsibility.

ECONOMICS LEGISLATION
Report on annual reports (No. 1 of 2006)
The government response is being considered and will be tabled in due course.

Provisions of the Customs Amendment (Fuel Tax Reform and Other Measures) Bill 2006 and three related bills
The recommendations were addressed during the debate of the bill. No further response is required.

The recommendations were addressed during the debate of the bill. No further response is required.

ECONOMICS REFERENCES
Report on the operation of the Australian Taxation Office
The Australian Taxation Office has carefully considered the recommendations that relate to it, but several of the recommendations were overtaken by legislative and other developments. A report showing the current status of the recommendations is currently being prepared.

Inquiry into mass marketed tax effective schemes and investor protection – Interim report; Second report: A recommended resolution and settlement; and Final report
As previously noted, after the Committee’s final report, the then Commissioner of Taxation responded by announcing a settlement offer for participants in mass marketed investment schemes which was accepted by the vast majority of participants. The Parliament has also recently
passed laws giving the Commissioner of Taxation greater powers to act against promoters of these schemes. No further response is proposed to these reports.

Consenting adults deficits and household debt – Link between Australia’s current account deficit, the demand for imported goods and household debt
The government response is being considered and will be tabled in due course.

ELECTORAL MATTERS (Joint Standing)
The 2004 federal election – Report of the inquiry into the conduct of the 2004 federal election and matters related thereto
The government response was presented out of sitting in the Senate on 31 August 2006. It was subsequently tabled in the Senate on 4 September 2006 and in the House of Representatives on 7 September 2006.

Funding and disclosure: Inquiry into disclosure of donations to political parties and candidates
The government response is being considered and will be tabled in due course.

EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION REFERENCES
Bridging the skills divide
The government response is being revised to reflect ongoing vocational and technical education reforms and is expected to be tabled shortly.

Indigenous education funding – Interim report and Final report
The response is awaiting inclusion of the outcomes of the second 2006 round for the Whole of School Intervention programme, which should be known shortly.

Student income support
The government response is being considered and will be tabled in due course.

Workplace agreements
The Workplace Relations Amendment (Work Choices) Act 2005 and the Workplace Relations Regulations 2006 came into effect on 27 March 2006. The amendments to the Workplace Relations Regulations took effect from 21 September 2006. These legislative changes supersede the legislation that applied when this report was tabled on 21 October 2005. A response reflecting these legislative changes will be tabled.

ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS REFERENCES
The value of water: Inquiry into Australia’s urban water management
The government response is being considered and will be tabled in due course.

Regulating the Range, Jabiluka, Beverley and Honeymoon uranium mines
Awaiting completion of relevant overlapping inquiries. A response will be prepared shortly.

Turning back the tide – the invasive species challenge: Report on the regulation, control and management of invasive species and the Environment Protection and Biodiversity Conservation Amendment (Invasive Species) Bill 2002
The government response is being considered and will be tabled in due course.

Lurching forward, looking back: Budgetary and environmental implications of the Government’s Energy White Paper
The government response is being considered and will be tabled in due course.

The performance of the Australian telecommunications regulatory regime
The government response is being considered and will be tabled in due course.

Living with a salinity – a report on progress: The extent and economic impact of salinity in Australia
The government response is being considered and will be tabled in due course.

FINANCE AND PUBLIC ADMINISTRATION REFERENCES
Staff employed under the Members of Parliament (Staff) Act 1984
The government response is being considered and will be tabled in due course.
Regional partnerships and sustainable regions programs
The government response was tabled in the Senate on 5 December 2006.

Matter relating to the Gallipoli Peninsula
The government response is being considered and will be tabled in due course.

Government advertising and accountability
The government response is being considered and will be tabled in due course.

FOREIGN AFFAIRS, DEFENCE AND TRADE (Joint, Standing)
Australia’s free trade agreements with Singapore, Thailand and the United States: progress to date and lessons for the future
The government response is being considered and will be tabled in due course.

Australia’s defence relations with the United States
The government response is being considered and will be tabled in due course.

Expanding Australia’s trade and investment relations with North Africa
The government response is being considered and will be tabled in due course.

Australia’s relationship with the Republic of Korea; and developments on the Korean peninsula
The government response is being considered and will be tabled in due course.

Australia’s response to the Indian Ocean tsunami
The government response is being considered and will be tabled in due course.

FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES
Mr Chen Yonglin’s request for political asylum
The government response is being considered and will be tabled in due course.

Opportunities and challenges: Australia’s relationship with China
The government response was presented out of sitting on 2 November 2006, and tabled in the Senate on 6 November 2006.

The removal, search for and discovery of Ms Vivian Solon – Final report
The government response is being considered and will be tabled in due course.

China’s emergence: implications for Australia
The government response was presented out of sitting on 2 November 2006, and tabled in the Senate on 6 November 2006.

INFORMATION TECHNOLOGIES (Select)
In the public interest: Monitoring Australia’s media
The government response is being considered and will be tabled in due course.

LEGAL AND CONSTITUTIONAL LEGISLATION
Review of the Defence Legislation Amendment (Aid to Civil Authorities) Bill 2005
The government response was tabled in the Senate on 30 November 2006.

Provisions of the Australian Citizenship Bill 2005 and the Australian Citizenship (Transitional and Consequentials) Bill 2005
The government will respond to the report by way of moving amendments to the bills.

Provisions of the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006
The government response to the Senate Legal and Constitutional Legislation Committee’s report is encapsulated in the Prime Minister’s media release from 21 June 2006. No further response is proposed as the bill was withdrawn by the Prime Minister on 14 August 2006.

LEGAL AND CONSTITUTIONAL REFERENCES
Reconciliation: Off track
The government response is being considered and will be tabled in due course.

The road to a republic
The government response is being considered and will be tabled in due course.

They still call Australia home: Inquiry into Australian expatriates
The government response was tabled in the Senate on 7 December 2006.
The real Big Brother – Inquiry into the Privacy Act 1988
The government response was tabled in the Senate on 30 November 2006.

Administration and operation of the Migration Act 1958
The government response is being considered and will be tabled in due course.

MEDICARE (Senate Select)
Medicare – healthcare or welfare? and
Second report: Medicare Plus: the future for Medicare?
A combined response to both of these reports is currently being finalised.

MENTAL HEALTH (Select)
A national approach to mental health - from crisis to community – First report and Second reports
To contribute to Council of Australian Governments (COAG) discussion and policy development on mental health, the Senate Select Committee on Mental Health divided its report into two. The first report, a national approach to mental health - from crisis to community – First Report, was tabled on 30 March 2006. The second report, a national approach to mental health - from crisis to community – Final Report, was tabled on 9 May 2006. The Final Report included the recommendations contained in the First Report together with a number of additional conclusions and recommendations. Accordingly a government response is being prepared to the Final report rather than the First report.

A response to a national approach to mental health - from crisis to community – Final Report was delayed in order to take account of the COAG’s consideration and endorsement of the National Action Plan on Mental Health 2006-2011 on 14 July 2006. A government response is currently being prepared and will be tabled in due course.

MIGRATION (Joint, Standing)
Detention centre contracts: Review of Audit report No. 1 2005-06 – Management of the detention centre contracts – Part B
The government response is being considered and will be tabled in due course.

MINISTERIAL DISCRETION IN MIGRATION MATTERS (Senate Select)
Report
The government response is being considered and will be tabled in due course.

NATIONAL CAPITAL AND EXTERNAL TERRITORIES (Joint, Standing)
Norfolk Island electoral matters
The government response is being considered and will be tabled in due course.

Antarctica: Australia’s pristine frontier – Report on the adequacy of funding for Australia’s Antarctic Program
The government response is being considered and will be tabled in due course.

Norfolk Island financial sustainability: The challenge – sink or swim?
The government response is being considered and will be tabled in due course.

Current and future governance arrangements for the Indian Ocean territories
The government response is being considered and will be tabled in due course.

NATIVE TITLE AND THE ABORIGINAL AND TORRES STRAIT ISLANDER LAND FUND (Joint Statutory)
Report on the operation of Native Title Representatives Bodies
The government response is being considered and will be tabled in due course.

PUBLIC ACCOUNTS AND AUDIT (Joint Statutory)
Government business enterprises, December 1999 (Report No. 372)
The government response is being considered and will be tabled in due course.

Review of Auditor-General’s reports 2003-04 third and fourth quarters; and first and second quarters of 2004-05 (Report No. 404)
The government response was given by way of an Executive Minute tabled in the House of Repre-
sceptatives on 30 October 2006 and in the Senate on 6 November 2006.


The Department of Transport and Regional Services provided a letter dated 16 February 2006, acknowledging the interim report. A full response will be provided when a final report is tabled.

**PUBLICATIONS (Joint)**

**Distribution of the Parliamentary Papers Series**

Responses to recommendations 7, 10, 13, 14 & 19 by the Department of Finance and Administration and responses to recommendations 8 & 16 by the Department of the Prime Minister and Cabinet was tabled in the House of Representatives on 2 November 2006 and tabled in the Senate on 9 November 2006. Recommendation 18 will be responded to in due course.

**RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION**

An appropriate level of protection? The importation of salmon products: A case study of the administration of Australian quarantine and the impact of international trade arrangements

The government response is being considered and will be tabled in due course.

Biosecurity Australia’s import risk analysis for pig meat

The government response is being considered and will be tabled in due course.

Administration of Biosecurity Australia – Revised draft import risk analysis for bananas from the Philippines

The government response is being considered and will be tabled in due course.

Administration of Biosecurity Australia – Revised draft import risk analysis for apples from New Zealand

The government response is being considered and will be tabled in due course.

**Regulatory framework under the Maritime Transport Security Amendment Act 2005**

The Government does not propose to respond to the report. The recommendations of the Committee were taken into account when finalising the Maritime Transport and Offshore Security Amendment Regulations 2005 (1) and (3), which were tabled in the Senate on 6 September 2005 and 11 October 2005 respectively.

The privacy concerns have been addressed and guidelines are in place to assist assessments of security checks.

**The administration by the Department of the Agriculture, Fisheries and Forestry of the citrus canker outbreak**

The government response is being considered and will be tabled in due course.

**RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES**

**Rural water use**

The government response is being considered and will be tabled in due course.

**Australian forest plantations: A review of Plantations for Australia: The 2020 vision**

The government response is being considered and will be tabled in due course.

**Iraqi wheat debt – repayments for wheat growers**

The government response is being considered and will be tabled in due course.

**SCRUTINY OF BILLS (Senate Standing)**

**Third report of 2004: The quality of explanatory memoranda accompanying bills**

The government response is being considered and will be tabled in due course.

**TREATIES (Joint, Standing)**

**Treaties tabled on 7 December 2004 (3) and 8 February 2005 (65th Report)**

The government response was tabled in both the Senate and the House of Representatives on 10 August 2006.

**Treaties tabled on 7 December 2004 (4), 15 March and 11 May 2005 (66th report)**

The government response is being considered and will be tabled in due course.
Reports: Government Responses

The DEPUTY PRESIDENT—In accordance with the usual practice, I table a report of parliamentary committee reports to which the government has not responded within the prescribed period. The report has been circulated to honourable senators. With the concurrence of the Senate, the report will be incorporated in Hansard.

Leave granted.

The document read as follows—

PRESIDENT'S REPORT TO THE SENATE ON GOVERNMENT RESPONSES OUTSTANDING TO PARLIAMENTARY COMMITTEE REPORTS AS AT 7 DECEMBER 2006

PREFACE

This document continues the practice of presenting to the Senate twice each year a list of government responses to Senate and joint committee reports as well as responses which remain outstanding.

The practice of presenting this list to the Senate is in accordance with the resolution of the Senate of 14 March 1973 and the undertaking by successive governments to respond to parliamentary committee reports in timely fashion. On 26 May 1978 the then Minister for Administrative Services (Senator Withers) informed the Senate that within six months of the tabling of a committee report, the responsible minister would make a statement in the Parliament outlining the action the government proposed to take in relation to the report. The period for responses was reduced from six months to three months in 1983 by the then incoming government. The then Leader of the Government in the Senate announced this change on 24 August 1983. The method of response continued to be by way of statement. Subsequently, on 16 October 1991 the then government advised that responses to committee reports would be made by letter to a committee chair, with the letter being tabled in the Senate at the earliest opportunity. The current government in June 1996 affirmed its commitment to respond to relevant parliamentary committee reports within three months of their presentation.

This list does not usually include reports of the Parliamentary Standing Committee on Public Works or the following Senate Standing Committees: Appropriations and Staffing, Selection of Bills, Privileges, Procedure, Publications, Regulations and Ordinances, Senators’ Interests and Scrutiny of Bills. However, such reports will be included if they require a response. Government responses to reports of the Public Works Committee are normally reflected in motions in the House of Representatives for the approval of works after the relevant report has been presented and considered.

Reports of the Joint Committee of Public Accounts and Audit (JCPAA) primarily make administrative recommendations but may make policy recommendations. A government response is required in respect of such policy recommendations made by the committee. However, responses to administrative recommendations are made in the form of an executive minute provided to, and subsequently tabled by, the committee. Agencies responding to administrative recommendations are required to provide an executive minute within 6 months of the tabling of a report. The committee monitors the provision of such responses.

An entry on this list for a report of the JCPAA containing only administrative recommendations is annotated to indicate that the response is to be provided in the form of an executive minute. Consequently, any other government response is not required. However, any reports containing policy recommendations are included in this report as requiring a government response.

Committees report on bills and the provisions of bills. Only those reports in this category that make recommendations which cannot readily be addressed during the consideration of the bill, and therefore require a response, are listed. The list also does not include reports by committees on estimates or scrutiny of annual reports, unless recommendations are made that require a response.

A guide to the legend used in the ‘Date response presented/made to the Senate’ column

* See document tabled in the Senate on 7 December 2006, entitled Government Responses to Parliamentary Committee Reports—Response to the schedule tabled by the President of the Senate on 22 June 2006, for Government interim/final response.
** Report contains administrative recommendations – any response to those recommendations is to be provided direct to the JCPAA committee in the form of an executive minute.

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AUDITOR-GENERAL’S REPORTS
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DOCUMENTS
Table

Senator VANSTONE (South Australia—Minister for Immigration and Multicultural Affairs) (3.51 pm)—I table five government documents, as follows:
Parliamentarians’ travel paid by the Department of Finance and Administration for the period January to June 2006
Former parliamentarians’ travel paid by the Department of Finance and Administration for the period January to June 2006
Parliamentarians’ overseas study travel reports for the period January to June 2006
Expenditure on travel by former Governors-General paid by the Department of the Prime Minister and Cabinet for the period January to June 2006
Department of Defence—Special purpose flights—Schedule for the period January to June 2006

COMMITTEES
Rural and Regional Affairs and Transport Committee

Extension of Time

Senator FERRIS (South Australia) (3.52 pm)—by leave—At the request of the Chair of the Rural and Regional Affairs and Transport Committee, Senator Heffernan, I move:

That the time for the presentation of the report of the Rural and Regional Affairs and Transport Committee on Australia’s future oil supply be extended to 6 February 2007.

Question agreed to.

Economics Committee
Report

Senator BRANDIS (Queensland) (3.53 pm)—I present the Economics Committee report Petrol prices in Australia, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator BRANDIS—by leave—I move:

That the Senate take note of the report.

I seek leave to continue my remarks later.

Leave granted.

Senator FIELDING (Victoria—Leader of the Family First Party) (3.53 pm)—Family First appreciates the work that has gone into the report Petrol prices in Australia, but it will make no difference to the lives of ordinary Australian families. As Family First said when the inquiry was announced, it is just a stunt to take attention away from the lack of government action on petrol prices. The inquiry was proposed by the opposition in an attempt to also take attention away from its lack of action. This is the 45th petrol inquiry since 1983. What Australians want is not more talk but action.

Family First is the only party with a plan to give relief to families and small businesses. Family First has repeatedly called on the federal government to give families and small businesses relief at the bowser by cutting petrol excise tax by 10c a litre. That would cost $3.8 billion. If that had been part of the budget, it would have helped protect families, now and in the future, from an interest rate hike.

A cut in petrol tax is the only way the government can have an immediate and real impact on petrol prices. We do not need an inquiry to tell us that we are taking too much tax on petrol. Every time families fill up their tank, nearly 50c a litre in taxes goes to gov-
ernments. Excise tax accounts for 38c a litre and the rest is made up of GST. Unfortunately, the government seems to be too attached to the tax revenue to let go of it. The Labor Party is no better, as it will not commit to a tax cut either. Both the major parties clearly are not serious about putting families first.

Sitting here in Parliament House, where we do not pay for petrol ourselves, we do not feel the same pain. Family First says it is time to cut petrol tax. Some families will have had to revise their Christmas travel plans because petrol prices are still quite high for families. Earlier this year a survey published in the *Age* asked people to rank their priorities for reducing tax. Almost half the respondents—45 per cent—said they wanted a cut in petrol tax. Yes, petrol prices are down from the highs of $1.40 or $1.50 that we saw earlier this year, but they are still a lot higher than a few years ago and people are feeling the squeeze.

The impact that petrol prices have on the family budget is demonstrated by the fact that people will go to the extent of using supermarket shopper dockets to get a 4c-a-litre discount. Family First is proposing a 10c cut in petrol tax. Yes, petrol prices are down from the highs of $1.40 or $1.50 that we saw earlier this year, but they are still a lot higher than a few years ago and people are feeling the squeeze.

Let us think about the economics of this situation. We had a budget surplus of about $14 billion last year. Yes, you could say that is good management and give it a big tick, but you could also say we are taking a heck of a lot more than we need. So, quite rightly, the government thought, ‘We’ll give it back to people.’ Around $9 billion was given back to people in tax cuts. But why should that automatically mean income tax cuts? Why not do both—income tax cuts and petrol tax cuts? That would take pressure off inflation and that would take pressure off interest rates. It would have been more than affordable to do it in the last budget. We could have made sure that we handed money back to people in the outer suburbs and regional areas, where they do not have public transport alternatives. Families are struggling with high petrol prices and they will continue to struggle until the government and the opposition get serious about cutting the obscene level of petrol tax.

*Senator Joyce* (Queensland) (3.59 pm)—Yes, there are issues that can be addressed in the short term, but there are issues for the long term as well. The government has looked at the freezing of excise in the past, and what I would like to bring attention to briefly is that this nation must look at alternative biorenewable fuels; it must look at ethanol. In my dissenting report I stated that we must start to look over the horizon. We must not just start to believe the major oil companies are going to progress with us in trying to develop a biorenewable alternative but also start to actively campaign in such a way as to deliver a mandate. We have tried to herd this elephant with a feather for too long. What is happening right now is that a lot of people who are trying to get into the ethanol industry are being compromised. Their product is just not being purchased. People are actually handing back their grants.

An inherent weakness in the committee’s report was its failure to consider the impacts of biofuels such as ethanol and biodiesel on fuel prices, climate change and liquids transport. Oil will become unaffordable long before it becomes unavailable. Because our economy, in the mining, agriculture and tourism sectors, is so vulnerable to any shift in
supply and because oil can become an unaffordable major overhead, it is imperative on an economic base for this nation that we start to manage and work towards getting a biorenewable alternative.

My National Party colleagues and I put forward a number of recommendations which I hope go some way to actually delivering a solution to what will be an ongoing oil crisis. It is not going to get better; it is going to get worse. You may have a calm in the storm, but it is going to get worse. The only way we are going to manage it in the long term is by putting forward a program that starts delivering biorenewables as the majority of available fuel.

I leave the house with this: I think it was on 28 September 2005 that the Prime Minister, the Deputy Prime Minister and the major oil companies all stood up and said they would reach a 350 million litre target by 2010. It was supposed to be about 89 million litres this year. It just has not happened. The major oil companies have no interest in promoting a competing product. They have no interest in a process where they have excess refining capacity and so they have to discount their product. This is a way that we can deliver an affordable alternative. Sure, I take on board what Senator Fielding has said, but that is a very short-term issue that does not deal with the real problem. Our nation must move towards a biorenewable alternative and this government must be proactive in developing it.

Senator CHAPMAN (South Australia) (4.04 pm)—The issue of petrol prices is not one issue but many. Australia now has almost 15 million vehicles. To the Australian motorist, prices go up and down like a rollercoaster. The parameters of supply and demand have changed profoundly. Instability and violence in producer countries together with natural occurrences such as cyclones render crude oil prices unstable, and Australia’s high fuel-quality standards add to the range of complex factors behind petrol prices. That is why the economics committee inquiry on petrol prices in Australia was timely and useful. The committee received 75 submissions to this inquiry and held public hearings in diverse locations, including the Matilda roadhouse at Kybong near Gympie in south-east Queensland and national metropolitan centres.

Petroleum is an internationally traded commodity and hence it is factors outside the direct control of domestic oil companies that influence the price of petroleum products in Australia. These factors include the international price of crude oil, the changing balance between supply and demand in the Asia-Pacific region, fluctuations in the United States and Australian dollar exchange rate and increased Australian fuel standards. Australian oil companies exercise some control over some margins contained in the price of petrol, although not the refiner margin freight costs. Petrol price cycles affect the community in different ways. Many Australians are acutely aware of prices and will take action to benefit, such as driving across town to purchase petrol from a lower cost supplier or buying petrol only on certain days of the week.

Regulating petrol prices would cause fewer fluctuations in the price at the pump and at the same time address consumer concern about price cycles; however, it would interfere with competition in the market and reduce the extent of market fluctuations both at the higher and lower ends of the market. The benefit currently gained by customers who purchase petrol at the lowest points in the price cycle would be lost.

Capping the price of petrol is not a suitable option. The ACCC has reported that 60 per cent of petrol is purchased at the lower
price points in the cycle, so it stands to rea-
son that petroleum retailers and oil compa-
nies compensate for losses sustained by sell-
ing the remaining 40 per cent of petrol dur-
ing higher price points in the cycle. Capping
the price of petrol would potentially inhibit
the lower range of the cycle because of the
diminished capacity to recoup losses through
higher prices at other points in the cycle.

Regulating the price of petrol would cer-
tainly lead to a flattening of the band in
which petrol prices fluctuate. It would also
likely result in an overall increase in the
price that consumers pay for petrol. Petrol
price cycles, as with other market force in-
fluenced commodities, are not fundamentally
undesirable, and, as argued by the ACCC at
our hearings, attempts to remove the price
cycles would be to the detriment of consum-
ers.

This is reflected in Western Australia’s
Fuel Watch regulatory system, which comp-
pels retailers to notify their next day’s retail
price for each fuel type by 2 pm. Price
boards and bowser prices are changed by the
retailer at 6 am and must remain unchanged
for 24 hours. The ACCC cautioned that,
while Fuel Watch provides transparency in
petrol pricing, the 24-hour notification rule
may have a negative impact on competition
in the market because it limits the price re-
duction available immediately to customers
in other states and that occurs in other states
to a next-day basis where the Fuel Watch
system applies, as it does in Western Austra-
ia. This point was reinforced to the com-
mittee by Mr Gerald Hueston, the President of
BP Australia, who commented that Fuel
Watch slows the speed with which the cycle
moves, both up and down, and effectively
masks whether it is competition or regulation
which is driving price change. When that
competition is masked or diminished by
regulation, such as with Fuel Watch, then
consumers are the losers, since it is competi-
tion which has been shown to lead to con-
sumers getting a better deal.

The ACCC, which brought an independent
and expert view to the consideration of the
issue, is sceptical about the claimed benefits
of the Western Australian system. In the end
no clear, substantive evidence was presented
to the committee that the Fuel Watch system
in WA, other than being an informative
source in relation to daily fuel prices, has any
bearing on lowering prices in the market.

The dynamics of the Australian petrol in-
dustry have changed over the past decade or
so. The market has moved from highly regu-
lated to deregulated with few competitors at
wholesale level, as well as a smaller number
of retail outlets, while retaining sufficient
competitive forces to place downward pres-
sure on retail prices for consumers. The
committee found no persuasive evidence that
the industry currently reflects anticompeti-
tive conduct. Parallel pricing in the industry
is not indicative of collusion and is in fact
indicative of vigorous competition. The
committee found no persuasive evidence of
misuse of market power and concluded that,
taking into account the international actors,
retail prices for fuel are not unnecessarily
high.

The matter of taxes and excise on petrol
attracted a significant amount of interest dur-
ing our inquiry. While taxes comprise a third
of the total cost of petrol at the pump, Aus-
tralia has the fourth lowest level of taxation
in the OECD—and hence the fourth lowest
petrol prices in the OECD, a fact not widely
understood by Australian consumers. Evi-
dence to the committee reflected a double-
edged sword debate as to whether taxes
should be reduced to combat the rising price
of petrol or, alternatively, if petrol taxes
should be restructured to encourage less reli-
ance on petrol. Removing GST from petrol
or reducing excise is at best a short-term
measure. Alternatively, increasing excise will hurt consumers even more. Effort would be better directed to promoting public understanding and awareness of how petrol consumption can be reduced.

Calling for an increase in the level of petrol taxation on environmental grounds is an isolationist view. Appropriate and balanced environmental policy making demands a holistic approach, and the committee has not been persuaded that increasing taxation on petrol, thereby hurting consumers, will be significant in improving environmental outcomes sought by those who advocate that cause. Other inquiries have consistently found that consumers living outside of metropolitan areas pay more for petrol and that the differentials can be especially higher during a time of rising prices.

I spoke earlier of the roller-coaster of petrol prices and the many factors contributing to this. The higher freight costs associated with longer transportation distances do contribute in part to the differential, but this is not the sole cause. Lower sales and the relative absence of competitive pressures in local markets, both on retail and wholesale prices—as well as the reality, for people who live in many rural, regional and remote communities of Australia, that fuel is simply a nondiscretionary commodity—also have an impact. It is the sum of these influences that lead to country consumers paying more for petrol, and the committee acknowledges that these are only someway offset by lower rent and property prices and that, in the end, sustained high petrol prices are particularly painful to those in country areas. Rising petrol prices hurt consumers and certain industries, more so when significant and rapid spike increases occur. The widespread lack of understanding about the factors behind steep rises leads to suspicion that oil companies, together with petrol retailers, use events such as conflict in the Middle East as an opportunity to significantly and collusively raise prices and, consequently, profit margins.

In view of the fact that I understand Senator Brandis is now able to speak, I seek leave to incorporate the balance of my remarks in Hansard subject to showing them to the Opposition Whip.

Leave granted.

The rest of the speech read as follows—

There is also a lack of understanding of the overarching importance of international factors and how these influence the petrol price. Finally, there is a lack of understanding in the community that active monitoring of, and reporting on the petroleum industry at all levels: refining, wholesale and retail, is occurring currently and is effective.

None of these factors led us to conclude that increased government intervention in the market would provide gain to consumers. Indeed, evidence to the committee was that an unregulated petroleum market helps ensure the long-term viability of Australia's domestic refining industry.

The findings of the Committee were that there are clearly many benefits to be derived from a 'free market', that is one which is largely unregulated and where prices are set by market competitors according to the forces of supply and demand. This ultimately leads to Australians paying more competitive prices.

It does not however address the widespread lack of understanding to which I earlier referred, nor does it mean that we can step back from ongoing monitoring to recognise and remove anticompetitive and predatory behaviours in the market, if and when they arise. These are ongoing matters for government and regulatory agencies.

Capping petroleum wholesaler and retailer profit margins, implementing artificially controlled prices, or restructuring petrol taxes do nothing to address the factor which most influences petrol prices, that is the import parity price which is set on the international market and, consequently, is outside the sphere of control of Australia’s petroleum industry.
The conclusion, therefore, is that the action which must be taken by government is to ensure the presence of a market which is healthy, competitive and free from interference.

At the same time the Government should facilitate understanding of petrol prices in the community and offer specific advice and information to those who live outside of metropolitan areas and are unable to take advantage of the benefits of market fluctuations.

I commend the secretary of the committee, Peter Hallahan, and the staff of the secretariat on the work that they have undertaken in relation to this Report.

Senator O’BRIEN (Tasmania) (4.12 pm)—I was surprised that the debate on the committee report on petrol prices in Australia continued. When Senator Brandis sought leave to continue his remarks, I thought the debate would come on on another day at another time, perhaps on a Thursday evening as is normally the case. I thought that was the intention of the motion. We have since heard Senator Fielding and Senator Joyce on the report, and now we have heard Senator Chapman on it. I understand that at the end of my contribution Senator Brandis will seek leave to make a short statement in relation to the report. On the basis that it is a short statement we will grant it, but it is quite unusual for the mover of a motion to seek leave to continue his or her remarks to then seek to speak in the debate. It may be that Senator Brandis was not aware of the standing orders in that regard. It may be that he simply wanted—and thought it was available to him to do so—to speak later in the debate, to speak as a speaker in reply rather than as an initiator of the debate. Nevertheless, we will give him an opportunity to make a short statement.

The Senate should note that the opposition and Senator Murray of the Australian Democrats have no respect for this report. The Labor senators’ dissenting report says:

To the extent that we have been able to scrutinise this report, we feel that the report is shallow and self-serving and reflects only the view of the committee Chair and perhaps Liberal Party Senators on the Committee. This report is a report that Non-government Senators cannot endorse. Non-government Senators are appalled in the selective and misleading use of evidence particularly while other quite compelling evidence has been totally ignored. Of great concern to Non-government Senators is that because of the truncated timeframe available to Opposition Senators a full dissenting report cannot be prepared.

Despite the inquiry stretching over five months, the chair provided Non Government Senators with less than 24 hours to consider the contents of the Chair’s draft prior to its approval by the government-dominated committee.

We make further comments and highlight the fact that the chair himself was critical of witnesses providing evidence to the committee on the morning of the hearing just prior to their examination. We agree that it is inappropriate for committees to be confronted with a written presentation on the day that witnesses appear before a committee, but it is worse that the deliberative report of the committee found its way into the hands of the committee less than 24 hours before the meeting at which the final determination of the contents was to be made, particularly at the end of the year when senators have a variety of pressing matters to attend to.

I say that is the non-government senators’ position, because Senator Murray, as I understand it, has also presented some comments. I have not seen the official presented copy but, as I understand it, this is what he said:

As a member of the Committee, a copy of the Chair’s Draft was sent to my email address on Tuesday 5 December 2006 at 11h41. I had seen no earlier drafts. The Committee meeting to approve the Chair’s Report was held at 08h30 on Wednesday 6 December, 21 hours later.
As this report is a broad reference, and was not dictated by a legislative timetable, there is nothing to have prevented it being tabled later, out-of-session.

Later he said:
I have no opinion on the Chair’s Report because I have not had time to read it or reflect on it.

The contempt with which I and other members of the Committee have been treated reflects poorly on the Chair. It indicates an unhealthy and unwise attitude.

It is really concerning that Labor and Democrat senators have to deal with these matters in reports of the committee. As our dissenting report says, this inquiry had been running for five months. The arrival of the chair’s draft less than 24 hours before a deliberative meeting at which the final decision on the report was rammed through by a government majority tells you that there was no intention for there to be consultation about the contents of the draft, and indeed the draft was the final report to which no changes were considered by the committee.

In relation to certain aspects of the report, the opposition draws attention to the fact that on a matter which impacts on the pricing of petrol in Perth, Western Australia—it may indeed be an example to be considered elsewhere—critical evidence about the scheme was omitted from the chair’s draft and therefore the final report. We refer to this in our dissenting report. Evidence was given by impartial bodies, such as the Royal Automobile Club of Western Australia. They made what I would have considered to be impartial statements on the petrol price watch system in Western Australia and its impact on petrol pricing. But their statements could not find their way into the report because that would have been inconvenient to the chair’s view that the only thing that should be considered was the ACCC’s idea about that report, which they conceded was based only on comments made—evidence which was not based on particular facts but attributable to people’s views about the Western Australian scheme.

If reports of this committee are to be given credibility they have to be seen to have been properly considered. There has to be an opportunity for contemplation of the contents and debate. It may be that in the end a majority takes the view that the draft is right, and for good reason. It may be, for political reasons, that the draft does not express what others might put in it. Nevertheless, there would be opportunity for those who disagree to prepare a proper dissenting report. When you look at the timetable that Labor and Democrat senators were given to prepare a dissenting report on a matter which was not the subject of pressing legislation, you find that we had slightly more than 24 hours following that meeting, despite all that was going on with other reports to be considered and bills being brought through this chamber. We had slightly more than 24 hours to present a document to this chamber.

It is clear from Senator Murray’s comments that he is appalled by what has taken place. I understand that Senator Joyce did not endorse the report. I believe he has indicated that at the time of the convening of the meeting of the committee he had not had an opportunity to read the committee’s report. I understand from what he has said that he has tabled other comments. I have not had an opportunity to see them and do not know what they say. This is an entirely unsatisfactory situation for members of the committee to have to deal with. I really think that arising from this there ought to be contemplation about appropriate procedure and a timetable set up, or at least a guide for chairs of committees on how they handle these matters.

On occasions—for example, because of government insistence on dealing with legislation at a particular time—there will be
great pressure on committees in presenting reports, but this is not a case of legislation causing such pressure. No legislation arises from this report. All that arises from this report is a series of views being promulgated, purportedly by the committee but in fact by the chair and perhaps some of the members who, I understand, had not even read all of it—or at least some of them had not—but supported the view.

I have never had to sign a dissenting report like this in my time in the Senate. I hope I never have to do so again. I think that the chair of the committee needs to have a good, hard look at how the committee proceedings are handled. I am not normally a member of this committee; I was a member for this inquiry.

(Time expired)

Senator BRANDIS (Queensland) (4.22 pm)—by leave—The short statement I wish to make is in relation to the report, and I thank opposition senators for the indulgence. I had planned to follow Senator O’Brien in the debate because I had anticipated some of the things that might fall from his lips. Let me set the record straight on two matters: firstly, the matter of the process by which the consideration of this report was embarked on and, secondly, the allegation that the report of the committee does not represent a balanced view of the evidence. In relation to the first matter, what had been agreed among the committee informally was that a draft would be circulated by the close of business on the Monday and the report would be tabled on the Thursday of the same week. At the time those agreements were made informally with the non-government members of the committee, there was no controversy about them whatsoever. In fact, the chair’s draft was circulated not at the close of business on Monday but on Tuesday morning, about three hours after the commencement of business. But the tabling of the report, in view of that delay of some three hours, was delayed from the usual time after housekeeping matters this morning till after question time this afternoon. So in fact the period of time between the circulation of the chair’s draft and the debate on the report was longer, not briefer, than had been informally agreed among senators.

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—Senator Brandis, just before you continue, and I note you are making a short statement, I think I should remind you and senators that at 4.30 we are due to return to other business. I am not necessarily inviting you to use all of the time available, but I want to be sure that this is a short statement.

Senator BRANDIS—Thank you, Mr Acting Deputy President, for that guidance. I will not take until then to finish what I have to say. I conclude the first of the two matters. A longer period of time elapsed between the circulation of the draft and the consideration of the report by the Senate in the arrangements that were ultimately made than had been, uncontroversially, informally agreed to among senators in the first place. To suggest otherwise is quite misleading. I know the Australian Labor Party senators had other things on their minds on Monday and Tuesday—and I do not want to make any cheap political points about this matter—but I suspect one might look at the other things Australian Labor Party senators had on their minds on Monday and Tuesday rather than look at any default or defect in the process of the committee for the explanation as to why the opposition has not responded meaningfully to the report.

The second point, briefly, is this: I take umbrage on behalf of the secretariat at the attack that Senator O’Brien has just made on the balance of treatment of the evidence in the report. As is the custom with committee reports, as you know Mr Acting Deputy
President, the first draft is prepared by the secretariat in accordance with broad instructions from the chair. That was what occurred in this instance. In my view, the report of the committee, as drafted in the first instance by the secretariat, does reflect a balanced view of the evidence. That is not very surprising because the evidence was not very controversial.

The weight of the evidence was overwhelmingly to the effect, as Senator Chapman said in his contribution in the debate on the report, that the Australian petroleum industry, in the various market levels at which it operates, is a highly competitive industry. All of the credible evidence—not unanimous, but the overwhelming weight of the evidence—pointed to that conclusion. There was in fact only one particular issue on which there was a sharp controversy among witnesses and between senators, and that was the utility of the arrangements that are unique to Western Australia whereby, as a result of state legislation, movements in the retail price of petrol are pegged on a daily basis so that there is a prohibition on the alteration of the board price of petrol not more than once every 24 hours. A number of witnesses praised that scheme; a number criticised it. Their different views are reflected in a balanced and thorough way in the report. That is an issue which has divided government and non-government senators. With the exception of that discrete and relatively small issue, the weight of evidence before the committee was overwhelming, and the weight of the evidence is reflected in the balanced treatment of it given in the report of the committee. I thank the Senate for the indulgence.

Debate (on motion by Senator Parry) adjourned.

INDIGENOUS EDUCATION (TARGETED ASSISTANCE) AMENDMENT BILL 2006

EDUCATION SERVICES FOR OVERSEAS STUDENTS LEGISLATION AMENDMENT (2006 MEASURES No. 1) BILL 2006

EDUCATION SERVICES FOR OVERSEAS STUDENTS LEGISLATION AMENDMENT (2006 MEASURES No. 2) BILL 2006

AUSTRALIAN NUCLEAR SCIENCE AND TECHNOLOGY ORGANISATION AMENDMENT BILL 2006

CHILD SUPPORT LEGISLATION AMENDMENT (REFORM OF THE CHILD SUPPORT SCHEME—NEW FORMULA AND OTHER MEASURES) BILL 2006

FINANCIAL SECTOR LEGISLATION AMENDMENT (TRANS-TASMAN BANKING SUPERVISION) BILL 2006

PRIVACY LEGISLATION AMENDMENT (EMERGENCIES AND DISASTERS) BILL 2006

INSPECTOR OF TRANSPORT SECURITY BILL 2006

INSPECTOR OF TRANSPORT SECURITY (CONSEQUENTIAL PROVISIONS) BILL 2006

JUDICIARY LEGISLATION AMENDMENT BILL 2006

ABORIGINAL AND TORRES STRAIT ISLANDER HERITAGE PROTECTION AMENDMENT BILL 2006

Assent

Messages from His Excellency the Governor-General were reported informing the Senate that he had assented to the bills.
Before question time I was outlining the terrorism laws that have been put forward by this government, to which the Anti-Money Laundering and Counter-Terrorism Financing Bill 2006 and the Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Bill 2006 that we are debating are adding. I was speaking about the way in which the Attorney-General has banned the Kurdistan Workers Party on the advice of ASIO, using laws that would have allowed the present governments of South Africa and East Timor to also be banned.

What we have before us now are more laws giving enormous powers to another government agency—AUSTRAC—to require banks and other agencies to identify people they perceive to be a terrorism risk. Joo-Cheong Tham, from the University of Melbourne, said in the Age earlier this month:

Arguably, the most egregious feature of the bill is that it opens the way to increased racial and religious discrimination. Representatives of financial institutions have publicly contemplated breaching anti-discrimination statutes so they can comply with the provisions of the bill.

Joo-Cheong Tham gives the example of how the bill would affect Murali, a second-generation Sri Lankan Australian who regularly sends money to his relatives in Sri Lanka:

Many of Murali’s relatives—who live in areas controlled by the Tamil Tigers—were badly affected by the 2004 tsunami. To assist them in rebuilding their homes, Murali sends thousands of dollars to Sri Lanka. Alerted by Murali’s “ethnic” name and the transfer of funds, a bank employee reports him to AUSTRAC, Australia’s financial intelligence unit. Her report describes Murali as posing a “risk of financing terrorism” and is accompanied by a dossier detailing all his financial transactions. AUSTRAC communicates this to ASIO and the Australian Federal Police, who then raid Murali’s home and charge him under anti-terrorism laws for funding the Tamil Tigers. Such racial profiling would normally be against the law, but this legislation overrides antidiscrimination law. By doing so, such immunity will mean that racial and religious profiling of not just Tamils but also many other ethnic and religious communities will become the norm.

That is why the Greens will be moving an amendment in the committee stage of this bill to ensure that this bill and any associated guidelines which implement this bill comply with existing Commonwealth, state and territory antidiscrimination law. If we want to remove discrimination in this country, we need to ensure that it applies across the board. We should not remove these fundamental principles of our society and democracy when it comes to legislation dealing with terrorism.

This week the Parliamentary Joint Committee on Intelligence and Security tabled a report on Australia’s terrorism legislation. The committee highlighted the negative impact that Australia’s terror laws are currently having on the Arab and Muslim communities. That is something that has also been identified by the Human Rights and Equal Opportunity Commission and the government’s own Sheller review into their terrorism legislation. The Greens have consistently...
argued that Arab and Muslim communities will be particularly affected by all of our existing terrorism legislation and, indeed, also by this piece of legislation.

Perhaps the worst aspect of this bill is that it not only sanctions discrimination but also provides immunity from legal action in relation to anything done in good faith to comply with the bill. For example, banks can report on you and provide your financial details to government authorities on the basis that you fit a risk profile—in other words, that you look different, sound different or have an ethnic name. That can be perfectly legal under this piece of legislation that overrides our antidiscrimination laws. The risk management strategy of the bank can be used to provide financial details of all of its Arabic customers, if it chooses, to AUSTRAC and through them to the police. This is perfectly legal under this legislation.

The government is effectively outsourcing this profiling to the banking and financial industry and its workers. The industry is required to put in place risk management strategies to identify anybody who is a risk. The problem for the industry, according to Adam Courtenay, writing in the Australian Financial Review, is that this is not being set out in the legislation. The banks are required to put in place a risk management strategy. Some time later, down the track, after this legislation has been dealt with by the parliament, AUSTRAC will develop guidelines about this process. No wonder the banks are worried! AUSTRAC is not accountable to this parliament and its operations are unlikely to be transparent. In the Australian Financial Review Adam Courtenay said:

While individual financial institutions have been left to work out how they are potentially exposed to the threat of money laundering and terrorism financing, and allowed to work out ways to address these risks, they have no idea how the new regulator, Australian Transaction Reports and Analysis Centre (AUSTRAC), will treat them and rate their efforts.

In the same article, Chris Cass, a partner at Deloitte in Sydney, said that he was not sure that ‘Australia’s financial community is mature enough to deal with a risk based approach to anti-money-laundering compliance’. He said:

‘The industry has come out of 18 years of a prescriptive reporting system and now they’re being left do their own thing.’

“A risk-based approach has its advantages but I’m issuing a word of warning to industry—the execution of a risk-based approach is a lot harder than actually saying it.”

The industry does know, however, that it will face penalties of up to $11 million for failure to comply with the new regime. So we should not be surprised when companies zealously implement a risk management strategy, throwing the net wide open and snaring anybody who may fit a terrorism-supporting stereotype.

We have already seen this happening in Australia under existing legislation that relates to the financing of terrorism. The Senate inquiry examining the new terrorism laws of 2002 outlined how a Melbourne businessman had his assets frozen because his record store shared the same name as a relatively obscure Peruvian terrorist group, the Shining Path. As a result, his record store was in limbo, as his accounts were frozen by the Commonwealth Bank. He spent several months pleading for assistance from the bank, the Federal Police, the Attorney-General’s Department and ASIO to try to rectify the situation. But all he experienced was buck-passing. It was only when he went to the media and told his story that someone—I am not quite sure who—gave the order to unfreeze his accounts.

If this had happened now, there could have been far more serious consequences for
him. He could have been detained without trial, held for several weeks and prevented from telling his story because he posed a terrorism risk, and any court proceedings could have been held in secret. The government claimed that this was an isolated case. Guess what—it happened again. Just this week, there was a report on the *Daily Telegraph* entitled: ‘My bank thinks I’m a terrorist’. The report said:

IN the space of just one week—an Iranian woman—says she went from well-respected small business owner to terror suspect in the eyes of her bank.

The 32-year-old, who runs Sydney import company … is angry and bewildered at Westpac’s handling of what should have been two routine fund transfers last week, after she was told the bank had “reasonable grounds to believe” she was laundering money to Iran.

She is demanding a written apology from Westpac for the “offensive, explosive” language used by the senior manager who conveyed the decision to her.

Today … she is at a loss to explain why, after eight years of trading, the financial institution suddenly suspects her of being involved in terrorist activities.

“I have nothing against being asked about my business, I just want it to be done in a professional and respectful manner,” she said. “I’d really like to know what’s going on if they think I’m breaching Australian law. They need to give me some evidence if there’s reasonable grounds for them to suspect me.”

Instead … she was called on to answer a series of increasingly aggressive questions about who she was transferring funds to and why—questions she claims the bank could have avoided by checking her financial history.

She went on to say:

“I’ve had an account with Westpac for eight years and on any one day we’ve got 70 transactions between restaurants, hotels, food stores which they can have a look at,” she said.

“They have all the information they need to establish the fact that we are a legitimate business. The only thing I can think of is that it’s a transfer to Iran.”

She says:

… she is still unable to access the $25,000 she needs to pay suppliers for stock she has imported—a claim the bank denies.

According to the article, a Westpac spokesperson confirmed that her transfers had been halted but said:

… the company was simply complying with anti-terrorism legislation introduced in 2002.

So, under the existing legislation, these are the not isolated cases that we see occurring. It is a very real danger with this bill as well—that the banks and financial institutions told to look out for terrorists suddenly discover them in every customer who comes from the Middle East.

This bill will make a bad situation far worse. Well, what should happen with this bill? The Greens believe that we should start again. The Senate Standing Committee on Legal and Constitutional Affairs, in its report examining an earlier draft of this bill, said:

The committee does remain concerned about the apparent lack of formal consultation with privacy, civil rights and consumer representative groups in the development of the regime to this point. … this may have resulted in some fundamental privacy, consumer and civil rights issues being overlooked.

As I have outlined, that problem remains in this version of the bill. At least earlier versions of the bill adopted a more direct approach in setting out exactly what needed to be done in the legislation. But this bill, after pressure from the industry, now allows a far more deregulated approach. As a result, there are no clear guidelines in the legislation about how this will work and there are no safeguards in place to protect civil rights.
The rules that set out the real boundaries of the law in this area will be set by AUSTRAC, and there is no requirement for them to consult with consumers who will be directly affected by these laws. The parliament is being asked to put in place major changes to the privacy and human rights of Australians, yet how this will all work is being left to an unaccountable agency—one that is not required to report to parliament.

The Greens will be moving amendments that address some of the worst aspects of this bill that threaten human rights. In particular, we will seek to limit the scope of the terrorism offences that will be used as the basis for conducting a risk assessment, as suggested in a submission by Liberty Victoria to the Senate committee inquiry into this legislation. The Greens believe that the scope should be limited to those terrorist offences directly related to violence—namely, those under division 103 of the Criminal Code—and we will move amendments to that end. The Greens want to see balance return to the problems of national security. Once again, the government has gone too far with this bill and got the balance wrong. The result is that people’s rights are threatened.

The Greens believe it is important to keep the threat of terrorism in perspective. Justice Michael Kirby of the High Court, in a speech to security and government officials last year, said that AIDS, poverty, malaria and ethnic violence were ‘more potent dangers for more members of humanity than the terrorism of al-Qaeda’. He went on to say:

If a small proportion of the energy and capital that has been devoted to the dangers following 11 September 2001 had been lavished on the problem of AIDS, I feel sure that the world would be a better and probably a safer, certainly a kinder place.

You could also add to that list the threat of climate change.

The Greens have consistently said that we believe that the longstanding practices and processes of criminal law and of civil rights should underpin our response to terrorism. The Greens will continue to lead a campaign to defend our democracy from terrorism laws that take away our civil liberties and that the coalition and the Labor Party continue to force through both our federal and our state parliaments. The Greens will continue to seek to focus the debate on the root causes of terrorism and the sources of injustice and inhumanity that plague us all.

The Greens would support an appropriate, balanced and sensible approach to dealing with the problem of terrorist financing, but unfortunately this bill is not that approach. It fails to set out in legislation clear guidelines for accountability and it will diminish human rights. As such the Greens cannot support the bill. We are operating in an environment where a guillotine is about to fall on the Senate debate on this bill—this piece of legislation which is 282 pages long and to which there are 18 amendments currently on the table to be debated. We are not able to amend this bill to make it the kind of legislation that achieves that proper balance between strong laws that crack down on terrorist financing and safeguards that ensure that people’s privacy is looked after and that we are not overriding antidiscrimination legislation that exists in state, territory and Commonwealth jurisdictions. That is the sort of legislation that the Greens would be very happy to support—if we were able to bring forward amendments to address those concerns. I will be able to move some of those amendments here on behalf of the Greens; I do not know with how much time, given that a guillotine is about to drop on this debate and all this discussion.

We have this bill before us, 282 pages of it, which says that banks and financial institutions have to come up with their own risk
management strategies and then, sometime down the track, government agencies might provide some guidance on this issue. We should be dealing with comprehensive legislation that sets out the detail of what is proposed. It should be underpinned by the anti-discrimination legislation that exists in Australia and it should provide a balanced approach to this very serious issue of financing of terrorism. But we do not have that bill here before us and we do not even have the opportunity to go through the amendments that could ensure that we did have a proper piece of legislation that the Greens would be able to support. As such, I need to indicate that we will not be able to support this legislation, but we will seek to move a series of very important amendments to try to bring some balance back into the way in which this piece of legislation currently operates. They were proposed by people who made submissions to the very brief inquiry into this legislation and I hope they will be supported. (Time expired)

Senator ELLISON (Western Australia—Minister for Justice and Customs) (4.45 pm)—I thank senators for their contributions. For that dedicated group of people who are anti-money-laundering aficionados and who have followed this very closely, this is an auspicious day. I summarise by saying that the primary purpose of the anti-money-laundering and counter-terrorism financing legislative package is to ensure that Australia has a financial sector that is protected from abuse by those seeking to engage in criminal activity and terrorism—at the outset, a very simple objective and a very important one.

The reforms to be implemented by the Anti-Money Laundering and Counter-Terrorism Financing Bill 2006 and Anti-Money Laundering and Counter-Terrorism Financing (Transitional Provisions and Consequential Amendments) Bill 2006 before the Senate today strike an important and appropriate balance between the government’s law enforcement and national security objectives on the one hand and the needs and operational reality for business on the other. Achieving this balance has required careful and assiduous policy making and drafting which in turn have been informed by extensive consultation with affected sectors, law enforcement and the wider community. I emphatically reject any suggestion that the government has taken too long in implementing the FATF recommendations. These important reforms respond to increased and more sophisticated criminal and terrorist activities across a wide range of sectors delivering complex products and services.

The need for thorough deliberation of these issues can be illustrated by the progress of FATF itself. Following its release of the revised 40 recommendations on money laundering in June 2003 and the nine special recommendations on terrorist financing in October 2004, the FATF has moved carefully in developing interpretive notes and guidelines. The last of these interpretive notes was only released in February this year. Given the importance and complexity of the issues involved, the government has moved with appropriate speed to introduce comprehensive and well thought out legislation. The breadth and responsiveness of the consultation process has been widely acknowledged and applauded by affected businesses. The Senate Standing Committee on Legal and Constitutional Affairs has acknowledged these consultation efforts. I do not apologise for the time spent in achieving this balance and limiting the burden on Australian businesses. This has been time well spent and I acknowledge the great work that has been done by the officials of the Attorney-General’s Department in this regard.

During this consultation period the government also had the benefit of the report on the FATF mutual evaluation of Australia’s
compliance with the FATF recommendations. The FATF identified several strengths in Australia’s existing AML/CTF system, including the effectiveness of AUSTRAC as a financial intelligence unit, the extensiveness and apparently effective confiscation schemes involving criminal and civil confiscation of proceeds of crime, and the comprehensiveness of measures to facilitate a wide range of international cooperation. Australia was only found to be non-compliant in one out of the nine special recommendations on terrorism financing and nine out of the 40 recommendations on money laundering. The special recommendations dealt with capturing information on electronic funds transfers, and this issue has now been addressed by recent amendments to the Financial Transactions Report Act 1988. It is worth emphasising that in making its findings the FATF noted:

The Australian Government recognises the need for an effective AML/CFT regime and is currently updating its legislation to implement the revised FATF Recommendations.

This government criminalised terrorist financing in 2002 as part of the Criminal Code and in 2003 moved the money-laundering offences from the Proceeds of Crime Act 1987 to the Criminal Code. The Anti-Money Laundering and Counter-Terrorism Financing Bill 2006 will provide an updated, more effective and more comprehensive response to these matters.

The extensive consultation on this bill has also included two reports from the Senate Standing Committee on Legal and Constitutional Affairs and the Senate Standing Committee for the Scrutiny of Bills. The Legal and Constitutional Affairs Committee handed down its second report on 28 November 2006. The committee made 14 recommendations. I want to acknowledge the very good work carried out by that committee in relation to this bill and also acknowledge the work done by the Scrutiny of Bills Committee in relation to its consideration, and I will deal with that shortly.

In recommendation 1 the committee recommended that the bill be amended to delay the first stage of implementation until three months after the date of royal assent. The opposition and Democrats also moved an amendment for delay of commencement, although their proposed amendments will only result in delay of part 1 of the bill. The government does not believe that it is either appropriate or necessary to tie the commencement of obligations under this bill to the finalisation of the rules. Detailed draft rules negotiated with industry have been available since July 2006. All rules required for those provisions which commence the day after royal assent will be available on that date. The timetable for finalisation of the remaining rules will provide industry with sufficient time to reach compliance. In particular, the government is committed to finalising rules required for the definition of ‘designated business group’ by mid-January 2007. All other rules necessary for those provisions which come into effect 12 months after royal assent of the bill will be finalised by 31 March 2007.

The government has also agreed that, for a period of 12 months after commencement of the obligations under the bill, the AUSTRAC chief executive officer will only take criminal or civil penalty action against a reporting entity where that reporting entity has manifestly failed to take steps towards compliance with its obligations. After discussion with industry the government is satisfied that the committee’s concerns about an adequate implementation time for industry can be met by extending this 12-month grace period to 15 months.

The government accepts recommendation 2 of the committee, and AUSTRAC will con-
continue to consult with industry in developing AML/CTF rules under the bill. The government also accepts recommendation 3, which requires a review of the safe harbour provisions for customer identification during the review of the legislation under clause 251.

However, the government is not able to accept recommendation 4, which is that clause 6(7), referred to as the Henry VIII clause, be deleted from the bill. The opposition and Democrats have also moved the deletion of this clause. Clause 6(7) enables the table of designated services to be quickly amended by regulations where it appears that there is a structuring of products to get around items listed in the tables.

The history of the Financial Transaction Reports Act 1998 has shown that a lack of ability to respond, other than by amendment of the act, enables products to become entrenched before an amendment can be made. This creates a competitive imbalance in the market, causing greater financial impact if a service is added to the list at a much later stage. Clause 6(7) therefore provides important protection for reporting entities and will also assist AUSTRAC. Regulations must be tabled and are subject to disallowances. The government commits publicly and without reservation clause 6(7) not being used for new designated services which relate to tranche 2 services without consultation with affected parties.

The government notes the concerns raised by the committee that led to recommendation 5, which is that the bill be amended to provide the AUSTRAC CEO with powers to refuse registration as a designated remittance services provider and to de-register providers or to maintain a register of persons who are not permitted to provide remittance services. The government has decided to implement a registration scheme, not a licensing regime.

A registration scheme has a number of advantages, including the fact that it does not confer any authority or seal of approval on providers of these services. Furthermore, by not excluding persons, registration enables AUSTRAC and law enforcement agencies to more easily identify and locate the providers of these services and to take effective action against those who do not register. The committee has, however, raised a legitimate question and it would be appropriate for a review of the registration scheme to be undertaken during the review of the legislation, which is provided for under clause 251.

The government is not able to accept recommendation 6, which is that penalties for the offence of possessing a false document with the intent of using it as customer identification in clause 138(3) and the offence of possessing equipment for making a false document in clause 138(5) should be reduced. The committee’s view is that these offences are far less serious than the offences of making a false document with the intent of using it as customer identification in clause 138(1) and the offence of making equipment for making a false document in clause 138(6).

The government considers that the types of conduct which make up all of the offences in clause 138 are of equal gravity. These offences, therefore, are the fundamental sanctions to the risk based regulatory regime proposed by the bill. The bill has civil penalty provisions only for failure to carry out regulatory obligations. The conduct of possessing false documents or equipment for making false documents with the intent to use them for identification procedures cannot be regarded as less serious than making a false document or making equipment for making a false document.

A person who makes a false document with the intention of producing that false
document in the course of an applicable customer procedure under the bill is actively engaged in an illegal activity. The government is happy to continue to work with industry groups and other stakeholders to resolve technical issues as recommended in recommendation 7.

In recommendation 8, the committee recommended that the government consider amending the bill to include threshold value limits to exclude low-risk, low-value services—for example, the provision of travellers cheques and foreign currency transactions—further amending the bill to include those services that I mentioned from the definition of designated services, and that consideration be given to indexing these thresholds every five years. The government agrees to consider threshold limits for low-risk, low-value services, but I want to stress that low value does not necessarily mean low risk, particularly for terrorism financing—and we have seen that in recent events where there have been low amounts of money involved in the financing of terrorist activity.

While products such as travellers cheques, money orders, foreign transactions and bank cheques may appear to be similar products, they can and do present different risk profiles. Amendments to the bill are not required to implement thresholds as these can be implemented by regulations under clause 6(7) and clause 252, which amend items in the tables in clause 6 and AML/CTF rules made under clause 39.

The government is continuing to consult with industry on the need for thresholds and will make regulations or AML/CTF rules where it is agreed that a product is both low value and low risk for money laundering and terrorist financing. The committee has raised the legitimate question of indexing. The government agrees to review the various threshold levels in the review of the legislation to be conducted under clause 251.

In recommendation 9, the committee has recommended that the Office of the Privacy Commissioner conduct audits of AUSTRAC’s compliance with privacy obligations in its administration of the bill. The government notes that, under section 27(1)(h) of the Privacy Act 1988, the Privacy Commissioner has the power to conduct audits of records of personal information maintained by agencies for the purposes of ascertaining whether the records are maintained according to the information privacy principles.

The committee recommended in recommendation 10 that division 4 of part 2 of the bill should be amended to restrict access to AUSTRAC held information for the purposes of responding to money laundering, terrorist financing or other serious crimes. The government is not able to accept this recommendation. The transaction information held by AUSTRAC is a valuable law enforcement resource for the identification of crimes under Commonwealth and state law. The information is collected to protect Australian businesses and the community from not only money laundering and terrorist financing but also the predicate offences to money laundering. Information which suggests that a crime is being committed should be available for use by appropriate authorities in accordance with the laws which govern their operations.

The government supports the principle behind recommendation 11 but does not believe it is necessary to make the amendment to clause 235 which is suggested. The AML/CTF bill does not permit or authorise breaches of the Racial Discrimination Act 1975. The explanatory memorandum clearly states that the AML/CTF bill is not intended to override the Racial Discrimination Act,
and there is nothing in its operative provisions which could be interpreted to have that effect. Making this amendment could invoke legal interpretation rules which would require all other possible exclusions to be listed.

In recommendation 13, the committee recommended that clause 251 be amended to provide for review of the legislation in four years and for that review to incorporate consultation with industry and other stakeholders. The opposition and the Democrats have moved this as a proposed amendment. It is important to note that the legislation will not be fully operational for three years and three months for tranche 1 sectors. The timetable for tranche 2 sectors is not yet settled. Reducing the period in clause 251 to four years will result in a full-scale review of tranche 1 after only nine months of fully implemented operation and an unknown but almost certainly shorter period of operation for tranche 2 sectors. This could impose unreasonable costs on affected industry sectors in the community. The bill includes in clause 6(7) and the rule-making powers an appropriate mechanism to address any unexpected and unintended impacts which arise within that seven-year period. If major operational issues arise prior to the seven-year review which will require an amendment to the bill, they can be progressed in advance of any review under clause 251.

Labor senators have made an additional recommendation that AUSTRAC be subject to oversight by the Australian Commission for Law Enforcement Integrity upon its establishment. The issue of coverage of the Australian Commission for Law Enforcement Integrity—or ACLEI, as it is known—was extensively considered by the government and the parliament during the passage of the law enforcement integrity act 2006 in June this year. ACLEI covers sworn police officers serving in the Australian Federal Police and sworn police officers working under the auspices of the Australian Crime Commission. The law enforcement integrity act 2006 includes the ability to extend ACLEI’s jurisdiction in the future should a need arise. No present need has been identified to extend these arrangements to AUSTRAC and it is appropriate that any decision to extend be considered in the context of the ACLEI legislation.

I once again thank the Senate Standing Committee on Legal and Constitutional Affairs for producing this report in a short period of time. The committee has done a very good job, given the complex nature of these bills. As I said earlier, I also thank the Senate Standing Committee for the Scrutiny of Bills for its consideration of a number of matters. That committee has raised some issues about the application of absolute liability rather than strict liability to some elements of offences under clauses 136, 137, 139, 140 and 141. The government intends to amend these clauses to replace the application of absolute liability with strict liability. I believe this addresses the concerns expressed by the Scrutiny of Bills Committee. We will address that in the autumn session, early in the new year.

The government is currently discussing with industry some other technical issues which might also result in amendments to the bill. As I have just said, I intend to bring forward a bill making the amendments arising out of the Scrutiny of Bills Committee report—and any other technical amendments—in the 2007 autumn sittings of the parliament. I thank senators for their contribution to the debate on these bills. Since commencing the process of implementing reforms to Australia’s anti-money-laundering and counter-terrorism financing reforms, I have been constantly impressed with the interest of industry and its willingness to participate in the consultation process. The level
of industry and community participation in the development of these reforms not only has contributed to the development of a workable AML/CTF solution but also has provided a strong platform for ongoing cooperation between industry, the wider community and government in continuing with the detection and prevention of crime and terrorism.

I can assure the Senate that the government is committed to ongoing consultation with industry, as reflected in the legislation itself. Clause 212 requires the AUSTRAC chief executive officer to consult with industry in performing his or her functions. I believe that is further demonstration of the consultative process that we have adopted—and, of course, we stand on our record. The feedback I have had from industry is that they have been satisfied with the process and that they want it to continue. I certainly acknowledge, in the numerous meetings and the roundtables we have had, the constructive approach which has been adopted by industry and others. In that regard I wish to acknowledge the efforts of Tony Burke of the ABA, in particular, in relation to resolving what have been very complex issues.

Finally I might say that, although we have this bill here today, the challenge implementation still lies ahead, and we still have tranche 2. There is much work to be done. But I point out that, from recent visits to the United Kingdom and the USA, they too are undergoing the same process and face much work in this regard. The balance, as always, is to achieve security—appropriate anti-money-laundering measures which will counter terrorism and organised crime—but not to overburden industry with regulation. I commend these bills to the Senate.

Question agreed to.

Bills read a second time.

In Committee

Anti-Money Laundering and Counter-Terrorism Financing Bill 2006

Bill—by leave—taken as a whole.

Senator LUDWIG (Queensland) (5.00 pm)—by leave—I move opposition amendments (1), (2) and (8) on sheet 5147:

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

The first day after the end of the period of 3 months beginning on the day on which this Act receives the Royal Assent.

(2) Clause 6, page 51 (lines 9 and 10), omit subclause (7).

(8) Clause 251, page 278 (line 24), omit “7”, substitute “4”.

Amendment (1) seeks to meet recommendation 1 of the committee report, which recommended a delay of three months after the date of royal assent. It is necessary to ensure businesses have sufficient time to train their staff and change their software and procedures in order to implement this legislation. It is comprehensive legislation in this area. Unfortunately, this legislation leaves a large part of the act of law to regulations and AML/CTF rules. I say ‘unfortunately’ because the rules are yet to be released in a comprehensive fashion. We have draft rules. It is important that industry has enough time to implement the rules because, under this regime, it is they who will police the rules. It is a risk based system; it is not only that AUSTRAC might say that compliance might give them a honeymoon period. By and large, this is a risk based system. The rules will provide how they apply to a broad framework, but companies and businesses will still need to have certainty when implementing this regime.

Amendment (2) is in line with recommendation 4 to strike out clause 6(7). I spoke about this in the second reading debate and I
think the committee report also mentions it. I am not persuaded by the argument put by Senator Ellison that this clause is unnecessary. The government’s argument for flexibility does not pass the bar in Labor’s test of importance. We therefore will move to oppose the clause via amendment (2).

It is one of those matters where the government argues for flexibility but when you look at the overall framework of the legislation you see that it is a sufficiently flexible framework with much of the detail left to regulations and rules. I note, and appreciate, the guarantee by the government—through Senator Ellison during the summing up of the second reading debate—about how that clause would operate. However, certainty is always my choice in these things and if the clause is not there then it certainly cannot be abused by someone other than you down the track.

Amendment (8) on sheet 5147 is based on the committee’s recommendation 13 to reduce the review time from seven years to four. Seven years seems a long time—perhaps not so much to senators, but it is a very long time for a review for a piece of legislation of this complexity. It is more likely there will be amendments, given the finalisation of this tranche 2. You have already indicated there are likely to be amendments next year in relation to tranche 1. It would seem that once we have a timetable—and hopefully during this committee stage debate the government can outline what that timetable for tranche 2 is likely to be—we can see a four-year review.

Because it is ongoing work, I suspect there will be a need to revisit it even before the seven years is up. I suspect you will get caught out by putting seven years in, in any event. You will be back here with a review of some description well before the seven years because of the nature of the legislation and because of the nature of the Financial Action Task Force, being a living body that also finds new ways in which money launderers effect their crime. The task force, as you appreciate, with their recommendation 9 on counter-terrorist financing, came up with a new way and then amended their rules accordingly. They asked for those to be changed, so we have picked that up. So there is likely to be further change there, as well, as criminals with intent find new ways to launder money and the good guys find new ways to stop them.

Senator MURRAY (Western Australia) (5.10 pm)—Before I comment on the specific amendments before us I want to briefly refer to the minister’s response to the Senate Standing Committee for the Scrutiny of Bills. Minister, you are well aware—perhaps not all of your ministerial colleagues are, particularly those in the lower house—that that committee does not operate on a partisan or political basis. It tries very hard to operate on principle. I must compliment you on your thoughtful and helpful response to the Scrutiny of Bills Committee’s recommendations with respect to this bill. As you know, I have been on that committee for over 10 years, and I think that with respect to your response to this bill, and your response to other matters that you have had to deal with from the committee, you quite frequently represent an example that others of your colleagues might follow. There you are; you can have a kiss on the forehead for December!

Turning to the amendments before us, the Democrats had put these amendments forward as well. I concur with the remarks made by the shadow minister for the official Labor opposition. Their amendments, in sequence, are based on recommendation 1 of the Senate Standing Committee on Legal and Constitutional Affairs which seeks to delay the first stage of implementation of the bill until three months after the date of royal as-
We should note that this was requested by a number of the stakeholders who appeared at the committee’s hearings—and so that they could have the opportunity find the time to set up the appropriate risk based systems required by the bill. As the minister would understand, despite the lengthy and detailed consultation with some of them, most would be reluctant to commence the implementation systems until the legislation was actually passed. Otherwise, it might be wasted time, effort and money. So we think the amendment is appropriate.

Opposition amendment (2)—and Democrats amendment (2)—is based on recommendation 4 of the committee report. That recommendation was that clause 6(7) be deleted from the bill so that the table in section 6 cannot be amended by regulation but can only be amended by a bill before the House, to ensure parliamentary scrutiny of any changes to the services which are impacted by the provisions of this legislation. This was an area of concern to stakeholders who appeared before the committee, who were worried that changes may take place, without appropriate consultation and without appropriate parliamentary oversight, and they would not be aware of them.

Amendment (8) was that the act be reviewed in four years rather than seven, which reflects recommendation 13 of the committee report. I heard the minister’s response to that and I concur with the shadow minister’s views. I am absolutely certain you will be coming before us before seven years are up. The horrors of terrorism and the calumny that is represented by crime are likely to need a continuing response to and finetuning of this legislation.

I also happen to be of the view that, once you start to implement this legislation, you may find it desirable in fact to bring forward the implementation of some of those matters that are proposed only to come into play in 3½ years time. I am not convinced that once you have assessed the situation, you will necessarily want to hold to that timetable—and, of course, as the minister would surely recognise, that represents some dangers; if you want to have an anti-money-laundering regime, the sooner it is in place, the better. I would encourage the minister to be flexible in his mind on that matter and to recognise the validity of the remarks made by the opposition shadow.

The other point to make is that a review need not be of the whole act; it could be of a part or sections of the act that are already in place. Having moved the same amendments as the opposition, I do of course support them. With that motivation I trust we will move to a vote.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (5.15 pm)—The government opposes these amendments. I outlined the reasons why in my summing-up speech earlier. I will not go over those again, but I refer to them. In relation to Senator Murray’s comment, we will certainly maintain a flexible approach because, in the implementation, we might learn some lessons, so to speak, and it could be that people say that they can implement something more quickly than they thought. We will certainly be alive to that.

Senator NETTLE (New South Wales) (5.16 pm)—I indicate the Australian Greens’ support for these amendments.

Senator LUDWIG (Queensland) (5.16 pm)—I would have a division on some of these but, in the interests of saving time, I indicate that the Labor Party supported these amendments. We will not seek a division.

Question negatived.

Senator NETTLE (New South Wales) (5.16 pm)—I move Australian Greens amendment (1) on sheet 5165:
Clause 5, page 19 (lines 9 to 18), omit ‘:’ and paragraphs (a) to (d) of the definition of **financing of terrorism**, substitute “an offence under Division 103 of the **Criminal Code**”.

This is an amendment that seeks to narrow the definition of ‘financing terrorism’ that is used in the legislation. For the Australian Greens one impetus for this amendment comes from the fact that we have long argued that the definition being used in earlier legislation was too broad because it did not require there to be a link to violence, and we do so again. We note also that there was a submission from Liberty Victoria to the Senate inquiry that looked into this piece of legislation which dealt with this issue.

If enacted, this bill will require financial institutions to take a range of measures to deal with the risk of financing terrorism. Under the bill it is defined to include conduct that amounts to:

a) an offence against section 102.6 or Division 103 of the **Criminal Code** ... 
as well as:

(b) an offence against section 20 or 21 of the **Charter of the United Nations Act 1945** ...

These offences, in particular those that are found in section 102.6 of the Criminal Code, are very broad. They capture conduct that goes far beyond the intentional funding of politically or religiously motivated violence. Under section 102.6 of the Criminal Code it is illegal to fund a terrorist organisation regardless of the use to which the funds are put. For example, giving money to the Tamil Tigers or to the Kurdistan Workers Party for the sole purpose of assisting their humanitarian activities is punishable by 25 years if the donor knows that the recipients of the fund are the Tamil Tigers or the Kurdish Workers Party.

The broad definition and offences of terrorism on which this bill rests are central to the danger of this bill. The risk that a customer might breach these offences is the trigger for a bank or another financial institution to forward information on that customer to the authorities. The Greens believe that narrowing the base of the offences and restricting them to the intention to support violence would not only limit the chances of discrimination under this legislation but also make any attempt to prevent terrorism financing within the terms of the bill’s framework more effective.

I would like to turn to some comments on this issue that were made in the submission by Liberty Victoria to the Senate committee looking into this legislation. I will give two examples of the way in which this broad definition of financing terrorism will impact on members of the community. One of them is from the Muslim community and the other is from the Tamil community. There was an article written in the *Age* on 29 November 2005 by Waleed Aly, who is from the Islamic Council of Victoria. He was talking about section 102.6 of the Criminal Code. He said:

This level of uncertainty in an offence this serious is deeply worrying. And for Australian Muslims, doubly so. Because charity is one of the five pillars on which Islamic practice is built, Muslims tend to be a charitable people. That is especially true at certain times of the Islamic year when charity is religiously mandated. Countless fund-raising efforts followed the tsunami and the Pakistan earthquake, and even in the normal course of events, Muslim charities regularly provide relief to parts of the Muslim world many other charities forget.

So he is talking about the broad definition of the financing of terrorism and the way in which it has the potential to impact on the activities of members of the Muslim community.

The other example that I want to point to, as I indicated, is about the Tamil Tigers. In their submission Liberty Victoria talk about
the reach of the offences being well illustrated by the listing of the Tamil Tigers under the statute. The submission states:

Because this group has been listed under the Charter of United Nations Act 1945 ... it is a crime to in/directly provide funds to this organisation regardless of the purpose to which the funds are put.

They give an example:

For instance, donating to the—

Tamil Tigers—

for the exclusive purpose of assisting reconstruction in the wake of the tsunami disaster is illegal under this Act.

They go on to talk about the contribution made by a spokesperson for the Australian Tamil rights council at a forum organised by the Equal Opportunity Commission Victoria in partnership with the Institute for International Law and Humanities, the Melbourne Law School and the Federation of Community Legal Centres. The contribution by the spokesman from the Australian Tamil rights council that Liberty Victoria quote in their submission is this:

The impact of the (counter-terrorism) laws is very real and reverberated within the community after the November raids—

he is, of course, referring to the raids by the Federal Police on members of the Tamil community in Melbourne—

and its public reporting. Many Tamils contribute towards their community either through political or humanitarian means ... There is also a concern that donations for genuine humanitarian and cultural purposes may be caught by the wide ‘financing terrorism’ laws. Many Tamils in Australia make significant donations to Sri Lankan-registered NGOs, relatives and friends. Funds are raised in Australia for various clearly identified humanitarian projects in Sri Lanka including medical centres and health programs, child sponsorship, nutritional centres, resettlement and livelihood programs undertaken by Sri Lankan-registered NGOs and civil society groups that operate in LTTE-controlled areas. It is well-known that for over 20 years the minority Tamils of Sri Lanka have relied heavily on political support and contributions made by Tamil relatives overseas and humanitarian organisations to survive and meet their daily needs.

So both of these two examples raise the spectre of Australian Muslims and Australian Tamils being disproportionately subject to suspicious matters reporting, with personal financial information being passed on to AUSTRAC and other government agencies, as the Liberty Victoria submission outlines.

The concern of the Greens is that we want to be clear on how we define the financing of terrorism. Of course, we all agree to have legislation that outlaws the financing of terrorist organisations—that is a given—but what we are trying to do is to ensure that the legislation does precisely that and does not capture people who give money for the reconstruction effort in tsunami affected areas of Sri Lanka or earthquake affected areas of Pakistan. We want to ensure that people are able to contribute to their families, their friends, registered charities, child sponsorship, the building of hospitals and a range of other services in those areas. We want to ensure that people are able to contribute to reconstruction efforts in the wake of the tsunami and the damage caused by the Pakistan earthquake.

What we are trying to do in narrowing this definition is to say that, rather than ‘financing of terrorism’ in this piece of legislation relating to either section 102.6 or division 103 of the Criminal Code, the Australian Greens amendment seeks to make it clear that the definition we believe is appropriate is the narrower definition—that is, the one already provided in division 103 of the Criminal Code. The Australian Greens amendment seeks to narrow how we define the financing of terrorism in such a way that we address what this bill is seeking to ad-
dress—that is, ensuring that we outlaw and ban the financing of terrorism. But how do we do it in such a way as to ensure that we are not throwing the net too wide, that we are not encompassing the charity activities of a number of Australians, particularly those of the Muslim or Tamil community who want to contribute to the rebuilding of their families’ homes, to hospitals, to other facilities in areas controlled by the Tamil Tigers, where Sri Lankan registered NGOs are operating, or in other Muslim parts of the community that may be impacted because of the broad definition of ‘terrorism’ that exists in the Criminal Code—in particular, in section 102.6 of the Criminal Code?

That is what the Australian Greens are seeking to do with this amendment. It is a very important amendment, because it is a way of providing a safeguard to say: ‘This bill is serious about stopping the financing of terrorism, but it also understands that we are going to narrowly define what this is. We are going to be clear in making sure that we capture the right people. We want to make sure that we don’t open the net really wide and catch the people who have been caught under current Australian financing of terrorism laws, such as the owner of the record store with the same name as the obscure Peruvian terrorist group the Shining Path. We don’t want to catch the Iranian restaurateur who, last week, had $25,000 of her account frozen by Westpac because they thought she might be financing terrorism when she made regular payments to buy dates in Iran.’

We want to ensure that those people are not caught up in the legislation, and that is why we are seeking to define the financing of terrorism so that it is quite clear that we are using existing Australian law to do so, rather than throwing the net wide and allowing innocent people to be caught by this legislation. None of us wants to see that occur. We have seen from the examples that it has already happened in Australia. People have been caught by that, and it has taken many months of wrangling for them to get access to their money. Everyone acknowledges that it was a mistake. The owner of the record store was clearly not financing terrorism—he just owned a record store—but it took him several months to get access to his funds. The implications for small business owners in Australia are very significant. So what we are trying to do is ensure that we are targeting the people we want to target and not catching other innocent Australians with this legislation. That is why we are moving this amendment. I commend the amendment to the Senate.

**Senator Ludwig** (Queensland) (5.27 pm)—The Labor Party does not support the amendment. What it does to that definition of financing of terrorism is to leave out:

- (b) an offence against section 20 or 21 of the Charter of the United Nations Act 1945;
- (c) an offence against a law of a State or Territory that corresponds to an offence referred to in paragraph (a) or (b); or
- (d) an offence against a law of a foreign country or a part of a foreign country that corresponds to an offence referred to in paragraph (a) or (b).

The difficulty is that the narrowing of the definition makes it far too narrow. To capture the relevant state offences, it is necessary to have the financing of terrorism defined in that way. The Labor Party does not support the narrowing of offences under financing of terrorism in the way that the Australian Greens have outlined. It would be, in effect, a retrograde step.

**Senator Murray** (Western Australia) (5.28 pm)—I listened to Senator Nettle’s motivation with care. Of course, she picks up
a generalised fear that has been expressed from all sides—and I do not mean all political sides but from all sides of the community, in business and in politics—of the dangers of this legislation drawing into its ambit, often in an unintended sense, people who otherwise should not be caught up in it and would be found subsequently to have acted honourably. It is one of the reasons we argue strongly for a very strong oversight regime and a very strong review regime—to make sure that those unintended consequences are followed through.

However, returning to the amendment specifically, there are two issues at hand. Firstly, this legislation should be consistent with other legislation, and that is an important consideration. The second issue is whether the narrowing of the definition is appropriate. As outlined by the shadow minister, it does have the effect of essentially wiping out the four categories and replacing them with just one, an offence under division 103 of the Criminal Code. The four categories at present are:

- (a) an offence against section 102.6 or Division 103 of the Criminal Code; or
- (b) an offence against section 20 or 21 of the Charter of the United Nations Act 1945; or
- (c) an offence against a law of a State or Territory that corresponds to an offence referred to in paragraph (a) or (b); or
- (d) an offence against a law of a foreign country or a part of a foreign country that corresponds to an offence referred to in paragraph (a) or (b).

I am sympathetic to the broad worries that Senator Nettle expresses but I do not think, on balance, that the solution the Greens have found is an adequate one; it limits the definition too starkly. But it does draw our attention again to the fact that, if the legislation passes as is—which it is going to do as the government has the numbers—the government must ensure that there is an adequate oversight regime to ensure unintended consequences do not manifest themselves. I hope that the minister, in consideration of the next tranche of, shall we call them, technical amendments, might give some further thought to that matter. It is, in my view, something which worries parliamentarians from all sides of politics and it needs to be addressed.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (5.31 pm)—The government does not support the proposed amendment. By picking up the financing of terrorism offences in Commonwealth law as well as corresponding offences in state and territory or foreign law, the definition of the phrase ‘financing of terrorism’ in clause 5 of the AML/CTF bill deals with the full range of conduct that is criminalised by the law; it is the consistency that Senator Murray has mentioned. I want to make it very clear that this bill does not impact in any way on charitable donations to any lawful charity. If those donations are made through the use of designated services, under the bill the person may need to be identified by the service provider, but that does not outlaw the donation when it is made lawfully.

Senator NETTLE (New South Wales) (5.32 pm)—I want to indicate why the amendment of the Australian Greens was structured as it was to exclude the offences under section 20 and section 21 of the Charter of the United Nations Act. In doing so, I will read from the submission of Liberty Victoria on the bill. It says that:

... sections 20-1 of the Charter of United Nations Act 1945 (Cth) and section 102.6 of the Criminal Code by not requiring that there be intention or knowledge that funds be used to facilitate acts of violence are at odds with provisions of the International Convention for the Suppression of the Financing of Terrorism and the Financial Action Task Force’s Special Recommendations on Ter-
rorist Financing; provisions that are said to form part of the basis of the Bill. Both these documents, while calling for the criminalisation of the financing of terrorism, define financing of terrorism in a narrower manner than sections 20-1 of the Charter of United Nations Act 1945 (Cth) and section 102.6 of the Criminal Code, by emphasising the need for an intention or knowledge that funds will be used to carry out terrorism.

Unlike the offences in sections 20-1 of the Charter of United Nations Act 1945 (Cth) and section 102.6 of the Criminal Code, those in Division 103 of the Criminal Code at least require that the funds have some connection with the engagement of a ‘terrorist act’.

That is why the amendment is structured as it is.

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

The committee divided.

[5.38 pm]
(The Chairman—Senator JJ Hogg)

Ayes............ 4
Noes............ 45
Majority........ 41

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

NOES
Adams, J. Allison, L.F.
Bartlett, A.J.J. Bishop, T.M.
Brandis, G.H. Brown, C.L.
Calvert, P.H. Carr, K.J.
Chapman, H.G.P. Colbeck, R.
Crossin, P.M. Eggleston, A.
Ellison, C.M. Evans, C.V.
Faulkner, J.P. Ferris, J.M.
Fielding, S. Fieravanti-Wells, C.
Fifield, M.P. Forshaw, M.G.
Hogg, J.J. Johnston, D.
Kirk, L. Lightfoot, P.R.
Ludwig, J.W. Marshall, G.
McEwen, A. McGauran, J.J.J.
Moore, C. Murray, A.J.M.
Nash, F. O’Brien, K.W.K.
Patterson, K.C. Payne, M.A.

Polley, H. Ray, R.F.
Sherry, N.J. Stephens, U.
Sterle, G. Stott Despoja, N.
Troeth, J.M. Watson, J.O.W.
Webber, R. Wong, P.

* denotes teller

Question negatived.

Senator LUDWIG (Queensland) (5.41 pm)—by leave—I move opposition amendments (3), (4), (5), (6) and (7) on sheet 5147:

(3) Page 122 (after line 24), after clause 79, insert:

79A Deregistration and register of deregistered providers

(1) The AUSTRAC CEO may deregister by written instrument a provider from the Register of Providers of Designated Remittance Services.

(2) A provider may be deregistered if:

(a) the provider is found to be not of good character; or

(b) the provider is convicted of a criminal offence against the Commonwealth, a State or a Territory with a penalty of 2 years or longer; or

(c) the provider ceases to be able to provide the service.

(3) A written instrument in accordance with subsection (1) is a legislative instrument.

(4) The AUSTRAC CEO must maintain a register for the purposes of this Part, to be known as the Register of Deregistered Providers of Designated Remittance Services.

(5) The register is not a legislative instrument.

(6) The AML/CTF Rules may make provision for and in relation to either or both of the following:

(a) the correction of entries in the Register of Deregistered Providers of Designated Remittance Services;
(b) any other matter relating to the administration or operation of the Register of Deregistered Providers of Designated Remittance Services.

(4) Page 187 (after line 32), after clause 132, insert:

**132A United Nations deemed to be a foreign country**

For the purposes of this Subdivision, the United Nations is deemed to be a foreign country and its constituent bodies shall be deemed to be a foreign law enforcement agency.

(5) Clause 199, page 242 (line 26), after “currency”, insert “or a thing”.

(6) Clause 199, page 242 (line 29), after “currency”, insert “or the thing”.

(7) Clause 200, page 248 (after line 1), after subclause (12), insert:

**Officer may seize other evidence**

(12A) If a police officer or a customs officer has reasonable grounds to suspect that a thing found in the course of an examination under subsection (12) or (13) may afford evidence as to the commission of an offence against subsection 53(1) or 59(3), the officer may seize the thing.

Amendment (3) on sheet 5147 picks up an idea out of recommendation 5 in the committee report that a separate register be set up for persons prohibited from supplying a designated remittance service. It goes further by extending it beyond mere consideration into the actual legislation. The present bill sets up a register of designated remittance services—for example, an informal, traditional and ethnic based remittance service known as the hawala network. Labor has no problem with that per se. But what happens in the instance of a person who has committed repeated offences under the act or is otherwise a person known to be channelling money overseas for perhaps an illicit purpose? Under the regime set up by the bill, such a person simply remains on the list of designated persons. We think that to not have the ability to remove someone from the list, to deal with it in that way, is pretty dumb, quite frankly. It may be that a process where they can be removed from the list is needed. This was a matter mentioned in a UK court, where they perceived that that in fact could not happen and they were frustrated that it could not. It is one of those issues that is commonsense, but it is not an issue that was picked up by the government.

Labor proposes setting up in effect a separate register—because, of course, the way it might work is open—of prohibited persons. This way the AUSTRAC CEO would have the power to strike off a registered person who offends the law and move them across to a separate register of deregistered providers. That way you then know where they are. Of course they may be able to, at some point, indicate that they can pass a fit and proper person test or some such way of getting back from one list to the other, so there is still an incentive to remain known and within the overall system. That is a matter that I would urge the government to consider. I know they will not pick it up at this point. Clearly they have the numbers, but I think the current system does have its deficiencies. If you look at the UK report, which I think I tabled for the Senate committee, it does point to certain problems with the way the register as currently drafted works. They recommended in fact a range of changes. One of them is highlighted in this amendment.

Amendment (4) on sheet 5147 does not arise from the committee but really goes to the Howard government’s running of interference for its damaged ministers, AWB Ltd and its various National Party cronies. How did this sorry story come to prominence? The AWB and the oil for food program scandal that rocked Australia came through originally from the United Nations Volcker inquiry. Did the government cooperate with the Volcker
inquiry? In his own words, Mr Volcker described the level of cooperation offered by the Howard government as ‘beyond reticence, even forbidding’. Apparently, when Mr Howard himself found out about the ‘reticence and forbidding’ conduct of his ministers in relation to cooperating with the inquiry, he ordered on 8 February 2005 that there be maximum cooperation and transparency and that there must be full disclosure and cooperation. But, like in all these things, he did not follow it up very well at all—in fact, he failed.

Let me give an example. Senator Kirk asked the Minister for Justice and Customs on 27 March this year a question without notice. She asked:

Minister, do you agree with AUSTRAC’s claim that it was unable to assist the UN inquiry because the UN is not a country? Can the minister now identify for the Senate what section of the Financial Transaction Reports Act 1988 precludes AUSTRAC from sharing information with the UN inquiry? Isn’t it actually the case that this was just another lame excuse for the Howard government to turn a blind eye to the truth?

Senator Ellison responded:

Sections 25 and 27 of the Financial Transaction Reports Act 1988 include secrecy and access provisions that protect financial transaction reports information from dissemination other than to prescribed personnel and agencies involved in the enforcement of Commonwealth, state and territory laws. That protection is an important part of ensuring that the privacy of individuals’ and entities’ financial transactions is maintained and that financial transactions reporting information are not released for use in a manner that is inconsistent with the act. That answers the question.

I do not believe for one minute that that is an excuse for not cooperating. I ask the minister: if what you say is true, do you claim that AUSTRAC cannot cooperate with FATF or the OECD, which are not countries either? Therefore what you have is a situation where if it is not a country then you cannot cooperate with it. If you had cooperated with the UN Volcker inquiry properly—although I suspect, with the ministers of this government, we would probably still be in this mess—you would not have that excuse to be able to deny it.

If the minister does stand by his statement, and if he was in fact not misleading the Senate at the time, then surely he can move to pick up Labor’s amendment to enable AUSTRAC to share information with the UN and its agencies so that there can be no repeat of the shabby treatment of Mr Volcker. That would be the sensible thing to do: to pick it up, admit you are wrong and move on. Because this is imperative. There are a range of other sanction regimes in place and the UN may continue to oversee them. You will then repeat the same error. Maybe you want to—that is the real question. We can then ask you to strike that course out by at least picking up the ability for AUSTRAC to be able to share information with a UN inquiry such as the Volcker one. That would make perfect sense.

I turn now to amendments (5), (6) and (7) on sheet 5147. These amendments did not arise from an issue raised in the committee’s report but are raised in relation to powers given to Customs officials under the act. At present the act gives powers to Customs officers to search persons for currency and bearer negotiable instruments when leaving Australia. But here is the issue: it does not appear to give them the right to seize anything other than currency or bearer negotiable instruments. In other words, it is limited to bearer negotiable instruments or currency. This amendment will ensure that the legislation is clear, insofar as Customs officers will have the right to seize any evidence of the offence. There may be documents associated with the currency and/or bearer negotiable instruments which become evidence. That would then be a thing that Customs would
need to seize. Otherwise they would have no general power to seize those things and therefore you would have another hole. It appears that at least you might be able to remedy that.

Recommendation 28 of the FATF says:
When conducting investigations of money laundering and underlying predicate offences, competent authorities should be able to obtain documents and information for use in those investigations, and in prosecutions and related actions.

Clause 199 of the bill, which deals with unlawful cross-border movements of physical currency, and clause 200, which deals with unlawful cross-border movement of bearer negotiable instruments, as presently constructed fail to meet this test. As presently constructed, both clauses 199 and 200 permit an officer—for example, a Customs officer—to seize physical currency and bearer negotiable instruments that afford evidence of an offence under clause 53(1) or 59(3). It seems to me that there is a flaw in the construction of clauses 199 and 200 in that they do not allow for an officer to seize any other thing which may afford evidence of an offence under clause 53(1) or 59(3). There is no general power for Customs to seize documents.

To put it another way, when an officer forms a reasonable suspicion that an offence has been or is about to be committed under clause 53(1) or 59(3), they may only seize the physical currency or the bearer negotiable instrument itself, and not any other thing that affords evidence of an offence. It is easy to imagine a situation where that could arise, where they then would lack power, or where, at least, you would end up with a dispute about the evidence itself—about whether or not it could be admitted in any court and whether you could rely on it. That certainly would cause significant grief if that were to occur and that evidence was excluded, but it did assist and point to a clear prosecution and the prosecution failed on the primary point that the evidence was included. So it does need a remedy there as well.

There are also savings provisions made for powers outside the bill—at the very least, the construction of clauses 199 and 200 appear to create specific sets of circumstances where the power is to be limited to seize anything but the physical currency or bearer negotiable instrument. It seems to me that you have again missed some points. But I suspect, given the time available, there are other points you have missed as well.

The TEMPORARY CHAIRMAN (Senator Troeth)—Do you have a point of order, Senator Murray?

Senator MURRAY (Western Australia) (5.53 pm)—I want to use this opportunity to say, through the chair, to the minister: if you want to extend the guillotine by 15 minutes to conclude this bill’s debate properly, I certainly would not object.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (5.53 pm)—We would have to report progress and then the process itself, I think, could be time consuming. I do not want to avoid answering these questions, but what I could undertake to do is to answer these questions in the ensuing bill, which is a customs bill. I could do it then, and refer back. I will take the questions on notice and undertake to get back during that time. We will do it that way.

Senator MURRAY (Western Australia) (5.54 pm)—Thank you. I do not like this one, I really don’t, but for ease of the process I will advise the committee that I support all the remaining opposition and the remaining Greens amendments.

Senator NETTLE (New South Wales) (5.54 pm)—I just want to put on record that the Greens support the Democrat and opposition amendments coming up. In relation to
Australian Greens amendments (3) and (4) on sheet 5165—


The question is that the amendments be agreed to, and they are: opposition amendments (3), (4), (5), (6) and (7) on sheet 5147.

Question negatived.

The TEMPORARY CHAIRMAN—The question is that the following amendment be agreed to: Australian Democrats amendment No. (5) on sheet 5160, which is the same as Australian Greens amendment No. (4) on sheet 5165.

The amendment read as follows—

(5) Clause 235, page 271 (after line 30), at the end of the clause, add:

(vii) trade unions;
(viii) representative civil rights groups;
(ix) consumer groups;
(x) representative privacy groups;

(3) Clause 229, page 267 (after line 10), after subclause (1), insert:

(1A) A rule made in accordance with subsection (1) must not be made so as to avoid or override the operation of Commonwealth, State or Territory anti-discrimination laws.

(1B) If a rule is made which has the effect of avoiding or overriding the operation of a Commonwealth, State or Territory anti-discrimination law, the rule is void to the extent that it overrides or is inconsistent with that law.

(3) Page 164 (after line 24), at the end of Division 7, add:

119A Privacy Commissioner to conduct audit of AUSTRAC compliance with privacy obligations

(1) The Privacy Commissioner must conduct periodic audits of AUSTRAC compliance in the administration of this Act with the privacy obligations of the Privacy Act 1988.

(2) The results of an audit conducted in accordance with subsection (1) are to be reported in the annual report of the Privacy Commissioner.

Sheet 5160

(4) Page 175 (after line 2), before Subdivision A, insert:

Subdivision AA—Restricted access to AUSTRAC information

124A Restriction on access to AUSTRAC information

(1) The purpose of this Subdivision is to provide for access to AUSTRAC information by agencies subject to the condition in subsection (2).

(2) Access to AUSTRAC information is restricted to the purposes of investigating:
(a) money laundering; or
(b) terrorist financing; or
(c) other serious crime.

(3) An agency official commits an offence if the official has obtained access to information for a purpose other than as provided for in subsection (2).

Penalty: Imprisonment for 2 years or 120 penalty units, or both.

Question negatived.

ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM FINANCING (TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS) BILL 2006

The TEMPORARY CHAIRMAN—The question now is that the following amendment be agreed to: opposition amendment No. (1) on sheet 5166.

The amendment read as follows—

(1) Schedule 1, page 29 (after line 23), before item 151, insert:

150A Subsection 5(1) (after paragraph (c) of the definition of law enforcement agency)

Insert:

(c) AUSTRA; or

Question negatived.

The TEMPORARY CHAIRMAN—Pursuant to the allotment of time agreed to earlier today, I now report the bills.

Bill reported without amendment; report adopted.

The DEPUTY PRESIDENT—The question is that the remaining stages be agreed to, and the bills be now passed.

Question agreed to.

Third Reading

Bills read a third time.

COMMITTEES

Selection of Bills Committee Report

Senator NASH (New South Wales) (5.57 pm)—by leave—At the request of the Chair of the Selection of Bills Committees, I present the 15th report of 2006 of the Selection of Bills Committee and move:

That the report be adopted.

Senator NETTLE (New South Wales) (5.57 pm)—by leave—I move:

At the end of the motion, add “and, in respect of the Removal of Recognition of US Military Commissions (David Hicks) Bill 2006, the bill be referred to the Legal and Constitutional Affairs Committee for inquiry and report by 20 March 2007”.

I do so because what this piece of legislation seeks to do is to remove from Australian legislation the recognition of US military commissions which were put into Australian law in the Proceeds of Crime Act in 2004 by the government and opposition at the time. These US military commissions have subsequently been found to be unconstitutional and therefore illegal by the US Supreme Court, yet they still exist in the Australian statutes. So this piece of legislation needs to be addressed and referred to committee.

I understand that in the discussion by the Selection of Bills Committee there was an indication that these matters had been dealt with previously, and that is correct, but there has not been an occasion for a Senate committee to look at the issue of whether or not Australian legislation should recognise the US military commissions that have now been found by the US Supreme Court to be illegal and unconstitutional. What the Australian Greens are seeking to do in this referral is ensure that Australian legislation does not legitimise a military commissions process in the United States that has been found by the US Supreme Court to be unconstitutional.
and therefore illegal. If we do not deal with this issue then Australian law will be the only law in the world that recognises the US military commissions that have been thrown out.

The government and the opposition may object to this legislation, but what I am seeking to do on behalf of the Australian Greens is ensure that it can be looked at by a committee. A committee has not looked at this issue since the US military commissions were ruled unconstitutional by the US Supreme Court. I accept the argument that, yes, this issue has been looked at, but it has not been looked at since the US Supreme Court ruled the commissions unconstitutional. That was a fundamental change and a fundamental shift, I would have thought, in whether or not people chose to recognise the military commissions.

The Australian Greens have never supported the US military commissions that were proposed as a way to try David Hicks, because we recognise that they are a kangaroo court. They are completely unfair. They are designed and set up to convict people such as Australian citizen David Hicks. We think that the parliament should never have recognised them, and in 2004 we voted against that. That was not a time when the government had the numbers, so they only got the motion up because the opposition supported them. The government and the opposition put into Australian legislation a recognition of these US military commissions that now the opposition claim they oppose. I am sorry; they voted for them in 2004 and that is why they are still in our law.

The Australian Greens’ legislation seeks to ensure that that recognition is removed. What I am doing now is ensuring that a Senate committee has an opportunity to look at that. Whether or not people agree or disagree, it is an opportunity for a Senate committee to discuss whether we should have on the statute books in Australia, in Australian law, recognition of a system of US military commissions that has been found to be unconstitutional in the US Supreme Court. They are unconstitutional in the US but they are on the statute books in Australia. Is that the situation we want? It is certainly not the situation the Australian Greens want, and we think the Senate should look at it. All I am moving here is that a Senate committee look at this issue: should we have on our statutes recognition of US military commissions that have been found to be unconstitutional? The Greens do not think so. We want the opportunity to at least look at that matter.

Clearly, we support the bill. It is a bill that I introduced into the parliament this morning in my name and in the name of the Leader of the Australian Greens, Senator Bob Brown, because that is our position. But come on: can’t we at least look at it? The government have said, ‘We don’t want to look at this matter. We’ve dealt with it before.’ I am sorry, but that is wrong. We have not dealt with this matter since the US Supreme Court ruled that the US military commissions were unconstitutional. This is the opportunity to do that. Does the Australian parliament want to look at the matter of whether or not Australian law should recognise the US military commissions that were set up some years ago to try David Hicks and were subsequently found by the US Supreme Court to be unconstitutional? Does the Australian Senate think we should look at the fact that these US military commissions are recognised in Australian law? (Time expired)

Senator LUDWIG (Queensland) (6.03 pm)—On this motion, Senator Nettle, you do have our support. It is a matter of principle that bills can and should be referred from the Senate to committees in the way that you have asked for. The content of the bill is another matter, but in principle we would nor-
mally support these references. I think this reference is even more important because of a couple of issues that really do warrant a remark.

This marks the fifth anniversary of Mr David Hicks’s custody. Five years is an extraordinarily long time for anyone to serve in custody, particularly when there has been no charge, no trial and no conviction. The Howard government have abdicated the rule of law. The Howard government are opposing this reference. Why? Because they want to hide behind their culpability for their appalling treatment of Mr David Hicks. Whether this bill will help Mr David Hicks, the opposition does not know, but the purpose of the inquiry is a reasonable request for the government to agree to. On a day when the government have referred a ridiculous number of bills to committees, it really is astonishing that they seek to oppose this one.

The government have sacrificed one of their own citizens to a military commission process. If you take a look at the Supreme Court ruling that Senator Nettle has looked at, you see that we do actually have a bit of a window here that the government could act upon. There are currently, as I understand it, no charges laid under the new military commissions process. The government have asserted that Mr Hicks cannot be returned to Australia because he cannot be prosecuted here. I think that really does not stand up. That is the point now, given this window. The government would have liked that window to close, but it is still open.

Senior US legal officials have made it very clear that they do not require prosecution at home to release detainees from Guantanamo Bay. So there are no charges and no requirement by US officials. Therefore, the impediment is this government; it is not the US. This is an issue that the Australian government can resolve. Australian laws are more than adequate now to deal with any security risks that the government might think Mr Hicks poses. If Mr Hicks is assessed to pose a security risk to the community, I would be astonished to think that after the last five years you have not patched up all the holes in our security laws to such an extent that there would not be a gap. I would be keen to know if you think there is a gap in our security laws. Over the last number of years there certainly has not seemed to be one.

I am not one for generally suggesting ways or means, but there seem to be sufficient laws available to deal with any assessed security risk that Mr Hicks may pose if released into Australian custody. There are control orders that can monitor a person’s movement, but, as I said, I do not like to suggest these types of solutions. This is a government that can come up with a solution if it puts its mind to it. On that note, the opposition supports the reference of the Removal of Recognition of US Military Commissions (David Hicks) Bill 2006 to the Senate Standing Committee on Legal and Constitutional Affairs.

Senator MURRAY (Western Australia) (6.07 pm)—The Democrats support this motion. We believe that, almost invariably—like the opposition, I probably cannot say always—a senator, a group of senators or, in this case, a party are entitled to have a bill referred to a committee for examination. This is an important and necessary point in the assessment of whether our laws are in conflict with the reality of the laws as determined by the Supreme Court of the United States and as accepted by the President of the United States and the Congress and Senate of the United States. The matter at hand is one of the worst examples of egregious conduct I can think of by this government. That you have deserted an Australian citizen, as you have done, is unfortunately going to be a
blight on this government for all time, and history will not judge you kindly. You do lots of good works in other areas but unfortunately this stain will mark this government, and some of you need to do something about it. In the meantime the Senate Standing Committee on Legal and Constitutional Affairs, which is highly regarded in this place, should be entitled to do look at this matter on its merits.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.09 pm)—In relation to this matter, the Anti-terrorism Bill 2004 was considered by the Senate Standing Committee on Legal and Constitutional Affairs. In that case it was recommended—I think it was recommendation VIII of the committee’s report on the bill—that there be a deletion of the subsections that would have the effect of restricting commercial exploitation by persons who have committed offences triable by a military commission. During consideration of the bill at that time, the government made it clear that it did not support the recommendation that references to US military commissions be removed from the act.

The government continues to believe that the provisions are appropriate. The government believes that this matter has been canvassed previously by the Senate Standing Committee on Legal and Constitutional Affairs and that it is a relatively straightforward question. The government believes that the amendments enacted to the Proceeds of Crime Act 2002 which were contained in the Anti-terrorism Act 2004 are reasonable amendments. They ensure that persons who have committed an offence or who may in future be subject to a military commission offence can be prevented from profiting from the proceeds derived from their activities. This has been canvassed. The lawyers acting on behalf of Mr Hicks have filed a claim in the Federal Court of Australia in relation to David Hicks’s case. The government believes that the proposed reasons for the referral could seek to address issues that are now before the courts and that it would be inappropriate to progress an inquiry in the terms proposed. For those reasons, the government believes that this matter should not be referred to the committee as proposed.

As I have said at question time and in other places, the government continues to press the United States authorities for the trial of David Hicks. It has done so for a lengthy period of time and will continue to do so. In this particular case, however, the matter has been dealt with by a Senate committee before, and we have the situation of the legal proceedings which I have mentioned. For those reasons, the government will be opposing Senator Nettle’s motion to amend the report—and that is what leave was given for. I think it is a fairly straightforward matter in relation to the reference. The David Hicks matter, of course, is not a simple one; it is a very difficult and complex one, and we have acknowledged that.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (6.13 pm)—What appalling arrogance there is in what the minister has just said! He does not believe that a committee should be left to determine for itself whether it is able to work while steering clear of any legal matters that might be before the courts of this country. Since when did governments dictate that to committees? Never. That is a very specious argument, but it points to the government’s arrogance in believing that, since it has the numbers in the Senate, it therefore has the right. Senator Nettle has moved an amendment to, quite properly, have a committee look at a piece of legislation that she and I have brought into the chamber to remove a reference to—and an inherent subservience to—American military commissions under legislation in this country, which does not
exist under legislation in any other country on the face of the planet. It is an extraordinary situation that it used to be in legislation in the United States but it effectively does not exist anymore, because it has been found that the American military commissions were illegal under the US Constitution and US law.

The only place left in the world which recognises this kangaroo court is Australia, under legislation brought in by the Howard government and supported by the then Beazley opposition. It is on the statute books in this country. The minister says: ‘Well, it was looked at in 2004 and the committee recommended against it. But we overruled that committee and we went ahead, so we shouldn’t have to look at it now. We had that advice and ignored it.’ The minister is saying, ‘We will not put this to a committee, because either it will agree with us in keeping recognition of the American military commissions on the statutes or, if it doesn’t, we’ll ignore it anyway.’ What extraordinary arrogance there is in that.

The decency of this situation in democratic terms is simply that this piece of legislation should be looked at by the committee. The world has changed. America has found that the military commissions it has set up are no longer legal. President Bush accepts that; he does not recognise them. Prime Minister Howard does recognise them. Here we have his minister saying that the government does not want to remove that recognition. That is an extraordinary thing of itself. It is tied to the sorry tale of the United States now saying they are not winning the war in Iraq. But our Prime Minister will not go along with that. He is the last leader left standing on the face of the planet who cannot face the reality of the gruesome situation which has unfolded in Baghdad and elsewhere in Iraq.

Let the proper process take place here and let this matter go to a committee. That is what should happen and that is what the government should be supporting if it thinks its position is tenable.

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

The Senate divided. [6.21 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes………….. 30

Noes………….. 34

Majority……… 4

AYES

Allison, L.F.
Bishop, T.M.
Brown, C.L.
Crossin, P.M.
Faulkner, J.P.
Hogg, J.J.
Ludwig, J.W.
McEwen, A.
Moore, C.
Nettle, K.
Polley, H.
Sherry, N.J.
Stephens, U.
Stott Despoja, N.
Wong, P.

NOES

Abetz, E.
Barnett, G.
Boswell, R.L.D.
Calvert, P.H.
Chapman, H.G.P.
Coogan, H.L.
Ellison, C.M.
Ferris, J.M.
Fierravanti-Wells, C.
Heffernan, W.
Johnston, D.
Macdonald, I.
Nash, F.
Patterson, K.C.
Ronaldson, M.

Abetz, E.
Barnett, G.
Boswell, R.L.D.
Calvert, P.H.
Chapman, H.G.P.
Coogan, H.L.
Ellison, C.M.
Ferris, J.M.
Fierravanti-Wells, C.
Heffernan, W.
Johnston, D.
Macdonald, I.
Nash, F.
Patterson, K.C.
Ronaldson, M.
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Troeth, J.M. Trood, R.B.
Vanstone, A.E. Watson, J.O.W.

PAIRS
Campbell, G. Scullion, N.G.
Conroy, S.M. Mason, B.J.
Hurley, A. Kemp, C.R.
Hutchins, S.P. Macdonald, J.A.L.
Lundy, K.A. Joyce, B.
McLucas, J.E. Minchin, N.H.

* denotes teller

Question negatived.

Senator MARSHALL (Victoria) (6.23 pm)—I move the following amendment:

At the end of the motion, add "and, the following bills be referred to the Employment, Workplace Relations and Education Committee for inquiry and report by 20 February 2007:

(a) Australian Technical Colleges (Flexibility in Achieving Australia’s Skills Needs) Amendment Bill (No. 2) 2006; and
(b) Employment and Workplace Relations Legislation Amendment (Welfare to Work and Vocational Rehabilitation Services) Bill 2006.

Mr President, I do not intend to speak to my amendment motion.

Question agreed to.

The PRESIDENT—The question now is that the adoption of the report motion as amended be agreed to.

Senator CHAPMAN (South Australia) (6.24 pm)—Mr President, is this dealing with the reference of bills to a committee, as I understand it?

The PRESIDENT—Yes.

Senator CHAPMAN—Senator Brandis, as the Chairman of the Senate Standing Committee on Economics, and I have just had a discussion about what I understand to be the superannuation bill that has been referred as part of the motion to do with this report. Is that correct?

The PRESIDENT—Yes, I believe it is.

Senator CHAPMAN—The discussion that Senator Brandis and I have had suggests that that should be referred to the Joint Committee on Corporations and Financial Services rather than the Senate Standing Committee on Economics, which normally deals with such matters. I would seek leave to move that amendment.

The PRESIDENT—The question is that the amendment moved by Senator Chapman to Senator Marshall’s amending motion be agreed to.

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (6.26 pm)—Let us defer it, Mr President.

Senator LUDWIG (Queensland) (6.26 pm)—Mr President, as I understand it, Senator Chapman’s motion is about a referral to a joint committee, which is a little bit unusual. I think it should be deferred to a later hour of the day so that we can have a look at it. I am sure we will give leave to come back to do it. I will certainly grant leave for it to be dealt with later so that we can take advice on what it is about. A bill would normally be referred to a Senate committee, although it may not actually be so in this case, but I would seek leave for a deferral so that we can deal with it later.

The PRESIDENT—This matter will be deferred to a later hour of the day. My advice is that I can now put the question that the report motion as amended be agreed to and that we can deal with the rest of it later. So the question is that the adoption of the report motion as amended be agreed to.

Question agreed to.

Senator PARRY (Tasmania) (6.27 pm)—Mr President, I seek leave to have the 16th report of 2006 of the Selection of Bills Committee incorporated into Hansard.

Leave granted.
The report read as follows—

SELECTION OF BILLS COMMITTEE
REPORT NO. 16 OF 2006

(1) The committee met in private session on Thursday, 7 December 2006 at 3.23 pm.

(2) The committee resolved to recommend—

That—

(a) the provisions of the Electoral and Referendum Legislation Amendment Bill 2006 be referred immediately to the Finance and Public Administration Committee for inquiry and report by 20 February 2007 (see appendix 1 for a statement of reasons for referral);

(b) the provisions of the Airspace Bill 2006 and the Airspace (Consequential and Other Measures) Bill 2006 be referred immediately to the Rural and Regional Affairs and Transport Committee for inquiry and report by 26 February 2007 (see appendices 2 and 3 for statements of reasons for referral);

(c) the provisions of the Airports Amendment Bill 2006 be referred immediately to the Rural and Regional Affairs and Transport Committee for inquiry and report by 26 February 2007 (see appendices 4 and 5 for statements of reasons for referral);

(d) the provisions of the Private Health Insurance Bill 2006 and 6 related bills be referred immediately to the Community Affairs Committee for inquiry and report by 26 February 2007 (see appendices 6 and 7 for statements of reasons for referral);

(e) the provisions of the Tax Laws Amendment (Simplified Superannuation) Bill 2006 and 5 related bills be referred immediately to the Economics Committee for inquiry and report by 6 February 2007 (see appendices 8 and 9 for statements of reasons for referral);

(f) the provisions of the Native Title Amendment Bill 2006 be referred immediately to the Legal and Constitutional Affairs Committee for inquiry and report by 23 February 2007 (see appendices 10 and 11 for statements of reasons for referral);

(g) the provisions of the Customs Legislation Amendment (Augmenting Offshore Powers and Other Measures) Bill 2006 be referred immediately to the Legal and Constitutional Affairs Committee for inquiry and report by 8 February 2007 (see appendix 12 for a statement of reasons for referral);

(h) the Migration Amendment (Review Provisions) Bill 2006 be referred immediately to the Legal and Constitutional Affairs Committee for inquiry and report by 20 February 2007 (see appendices 13 and 14 for statements of reasons for referral); and

(i) the provisions of the Murray-Darling Basin Amendment Bill 2006 be referred immediately to the Rural and Regional Affairs and Transport Committee for inquiry and report by 26 February 2007 (see appendix 15 for a statement of reasons for referral).

(3) The committee resolved to recommend—

That the following bills not be referred to committees:

• Australian Technical Colleges (Flexibility in Achieving Australia’s Skills Needs) Amendment Bill (No. 2) 2006
• Employment and Workplace Relations Legislation Amendment (Welfare to Work and Vocational Rehabilitation Services) Bill 2006
• Maritime Legislation Amendment (Prevention of Air Pollution from Ships) Bill 2006
• Migration Legislation Amendment (Restoration of Fair Process) Bill 2006
• Tax Laws Amendment (2006 Measures No. 7) Bill 2006.

The committee recommends accordingly.
(4) The committee considered a proposal to refer the Recognition of US Military Commissions (David Hicks) Bill 2006 to the Legal and Constitutional Affairs Committee, but was unable to reach agreement on whether the bill should be referred (see appendix 16 for a statement of reasons for proposed referral).

(5) The committee deferred consideration of the following bills to its next meeting:

- AusCheck Bill 2006
- Australian Energy Market Amendment (Gas Legislation) Bill 2006
- Classification (Publications, Films and Computer Games) Amendment Bill 2006
- Veterans’ Affairs Legislation Amendment (Statements of Principles and Other Measures) Bill 2006.

(Jeannie Ferris)
Chair
7 December 2006

Appendix 1
Proposal to refer a bill to a committee
Name of bill(s):
Electoral and Referendum Legislation Amendment Bill 2006

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

Possible submissions or evidence from:
Committee to which bill is referred:
Finance and Public Administration Committee
Possible hearing date:
Possible reporting date(s): 20 February 2007

Appendix 2
Proposal to refer a bill to a committee
Name of bill(s):
Airspace Bill 2006 and the Airspace (Consequentials and Other Measures) Bill 2006

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

Statement to the Selection of Bills Committee
Justification for the Airspace Bill and the Airspace Consequentials and Other Measures Bill to be considered by the Senate Standing Committee on Rural and Regional Affairs and Transport

In the second reading speech given to the House of Representatives on 29 November 2006, the Government indicated its intention to have these bills discussed in committee. The bills underpin a transfer of airspace administration and regulation from Airservices Australia to the Civil Aviation Safety Authority (CASA), and form a key element in the reform agenda for Australian administered airspace. The bills will strengthen Australia’s planning and administration of airspace.

The bills are required to enable the transfer of the airspace regulatory function from Airservices Australia to CASA. The Government intends that this transfer be complete by 01 July 2007, after which CASA will be expected to operate as a best practice airspace administrator and regulator in its own right. In order to meet this timetable, it is important that the passage of the bills be completed in the next session and regulations be put in place.

Early and comprehensive discussion of the bills in Committee will facilitate their passage through Parliament and enable the Government to meet the timeframe for the transfer of the airspace regulatory function and the establishment of the CASA Office of Airspace Regulation.

Possible submissions or evidence from:
Committee to which bill is referred:
Rural and Regional Affairs and Transport Committee
Possible hearing date:
Possible reporting date(s): 26 February 2007

Appendix 3
Proposal to refer a bill to a committee
Name of bill(s):
Airspace Bill 2006 and the Airspace (Consequentials and Other Measures) Bill 2006
Reasons for referral/principal issues for consideration
This bill provides further responsibility to CASA at a time when confidence in the regulator is waning. Concerns have been lodged re handling of safety audits and whether CASA is sufficiently resourced to do its primary role. Recent decisions to refer Transair to DPP by ATSB is indicative that CASA may not be as stringent as should be.

Possible submissions or evidence from:
Aviation industry, CASA

Committee to which bill is referred:
Rural and Regional Affairs and Transport Committee

Possible hearing date:
Possible reporting date(s): 26 March 2007

Appendix 4
Proposal to refer a bill to a committee
Name of bill(s):
Airports Amendment Bill 2006

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

STATEMENT TO THE SELECTION OF BILLS COMMITTEE JUSTIFICATION FOR THE AIRPORTS AMENDMENT BILL TO BE CONSIDERED BY THE SENATE STANDING COMMITTEE ON RURAL AND REGIONAL AFFAIRS AND TRANSPORT

The Airports Act sets out a comprehensive regime for the regulation of the leased 22 federal airports. The proposed amendments are a balance of strengthening regulatory powers on airport development decisions and reducing regulatory burden on airports and airport businesses.

The Airports Amendment Bill 2006 was developed following a comprehensive review of the Airports Act 1996. The review recommended a number of changes to improve the operation of the regulatory regime in the Act. The bill implements a number of recommendations arising from the June 2000 Senate Committee Inquiry into the Brisbane Airport Master Plan. The bill also seeks to exclude Canberra Airport from the operation of the National Capital Plan, as provided for in the Australian Capital Territory (Planning and Land Management) Act 1988, aligning Canberra Airport’s planning obligations with the other leased federal airports.

Key planning reform elements include:
- A “stop the clock” provision which allows the Minister to seek additional information and research on airport major development proposals. This will enable the Minister to better deal with any major development proposals where they consider that further information is required to assess the proposal. Currently the Minister can only approve or reject a development proposal within a 90 day period or the project is deemed to be approved;
- Better access to key planning and development proposals to be provided to the community by airports through requiring proposals to be readily available free of charge on a website. This will ensure the public have ready access to associated documents in an electronic form, free of charge, to assist in their providing comment on land use proposals;
- Streamlining the public comment and assessment periods for master plans, major development plans and environment strategies. This better aligns the consultation period requirements with State/Territory planning and environment requirements;
- A requirement that master plans provide better information for communities on flight paths and the noise exposure contours for an airport. This will require improved information regarding aircraft noise exposure levels and indicative flight paths; and
- Requiring an airport-lessee company to ‘demonstrate’ to the Minister how it had due regard to all public comment when preparing their draft master plans and major development plans – currently the airport company need only state that it
had due regard and not explain or describe how.

These measures are aimed at improving the confidence of the community and airport operators in the planning and development regulatory regime in the Act. Early and comprehensive discussion of the bill in Committee will facilitate its passage through Parliament and enable the Government to address the number of airport development proposals currently being prepared for community consultation and regulatory approval.

Possible submissions or evidence from:
Committee to which bill is referred:
Rural and Regional Affairs and Transport Committee
Possible hearing date:
Possible reporting date(s): 27 February 2007

Appendix 5
Proposal to refer a bill to a committee
Name of bill(s):
Airports Amendment Bill 2006
Reasons for referral/principal issues for consideration
Non aviation development on airport precincts has become very controversial in recent years. Large retail and manufacturing developments have been approved over the objections of state governments, local councils, retailers and local residents. Reference would provide an opportunity for interested and affected parties to make submissions concerning whether issues would be addressed in the proposed bill.

Possible submissions or evidence from:
Community groups, local retailers, local councils, state government planning and airport leasing companies, DOTARS
Committee to which bill is referred:
Rural and Regional Affairs and Transport Committee
Possible hearing date:
Possible reporting date(s): 26 March 2007

Appendix 6
Proposal to refer a bill to a committee
Name of bill(s):
Private Health Insurance Bill 2006
Private Health Insurance (Transitional Provisions and Consequential Amendments) Bill 2006
Private Health Insurance (Prostheses Application and Listing Fees) Bill 2006
Private Health Insurance (Collapsed Organization Levy) Amendment Bill 2006
Private Health Insurance Complaints Levy Amendment Bill 2006
Private Health Insurance (Council Administration Levy) Amendment Bill 2006
Private Health Insurance (Reinsurance Trust Fund Levy) Amendment Bill 2006

Reasons for referral/principal issues for consideration
Examination of the bills as necessary.
These Bills provide:

- Legislative authority for the Government’s announced major reforms to private health insurance coverage beginning in April 2007; and
- Simplifying the current maze of legislation regulating the private health insurance industry.

In April 2006 the Government announced the biggest revamp of private health insurance (PHI) in 50 years. Other than ancillaries what PHI can cover is now limited almost entirely to admitted-patient services – you generally have to go to hospital to claim a PHI benefit. The Government’s reforms will take it “out the hospital gate”:

- From 1 April 2007 health funds can offer Broader Health Cover: not just for in-patient hospital services but services that substitute for, or prevent, hospital admissions.
- The Government is not being prescriptive about what might in fact be covered but it could be taken to include outpatient and day procedures services, in-home services (eg dialysis and post-discharge care), condition management
CHAMBER

Possible submissions or evidence from:
Committee to which bill is referred:
Possible hearing date:
Possible reporting date(s): 20 February 2007

Appendix 7
Proposal to refer a bill to a committee
Name of bill(s):
Private Health Insurance Bill 2006
Private Health Insurance (Transitional Provisions and Consequential Amendments) Bill 2006
Private Health Insurance (Prostheses Application and Listing Fees) Bill 2006
Private Health Insurance (Prostheses Application Levy) Amendment Bill 2006
Private Health Insurance Complaints Levy Amendment Bill 2006
Private Health Insurance (Council Administration Levy) Amendment Bill 2006
Private Health Insurance (Reinsurance Trust Fund Levy) Amendment Bill 2006
Reasons for referral/principal issues for consideration
First time National Health Act is being split across public/private lines. These are entirely new bills to regulate for all aspects of private health care provision. Requires close scrutiny for implications for the health system at large, including Medicare.
Possible submissions or evidence from:
APHA, Catholic Health, consumer groups, Ombudsman, PHIAC, public hospitals, AMA, ADGP, Ian McCauley, Tim Buther.
Committee to which bill is referred:
Community Affairs Committee
Possible hearing date: March 2007
Possible reporting date(s): March – April 2007

Appendix 8
Proposal to refer a bill to a committee
Name of bill(s):
Tax Laws Amendment (Simplified Superannuation) Bill 2006
Superannuation (Excess Untaxed Roll-over Tax) Bill 2006
Superannuation (Excess Concessional Contributions Tax) Bill 2006
Superannuation (Excess Non-concessional Contributions Tax) Bill 2006
Superannuation (Departing Australia Superannuation Payments Tax) Bill 2006
Superannuation (Self Managed Superannuation Funds) Supervisory Levy Amendment Bill 2006
Reasons for referral/principal issues for consideration
The Tax Laws Amendment (Simplified Superannuation) Bill 2006 implements the Government’s simplified superannuation reforms and rewrites other areas of superannuation taxation law into the Income Tax Assessment Act 1997.
The bill implements the Government’s simplified superannuation reforms as announced in Simplified Superannuation - Final Decisions. www.simplersuper.treasury.gov.au
Possible submissions or evidence from:
Committee to which bill is referred:
Economics Committee
Possible hearing date:
Possible reporting date(s): 6 February 12007

Appendix 9
Proposal to refer a bill to a committee
Name of bill(s):
Tax Laws Amendment (Simplified Superannuation) Bill 2006
Superannuation (Excess Untaxed Roll-over Tax) Bill 2006
Superannuation (Excess Concessional Contributions Tax) Bill 2006
Superannuation (Excess Non-concessional Contributions Tax) Bill 2006

CHAMBER
Superannuation (Departing Australia Superannuation Payments Tax) Bill 2006
Superannuation (Self Managed Superannuation Funds) Supervisory Levy Amendment Bill 2006

Reasons for referral/principal issues for consideration
To obtain costings of individual measures and impact on tax increase on company-contributions where TFN not provided.

Possible submissions or evidence from:
Treasury, ATO, ASFA, IFSF, CMSF, Financial Planners Association, REST, ACTU

Committee to which bill is referred:
Economics Committee

Possible hearing date: 29 January – 2 February 2007
Possible reporting date(s): 6 February 2007

Appendix 10
Proposal to refer a bill to a committee
Name of bill(s):
Native Title Amendment Bill

Reasons for referral/principal issues for consideration
Examination of the bill as necessary
The bill implements part of a package of six interrelated reforms to the native title system announced by the Government in September 2005. The object of the reforms is to ensure existing native title processes work more effectively and efficiently in securing outcomes for all parties. The four of the six elements of the reform package are:

• measures to encourage the effective functioning of prescribed bodies corporate (PBCs), the bodies established to manage native title once it is recognised, and
• reforms to the native title non-claimants (respondents) financial assistance program to encourage agreement-making rather than litigation.

Possible submissions or evidence from:
Native Title Amendment Bill

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

Possible hearing date:
Possible reporting date(s): 9 February 2007

Appendix 11
Proposal to refer a bill to a committee
Name of bill(s):
Native Title Amendment Bill

Reasons for referral/principal issues for consideration
The new regime for Native Title Representative Bodies (NTRBs) will have a dramatic impact on the sector yet has had no public consideration on exposure to date. NTRBs has also expressed concerns about other elements of the bill.

Possible submissions or evidence from:
NTRBs, industry (Minerals Council), Federal Court, NNTT, state and territory governments, PBCs, Law Council of Australia, Aboriginal and Torres Strait Islander Commissioner Tom Calma, ANTAR

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

Possible hearing date:
Possible reporting date(s): 16 March 2007

Appendix 12
Proposal to refer a bill to a committee
Name of bill(s):
Customs Legislation Amendment (Augmenting Offshore Powers and Other Measures) Bill 2006
Reasons for referral/principal issues for consideration

to examine the schedules dealing with:

- new powers for customs
- duty recovery
- implementation of SmartGate
- arrangements and licensing for customs brokers and agents.

Possible submissions or evidence from:
CBFCQA, ACS, DIMA, Law Council

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

Possible hearing date:

Possible reporting date(s): 8 February 2007

Appendix 13

Proposal to refer a bill to a committee

Name of bill(s):
The Migration Amendment (Review Provisions) Bill 2006

Reasons for referral/principal issues for consideration

Examination of the bill as necessary.

The bill will amend the Migration Act 1958 (“the Act”) to:

(a) allow the Migration Review Tribunal (“the MRT”) and the Refugee Review Tribunal (“the RRT”) to give procedural fairness to review applicants, during a hearing, by allowing the Tribunals to orally give clear particulars of any information that the Tribunal considers would be the reason, or part of the reason, for affirming the decision that is under review and invite the applicant to comment on the information;

(b) clarify that the obligation to give an applicant information and invite comment on information does not extend to information already provided by the applicant to the Department of Immigration and Multicultural Affairs (“the Department”), as part of the process leading to the decision under review, other than information that the applicant has given orally to the Department;

(c) provide that if the Tribunals give, orally or in writing, clear particulars of the information that the Tribunals consider would be the reason or part of the reason for affirming the decision under review, then the Tribunals must ensure that the applicant understands why the information is relevant to the review and the consequences of the information being relied on in affirming the decision;

(d) provide that if an applicant is given information at the hearing and seeks more time to comment on the information and the Tribunals consider that the applicant reasonably needs additional time, the Tribunals must adjourn the review and provide the applicant with that opportunity; and

(e) clarify the Tribunal’s obligation to act fairly and justly in the conduct of a review under Division 5 of the Act.

Possible submissions or evidence from:

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

Possible hearing date:

Possible reporting date(s): 20 February 2007

Appendix 14

Proposal to refer a bill to a committee

Name of bill(s):
The Migration Amendment (Review Provisions) Bill 2006

Reasons for referral/principal issues for consideration

Concerns that these amendments will hinder the ability of lawyers and migration agents to properly represent their clients.

Concerns that provisions in this bill will prevent applicants for review from receiving natural justice.

Concerns that oral rather than written particulars within 424A (2) will result in increased rather than reduced complexity of litigation.
Possible submissions or evidence from:
Asylum Seeker Resource Centre.
Refugee Immigration Legal Centre.
Refugee Advice and Casework Service
Legal Aid NSW
Marion Le - Migration Agent
Micheala Byers - Migration Agent

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

Possible hearing date:
Possible reporting date(s): 20 February 2007

Appendix 15
Proposal to refer a bill to a committee
Name of bill(s):
Murray-Darling Basin Amendment Bill 2006

Reasons for referral/principal issues for consideration
The current water crisis facing the Murray Darling Basin and the need to fully investigate the implications of the bill in that context.

Possible submissions or evidence from:
Stakeholders in the Murray Darling region
Landholders in the Murray Darling region
The Murray Darling Commission
Respective State and Federal government departments
Community members
Environmental groups.

Committee to which bill is referred:
Rural and Regional Affairs and Transport Committee

Possible hearing date: February 2007
Possible reporting date(s): 28 February 2007

Appendix 16
Proposal to refer a bill to a committee
Name of bill(s):
Removal of Recognition of US Military Commissions (David Hicks) Bill 2006

Reasons for referral/principal issues for consideration
The continued incarceration of David Hicks in Guantanamo Bay
The legality and appropriateness of the recognition of US military commissions in Australian law
The impact on Australian citizens who wish to receive literary proceeds of the inclusion of US military commissions in the Proceeds of Crime Act 2002
The appropriateness of removing the recognition of US military commissions from the Proceeds of Crime Act 2002

Possible submissions or evidence from:
Legal practitioners and organisations including the Law Council of Australia and lawyers for David Hicks
Community organisations including those representing the Arab and Muslim Community
Media and Publishing industry representatives
Concerned citizens

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

Possible hearing date: 12-14 March 2007
Possible reporting date(s): 20 March 2007

Sitting suspended from 6.27 pm to 7.30 pm

VALEDICTORY
Senator MINCHIN (South Australia—Leader of the Government in the Senate) (7.30 pm)—I only have two minutes in which to take the opportunity to make some remarks at this, the end of yet another productive, interesting year in the Senate—and, indeed, it is my first time in the privileged position of Leader of the Government in the Senate. I particularly want to thank you, Mr President, for your stewardship of that high office and for the way in which you have conducted yourself throughout this year. I thank you for your wise guidance of this chamber’s affairs.
I want to thank in particular the Senate Clerk and all the Senate staff. They work extraordinarily hard to make this place function well and as smoothly as it does. The Clerk is a fascinating character in this parliament and one with whom, it must be said, the government occasionally comes into conflict. But I guess that is inevitable, because Harry is one of the great defenders of the institution of the Senate, and for that I respect him. It inevitably means that, on occasion, as a defender of the legislature, it brings him into conflict with the executive. They are robust exchanges, but on all occasions we respect him for the integrity of his position and his robust defence of and belief in the great institution which is the Senate. So we thank him, Rosemary and the others on the Senate staff, who work so hard to make this place function as well as it does.

In the short time remaining, in a spirit of conviviality and generosity, I want to thank all senators for their robust participation in the debates throughout the year. We have had some difficult issues to deal with—not only government legislation but also private members’ bills, which are always a fascinating and intriguing exercise. From the government’s point of view it has been productive, and we thank the other parties for their lively contributions to the debate. My time is up, so I want to wish everybody a very happy Christmas. 2007 is another election year, so we are all going to be working very hard next year. I hope you all have a very safe, peaceful and happy Christmas.

Honourable senators—Hear, hear!

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (7.32 pm)—I join with Senator Minchin in making a contribution and wishing people a merry Christmas and a happy New Year, particularly all the Senate staff et cetera who will, no doubt, like senators and members, enjoy the break. I think all the staff of the Senate are much happier when we are not here, and I understand that entirely. I have to be frank: I am much happier when I am not here as well, because I am at home with my family. We wish everyone the best over the Christmas period.

I would like to thank a few people. Firstly, of course I thank the Senate staff, the parliamentary staff, the Comcar people, Senate transport and all the people who make this place work. I express on behalf of Labor senators how much we appreciate what you do. I am the first to acknowledge that it is not what you say at Christmas but how you treat people during the year. I think they know who amongst us appreciates them, but it is important to remind them of that and thank them for their efforts. I also want to thank Labor senators for their support during the year. These have been difficult times for us, with a change in the balance of power in the Senate, and I have received great support from my deputy; from Senator Ludwig, the Manager of Opposition Business in the Senate; from Senator Campbell and from the other senators. I really appreciate that.

I want to also make special mention of Kim Beazley in these difficult times—I hope that he has a good Christmas period—and the staff. A lot of our staff from the leader’s and the deputy’s offices have lost their jobs in the last few days, and I know they are going through a difficult period. I hope that things improve and that they have a happy Christmas.

I also want to say that our thoughts are with people who will be doing it tough over Christmas—those in poor circumstances: firefighters, the ADF personnel overseas and those who will not enjoy the break that we do. I indicate our best wishes for them and acknowledge that they are serving their
country and missing out on the sort of Christmas that we all want to have.

Finally, I want to thank my staff for their efforts and note that Trish Crossin’s daughter Kate has been in the building the last few days. She has been a great reminder of why we ought to get out of here and go and enjoy our families. She is a character of the first order and she has certainly lit up the opposition corridors. As I say, it is a good reminder to keep some balance between work and family. I wish everyone the best for Christmas.

Honourable senators—Hear, hear!

Senator ALLISON (Victoria—Leader of the Australian Democrats) (7.35 pm)—I wish to join the others in thanking the many people who assist us so well in doing our jobs in this place. Thank you, Mr President, for your very good management of the chamber and chamber business.

The PRESIDENT—You will get the first question next year, I can tell you!

Senator ALLISON—Thank you! I thank the Clerk and the assistant clerks for their unfailing good advice. I thank the Table Office; the procedure office; Senate services; our committee secretariats, who work to impossible deadlines and have huge demands on them; the attendants around this place who are largely invisible but who are very patient with us and polite; and the broadcasters, who are often not noticed up at the back of the chamber—thank you for being here. I thank our security guards: we are pleased that it is not an exciting time for you to be handling security, but you are always very helpful and polite. Thank you to the staff who dish out the food in this place—staff at Aussies, staff in the staff cafeteria and the catering crew upstairs. I thank them for their work this year, as I do the people who keep this place beautifully clean. I thank the people in the back of the House—printers, photographers, people who dish out stationary and people from 2020 who help us with computers. Thank you to all the Comcar drivers who do their jobs so well. I thank the gardeners, who make this the most glorious work environment imaginable—I look out onto those courtyards and the beautiful work they do in keeping our gardens looking wonderful.

To the library—that research institute for whom nothing is too much trouble—I thank you for your work. I acknowledge the very long hours and the enormous pressure that we put our own staff under, and I thank you for your support and for being away from home, like us, but with perhaps not the same rewards. To my colleagues, I say that it has been a good year. Despite the fact that the government has the numbers in this place—not quite what we have been used to in the past—we have had some good runs on the board. I appreciate my colleagues’ teamwork and their support.

Finally, to other senators in this place, I say that it has been a good collegiate year, I think. We have got on well, despite our very big differences politically and in legislative terms. I have enjoyed the camaraderie and the professional way in which people in this place conduct their affairs.

Senator FIELDING (Victoria—Leader of the Family First Party) (7.38 pm)—Family First would like to join with the other party leaders in expressing appreciation to all the Senate staff, library staff, and Comcar drivers for looking after us this year. I have found the staff all over this place to be absolutely friendly. It is nice to strike the friendly faces of those who are very supportive of all the work that happens around here.

I really appreciate the friendly faces at the staff cafe, in particular Linda and Sue, and those at Aussies. I appreciate the clerks, Harry Evans does a tremendous job. He is
always interested to listen and will always give his thoughts on a matter. In particular I want to thank Cleaver Elliott—the amount of times I have phoned Cleaver, and the staff around there have just been amazing!

Ours is a small party at the federal level and I must admit I appreciate all the staff; we lean on them very heavily. I am sure that sometimes they get sick of our regular phone calls but I really appreciate them and the good humour that they show from time to time. Family First wishes all senators and all staff a very merry Christmas and a very safe 2007.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (7.39 pm)—On behalf of the Australian Greens I would like to add a word of cheer to everybody in this place and thank the people who work in this chamber, including those behind the glass up the back there who ensure the broadcasts go out to the people of Australia and beyond; the people who work up in the galleries, who help bring the Australian public into this place which is theirs and help them to understand what is going on; those who record all that we say, including things we should not say, and to the media and the journalists who translate what we say, opine on what we say and get it out to Australia. The fourth estate is so important to democracy.

I want to give a special word of thanks, of course, to our clerks, who guide what we do in here and who give good advice, and to the librarians, who are so assiduous in keeping us well informed and giving us the information that we need. I want to thank those who look after the whole building and those who drive us to and from it—the Comcar people, in this city and elsewhere around Australia.

In particular, I want to say season’s greetings and a happy new year to all Australians. I know, from working in this city many years ago that at Christmas time cheer does not come easily for people who have a mental illness and people who are lonely or by themselves. I have a special thought for them from the Greens at this time and, indeed, for people right around the world who have drawn the short straw on this planet. Our job is to keep them in the foremost of our minds while we enjoy this lucky, happy life that we live here in Australia and in this place.

So happy New Year and season’s greetings. I join Senator Fielding in also wishing everybody safety and security. There is nothing more important than that for us, our loved ones, the people we work with and everybody. Let us hope that this is a record safe year for this great and beautiful country of ours.

The PRESIDENT (7.42 pm)—I take this opportunity at the end of the 2006 sittings to thank all honourable senators for their contribution to the smooth running, most of the time, of the chamber this year. I single out the Deputy President and Chairman of Committees, Senator John Hogg. John has been an absolutely loyal and steadfast deputy. He has stepped in whenever needed. He has also been a great Chairman of Committees. I would also like to take the opportunity to thank the temporary chairmen of committees, who on a daily basis run this chamber. It is always a pleasure to acknowledge the temporary chairmen of committees who take the chair and do such a great job.

I would like to thank the Clerk of the Senate, Harry Evans; the Deputy Clerk and the other clerks at the table for their support to us all during the year. Their advice is always professional and timely, and I think it is a hallmark of the Australian Senate. I particularly thank the Usher of the Black Rod, for the support to my office during the year. I thank the chamber support staff, and in par-
ticular the attendants for their assistance during the year.

Everything in the Senate relies on the efficient distribution of paperwork and we would grind to a halt if that did not happen. The different sections of the Senate—the Black Rod’s area, the Committee Office, the Table Office, the Procedure Office—all merit great praise for their quiet and diligent support through 2006. The Senate in operation is a little bit like a duck paddling across the water. It often looks tranquil on the top but everything is going on underneath. When you move around this place you see that it is those people underneath who make this place work.

I thank the Department of Parliamentary Services, led by Hilary Penfold, for their work during the year to maintain this building, particularly the landscape staff, who had a particularly difficult year given the circumstances we have had to deal with with the drought and trying to preserve water and keeping this place looking like it was meant to.

The Parliamentary Library has continued to do excellent work under the new Parliamentary Librarian, Roxanne Missingham, and the new governance arrangements that have come into place with a strengthened Joint Library Committee and service agreement that I think have bedded down quite well. Thanks go to all the library staff for their continued and dedicated work.

I would like to also thank the staff of the two joint offices, the Parliamentary Relations Office and the Parliamentary Education Office, for their work during a very busy year—both for official overseas visitors to our parliament, whom we had many of this year, and for the volume of members of the general public, particularly those schoolchildren who flock here to learn about Australian democracy. The Parliamentary Education Office does a wonderful job.

I would like to also thank the guide service, who bring people through this place. They are a very vital part of Parliament House. I would like to record my particular thanks to Maggie Nightingale, who is retiring next week as Assistant Director, Visitor Services. I can say she will be sorely missed because she has been a great director in that area. She has been the leader of a great team. They do a wonderful job in showing the people of Australia how wonderful this parliament is.

I thank my colleague the Speaker in the other place for his cooperation during the year. Much of the work the Presiding Officers do in both chambers is done together. I appreciate the relationship I have with the Speaker. We have to make some decisions that you probably do not like, and some you do like, but we work well together.

I would like to thank the staff of my private office including those in Hobart, who support me in such a cheerful way, particularly when I am up here.

My wife, Jill and all senators and other people who work in Parliament House and in electorate offices right around Australia would like to wish you all our very best wishes for a very happy Christmas and a great 2007. We strongly urge those who are travelling over Christmas, as Senator Brown said earlier, to take particular care on our roads; as we all know, this is a very dangerous time of the year. I thank the Senate.

Honourable senators—Hear, hear!

CUSTOMS LEGISLATION AMENDMENT (NEW ZEALAND RULES OF ORIGIN) BILL 2006

Second Reading

Debate resumed from 29 November, on motion by Senator Colbeck:
That this bill be now read a second time.

Senator WONG (South Australia) (7.47 pm)—I rise to speak on behalf of the Labor Party on the Customs Legislation Amendment (New Zealand Rules of Origin) Bill 2006, which will amend the Customs Tariff Act 1995 to give effect to an agreement between Australia and New Zealand to amend the rules of origin under the CER trade agreement between our two countries. In particular this bill replaces the current regional value content rules of origin with the change of classification rules. The intent of rules of origin is to determine whether a product can be classified as domestically produced for the purposes of receiving preferential tariff treatment under a trade agreement.

Under existing rules a New Zealand product exported here can receive preferential treatment provided the last production process occurred in New Zealand and a minimum of 50 per cent of the cost of production also occurred in New Zealand. Under the proposed changes a good will receive preferential tariff treatment if it has been substantially transformed, which is defined as a change of tariff classification under the harmonised system of tariff codes, a system defined by the World Customs Organisation. The need for this change is based on the growing complexity in global supply chains, which is rendering the existing value based system irrelevant. Under the current RVC system, should the final process of manufacture occur in a third country, the product will not qualify for preferential treatment, no matter how minor the final process. This is the case if even more than 50 per cent of the cost of manufacture has occurred in Australia or New Zealand.

The Productivity Commission in 2004 completed a report on the Australia-New Zealand rules of origin, which concluded that they were both out of date and imposed unnecessary constraints on trade. In advocating a move towards a change of classification method the commission argued, first, that it would reduce compliance costs; second, that it would remove the impact of price changes or exchange rate movements on origin status; third, it would increase certainty; and, finally, it would require minimal records for Customs audits.

The change of classification method was also adopted under the Australia-US Free Trade Agreement and the Australia-Thailand Free Trade Agreement. Therefore, moving the arrangements between Australia and New Zealand in this direction will deliver greater consistency, and in particular practical benefits for companies that export to two or three of the countries mentioned.

By and large Labor is supportive of these amendments, since they deliver a modern and more consistent method for prescribing preferential tariff treatment. We did have a concern with the government's inadequate consultation process in relation to these amendments. This is an emerging and continuing problem with this government that is not assisted by the short time that is now being allocated for Senate committee inquiries. In particular, there is at least one company that could needlessly be negatively affected by the change to the point where significant numbers of jobs may be at risk. I understand my colleague Ms Roxon has covered this issue in detail in the other place. We wish to make the point that more effective consultation prior to the introduction of the bill might have helped in this situation, particularly in relation to that company. Other than this, Labor is in support of the changes contained in the bill and we commend it to the Senate.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (7.51 pm)
— As I undertook earlier, there are a couple of issues that Senator Ludwig raised in relation to the anti-money-laundering bill. I think there was a question in relation to why AUSTRAC could not share information with the United Nations. Section 27(11A) of the Financial Transactions Reports Act permits disclosure of intelligence to a foreign country. This section has been replicated in clause 132 of the AML/CTF bill. That carries through that the exchange of financial intelligence is designed to enable effective action to be taken to prevent the commission of money laundering or predicate offences or to enable effective investigation of those offences by law enforcement agencies. The United Nations is a diverse organisation which is neither a law enforcement agency nor an investigatory body. General disclosure of AUSTRAC information to such a body is an inappropriate approach to the proper use and protection of this information.

Basically, what we are saying is that it is appropriate that AUSTRAC deal with other law enforcement agencies—the authorities of other countries—and this applies domestically to state and territory police and to such a thing as a royal commission. Designated agencies in clause 5 include Commonwealth, state and territory royal commissions. In the event that a similar inquiry is established by the UN in the future, amendments to the act could be considered, but in the meanwhile we do not think it is appropriate that AUSTRAC share that information for those reasons. I think that has dealt with that issue.

The other issue deals with deregistration of providers of remittance services. I think the important point to note here is that, whether or not they are registered, remittance service providers are reporting entities under the bill and are subject to all relevant provisions of the bill. A power to remove providers of designated remittance services from the register under part 10 of the bill is not necessary. The government has decided to implement FTRA special recommendation 6 by establishing a registration scheme for remittance service providers. Registration will not confer any authority or seal of approval on providers of these services. It merely will enable AUSTRAC and law enforcement agencies to identify and locate the providers of these services and to take effective action against those who do not register. That is the rationale for that issue, and I put that on the record.

In relation to the Customs Legislation Amendment (New Zealand Rules of Origin) Bill 2006, I thank Senator Wong for her contribution. The proposed new Australia-New Zealand Closer Economic Relations Trade Agreement is the result of a lengthy process. It is a process that included a study by the Productivity Commission, extensive consultations within the Australian government and Australian industry and detailed negotiations with the New Zealand government. The Productivity Commission’s research report on the agreement released on 28 May 2004 concluded that the inserted ROO were outdated and acted as a constraint on further trans-Tasman trade.

The proposed amendments to the closer economic relations agreement allow for a change in tariff classification methods to be used in determining whether the goods meet the rules of origin for CER. Rules of origin—ROO, as they are known—are an important aspect in relation to the CER. The new CTS method, together with the current factory cost method, will allow importers on both sides of the Tasman to have the option of using either method until 31 December 2011, when the factory cost method will cease to operate.

The government and industry are aware of one manufacturer who does not support the change in tariff classification methodology. I
am advised that, together with national newspaper advertising by the Department of Foreign Affairs and Trade, they and other departments undertook industry wide consultations. In December 2004 this resulted in the Australian Industry Group advising all its members, including that manufacturer, of potential changes to the CER rules in its newsletter in December 2004.

The amendments will simplify the process of determining whether a good from New Zealand is a New Zealand originating good. The current factory cost method can be administratively burdensome for the manufacturer and can lead to uncertainty because of exchange rates as an example. The proposed amendments will bring greater certainty and be administratively simpler. They will improve efficiency by allowing greater use of inputs not produced in Australia or New Zealand without an adverse impact on the ability to claim origin, and they are consistent with the international trend to use the CDC approach.

I commend the amendments as cementing even further the stronger economic and trade relationship between Australia and New Zealand that has grown significantly since the entry into force of the CER in 1983. I might add that, just recently, I met with my counterpart, the New Zealand Minister of Customs, and we enjoyed a very constructive session of talks. We are both totally committed to enhancing the closer ties between the Customs services of our two countries. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

CRIMES AMENDMENT (BAIL AND SENTENCING) BILL 2006

Consideration of House of Representatives Message

Consideration resumed from 29 November.

House of Representatives message—

(1) Schedule 1, page 5 (after line 4), after item 5, insert:

5A Subparagraph 19B(1)(b)(i)
Omit “cultural background.”.

5B After subsection 19B(1)
Insert:

(1A) However, the court must not take into account under subsection (1) any form of customary law or cultural practice as a reason for:
(a) excusing, justifying, authorising, requiring or lessening the seriousness of the criminal behaviour to which the offence relates; or
(b) aggravating the seriousness of the criminal behaviour to which the offence relates.

(1B) In subsection (1A):

criminal behaviour includes:
(a) any conduct, omission to act, circumstance or result that is, or forms part of, a physical element of the offence in question; and
(b) any fault element relating to such a physical element.

[discharging offenders without conviction]

(2) Schedule 1, page 5, after proposed item 5B, insert:

5C Paragraph 23WI(3)(c)
Omit “age, physical and mental health, cultural background and (where appropriate) religious beliefs”, substitute “age, physical health and mental health”.
5D Paragraph 23WI(3)(d)
Repeal the paragraph.

5E At the end of section 23WI
Add:
(4) Without limiting the matters that the constable may take into account in considering, for the purposes of paragraph (3)(e), the intrusiveness of the forensic procedure, the constable must (where appropriate) take into account the religious beliefs of the suspect.

[forensic procedures]

5F Paragraph 23WO(3)(c)
Omit “age, physical and mental health, cultural background and (where appropriate) religious beliefs”, substitute “age, physical health and mental health”.

5G Paragraph 23WO(3)(d)
Repeal the paragraph.

5H At the end of section 23WO
Add:
(4) Without limiting the matters that the senior constable may take into account in considering, for the purposes of paragraph (3)(e), the intrusiveness of the forensic procedure, the senior constable must (where appropriate) take into account the religious beliefs of the suspect.

[forensic procedures]

5J Paragraph 23WT(3)(c)
Omit “age, physical and mental health, cultural background and (where appropriate) religious beliefs”, substitute “age, physical health and mental health”.

5K Paragraph 23WT(3)(d)
Repeal the paragraph.

5L At the end of section 23WT
Add:
(4) Without limiting the matters that the magistrate may take into account in considering, for the purposes of paragraph (3)(f), the intrusiveness of the forensic procedure, the magistrate must (where appropriate) take into account the religious beliefs of the suspect.

[forensic procedures]

(5) Schedule 1, item 6, page 5 (line 9), omit “items 4 and 5”, substitute “items 4 to 5L”.

[application of amendments]

Senator ELLISON (Western Australia—Minister for Justice and Customs) (7.57 pm)—I move:
That the committee agrees to the amendments made by the House of Representatives to the bill.

Senator LUDWIG (Queensland) (7.58 pm)—Given the time, I will deal with just the broad areas that I want to touch upon in the Crimes Amendment (Bail and Sentencing) Bill 2006. In the other place the government has amended this law on the basis that it seems to be better to have bad consistent law than to have bad inconsistent law. But I want to make one thing clear: Labor’s view is that this bill represents bad law. Labor was opposed to the removal of the reference to cultural background in bail and sentencing procedures when we debated the bill previously, and we are opposed to the additional references that will now be removed.

Let me explain. I raised the issue of section 19B when we debated the bill previously. What was exposed, particularly with the minister’s inability to provide anything that resembled an explanation for the inconsistency, was just how rushed this bill and ill-considered this legislation is. What it also exposed was the true motive. The true motive of this bill is to divert attention from the failings of the Minister for Families, Community Services and Indigenous Affairs and
those of the government more widely, specifically in this area. If this exercise were actually about improving the problems in the law, the government would have taken a thorough and consistent approach to drafting the legislation in the first place. It also would have supplied a written explanatory memorandum that laid the case for change and provided evidence to support it. I suspect that it would have also consulted a lot more broadly.

But, of course, that is not what happened. Instead, we witnessed the Minister for Justice and Customs mumbling through a justification for the inconsistency, only for him to turn and around and say, ‘The Attorney-General will address the matter when the bill reaches the House.’ Then, when the Attorney-General did turn to the matter with his amendments, it turned into an even bigger fiasco. The additional three amendments moved in the House of Representatives dealt with forensic procedures and had nothing to do with bail and sentencing. As such, it seems to me that they are unrelated to the primary purpose of this bill.

As the explanatory memorandum states, the purpose of this bill is to amend the sentencing and bail provisions in the Crimes Act 1914 in accordance with the decision made by the Council of Australian Governments on 14 July 2006 following the Intergovernmental Summit on Violence and Child Abuse in Indigenous Communities on 26 June 2006. Yet we now have a bill which actually amends the forensic procedures provisions as well, even though that is not its stated purpose and does not deal with one of those matters that could reasonably come under the heading of the Intergovernmental Summit on Violence and Child Abuse in Indigenous Communities of the Council of Australian Governments. I think that lie has been exposed.

This government does not seem to be able to grasp the concept that forensic procedures are not performed by courts during bail and sentencing procedures. It appears that the Attorney-General, or one of his staff, decided to use a computer to search the Crimes Act for all references to cultural background—which was a little bit over the top—and prepared amendments to remove their effect without employing the most cursory examination as to their context within the legislation. Not only are these amendments unrelated to the bill; they were not considered by the Senate committee. In truth, if he wanted to expand the bill, it should have been referred back to the Senate Legal and Constitutional Affairs Committee to give it an opportunity to amend the bill accordingly—or he could have tried consulting right from the word go.

The amendments should be opposed in any instance, even by the government’s backbench. My colleague in the other place Ms Nicola Roxon, the shadow Attorney-General, did ask the Attorney-General whether he would refer these new measures to the Senate Legal and Constitutional Affairs Committee for inquiry—a request, as I understand it, he declined. I ask the Minister for Justice and Customs to consider that request again.

As with the introduction of cultural background to the bail and sentencing procedures, it is worth looking at the history of the provisions that the government proposed to amend. These particular references to cultural background which relate to forensic procedures were introduced as part of the Crimes Amendment (Forensic Procedures) Bill 1997 under the Howard government. That is right—it was the current government that introduced them. Mr Daryl Williams, who was the Attorney-General at the time, had some very interesting things to say about
that bill during the debate in the House. In particular, he boasted about its basis on:

... the model Forensic Procedures Bill which was widely circulated for comment to about 600 groups and individuals, representing many interests ...

If the government had consulted on this bill, that would have turned up pretty quickly. It seems to me that it missed it completely. Many of those consulted on the model at that point were not given the same courtesy by the government on this occasion. Indeed, the Senate committee condemned the government for its failure to properly consult, even on the changes.

It really does demonstrate how arrogant and out of touch this government is becoming that it can go from consulting widely to not consulting at all in less than 10 years. When it started this, it consulted widely. It is now at a place where it has decided to junk consultation. It seems to me that the government’s true colours and contempt for the community have been exposed even more since it gained control of the Senate. The Prime Minister said that he would not let control of the Senate go to his head. Clearly, that is exactly what has happened.

Mr Williams also spoke on the many safeguards in the bill to protect the rights of individuals, with particular provisions for Aboriginal persons and Torres Strait Islanders. That just about says it all. The Attorney-General of the first Howard government was seeking to promote specific safeguards for Aboriginal people and Torres Strait Islanders. Now the Attorney-General and minister for justice of the last Howard government are removing those exact same safeguards.

Further exposing these fraudulent amendments for what they are is the fact that the government has only just passed legislation specifically dealing with forensic procedures, that is, the Crimes Act Amendment (Forensic Procedures) Bill (No. 1) 2006, which was introduced in June and passed by the Senate in October. I ask the government: if these changes are so necessary, why did you not pick them up when making those other changes specific to forensic procedures?

I do not expect the government to attempt to explain themselves in that regard. I almost hope that they do not because, at every turn in this sorry debate that they have opened their mouths and tried to react, their standing has deteriorated even further. They started with a pretty ridiculous position — this bill — and it has just got worse and worse as they try, in their way, to fix it. The only fix is to get rid of it, quite frankly. It is too late for the government or some of their backbenchers to do the right thing and sink this bill. They are not going to shift. This bill does not belong on our statute books. The minister here knows it and Mr Ruddock knows it as well.

At a time when we should be focusing our minds on finding practical solutions to deal with violence and abuse in Indigenous communities, we have instead had to deal with this blatant attempt to divert attention from the failings of Minister Brough. On that basis, the government should truly be ashamed.

I am not going to take up too much more time of the Senate. I think this is an appalling position that the government is putting forward and these amendments should be rejected. Quite frankly, this bill should have been rejected.
19B. I took that on notice at the time. That position was considered and examined by the government, which agreed that it is appropriate to amend section 19B as well as section 16A to bring consistency to the sentencing provisions in the Crimes Act.

As well as that, there are amendments on forensic procedure. We are removing the term ‘cultural background’ from the forensic procedure provisions. The reason for that is that the cultural background of a suspect should not be a factor in determining whether or not they provide a forensic sample. It is not acceptable that there be a possibility, even a remote one, that a person from one ethnic group can avoid undergoing a procedure that provides evidence which may lead to their prosecution and conviction when a person from another ethnic group would have no choice but to undergo that forensic procedure.

Of course, when we are looking at forensic procedures such as those to do with DNA, they are often relevant to violence offences. I would suggest that in violent sexual offences and sexual offences generally the forensic evidence is an essential and common feature. Certainly, the question has been asked as to why we are taking out ‘Aboriginal customary beliefs’. The government believes there is no need to keep the current references to ‘Aboriginal customary beliefs’ in the forensic procedure provisions. The government has received legal advice that the term ‘religious beliefs’ is wide enough to pick up any type of religious or customary belief.

By amending these provisions in the Crimes Act, the Commonwealth is demonstrating leadership in an important area and is continuing to improve the criminal justice system for all Australians. I think these issues were canvassed by the Attorney-General in the House of Representatives. It is important, if the government sees that it can improve its legislation, even while it is before the parliament, that that be done, and that is what the government is doing in this case.

Senator Ludwig raised this issue by way of a question in the previous debate we had. The government have looked at it and are of the view that it needs to be amended. Accordingly, we have done that. As I said at the time, cultural background can still be considered under the term ‘antecedents’, which is broad enough for that to be included. We do not believe the term ‘cultural background’ should have that special significance. Having it in the legislation in that manner could lead to it having undue significance. I think that in the circumstances it was appropriate that the government act, and we have.

Senator LUDWIG (Queensland) (8.10 pm)—I have just one question: in terms of the forensic procedures, is that a matter that was touched upon by the Royal Commission into Aboriginal Deaths in Custody and recommended for changes in the Crimes Amendment (Forensic Procedures) Bill 2001? Does that accord with what you are doing now? Or is this in fact cutting across what was originally recommended in the Aboriginal deaths in custody report? Is what you are doing now removing some of the safeguards that were mentioned in that royal commission report?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.11 pm)—The advice I have is that the forensic procedures changes were not as a result of the Aboriginal deaths in custody inquiry, which was in fact some years ago now. DNA was not really such a major consideration then as it is now, so they were not as a result of that. The forensic procedures bill is based on the Model Forensic Procedures Bill. As such, the safeguards are there. This bill does not change that. I think it is essential that we
remember that there are safeguards; it is not as if we are just throwing them away. To answer Senator Ludwig’s question, my advice is that these forensic procedures were not as a result of that Aboriginal deaths in custody inquiry.

Senator LUDWIG (Queensland) (8.12 pm)—Forensic procedures are not limited to DNA; forensic procedures can go back to the pre-DNA world, if I can call it that. But the other, broader question in terms of the Model Forensic Procedures Bill is whether these amendments are consistent with it. Or have you now removed those provisions—which would not be in accordance with the Model Forensic Procedures Bill?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.13 pm)—As I think I said earlier, this was done in accordance with the Model Forensic Procedures Bill. It is consistent with that. So we are saying it is not inconsistent. It has not thrown away any safeguards. The format of it is consistent.

Senator LUDWIG (Queensland) (8.13 pm)—I just want to make this plain. The reference to ‘cultural background’ is not in the Model Forensic Procedures Bill—is that what you are intimating to the Senate?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.13 pm)—That is a different question, and to that extent I would have to check. I will have to take that on notice. But, certainly, in relation to the question as to whether officials will be able to consider religious beliefs, the answer is yes. A constable, senior constable or magistrate will still be able to consider religious beliefs where appropriate in deciding whether there is a less intrusive way of obtaining a person’s DNA. We believe that covers it. There are a range of options available for collecting forensic evidence. If a person holds a religious belief then that should be a factor in deciding which of those options should be chosen. So that will be considered. This draws an appropriate balance between protecting religious beliefs on the one hand and enforcing the criminal law on the other.

The TEMPORARY CHAIRMAN (Senator Ferguson)—The question is that the committee agrees to the amendments made by the House of Representatives to the bill.

Question put.
The committee divided. [8.19 pm]
(The Chairman—Senator JJ Hogg)

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<td>AYES</td>
<td>NOES</td>
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<td>33</td>
<td>29</td>
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<td>Majority</td>
<td>4</td>
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AYES

NOES


The TEMPORARY CHAIRMAN (Senator Ferguson)—The committee is considering the Environment and Heritage Legislation Amendment Bill (No. 1) 2006 and amendments (1) and (2) on sheet 5151, moved by Senator Carr.

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

The committee divided. [8.27 pm]

(The Chairman—Senator JJ Hogg)

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

AYES
Allison, L.F. Bartlett, A.J.J. 
Bishop, T.M. Brown, B.J. 
Brown, C.L. Carr, K.J. 
Crossin, P.M. Faulkner, J.P. 
Hogg, J.J. 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. 
Siewert, R. Stephens, U. 
Sterle, G. Stott Despoja, N. 
Webber, R. Wortley, D. Wong, P. 
Wortley, D.

NOES
Abetz, E. Adams, J. * 
Barnett, G. Bernardi, C. 
Boswell, R.L.D. Brandis, G.H. 
Calvert, P.H. Campbell, I.G. 
Chapman, H.G.P. Colbeck, R. 
Cooran, H.L. Eggleston, A. 
Ellison, C.M. Ferguson, A.B. 
Fielding, S. Fifield, M.P. 
Heffernan, W. Humphries, G. 
Johnston, D. Joyce, B. 
Macdonald, I. McGauran, J.J.J. 
Minchin, N.H. Nash, F. 
Parry, S. Patterson, K.C. 
Payne, M.A. Ronaldson, M. 
Troeth, J.M. Trood, R.B. 
Vanstone, A.E. Watson, J.O.W. 

* denotes teller

Question negatived.

Senator BARTLETT (Queensland) (8.30 pm)—I move Democrats amendment (1) on sheet 5131:

(1) Schedule 1, page 16 (after line 14), after item 67, insert:

67A After Subdivision F of Division 1 of Part 3

Insert:

Subdivision FA—Protection of the environment from greenhouse actions

24B Requirement for approval of greenhouse action
(1) A person must not take an action that has, will have, or is likely to have, a significant impact on the environment that will or is likely to result in greenhouse gas emissions of:

(a) over 100,000 tonnes of carbon dioxide equivalent in any 12 month period; or

(b) 5 million tonnes of carbon dioxide equivalent over the likely lifetime of the action.

Civil penalty:

(a) for an individual—5,000 penalty units; or

(b) for a body corporate—50,000 penalty units.

(2) Subsection (1) does not apply to an action if:

(a) an approval of the taking of the action by the person is in operation under Part 9 for the purposes of this section; or

(b) Part 4 lets the person take the action without an approval under Part 9 for the purposes of this section; or

(c) there is in force a decision of the Minister under Division 2 of Part 7 that:

(i) the action is not a controlled action; or

(ii) the action is a controlled action but this section is not a controlling provision for the action.

24C What is a greenhouse action?

(1) In this Act, a greenhouse action means any of the following:

(a) establishing an industrial plant which emits, or is likely to emit, more greenhouse gas than is provided for in paragraphs (1)(a) or (b) above; or

(b) any other action, series of actions, or policies which will lead, or are likely to lead, to the emission of more greenhouse gas than is provided for in paragraph (1)(a) or (b) above.

(2) In this section, greenhouse gas emission means the release of:

(a) carbon dioxide (CO₂);

(b) methane (CH₄);

(c) nitrous oxide (N₂O);

(d) perfluoromethane (CF₄);

(e) per-fluoroothane (C₂F₆);

(f) any combination of the gases in paragraphs (a) to (e).

Subdivision FB—Protection of the environment from land clearing

24D Requirement for approval for land clearing

(1) A person must not take an action that has, will have, or is likely to have, a significant impact on the environment by broadscale clearing.

Civil penalty:

(a) for an individual—5,000 penalty units; or

(b) for a body corporate—50,000 penalty units.

(2) Subsection (1) does not apply to an action if:

(a) an approval of the taking of the action by the person is in operation under Part 9 for the purposes of this section; or

(b) Part 4 lets the person take the action without an approval under Part 9 for the purposes of this section; or

(c) there is in force a decision of the Minister under Division 2 of Part 7 that:

(i) the action is not a controlled action; or

(ii) the action is a controlled action but this section is not a controlling provision for the action.
24E What is a broadscale clearing action?

(1) In this Act, **broadscale clearing action** means the removal, damage or destruction of native vegetation that:

(a) exceeds a combined area of 100 hectares in any two-year period; or

(b) provides significant habitat for listed threatened species or ecological communities; or

(c) is listed critical habitat.

(2) In this Act, **native vegetation** includes but is not limited to:

(a) trees (including any sapling or shrub, or any scrub);

(b) understorey plants;

(c) groundcover (being any type of herbaceous vegetation);

(d) plants occurring in a wetland where not less than 70% of the vegetation are native species.

Subdivision FC—Protection of the environment—unsustainable water use

24F Requirement for approval for water use

(1) A person must not take an action that has, will have, or is likely to have, a significant impact on the environment by abstraction or enabling the abstraction of surface and/or ground water resources over 10,000 megalitres.

Civil penalty:

(a) for an individual—5,000 penalty units; or

(b) for a body corporate—50,000 penalty units.

(2) Subsection (1) does not apply to an action if:

(a) an approval of the taking of the action by the person is in operation under Part 9 for the purposes of this section; or

(b) Part 4 lets the person take the action without an approval under Part 9 for the purposes of this section; or

(c) there is in force a decision of the Minister under Division 2 of Part 7 that:

(i) the action is not a controlled action; or

(ii) the action is a controlled action but this section is not a controlling provision for the action.

Subdivision FD—Protection of the environment from large dams

24G Requirement for approval for construction and operation of large dams

(1) A person must not take an action that has, will have, or is likely to have, a significant impact on the environment by the construction and/or operation of any large dam.

Civil penalty:

(a) for an individual—5,000 penalty units; or

(b) for a body corporate—50,000 penalty units.

(2) Subsection (1) does not apply to an action if:

(a) an approval of the taking of the action by the person is in operation under Part 9 for the purposes of this section; or

(b) Part 4 lets the person take the action without an approval under Part 9 for the purposes of this section; or

(c) there is in force a decision of the Minister under Division 2 of Part 7 that:

(i) the action is not a controlled action; or

(ii) the action is a controlled action but this section is not a controlling provision for the action.

24H What is a large dam?

(1) In this Act, **a large dam** is any artificial barrier that obstructs, directs or retards natural water flow and that:

(a) has a crest height of 15 metres or more; or
(b) has an impoundment capacity of over 1 million cubic metres.

In the interests of time, I shall make just a few brief comments. This amendment goes to issues similar to those we have talked about in the two previous bursts of debate on this bill. I think we have pretty much talked through those issues. Given that we are operating under a guillotine and we have less than two hours to go in the committee stage of the debate, I simply note that this is a somewhat stronger version of the amendment that has just gone down and seeks to take into account lifetime emissions rather than just emissions over a 12-month period. Given that there are other matters that we have not spent hours debating but that it would be useful for us to spend some time on, I will leave my comments there.

Question negatived.

Senator MILNE (Tasmania) (8.32 pm)—I move Australian Greens amendment (1) on sheet 5143:

(1) Schedule 1, page 16 (after line 14), after item 67, insert:

67A After Subdivision F of Division 1 of Part 3

Insert:

Subdivision FA—Offences relating to greenhouse gas emissions

24B Offence relating to greenhouse gas emissions

(1) A person must not take an action which is likely to result in the emission of more than 0.1 million tonnes of carbon dioxide equivalent into the atmosphere in any 12 month period.

Civil penalty:

(a) for an individual—5,000 penalty units; or

(b) for a body corporate—50,000 penalty units.

(2) Subsection (1) does not apply to an action if:

(a) an approval of the taking of the action is in operation under Part 9 for the purposes of this section; or

(b) Part 4 lets the person take the action without an approval under Part 9 for the purposes of this section; or

(c) there is in force a decision of the Minister under Division 2 of Part 7 that this section is not a controlling provision for the action and, if the decision was made because the Minister believed the action would be taken in a manner specified in the notice of the decision under section 77, the action is taken in that manner; or

(d) the action is an action described in subsection 160(2) (which describes actions whose authorisation is subject to a special environmental assessment process).

This is an amendment to insert a greenhouse gas trigger that is equivalent to 100,000 tonnes of carbon dioxide per annum. It would catch medium to large mining operations and other high energy users around the country who would have slipped in under the Labor Party’s 500,000-tonne trigger. It is consistent with what former Senator Hill and, in fact, the Prime Minister agreed to, back in 1999-2000; it just goes further than 500,000 tonnes and is a more stringent measure at 100,000 tonnes. It does not mean that such activities are prevented, but it does mean that those activities would trigger the environmental assessment and approvals process and, during that process, there would be an assessment of whether that project was consistent with the national target for reducing greenhouse gas emissions. This issue has been canvassed extensively over the last few hours as we have debated this bill, so I will leave my remarks there.

Question put:

That the amendment (Senator Milne’s) be agreed to.
The committee divided. [8.37 pm]
(The Chairman—Senator JJ Hogg)

Ayes…………… 8
Noes…………… 42
Majority……… 34

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

NOES
Adams, J. Barnett, G. 
Bernardi, C. Bishop, T.M. 
Brandis, G.H. Brown, C.L. 
Campbell, I.G. Carr, K.J. 
Chapman, H.G.P. Colbeck, R. 
Crossin, P.M. Eggleston, A. 
Ferguson, A.B. Fielding, S. 
Fierravanti-Wells, C. Fifield, M.P. 
Humphries, G. Hogg, J.J. 
Kirk, L. Lundy, K.A. 
Macdonald, I. Marshall, G. 
McEwen, A. McLucas, J.E. 
Minchin, N.H. Moore, C. 
Nash, F. O’Brien, K.W.K. 
Parry, S. Patterson, K.C. 
Payne, M.A. Polley, H. 
Ronaldson, M. Stephens, U. 
Sterle, G. Troeth, J.M. 
Trood, R.B. Watson, J.O.W. 
Webber, R. * Wortley, D. 

* denotes teller

Question negatived.

Senator SIEWERT (Western Australia) (8.40 pm)—I move Australian Greens amendment (2) on sheet 5143:

(2) Schedule 1, page 16 (after line 14), after item 67, insert:

67B After section 24A

Insert:

Subdivision FB—Protection of the environment from land clearance

24c Requirement for approval for land clearing

(1) A person must not take an action that has, will have, or is likely to have a significant impact on the environment by broadscale clearing.

Civil penalty:

(a) for an individual—5,000 penalty units; or

(b) for a body corporate—50,000 penalty units.

(2) Subsection (1) does not apply to an action if:

(a) an approval of the taking of the action by the person is in operation under Part 9 for the purposes of this section; or

(b) Part 4 lets the person take the action without an approval under Part 9 for the purposes of this section; or

(c) there is in force a decision of the Minister under Division 2 of Part 7 that:

(i) the action is not a controlled action; or

(ii) the action is a controlled action but this section is not a controlling provision for the action.

24E What is a broadscale clearing action?

(1) In this Act, broadscale clearing action means the removal, damage or destruction of native vegetation that:

(a) exceeds a combined area of 100 hectares in any two-year period; or

(b) provides significant habitat for listed threatened species or ecological communities; or

(c) is listed critical habitat.

(2) In this Act, native vegetation includes but is not limited to:

(a) trees (including any sapling or shrub, or any scrub); (b) understorey plants;

(c) groundcover (being any type of herbaceous vegetation);
(d) plants occurring in a wetland where not less than 70% of the vegetation are native species.

Subdivision FC—Protection of the environment—water use

24F Requirement for approval for water use

(1) A person must not take an action that has, will have, or is likely to have, a significant impact on the environment by abstraction or enabling the abstraction of surface and/or ground water resources over 10,000 megalitres.

Civil penalty:
(a) for an individual—5,000 penalty units; or
(b) for a body corporate—50,000 penalty units.

(2) Subsection (1) does not apply to an action if:
(a) an approval of the taking of the action by the person is in operation under Part 9 for the purposes of this section; or
(b) Part 4 lets the person take the action without an approval under Part 9 for the purposes of this section; or
(c) there is in force a decision of the Minister under Division 2 of Part 7 that:
   (i) the action is not a controlled action; or
   (ii) the action is a controlled action but this section is not a controlling provision for the action.

Subdivision FD—Protection of the environment from large dams

24G Requirement for approval for construction and operation of large dams

(1) A person must not take an action that has, will have, or is likely to have, a significant impact on the environment by the construction and/or operation of any large dam.

Civil penalty:
(a) for an individual—5,000 penalty units; or
(b) for a body corporate—50,000 penalty units.

(2) Subsection (1) does not apply to an action if:
(a) an approval of the taking of the action by the person is in operation under Part 9 for the purposes of this section; or
(b) Part 4 lets the person take the action without an approval under Part 9 for the purposes of this section; or
(c) there is in force a decision of the Minister under Division 2 of Part 7 that:
   (i) the action is not a controlled action; or
   (ii) the action is a controlled action but this section is not a controlling provision for the action.

24H What is a large dam?

(1) In this Act, a large dam is any artificial barrier that obstructs, directs or retards natural water flow and that:
(a) has a crest height of 15 metres or more; or
(b) has an impoundment capacity of over 1 million cubic metres.

This amendment relates to triggers for items of national environmental significance—land clearing, large dams and water resources. I will speak about all three triggers. The State of the environment report released yesterday highlighted the rate of clearing in Australia. It found that, between 2000 and 2004, 1.5 million hectares of forest were cleared across the continent and that it is often the case that the replacement vegetation, whether natural regeneration or planted trees, is not like the communities that were previously cleared. Undoubtedly, clearing of native vegetation is the largest cause of biodiversity loss. Australia still has an unenviable record globally of biodiversity loss.
I remind the Senate that 90 species in Australia are listed as threatened, and of concern at a regional level are 39 freshwater fish species, 92 frog species, 253 reptile species, 289 bird species and 209 mammal species. Unfortunately, it is not an enviable record. Globally, we are in the sixth mass extinction of biodiversity in the history of the earth, and it is the first to be driven by human activity. The main causes of diversity loss are habitat destruction and degradation, invasive plant and animal species, and unsustainable levels of harvesting. Habitat destruction and degradation are undoubtedly caused by land clearing.

We believe this needs to be an issue of national significance and that is why we are moving an amendment to insert in this bill a trigger to deal with this. We are also moving an amendment to insert a trigger on water. This issue is in the media every day. Australia is at the moment in a water crisis. This is as a result of drought, climate variation and, I believe, climate change. We believe we need to be regulating the impact of water extraction, because it is an issue of such national importance. We need to be addressing the significant issue of over-allocation around Australia. There are significant difficulties in regulating water across state boundaries. We have different controls in each state.

There is a very strong push to start looking at the development of the north. We are deeply concerned about what this means for our biodiversity and particularly for our water resources. Therefore, we believe there is a definite need to have very strict environmental controls in place before any further unsustainable development in the north occurs. That is another reason that we believe we should have a national trigger on the issue of water.

Just last night I was talking in this place about the dire threat to our wetlands in Australia, particularly our 64 Ramsar wetlands. I am aware that Ramsar is already an issue of national environmental significance, but there are issues around Ramsar, such as the regulation of water, that I believe should become issues of national environmental significance. Another issue that was highlighted in the State of the Environment report was our unsustainable use of groundwater and the lack of appropriate regulation of groundwater. Unsustainable water use affects all jurisdictions across Australia. It is a key threat to many of our wetlands, which, as I was saying, are of national and international importance. We have the Gwydir wetlands, which I spoke about extensively last night, Macquarie Marshes and the Coorong. Just two weeks ago the Department of Environment and Heritage in South Australia put out a report highlighting the dire impacts on the Coorong wetland, another wetland of international importance. The Auditor-General in Western Australia has issued a fairly damning report about the management of wetlands there.

We have another amendment to do with the operation and construction of dams. Yet again dams are in the media. Australia has 447 large dams, with a combined capacity of 79,000 gigalitres. That is equivalent to 158 times the volume of Sydney Harbour. These hydrological modifications occur throughout Australia to varying degrees and we are deeply concerned they will have a potentially devastating impact on the Australian environment. We are already seeing the impact on the Australian environment of overallocation of our water resources. Surface water use across Australia is reported to increase annually by 69 per cent or 20,300 gigalitres.

We believe that making large dams an automatic trigger for this act will allow the minister to create much clearer guidelines on
how dams are assessed. We believe that it will better enable the minister to assess the environmental impacts of dams. It will reduce uncertainty for proponents if they know that this particular project will be one that comes under the Environment Protection and Biodiversity Conservation Act. Therefore, we believe it will ensure better environmental protection for our major rivers and their associated ecosystems.

Hopefully by having a water and a large dam trigger in the legislation we will also be able to better manage our riparian vegetation, which, yet again, according to the *State of the environment report*, is in a very degraded state and much in need of repair. At the moment it is not being fixed, although the excellent environmental management programs that many community organisations carry out are doing an extremely good job. Unfortunately, as is highlighted by the *State of the environment report*, the success of many of these projects is undermined and easily compromised by unsustainable large-scale land and water use patterns. It is those water use patterns that we in Australia need to get much better regulation and control of. That is why we believe it is very important that the federal government, particularly now, with such a strong focus on water, is provided with a national environment trigger so that it can act much more strongly and clearly to manage water and so that there is no uncertainty about its role and it can show much stronger leadership in the water debate. I will admit that it has made some moves to address the water issue. I personally, along with the Greens, do not think those moves have been vigorous enough or that they address the issues to the extent that is due. By making these issues major triggers we will be able to achieve that.

The biodiversity loss in Australia, both through land clearing and unsustainable land and water use practices, is a major problem—one that needs to be much more seriously addressed. By putting these triggers into the act, the federal government will be able to take much stronger action on these issues. I therefore commend this amendment to the chamber.

**Senator BOB BROWN** (Tasmania—Leader of the Australian Greens) (8.50 pm)—I back the amendment moved by Senator Siewert. I would like to briefly ask the minister about the Mary River dam proposed at Traveston Crossing near Gympie in Queensland. The matter has been referred to him for consideration under the act. What is not clear is whether the initial proposal for the dam is to be assessed or whether the potential for a higher dam is going to be the one that the minister looks at. In view of the fact that the Queensland government is making it very clear that it seriously intends if not to go ahead with the higher dam then to make sure there is no impediment to it going ahead in the future—for example, through the purchase of private lands—it would seem to be sensible that the minister consider the proposal as a whole and the impact of the much bigger dam on the Mary River system and the wider ecosystem that will be affected.

Would the minister give an outline of the threatened species and what the impact will be on them? It might be a bit early for this, but I can tell the chamber that my impression is that the impact on the Queensland lungfish, for example, which is internationally regarded as an important link between we vertebrates on land and the marine vertebrates from which we come, will be enormously detrimental. The major breeding grounds of this listed-as-endangered creature are parts of the gravel bottom of the Mary River, where it lays its eggs. The major extent of what is left of its breeding grounds will be suffocated under the dam. Critical to any creature’s survival is the area where it
reproduces. There is grave concern about the Mary River turtle, as well as the Mary River cod and a number of other species. There are alternatives to the dam but there are no alternatives to them.

I know it is early days but I wonder if the minister could say over what period his consideration of the impact of this megaproposal will be. I want to know how long it will take and also what the process will be and what circumstances might lead him to decide that this proposal will have too great an impact on the nation’s heritage to allow it to go ahead.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (8.53 pm)—Senator Brown is quite right: it is very early days. The Australian government will be taking a very close interest in the terms of reference and the entire process. We want to ensure that the process is done correctly on the first occasion. We do not want to see a repeat of the Meander dam process where the Commonwealth forced the Tasmanian government to go back through another entire 12-month process. We want to make sure that the community are confident that the bilateral agreement will work properly as to all of the issues that are quite properly the purview of the Australian government under this legislation, which Senator Bartlett has most eloquently described as a very powerful piece of environmental legislation—one that the Greens opposed in the past but that was supported by the Democrats.

This legislation does give the Commonwealth power to ensure that those nationally listed species that Senator Brown has referred to can be afforded very high levels of protection. He has mentioned the lungfish and the Mary River cod. Ramsar listed wetlands are also likely to be affected by the construction of this very large dam proposed by the Queensland government. There are also likely to be impacts right across what I believe are called the Great Sandy Straits—that is from my vague memory of geography in my early days in Queensland—and into the western side of Fraser Island, which is obviously a very important World Heritage area that was listed by the coincidentally named Fraser government.

The process will be thorough. Whether there is an assessment of the part A proposal for the dam not fully filled or whether the assessment will be on the impacts of the dam’s second stage proposal when the dam is full to the brim, is potentially a moot point. The assessment will have to look at the indirect impacts, and it is quite clear to me even at this early stage—and I do not want to seek to pre-empt the process; I want to give some general comments—that it is quite likely that because of the way the law is framed we would have to look at the impacts of the dam when it is full to the brim regardless. So I think those impacts will have to be assessed.

I think the assessment process could possibly take some years. This is a very complex process. I will check, Senator Brown. I have just been advised by my adviser that we would not expect a decision on this until around mid-2008, so it will be a detailed and comprehensive process. I have given undertakings to a range of concerned citizens in that area. Just the proposal for the dam has already had a massive social impact. I have had a constant stream of concerned Queenslanders and their representatives through my doors over recent weeks, including Warren Truss and Senators Ian Macdonald, Brandis, Trood, Santoro and Joyce. To his credit, Senator Bartlett has taken a very close interest in this proposal. He has been in my office at least twice, going through the process and having himself briefed on it. This is a very big proposal by the Queensland government and its impacts on those matters of national
environmental significance will be thoroughly and comprehensively examined, and I want to make sure that the community members involved feel that the process is robust and that they have a strong voice in that process.

Senator BARTLETT (Queensland) (8.58 pm)—I want to indicate, not surprisingly, the Democrats’ support for this amendment. I think it is identical in large part to the ones that were circulated under my name. I will throw one question in at the start, before I make general comments on the amendment, that goes to what the minister has just said. As I think he would be aware, there has already been a lot of activity in the area affected by the Traveston dam, with a fair bit of pressure, quite frankly, being put on local people to sell to the Queensland government. My understanding is that this amendment from what might loosely be called the positive pile, at least from my point of view, makes it clearer that it is inappropriate for action to start on a project until it has been fully assessed by the federal minister. Obviously, that would mean not putting in the bulldozers and not laying the concrete and that sort of thing. I wonder whether there is any wider application of that for action in the broader sense, such as clearing out people, which I think is a bit problematic given some of the trauma that Senator Ian Campbell has rightly identified. I ask if he could give any view on whether those sorts of things are covered in any general way by legislation, either current or pending.

I go to the amendment. As was mentioned by Senator Siewert, the *State of the environment report*, which was released and tabled yesterday and which Senator Campbell has spoken about and pointed to in the media, included an assessment of the EPBC Act. I noted that the report recognised and acknowledged that the EPBC Act has made an important contribution to environmental protection in Australia during its first five years of operation.

I also note that, in the full report that was done for the committee putting together the *State of the environment report*, a review was put together by Chris McGrath, a barrister who, as the minister would probably know, has sought to use the EPBC Act a number of times. As I said in my comments in the second reading debate, I think it is a shame that the perhaps unintended consequence of some of the controversy in the environmental movement when the bill was first passed is that some within the environmental movement have not sought to use the act as much as they could have to try to generate positive outcomes, as some people who have, including Chris McGrath, have managed to have some success.

The review that Chris McGrath did for the state of the environment committee concluded not just that the EPBC Act had made an important contribution but also that the absence of a trigger for greenhouse emissions was a very significant gap in the regulatory framework of the matters of national environmental significance. I know we have already dealt with that matter, but I wanted to point to that because, when this legislation was first brought into being in 1999 and the government at the time made promises to go down the path of developing a climate change trigger, that was because the Democrats saw at the time that this was a major issue that needed a lot greater scrutiny and needed to be reflected in our national environmental framework. I note Senator Campbell’s point from the last time we debated this that it was the state Labor governments that were opposed to that being adopted. That is a fair enough point to make, but it was in reflection of the fact that climate change seven years ago—or even well before seven years ago, but in the framework of this much more powerful environmental law that
was being put in place—had an appropriate role to play. I think the review that was done for the state of the environment committee recognises that.

I make that point because it is quite clear, particularly with regard to water issues that are covered by the amendment from Senator Siewert relating to water use and large dams, that this is an issue that we all know now is crucial for the nation. The issue of unsustainable water use—to use the heading that was in the Democrat amendments—is an issue that we think ought to have more of a national focus. I know there has been a lot of debate backwards and forwards, particularly by the Parliamentary Secretary to the Prime Minister, Mr Turnbull, about the greater role that the Commonwealth could have. A lot of that at the moment is outside the legislative framework; it is managed through things like the National Water Initiative and some sticks and carrots such as the potential dangling of money and trying to get agreements in meetings. Quite frankly, whilst that is an ideal goal, I do not think it has generated anywhere near as much progress as should have occurred. Putting in place a trigger on unsustainable water use and major infrastructure projects like large dams would clearly be an appropriate legislative measure to give the Commonwealth a role to play. That is why I think it is very timely.

Land clearing is an area where there has been some progress in recent years, but it is progress that has not been as complete as it could have been, and in some of the states it is not as reliable as it needs to be. We need to have much more certainty that backsliding will not occur in that area. Again, I think there is an important role that the Commonwealth could play that was identified by that review, along with climate change as another key major national environmental issue. Land clearing links into climate change, of course, as land clearing is a major emitter of greenhouse gases. But, because it is clearly such a major national issue and because of the success we have had, including in my state of Queensland, Australia has done much better than it would have in meeting its Kyoto targets. I think there is clearly logical consistency here. This is not just a grab of any issue that the Democrats or Greens think would look good to pack into the act for the sake of it. They are clearly central issues of national environmental significance, as is appropriate under this act.

I think the amendment has a lot of merits. In the example of the Traveston Dam, which Senator Brown raised, it has been made clear that that already triggers the act because of matters like endangered species, world heritage, Ramsar wetlands and migratory birds. They are consequential effects, if you like. The minister, as you know, is trying to assess it in terms of whether or not it is a viable piece of water infrastructure. That becomes a bigger issue, with the other dam in south-east Queensland: the Wivenhoe dam, which will obviously still have some environmental impacts, particularly downstream, going into the Moreton Bay Marine Park and some of the Ramsar wetlands around there. Assessing that on its own merits is something that, given the state of water policy in Australia and the lack of progress, is appropriate and I think it is clearly a matter of national environmental significance. That is why it is appropriate for it to be put forward by both the Greens and the Democrats.

I say in conclusion that it is based upon proposals put forward by groups that have sought to work constructively with the act as it stands—that is, the Environmental Defenders Office and groups like WWF, HSI and the Tasmanian Conservation Trust. These groups have sought to engage constructively with the act. They are not just throwing up a wish list. They are positive amendments. They are groups which seek to
use the act in conjunction with other constructive campaigns that they are running. WWF has been playing a significant role in trying to find more constructive solutions for water policy issues, for example. So, there is a lot of merit to the amendment. I know we are under a guillotine so I will cease talking now but I think that it needs to be put on the record, even briefly, that the amendments have merit and would further strengthen what, as Senator Campbell has said, is a piece of strong environment law. That is why the Democrats put them forward and why we support the amendment, as moved by Senator Siewert.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.08 pm)—I thank the minister for his contribution. I just have one further brief question. One of the problems with the Meander Dam proposal in Tasmania was that all the information was not there, available for people from both sides who were concerned about it, to see as it went down the line. I think that led to the unnecessary delays that the minister is talking about. I wonder if he could give an assurance that that will not happen with the Traveston Dam and other proposals, but that there will be transparency of information available to the minister, as it comes to him, so that the public—whichever side of that debate they may be on—can, with knowledge, feed into the process as it goes along.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (9.09 pm)—One of the things we insisted on in the second part of the Meander Dam process was that all of that information be made public. That is one of the things that this bill allows me to do as federal minister. I know this contradicts some of the outrageous claims that this amendment bill we are debating tonight weakens the act. I think it makes the act a lot more effective, and in many parts strengthens it, but before the night is out we will be inserting—all going well—a new provision that will give me a quite explicit power under section 132. That section currently creates provisions that give the minister power to seek further information for approval decision, but we are adding a new part D3, which gives the minister the power to seek further information if the relevant impacts of the action have been assessed under a law of the state or territory, and the appropriate minister of that state or territory. So, basically, it gives a quite explicit power to the Commonwealth minister to demand that information from the state. We will be making sure that all of that information is made public so it is a transparent process that the community can be involved in.

I will very quickly respond to the details of the amendment about the insertion of a water trigger and a land clearance trigger. The State of the environment report gives us some very positive news in relation to land clearance. I am sure many of us would like to see even better results but I commend the graph on page 71 to anyone who is listening and who cares about the environment. You can go to the DEH website and follow the links to the SOE. If you go to page 71 you will find that, back in the seventies, Australia was clearing up to 550,000 or 560,000 hectares, in net terms, a year—that is the difference between the amount of forests destroyed and the amount of forests replanted. The great news in this report is that—in 2003 we very nearly hit break-even in Australia. In fact, we are looking like planting more trees than we are chopping down, for the first time since white settlement. So
that is a good achievement, and it is a cooperative achievement, I think it should be pointed out, between the activities and policies of the state governments and the federal government. It shows a very useful trend.

On my latest mathematics it looks as though the combined policies of the Natural Heritage Trust, the National Action Plan on Salinity and Water Quality, the 2020 plantation vision and some other measures, have seen us plant, over the last 10 years, in excess of 900 million trees in Australia. We are on track to plant one billion trees, and if I can get my mathematics and calculations close enough I hope to go somewhere and plant the billionth tree, probably some time early next year.

I will be as brief as I can because there are other amendments that senators will want to talk about. This underpins the fact that the cooperation between the state and federal governments, the EPBC Act, and a range of other policy measures—including, for example, the Tasmanian private forest initiative, which I will launch in Tasmania, to purchase 45,000 hectares of forests on private land, with a large proportion of old growth—are more sensible and effective ways of protecting Australia’s forest cover, protecting our biodiversity and reversing land clearing.

Similarly, in relation to the water trigger, although we get very frustrated at the lack of progress from time to time, the government are committed to working cooperatively with the states on water policy. We have backed that up, not only with vigorous action and leadership by the Prime Minister—and more lately by the Parliamentary Secretary with special responsibility for water, Mr Turnbull—but with some $700 million just in the Murray-Darling Basin alone, through the Living Murray initiative; an extra $500,000 for works given to the Murray-Darling Basin Commission in the last budget; and the $2 billion water fund, which creates incentives for the states to put in place a range of measures.

We think that cooperative approach is the best way to go. There have of course been threats made about the Commonwealth taking over control of water, from both sides of politics I think it is fair to say. But my strong view is that a cooperative federalist approach is desirable. That is not to say that the Commonwealth would rule out seeking to go further if we were not able to make the sort of progress that the government would want. So I am not going to denigrate the proposal of a water trigger outright. I think it is the sort of thing that the Commonwealth would keep in its policy back pocket, to be quite frank. But we think that in a federation where the states have primary responsibility for water resources—quite properly, I would say—a cooperative approach is the best. But we do recognise that water does not respect state boundaries—particularly the water in the Murray-Darling system, which crosses four states and one territory—and that getting that cooperative federalist approach right is very important.

The issues at stake are huge for Australia, and the Commonwealth could never rule out using a blunter legislative and constitutional instrument some time in the future. But we have committed and re-committed to a cooperative federalist approach, working with the states. I think that, although we do not believe we have made good enough progress to date, there are already some signs that that approach can bear fruit for the environmental and ecosystem outcomes we are seeking and, also importantly, for sustainable agriculture.

Senator SIEWERT (Western Australia) (9.16 pm)—I have a number of points but I would also like to ask a few questions. The first point is that planting trees does not necessarily replace biodiversity. I remind the
chamber of the comments from the *State of the environment report* where it says:

It is often the case that the replacement vegetation, whether natural regeneration or planted trees, is not like the communities that were previously cleared.

I would like to know the percentage of regrowth or trees that were planted that replaced a fully functional ecosystem and whether there is any data on how many hectares of fully functioning ecosystems were replaced.

I would also like to draw the Senate’s attention to the fact that there is a big push, as is well known in this place, to develop the north. In fact, in my own home state of Western Australia—and the development also extends into the Northern Territory—there is Ord stage 2, which will lead to the clearing of a large amount of native vegetation. And if certain senators from the government have their way, and do start the push for developing the north, there are likely to be other areas in the north. I believe very strongly that the federal government needs a strong trigger with which to assess that. I believe that is an issue of national environmental significance.

I also understand that there is a lot of ongoing clearing of native vegetation in Tasmania. I would like to ask the minister what the government is doing about addressing the continuing land clearing in Tasmania.

I also understand that for part of the national water fund the funding is not necessarily tied to outcomes. I have some concerns that there is in fact a wonderful tool there that the government has at its fingertips and that it could be using to a fuller extent. I would like to see that more closely tied to some better outcomes.

I also have a couple of questions about the Mary River dam. I think there is still some confusion in Queensland about whether the public will get to see the state government’s environmental review before it is handed over to the federal government. I understand that is because it is classed as a project of state significance. I am asking whether that will occur.

Secondly, I am pleased to see that the government and the minister will be able to ask for additional material. I am wondering whether, on the Mary River dam proposal, the government will be asking Queensland to justify the dam and whether they will be requiring the state to produce the water figures and their calculations on water prior to making any further decisions. Are they able to, and will they be doing it?

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (9.19 pm)—If those figures are relevant, we would do. The guidelines, the terms of reference and the draft EIS for the Mary River dam proposal at Traverston Crossing will all be made public and the public will be allowed to comment on them—and, in relation to the draft EIS, before it comes to me.

Question negatived.

Senator CARR (Victoria) (9.20 pm)—I move opposition amendment (3) standing in my name:

(3) Schedule 1, item 85, page 20 (line 32) to page 21 (line 1), **TO BE OPPOSED**.

This is an amendment to restore the five-yearly review of matters of national environmental significance to ensure that the EPBC Act evolves to consider new triggers or environmental protections. This is a principle that Robert Hill, a former environment minister, understood. He proposed that such a process of evolution be built into the environmental protection legislation of this country. He put this view with regard to additional triggers and the EPBC Act in his discussion papers where he said:
We will be evolving a situation reflecting community attitudes and what really is the best and most appropriate mix at the time.

So in fact the act provides for a five-yearly review to assess the needs of any new matters of national environmental significance and the key environmental challenges that trigger the act. The most recent review was undertaken in April 2005. I have asked the minister on a previous occasion where the published report of that review is. I have yet to get a satisfactory answer. As we can see by the amendments before the chamber, no new triggers have been added. The opposition maintains the view that, because of the failure to publish the results of the review, the minister has failed in his legislative obligations under the act. We take the view that section 28A is explicit:

Every 5 years after the commencement of this Act, the Minister must cause a report to be prepared on whether this Part—that is, matters of national environmental significance—should be amended ...

It goes on to say:

(4) Before the preparation of the report is completed, the Minister must cause to be published in accordance with the regulations (if any):

(a) a draft of the report; and

(b) an invitation to comment on the draft within the period specified by the minister.

It is our view that that has not occurred. I take the view that the minister is in breach of his own legislation. So far what we have had is that the minister is seeking to repeal this section of the legislation. It is his response to his current breach of the act. The opposition takes the view that it reflects the arrogance of the government and the incompetence of the minister and ought to be addressed by an amendment such as this. I trust that this will be supported by at least sections of this government.

**Senator IAN CAMPBELL** (Western Australia—Minister for the Environment and Heritage) (9.23 pm)—I make the point that we have had three potential triggers put before the Senate tonight. In fact, we have had more than that, if you add them up. Actually we have had six potential triggers put before the parliament tonight, and Labor supported one of them.

**Senator Carr**—Two—two of our own amendments.

**Senator IAN CAMPBELL**—It must have been two out of seven, then. The government agreed with Labor on all but those two, so through our own processes we came to similar decisions. It is open to the government, or any government, to seek to put new triggers into the act. I have already said that we would not rule out looking at a water trigger at some time if a cooperative federalist approach fails to address Australia’s water needs. That would be one of the policy options that we would not rule out.

But you do not need a five-yearly review to tell you to do that. You need to have the sort of approach that the Howard government has, and that is to look at the needs, look at the effectiveness and do things like having a robust independent *State of the environment report* done to guide you in your policy decision making. If you make a decision that you want to put in a new trigger, then you bring the matter to the parliament without the need for yet another piece of red tape.

**Senator BARTLETT** (Queensland) (9.25 pm)—I want to put on record that the Democrats share the Labor Party’s concern. Again, the *State of the environment report* noted that the EPBC Act, as it stands, has improved public accountability and access to information. I do not think that the section
the bill seeks to remove—the requirement for a report every five years about possible additions to matters of national environmental significance—is a piece of red tape. I think it is a useful accountability mechanism. It might be one that the government and the minister have not chosen to follow, which I think is a bit disappointing, but that is no reason to get rid of it. For that reason, I believe it is better to retain it as the Labor amendment seeks to do.

Senator SIEWERT (Western Australia) (9.25 pm)—I want to indicate that the Greens will also be supporting this amendment.

The ACTING DEPUTY PRESIDENT (Senator Troeth)—The question is that item 85 of schedule 1 stand as printed.

Question agreed to.

Senator MILNE (Tasmania) (9.26 pm)—by leave—I move Greens amendments (1), (2) and (6) on sheet 5156 and (1) and (2) on sheet 5159:

1. Schedule 1, item 122, page 32 (line 14), at the end of section 37J, add:

   (e) a nuclear waste dump containing nuclear materials other than nuclear waste of Australian origin or obligation;

   (f) transportation of nuclear materials other than nuclear waste of Australian origin or obligation;

   (g) uranium mining or processing facilities.

2. Schedule 1, page 27 (after line 5), after item 118, insert:

   118A After section 34F

   Insert:

   34G Declarations relating to nuclear actions

   The Minister must not make a declaration under section 33 in relation to a nuclear action.

3. Schedule 1, page 35 (after line 25), after item 131, insert:

   131A After subsection 46(1)

   Insert:

   (1A) A bilateral agreement must not include a declaration that a nuclear action or a class of nuclear actions does not require approval under Part 9 for the purposes of section 21 or 22A.

In moving these amendments I will explain their effect. The EPBC Act 1999 currently prevents the minister from approving certain nuclear installations—in particular, fuel fabrication plants, enrichment plants, nuclear power plants and reprocessing plants. However, other nuclear activities fall under the assessment and approval processes of the act as it currently stands. Nuclear activities, such as new uranium mines, nuclear waste dumps and transporting spent nuclear fuel, are examples of nuclear actions that come under the assessment and approval process. If the assessment finds that, for example, a nuclear
waste dump will, or is likely to, have a significant impact on the environment, the act does not allow the minister to approve it.

The amendments that the government brought before the House changed that, and the amendments I am moving here tonight close the loopholes which could prevent uranium mines, nuclear waste dumps and nuclear transport facilities from being assessed if they occur in the context of bioregional plans, in the context of strategic assessments, in the context of conservation agreements, in the context of declarations made under section 33, in the context of the minister saying that it was approved by the Commonwealth or a Commonwealth agency and in the context of a bilateral agreement, which, as it currently stands, could include a declaration that a nuclear action does not require approval under part 9 for the purposes of sections 21 or 22A.

The amendments I am moving tonight move to close those loopholes so that the minister cannot avoid assessing nuclear activities—new uranium mines, nuclear waste dumps and transporting spent fuel—under the act. The reason I am concerned that the Commonwealth may consider doing that is that we have had several pieces of legislation before the House recently making way for a huge expansion in nuclear activity.

There was the ANSTO bill before the house, which allows ANSTO to handle nuclear waste that is from overseas and not generated in Australia. There was the radioactive waste dump bill, which took away procedural fairness and judicial review from traditional owners and anybody else who might have wanted to go through a proper process of consultation and to object. Then there was the report of the Joint Standing Committee on Treaties recommending Australia go straight ahead with exporting hugely increased amounts of uranium to China in spite of the fact that the International Atomic Energy Agency is completely underfunded, as is the safeguards process. Then there was the report of the Prime Minister’s task force advocating a massive expansion in nuclear facilities, including nuclear power plants, but of course particularly highlighting new uranium mines and waste dumps.

Then there was the report of the House of Representatives Standing Committee on Industry and Resources, which was supported by three Labor members: Mr Martin Ferguson, Mr Dick Adams, who represents Lyons in the state of Tasmania, and Mr Michael Hatton, who is the Labor Deputy Chair of that committee. They signed off on a recommendation that the Australian government minister, through the Council of Australian Governments and other means, encourage state governments to reconsider their opposition to uranium mining and to abolish legislative restrictions on uranium and thorium mining and exploration where these exist. Also, those Labor people signed off on a recommendation that the Australian government, again through the Council of Australian Governments, seek to remedy the impediments to the development of the uranium industry. They listed there that the government should specifically develop uniform and minimum effective regulation for uranium exploration and mining across all states and territories. They also disgracefully moved to ensure that processes associated with issues such as land access and native title assessments, approvals and reporting are streamlined. They have called for minimisation of duplication of regulation across levels of government, addressing of labour shortages and, finally, addressing of transportation impediments, particularly issues associated with denial of shipping services.

Everything points to a government push—with Labor support, if Mr Martin Ferguson,
Mr Dick Adams and Mr Michael Hatton have anything to do with it—for expanded uranium mining, expanded nuclear facilities around the country and for minimising and getting rid of any legislative restrictions or impediments. On that basis, I think it is critical that we close the loopholes in the amendments the government has put forward. I am seeking to close those loopholes so that new uranium mines, nuclear waste dumps and nuclear transport facilities will have to be assessed under the environment protection legislation in this country.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (9.32 pm)—I will put it simply and shortly: there are no loopholes. All of those matters will have to be assessed. They cannot be assessed under the bioregional plans or strategic assessment provisions. The act as it stands ensures that we have very high quality assessments for all actions relating to the mining, waste and transportation of uranium. These amendments are entirely unnecessary; the law is very strong as it stands.

Senator MILNE (Tasmania) (9.33 pm)—I appreciate the minister putting that on the record. I think that any analysis of this legislation will show that, whilst currently the minister cannot approve the fabrication plants, enrichment plants, power plants and reprocessing plants, all those other activities are required under the act. The bioregional plans make it quite clear that that is a mechanism by which the minister can make a declaration that a uranium mine is in accordance with a bioregional plan and therefore does not require approval under part 9 of the act. The same goes for strategic assessments and conservation agreements. I appreciate the minister saying in here that the legislation clearly does not contain those loopholes. On that basis, he will not have any problem supporting these amendments, which make it absolutely clear that those activities cannot be exempted by the minister by any process or declaration from being assessed under the act.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (9.34 pm)—I will just make a clarification. Although those matters could be dealt with under a bioregional plan, that would not alleviate the need to have those matters assessed. We could not approve the bioregional plan unless those matters were assessed.

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

The Senate divided. [9.39 pm]

(The Deputy President—Senator JJ Hogg)

Ayes…………. 8

Noes…………. 43

Majority……… 35

AYES

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

NOES

Abetz, E. Adams, J.
Barnett, G. Bernardi, C.
Bishop, T.M. Brandis, G.H.
Brown, C.L. Campbell, I.G.
Carr, K.J. Chapman, H.G.P.
Colbeck, R. Eggleston, A.
Faulkner, J.P. Ferguson, A.B.
Fielding, S. Fierravanti-Wells, C.
Fifield, M.P. Heffernan, W.
Hogg, J.J. Humphries, G.
Johnston, D. Kirk, L.
Ludwig, J.W. Lundy, K.A.
Marshall, G. McEwen, A.
McLucas, J.E. Moore, C.
Nash, F. O’Brien, K.W.K.
Parry, S.* Patterson, K.C.
Payne, M.A. Polley, H.
Ronaldson, M. Sherry, N.J.
Stephens, U. Sterle, G.
Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.42 pm)—I move amendment (3) on sheet 5143:

(3) Schedule 1, page 33 (after line 29), after item 122, insert:

122A Division 4
Repeal the Division.

This amendment removes all references to the regional forest agreement in the Environment Protection and Biodiversity Conservation Act 1999 and, in effect, brings forests back into Australia’s environment as if they mattered. The forests of Australia which are being logged have been removed from national environmental legislation. It is the greatest environmental travesty by parliamentary process, by government edict, that I know of anywhere in Australia. This amendment would mean that forestry operations around Australia would come under the same federal legislation, as do all other components of our national biosphere.

Question put.

Question negatived.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.44 pm)—The Greens oppose item 189 in schedule 1 in the following terms:

(4) Schedule 1, item 189, page 51 (lines 16 to 34), TO BE OPPOSED.

I note on the last amendment that there was silence except for the opposition of the government so I am hoping that means the opposition may have supported it. I will move onto this amendment. The Greens are opposing item 189. When you go to the explanatory memorandum at page 30 clause 82 it says that this is:

... to clarify that in making a controlled action decision—
the minister is making that decision, of course—
in relation to proposed developments, such as, a factory which will use timber from as RFA region, the Minister must not consider any adverse impacts of any RFA forestry operation ...

That is, in effect, a pulp mill exemption provision. This is a specific provision in the act to exempt Gunns’s pulp mill from proper environmental assessment. It is the Howard government’s Gunns’s pulp mill absolution clause. What it means is that the minister will effectively be prevented from looking at the impact of the proposed mega pulp mill on the Tamar River that Gunns has now effectively got state government approval for, insofar as the impact that pulp mill will have on Tasmania’s native forests and forests generally, high conservation value and old-growth forests, for decades to come.

This is an extraordinary provision. It would in future extend to other forms of wood processing, including forest furnaces—and there are proposals for three of those by the Labor government in Tasmania. These will enable forests, including high conservation value forests, to be fed into furnaces to be turned into electricity and fed through Basslink to the mainland to be sold as premium power.

So what we have there is the potential for conversion of high conservation value forests into so-called green power under federal legislation. It is a total travesty of the English language as well as of environmental probity and honesty. I ask the minister: is it a fact that this amendment will protect Gunns’s pulp mill from an assessment by him of the enormous impact—any impact at all—that there will be on Tasmania’s forests over the coming decade as they are fed into that pulp mill?
Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (9.48 pm)—The answer is no because I have already made a controlled action decision in relation to that pulp mill. So the assertion by Senator Brown is absolutely and patently false.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.48 pm)—I ask the minister then, if it is ‘absurd and patently false’: will he be doing an assessment of the impact of the pulp mill on Tasmania’s forests and wildlife?

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (9.48 pm)—The forests are subject to an RFA and therefore subject to the laws that relate to the RFA. But in terms of wildlife, if there are impacts on wildlife then yes.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.48 pm)—The minister has said if there are impacts on wildlife—that includes in an RFA area—he will be doing an assessment. I ask him: will he confirm that to the committee? I am good at reading headshaking—and he has been advised that, no, he will not confirm that and he has been advised that, no, he will not be doing that assessment. Because what the minister knows is that the forests of Tasmania are in regional forest agreement areas. They were signed over to destruction by the Prime Minister’s signature in November 1997. We have now got to the horrendous situation where, as Senator Milne made clear in question time today, ammonium nitrate explosives are being used—the very thing that is being banned, because of terrorism, in this country except under licence. They are being licensed under the authority of the Prime Minister effectively through the regional forest agreement to blow up the biggest trees in the Southern Hemisphere such as those in the Styx Valley and the World Heritage value Upper Florentine Valley.

Here we have a pulp mill which is going, for two decades or more, to continue to erode the national estate and potentially World Heritage value forests of north-east Tasmania. The minister has every right to be hanging his head because he knows that this amendment is to make abundantly clear that he cannot do an assessment of those forests under a regional forest agreement and, therefore, the wildlife in those forests under a regional forest agreement.

I will go to one species that he knows very well—that is, the Tasmanian wedge-tailed eagle. Forestry Tasmania itself, with Melbourne university, has done a study of this exact area in north-east Tasmania—the Bass component of Tasmanian forestry operations—which will be the resource for Gunns’s proposed pulp mill. Those studying it found that it has a 65 per cent chance of going to extinction. This is one of the world’s six biggest raptors or eagles. It is bigger than the mainland variety. If Gunns’s logging proceeds—and this pulp mill will make sure of it, ladies and gentlemen of the Senate—that 65 per cent chance of extinction becomes a 99 per cent chance of extinction. The wedge-tailed eagle has had it. Make no mistake about this, what we are voting on here is the destruction of species in this great nation of ours through the unnecessary logging of what is left of our native forest estate in a country which has 1½ million hectares of plantations and does not need to cut native forests to provide wood for building, paper or whatever it might be. And this government knows it.

This government, through this particular amendment, is saying: ‘We will not allow ourselves to—we want the parliament to ensure that we cannot—look at the forests in assessing that pulp mill or the forest furnaces
which are coming down the line.’ The State of the environment report, which was produced by the minister yesterday, was scathing on the loss of biodiversity in this country which continues to grow—that is, on the species going to extinction in this nation when that should have been stopped long ago. And here we have a minister for the environment in a government which is deliberately legislating to destroy ancient ecosystems upon which species, from the great wedge-tail of Tasmania down to minute species within the firmament of the forest, depend—legislating to destroy their habitat, destroy their creation, destroy their existence on this planet. Can you believe it?

You, as this government, are concocting a situation where you are legislating to put blinkers on to blind yourselves to this deliberate destruction of what is left of the fastness of creatures which make this country, which are the essence of this country. You are legislating knowing that, by doing so, you are going to send them to destruction for a Gunns pulp mill. You are legislating that you cannot look at that process, knowing that we are in a period of unprecedented extinction of species due to human activity. This government is legislating to prevent interference in that extinction process which has been signed into law by the regional forest agreement by Prime Minister Howard.

Then along comes the Stern report which says, ‘Go from the environmental aspect and look at the economic aspect.’ When you do the figures, you will find that we are getting paid $10 or $15 a tonne by Gunns for what they take out of the forest; the huge amount they leave there they pay nothing for. Yet under a carbon trading system—which we are told, and we know, the world is going to have, and which even the Prime Minister asserts to now—those forests would be worth two, three or four times that amount if left standing. So you would send them to destruction now when, in a decade or two, standing, they would be worth four times as much, and you would still have the biological amenity and the safety for species they provide, and all the economic activity which would come out of tourists wanting to visit what is left of real wild forests on the planet.

I went for a walk the other morning—a beautiful sunny Saturday morning—with a little tourist operator from St Helens, into the Blue Tier, into a coupe to be targeted by Gunns in the next few months. It was sensational: huge Antarctic ferns, centuries old—some nudging a millennium old. And at the end of this 20-minute walk, which would delight the heart of anybody on the planet, we came to the Big Tree. It has a cave inside it. You walk in one side, it opens out like a small ballroom and you can walk out the other side. It is 19 or 20 metres in circumference at shoulder level around the base. And do you know, fellow senators, what they are going to do with that, in the next few months—possibly before we come back here? They are going to get another mixture of ammonium nitrate and fuel oil and blow it up. And this minister is legislating so that he cannot look at that, and so that Gunns can continue to do that and then feed it into their pulp mill. I get a little of the feeling for the environment that legislators must have felt in other parliaments for wicked things that have happened to human beings in the past.

So: we have 15 minutes left in this debate before it is guillotined. I will sit down. I will let it go. This minister has sat on his hands. He is not even going to look at those forests; this government will not. This Prime Minister has knowingly wiped his hands, like Pontius Pilate, of what is about to befall, is befalling and will befall the forest heritage of this nation and the world, and all the creatures that live in it. It is appalling beyond words. And it is all so unnecessary. Yet here we have legislation to say not only that the
minister should not look at it, but that he cannot. This is a straitjacket of the government’s own introduction through law. Can you believe it?

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (9.59 pm)—I will be very brief, because I cannot allow what Senator Brown has said to stand on the record. Senator Brown knows, but he will not tell you, that the regional forest agreement that was struck between the Commonwealth and Tasmania in November 1997 followed one of the most extensive consultation processes and processes of identifying biodiversity to make sure that the forests had a balance of protection of biodiversity put in place with a long-term and secure resource security arrangement. The regional forest agreements across Australia, struck between the Commonwealth and the states of varying political persuasions, ensure that each of those forest areas achieve a comprehensive, adequate and representative cross-section of the ecosystem types within those forests. So all of that work has been done. All of those ecosystems have been protected.

It is interesting that Senator Brown would have the audacity to mislead about a document—which is available, because I released it yesterday—prepared by Professor Bob Beeton and an eminent group of scientists, ecologists and statisticians on the state of Australia’s environment. It is a phenomenal document, independently assessing just where we are. It is a five-yearly report, an audit and a checklist on where we are. And Senator Brown said it is scathing in what it says about Australia’s biodiversity loss. What does Professor Beeton’s committee say about the regional forest agreements at page 44? He says, and his committee says:

The regional forest agreements have also been important in conserving forest values.

He goes on to say:

The result of the 2005 Tasmanian Community Forest Agreement—which builds on those RFAs—is that more than 156 000 hectares of forest were added to formal and informal reserves and, of that, some 121 000 hectares were old growth forest.

So he hides all of those facts. He hides the fact that under this government we have protected Tasmanian forests and, as a result of the election commitments made by the Prime Minister at the last election, diligently applied, we see the Tarkine forest protected. I remember talking to the Pullinger family down there in November, just after the election. I said to the Tarkine coalition, ‘What would be a good result in terms of protecting the Tarkine?’ And they said: ‘Look, 50,000 hectares would be a reasonable outcome—a bronze medal sort of outcome. Sixty thousand hectares would be a silver medal outcome; 70,000 hectares would be a gold medal outcome.’ And we were able to achieve 72½ thousand hectares of the Tarkine being protected in perpetuity, locked away forever so that future generations of Australians and people from around the world can do as Senator Brown did last weekend and walk through those magnificent forests and enjoy those values.

So under the RFA in Tasmania the forests have that sort of protection. Where the wildlife and other nationally significant species occur, of course they will have to be assessed under the process. I think Senator Brown knowingly misleads in relation to this process. We have a strong law that ensures that these sorts of proposals are assessed, and we also have good policies in place that are protecting and preserving biodiversity in forests across Australia in a way that has never been done before.
Senator MILNE (Tasmania) (10.03 pm)—I want to seek some clarity from the minister. I heard him say earlier that the pulp mill was going to be assessed by the minister, that it was a controlled action and that the species in forests that will be fed to the pulp mill will be under assessment. But I understand, looking at the transitional provisions, that this legislation will apply retrospectively so that the pulp mill will in fact be exempted. So I would like absolute clarity on whether these retrospective provisions are going to exempt the pulp mill. Secondly, the RPDC assessment in Tasmania specifically excludes the assessment of the forests and there were complete lies told by Gunns in relation to the forests. They said initially that is was going to be plantation based but now it is to be native forest based, and they want access to native forest for 30 years for this pulp mill. Thirty years: that is a minimum of 2½ million tonnes a year for 30 years out of native forests in Tasmania.

I would like the minister to tell the House whether these transitional provisions in this legislation will be retrospectively applied to the pulp mill. Secondly, will he spell out to the House the process by which he as the federal minister is going to assess the environmental impacts of the feedstock to the pulp mill? How is he going to assess it? What is the process?

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (10.05 pm)—These provisions do not apply retrospectively. I made quite clear statements about the assessment of impacts on wildlife. It is quite clear that within RFA forests they are covered by the RFA provisions. Any nationally significant wildlife outside those RFA areas that are affected by the proposal will be assessed under the law.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.05 pm)—Well, there you have it. The forests that we are talking about are all inside the RFA process, and there will be no assessment of the wildlife or the forests as far as this destructive pulp mill is concerned. The minister had his head on the desk—I do not blame him. It is an appalling process against this nation by this government. The Prime Minister drives this process. He signed the regional forest agreement. He, with the logging industry, is behind the writing of this component of the legislation.

As the minister knows, I have taken action on Wielangta in the Federal Court against the destruction of species there in south-east Tasmania. The swift parrot is one species that has just returned to the state, in much depleted numbers from its former range. And the proposal is to log the heartland of its breeding in Wielangta. The minister was talking about the forests, but we all know—schoolkids know—that when you cut these forests down he can go and celebrate planting his billionth tree, but those trees are not providing habitat. They are not old enough; they do not grow to the age. Gunns is never going to let them grow to the age; it wants to cut them down again. They need to live 100 years before their branches drop out and the swift parrots, for example, can find a nesting place. No nests, no species: that is what this process is, and no minister to assess it. This legislation makes it abundantly clear that the pulp mill is outside the reach of the minister. This is the minister’s Gunns provision. It is a most shameful piece of legislation.

The TEMPORARY CHAIRMAN (Senator Murray)—The question is that item 189 in schedule 1 stand as printed.

Question put.

The committee divided. [10.12 pm]
(The Chairman—Senator JJ Hogg)

Ayes............. 38
Noes............. 8
Majority........ 30

**AYES**

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**NOES**

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<td>Siewert, R. *</td>
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Question agreed to.

The DEPUTY PRESIDENT—Order!
The time allotted for consideration of this bill in committee of the whole has expired.
The question is that Australian Greens amendments (3), (4) and (5) on sheet 5156 and Australian Democrat amendments (1) to (12) on sheet 5158 be agreed to.

The amendments read as follows—

(3) Schedule 1, page 144 (after line 25), after item 388, insert:

**388A At the end of section 207A**

Add:

(5) The regulations must include native forest which forms part of the critical habitat of a listed species or ecological community.

(6) If a species is listed as endangered in accordance with this Act, the Minister must make a determination in relation to the habitat of the endangered species within three months of the listing of the species.

(7) The Minister must, by September 2008, make a determination in relation to the habitats of all species listed as at December 2006 as endangered in accordance with this Act.

(4) Schedule 1, page 144 (after line 25), after item 388, insert:

**388B At the end of section 207A**

Add:

(8) The regulations must include old growth and high conservation value native forest.

(9) For the purposes of this section:

- **native forest** means forest dominated by tree species native to the locality in which it occurs and where natural regeneration processes operate either fully or in part for recovery of canopy structure following natural or artificial disturbance.

- **old growth native forest** means native forest that is ecologically mature (the upper stratum or overstorey is in the late mature to over-mature phases) and has been subjected to negligible unnatural disturbance such as logging, roading and clearing.

- **A high conservation value native forest** is a native forest on public land that satisfies one or more of the following paragraphs:

  (a) a native forest growing on land within a sub-catchment containing rainforest or within 500 metres of rainforest, whichever is the lesser area;

  (b) a native forest place listed on the Register of the National Estate or
the Interim Register of the National Estate for its biological values;

(c) a world heritage property as defined in section 13, a place that the Commonwealth is obliged to protect under the World Heritage Convention, or a place identified as having world heritage value as defined in subsections 12(3) and (4);

(d) an area of at least 500 hectares in which any of the following species have been recorded as being present since 1 January 1980:

(i) species listed in Schedule 1 of the Endangered Species Protection Act 1992;

(ii) species listed as endangered or vulnerable in the Nature Conservation (Wildlife) Regulation 1994 of Queensland (for sites in Queensland);

(iii) species listed in Schedule 12 of the National Parks and Wildlife Act 1974 of New South Wales (for sites in New South Wales);

(iv) species listed as threatened in section 13 of the Threatened Species Protection Act 1995 of Tasmania (for sites in Tasmania);

(v) species declared specially protected flora and fauna under paragraph 14(2)(ba) or section 23F of the Wildlife Conservation Act 1950 of Western Australia (for sites in Western Australia);

(vi) species listed in the Schedule to this Act (for sites in Victoria);

(e) an old growth native forest covering 2 hectares or more;

(f) a wilderness area.

(5) Schedule 1, page 145 (after line 13), after item 390, insert:

390A After Subdivision BA of Division 1 of Part 13

Insert:

Subdivision BB—Biodiversity Commission

207D Biodiversity Commission

There is established by this section a Biodiversity Commission which shall be constituted as provided by section 207F.

207E Functions

The functions of the Commission are to monitor and report annually on Australia’s performance in meeting biodiversity targets and on activities which threaten biodiversity, including:

(a) introducing biodiversity targets for landscape and genetic scale biodiversity conservation consistent with Australia’s commitments as a party to the Biodiversity Convention;

(b) monitoring and reporting on Australia’s progress on the 2010 target under the Biodiversity Convention;

(c) monitoring compliance with Australia’s other commitments under the Biodiversity Convention;

(d) reporting annually on the state of Australia’s biodiversity and the functioning of such provisions of the Environment Protection and Biodiversity Conservation Act 1999 as relate to biodiversity conservation.

207F Constitution of Commission

(1) The Commission shall consist of a Commissioner and two Assistant Commissioners appointed by the Governor-General.

(2) The Commissioner and the Assistant Commissioners shall be paid such allowances as are prescribed.

(3) This section has effect subject to the Remuneration Tribunal Act 1973.

207G Reporting

(1) The Commissioner shall, as soon as practicable after each 30 June, prepare and provide to the Minister a written report that relates to the year ending on
that 30 June and complies with section 207E.

(2) The Minister must table a copy of a report under subsection (1) before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

(1) Schedule 1, page 7 (after line 17), after item 7, insert:

7A Subsection 15A(3)
Repeal the subsection, substitute:
(3) An offence against subsection (1) or (2) is punishable on conviction by a fine of not more than 420 penalty units.

(2) Schedule 1, item 34, page 11 (lines 22 and 23), omit the item, substitute:

34 Subsection 15C(13)
Repeal the subsection, substitute:
(13) An offence against any of subsections (1) to (10) (inclusive) is punishable on conviction by a fine of not more than 420 penalty units.

(3) Schedule 1, page 12 (after line 20), after item 41, insert:

41A Subsection 17B(3)
Repeal the subsection, substitute:
(3) An offence against subsection (1) or (2) is punishable on conviction by a fine of not more than 420 penalty units.

(4) Schedule 1, page 13 (after line 15), after item 46, insert:

46 Subsection 18A(3)
Repeal the subsection, substitute:
(3) An offence against subsection (1) or (2) is punishable on conviction by a fine of not more than 420 penalty units.

(5) Schedule 1, page 14 (after line 11), after item 52, insert:

52A Subsection 20A(3)
Repeal the subsection, substitute:
(3) An offence against subsection (1) or (2) is punishable on conviction by a fine of not more than 420 penalty units.

(6) Schedule 1, page 16 (after line 10), after item 66, insert:

66A Subsection 24A(7)
Repeal the subsection, substitute:
(7) An offence against any of subsections (1) to (6) (inclusive) is punishable on conviction by a fine of not more than 420 penalty units.

(7) Schedule 1, page 18 (after line 24), after item 77, insert:

77A Subsection 27A(5)
Repeal the subsection, substitute:
(5) An offence against any of subsections (1) to (4) (inclusive) is punishable on conviction by a fine of not more than 120 penalty units.

(8) Schedule 1, page 19 (after line 17), after item 82, insert:

82A Subsection 27C(3)
Repeal the subsection, substitute:
(3) An offence against subsection (1) or (2) is punishable on conviction by a fine of not more than 120 penalty units.

(9) Schedule 1, page 141 (after line 9), after item 372, insert:

372A Subsection 196B(3)
Repeal the subsection, substitute:
(3) The offence is punishable on conviction by a fine of not more than 1,000 penalty units.

(10) Schedule 1, page 147 (after line 23), after item 401, insert:

401A Subsection 211B(3)
Repeal the subsection, substitute:
(3) The offence is punishable on conviction by a fine of not more than 1,000 penalty units.

(11) Schedule 1, page 154 (after line 5), after item 424, insert:

424A Subsection 229D(2)
Repeal the subsection, substitute:
(2) The offence is punishable on conviction by a fine of not more than 1,000 penalty units.
(12) Schedule 1, page 160 (after line 24), after item 451, insert:

**451A Subsection 254(3)**
Repeal the subsection, substitute:

(3) The offence is punishable on conviction by a fine of not more than 1,000 penalty units.

Question negatived.

**The DEPUTY PRESIDENT**—The question now is that Schedule 1, item 550, subdivision BB and items 836 to 845 stand as printed

Question agreed to.

**The DEPUTY PRESIDENT**—The question now is that opposition amendment (9) on sheet 5151 be agreed to.

*The amendment read as follows—*

(9) Schedule 1, item 550, page 202 (lines 21 and 22), omit paragraph 324JJ(5)(b).

Question negatived.

**The DEPUTY PRESIDENT**—The question now is that schedule 1, items 388, 415, 448, 465, 530, 607, 759, 762, 763, 840 and 841 stand as printed.

Question agreed to.

Bill reported without amendment; report adopted.

**Third Reading**

**Senator IAN CAMPBELL** (Western Australia—Minister for the Environment and Heritage) (10.18 pm)—I move:

That this bill be now read a third time.

**Senator BOB BROWN** (Tasmania—Leader of the Australian Greens) (10.18 pm)—This is a disgraceful piece of legislation—

*Honourable senators interjecting—*

**Senator BOB BROWN**—Government and opposition members who are catcalling on that ought to understand that this legislation is going to debase the Australian environment for a long, long time to come. We have just seen an amendment pass the Senate which will enable the Gunns pulp mill, for example, in Tasmania to proceed.

*Honourable senators interjecting—*

**Senator BOB BROWN**—‘That’s good,’ say Labor members opposite—

**Senator Sherry**—Very good!

**Senator BOB BROWN**—including Tasmanian Labor members. But let me say why it is not. The problem is that there is huge dishonesty in what is happening with this legislation, backed by the Labor Party. ‘Good,’ says Senator Polley. The dishonesty is that, through this legislation, this federal government has washed its hands of its obligation to look at the environmental impact of that mega pulp mill on some of the most precious forests on the face of the planet, along with the wildlife they contain. The minister said, ‘Well, I will be able to look at that wildlife,’ then he retreated—because he knows he will not look at the wildlife, including endangered species in those forests.

The minister trotted out the Beeton *State of the Environment report*. The author of that report, with his performance in the public arena, should hang his head in shame. The minister cited the regional forest agreement as having been a good instrument for conserving forests. What the minister did not say is that, under the regional forest agreement, nearly 20,000 hectares of these great forests in Tasmania alone, and thousands more hectares in Victoria and southern New South Wales, are being destroyed every year. This is happening in an age of climate change, in an age of mega species loss on the planet, in an age where world scientists are saying that we must change direction because we threaten the very fabric of life on this planet upon which all humanity in the future depends. That is coming from Nobel laureates,
from thousands of scientists. This legislation flies in the face of that science.

This legislation is in effect an environmental inquisition, because it says that those people who want to stand for the environment are the ones who need to be punished. In recent weeks we have seen them in Tasmania being carted off by the dozen in paddy wagons for defending the natural amenity in this country which we as elected representatives should be defending.

This legislation is a low point in the Howard government’s dereliction of its obligation to protect this nation’s heritage now and into the future. It is a breach of contract and obligation. It is a failure of the guardianship which governments owe to the voteless millions coming after us: our children, our grandchildren and their grandchildren 1,000 times into the future. This legislation would disgrace some of the dictatorships which are indifferent to human and natural values elsewhere on the planet. This legislation says we bind our own hands in the face of a monumental environmental onslaught. This legislation says we will not necessarily contract ourselves to look at the impact of uranium mines and the nuclear industry on this country in the future. This legislation says we will prevent from going to the courts people who under the old legislation might have been able to take court action against government indifference and failure; we will close that avenue as well.

The minister says this legislation is good for the environment, yet he knows it is going to make environmental indifference the hallmark of this government instituted through the law in this place. This legislation was written by the logging and resource extraction industries and over the last two years was readied for this moment when the Labor Party would join the government in the way that we just saw in this place to sell out the environment.

Let me say this, Mr President: if we cannot stand for the wild creatures with which we share this planet and for their habitat in an age of escalating extinction and five years after 1,500 of the world’s top scientists warned of a species cataclysm which threatens our own existence on this planet, then we are selling out the future of our country and we are selling out the future of this planet.

The threat of climate change has broken like a wave of reality on this country in the last few months. With it has come inherently a more rapid rush to the extinction of the precious natural variety of this nation. Take coral bleaching: the Great Barrier Reef is threatened with total destruction in coming decades due to global warming. Who on the government benches cares? Who over there cares and is going to stand against that in this, the greatest coal-exporting country in the world?

We are one of the few wealthy countries left on the face of the planet— unlike New Zealand and Thailand in our area—which have not prohibited old-growth logging and the logging of high conservation value forest. Here tonight every member opposite voted to allow that process to continue for decades, adding enormously to climate change while on the floor of the forests destroying the ecosystems upon which the variety of life of this nation utterly depends. It has been safe there for millennia, but it is no longer safe because of the attitude of the body politic of this nation, because of this refusal by senators, except for the Democrats and the Greens, to give the environment the priority which we must give it this century if for those who come after us this planet is going to be worth living on—and the government sold them out tonight.
This bill sells them out. It cheats them. It does so because there are sectoral interests—money-making, profiteering greedy businesses—which want this legislation to complement other legislation which punishes environmentalists if they move peacefully to protect the very thing this government is neglecting and turning its back on. What a disgraceful attitude by this government! What a disgraceful attitude by the opposition towards this nation’s future and towards its natural amenity, the wealth of nature which inspires us, gives us adventure, gives us spiritual fulfilment and gives us beauty in an age when those things are at a premium in life.

What a lot of sell-outs you people are! How could you do this to the coming generations of this country? You might do it to yourself, but how could you do it to the Australians yet to come? Why do you not have in here legislation taking the reins of protecting this environment? You are prepared to do it for workplaces in this country, to shortchange workers, but you are not prepared to do it for the environment. Where is your use of the Corporations Law to stop the destruction of this nation’s heritage at Burrup, a World Heritage site? Where is the use of the Corporations Law to ensure that if we have a pulp mill it is based on plantation timber and not on the further destruction of the natural forests of this country? Where is your use of the Corporations Law to wind back climate change and the release of greenhouse gases which threaten the Great Barrier Reef, all the rangelands and all the inland waterways which, as Senator Siewert has been trying to point out in recent days, threatens the Ramsar sites, the wetlands of this nation? You are not using it for the environment, because those big business interests which want to make money out of marauding this nation’s environment have sway over you. All I can say is I hope you are not here this time next year. But if we look to the Labor Party, there is going to have to be a monumental change of philosophy which says that we put Australia’s future first, not the interests of those who want to make money out of doing the wrong thing, out of doing further injury.

Senator Bartlett—I rise on a point of order, Mr Acting Deputy President. Seeing as Senator Brown has consumed the entire debating time allocated for the third reading debate, the Democrats will not get a chance to put our view on this legislation on the record, about which I am disappointed.

The ACTING DEPUTY PRESIDENT (Senator Murray)—What is your point of order?

Senator Bartlett—I guess my time has run out, so I cannot make it, can I?

The ACTING DEPUTY PRESIDENT—Yes, you are accurate in that remark. The time allotted for the consideration of the remaining stages of this bill has expired. The question now is that the third reading be agreed to.

Question put.

The Senate divided. [10.30 pm]

(The Acting Deputy President—Senator AJM Murray)

Ayes........... 33
Noes........... 29
Majority........ 4

AYE

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

MINCHIN, N.H.
Parry, S.
Ronaldson, M.
Troeth, J.M.
Vanstone, A.E.

ALLISON, L.F.
Bartlett, A.J.J.
Brown, B.J.
Brown, C.L.
Carr, K.J.
Crossin, P.M.
Carr, K.
Hogg, J.J.
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.
Sherry, N.J.
Siewert, R.
Stott Despoja, N.
Sterle, G.
 Stephens, U.
Webber, R.
Wong, P.
Wortley, D.

FERRIS, J.M.
Fifield, M.P.
Faulkner, J.P.
Kemp, C.R.
Hurley, A.
Macdonald, J.A.L.
Hutchins, S.P.
Mason, B.J.
Conroy, S.M.
Payne, M.A.
Ray, R.F.
Scullion, N.G.
Campbell, G.

* denotes teller

Question agreed to.

Bill read a third time.

Leave of Absence

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (10.37 pm)—by leave—I move:

That leave of absence be granted to every member of the Senate from the termination of the sitting today to the day on which the Senate next meets.

Question agreed to.

ADJOURNMENT

The President—Order! It being 10.37 pm, I propose the question:

That the Senate do now adjourn.

INTERNATIONAL DIABETES FEDERATION

Senator BARNETT (Tasmania) (10.38 pm)—It is with great pleasure that I stand tonight to congratulate Professor Martin Silink, the newly elected President of the International Diabetes Federation. Martin Silink is a paediatrician from Westmead Hospital in Sydney and he is the first Australian ever to be elected as the president of the International Diabetes Federation. The International Diabetes Federation is the global advocate for diabetes. It is based in Brussels and consists of 191 diabetes associations from 145 countries. Just this week it held its International Diabetes Federation congress in Cape Town, South Africa.

I had the pleasure of being invited to speak at the congress. Professor Martin Silink was elected at that congress having been made president elect three years earlier at the IDF congress in Paris, where I also had the pleasure of speaking and assisting the Australian contingent—led by Diabetes Australia—and the many Australians there to support, and lobby for the election of Martin Silink as president elect.

It is a great credit to Martin Silink and I want to pass on congratulations not only to him but to his wife, Margaret, who has served and assisted Martin with great perseverance and patience over the last three years in his role as president elect. I want to pass on my best wishes and congratulations for the next three years, when there will be a lot of travel all around the world—not only to Brussels, but to the many countries around the world where diabetes is such a problem.

It was an excellent congress in Cape Town, where there were some 10,000 people present. It was a great honour and a privilege to be invited to speak at that congress, on the obesity epidemic and the role of the diabetes community in dealing with government.
I also want to acknowledge the work of Diabetes Australia for the efforts that they have undertaken to support Martin Silink, and the measures that they have taken to address the diabetes epidemic in this country. They have spearheaded the campaign to support a UN resolution on diabetes and tonight I wear my badge or logo—the blue circle—on my lapel to support the UN resolution on diabetes. Diabetes Australia has supported that campaign, together with the Australian Diabetes Society and the Australian Diabetes Educators Association. Internationally, the campaign is supported by the European Association for the Study of Diabetes, the American Diabetes Association, and various other organisations, including the Juvenile Diabetes Research Foundation, which is an excellent organisation headed up by Susan Alberti in this country, and Chief Executive Officer Mike Wilson, who perform excellent roles.

I want to say that the main effect of the UN resolution would be to bring diabetes out of the shadows; unite people with diabetes, strengthen diabetes associations; raise awareness of simple, cost-effective strategies to prevent the complications of diabetes; encourage individual responsibility in health maintenance; and raise awareness at societal levels to promote healthy nutrition, increased physical activity and a healthy lifestyle. The thrust of the resolution would be to ask the United Nations and its member states to declare 14 November as a United Nations World Diabetes Day, to be observed beginning 2007.

I seek leave to incorporate the United Nations resolution on diabetes in Hansard.

Leave granted.

The document read as follows—

Draft United Nations Resolution on Diabetes
Sponsoring Country: Bangladesh
1. Welcoming the fact that the WHO and the International Diabetes Federation (IDF) have officially observed 14 November as World Diabetes Day on a global level since 1989,
2. Recognizing the activities of the IDF to combat diabetes and welcoming the initiative to establish a campaign to empower, energize and educate more than 200,000,000 persons with diabetes in self-management,
3. Recognizing the urgent need to pursue multilateral efforts to promote and improve human health, provide access to medications and education,
4. Decides to declare the current WHO/IDF World Diabetes Day, 14 November, as a UN World Diabetes Day, to be observed beginning 2007,
5. Invites all Member States, relevant agencies, bodies, funds and programs of the United Nations system, and other international organizations and non-governmental organizations, to organize on that day activities designated to raise public awareness of diabetes, prevention of diabetic complications and prevention of diabetes itself,
6. Requests the Secretary-General to take the measures necessary, within existing resources, and in association with relevant agencies and bodies within the UN to promote the observance of World Diabetes Day,
7. Urges Member States to develop national policies for the prevention and control of diabetes in line with the sustainable development of their health systems in conformity with the implementation of the Millennium Development Goals,
8. Requests all relevant United Nations organizations to address the diabetes pandemic in line with their respective mandates, to assist wherever possible, in global efforts against the pandemic and to keep their actions under regular review to counter the negative impact of diabetes on individuals and society as a whole,
9. Expresses keen interest in additional discussion among relevant United Nations bodies, Member States, industry and other relevant organizations as proposed in the Millennium Development Goals to make progress, inter alia, on the question of access to treatment and care and continued research.

10. Encourages all Member States to work with relevant UN Organizations and civil society, in order to develop cost-effective sustainable long-term strategies for the prevention of diabetic complications and diabetes prevention, taking into account Member States’ organization and delivery of their respective health services, ethical, legal, cultural and other relevant issues and available resources.

Senator BARNETT—I would like to add that the Australian Parliamentary Diabetes Support Group is a bipartisan group in this parliament. It is a very effective group, and very recently Judy Moylan, on behalf of the group, and I met with the Minister for Foreign Affairs, Alexander Downer. We were very pleased to have confirmed to us that the Australian government would support the UN resolution on diabetes. We were very thrilled with that because we have been making representations to our government over many months—in fact, since Martin Silink first apprised us of this initiative.

It is very important, in our view, that the diabetes movement takes up the cudgels on this, leads the community and works in partnership with government at all levels and the various stakeholder groups to address the top three priorities espoused by Sir George Alberti at the International Diabetes Federation Congress in Paris in September 2003—those three priorities being prevention, prevention and prevention.

Winning the battle will require an enormous commitment because, like tobacco, saturated fats and sugar are among the modern world’s great temptations, while inertia is a simpler and far more attractive message for the brain and body than the effort of activity. However, it is a battle that we must fight so that within a few decades we will look back and be able to say that fixing the obesity epidemic, by living healthier lifestyles, was as vital as changing attitudes and behaviour towards smoking. Of course, obesity leads to a whole range of chronic conditions, not just diabetes. It leads to heart disease, cancer, respiratory problems and the like.

I would also like to acknowledge the good work at Diabetes Australia of the former president Dr Peter Little and thank him for his many years of service to that organisation, which in my view have been quite outstanding. He has been selfless in his commitment and his sacrifice to the cause.

I want to thank and acknowledge the work of Brian Conway, who is the executive director—and has been for many years. He has been handling and working for that organisation in a professional, committed and incredibly capable manner.

I want to say thank you in advance to Dr Gary Deed, based in Queensland, who is the new President of Diabetes Australia. I congratulate him on his election, very recently—just some weeks ago—and say that he has the full support of the Parliamentary Diabetes Support Group for his work on behalf of people with diabetes in this country.

As far as Australia is concerned, we do have a responsibility for ourselves and in particular our Indigenous communities. Quite frankly, our Indigenous communities are in peril. They have a much higher rate of diabetes than the rate for the average Australian. Professor Paul Zimmet has advised in his wisdom that these communities could actually be wiped out by this disease. This view was confirmed by other experts that I met with in Cape Town in the last few days. Frankly, I am shocked and deeply, deeply concerned for the future of our Indigenous
communities if we continue along the current path.

Diabetes is now impacting directly on 230 million adults worldwide. That is an estimate. It is nearly six per cent of the world’s adult population and it is increasing at seven million per year, with 70 per cent of the burden falling on the developing countries. Diabetes alone is causing a death every 10 seconds, an amputation every 30 seconds and is the leading cause of adult onset blindness and kidney failure and is equivalent in mortality to AIDS. They are shocking statistics. In my home state of Tasmania just a year or two ago we had 69 amputations from the knee down directly as a result of diabetes. It is a scary statistic indeed.

As far as Australia is concerned, I have mentioned our Indigenous populations but we also have a concern for the Pacific Islanders, who are particularly subject to this disease. They are amongst the worst affected in the world. What are we doing about it? Professor Silink has said that diabetes is undermining the benefits of economic gain and is thwarting efforts to reach the Millennium Development Goals in developing countries. Finally, I also want to thank Professor Paul Zimmet for his efforts—(Time expired)

Valedictory

Committee Reports

Environment and Heritage Legislation

Senator BARTLETT (Queensland) (10.48 pm)—In my final speech for the year I want to cover a few issues that were raised during the course of this week in the parliament and in documents tabled in the parliament. I also want to make a few comments about the environment amendment legislation that was just passed. I was not able to speak on the third reading, due to the guillotine and the time available to speak being taken up. I will try and cover all of those things. I will probably fail to do so in 10 minutes, so before I forget I will pass on my thanks to the attendants in this chamber, to all of the parliamentary staff and to the committee secretariat staff. I am involved in a lot of different committees, so I will not go through naming them all, but they have all been very helpful over the course of this year in many ways, and they are a key reason why the committee system continues to operate well—despite, I might say, the government’s growing efforts to slowly suffocate the value and effectiveness of the committee process. I also wanted to note all the other people who work to make our lives much easier, both inside the parliament and as parliamentarians in the wider community.

I also want to take the opportunity to thank my own staff and those of other Democrat senators for their work. They are a fantastic group of people who do an enormous job, many of them grossly under-recompensed. They work above and beyond the call of duty. It is not always a fun environment in the Senate in these days of government control. Despite that, they have continued to put in an enormous effort—and, I might say also, achieved an enormous amount for the good of the Australian community. I think a lot of people have earned a break and I certainly wish them well over that break. As we all know, we are coming back for an election year next year. So we all want to have our batteries recharged for what will be a very frenetic and crucial year for the future of Australia. I tried, in vain as it turned out, during the 2004 election when I was in my role as Leader of the Democrats to raise the prospect that the coalition was in a position to get control of the Senate. There was a lot of interest in that outcome after it had happened. I wish there had been more interest in the potential of it happening beforehand. But that will obviously be a key question at next year’s federal election: the future of the Senate.
I note that in my own state of Queensland it seems likely that we will have Pauline Hanson in amongst the competitors again. I ran against her in 2001, when I managed to get re-elected to this place and she did not. I know she had another go in 2004, unsuccessfully. I do think we need more diversity in politics, so I do not in any way try to dissuade anybody from running for election to parliament. But I do have concern that, whilst we need more independent voices, we need more constructive voices as well. That is what I try to provide for the people of Queensland, and what the Queensland Democrats as a party will seek to offer people as part of next year’s election campaign.

That leads me to a couple of reports that were tabled this week. One, in particular, was by the Ombudsman and reinforced the continuing problems with the immigration system. The way in which we treat asylum seekers and the way in which people are treated in detention reinforce the need for reform to our laws. We have had some changes in administration in the last 12 months or so, and that is welcome, but we need to change the law. Over the course of this year I have tried to put forward a number of ways that could be done, and I signal that that will be a continued focus for me and the Democrats next year. We will try to get legislative reform and put justice back into the Migration Act. That means speaking out against some of the mistaken comments that have been made.

As I mentioned in a speech in this place last week, we can from time to time across the political spectrum fall into the trap of playing on the easy prejudices, the ignorance and the fears that people have about migrants, about people from other countries. It has been raised in some of the campaigns that people from a range of different political parties, including other minor parties, have put forward. We need to ensure that it is not present in the campaigning that we do on any issue. Migration has been a massive gain and a massive benefit to this country. That does not mean that there are not issues to debate about how we run our migration system, but we certainly should not attack migrants or anybody who comes here from overseas.

We should, however, give a lot more attention to the needs, interests and views of the First Australians. I take the opportunity to once again emphasise the importance of the report tabled today by the Senate Standing Committee on Legal and Constitutional Affairs on the issue of stolen wages—that one small component of grotesque exploitation of Indigenous Australians over decades in many jurisdictions across the country which has played a direct result in the poverty and disadvantage that many Indigenous Australians face today. We all need to give greater priority to that issue.

I also want to refer to the Environment and Heritage Legislation Amendment Bill (No. 1) 2006, which has just passed—and I seek to do so without breaching standing orders in reflecting on a vote of the Senate. Clearly the Democrats were unhappy with the inability of the Senate in the committee stage of the debate to remove some of the key flaws in the legislation. It is worth noting in the interests of balance that there were positive components in the legislation. Indeed, material provided to the Senate Standing Committee on Environment, Communications, Information Technology and the Arts by Mr Andrew Macintosh, Deputy Director of the Australia Institute, pointed to some of the positive amendments contained in the legislation as well as some of the negative ones. Given that Mr Macintosh has been prepared to be critical of the act in the past, I think the fact that he pointed to positive changes in the legislation is worth noting. But clearly there were negatives as well, and it is unfortunate that the very day after the
minister tabled the *State of the environment report*—which quite specifically acknowledges that the act, as it was passed by the Democrats in 1999, has been a positive for the Australian environment and that it had been improved with regard to accountability, public participation and openness of information with regard to environmental issues in Australia—we had legislation containing parts that reduce that accountability.

The frustration I have is that, because of the government’s imposition of a guillotine—which we have seen with growing frequency this year, along with, I might say, a growing number of gags—we did not even get to highlight some of the biggest problems with the legislation and to question the minister about them, particularly the removal of the merits review of decisions by the minister and the increasing hurdle to be put in place for people who are seeking to undertake court actions, enforcement actions to require people to comply with the act.

Those key removals of accountability mechanisms are a real negative. We did not get to examine some of the issues regarding heritage and the concerns that were expressed about what that might mean. It is a reduction of protection in heritage. That includes, I might say, Indigenous heritage issues. This year saw yet again the failure of the federal government to follow through on commitments given about three ministers ago now, with Senator Hill, to update the legislation regarding the protection of Indigenous heritage in Australia. We still need to do that. It is a loss to the entire Australian community but particularly to the Indigenous people. We should be adequately protecting such an extraordinary—what should be essential—part of our nation’s psyche and our nation’s sense of who we are. Those links to the nation’s oldest living culture go back tens of thousands of years. To think that we still do not have adequate legislative protection for that is baffling.

It should be emphasised, though, that, despite those negatives that have now been passed into law, we do not want to repeat the mistake of 1999. This last debate has shown that the Democrats were right in our judgement in 1999 in ensuring that a strengthened national environment act was put into place. The problem since then was that, because of the controversy at the time, a number of environment groups did not engage and use the strengths of the act. The fact that some negatives have passed in the last few minutes should not lead people to think that the act is now useless. It is still quite strong. What we need to do is apply more political pressure to ensure that the political will needed to ensure that the act is administered and enforced properly is brought to bear. That is what the Democrats will seek to do over the next 12 months. The act still has strength; it has to have the political will and the resourcing to back it up. *(Time expired)*

**Australian Industries**

_Senator CHAPMAN* (South Australia) *(10.58 pm)*—Tonight I want to highlight the importance of innovation for Australian industries. Earlier this week Mr Kevin Rudd was elected Leader of the Opposition. In his ‘fork in the road’ comments, he asserted his intention to undertake a program to guarantee the future of manufacturing industries in Australia. The problem is that Mr Rudd is a bit late with his interest in secondary industry. This policy has already been actively pursued by the Howard government. Mr Rudd’s intention is typical of a party ruled by the union movement, which in its dying days needs to spark some appeal among that proportion of the private sector workforce which remains union members—now less than 18 per cent, many of whom work in manufacturing.
Let me make clear tonight what the results will be for secondary industries, who are so reliant upon the potential for innovation, if a Labor government is elected. Despite its new leader, it is the same old Labor Party. It is the intention of Mr Rudd, like Mr Beazley before him, to destroy the role of Australian workplace agreements, against all industry recommendations or, indeed, pleadings. If this occurs, experts agree that productivity in industry will go down.

In 2002, following the introduction of the Howard government’s groundbreaking industry innovation initiative Backing Australia’s Ability, Treasurer Peter Costello in an address on productivity said:

Lifting productivity growth requires continuing attention to fiscal policy, low and stable inflation and low interest rates, which facilitate investment and the roll-out of new technologies.

Rising productivity is not just an economic indicator of the rising standard of living of all Australians; it is also the necessary condition for the uptake of new technologies. We know innovation is accelerated by a rise in the uptake of technology and that this is achieved when interest rates remain low, enabling new capital investment.

Industry experts, such as Kevin McDonald from Australian Business Ltd in New South Wales, call the Labor policy to wind back Work Choices, as advocated by Mr Rudd, ‘uninspiring and backward-looking’.

Senator Abetz—Hear, hear!

Senator CHAPMAN—I welcome the support of the minister in that regard. Tony Steven from the Council of Small Business Organisations of Australia—

Senator Abetz—Another good man.

Senator CHAPMAN—he is indeed. He said that he is hopeful that Mr Rudd may turn away from the union line on industrial relations. It is clear that the introduction of Work Choices by the Howard government, facilitates Australia’s workforce to operate at its optimum. The end of AWAs, as would occur under a Labor government, would be a direct assault on our productivity. The reduced productivity of the Australian economy under a regime of collective bargaining would trigger events that would destroy the economic wellbeing of all Australians. Under a Labor government with reduced productivity, innovation in the private sector would be undermined and the resources directed by government to assist the quicker commercialisation of ideas would be underutilised.

To stimulate innovation the Labor Party argues for further funding of research initiatives. The Labor Party is still not clear on the economic damage that can come from excessive spending by government. The high interest rates when they ran the country were due to excessive government spending and general economic mismanagement. As we enter a period of strong international competition with the emerging giants of China and India, it is essential that we remain innovative. We cannot expect that to be achieved under a Labor government where Mr Rudd will destroy the potential for innovation in the private sector as a result of reduced productivity. His approach sounds awfully like old Labor’s approach of picking winners on which to lavish taxpayers’ money.

Manufacturing is important to the Australian economy but so are other industry sectors—communications, financial services, mining and agriculture, to name a few. Innovation is crucial to the continuing success of all these sectors and more. Fundamentally, innovation is always about people who are the enablers of innovation. Innovation is about the way we creatively apply knowledge, old and new, with the objective of producing additional value and wealth. As such, innovation does not necessarily involve technology and technological knowledge nor the creation of new knowledge. It can, for
instance, be reflected in productive changes to systems of organisation, such as investment models in the financial services sector. Equally, innovation can be reflected in reduced costs while the selling price remains the same, as can be seen, for example, in the application of mining and agricultural technologies to primary industry output. In the context of global markets, innovation is the ability to fulfil needs and solve problems for customers in ways superior to competitors. Commonly, a range of innovations across areas of expertise and sectors of the economy work together in the goal of developing a competitive advantage.

With these points in mind, innovation systems can be defined as our nation’s capacity to generate, diffuse and use economically significant knowledge in generating internationally competitive outcomes across industry and government. Rapid evolution of information, communication and transport technologies has enabled new and consolidated forms of wealth creation, scientific discovery and economic organisation more broadly. This is reflected in global markets which are increasingly dominated by a greater dependence on knowledge, information, high levels of skills and an increasing need for ready access to all of these.

Core to remaining competitive, therefore, is the ongoing adaptation of processes and structures for the management and diffusion of knowledge. This includes the competitive imperative to adapt and transform management systems and skills across the private and public sectors. One important key to all of this is flexibility in the workplace—flexibility that a Rudd Labor government would destroy. Another key is low interest rates to foster capital investment. The Labor Party under Mr Rudd, for all its bluff and bluster, cannot cover up the fact that it will take its ‘fork in the road’, leading to fiscal irresponsibility and backward, union-dominated workplace relations—‘a bridge too far’, which will destroy the potential for innovation in manufacturing and elsewhere.

Where is Mr Rudd’s plan? Where is his consistency? Yesterday, at the parliamentary lunch for the Korean President, he extolled the virtues of free trade. What is it to be under Labor: more interventionism or more market-driven economics; or is it to be more of the populism we have seen from Labor in the past, telling different interest groups what it thinks they want to hear?

A high level of innovation is essential for Australia to have a sustainable export industry of value-added manufactures. No other government in Australia’s history has given greater support to science, research and innovation than the Howard government. I seek leave to incorporate in Hansard just some of its initiatives relating to manufacturing alone.

Leave granted.

The document read as follows—

Industry Achievements since 1996:

Provided a long-term industry plan for the automotive sector. From 2000 to 2015, the Automotive Competitiveness and Investment Scheme will provide more than $7 billion to secure the future of Australia’s car industry. It is the largest assistance program in the history of the industry. Included within ACIS is the $150 million Motor Vehicle Producer Research and Development Scheme, including the $7.2 million Supplier Development Program.

Encouraged productivity and innovation across the Textile, Clothing and Footwear industry through key strategic programs such as the five-year $678 million Textile, Clothing and Footwear Strategic Investment Program and the $747 million, 10-year TCF successor package. The successor package includes:

- A $600 million 10-year extension of the TCF Strategic Investment Program, commencing 1 July 2005. The program
provides support for innovation and capital investment activities.

- $50 million for a 10-year structural adjustment program to assist workers displaced by large plant closures.
- $20 million to support major capital investments that would strengthen the local supply chain for the clothing and finished textiles sector. (Open to companies not receiving benefits through the TCF Structural Improvement Program).
- $50 million for a product diversification scheme;
- An extension to 2010 of the Expanded Overseas Assembly Provisions, which provide duty concessions for the Australian content of finished products imported into Australia after processing offshore. This scheme is expected to cost $27 million in duty foregone.
- A gradual, ten-year program of tariff reduction, with tariffs paused between 2005 and 2010.
- The package is part of the Government's targeted, long-term plan for Australian's TCF industry. It provides industry with the long-term certainty it needs to make major investment decisions over the next decade.

Initiated 33 Action Agendas, providing growth strategies for key industries, including printing, cement, pharmaceutical, chemicals and plastics, and the electronics industries.

Established a five-year, $150 million pharmaceutical industry program called the Pharmaceutical Partnerships Program (P3). P3 capitalises on Australia's leading edge medical and biotechnology capabilities by encouraging R&D partnerships between international pharmaceutical companies and local researchers. The program builds on the success of the $300 million Pharmaceuticals Industry Investment Program, which ran from July 1999 to June 2004 and induced a significant amount of new R&D and production amongst participating companies.

Joined the System Development and Demonstration Phase of the Joint Strike Fighter program, providing Australian industry with the unprecedented opportunity to bid for development, manufacturing and ongoing support work over the next 30 to 40 years.

Developed the Auto Industry Strategic Group (August 2005). This group, chaired by Ian Macfarlane and comprised of key industry representatives, will ensure a closer and more constructive relationship between Australia's vehicle producers and component manufacturers. An early achievement of the group has been the formation of a “Team Australia” approach, which sees major vehicle producers, component manufacturers and the Howard Government working together to strengthen the position of Australian automotive manufacturers in global supply chains. As part of this approach, the Minister led an industry delegation to Japan and Thailand where they promoted Australia's automotive capability to head offices of Toyota, Nissan and Mitsubishi. A further trip to head offices of Ford and General Motors in the US proceeded in early 2006.

Boosted support for business innovation through the $2.9 billion Backing Australia's Ability package and its $5.3 billion successor, Backing Australia's Ability: building our future through science and innovation. Business innovation programs supported within the BAAII package include:

- $1 billion for Commercial Ready—the Government’s one-stop-shop for business innovation support;
- $100 million for the Commercialising Emerging Technologies (COMET) program; and

South Australia Specific Initiatives:

Provided $40 million to support 19 job-creating projects under the Structural Adjustment Fund for South Australia, including:

- $1.6 million for Redarc Electronics’ expansion of its electronics business at Lonsdale, in Adelaide's southern suburbs;
• $1.8 million for Alloy Technologies International’s project to develop a light metals foundry at Wingfield;
• $3 million for Resourceco’s expansion of its waste processing operations (all announced 1 September 2005); and
• $954,000 for Cubic Pacific’s construction of a new motor vehicle parts plant. (announced 17 May 2005).

These projects represent total investment of more than $250 million and are expected to generate more than 1300 direct jobs. The projects highlight the diversity and growing specialisation in the Australian manufacturing sector.

Announced on 23 October, with SA Deputy Premier Kevin Foley, the Innovation and Investment Fund South Australia.

This $35 million package aims to attract new investment in South Australia and comprises:
• $5 million in labour market assistance to help affected Electrolux employees find alternative employment; and
• $30 million ($25 million of which has been provided by the Australian Government) to establish the IIFSA. The fund will operate in a similar manner to SAFSA.

**Upcoming in initiatives:**

In July 2006, Minister Macfarlane announced the development of a comprehensive Industry Statement to set the future policy direction of Australian industry. Key themes include export directions, global integration and innovation.

The statement will be announced in early 2007.

**Senator CHAPMAN**—The Howard government is implementing these outstanding initiatives which support innovation in our secondary industries. The Minister for Industry and Resources, Ian Macfarlane, will release a comprehensive industry statement setting the future policy direction of Australian industry next year. I am confident this will be a forward-looking statement, unlike Mr Rudd’s intention to turn back the clock. Backing Australia’s Ability 1 and 2 and ongoing related initiatives have created the foundation on which an effective integrated policy framework approach to innovation can be developed for a third generation of innovation reforms.

A strategically integrated whole-of-government focus would be advantageous. Specifically, this should involve an integrated governance and funding focus which works through broader policy frameworks that have regard to building long-term national competitive strength. The Organisation for Economic Cooperation and Development has estimated that innovation is a key driver for economic growth in developed countries, with at least 50 per cent of growth directly attributed to it. A recent special report on innovation in Business Week explained that building effective innovation systems takes synchronisation from the centre and requires cross-boundary collaboration and structural changes.

This should not be interpreted as advocating a strategic policy environment of micro-management, picking winners or the bureaucratisation of the innovation process. Rather, in terms of government, it highlights that the creative and dynamic force of people and economic organisation need to work through a very diverse range of policies and programs in order to invest in the full range of economic and social capabilities required to lock in long-term economic prosperity.

An integrated policy frameworks approach to innovation is supported in various ways by recent findings from many peak body reports representing industry, science, economics and government. Various innovation inputs, including management practices, governance structures and mandates, customer service, global supply chain logistics and a system that allows scientists to remain inspired and engaged in their work, contribute additional value to outputs across indus-
try, R&D, the not-for-profit sector and government.

In conclusion, I will say that, on the basis of the issues that I have raised in these remarks, the Howard government can continue its strong reform commitment based on the solid foundations of Backing Australia’s Ability 1 and 2, adding long-term strength to an already world-leading innovation system.

The PRESIDENT—Senator Chapman, your time has expired.

Senator CHAPMAN—Mr President, I seek leave to incorporate the balance of my remarks in Hansard.

Leave granted.

The speech read as follows—

Strategic policy partnering could broker solutions which offer superior provision for business and R&D, such as:

• New performance measures and outcome criteria linked to longer term economic and social policy objectives.
• Greater attention paid to how venture capital and private equity infrastructure can be incorporated into more holistically designed policy solutions which better support collaborative needs across the spectrum of networks, clusters and more formal partnership type arrangements.
• Anchoring multinational enterprises in strategic sectors in order to more effectively capture spill-over benefits through the vital skills, resources and networks they harvest and deliver.

Consideration should also be given to the establishment of a National Innovation Council reporting directly to the Prime Minister which has a more focused concentration on issues relating specifically to innovation than is possible for the wide-ranging Prime Minister’s Science, Engineering and Innovation Council.

On this basis, the Howard Government can continue its strong reform commitment based on the solid foundations of Backing Australia’s Ability 1 and II, adding long-term strength to an already world-leading innovation system.

In contrast, Labor continues its rudderless short-term grab for political attention.

Senate adjourned at 11.09 pm

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]

Chemical Weapons (Prohibition) Act—
Instrument of Approval of Forms [F2006L03941]*.

Civil Aviation Act—Civil Aviation Safety Regulations—Airworthiness Directives—
Part 105—AD/CASA/27 Amtd 1—Centre Wing Lower Skin [F2006L03982]*.

Customs Act—Tariff Concession Revocation Instruments—
103/2006 [F2006L03894]*.
105/2006 [F2006L03896]*.
106/2006 [F2006L03899]*.

Migration Act—Migration Regulations—
Instruments—
IMMI 06/063—Residential Postcodes, Skilled Occupations, Relevant Assessing Authorities and Points [F2006L03923]*.
IMMI 06/083—Organisations that may sponsor Short Stay Business Visitors [F2006L03933]*.

National Transport Commission Act—

Telstra (Transition to Full Private Ownership) Act—Designated Day Declaration 2006 (No. 1) [F2006L03997]*.

* Explanatory statement tabled with legislative instrument.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Australian Defence Force Personnel

(Question No. 2254)

Senator Faulkner asked the Minister representing the Minister for Defence, upon notice, on 26 July 2006:

With reference to Australian Defence Force (ADF) personnel embedded with United Kingdom (UK) and United States (US) military units in Iraq and in Afghanistan:

(1) How many ADF personnel are currently embedded with US and UK forces in Iraq and in Afghanistan.

(2) (a) What dissimilar cultural training is conducted by US and UK forces prior to deployment; and
   (b) do ADF embedded personnel undertake this training.

(3) Do these embedded personnel provide periodic reports to the ADF chain of command.

(4) Do these ADF personnel provide end of tour reports to the ADF chain of command.

(5) (a) How many ADF embedded personnel have been involved in US operations in or near Fallujah in the past 2 years; (b) what reporting have these embedded personnel provided to the ADF chain of command and Defence headquarters in Canberra; (c) has this reporting resulted in further ADF investigations; (d) was the Minister alerted to this reporting and/or the results of any investigations; and (e) has this reporting resulted in discussions with Allied commands.

Senator Ian Campbell—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) Embeds are ADF personnel either deployed directly into headquarters or units of another country, or deployed as Third Country Deployments (TCDs). TCDs are members on exchange (in this instance, either to the USA or UK), who deploy with their US or UK units.
   In Iraq, as at 31 October 2006, there are 87 embeds including five TCDs with US units, and nine embeds including two TCDs with UK units.
   In Afghanistan, as at 31 October 2006, there are two embeds including one TCD with US units, and three TCDs with UK units.

(2) Defence does not hold details of the US and UK training courses conducted prior to deployment, but ADF personnel are expected to undertake that training.

(3) Yes.

(4) Senior members, and members in key positions, are de-briefed following their return to Australia.

(5) (a) Defence does not comment on the disposition or employment of other Coalition forces.
   (b) ADF members deployed on operations in the Middle East Area of Operations are required to report incidents to the National Commander in Baghdad, who would then forward it to Australia. An electronic search of records and ADF personnel activities in or near Fallujah was conducted. No record of activities was found.
   (c) to (e) Not applicable.
Australian Technical Colleges
(Question No. 2557)

Senator O’Brien asked the Minister representing the Minister for Vocational and Technical Education, upon notice, on 11 October 2006:

With reference to the answer to question on notice no. 2080 (Senate Hansard, 12 September 2006, p 119), regarding the Government’s Australian Technical Colleges located in each of the following regions: (1) Central Coast Region (Gosford); (2) Hunter Region; (3) Illawarra Region; (4) Port Macquarie Region; (5) Western Sydney Region; (6) Darwin Region; (7) Gladstone Region; (8) Gold Coast Region; (9) North Brisbane Region; (10) North Queensland (Townsville) Region; (11) Adelaide North Region; (12) Adelaide South Region; (13) Spencer Gulf and Outback (Port Augusta/Whyalla) Region; (14) Northern Tasmania Region; (15) Gippsland (Bairnsdale/Sale) Region; (16) Bendigo Region; (17) Eastern Melbourne Region; (18) Geelong Region; (19) Sunshine Region; (20) Warrnambool Region; (21) Perth South Region; and (22) Pilbara Region: can an update of the following be provided:

(a) details of board members, including name, role and current employment;
(b) the street address of the college;
(c) details of the quantum of rental paid and ownership of building used for the college;
(d) details of any renovations undertaken, including costs and name of the contractor; and
(e) details of any company appointed to audit college financial accounts or to assist with financial management.

Senator Vanstone—The Minister for Vocational and Technical Education has provided the following answer to the honourable senator’s question:

The Australian Government is currently undergoing negotiations with the successful proponents in the following regions: Central Coast (Gosford); Western Sydney; and Pilbara.

The information requested in parts (a), (b), (c), (d) and (e) for those regions can not be provided as it has not yet been confirmed.

The information for the remaining regions, including Darwin, Warrnambool and Spencer Gulf and Outback (Port Augusta/Whyalla) has been provided in the attached table.

The Australian Technical Colleges are not required to report the information requested on a regular basis and the information provided in good faith by the Colleges for question on notice no. 2080 resulted in a significant impact on the workload of Australian Technical Colleges and Department of Education, Science and Training staff. In order to reduce the imposition on Australian Technical Colleges, information in Part (c) has been collected to cover a one year period. Part (c) provides the ownership of the building being used for each college as at 30 September 2006, the rent paid to 30 September 2006 and the average rental cost per year.

This information will not be collected again until the end of 2007.

QUESTIONS ON NOTICE
**QUESTIONS ON NOTICE**

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<tr>
<th>Region</th>
<th>Name</th>
<th>Role</th>
<th>Current employment</th>
<th>(b) the street address of the college</th>
<th>(c) details of the quantum of rental paid and ownership of building used for the college</th>
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<tr>
<td>Hunter</td>
<td>Mr Jim Gauld</td>
<td>Chair</td>
<td>Jim Gauld Building</td>
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<td>Mr Paul Topfer</td>
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<td>Mr Michael De Lyall</td>
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<td>Dr Wayne Tinsey</td>
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<td>Mr Tony Houlcroft</td>
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<td>Mr Graham Davidson</td>
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<td>Mr Peter Wakeman</td>
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<td>Port Waratah Coal Services Ltd Heritage Holden</td>
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### QUESTIONS ON NOTICE

**Region (a) details of board members, including:**

- **Name**

**Role**

- **Current employment**

(b) **the street address of the college**

(c) **details of the quantum of rental paid and ownership of building used for the college**

(i) **Rent paid as at 30 September 2006 GST inclusive**

(ii) **Average annual rent**

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<td>Mr Bob Spiers</td>
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<td>Prof Michael Hough</td>
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<td>Mr Ray Tolhurst</td>
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<td></td>
<td>Mr John McGuigan</td>
<td>Chairperson</td>
<td>General Manager, John Oxley Motors</td>
<td>25 Acacia Avenue</td>
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<td>Mr Adam Prussing</td>
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<td>Managing Director, Supalook Smash Repairs</td>
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<td>Mr Gary Boyd</td>
<td>Board Member</td>
<td>Managing Director, Page 5 Office National Repairs</td>
<td>Ocean Drive</td>
<td>Rent ceases when the Port Macquarie Campus new building is complete.</td>
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<td>Mr Stephen Carmody</td>
<td>Board Member</td>
<td>Managing Director, Principal, St Joseph’s High School</td>
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<td>Mr Jim O’Brien</td>
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<td>General Manager, United Group Rail</td>
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<td>Mr Adam Spencer</td>
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<td>Principal, ATC – Port Macquarie Manning Valley</td>
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<td>Mr Michael Reid</td>
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<td>Director, Jeffery, Reid, Flanagan Valuers</td>
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<td>Mr John McQueen</td>
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<td>Mr Grant McKeand</td>
<td>Board Member</td>
<td>Central Queensland Ports Authority</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Gladstone Area Group Apprentices Ltd</td>
<td>ATC-GR Administration and Coordinat</td>
<td>Gladstone Area Group Apprentices Ltd $15,750.00</td>
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<td></td>
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<td>Management Centre</td>
<td>1/28 Beckinsale St</td>
<td>$21,000.00</td>
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<td></td>
<td>Ms Kerry Whitaker</td>
<td>Director</td>
<td>Heymer Engineering (Representing the Gladstone Engineer</td>
<td></td>
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</tr>
<tr>
<td></td>
<td>Mr Ron Heymer</td>
<td>Director</td>
<td>ing Alliance)</td>
<td>1811 Gladstone QLD 4680</td>
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</tr>
<tr>
<td></td>
<td>Mr Peter Lynch</td>
<td>Director</td>
<td>Gladstone Engineering Alliance</td>
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<tr>
<td></td>
<td>Mr Andrew Wallace</td>
<td>Director</td>
<td>Commerce Queensland</td>
<td></td>
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<tr>
<td></td>
<td>Ms Robyn Barrie</td>
<td>Director</td>
<td>Central Queensland University</td>
<td></td>
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<tr>
<td></td>
<td>Mr Craig Giddins</td>
<td>Director</td>
<td>Eagle Crane and Rigging</td>
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<td></td>
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<td>Electrical Trades Union Qld</td>
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</table>
### QUESTIONS ON NOTICE

<table>
<thead>
<tr>
<th>Region</th>
<th>Name</th>
<th>Role</th>
<th>Current employment</th>
<th>(b) the street address of the college</th>
<th>(c) details of the quantum of rental paid and ownership of building used for the college</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gold</td>
<td>Mr Denis Beck</td>
<td>Chair</td>
<td>Managing Director, Beck Investments Pty Ltd</td>
<td>13 Benowa Road QLD 4215</td>
<td>Imagine Education Pty Ltd $12,993</td>
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<tr>
<td>Coast</td>
<td>Mr Mike Sheehy</td>
<td>Director</td>
<td>Partner, PKF Worldwide</td>
<td>Radisson Resort Gold Coast QLD 4215</td>
<td>$17,324</td>
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<tr>
<td></td>
<td>Mr Andrew Dugard</td>
<td>Director</td>
<td>Executive Chef, Watermark Hotel</td>
<td>Radisson Resort Palm Meadows</td>
<td>$30,117</td>
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<tr>
<td></td>
<td>Mr Peter Hollet</td>
<td>Director</td>
<td>Director, Educational Finance Services Pty Ltd</td>
<td>Palm Meadows Road QLD 4211</td>
<td>$40,156</td>
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<tr>
<td></td>
<td>Ms Jennifer Silver</td>
<td>Director</td>
<td>Managing Director, The Australian Institute of Technology (TAIT)</td>
<td>TAIT Construction Skills Centre</td>
<td>nil</td>
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<tr>
<td></td>
<td>Prof Ashley Goldsworthy</td>
<td>Director</td>
<td>Company Director, Various</td>
<td>2 Palings Court QLD 4211</td>
<td>Enterprise Management-nil</td>
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<tr>
<td></td>
<td>Ms Dawn Lang</td>
<td>Director</td>
<td>Principal, AB Paterson College</td>
<td>Nerang QLD 4211</td>
<td>$3,861</td>
</tr>
<tr>
<td></td>
<td></td>
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<td>Level 1 Waterside Park</td>
<td>$5,148</td>
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</table>
## QUESTIONS ON NOTICE

**Region (a) details of board members, including:**
- **Name**
- **Role**
- **Current employment**

**North Brisbane**
- Mr Leslie Bradshaw: Chair, Managing Director, Bradco (QLD) Pty Ltd
- Cr Peter Houston: Vice Chair, Councillor, Redcliffe City Council
- Mr John Pozzey: Board Member, Member of Restaurant and Catering Association QLD
- Mr Raymond Smith-Roberts: Board Member, General Manager, East Coast Bullbars
- Mr Robert Aldons: Board Member and Treasurer
- Ms Robyn Killoran: Board Member, Group
- Ms Pamela Betts: Board Member, Principle, TLA Business Services Pty Ltd
- Ms Kerrie Tuite: Board Member, Principal, Southern Cross Catholic College
- Ms Brenda Higgins: Vice Chair, Trustees of the Christian Brothers Qld
- Mr William (Noel) Ryan: Board Member, Principal, St James College
- Mr Lindsay Coghill: Board Member and Secretary, Tranzitions@work

**Brisbane**
- Mr Ian Davies: Board Member, Company Director, Northstar Motor
- Mr Ian Davies: Board Member, Company Director, Northstar Motor
- Mr Ian Davies: Board Member, Company Director, Northstar Motor
- Mr Ian Davies: Board Member, Company Director, Northstar Motor
- Mr Ian Davies: Board Member, Company Director, Northstar Motor

**Corporation of the Trustees of the Roman Catholic Archdiocese of Brisbane.**
- $60,000
- $90,000
- 294 Scarborough Road
- 21 Boundary Road
- 21 Boundary Road

(b) the street address of the college
- 294 Scarborough Road
- 21 Boundary Road
- 21 Boundary Road

(c) details of the quantum of rental paid and ownership of building used for the college
- (i) Rent paid as at 30 September 2006 GST inclusive
- (ii) Average annual rent

- $60,000
- $90,000
## QUESTIONS ON NOTICE

<table>
<thead>
<tr>
<th>Region</th>
<th>Name</th>
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<th>Current employment</th>
<th>(b) the street address of the college</th>
<th>(c) details of the quantum of rental paid and ownership of building used for the college</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Mr John Bearne</td>
<td>Chair</td>
<td>Director, TCS (Qld) Pty Ltd</td>
<td>Unit 2, 296 Ross River Road Aitkenvale QLD 4814</td>
<td>Queensland Country Credit Union Limited $26,148 $44,966</td>
</tr>
<tr>
<td>Queens-land</td>
<td>Mr Lawrence Martin</td>
<td>Deputy Chair</td>
<td>General Manager, Alexander Body Works</td>
<td></td>
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<tr>
<td></td>
<td>Mr Barry May</td>
<td>Board Member</td>
<td>Managing Director, RIMA Management</td>
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</tr>
<tr>
<td></td>
<td>Ms Roslyn Baker</td>
<td>Board Member</td>
<td>Regional Manager, Commerce Queensland</td>
<td></td>
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<tr>
<td></td>
<td>Dr Angela Hill</td>
<td>Board Member</td>
<td>Senior Lecturer, School of Education, James Cook University</td>
<td></td>
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</tr>
<tr>
<td></td>
<td>Ms Stephanie Giorelli</td>
<td>Board Member</td>
<td>Curriculum Officer, Catholic Education Office</td>
<td></td>
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</tr>
<tr>
<td></td>
<td>Mr Alan Morris</td>
<td>Board Member</td>
<td>Managing Director, TORGAS</td>
<td></td>
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</tr>
<tr>
<td></td>
<td>Mr Shayne Blackman</td>
<td>Board Member</td>
<td>Yalga-binbi Indigenous Community Development</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ms Lyn Russell</td>
<td>Board Member</td>
<td>North Queensland Regional Organisation of Councils</td>
<td></td>
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<tr>
<td>Region</td>
<td>Name</td>
<td>Role</td>
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<td>(b) the street address of the college</td>
<td>(c) details of the quantum of rental paid and ownership of building used for the college</td>
</tr>
<tr>
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<tr>
<td>Northern</td>
<td>Mr John Ats</td>
<td>Chair</td>
<td>Human Resources &amp; General Affairs</td>
<td>Temporary site (to end 2007) - 10 Bishopstone Road, Davoren Park, SA 5112</td>
<td>Rent paid as at 30 September 2006 GST inclusive</td>
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<tr>
<td></td>
<td>Mr Howard Montgomery</td>
<td>Dep Chair</td>
<td>Manager, Hirotec Australia Pty Ltd</td>
<td>City of Playford</td>
<td>$4,978 (for rent of previous offices owned by Priority Engineering Services).</td>
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<tr>
<td></td>
<td>Mr Anthony Bernado</td>
<td>Member</td>
<td>Assistant Director, Student Well Being and Learning, Catholic Education South Australia</td>
<td>$150,000 (for temporary premises).</td>
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<tr>
<td></td>
<td>Ms Madeleine Breman</td>
<td>Member</td>
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<tr>
<td></td>
<td>Mr Max Davids</td>
<td>Member</td>
<td>Australia</td>
<td></td>
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<tr>
<td></td>
<td>Mr Allan Dooley</td>
<td>Member</td>
<td>Business Support Manager, Australian Aerospace Ltd</td>
<td></td>
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<tr>
<td></td>
<td>Mr Daryl Hicks</td>
<td>Member</td>
<td></td>
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<tr>
<td></td>
<td>Mr Rod Keane</td>
<td>Member</td>
<td>Principal, St Columba College</td>
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<tr>
<td></td>
<td>Mr Gary Kirkhan</td>
<td>Member</td>
<td>Director, Northern Innovation Network</td>
<td></td>
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<tr>
<td></td>
<td>Mr Paul Kilvert</td>
<td>Member</td>
<td>Director, Catholic Education South Australia</td>
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<tr>
<td></td>
<td>Ms Helen O’Brien</td>
<td>Member</td>
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<tr>
<td></td>
<td>Mr Brian Peel</td>
<td>Member</td>
<td>Director, Northern Innovation Network</td>
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<tr>
<td></td>
<td>Mr Wayne Perry</td>
<td>Member</td>
<td>Exec Director, Manufacturing Elizabeth</td>
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<tr>
<td></td>
<td>Ms Sarah Taylor</td>
<td>Member</td>
<td>GM Holden</td>
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<tr>
<td></td>
<td>Mr Rob Thomas</td>
<td>Ex-Officio</td>
<td>Managing Director, Weldfab Engineering Pty Ltd</td>
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<td></td>
<td></td>
<td></td>
<td>Exec Director Strategic Policy &amp; Planning, Dept of Education and Children’s Services</td>
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<td></td>
<td></td>
<td></td>
<td>Business Development Manager, Catholic Education SA</td>
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<td>KAZ Technology Services</td>
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<td>Managing Director, Percy Trade Services</td>
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<td></td>
<td>President, Australian Young Christian Workers</td>
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<td>Principal, ATC Northern Adelaide</td>
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<tr>
<td>Region</td>
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<td>Street Address</td>
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<tr>
<td>Adelaide</td>
<td>Mr Brett Duncanson</td>
<td>Chair</td>
<td>Managing Director, Macweld Industries Pty Ltd</td>
<td>Beach Road</td>
<td>Christie Downs SA 5164</td>
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<td></td>
<td>Mr Doug Searle</td>
<td>Dep Chair</td>
<td>Plant Manager, B &amp; R Enclosures Pty Ltd</td>
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<tr>
<td></td>
<td>Mr Ross Bensley</td>
<td>Director</td>
<td>Schefenacker Vision Systems Australia</td>
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<tr>
<td></td>
<td>Mr Paul Wilson</td>
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<td>Pty Ltd</td>
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<tr>
<td></td>
<td>Ms Lynne Austin</td>
<td>Director</td>
<td>Principal Christies Beach High School &amp; Southern Vocational College</td>
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<tr>
<td></td>
<td>Mr Glenn Porter</td>
<td>Director</td>
<td>Executive Director, Adelaide Training and Employment Centre</td>
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<td>General Manager, Adelaide Training and Employment Centre</td>
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<td></td>
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<td></td>
<td>General Manager, Rural Press (retired)</td>
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<td></td>
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<td></td>
<td>Director, Learning Partners</td>
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<td></td>
<td></td>
<td></td>
<td>Manager, Tasmanian Chamber of Commerce</td>
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<td></td>
<td></td>
<td></td>
<td>Managing Director, Delta Hydraulics</td>
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<td></td>
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<td>Managing Director, Caterpillar Elphinstone</td>
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<td></td>
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<td></td>
<td>Principal, St Patrick’s College</td>
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<td></td>
<td></td>
<td></td>
<td>Partner, KPMG</td>
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<td></td>
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<td>Managing Director, Russell Smith Pty Ltd</td>
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<td>Managing Director, RGB Consultancy</td>
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<td></td>
<td>Managing Director, CB&amp;M</td>
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<tr>
<td>Northern</td>
<td>Mr Lloyd Whish-Wilson</td>
<td>Chair</td>
<td>General Manager, Rural Press (retired)</td>
<td>LAUNCESTON:</td>
<td>473 West Tamar Highway</td>
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<tr>
<td>Tasmania</td>
<td>Ms David Castle</td>
<td>Board Member</td>
<td>Director, Learning Partners</td>
<td>Riverside TAS 7250</td>
<td>Riverside</td>
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<tr>
<td></td>
<td>Ms Jodie Stevenson</td>
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<td></td>
<td>Mr John White</td>
<td>Board Member</td>
<td>Managing Director, Delta Hydraulics</td>
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<td></td>
<td>Mr Andrew Ransley</td>
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<td>Managing Director, Caterpillar Elphinstone</td>
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<td></td>
<td>Mr Simon Cobic</td>
<td>Board Member</td>
<td>Principal, St Patrick’s College</td>
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<td></td>
<td>Mr Martin Rees</td>
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<td>Partner, KPMG</td>
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<td>Mr Mac Russell</td>
<td>Board Member</td>
<td>Managing Director, Russell Smith Pty Ltd</td>
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<td></td>
<td>Mr Richard Bloomfield</td>
<td>Board Member</td>
<td>Managing Director, RGB Consultancy</td>
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<td></td>
<td>Mr John Dingemanse</td>
<td>Board Member</td>
<td>Managing Director, CB&amp;M</td>
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</table>
### QUESTIONS ON NOTICE

**Region**

- **Gippsland**

<table>
<thead>
<tr>
<th>Name</th>
<th>Role</th>
<th>Current employment</th>
<th>Street Address</th>
<th>Rent paid as at 30 September 2006 GST inclusive</th>
<th>Average annual rent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr Peter Farquhar</td>
<td>Chair</td>
<td>Managing Director, Farquhars Plumbing and Gas Plumbing</td>
<td>20 Forge Creek Road, BAIRNSDALE VIC 3875</td>
<td>Nil</td>
<td>Nil</td>
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<tr>
<td>Ms Angela Hutson</td>
<td>Deputy Chair</td>
<td>CEO, East Gippsland Institute of TAFE</td>
<td>ATC – Gippsland</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>Mr Peter Dullard</td>
<td>Treasurer</td>
<td>Dealer Principal, Dullard Motor Group</td>
<td>Nil</td>
<td>Sale</td>
<td>Sale</td>
</tr>
<tr>
<td>Mr Chris Banks</td>
<td>Board Member</td>
<td>Automotive</td>
<td>Arrangements for the Sale site are yet to be finalised.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ms Marilyn Forbes</td>
<td>Board Member</td>
<td>Managing Director, CM &amp; HM Banks</td>
<td></td>
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<tr>
<td>Mr Dick Hughes</td>
<td>Board Member</td>
<td>HR Manager, Patties Foods P/L</td>
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<tr>
<td>Mr Ross Ingram</td>
<td>Board Member</td>
<td>Managing Director, Bairnsdale Road Service</td>
<td></td>
<td></td>
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<tr>
<td>Mr Garry Kennedy</td>
<td>Board Member</td>
<td>Managing Director, Bonaccord Ingram P/L</td>
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<tr>
<td>Mr Darren McCubbin</td>
<td>Board Member</td>
<td>Managing Director, GE &amp; DA Kennedy</td>
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<tr>
<td>Mr Geoff Neeson</td>
<td>Board Member</td>
<td>Self Employed/Shire Councillor</td>
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<tr>
<td>Mr Don Ripper</td>
<td>Board Member</td>
<td>Deputy Principal, Nagle College</td>
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<tr>
<td>Mr John Turnor</td>
<td>Board Member</td>
<td>Director, Adult Community Education, Sale</td>
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<tr>
<td></td>
<td>(Community Rep.)</td>
<td>Automotive Trainer, East Gippsland TAFE</td>
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</tbody>
</table>

**Current employment details**

- Managing Director, Farquhars Plumbing and Gas Plumbing
- CEO, East Gippsland Institute of TAFE
- Dealer Principal, Dullard Motor Group
- Automotive
- Managing Director, CM & HM Banks
- HR Manager, Patties Foods P/L
- Managing Director, Bairnsdale Road Service
- Managing Director, Bonaccord Ingram P/L
- Managing Director, GE & DA Kennedy
- Self Employed/Shire Councillor
- Deputy Principal, Nagle College
- Director, Adult Community Education, Sale
- Automotive Trainer, East Gippsland TAFE

**Street Address**

- 20 Forge Creek Road, BAIRNSDALE VIC 3875

**Rent paid as at 30 September 2006 GST inclusive**

- Nil

**Average annual rent**

- Nil

**Arrangements for the Sale site**

- Arrangements for the Sale site are yet to be finalised.
<table>
<thead>
<tr>
<th>Region</th>
<th>Name</th>
<th>Role</th>
<th>Current employment</th>
<th>Street Address</th>
<th>Rent paid</th>
<th>Average annual rent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bendigo</td>
<td>Mr Don Erskine</td>
<td>Chair</td>
<td>Managing Director, Industrial Conveying (Aust) Pty Ltd</td>
<td>385 Hargreaves Street</td>
<td>$25,300</td>
<td>$25,300</td>
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<tr>
<td></td>
<td>Mr Michael McKern</td>
<td>Board Member</td>
<td>Managing Director, McKern Building Products</td>
<td>Bendigo VIC 3550</td>
<td>$38,500</td>
<td>$38,500</td>
</tr>
<tr>
<td></td>
<td>Mr William Coulter</td>
<td>Board Member</td>
<td>CEO, Flowserve Pump Division (retired 2006)</td>
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<tr>
<td></td>
<td>Mr Terry Hurford</td>
<td>Board Member</td>
<td>Director, Morey and Hurford Builders</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Mr Graeme Sloan</td>
<td>Board Member</td>
<td>CEO/Director, Perseverance Mining Corporation</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>Dr Louise Harvey</td>
<td>Board Member</td>
<td>Director, Bendigo Regional Institute of TAFE</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Mr Peter Bugden</td>
<td>Board Member</td>
<td>Deputy Director, Catholic Education Office Sandhurst</td>
<td></td>
<td></td>
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</tr>
<tr>
<td></td>
<td>Mr John McLean</td>
<td>Board Member</td>
<td>CEO, City of Greater Bendigo</td>
<td></td>
<td></td>
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</tr>
<tr>
<td></td>
<td>Ms Elsie L’Huillier</td>
<td>Board Member</td>
<td>Consultant</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ms Debra McAliece</td>
<td>Board Member (Co-opted)</td>
<td>Owner/Manager, Café au Lait</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Region</td>
<td>Name</td>
<td>Role</td>
<td>Current employment</td>
<td>(b) the street address of the college</td>
<td>(c) details of the quantum of rental paid and ownership of building used for the college</td>
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<tr>
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</tr>
<tr>
<td>Eastern</td>
<td>Mr Tom O’Brien</td>
<td>Chair</td>
<td>Personnel Manager, AAA</td>
<td>Ringwood Secondary College</td>
<td>State of Victoria, as represented by the Department of Education and Training, through</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Mr Linsey Siede</td>
<td>Board Member</td>
<td>General Manager, ANCA</td>
<td>Bedford Road</td>
<td>Ringwood Secondary College</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ms Sue Kent</td>
<td>Board Member</td>
<td>National Group Training Manager, MEGT</td>
<td>RINGWOOD VIC 3134</td>
<td>and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Mr Vin Feeney</td>
<td>Board Member</td>
<td>Australia</td>
<td>St Joseph’s College</td>
<td>St Josephs</td>
<td></td>
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<tr>
<td></td>
<td>Mr Michael Phillips</td>
<td>Board Member</td>
<td>Principal, St Joseph’s College</td>
<td>5 Brenock Park Drive</td>
<td>The Roman Catholic Trust, Catholic Archdiocese of Melbourne</td>
<td></td>
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<tr>
<td></td>
<td>Mr Joe Gleeson</td>
<td>Board Member</td>
<td>Principal, Ringwood Secondary College</td>
<td>FERNTREE GULLY VIC 3156</td>
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<tr>
<td></td>
<td>Mr Chris Young</td>
<td>Treasurer</td>
<td>CPA Qualified Accountant, Ringwood Secondary College</td>
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<tr>
<td></td>
<td>Mr John Davidson</td>
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<td></td>
<td>Regional VET Coordinator, Eastern Industry Education</td>
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<tr>
<td>Geelong</td>
<td>Mr Alan Greaves</td>
<td>Chair</td>
<td>Engineering Manager, Shell Refinery</td>
<td>Gordon Institute of TAFE, Boundary Road, East GEELONG VIC</td>
<td>State Government of Victoria</td>
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<td>Mr David Peart</td>
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<td></td>
<td>Mr Brendan Boyd</td>
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<td></td>
<td>$77,412</td>
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<tr>
<td></td>
<td>Mr Norm Lyons</td>
<td>Board Member</td>
<td>L&amp;D Manager, Ford Motor Company</td>
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<td></td>
<td>Mr Daryl Linke</td>
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<td>Business Manager, Lyons Construction</td>
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<td></td>
<td>Mr Casey van Berkel</td>
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<td>Crane Manager, Alcoa</td>
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<td></td>
<td>Mr Paul Tobias</td>
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<td>Gordon TAFE</td>
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<td></td>
<td>Mr Michael O’Brien</td>
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<td>Professor, Deakin University</td>
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<td></td>
<td>Ms Robyn Dolheguy</td>
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<td>CEO, G-Force Recruitment</td>
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### QUESTIONS ON NOTICE

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<th>Region</th>
<th>(a) details of board members, including:</th>
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<th>(c) details of the quantum of rental paid and ownership of building used for the college</th>
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<tr>
<td>Sunshine</td>
<td>Name</td>
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<td>Current employment</td>
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<tr>
<td></td>
<td>Mr Barry McCarthy</td>
<td>Chair</td>
<td>Manager, Toyota Motor Co</td>
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<td></td>
<td>Mr Nimal Pandithakoralege</td>
<td>Board Member</td>
<td>Operations Manager, Buffalo Trident</td>
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<td></td>
<td>Mr Bill Surridge</td>
<td>Board Member</td>
<td>Fleet Service Manager, Toll</td>
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<tr>
<td></td>
<td>Mr Steve Evans</td>
<td>Board Member</td>
<td>Dealer Principal, Austrans</td>
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<tr>
<td></td>
<td>Mr Peter Canavan</td>
<td>Board Member</td>
<td>Australian Industry Group</td>
</tr>
<tr>
<td></td>
<td>Mr Ray Griffiths</td>
<td>Board Member</td>
<td>CEO, Director, Kangan Batman TAFE</td>
</tr>
<tr>
<td></td>
<td>Mr Tim Blunt</td>
<td>Board Member</td>
<td>Principal, Sunshine College</td>
</tr>
<tr>
<td></td>
<td>Dr Anne Jones</td>
<td>Board Member</td>
<td>Pro Vice Chancellor, Victoria University</td>
</tr>
<tr>
<td></td>
<td>Ms Robyn Hand</td>
<td>Board Member</td>
<td>Parent, Sunshine College Council</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Suffolk Road</td>
</tr>
<tr>
<td></td>
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<td></td>
<td>North Sunshine VIC 3020</td>
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<td>State of Victoria, as represented by the Department of Education and Training, through Sunshine College</td>
</tr>
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<td></td>
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<td>Nil</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Nil</td>
</tr>
<tr>
<td>Perth</td>
<td>Mr Chris Forde</td>
<td>Chair</td>
<td>Executive General Manager, WesTrac Pty Ltd</td>
</tr>
<tr>
<td>South</td>
<td>Mr Rod Slater</td>
<td>Deputy Chair</td>
<td>Automotive Consultant, Eurogroup</td>
</tr>
<tr>
<td></td>
<td>Mr Kim Young</td>
<td>Board Member</td>
<td>Industry Consultant for the Building and Construction area of WA Department of Education and Training</td>
</tr>
<tr>
<td></td>
<td>Mr Ross Goodlet</td>
<td>Board Member</td>
<td>Managing Director, Construction WA, Multiplex</td>
</tr>
<tr>
<td></td>
<td>Cr Patricia Morris</td>
<td>Board Member</td>
<td>Multiplex</td>
</tr>
<tr>
<td></td>
<td>Ms Kay Hallahan</td>
<td>Board Member</td>
<td>Executive Director, Construction and Mining Equipment Industry Group, Mayor, City of Gosnells</td>
</tr>
<tr>
<td></td>
<td>Ms Vivienne Hanson</td>
<td>Board Member</td>
<td>Deputy Chair, Armadale Redevelopment Authority</td>
</tr>
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<td></td>
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<td></td>
<td>Indigenous Community Member, Armadale</td>
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<td></td>
<td></td>
<td></td>
<td>MADDINGTON CAMPUS: Stirling Skills Training Inc</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Alloa Road</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Nil</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>ARMADALE CAMPUS: Commerce Avenue</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Armadale WA 6112</td>
</tr>
</tbody>
</table>

**Suffolk Road**

**North Sunshine VIC 3020**

**State of Victoria, as represented by the Department of Education and Training, through Sunshine College**

**Stirling Skills Training Inc**

**Alloa Road**

**NIL**

**ARMADALE CAMPUS**

**Commerce Avenue**

**Armadale WA 6112**
### QUESTIONS ON NOTICE

<table>
<thead>
<tr>
<th>Region</th>
<th>(a) details of board members, including:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Name</td>
</tr>
<tr>
<td>Darwin</td>
<td>Peter Carew</td>
</tr>
<tr>
<td></td>
<td>Greg McLaughlin</td>
</tr>
<tr>
<td></td>
<td>Andrew Wilson</td>
</tr>
<tr>
<td></td>
<td>Peter Brown</td>
</tr>
<tr>
<td></td>
<td>Andrew Bayliss</td>
</tr>
<tr>
<td></td>
<td>Vacant</td>
</tr>
<tr>
<td>Warrnambool</td>
<td>Graeme Rodger</td>
</tr>
<tr>
<td></td>
<td>Andrew Anderson</td>
</tr>
<tr>
<td></td>
<td>David Hetherington</td>
</tr>
<tr>
<td></td>
<td>Michael Lenehan</td>
</tr>
<tr>
<td></td>
<td>Peter Richards</td>
</tr>
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<td></td>
<td>Michael Cusick</td>
</tr>
<tr>
<td></td>
<td>Rob Vecchiet</td>
</tr>
<tr>
<td></td>
<td>Vacant</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Region</td>
<td>Name</td>
</tr>
<tr>
<td>--------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>Spencer</td>
<td>Mr Greg Clothier</td>
</tr>
<tr>
<td>Gulf and</td>
<td>Mr Andre Kuys</td>
</tr>
<tr>
<td>Outback</td>
<td>Mr Charlie Allen</td>
</tr>
<tr>
<td></td>
<td>Mr Steven Arndt</td>
</tr>
<tr>
<td></td>
<td>Mr John Brinker</td>
</tr>
<tr>
<td></td>
<td>Ms Denise Janek</td>
</tr>
<tr>
<td></td>
<td>Mr Jerry Johnson</td>
</tr>
<tr>
<td></td>
<td>Ms Deidre M Kent</td>
</tr>
<tr>
<td></td>
<td>Mr Andrew McCance</td>
</tr>
<tr>
<td></td>
<td>Mrs Kathy McEvoy</td>
</tr>
<tr>
<td></td>
<td>Mr David Pearce</td>
</tr>
<tr>
<td></td>
<td>Mr Rodger Weste</td>
</tr>
<tr>
<td></td>
<td>Mr Damien Judd</td>
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**QUESTIONS ON NOTICE**
<table>
<thead>
<tr>
<th>Region</th>
<th>(d) details of any renovations undertaken, including costs and name of the contractor As at 30 September 2006 GST inclusive</th>
<th>(e) details of any company appointed to audit college financial accounts or to assist with financial management</th>
</tr>
</thead>
</table>
| Hunter            | Nil                                                                                                                | Forsythes  
Level 5 Hunter Mall Chambers  
175 Scott Street  
Newcastle NSW 2300 |
| Illawarra         | Nil                                                                                                                | Graham Stubbs B Comm CPA off 11 Darrien  
Avenue Bombo 2533  
Lismore NSW 2480 |
| Port Macquarie    | Upgrade of security fencing Acacia Ave $14,000.00  
Fagan Fencing  
$12,408.00  
Wappetts Chartered Accountants  
158 Molesworth Street  
Rockhampton QLD 4700  
Accountant  
KIA, Accountants and Advisers  
4 Goondoon Street  
Gladstone  
AUDitor  
Evans Edwards and Associates P/L – Chartered Accountants.  
7 Archer Street  
Gladstone QLD 4680 |
| Gladstone         | Construct new internal walls and doorway $4,972.00  
Molly & Prebble Builders  
Repaanted interior and exterior of building $12,408.00  
Wood & Johnson Painting Contractors  
Installed new floor coverings $3,480.00  
Len Smith Carpet and Tile Court  
Supply & install new air conditioners $4,539.00  
Prizeman Electrical and Refrigeration Services  
Fitted shade to western wall $1,260.00  
Henderson Upholstery and Canvas  
Installed data points and power points $919.60  
Prizeman Electrical  
KIA, Accountants and Advisers  
4 Goondoon Street  
Gladstone QLD 4680 |
| Gold Coast        | Nil                                                                                                                | Gerard Wilkes and Associates  
Chartered Accountants  
20 Welch Street  
Southport QLD 4215 |
| North Brisbane    | Demolition, refurbishment, renovation and re-roofing $1,805,026.00  
Bloomer Constructions (Qld) Pty Ltd  
$1,811,694.40  
TL&A Business Services  
131 Sutton Street  
Redcliffe QLD 4020 |
| North Queensland  | Nil                                                                                                                | WHK - TCM Smith Audit Partnership  
5th floor  
22 Walker Street  
Townsville QLD 4810 |
| Northern Adelaide | Nil                                                                                                                | Not yet appointed |
| Adelaide South    | Building refurbishment project (including site clean-up and building extension)  
Greenway Architects SA Pty. Ltd  
Badger Constructions Pty. Ltd.  
$1,811,694.40  
Glenn and Herriot - Chartered Accountants  
22 Nile Street  
Port Adelaide SA 5015 |
<table>
<thead>
<tr>
<th>Region</th>
<th>Details of any renovations undertaken, including costs and name of the contractor</th>
<th>Details of any company appointed to audit college financial accounts or to assist with financial management</th>
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<tbody>
<tr>
<td><strong>Northern Tasmania</strong></td>
<td>(d) details of any renovations undertaken, including costs and name of the contractor As at 30 September 2006 GST inclusive</td>
<td>(e) details of any company appointed to audit college financial accounts or to assist with financial management</td>
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<tr>
<td>Riverside</td>
<td>New car park $42,721.00 Crossroads Civil Contracting Pty Ltd $5,546.09 G A Bonner $19,247.73 Island Block &amp; Paving Refurbish toilets $3,503.50 Geoff Emerson Alarm system modifications $6,172.72 Jeremy P Verney Painting improvements $8,900.00 Sign Pro Display Items $11,000.00 Sign Pro Burnie Phone/Electrical Wiring $5,200.00 Russell Smith Pty Ltd</td>
<td>Auditors – Garrott &amp; Garrott, Launceston appointed</td>
</tr>
<tr>
<td>Gippsland</td>
<td>Nil</td>
<td>Armitage Downie - Accountants 95 Macleod Street Bairnsdale VIC 3875</td>
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<tr>
<td>Bendigo</td>
<td>Payment to previous tenants to retain existing office interior layout (walls, partitions) $5,000.00</td>
<td>AFS - Chartered Accountants &amp; Business Advisors 61-65 Bull St Bendigo VIC 3550</td>
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<tr>
<td>Eastern Melbourne</td>
<td>St Josephs (Ferntree Gully Campus) $800,932.00 Schedule Construction’s PTY LTD Gemcan Constructions PTY LTD</td>
<td>Amy Hall Consulting Pty Ltd 53 Thomas St Ringwood VIC 3134 Mr Joe Gleeson – CPA Qualified Accountant Ringwood Secondary College Bedford Road Ringwood VIC 3134</td>
</tr>
<tr>
<td>Geelong</td>
<td>Refurbishment of administration building (Building D, Gordon TAFE) Total cost: $458,714 Collins Constructions Pty. Ltd.</td>
<td>WHK Day Neilson</td>
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<tr>
<td>Sunshine</td>
<td>Nil</td>
<td>Dominic Acquaro Associates Pty Ltd 52 Monash St Sunshine Vic 3020</td>
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<tr>
<td>Perth South</td>
<td>Nil</td>
<td>Pickup Golding – Chartered Accountants 23 Emerald Terrace West Perth WA 6005 Cosson and Co 24 Walters Drive Osborne Park WA 6017</td>
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<tr>
<td>Darwin</td>
<td>Not applicable</td>
<td>Nil</td>
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<tr>
<td>Warrnambool</td>
<td>Nil</td>
<td>Coffey Hunt &amp; Co 199 Koroit Street WARRNAMBOOL 3280</td>
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<tr>
<td>Spencer Gulf and Outback</td>
<td>Nil</td>
<td>Nil</td>
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</table>
Senators Bishop and Campbell asked for an update on crewing levels as of 30 October 2006. The Minister for Defence provided the following information:

- The Royal Australian Navy fleet currently consists of 58 ships.
- The name, tonnage, home port, optimum crewing level, and current crewing level as of 30 October 2006 are listed in the table below:

<table>
<thead>
<tr>
<th>SHIP NAME</th>
<th>CLASS</th>
<th>TONNAGE</th>
<th>HOME PORT</th>
<th>OPTIMUM CREW</th>
<th>CURRENT NUMBERS</th>
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<tbody>
<tr>
<td>Adelaide</td>
<td>FFG</td>
<td>4100</td>
<td>HMAS Stirling (FBW)</td>
<td>210</td>
<td>174</td>
</tr>
<tr>
<td>Albany</td>
<td>ACPB</td>
<td>300</td>
<td>HMAS Coonawarra (DNB)</td>
<td>21</td>
<td>22</td>
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<tr>
<td>Arzac</td>
<td>FFH</td>
<td>3600</td>
<td>HMAS Stirling (FBW)</td>
<td>164</td>
<td>179</td>
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<tr>
<td>Ararat</td>
<td>ACPB</td>
<td>300</td>
<td>HMAS Coonawarra (DNB)</td>
<td>21</td>
<td>21</td>
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<tr>
<td>Armidale</td>
<td>ACPB</td>
<td>270</td>
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<td>21</td>
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<tr>
<td>Arunta</td>
<td>FHH</td>
<td>3600</td>
<td>HMAS Stirling (FBW)</td>
<td>164</td>
<td>156</td>
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<tr>
<td>Balikpapan</td>
<td>LCH</td>
<td>316</td>
<td>Darwin Naval Base</td>
<td>13</td>
<td>14</td>
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<tr>
<td>Ballarat</td>
<td>FFFH</td>
<td>3600</td>
<td>HMAS Kuttubul (FBE)</td>
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<td>162</td>
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<td>MSA</td>
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<td>HMAS Waterhen</td>
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<td>ACPB</td>
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<td>Betano</td>
<td>LCH</td>
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<td>Darwin Naval Base</td>
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<td>LCH</td>
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<td>21</td>
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<tr>
<td>Collins</td>
<td>SSG</td>
<td>3350</td>
<td>HMAS Stirling (FBW)</td>
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<td>FFG</td>
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<td>Dechaineux</td>
<td>SSG</td>
<td>3350</td>
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<td>Full cycle docking</td>
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<td>MHC</td>
<td>720</td>
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<td>FCPP</td>
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<td>Darwin Naval Base</td>
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<td>Famcohn</td>
<td>SSG</td>
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